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HOUSE OF REPRESENTATIVES—*Thursday, April 11, 2002*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

May divine light and eternal truth be with us now and forever.

You have awakened us from the darkness of night and the sleep of unconsciousness. May we walk now in the brightness of a new day. Fill us with soundness of purpose and the strength of companions as we take up the ordinary responsibilities of life and the challenges set before us.

Leaving the forgetfulness of sleep behind, make us keenly aware of the world in which we live and will move about. Help us to embrace the deepest needs of those around us. When we are able, may we respond to them with generous hearts. When we are helpless, may we not dismiss them into the darkness but hold their concerns in the furnace of our hearts.

Let us prepare ourselves for the struggle of today by innocence of heart, integrity of faith, and dedication to virtue. As we make our way into the future, may we seek partners in peace today and respond justly and honestly to everyone. May we simply become creative instruments with each other to shape a new day for America and the world.

May divine light and eternal truth be with us now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas (Mr. TIAHRT) come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 one-minute speeches on each side.

HONORING THE WOMEN OF TOMORROW PROGRAM

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise to congratulate the Women of Tomorrow program, a mentoring and scholarship program for high schoolage girls.

News anchor, Jennifer Valoppi, and Don Browne, president and general manager of NBC 6, co-founded this organization which successfully outreaches to young women wishing to further their educational and career goals.

Today, Women of Tomorrow mentors low-income, at-risk girls in almost every public school in Miami-Dade and Broward counties. This Saturday, NBC 6, Ocean Drive Magazine, and Jennifer Valoppi are hosting a benefit to further the work of Women of Tomorrow and to honor the assistance of Don and Marie Browne, Marita Srebnick and George Feldenkreis, Jerry and Sandi Powers, and State Attorney Kathy Fernandez-Rundle.

Mr. Speaker, I ask that my colleagues join me in congratulating Women of Tomorrow for touching the lives of so many young girls and making significant contributions to the promise of tomorrow.

BRING LUDWIG KOONS HOME

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I wonder what Ludwig Koons is doing this morning. Perhaps he is watching his mother get ready for work by taking her clothes off for a pornographic photo shoot or get ready for an erotic sex show.

A couple of weeks ago I called the State Department and asked them what they were going to do to help fight Italy, who is totally disregarding the welfare of Ludwig Koons. I asked for Secretary Powell. I did not get to speak with him but soon thereafter received a list of actions that the State Department has taken on behalf of Ludwig Koons. The actions include on April 22, 2000, the State Department sends Jeff Koons, the father, a recap of the activity on the case. Thanks. On September 21, 2000, the Consul General, Charles Keil, replies to an inquiry from the gentlewoman from New York (Mrs. MALONEY). Thanks. On October 17, 2000, the State Department calls Mr. Koons and agrees to talk to his attorney. Thanks.

This is what the State Department calls action? If any of us took action like that, we could not get reelected. That is what our constituents would do.

I want to send a strong message today to the State Department and to Secretary Powell. Congress will not stand for this any longer. American citizens, including Ludwig Koons, are being held captive. It is your job to bring our children home.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FUNDAMENTAL TAX REFORM

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, today is the last legislative day before the glorious tax day on Monday when all Americans happily come together for the good of their country. Let me state some facts about the tax system.

Americans will collectively spend 6 billion hours complying with the Tax Code, which is not surprising, since the most basic tax form, the 1040 EZ, has 32 pages of instructions. Tax compliance costs estimated at approximately $250 billion a year will be $900 for every man, woman, and child in America.

The IRS will receive 100 million phone calls for assistance and the answers that they give when you get through are wrong 47 percent of the time. There are five different definitions of a child in Federal tax law with 200 pages of instructions interpreting those definitions. One dollar's worth of gasoline includes 48 cents in taxes. A $1.14 loaf of bread reflects 35 cents in taxes. Eighteen cents of a 50-cent can of soda goes to taxes. A $153 utility bill consists of approximately $39 in taxes.

Mr. Speaker, in a recent poll Americans were more afraid of receiving an IRS audit notice than anthrax. It is time to end the code.

KELLER-SHAW BILL SUPPORTS OUR TROOPS

(Mr. KELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KELLER. Mr. Speaker, I rise today to announce the filing of the Keller-Shaw Combat Pay for Combat Risk Act of 2002. How does it work?

If our troops are deployed in support of Operation Enduring Freedom and they are receiving hazardous duty pay, they will not have to pay any Federal income taxes. Currently, we have troops in the Philippines, Malaysia, and Indonesia who are at risk of combat in their fight against terrorism who are still paying income taxes.

The Keller-Shaw bill will fix this discrepancy and not tax their pay. I urge my colleagues to support our U.S. troops who are fighting terrorism abroad, and call my office today to sign on as a co-sponsor to this important bipartisan legislation, H.R. 4152.

RETURN MARTIN AND GRACIA BURNHAM

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today marks the 320th day that Martin and Gracia Burnham have been held captive by Muslim terrorists in the Philippines. I had hoped to return to this podium after the recess and tell you the great news of Martin and Gracia's release.

It has been customary in the Philippines for hostages to be released over the Easter holidays, so I was hopeful that the Burnhams would be released. Sadly, their children, Jeff and Mindy and Zack, celebrated another holiday without their beloved parents and without any communications from their parents.

Martin and Gracia are still being held by savages with no regard for human life. Devout Christians who strongly believe that every life is precious, the Burnhams have learned early on that terrorists place no worth on human life as they watched their fellow captives become beheaded.

On September 11, Americans were confronted with this reality. Daily in Israel and in Palestine people are disgusted by the evidence of these realities. President Bush is absolutely right when he declares terrorists as evil. This evil force is on the offensive around the world. But evil is not stronger than good. Hate is not stronger than love. Americans love human life, and so it is our duty to eradicate terrorism and promote the respect for life.

I ask as always for you to join in prayer with me for Martin and Gracia Burnham and their loved ones so this nightmare may soon be over.

TEN COMMANDMENTS DEFENSE ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, if we look at the wall around us, we see medallions of famous law givers. We see profiles of Hammurabi, Napoleon, and Madison. But dead center facing forward, full face, is the greatest of all law givers, Moses. Moses, who received the Ten Commandments engraved on two tablets, the 10 laws that form the legal and moral foundations of Western Civilization itself.

Back home in Chester County, Pennsylvania, we also honor the Ten Commandments; and for over 80 years, the plaque listing the Ten Commandments has hung on the outside wall of our county courthouse. But now a Federal judge wants the plaque removed. He says it violates the separation of church and state. I have read the Constitution. I have never seen anything about a ban on the Ten Commandments in the Constitution.

James Madison, the author of the first amendment, which guarantees freedom of religion, said, "We have staked the future of all our political institutions upon the capacity of each and all of us to govern ourselves, to control ourselves, to sustain ourselves according to the Ten Commandments of God."

Mr. Speaker, we should pass the Ten Commandments Defense Act.

300TH ANNIVERSARY OF KING WILLIAM COUNTY, VIRGINIA

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in commemoration of the 300th anniversary of King William County in Virginia's First Congressional District. Nestled between the beautifully extraordinary waters of the Pamunkey and Mattaponi Rivers lies the 286 square miles of rolling farmland and scenic timberland that embodies King William County.

This unique county enjoys many notable attributes that distinguish King William within Virginia. Home to the only native American Indian reservations in the Commonwealth, to the oldest courthouse in continuous use in the United States, and to Carter Braxton, signer of the Declaration of Independence, King William County is deeply rooted with historical significance.

An April 11 birthday ceremony inaugurates King William County's Tricentennial Celebration that continues with numerous activities throughout 2002. Marking the county's 300 year milestone, this celebration is an important commemoration of the county's dual heritage of colonial and Native American roots. I am proud to recognize the rich treasure of King William's past and much prosperity in the future.

BI-LO, A PROVEN COMMUNITY LEADER

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, sometimes businesses become so interwoven within a community they become like family. Bi-Lo, a rapidly growing supermarket chain, is one such company endearing itself to the people of the Second Congressional District of South Carolina.

Based in Mauldin, South Carolina, Bi-Lo has more than 280 stores in five States. In the second district alone there are 23 Bi-Lo stores employing 1,825 hard-working and dedicated South Carolinians. For these people, Bi-Lo has provided meaningful employment that gives each person a chance to excel. I should know because my two oldest sons have worked at the local Bi-Lo where they have learned the self-satisfaction that comes from hard work.

Yet beyond offering quality groceries and providing meaningful employment, Bi-Lo has made charitable efforts a priority. Their programs donate money and food to Meals on Wheels, food banks, local schools, churches, and other groups. Also their Golden Apple Awards recognize the vital work of professional educators. All companies should take note of Bi-Lo's example that a strong business can best survive when they help to build a strong community.

SIMPLIFY OUR TAX CODE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Once again, Mr. Speaker, April 15, tax day, is just a weekend away; and too many Americans spend too much time and too much money preparing and paying their taxes. The estimated preparation time for an IRS 1040 form now is right at 13 hours and 27 minutes, and those unfortunate taxpayers who need to itemize their deductions will be devoting an additional 5½ hours in preparing their tax forms.

It is obvious, Mr. Speaker, that our Tax Code is too complex and places too great a burden on our hard-working families. Too many Americans, over 67 million filers, spend millions of dollars employing professional tax preparers just to wade through the Tax Code; and it is pretty tough to wade through 2.8 million words of our Tax Code. Even the book "War and Peace" is a quicker read at 660,000 words.

Mr. Speaker, it is time to simplify our Tax Code. It is the fair solution to such a taxing problem for every American.

☐ 1015

WHERE IS THE DEMOCRATS' BUDGET?

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, terrorism insurance, so that small businesses can expand and create jobs. Trade promotion authority, so that we can get American industry moving again and sell our goods overseas. Faith-based institutions, allowing them to participate in the delivery of welfare job training and other social-type services. Energy legislation, so that we will have lower gas prices, both home heating oil and at the gas pump for our cars. All of these held up by the Democrats. All of these pieces of legislation, and, in total, 51 have been passed by this House, all held up by the Democrats in the other body.

This is the party whose hallmark this year has been Enron and no budget. What are the Democrats thinking? Throw the Democratic budget on the table. We may vote for it, we may vote against it. We may combine their ideas with our ideas, but come to Washington with a budget. Come to Washington with a plan. Come to Washington ready to pass legislation. Come to Washington ready to debate.

If my colleagues do not want to take the responsibility of their office, this is an election year, it is also a good time for voluntary retirement. Consider it, because the House is going to keep working.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members are reminded not to make improper references to the other body.

PROVIDING FOR CONSIDERATION OF H.R. 3762, PENSION SECURITY ACT OF 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3762) to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, equally divided among and controlled by the chairmen and ranking minority members of the Committees on Education and the Workforce and Ways and Means; (2) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative George Miller of California or Representative Rangel of New York or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is a fair, structured rule providing for the consideration of H.R. 3762, the Pension Security Act. H. Res. 386 provides 2 hours of debate in the House equally divided among and controlled by the chairmen and ranking minority members of the Committee on Education and the Workforce and the Committee on Ways and Means. All points of order are waived against consideration of the bill.

It also provides that in lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the Committee on Rules report accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are also waived.

The amendment printed in part B of the report, if offered by the gentleman from California (Mr. GEORGE MILLER) or the gentleman from New York (Mr. RANGEL) or a designee is also made in order. It shall be considered as read and shall be separately debatable for 1 hour equally divided and controlled by the proponent and an opponent. The rule waives all points of order against the amendment printed in part B of the report. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the issue before the House today is one of utmost importance to American families across the Nation: securing the economic security of their retirement years. H.R. 3762 represents the good work of my friends and colleagues, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS), who have spent countless hours carefully crafting a bill that includes safeguards and options to help workers preserve and enhance their pension plans in order to help provide for themselves and their families in their retirement years.

We all witnessed the tragic unraveling of Enron Corporation and have witnessed the disbelief and anger of the thousands of employees who lost their jobs and most, if not all, of their retirement savings. While those workers were quite possibly victims of criminal wrongdoing, there is no question they were most definitely the victims of an outdated Federal pension law.

I am a firm believer in encouraging Americans to help secure their own futures through savings. While savings must begin with the individual, there are ways that government can help and encourage people to save. The average 50-year-old in America currently has less than $40,000 in personal financial wealth. Statistics also show that the average American retires with savings totaling only about 60 percent of their former annual income. Quite simply, Americans are saving too little.

The tragedy of Enron went further than just diminishing the savings of some employees. Sadly, Enron has undermined the confidence of American workers in this country's pension system. The collapse of Enron highlights the need for protections and safeguards to help workers preserve and enhance their retirement savings.

The Pension Security Act includes new options and resources for workers, as well as greater accountability from companies and senior-level executives. I would like to highlight some of the key elements of this bill.

First, the bill gives employees new freedoms to sell company stock and diversify into other investments. Current law allows employers to restrict a worker's ability to sell their company stock in certain situations until they are age 55 years old and/or have 10 years of service with the company.

This bill gives employers the option of allowing workers to sell their company stock 3 years after receiving it in their 401(k) plans, presumably at the beginning of their service. This 3-year "rolling diversification option" provides employers with the ability to promote employee ownership while giving employees the flexibility to make choices according to their own interests.

This legislation also creates parity between senior corporate executives and the rank-and-file workers. During blackout periods, routine times when a plan must undergo administrative or technical changes, employees are unable to change or access their retirement accounts. What we saw from Enron was an example of disparity, where the executives were able to sell off their investments and preserve their savings, while rank-and-file workers were barred from making changes.

Under this bill, workers would be given a 30-day notice before a blackout period begins. Furthermore, during a blackout period, neither an executive nor a rank-and-file employee would be permitted to make any changes to their plan.

The Pension Security Act also requires workers to give annual statements regarding their accounts and their rights in their investments. Currently the law only requires that workers receive annual notices, with no guarantee of what information must be provided. This would ensure that employees receive accurate and timely information.

Finally, this bill incorporates the key principles from H.R. 2269, the Retirement Security Advice Act. Under the leadership of the gentleman from Ohio (Mr. BOEHNER), the House passed this bill with a bipartisan vote last autumn. While employees must be encouraged to save, they must be provided with sound advice and resources in order to make sound decisions. The bill would allow qualified financial advisors to offer investment advice if they agree to act solely in the fiduciary interest of the workers they advise.

Mr. Speaker, passage of this bill would send a strong signal to both employers and employees of this country. Employers should be commended for continuing to offer workers investment options, but they must exercise corporate responsibility as they do so. Workers should be encouraged to save, with the safety of knowing that their investments are secure.

It is my hope this legislation will not only provide much needed reform for our country's pension system but also help restore confidence in a system which has enabled generations of American workers to enjoy secure and independent retirement.

I would like to commend the tremendous efforts of both the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) in bringing this legislation to the House floor. I urge my colleagues to join me in supporting not only this fair rule, so that the House can proceed to consider the underlying legislation, but the legislation itself.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important debate for the House. It is a debate about the Enron scandal, and it is a debate about whether this Republican House will keep its promise to the American people.

When the Enron Corporation collapsed late last year, thousands of its employees lost their life savings and an untold number of innocent investors had their pockets picked by a few greedy company insiders. It was the worst corporate scandal in U.S. history.

Virtually everyone in Washington, Republicans as well as Democrats, promised that it would never happen again. Well, today, the House will consider what the Republican leadership has chosen as its response to the scandal of Enron, and I am sure we will hear a lot of Republicans come to the floor today and claim that their bill, the so-called Pension Security Act, responds to the Enron scandal.

Mr. Speaker, we can argue over the particulars of what the Republican bill would do, but there is no doubt about what it will not do. It will not protect Americans from corporate wrongdoers like the ones at Enron. It will not stop unscrupulous executives at another corporation from defrauding their employees and investors the way Enron executives did.

I suppose we should not be too surprised. After all, just last month Republicans passed their so-called class action bill, which would make it harder for Enron employees and retirees to hold accountable the corporate wrongdoers who defrauded them. So I suppose we should not be shocked that this Republican bill would do nothing to ensure that other Americans do not suffer the same fate as Enron's employees.

That does not make this empty Republican promise any less outrageous, and calling this Republican bill the Pension Security Act dangerously misleads millions of Americans about the security of their 401(k) plans, and since the Republican assault on Social Security continues, protecting Americans' 401(k) plans is even more vital to financial security for millions of retirees.

Mr. Speaker, Enron employees lost more than $1 billion from their retirement nest eggs, while the corporate insiders who defrauded them made millions. The scandal is so bad that earlier this week, the Arthur Andersen auditor who oversaw the books at Enron pled guilty, and the New York Times reports today that Arthur Andersen is near a deal to do the same.

We should not be slamming the door on corporate fraud and abuse that company insiders used to pick the pockets of their employees and investors. So the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL) are offering a Democratic substitute today, one that takes real steps to protect employees and hold corporate wrongdoers accountable. It ensures a level playing field between executives and employees, and the corporate wrongdoers cannot take advantage of employees and investors.

As the President said after the Enron collapse, "If it is good enough for the captain, it is good enough for the crew." For example, the Democratic substitute requires that employees be notified when executives are dumping stock, and it prevents executives from selling their stock while employees are prohibited from selling their stock. If the Democratic bill had been law, Enron executives could not have bailed out while promising their employees that everything would be just fine.

The Democratic substitute also gives employees a seat on pension boards so they have a voice when critical decisions about their retirement security are made.

It provides employees with access to independent, unbiased financial advice, and it ensures that they get honest, accurate, and timely information about their pension plans.

Finally, the Democratic substitute increases criminal penalties against corporate wrongdoers who violate employees' pension rights.

Mr. Speaker, the Democratic substitute is the only real response to Enron on the floor today. It is our only chance today to protect Americans from another Enron scandal.

□ 1030

Mr. Speaker, I urge all Members to vote for it. It is also my intention to vote against the previous question on this rule. If the previous question is defeated, I intend to offer an amendment by the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary. His amendment, the Corporate and Criminal Fraud Accountability Act, would allow the House to vote on increasing the penalties against the corporate wrong-doers, like the Enron executives who brought their company to ruin, while walking away with their pockets stuffed with cash.

If we are really going to consider pension security, we ought to make sure that corporate wrong-doers do not think that they can get away with this kind of fraud again. Without that addition, this Republican bill would leave the pension plans of employees and investors vulnerable to another Enron.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we will hear a lot of demagoguery about Enron today. Some may be true. But the one point made that the bill passed by the Republicans on class action suits a few weeks ago would have undercut Enron's ability and its employees' ability to sue is simply wrong. What we said was above a certain threshold, those suits may be removed to Federal court. The Enron suit is in Federal court. It would not have been hampered one wit.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to indicate that this rule serves as an example for those of us who continually point out that bipartisanship is a rhetorical idea that the majority refuses to turn into a reality. Sure, the rule allows for one Democratic substitute. But yesterday evening the Committee on Rules shot down along party lines more than 12 amendments that were offered by Members on both sides of the aisle. I particularly paid attention to the one offered by the gentleman from Minnesota (Mr. GUTKNECHT), which I think should have been permitted by the Committee on Rules. Many of these amendments would have aided the leadership of both parties to move closer together on comprehensive and agreeable compromise. But as we see this morning, the majority is not in the business of compromise.

The notion of pension reform was raised from the rubble of the Enron scandal. Congressional hearings and law enforcement investigations have shown that to prevent future Enrons, Global Crossings and countless others, Congress must address the issues of diversification, auditor independence, honest and accurate information, tougher criminal enforcement, and most important, equal treatment of employer and employee retirement plans. Let me repeat that. Equal treatment of employer and employee retirement plans.

Yet while we know what needs to be done, the majority's bill inadequately addresses these issues. The Republican bill does not require employers to notify employees when they are dumping stocks. It locks employees, but not employers, into 3- or 5-year stock holding situations, thus continuing down the dangerous road of nondiversified portfolios. It denies employees a crucial vote on pension boards. It does not hold employers liable in the case of another Enron or Global Crossing, and continues the special treatment of employers' pensions.

This bill fails to protect employees and often yields power and leverage to executives and business owners. Candidly, it is an act of irresponsibility.

The Democratic substitute addresses these issues; and it addresses them in a manner that treats the retirement packages of employees equal to those of their employers, even more, in holding employers accountable for violating workers' pension rights. The Democratic substitute fills a large hole in the majority's bill.

Mr. Speaker, I hope that my colleagues on both sides of the aisle realize that we have the chance for a bipartisan compromise on pension security. We could have reached one during the hearing process before last night's Committee on Rules meeting, and certainly today.

Instead, the majority is trying to push through its own misguided bill that fails working families at a time we need to be protecting them.

Mr. Speaker, I urge my colleagues to oppose this rule, oppose the underlying bill, and support the Democratic substitute. I know that if Enron's former employees were able to vote here today, they would do just that.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, this is really about two different approaches to the protection of American workers' retirement funds.

Earlier this year, American workers all across this country were jolted by the fact that their 401(k) plans, which they are having to increasingly rely on for their retirement nest-eggs, could be vulnerable and could be wiped out by incredible actions by corporate executives. But that is what happened to the people who worked for Enron, and that is what millions of Americans all of a sudden understood was possible with their plans.

So we learned a lot of information about the Enron case and about the vulnerability of employee retirement funds. We learned first and foremost that many employees had no control over many of the assets that were put into their funds because corporations have said that employees have to hold on to them until you were 50 or 55, could not divest them for 5 or 10 years, and could not diversify their holdings.

We learned that employees, even though the vast majority of these funds, or in fact all of these funds, were assets that belonged to the employees, that in many instances they were not given a voice on the pension board; and clearly, they were not at Enron. What happened, the members of the Enron pension board sold their stock. They never told the employees that they were selling, or that they thought the stock should be sold. They saved themselves millions of dollars. The employees got wiped out. Why? Because they had a conflict. Nobody represented the rank-and-file employees on the pension board which was made up of executive vice presidents who were trying to get to the corner office.

They also found out that the employer's plans at Enron were ensured. They were guaranteed. So as Enron goes into bankruptcy, the executive elites, their retirement plans are guaranteed. They saved millions of dollars for their future use through insurance plans and guarantees. The employees, wiped out, and at best get to stand in line and hope to get something from the bankruptcy court where they have no real protections.

We also wanted to make sure when the employer, the executive elites, were making a decision to sell stock, that somebody would tell the employees. There is no requirement in the law today. And yet when Ken Lay was telling people he was buying stock, he was secretly selling stock to liquidate his personal debts at Enron. The employees had no way of knowing that, no timely notification. They lost their assets; the Ken Lays protected themselves.

Finally, what we see is these employees have no real right of action for the misconduct of the executives of Enron, for the executives of Enron that have wiped out their retirement plans. We think that they should be made whole, that they should have a right to go after that; but under ERISA, they have no rights.

Mr. Speaker, what is the distinction today between the Republican bill and the Democratic substitute? The Republican bill learns nothing from Enron. It lets executives continue to sell stock and not notify the employees. It continues to treat the executive retirement assets completely different than the employee retirement assets. It makes sure that the employees have no voice on the pension board, even though research shows that where employees have a voice on the pension board, they invest more money and, in fact, they do a little bit better on the rate of return on those investments.

So they have learned nothing about protecting American workers as a result of the disaster at Enron, as a result of the greed at Enron, as a result of the self-dealing at Enron, as a result of the conflicts of interest. The Republicans have learned nothing because their bill does nothing to provide further protections.

Yes, they let them diversify; but it is a 3-year rolling diversification. Three years ago, people were in the last stages of the greatest bull market in the history of this country; and today, people have lost many of their assets. Three years in the marketplace is a long time.

How is it that we believe that we can lock up people's assets for 5 years, and then for every 3 years after that?

Finally, the final insult to the employees in this bill, and that is the investment advice provisions. For the first time under the Federal laws protecting these pension plans, conflicted advice will be allowed to be offered. That comes just 2 days after we learn of the Merrill Lynch conflicts where Merrill Lynch, as an investment banker, was making tens of millions of dollars on investment advice and arrangements for these companies and then were telling their people who were giving retail advice to investors all across the country that these were good stocks and good for retirement plans, when we find out that they did not believe that at all.

Investment advice can be very important to Americans trying to secure their retirement; but it must be advice without hidden commissions, without hidden fees, and without hidden conflicts of interest. America got a rude awakening with Enron, but we have also learned that Enron is not unique. I appreciate that Members want to treat it as a one-time effort. We have seen other corporations that have locked up the pension assets of employees for their own convenience, for the good of the corporation, as opposed to the good of the workers.

We have also seen other corporations where huge loans were secretly taken out, where stock was secretly sold, and the employees had no way of knowing it until after it was too late. After the famous ship that the President keeps talking about, where what is good for the captain is good for the crew, the crew was already underwater. The captain did not even have the courtesy for the workers of many, many years, did not even have the courtesy to bang on the abandon-ship horn as he went to the lifeboat. We owe America's workers more.

Mr. Speaker, this is the one vote we are going to get about millions of workers, about almost all of our constituents in the workplace, about the security and protection and the advice and the control that they have over their retirement nest-egg.

Mr. Speaker, our committee was sadly treated to the testimony, as many other committees were, of workers at Enron and many other corporations who are in their 50s and 60s who thought that they had a great retirement ahead of them; and it has vanished. It was wiped out by incredible corporate greed, by a lack of total ethics by corporate executives, by the double-dealing of corporate executives, by the conflicts of interest in the financial institutions and the accounting institutions. We cannot let that happen again. We must pass the Democratic substitute.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, before us today is a bipartisan bill that will help promote security, education, and freedom for employees who have worked and saved all of their lives for a safe and secure retirement. Those of us on the Committee on Education and the Workforce have been engaged in pension reform issues for several years now, looking at ways to expand worker access to high-quality investment advice and encourage employers to sponsor retirement plans for their workers.

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As our committee began hearings to address the Enron collapse, we did so with a firm commitment to identify further reforms that will strengthen the retirement security of American workers.

The Pension Security Act, based on President Bush's reform plan, sends a clear message that Congress is committed to addressing the Enron collapse by enacting new safeguards to restore worker confidence in the Nation's pension system. It accomplishes this goal in a number of ways: First of all, the Pension Security Act includes new flexibility for workers to diversify their portfolios and better information about their pensions. In addition, it requires companies to give workers quarterly benefit statements that include information about their accounts, including the value of their assets, their right to diversify, and the importance of maintaining diversity in their portfolios.

President Bush has also called upon the Senate to pass the Retirement Security Advice Act which passed this House last November with a large bipartisan vote. The bill encourages employers to make quality investment advice available to their employees. Some of Enron's employees could have preserved their retirement savings if they had access to a qualified adviser who would have warned them in advance that they needed to diversify their investment portfolio.

The Pension Security Act also ensures parity between senior corporate executives and rank-and-file workers by prohibiting company insiders from selling stock during blackout periods when workers are unable to change their investment mix. The bill also strengthens the blackout disclosure requirements and specifically requires 30 days' notice before a blackout period could begin. Lastly, the bill clarifies that companies in fact have a fiduciary responsibility for workers' investments during a blackout period.

The Nation's private pension system is essential to the security of American workers, retirees and their families. Congress should move decisively to restore worker confidence in the Nation's retirement security and pension system, and President Bush's reform proposal will do just that. This is a bipartisan bill. I look forward to working with my colleagues on both sides of the aisle as we move forward on this important issue.

The rule today before us, I believe, is a fair rule. I urge my colleagues to support it.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking member on the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, when the Enron scandal started, so many reporters were trying to associate this with the administration and they did all they could to distance themselves from this conduct that was just repugnant to everything that fairness and equity would want us to do. So one would think that the Republican leadership in the House would want to do the same thing, especially as related to protecting the 401(k) employee contributions to their pension plans. This being a tax issue, one would logically believe that it would be the leadership of the Committee on Ways and Means that would be showing our concern about protecting these pension plans. But the silence has been deafening from my committee, and the leadership, what little there was, actually came from the gentleman from Ohio

(Mr. BOEHNER) who heads the Committee on Education and the Workforce, and I thank him at least for raising the subject. But the President still was not convinced that we had fully appreciated that captains were getting a better shake than employees; that is, the executives in these firms. And so he continues to say that that there should be more equity.

The bill that comes to the floor really puts the employees going upstream in a canoe without a paddle, because it actually gives protection, even after bankruptcy, to the executives while the employees continue to suffer. One might ask a question, well, why would the Republicans do this to themselves in an election year? The answer is, "It's campaign contributions, stupid." They tried yesterday to really disrupt campaign finance reform by putting a little thing in there to disrupt it. But the Republicans are no longer walking lockstep. They have to decide whether they are going to follow the corporations or follow their constituents back home.

So for those who really want to see what is going on in this House, do not listen to the debate but watch the votes today, because while you do not find too much bipartisanship on the floor, you are going to find Republicans and Democrats trying to protect their employees by voting against the Republican bill that is on the floor today, and voting for the Democratic substitute that is going to allow us to go home feeling that we have protected the employee and we are not going to allow the executives just to get away with whatever they want to do just because they are the captains of the ship.

If this ship is going down, the integrity of America goes down with it. Equity and fair play should be a part of every pension bill. What happened to Enron, this is the last chance we will get to tell the American people how much we believe in protecting their pension funds.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. I thank my colleague from Georgia for yielding me this time.

Mr. Speaker, I thought what I might do is respond to some of the comments that have been made on the other side of the aisle, first to my friend from New York, the ranking Democrat on the Committee on Ways and Means. I was there with him in the Committee on Ways and Means when we had a good hearing, a good markup on these issues, and I appreciate his support of the Portman-Cardin provisions which are really the base of this legislation. There has been something added since that time, which is that those "captains" are prohibited from trading their stock at all during a blackout period so long as 50 percent of the participants in the plan are affected by the blackout.

So you supported us in committee, we had a good bipartisan product, we had a good debate on it, we made some changes to accommodate some of the gentleman from Maryland's and your concerns and others, and then we added to it by actually putting in place what you indicated a moment ago is your biggest concern: that there is nothing in here to keep the captains from trading stock when the sailors cannot.

I know there are some other issues. There is investment advice in here that was not in our bill, although we did have the pretax investment advice proposal. I would just hope that those listening to the debate today who are still trying to decide whether this is the right legislation to support or not, particularly on the other side of the aisle, would take a look at the bill.

The gentleman from California (Mr. GEORGE MILLER) earlier who spoke in opposition to the bill because he said it did not do anything, I hope he would look at what came out of the Committee on Ways and Means and the gentleman from Ohio's committee more carefully because it does do a lot. Right now if you are in a 401(k), your employer can say, "You're tied in till you retire." If it is an ESOP, they can only tie you until you are age 55. Plus you have to have 10 years of participation. So if you arrive at age 46, you have to wait until you are age 56. But with 401(k)s, they can go even further than that.

The legislation before us today makes a substantial change and directly affects what happened at Enron. The employees at Enron had to wait till age 50. They could not unload the stock if they wanted to. What we are saying is, once you are there 3 years, you are vested, you can unload the stock. Three years, instead of waiting until you are age 50 or 55 or 65 or whatever the employer wanted to do under current law. Or the employer can instead choose a 3-year "rolling," which means that when you get stock, you can only be required to hold it for 3 years. That is a big difference.

For those on that side of the aisle who say there is no change here, that this is somehow worse, how can that be worse? Think about the employees who are in 401(k)s around this country who are taking advantage of that employer match but who want to have a little more choice. Do we not want to give that to them? Why would you vote "no" on this? This is going to help millions of people be able to have more choice.

It also has a very important component, which is more information and education. On the information side, it says you now have to be told about a blackout. Right now there is no notice requirement for blackouts. A blackout is when a company stops all the trading in their stock, in their 401(k) plan or other pension plan during a period of time, for example, when they are changing plan administrators or managers. Right now there is no requirement for a notice.

Some say Enron provided notice, some say they did not. That is really beside the point, because this is not just about Enron. The point is that right now there is no ability for employees to know when they are going into a blackout period where they cannot trade. We say it has to be given 30 days before the blackout. That is new. There is no requirement now.

Again, for my colleagues on that side of the aisle to stand up and say this does not change things at all, I hope they are looking out for the interests of the employees, but I have got to wonder. Is this all about politics or is it about making real change that is going to make a real difference? We had a 36–2 vote out of the Committee on Ways and Means on this issue because the gentleman from New York (Mr. RANGEL) and other Democrats looked at the bill, read the bill, understood its impact on workers and supported it.

Finally, in order to be able to make informed choices, because we are giving people more choices, we are giving people more information, you want to give people more education. I thought there was a bipartisan consensus about that. I thought we wanted people to be better informed so they could make better decisions on their own. 401(k) participants have gone in the last 22 years from a few thousand employees to millions of Americans. With over 235,000 plans, 42 million Americans now enjoy the benefits of this. Do you not want to let them have a little more education so they can make these decisions?

This bill says on a pretax basis, you can deduct out of your paycheck money to go out and get advice, wherever you want. You can get it from whoever you want. You can get 300 bucks or 400 bucks or 500 bucks to go out and seek advice. Pretax. That is a pretty good deal. Again, that came out of the Committee on Ways and Means. I appreciate the gentleman from New York supporting that. It is a good provision. It is going to help people to get the information they need to be able to make these decisions we are now empowering them with. Rather than saying you have got to hold onto that stock until you retire, we are saying, you should diversify. We want to give you the information to do so.

And then in Chairman BOEHNER's committee, the provision was added to say the company ought to be able to go out and get advisers to come in who are certified advisers, who disclose any conflict of interest they might have or potential conflict of interest, and they ought to be able to offer advice. That passed this House with over 60 Democrats supporting it last year, in November. That is not a controversial provision.

The final thing is that we require not just more diversification options, more choice, more information, more education, but we actually force the employer now to tell employees they ought to diversify. When an employee now enters into a plan, we are going to require for the first time that they be given a notice which says, "Guess what, it's not a good idea to put all your eggs in one basket. You ought to diversify." That is in this bill. It is not in current law. Then every quarter, they are now required to provide a benefit statement telling the employee what is going on with their plan and another notice saying, you ought to diversify. Because for retirement savings, it is not a good idea to have all your eggs in one basket. Information, education, choice, equals security.

This is a pretty straightforward, commonsense piece of legislation. I have enjoyed working with the gentleman from Maryland (Mr. CARDIN) on it for the past 3 or 4 months, enjoyed working with the administration, with the gentleman from Ohio (Mr. BOEHNER), with the gentleman from New York (Mr. RANGEL), with other Democrats on the Committee on Ways and Means. I would just hope that today in a political year, where there is a lot of partisanship, that we can set some of that aside for the good of the workers, not the people at Enron solely, the people all around this country who are in 401(k) plans that have the huge advantage of getting an employer match. For those people, we ought to offer them better information, better education opportunities, and more choice. That is what this is about.

This legislation, Mr. Speaker, has been bipartisan from the start. I am disappointed from what I have heard this morning from the other side. I would hope that at a minimum we can stick to the facts today, and if at the end of the day some of my colleagues on that side think this is such a great political issue that they just have to vote "no," so be it. But let us not as we go through this debate mislead the American people and mislead our colleagues as to what is in this legislation. It is good, solid legislation that does address what happened at Enron. It is not the silver bullet that is going to solve every problem in our pension area, but it makes substantial progress. It does not turn the clock back. It moves the clock forward. It gives people information, education, security, that they need.

I would strongly urge my colleagues on both sides of the aisle to look at the bill and if they do so, I believe they will support it.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

We have had a very nice kind of technical discussion by the gentleman on the other side, but this is a very simple issue. The question is, which side are you on? Which side are they on? Which side are we on? They are with the top executives. We are with the employees.

I would like to quote from an article in today's New York Times on the front page. It says: In Enron's Wake, Pension Measure Offers Loopholes. Experts Say House Bill Could Allow Companies to Favor Highly Paid Employees.

It goes on:

"Some legal experts and pension rights advocates say the first of the post-Enron pension measures to reach the House floor actually opens up fresh loopholes. Some of the bill's provisions would lead companies to seek to reduce the number of employees covered by pensions and give proportionally larger pension benefits to the most highly paid executives."

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Which side are we on? We are with the employees. Which side are they on? They are with the highly paid executives.

Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

The gentleman spoke on the other side for a minute and wanted to talk about politics and education. Well, the politics of this rule are very simple. They did not want to have a straight matchup of each part of this bill. We are not allowed to bring forward amendments and talk about the several aspects that you heard the gentleman from California (Mr. GEORGE MILLER) talk about earlier, because when you stack them up one against the other, this side that is with the employees, with working people, would win hands down. It is only by putting them all together in the aggregate and then trying to put it through on a party-line vote that they stand to have any prospect of having a bill that favors employers and the well-to-do against people that work every day and need protection.

I will associate myself with the remarks of the gentleman from California (Mr. GEORGE MILLER) on the general aspects of the substitute, and that should pass. Thank God the rule at least allows that.

But I had tried, Mr. Speaker, to get in an individual amendment speaking just to the issue of advice and was not allowed the opportunity to do that. That is why this rule is in essence an abomination. That issue and others are being excluded from a direct debate in a direct contradiction to what is in that major bill that the majority is putting forward.

They claim this is a compromise between the two committees, the Committee on Ways and Means and the Committee on Education. The only thing being compromised here is the retirement security of our working men and women.

This bill hurts employees with respect to the advice situation. A year ago, my amendment was the only amendment on this floor that talked about having no conflicted advice. The majority would not let it on the floor, would not let it come to a vote, and they passed a bill that went through and allowed for conflicted advice.

Again we see a bill here saying, gee, as long as we tell you we are conflicted, as long as we tell you we might hurt you, we can have that kind of advice. Well, the fact of the matter is, Enron is coming between that; Ken Lay and his chat room advice to employees to hang on to the stock while he was dumping it off at a profit has come in between that. We have had investigations in the industry which every day reveal new conflicts, new scandals, more losses for working people.

Mr. Speaker, I will include my remarks from the CONGRESSIONAL RECORD from last year for the record, because they are still pertinent.

We only have to look at a recent newspaper headline from the Washington Post, April 9: "Merrill Lynch e-mail shows firm pushed bad investments on client, chief New York prosecutor says."

The fact of the matter is, Mr. Speaker, the industry is admitting they are totally conflicted. The U.S. Attorney's Office and the New York State Attorney's Office in New York have shown that that happens day in and day out.

The American public and the working people need to know they have advice that is not conflicted. Employers can be protected on the advice that they give, but there is no excuse to not protect the employees and to make sure advice they get is absolutely not conflicted. It is just one more way in which this bill does not favor employees and does more for the executives than it does for the working people.

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from New Jersey for yielding me this time.

Like many Members, I represent people who have worked hard and whose entire hope for a secure retirement may well rest on the success of their 401(k): leather workers, jet engine assemblers, teachers, nurses, and other hard-working, intelligent folks who are bright and able, but many of whom have little experience in understanding investment fundamentals. They may lack the time or even the knowledge to work through a mountain of financial information. They need advice that is given by a provider that meets at least minimum standards, one who is qualified and one who is subject to the laws of ERISA's fiduciary standards, standards of trust, and one who is free from financial conflict, free from divided loyalties; and they need an advisor who will put the worker's or investor's interests first above profit.

Consider this following example: two mutual funds, each posting annual gains of 12 percent consistently for 30 years. One fund has an expense fee of 1 percent, the other an expense fee of 2 percent. If you invested $10,000 in each fund, the fund with the lower expense fee at the end of 30 years would earn $229,000, but the one with the higher expense fee of 2 percent would have only $174,000. The mutual fund would pocket the difference of $55,000.

Obviously, there may be little incentive for the advisor connected to the mutual fund to highlight the significance of this conflict, of his or her potential gain in steering someone to the higher fee investment. Why should we allow such a conflict of interest to exist when it is not necessary?

Perhaps that is why the fund industry is lobbying so hard for this bill, but workers and retirees are not asking for its passage. These hard-working people, like other investors, need and want good, sound advice; but allowing money managers to make recommendations that will generate more income for themselvess hardly falls into the realm of independent advice.

In 1974, Congress chose to ban transactions between pension plans and parties with a conflict of interest, except under very narrow circumstsances; and they did that for a simple reason. There is too great a danger that a party with a conflict of interest will act in its own best interests rather than exclusively for the benefit of the workers. That concern is not less valid today.

Studies by the financial industry itself have found broker conflicts have harmed advice received by individuals, audit conflicts have undercut the value of audits on financial firms, analyst reports have shown significant evidence of bias in comparing ratings. The law, ERISA, was designed to protect against just these types of issues.

Our shared goal should be to increase access to investment advice for individual account plan participants. We need not obliterate long-standing protections for plan participants in order to do that. Surveys show that the most important reason advice may not now be offered is that employers have fears that they may be held liable for advice gone bad. The remedy for that, and it is in the bill, is that Congress should encourage more employers to provide independent advice by addressing employer liability. It should clarify that an employer would not be liable for specific advice if it undertook due diligence selecting and monitorinng the advice provided. It is as simple as that. There is no need for conflicted advice.

Many plans already provide for investment education. Many plans now provide independent investment advice through financial institutions and other firms without conflict. Clarifying that employers would not be liable if they undertake due diligence with respect to advice providers would further increase advice as necessary.

Disclosure alone will not mitigate potential problems. The alternative bill in adding some protections and mandating a choice of alternative advice that is not conflicted is a better ideaa, but the best idea remains a prohibiting against conflicted advice. Congress, by clearing up the liability issue, can encourage independent, unbiased investment advice that will better enable employers to improve their long-term retirement security, while minimizing the potential for employee dissatisfaction and possible litigation. This is what is in the best interests of the plan participants and, in fact, the best interests of the plan; and certainly is in the best interests of the hard-working people in my district who need to know that their retirement is secure.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I appreciate my good friend from Massachusetts' concern about his amendment that would seek to eliminate the ability of, frankly, some of the best advisers, some of the most successful companies in America, from offering investment advice to their employees.

The fact is today we have some 50 million Americans who have self-directed investment accounts as part of their pension and retirement package from their employer. Only about 16 percent of these people have any access to professional investment advice.

One of the things we have all seen with the collapse of the high-tech sector, with the Enron collapse, and about the dramatic fall in the value of a number of stocks that we have seen over the last several years, those employees today need more investment advice to help them make better decisions for their own retirement security.

The two provisions in the underlying bill today, the Investment Advice Act that this House passed with all the Republicans and 64 Democrats last November is one of those provisions, and the provision from the gentleman from Ohio (Mr. PORTMAN) in the Committee on Ways and Means' section of the bill that would provide a tax credit, the ability to use pre-tax dollars to have their own investment, I think complement each other to the point where we will have much more investment advice out in the marketplace.

But to say that people who sell products cannot offer investment advice I think is wrong-headed. Why? Because we are trying to encourage more investment advice in the marketplace, not less, and the fact is that if you do not allow those who sell products from offering advice, with protections for the employee as we have in the underlying bill, we will get very little new advice into the marketplace.

That is not what employees want. In a recent poll, some 75 percent of employees said they need more investment advice. Well, why should we not get this information out in the marketplace for them?

We will have much more debate on this when we get into the bill itself. But the gentleman from Massachusetts is a good friend, I know he means well, but in the end I think the provisions we have in the underlying bill meet the test of fairness and safety for all of Americans and America's employees.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the bill before us today might be called the "We Have Learned Nothing From Enron Yet Act." The first lesson of Enron is Enron is not alone. The problem is endemic in corporate America.

The retirement security of millions of Americans is at risk. For years, corporations have moved more and more toward defined contribution plans. In other words, the corporations took less and less responsibility for their employees' retirement and no one was looking after the employees' interests. Employees in many cases were denied the opportunity to look after their own interests. They were denied information about their company and the actions of their executives.

Now, the bill before us today fails to give employees notice when executives are dumping company stock. It denies employees a crucial voice on pension boards. It limits the ability of employees to collect damages resulting from misconduct of corporate officials. It allows executives to continue to have their savings set aside and protected if a company fails, while rank-and-file employees are left to fend for themselves in line in bankruptcy proceedings.

Perhaps most important, the bill leaves employees' money locked into company stock. Think Enron here. Locked into company stock for long periods against their will. The bill ties employees' hands from diversifying, even if they want to, for a 5-year period or a 3-year rolling period after that, and corporate executives will be allowed to unload their stock options.

I asked the Committee on Rules to allow a vote on my amendment that would allow employees to be vested in their 401(k) plans after 1 year. I thought that was a fairly generous period, instead of 5 years. The Committee on Rules would not even allow a vote on that.

Now, I have sided with the Republican majority on provisions with regard to pension whenever I can, but now they put together this bill that falls woefully short.

All I can ask of my colleagues is take the side of employees. Pass the Democratic alternative.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank my friend from Georgia for yielding me time.

Mr. Speaker, again I would make the point what we are proposing here today, what is before us, is a substantial change from current law, and it does address the Enron issue.

My friend across the aisle just said that he believed that no one was looking after the employees' interests over the last 20-some years as we put together defined contribution plans. I would respectfully disagree.

I would ask him to ask the thousands of constituents in his district how they feel about it, maybe ask the 55 million Americans who currently have the benefits of defined contribution plans. I would ask him to go to some of the smaller businesses in his community that would never have offered a defined benefit plan, never had one, who now offer a SEP or a simple plan or a 401(k) or a safe harbor 401(k) and are giving people the ability to save for their own retirement.

There are people who will retire today in my hometown of Cincinnati with hundreds of thousands of dollars in their account, even with what the market has done in the last year, who turned a wrench their entire lives. They were technicians or mechanics and never had access to any kind of retirement savings. These are some of the 55 million people who now have a defined contribution plan.

We do not want, in response to the Enron situation, to have those plans and those people lose their promise, lose their dreams, lose their ability to do that. I think we have achieved the right balance here.

Frankly, the business community is not wild about this bill. Why? Because it does not let the employer tie people to the company stock the way they currently can.

Now, my friend said he wanted to go to 1 year instead of 3 years. Well, it is unlimited years now. So we could debate whether it is 1 year or 2 years or 3 years or 4 years or 5 years. That is as compared to saying to one your constituents, you have to keep in this stock until you retire, which could be 40 years, or 45 years, or even 50 years.

So, I think we are talking about some relatively small differences between where you would like to end up and what you proposed to the Committee on Rules last night and where we are today.

I would again just urge those who are listening to this debate, let us be very clear: There are substantial differences between current practice and what we are proposing, and these do not just relate to the Enron situation. It relates to millions of Americans who have the benefit of getting a match from their employer in employer stock. We want to continue that.

What the employer community tells us is they are not wild about our bill, but they certainly do not want it to go down to 1 year because they like the idea of giving corporate stock, in part because they want the employee to feel some stake in the company. They like the idea of employee ownership and employee empowerment through the company.

We are, frankly, not going to permit them to have the kind of ownership that many of them would like to have over a longer period of time. We are doing it for a simple reason, because we believe employees ought to have more choice. Again, we combined that with information, including notice periods that are not there now, and better education.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey, Mr. ANDREWS.

Mr. ANDREWS. Mr. Speaker, the tragedy that affected the Enron pensioners is a story about power and conflict of interest. People with a lot of power and influence and a conflict of interest took advantage of people with very little power and influence, and those people lost just about everything they had.

I wish that the legislation that my friend from Cincinnati described was on the floor today, but it is not. The legislation the majority is addressing on the floor today I think fails to solve the problems that exist in American pensions plans in three very important ways.

First of all, our substitute would give employees real power to have a say in how pension plans, filled with their money, are managed. Our bill would call for these employees to have a seat, to have a say in how the plans are managed. The majority plan does not.

Our bill would say that once money is in your account, it is your money. If the employer can put stock into your 401(k) plan and receive a deduction because it is treated as compensation paid to you, then it should be compensation. It should be yours to do with, whatever you please.

The gentleman says that there is very little difference between the Democratic and Republican plans. I would respectfully disagree. Under the majority's plan it could be 3, 4, 5, 6, 7 years that an employee would have to sit there and watch the value of their stock plummet and not be able to sell the stock or do anything about it, while their bosses and superiors could drop their stock in a minute. That is wrong.

Finally, there is the issue of conflict of interest. We are legalizing in this bill today, we are legitimizing in the majority's bill today, the practice of benefiting from giving people advice that benefits you more than it does them.

Mr. Speaker, I would urge support of the substitute.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, just to respond briefly, if the gentleman would like to take the mike, that is fine, but he said somehow I was not describing the bill that is before us. I would like him to tell me one thing that I said about the bill that is not in the legislation.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I would ask the gentleman to tell me, if your bill became law tomorrow, if an employee had stock in a 401(k) plan that was employer-matched, how many years would the employee have to wait before they could sell the stock?

Mr. PORTMAN. Mr. Speaker, reclaiming my time, my colleague just stood before the well of the House and told our colleagues and the American people, to the extent they are listening, that an employee would have to wait 5, 6 or 7 years holding on to its stock, while other people could dump the stock.

□ 1115

I do not know what he is talking about. In this legislation, it says that you have to hold the stock, if the employer requires it, for a period of 3 years as compared to an unlimited time now. That is the difference. Let me finish and tell the gentleman what is in the bill, because this legislation came out of the gentleman's committee and my committee. I assume the gentleman has read it, but the gentleman from Maryland (Mr. CARDIN) and I put together this part of the bill, and I will just tell the gentleman what is in the legislation.

When the legislation goes into effect, we were very careful not to have a dumping of stock on to the market, which is going to hurt not just the American consumer and our economy, but those very employees who care about having the corporate stock continue to have the value that it deserves. If we allowed immediately for everyone who has corporate stock in America in their 401(k) plan to unload that stock, it would be detrimental. So we say it should be done over a 5-year period initially, with 20 percent per year, doing the math. That is, after 5 years one could, if one chose, have all of the stock out of their account. Then once that is completed, that is just the first 5 years after the legislation, then the 3-year period begins.

So that is how the legislation was drafted. I see the gentleman from Maryland (Mr. CARDIN) has now come into the Chamber. That is how we drafted it.

Mr. LINDER. Mr. Speaker, I am happy to yield 1 minute to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I know at the end of the day, some of my colleagues have some substantive differences with the legislation and they also have some politics that they would like to talk about; and I would love to address the gentleman from Texas's quote from the New York Times, because there are some other quotes from that story that are more accurate. This is not about us versus them; this is not about the big guy versus the little guy. This is about something that will help the workers in this country. But I do believe that it would be in the interests of this House to stick to the facts, and that is what I have tried to do.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield for a question about the facts?

Mr. PORTMAN. I would be pleased to yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I think I just heard the gentleman say that if the majority's bill became law tomorrow, an employee would have to wait for 5 years before he or she could divest themselves of all of the stock; is that correct?

Mr. PORTMAN. Mr. Speaker, 20 percent the first year, 20 percent the second year, 20 percent the third year, 20 percent the fourth year, 20 percent the fifth year.

Mr. ANDREWS. Mr. Speaker, if the gentleman would yield, so before they could divest themselves of all the stock, they would have to wait for 5 years; is that correct?

Mr. PORTMAN. That is correct. Reclaiming my time, does the gentleman disagree with that provision?

Mr. ANDREWS. I do indeed.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, the high school sophomores of America are disgusted with this conversation, I am certain. I am sure they are asking themselves why the Members of the House of Representatives and the other people who are elected to protect their rights allow this situation to exist for so long; but they are certainly not happy with the majority party standing up to applaud themselves for taking a few significant steps toward greater financial security with respect to the pension funds of the employees.

We have taken a few steps. Why not maximum reasonable security for all of the people who have their money in these pension plans? Why not go further than the plan that the majority has? Does it cost the taxpayer any money to do a little more as reflected by the Miller substitute?

Mr. Speaker, I rise in support of the Miller substitute. What would it cost to have immediate disclosure whenever a top executive sells a large amount of stock? Would that cost the taxpayer any money? Would it really cost us any money to have greater checks and balances? Would it cost us any money to have more democracy where the employees have a representative actually watching their funds sitting in a high place where the decisions are being made? The people in Europe and the other industrialized democracies do not think it is such a great problem to have an employee representative sitting on the board. Why not maximum reasonable security? Why not go one step further?

Everybody knows from past scandals, savings and loans swindles, the bigger the party is, the more corruption there is going to be. We have enough history as a human race to know that whenever we have large amounts of money or large amounts of power, corruption is inevitable. Human beings are going to behave that way. That is why the system of checks and balances exists. Let us go all the way with maximum reasonable security.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, in my district in Houston, the ex-Enron employees' lives are in shambles; and every time I go home, they ask, what? why? What is the Congress going to do?

Today we have an opportunity to act and we are not. I ask that we defeat this rule. I ask my colleagues to vote "no" on the previous question. Why? Because the majority refused to allow an amendment that I cosponsored with the gentleman from Michigan (Mr. CONYERS), the Corporate and Criminal Fraud Accountability Act, which gives a 10-year felony for defrauding shareholders of publicly-held companies. There is a penalty for destruction of evidence, it provides whistleblower protection, and a bureau in the DOJ that prosecutes such acts. Why can we not do something real for these people whose lives are now destroyed?

I rise to urge the Members to defeat the previous question so that the House can consider my amendment to toughen criminal penalties against white collar fraud and prevent future Enrons.

I'm amazed that after all of the outrageous abuses we have learned about in the Enron case that the Leadership would refuse to permit this body to even vote on these provisions. You would think that after the greatest white collar fraud in history, which cost tens of thousands of hard working Americans their jobs, their retirement, and their savings, that we would take action to prevent future Enrons. But the base bill does not provide a single increased criminal penalty to respond to this abuse.

My amendment would impose tough criminal and civil penalties on corporate wrongdoers and takes a variety of actions to protect employees and shareholders against future acts of corporate fraud. Among other things, it creates a new 10-year felony for defrauding shareholders of publicly-traded companies; clarifies and strengthens current criminal laws relating to the destruction or fabrication of evidence, including the shredding of financial and audit records; provides whistle-blower protection to employees of publicly-traded companies; and establishes a new bureau within the Department of Justice to prosecute crimes involving securities and pension fraud.

My amendment would also give former employees enhanced priority in bankruptcy to protect their lost pensions. If we defeat the previous question, we can bring these measures up for a vote immediately, and take a strong stand against white collar fraud and in favor of working Americans.

In the wake of the Enron debacle, there can be no question that the time is ripe to protect American investors and employees. The Enron case has established beyond a snadow of a doubt that white collar fraud can be incredibly damaging, in many cases wiping away life savings and devastate entire communities. There can be no conceivable justification for shielding white collar criminals from criminal prosecution for their outrageous behavior.

This is why it is so important that we act today to prevent corporate wrongdoers from preying on innocent investors and employees. Vote no to defeat the previous question, and we can do just that.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, again, I urge Members to oppose the previous question. If the previous question is defeated, I will offer an amendment to the rule that will allow the Conyers enforcement amendment to be offered.

Mr. Speaker, this amendment will give the base bill much-needed language to prosecute the corporations found guilty of pension fraud. It will create a new bureau within the Justice Department to prosecute crimes involving pension fraud and create a new 10-year felony for defrauding shareholders of publicly traded companies.

Mr. Speaker, no one here today opposes giving employees a greater role in managing and understanding their investments. That part of the bill we all support. However, it is absolutely critical that we send a message to those companies that might be tempted to follow the practices of Enron. They need to realize up front that if they do that, they will be severely punished. The Conyers amendment will do just that.

Vote "no" on the previous question so that we can add some teeth to this bill and really guarantee that those who defraud their employees will pay a severe price.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LINDER. Mr. Speaker, I yield myself the remaining time.

I urge my colleagues to support the previous question and the rule so that we can move on with debate on this important bill.

The amendment previously referred to by the gentleman from Texas (Mr. FROST) is as follows:

Strike all after the resolved clause and insert:

That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3762) to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, equally divided among and controlled by the chairmen and ranking minority members of the Committees on Education and the Workforce and Ways and Means; (2) the further amendment specified in section 2, if offered by Representative Conyers of Michigan or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and an opponent; (3) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative Miller of California or Representative Rangel of New York or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (4) one motion to recommit with or without instructions.

SEC. 2. The amendment offered by Representative Conyers referred to in the first section of this resolution is as follows:

Add at the end the following new title (and amend the table of contents accordingly):

TITLE V—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 501. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

"Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 5 years, or both.

"§ 1520. Destruction of corporate audit records

"(a) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies, shall maintain all documents (including electronic documents) sent, received, or created in connection with any audit, review, or other engagement for such issuer for a period of 5 years from the end of the fiscal period in which the audit, review, or other engagement was concluded.

"(b) Whoever knowingly and willfully violates subsection (a) shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

"1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.
"1520. Destruction of corporate audit records.".

SEC. 502. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Securities fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any person in connection with any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f); or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f),

shall be fined under this title, or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

"1348. Securities fraud.".

SEC. 503. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(2) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this Act, are sufficient to deter and punish that activity;

(3) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50; and

(4) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of 1 or more victims.

SEC. 504. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end, the following:

"(19) that—

"(A) arises under a claim relating to—

"(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

"(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

"(B) results, in relation to any claim described in subparagraph (A), from—

"(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

"(ii) any settlement agreement entered into by the debtor; or

"(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.".

SEC. 505. INCREASED PROTECTION OF EMPLOYEES WAGES UNDER CHAPTER 11 PROCEEDINGS.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3) by striking "90" and inserting "180", and

(2) in paragraphs (3) and (4) by striking "$4,000" each place it appears and inserting "$10,000".

SEC. 506. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Except"; and

(2) by adding at the end the following:

"(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

"(1) 5 years after the date on which the alleged violation occurred; or

"(2) 3 years after the date on which the alleged violation was discovered.".

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

SEC. 507. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

"§ 1514A. Civil action to protect against retaliation in fraud cases

"(a) Whistleblower Protection for Employees of Publicly Traded Companies.—No company with securities registered under section 6 of the Securities Act of 1933 (15 U.S.C. 77f) or section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*, 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

"(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

"(A) a Federal regulatory or law enforcement agency;

"(B) any Member of Congress or any committee of Congress; or

"(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

"(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

"(b) Election of Action.—

"(1) In general.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

"(A) filing a complaint with the Secretary of Labor; or

"(B) bringing an action at law or equity in the appropriate district court of the United States.

"(2) Procedure.—

"(A) In general.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

"(B) Exception.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

"(C) Burdens of proof.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

"(D) Statute of limitations.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs.

"(c) Remedies.—

"(1) In general.—An employee prevailing in any action under subsection (b)(1) (A) or (B) shall be entitled to all relief necessary to make the employee whole.

"(2) Compensatory damages.—Relief for any action under paragraph (1) shall include—

"(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

"(B) 2 times the amount of back pay, with interest; and

"(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

"(3) Punitive damages.—

"(A) In general.—In a case in which the finder of fact determines that the protected conduct of the employee under subsection (a) involved a substantial risk to the health, safety, or welfare of shareholders of the employer or the public, the finder of fact may award punitive damages to the employee.

"(B) Factors.—In determining the amount, if any, to be awarded under this paragraph, the finder of fact shall take into account—

"(i) the significance of the information or assistance provided by the employee under subsection (a) and the role of the employee in advancing any investigation, proceeding, congressional inquiry or action, or internal remedial process, or in protecting the health, safety, or welfare of shareholders of the employer or of the public;

"(ii) the nature and extent of both the actual and potential discrimination to which the employee was subjected as a result of the protected conduct of the employee under subsection (a); and

"(iii) the nature and extent of the risk to the health, safety, or welfare of shareholders or the public under subparagraph (A).

"(d) Rights Retained by Employee.—

"(1) Other remedies unaffected.—Nothing in this section shall be deemed to diminish the rights, privilege, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

"(2) Voluntary adjudication.—No employee may be compelled to adjudicate his or her rights under this section pursuant to an arbitration agreement.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

"1514A. Civil action to protect against retaliation in fraud cases.".

SEC. 508. ESTABLISHMENT OF A RETIREMENT SECURITY FRAUD BUREAU.

(a) In General.—Part II of title 28, United States Code, is amended by adding at the end the following:

"CHAPTER 40A—RETIREMENT SECURITY FRAUD BUREAU

"§ 600. Retirement Security Fraud Bureau

"(a) In General.—The Attorney General shall establish a Retirement Security Fraud Bureau which shall be a bureau in the Department of Justice.

"(b) Director.—

"(1) Appointment.—The head of the Retirement Security Fraud Bureau shall be the Director who shall be appointed by the Attorney General.

"(2) Duties and powers.—The duties and powers of the Director are as follows:

"(A) Advise and make recommendations on matters relating to pension and securities fraud, in general, to the Assistant Attorney General of the Criminal Division.

"(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

"(i) Information collected by the Department of Justice, the Department of the Treasury, and the Securities Exchange Commission on pension and securities fraud matters.

"(ii) Other privately and publicly available information on pension and securities fraud-related activities.

"(C) Analyze and disseminate the available data in accordance with applicable legal requirements, policies, and guidelines established by the Attorney General to—

"(i) identify possible criminal activity to appropriate Federal, State, local, and foreign law enforcement agencies;

"(ii) support ongoing criminal pension and securities fraud investigations;

"(iii) determine emerging trends and methods in pension and securities fraud matters; and

"(iv) support government initiatives against pension and securities fraud-related activities.

"(E) Furnish research, analytical, and informational services to financial institutions, to appropriate Federal regulatory agencies with regard to financial institutions, and to appropriate Federal, State, local, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Department of Justice, in the interest of detection, prevention, and prosecution of pension and securities fraud-related crimes.

"(F) Establish and maintain a special unit dedicated to assisting Federal, State, local, and foreign law enforcement and regulatory authorities in combating pension and securities fraud.

"(G) Such other duties and powers as the Attorney General may delegate or prescribe.

"(d) Authorization of Appropriations.—There are authorized to be appropriated for the Retirement Security Fraud Bureau such sums as may be necessary for fiscal years 2003, 2004, 2005, and 2006.".

(b) Clerical Amendment.—The table of chapters at the beginning of part II of title 28, United States Code, is amended by adding at the end the following new item:

"40A. Retirement Security Fraud Bureau." 600

Mr. LINDER. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution and, thereafter, the approval of the Journal.

The vote was taken by electronic device, and there were—yeas 218, nays 208, not voting 8, as follows:

[Roll No. 87]

YEAS—218

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert

Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—208

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Allen
Ford
Pryce (OH)
Roukema
Ryan (WI)
Sessions
Towns
Traficant

□ 1150

Mrs. NAPOLITANO, Ms. SANCHEZ and Messrs. ROTHMAN, SCOTT, CROWLEY, ISRAEL, and TURNER changed their vote from "yea" to "nay."

Mr. BAKER and Mr. LEWIS of California changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 215, noes 209, not voting 10, as follows:

[Roll No. 88]

AYES—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—209

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson

John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Allen
Ford
Otter
Pryce (OH)
Roukema
Royce
Ryan (WI)
Sessions
Towns
Traficant

□ 1159

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. OTTER. Mr. Speaker, I was unavoidably detained for rollcall 88, on agreeing to House Resolution 386. Had I been present I would have voted "aye".

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 360, noes 56, answered "present" 1, not voting 17, as follows:

[Roll No. 89]

AYES—360

Abercrombie
Ackerman
Akin
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—56

Aderholt
Baird
Berry
Brady (PA)
Capuano
Condit
Costello
Crane
DeFazio
Delahunt
Dingell
English
Evans
Filner
Green (TX)
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilliard
Hinchey
Holt
Jackson-Lee (TX)
Kucinich
Larsen (WA)
Larson (CT)
Lewis (GA)
Lipinski
LoBiondo
Matheson
McDermott
McGovern
McNulty
Menendez
Moran (KS)
Neal
Oberstar
Obey
Olver
Peterson (MN)
Sabo
Schakowsky
Slaughter
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weiner
Weller
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—17

Allen
Ballenger
Brown (FL)
DeLauro
Ford
Kirk
Meek (FL)
Pryce (OH)
Riley
Rivers
Roukema
Ryan (WI)
Schaffer
Sessions
Towns
Traficant
Whitfield

□ 1210

So the Journal was approved.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3479

Mr. KUCINICH. Mr. Speaker, I ask unanimous consent my name be removed as a cosponsor of H.R. 3479.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3762.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PENSION SECURITY ACT OF 2002

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 386, I call up the bill (H.R. 3762) to amend title 1 of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the bill is considered read for amendment.

The text of H.R. 3762 is as follows:

H.R. 3762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Security Act of 2002".

SEC. 2. IMPROVED DISCLOSURE OF PENSION BENEFIT INFORMATION BY INDIVIDUAL ACCOUNT PLANS.

(a) Pension Benefit Statements Required on Periodic Basis.—

(1) In general.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by inserting "and, in the case of an applicable individual account plan, shall furnish at least quarterly to each plan participant (and to each beneficiary with a right to direct investments)," after "who so requests in writing,".

(2) Information required from individual account plans.—Section 105 of such Act (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

"(e)(1) The quarterly statements required under subsection (a) shall include (together with the information required in subsection (a)) the following:

"(A) the value of investments allocated to the individual account, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and an explanation of any limitations or restrictions on the right of the participant or beneficiary to direct an investment; and

"(B) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a discussion of the risk of holding substantial portions of a portfolio in the security of any one entity, such as employer securities.".

(3) Definition of applicable individual account plan.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new subsection:

"(42) The term 'applicable individual account plan' means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986.".

(b) Civil Penalties for Failure To Provide Quarterly Benefit Statements.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking "(5), or (6)" and inserting "(5), (6), or (7)";

(2) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(3) by inserting after paragraph (6) of subsection (c) the following new paragraph:

"(7) The Secretary may assess a civil penalty against any plan administrator of up to $1,000 a day from the date of such plan administrator's failure or refusal to provide participants or beneficiaries with a benefit statement on at least a quarterly basis in accordance with section 105(a).".

SEC. 3. PROTECTION FROM SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT OR DIVERSIFY PLAN ASSETS.

(a) In General.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating the second subsection (h) as subsection (j); and

(2) by inserting after the first subsection (h) the following new subsection:

"(i) Notice of Suspension, Limitation, or Restriction on Ability of Participant or Beneficiary To Direct Investments in Individual Account Plan.—

"(1) In general.—In the case of an applicable individual account plan, the administrator shall notify participants and beneficiaries of any action that would have the affect of suspending, limiting, or restricting the ability of participants or beneficiaries to direct or diversify assets credited to their accounts.

"(2) Notice requirements.—

"(A) In general.—The notices described in paragraph (1) shall—

"(i) be written in a manner calculated to be understood by the average plan participant and shall include the reasons for the suspension, limitation, or restriction, an identification of the investments affected, and the expected period of the suspension, limitation, or restriction, and

"(ii) be furnished at least 30 days in advance of the action suspending, limiting, or restricting the ability of the participants or beneficiaries to direct or diversify assets.

"(B) Exception to 30-day notice requirement.—In any case in which—

"(i) a fiduciary of the plan determines, in writing, that a deferral of the suspension, limitation, or restriction would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), or

"(ii) the inability to provide the 30-day advance notice is due to circumstances beyond the reasonable control of the plan administrator,

subparagraph (A)(ii) shall not apply, and the notice shall be furnished as soon as reasonably possible under the circumstances.

"(3) Changes in expected period of suspension, limitation, or restriction.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the expected period of the suspension, limitation, or restriction on the right of a participant or beneficiary to direct or diversify assets, the administrator shall provide affected participants and beneficiaries advance notice of the change. Such notice shall meet the requirements of paragraph (2)(A)(i) in relation to the extended suspension, limitation, or restriction.".

(b) Civil Penalties for Failure To Provide Notice.—Section 502 of such Act (as amended by section 2(b)) is amended further—

(1) in subsection (a)(6), by striking "(6), or (7)" and inserting "(6), (7), or (8)";

(2) by redesignating paragraph (8) of subsection (c) as paragraph (9); and

(3) by inserting after paragraph (7) of subsection (c) the following new paragraph:

"(8) The Secretary may assess a civil penalty against any person of up to $100 a day from the date of the person's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary, shall be treated as a separate violation.".

(c) Inapplicability of Relief From Fiduciary Liability During Suspension of Ability of Participant or Beneficiary To Direct Investments.—Section 404(c)(1) of such Act (29 U.S.C. 1104(c)(1)) is amended—

(1) in subparagraph (B), by inserting before the period the following: ", except that this subparagraph shall not apply for any period during which the ability of a participant or beneficiary to direct the investment of assets in his or her individual account is suspended by a plan sponsor or fiduciary"; and

(2) by adding at the end the following:

"Any limitation or restriction that may govern the frequency of transfers between investment vehicles shall not be treated as a suspension referred to in subparagraph (B) to the extent such limitation or restriction is disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.".

SEC. 4. LIMITATIONS ON RESTRICTIONS OF INVESTMENTS IN EMPLOYER SECURITIES.

(a) Amendments to the Employee Retirement Income Security Act of 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) An applicable individual account plan may not acquire or hold any employer securities with respect to which there is any restriction on divestment by a participant or beneficiary on or after the date on which the participant has completed 3 years of participation (as defined in subsection (b)(4)) under the plan or (if the plan so provides) 3 years of service (as defined in section 203(b)(2)) with the employer.

"(2) For purposes of paragraph (1), the term 'restriction on divestment' includes—

"(A) any failure to offer at least 3 diversified investment options in which a participant or beneficiary may direct the proceeds from the divestment of employer securities, and

"(B) any restriction on the ability of a participant or beneficiary to choose from all otherwise available investment options in which such proceeds may be so directed.".

(b) Amendments to the Internal Revenue Code of 1986.—

(1) In general.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (34) the following new paragraph:

"(35) LIMITATIONS ON RESTRICTIONS UNDER APPLICABLE DEFINED CONTRIBUTION PLANS ON INVESTMENTS IN EMPLOYER SECURITIES.—

"(A) IN GENERAL.—A trust forming a part of an applicable defined contribution plan shall not constitute a qualified trust under this subsection if the plan acquires or holds any employer securities with respect to which there is any restriction on divestment by a participant or beneficiary on or after the date on which the participant has completed 3 years of participation (as defined in section 411(b)(4)) under the plan or (if the plan so provides) 3 years of service (as defined in section 411(a)(5)) with the employer.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term 'applicable defined contribution plan' means any defined contribution plan, except that such term does not include an employee stock ownership plan (as defined in section 4975(e)(7)) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsections (k)(3) or (m)(2).

"(ii) RESTRICTION ON DIVESTMENT.—The term 'restriction on divestment' includes—

"(I) any failure to offer at least 3 diversified investment options in which a participant or beneficiary may direct the proceeds from the divestment of employer securities, and

"(II) any restriction on the ability of a participant or beneficiary to choose from all otherwise available investment options in which such proceeds may be so directed.".

(2) CONFORMING AMENDMENT.—Section 401(a)(28)(B) of such Code (relating to diversification of investments) is amended by adding at the end the following new clause:

"(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(B)(i)).".

SEC. 5. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

"(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

"(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

"(B) The transactions described in this subparagraph are the following:

"(i) the provision of the advice to the plan, participant, or beneficiary;

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.".

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

"(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

"(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

"(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

"(iv) of the types of services provided by the fiduciary advisor in connection with the provision of investment advice by the fiduciary adviser, and

"(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

"(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(2) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(3) EXEMPTION CONDITIONED ON CONTINUED AVAILABILITY OF REQUIRED INFORMATION ON REQUEST FOR 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

"(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

"(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

"(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

"(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

"(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

"(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

"(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

"(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

"(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

"(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(ii) a bank or similar financial institution referred to in section 408(b)(4),

"(iii) an insurance company qualified to do business under the laws of a State,

"(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(v) an affiliate of a person described in any of clauses (i) through (iv), or

"(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

"(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking "or" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

"(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

"(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.".

(2) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(7) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

"(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

"(i) the provision of the advice to the plan, participant, or beneficiary;

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

"(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

"(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

"(IV) of the types of services provided by the fiduciary advisor in connection with the provision of investment advice by the fiduciary adviser, and

"(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

"(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

"(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

"(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

"(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

"(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

"(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

"(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

“(G) Definitions.—For purposes of this paragraph and subsection (d)(16)—

“(i) Fiduciary adviser.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank or similar financial institution referred to in subsection (d)(4),

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subclauses (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(ii) Affiliate.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

“(iii) Registered representative.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”.

SEC. 6. INSIDER TRADES DURING PENSION PLAN SUSPENSION PERIODS PROHIBITED.

Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end the following new subsection:

“(h) Insider Trades During Pension Plan Suspension Periods Prohibited.—

“(1) Prohibition.—It shall be unlawful for any such beneficial owner, director, or officer of an issuer, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of such issuer (other than an exempted security), during any pension plan suspension period with respect to such equity security.

“(2) Remedy.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this subsection shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction.

“(3) Rulemaking permitted.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

“(4) Definitions.—For purposes of this subsection—

“(A) Pension plan suspension period.—The term ‘pension plan suspension period’ means, with respect to an equity security, any period during which the ability of a participant or beneficiary under an applicable individual account plan maintained by the issuer to direct the investment of assets in his or her individual account away from such equity security is suspended by the issuer or a fiduciary of the plan. Such term does not include any limitation or restriction that may govern the frequency of transfers between investment vehicles to the extent such limitation and restriction is disclosed to participants and beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.

“(B) Applicable individual account plan.—The term ‘applicable individual account plan’ has the meaning provided such term in section 3(42) of the Employee Retirement Income Security Act of 1974.”.

SEC. 7. EFFECTIVE DATES AND RELATED RULES.

(a) In General.—Except as provided in subsection (b), the amendments made by sections 2, 3, 4, and 6 shall apply with respect to plan years beginning on or after January 1, 2003.

(b) Special Rule for Collectively Bargained Plans.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for “January 1, 2003” the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

(c) Plan Amendments.—If the amendments made by sections 2, 3, and 4 of this Act require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(1) during the period after such amendments made by this Act take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by this Act, and

(2) such plan amendment applies retroactively to the period after such amendments made by this Act take effect and before such first plan year.

(d) Amendments Relating to Investment Advice.—The amendments made by section 5 shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2003.

The SPEAKER pro tempore. In lieu of the amendment recommended by the Committee on Education and the Workforce printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 107–396 is adopted.

The text of H.R. 3762, as amended pursuant to House Resolution 386, is as follows:

H.R. 3762

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Pension Security Act of 2002”.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPROVEMENTS IN PENSION SECURITY

Sec. 101. Periodic pension benefits statements.
Sec. 102. Protection from suspensions, limitations, or restrictions on ability of participant or beneficiary to direct or diversify plan assets.
Sec. 103. Informational and educational support for pension plan fiduciaries.
Sec. 104. Diversification requirements for defined contribution plans that hold employer securities.
Sec. 105. Prohibited transaction exemption for the provision of investment advice.
Sec. 106. Study regarding impact on retirement savings of participants and beneficiaries by requiring consultants to advise plan fiduciaries of individual account plans.
Sec. 107. Treatment of qualified retirement planning services.
Sec. 108. Insider trades during pension fund blackout periods prohibited.
Sec. 109. Effective dates of title and related rules.

TITLE II—OTHER PROVISIONS RELATING TO PENSIONS

Sec. 201. Amendments to Retirement Protection Act of 1994.
Sec. 202. Reporting simplification.
Sec. 203. Improvement of Employee Plans Compliance Resolution System.
Sec. 204. Flexibility in nondiscrimination, coverage, and line of business rules.
Sec. 205. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.
Sec. 206. Notice and consent period regarding distributions.
Sec. 207. Annual report dissemination.
Sec. 208. Technical corrections to Saver Act.
Sec. 209. Missing participants.
Sec. 210. Reduced PBGC premium for new plans of small employers.
Sec. 211. Reduction of additional PBGC premium for new and small plans.
Sec. 212. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 213. Substantial owner benefits in terminated plans.
Sec. 214. Benefit suspension notice.
Sec. 215. Studies.
Sec. 216. Interest rate range for additional funding requirements.
Sec. 217. Provisions relating to plan amendments.

TITLE III—STOCK OPTIONS

Sec. 301. Exclusion of incentive stock options and employee stock purchase plan stock options from wages.

TITLE IV—SOCIAL SECURITY AND MEDICARE HELD HARMLESS

Sec. 401. Protection of Social Security and Medicare.

TITLE I—IMPROVEMENTS IN PENSION SECURITY

SEC. 101. PERIODIC PENSION BENEFITS STATEMENTS.

(a) Amendments to the Employee Retirement Income Security Act of 1974.—

(1) Requirements.—

(A) In general.—Section 105(a) of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1025(a)) is amended to read as follows:

"(a)(1)(A) The administrator of an individual account plan shall furnish a pension benefit statement—

"(i) to each plan participant at least annually,

"(ii) to each plan beneficiary upon written request, and

"(iii) in the case of an applicable individual account plan, to each plan participant (and to each beneficiary with a right to direct investments) at least quarterly.

"(B) The administrator of a defined benefit plan shall furnish a pension benefit statement—

"(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit who is employed by the employer maintaining the plan at the time the statement is furnished to participants, and

"(ii) to a plan participant or plan beneficiary of the plan upon written request.

"(2) A pension benefit statement under paragraph (1)—

"(A) shall indicate, on the basis of the latest available information—

"(i) the total benefits accrued, and

"(ii) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

"(B) shall be written in a manner calculated to be understood by the average plan participant, and

"(C) may be provided in written form or in electronic or other appropriate form to the extent that such form is reasonably accessible to the recipient.

"(3) In the case of an applicable individual account plan, the requirements of paragraph (1)(A) shall be treated as met if the quarterly statement (together with the information required in subparagraphs (A) and (B) of subsection (d)(1)) is available electronically in reasonably accessible form, and the participant or beneficiary is provided at least once each year a notice that such statement (together with such information) is available in such form. Such notice shall be in written, electronic, or other appropriate form.

"(4)(A) In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if the administrator provides the participant at least once each year with notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice shall be provided in written, electronic, or other appropriate form, and may be included with other communications to the participant if done in a manner reasonably designed to attract the attention of the participant.

"(B) The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).".

(B) Conforming amendments.—

(i) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(ii) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

"(b) In no case shall a participant or beneficiary of a plan be entitled to more than one statement described in clause (i) or (ii) of subsection (a)(1)(A) or clause (i) or (ii) of subsection (a)(1)(B), whichever is applicable, in any 12-month period. If such report is required under subsection (a) to be furnished at least quarterly, the requirements of the preceding sentence shall be applied with respect to each quarter in lieu of the 12-month period.".

(2) Information required from applicable individual account plans.—Section 105 of such Act (as amended by paragraph (1)) is amended further by adding at the end the following new subsection:

"(d)(1) The statements required to be provided at least quarterly under subsection (a) shall include (together with the information required in subsection (a)) the following:

"(A) the value of investments allocated to the individual account, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and an explanation of any limitations or restrictions on the right of the participant or beneficiary to direct an investment; and

"(B) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a discussion of the risk of holding more than 25 percent of a portfolio in the security of any one entity, such as employer securities.

"(2) The value of any employer securities that are not readily tradable on an established securities market that is required to be reported under paragraph (1)(A) may be determined by using the most recent valuation of the employer securities.

"(3) The Secretary shall issue guidance and model notices which meet the requirements of this subsection.".

(3) Definition of applicable individual account plan.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42)(A) The term 'applicable individual account plan' means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986. Such term shall not include a one-participant retirement plan.

"(B) The term 'one-participant retirement plan' means a retirement plan that—

"(i) on the first day of the plan year—

"(I) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or

"(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),

"(ii) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this paragraph) without being combined with any other plan of the business that covers the employees of the business,

"(iii) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),

"(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

"(v) does not cover a business that leases employees.".

(4) Civil penalties for failure to provide quarterly benefit statements.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(A) in subsection (a)(6), by striking "(5), or (6)" and inserting "(5), (6), or (7)";

(B) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(C) by inserting after paragraph (6) of subsection (c) the following new paragraph:

"(7) The Secretary may assess a civil penalty against any plan administrator of up to $1,000 a day from the date of such plan administrator's failure or refusal to provide participants or beneficiaries with a benefit statement on at least a quarterly basis in accordance with section 105(a)(1)(A)(iii).".

(5) Model statements.—The Secretary of Labor shall, not later than January 1, 2003, issue initial guidance and a model benefit statement, written in a manner calculated to be understood by the average plan participant, that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.

(b) Amendments to the Internal Revenue Code of 1986.—

(1) Provision of investment education notices to participants in certain plans.—Section 414 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

"(w) Provision of Investment Education Notices to Participants in Certain Plans.—

"(1) In general.—The plan administrator of an applicable pension plan shall provide to each applicable individual an investment education notice described in paragraph (2) at the time of the enrollment of the applicable individual in the plan and not less often than annually thereafter.

"(2) Investment education notice.—An investment education notice is described in this paragraph if such notice contains—

"(A) an explanation, for the long-term retirement security of participants and beneficiaries, of generally accepted investment principles, including principles of risk management and diversification, and

"(B) a discussion of the risk of holding substantial portions of a portfolio in the security of any one entity, such as employer securities.

"(3) Understandability.—Each notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with guidance provided by the Secretary) to allow recipients to understand such notice.

"(4) Form and manner of notices.—The notices required by this subsection shall be in writing, except that such notices may be in electronic or other form (or electronically posted on the plan's website) to the extent that such form is reasonably accessible to the applicable individual.

"(5) Definitions.—For purposes of this subsection—

"(A) Applicable individual.—The term 'applicable individual' means—

"(i) any participant in the applicable pension plan,

"(ii) any beneficiary who is an alternate payee (within the meaning of section

414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)(A)), and

``(iii) any beneficiary of a deceased participant or alternate payee.

``(B) APPLICABLE PENSION PLAN.—The term `applicable pension plan' means—

``(i) a plan described in clause (i), (ii), or (iv) of section 219(g)(5)(A), and

``(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A),

which permits any participant to direct the investment of some or all of his account in the plan or under which the accrued benefit of any participant depends in whole or in part on hypothetical investments directed by the participant. Such term shall not include a one-participant retirement plan or a plan to which section 105 of the Employee Retirement Income Security Act of 1974 applies.

``(C) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—The term `one-participant retirement plan' means a retirement plan that—

``(i) on the first day of the plan year—

``(I) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or

``(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),

``(ii) meets the minimum coverage requirements of section 410(b) without being combined with any other plan of the business that covers the employees of the business,

``(iii) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),

``(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

``(v) does not cover a business that leases employees.

``(6) CROSS REFERENCE.—

"For provisions relating to penalty for failure to provide the notice required by this section, see section 6652(m).".

(2) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

``(m) FAILURE TO PROVIDE INVESTMENT EDUCATION NOTICES TO PARTICIPANTS IN CERTAIN PLANS.—In the case of each failure to provide a written explanation as required by section 414(w) with respect to an applicable individual (as defined in such section), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to $100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.''.

SEC. 102. PROTECTION FROM SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT OR DIVERSIFY PLAN ASSETS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(i) by redesignating the second subsection (h) as subsection (j); and

(ii) by inserting after the first subsection (h) the following new subsection:

``(i) NOTICE OF SUSPENSION, LIMITATION, OR RESTRICTION ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS IN INDIVIDUAL ACCOUNT PLAN.—

``(1) DUTIES OF PLAN ADMINISTRATOR.—

``(A) IN GENERAL.—In the case of any action having the effect of temporarily suspending, limiting, or restricting any ability of participants or beneficiaries under an applicable individual account plan, which is otherwise available under the terms of such plan, to direct or diversify assets credited to their accounts, if such suspension, limitation, or restriction is for any period of more than 3 consecutive business days, the plan administrator shall—

``(i) in advance of taking such action, determine, in accordance with the requirements of part 4, that the expected period of suspension, limitation, or restriction is reasonable, and

``(ii) after making the determination under subparagraph (A) and in advance of taking such action, notify the plan participants and beneficiaries who are affected by such action in accordance with this subsection.

``(B) EXCEPTIONS.—Subparagraph (A) does not apply in connection with any suspension, limitation, or restriction—

``(i) which occurs by reason of the application of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), or

``(ii) to the extent the suspension, limitation, or restriction is a change to the terms of the plan disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.

``(C) BUSINESS DAY.—For purposes of subparagraph (A), under regulations prescribed by the Secretary, the term `business day' means—

``(i) in the case of a security which is traded on an established security market, any day on which such security may be traded on the principal securities market of such security, and

``(ii) in the case of a security which is not traded on an established security market, any calendar day.

``(2) NOTICE REQUIREMENTS.—

``(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall include—

``(i) the reasons for the suspension, limitation, or restriction,

``(ii) an identification of the investments affected,

``(iii) the expected period of the suspension, limitation, or restriction,

``(iv) a statement that the plan administrator has evaluated the reasonableness of the expected period of suspension, limitation, or restriction,

``(v) a statement that the participant or beneficiary should evaluate the appropriateness of their current investment decisions in light of their inability to direct or diversify assets credited to their accounts during the expected period of suspension, limitation, or restriction, and

``(vi) such other matters as the Secretary may include in the model notices issued under subparagraph (E).

``(B) PROVISION OF NOTICE.—Except as otherwise provided in this subsection, notices described in paragraph (1) shall be furnished to all participants and beneficiaries under the plan at least 30 days in advance of the action suspending, limiting, or restricting the ability of the participants or beneficiaries to direct or diversify assets.

``(C) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—

``(i) a fiduciary of the plan determines, in writing, that a deferral of the suspension, limitation, or restriction would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), or

``(ii) the inability to provide the 30-day advance notice is due to events that were unforeseeable or circumstances beyond the reasonable control of the plan administrator,

subparagraph (B) shall not apply, and the notice shall be furnished to all participants and beneficiaries under the plan as soon as reasonably possible under the circumstances unless such a notice in advance of the termination of the suspension, limitation, or restriction is impracticable.

``(D) WRITTEN NOTICE.—The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.

``(E) MODEL NOTICES.—The Secretary shall issue model notices which meet the requirements of this paragraph.

``(3) EXCEPTION FOR SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS WITH LIMITED APPLICABILITY.—In any case in which the suspension, limitation, or restriction described in paragraph (1)—

``(A) applies only to 1 or more individuals, each of whom is the participant, an alternate payee (as defined in section 206(d)(3)(K)), or any other beneficiary pursuant to a qualified domestic relations order (as defined in section 206(d)(3)(B)(i)), or

``(B) applies only to 1 or more participants or beneficiaries in connection with a merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor and occurs solely in connection with becoming or ceasing to be a participant or beneficiary under the plan by reason of such merger, acquisition, divestiture, or transaction,

the requirement of this subsection that the notice be provided to all participants and beneficiaries shall be treated as met if the notice required under paragraph (1) is provided to all the individuals referred to in subparagraph (A) or (B) to whom the suspension, limitation, or restriction applies as soon as reasonably practicable.

``(4) CHANGES IN PERIOD OF SUSPENSION, LIMITATION, OR RESTRICTION.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the period of the suspension, limitation, or restriction (specified in such notice pursuant to paragraph (2)(A)(iii)) on the right of a participant or beneficiary to direct or diversify assets, the administrator shall provide affected participants and beneficiaries notice of the change as soon as reasonably practicable. In relation to the extended suspension, limitation, or restriction, such notice shall meet the requirements of paragraph (2)(D) and shall specify any material change in the matters referred to in clauses (i) through (vi) of paragraph (2)(A).

``(5) REGULATORY EXCEPTIONS.—The Secretary may provide by regulation for additional exceptions to the requirements of this subsection which the Secretary determines are in the interests of participants and beneficiaries.

"(6) GUIDANCE AND MODEL NOTICES.—The Secretary shall issue guidance and model notices which meet the requirements of this subsection.".

(B) ISSUANCE OF INITIAL GUIDANCE AND MODEL NOTICE.—The Secretary of Labor shall issue initial guidance and a model notice pursuant to section 101(i)(6) of the Employee Retirement Income Security Act of 1974 (as added by this subsection) not later than January 1, 2003. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.

(2) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (as amended by section 101(a)(4)) is amended further—

(A) in subsection (a)(6), by striking "(6), or (7)" and inserting "(6), (7), or (8)";

(B) by redesignating paragraph (8) of subsection (c) as paragraph (9); and

(C) by inserting after paragraph (7) of subsection (c) the following new paragraph:

"(8) The Secretary may assess a civil penalty against a plan administrator of up to $100 a day from the date of the plan administrator's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.".

(3) INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.—Section 404(c)(1) of such Act (29 U.S.C. 1104(c)(1)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting "(A)" after "(c)(1)";

(B) in subparagraph (A)(ii) (as redesignated by subparagraph (A)), by inserting before the period the following: ", except that this clause shall not apply in connection with such participant or beneficiary for any period during which the ability of such participant or beneficiary to direct the investment of the assets in his or her account is suspended by a plan sponsor or fiduciary"; and

(C) by adding at the end the following new subparagraphs:

"(B) If the person referred to in subparagraph (A)(ii) meets the requirements of this title in connection with authorizing the suspension, such person shall not be liable under this title for any loss occurring during the suspension as a result of any exercise by the participant or beneficiary of control over assets in his or her account prior to the suspension. Matters to be considered in determining whether such person has satisfied the requirements of this title include whether such person—

"(i) has considered the reasonableness of the expected period of the suspension as required under section 101(i)(1)(A)(i),

"(ii) has provided the notice required under section 101(i)(1)(A)(ii), and

"(iii) has acted in accordance with the requirements of subsection (a) in determining whether to enter into the suspension.

"(C) Any limitation or restriction that may govern the frequency of transfers between investment vehicles shall not be treated as a suspension referred to in subparagraph (A)(ii) to the extent such limitation or restriction is disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.".

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXCISE TAX ON FAILURE OF PENSION PLANS TO PROVIDE NOTICE OF TRANSACTION RESTRICTION PERIODS.—

(A) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980H. FAILURE OF APPLICABLE PLANS TO PROVIDE NOTICE OF TRANSACTION RESTRICTION PERIODS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY TO FAILURES CORRECTED AS SOON AS REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) on any failure if—

"(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

"(B) such person provides the notice described in subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed and at least 1 business day before the beginning of the transaction restriction period.

"(2) TAX NOT TO APPLY WHEN PROVIDING NOTICE NOT REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) if, in the case of the occurrence of an unforeseeable event, it is not reasonably practicable to provide such notice before the beginning of the transaction restriction period.

"(3) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

"(A) IN GENERAL.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

"(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(4) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

"(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

"(1) In the case of a plan other than a multiemployer plan, the employer.

"(2) In the case of a multiemployer plan, the plan.

"(e) NOTICE OF TRANSACTION RESTRICTION PERIOD.—

"(1) IN GENERAL.—The plan administrator of an applicable pension plan shall provide written notice of any transaction restriction period to each applicable individual to whom the transaction restriction period applies (and to each employee organization representing such applicable individuals).

"(2) UNDERSTANDABILITY.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with guidance provided by the Secretary) to allow recipients to understand the timing and effect of such transaction restriction period.

"(3) TIMING OF NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the notice required by paragraph (1) shall be provided at least 30 days before the beginning of the transaction restriction period.

"(B) DISPOSITION OF STOCK OR ASSETS.—

"(i) IN GENERAL.—If, in connection with the major corporate disposition by a corporation maintaining an applicable pension plan, there is the possibility of a transaction restriction period—

"(I) the notice required by paragraph (1) shall be provided at least 30 days before the date of such disposition, and

"(II) no other notice shall be required by paragraph (1) with respect to such period if notice is provided pursuant to subclause (I) and such period begins not more than 30 days after the date of such disposition.

Subclause (I) shall not apply if the plan administrator has a substantial basis to believe that there will be no transaction restriction period in connection with the disposition.

"(ii) MAJOR CORPORATE DISPOSITION.—For purposes of clause (i), the term 'major corporate disposition' means, with respect to a corporation—

"(I) the disposition of substantially all of the stock of such corporation or a subsidiary thereof, or

"(II) the disposition of substantially all of the assets used in a trade or business of such corporation or subsidiary.

"(iii) NONCORPORATE ENTITIES.—Rules similar to the rules of this subparagraph shall apply to entities that are not corporations.

"(4) FORM AND MANNER OF NOTICE.—The notice required by this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the applicable individual.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(A) any participant in the applicable pension plan, and

"(B) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)(A)), and

"(C) any beneficiary of a deceased participant or alternate payee.

"(2) APPLICABLE PENSION PLAN.—

"(A) IN GENERAL.—The term 'applicable pension plan' means—

"(i) a plan described in clause (i), (ii), or (iv) of section 219(g)(5)(A), and

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A),

which maintains accounts for participants under the plan or under which the accrued benefit of any participant depends in whole or in part on hypothetical investments directed by the participant.

"(B) Exception.—Such term shall not include a one-participant retirement plan (as defined in section 4980G(f)(3)).

"(3) Transaction restriction period.—

"(A) In general.—The term 'transaction restriction period' means, with respect to an applicable pension plan, a period beginning on a day in which there is a substantial reduction in rights described in subparagraph (B) which are not restored as of the beginning of the 3rd day following the day of such reduction.

"(B) Rights described.—For purposes of this paragraph, rights described in this section with respect to an applicable pension plan are rights under such plan of 1 or more applicable individuals to direct investments in such plan, to obtain loans from such plan, or to obtain distributions from such plan.

"(C) Special rule for employer securities.—For purposes of this paragraph—

"(i) In general.—In the case of rights relating to directing investments out of employer securities, such rights shall be treated as substantially reduced if such rights are significantly restricted for at least 3 consecutive business days.

"(ii) Business day.—For purposes of clause (i), under regulations prescribed by the Secretary, the term 'business day' means—

"(I) in the case of a security which is traded on an established security market, any day on which such security may be traded on the principal securities market of such security, and

"(II) in the case of a security which is not traded on an established security market, any calendar day.

"(iii) Employer securities.—For purposes of this subparagraph, the term 'employer securities' shall have the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

"(D) Exceptions.—Rights which are substantially reduced by reason of the application of securities laws or other circumstances specified by the Secretary in regulations shall not be taken into account for purposes of this paragraph.".

(2) Clerical amendment.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"Sec. 4980H. Failure of applicable plans to provide notice of transaction restriction periods.".

(3) Guidance.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance in carrying out section 4980H of the Internal Revenue Code of 1986 (as added by this section). Such guidance—

(A) in the case of a reduction of rights relating to the direction of investments out of employer securities, shall be issued by November 1, 2002 (or, if later, the 60th day after the date of the enactment of this Act), and

(B) in any other case, shall be issued not later than 120 days after the date of the enactment of this Act.

SEC. 103. INFORMATIONAL AND EDUCATIONAL SUPPORT FOR PENSION PLAN FIDUCIARIES.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

"(e) The Secretary shall establish a program under which information and educational resources shall be made available on an ongoing basis to persons serving as fiduciaries under employee pension benefit plans so as to assist such persons in diligently and effectively carrying out their fiduciary duties in accordance with this part.".

SEC. 104. DIVERSIFICATION REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS THAT HOLD EMPLOYER SECURITIES.

(a) Amendment to the Employee Retirement Income Security Act of 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j) Diversification Requirements for Individual Account Plans that Hold Employer Securities.—

"(1) In general.—An applicable individual account plan shall meet the requirements of paragraphs (2) and (3).

"(2) Employee contributions and elective deferrals invested in employer securities.—In the case of the portion of the account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this paragraph if each applicable individual may elect to direct the plan to divest any such securities in the individual's account and to reinvest an equivalent amount in other investment options which meet the requirements of paragraph (4).

"(3) Employer contributions invested in employer securities.—

"(A) In general.—In the case of the portion of the account attributable to employer contributions (other than elective deferrals to which paragraph (2) applies) which is invested in employer securities, a plan meets the requirements of this paragraph if, under the plan—

"(i) each applicable individual with a benefit based on 3 years of service may elect to direct the plan to divest any such securities in the individual's account and to reinvest an equivalent amount in other investment options which meet the requirements of paragraph (4), or

"(ii) with respect to any employer security allocated to an applicable individual's account during any plan year, such applicable individual may elect to direct the plan to divest such employer security after a date which is not later than 3 years after the end of such plan year and to reinvest an equivalent amount in other investment options which meet the requirements of paragraph (4).

"(B) Applicable individual with benefit based on 3 years of service.—For purposes of subparagraph (A), an applicable individual has a benefit based on 3 years of service if such individual would be an applicable individual if only participants in the plan who have completed at least 3 years of service (as determined under section 203(b)) were taken into account under paragraph (6)(B)(i).

"(4) Investment options.—The requirements of this paragraph are met if—

"(A) the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this subsection, each of which is diversified and has materially different risk and return characteristics, and

"(B) the plan permits the applicable individual to choose from any of the investment options made available under the plan to which such proceeds may be so directed, subject to such restrictions as may be provided by the plan limiting such choice to periodic, reasonable opportunities occurring no less frequently than on a quarterly basis.

"(5) Definitions and rules.—For purposes of this subsection—

"(A) Applicable individual account plan.—The term 'applicable individual account plan' means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereon) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986.

"(B) Applicable individual.—The term 'applicable individual' means—

"(i) any participant in the plan, and

"(ii) any beneficiary of a participant referred to in clause (i) who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of the participant.

"(C) Elective deferral.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this subsection).

"(D) Employer security.—The term 'employer security' shall have the meaning given such term by section 407(d)(1) of this Act (as in effect on the date of the enactment of this subsection).

"(E) Employee stock ownership plan.—The term 'employee stock ownership plan' shall have the same meaning given to such term by section 4975(e)(7) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this subsection).

"(F) Elections.—Elections under this subsection may be made not less frequently than quarterly.

"(6) Exception where there is no readily tradable stock.—This subsection shall not apply with respect to a plan if there is no class of stock issued by any employer maintaining the plan (or by a corporation which is an affiliate of any such employer, as defined in section 407(d)(7) as in effect on the date of the enactment of this subsection) that is readily tradable on an established securities market.

"(7) Transition rule.—

"(A) In general.—In the case of any individual account plan which, on the first day of the first plan year to which this subsection applies, holds employer securities of any class that were acquired before such date and on which there is a restriction on diversification otherwise precluded by this subsection, this subsection shall apply to such securities of such class held in any plan year only with respect to the number of such securities equal to the applicable percentage of the total number of such securities of such class held on such date.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be as follows:

"Plan years for which provisions are effective:	**Applicable percentage:**
1st plan year	20 percent.
2nd plan year	40 percent.
3rd plan year	60 percent.
4th plan year	80 percent.
5th plan year or thereafter.	100 percent.

"(C) Elective deferrals treated as separate plan not individual account plan.—For purposes of subparagraph (A), the applicable percentage shall be 100 percent with respect to—

"(i) employee contributions to a plan under which any portion attributable to elective deferrals is treated as a separate plan under section 407(b)(2) as of the date of the enactment of this paragraph, and

"(ii) such elective deferrals.

"(D) COORDINATION WITH PRIOR ELECTIONS.—In any case in which a divestiture of investment in employer securities of any class held by an employee stock ownership plan prior to the effective date of this subsection was undertaken pursuant to other applicable Federal law prior to such date, the applicable percentage (as determined without regard to this subparagraph) in connection with such securities shall be reduced to the extent necessary to account for the amount to which such election applied.

"(8) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations under this subsection in consultation with the Secretary of Labor."

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 401(a) of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (34) the following new paragraph:

"(35) DIVERSIFICATION REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS THAT HOLD EMPLOYER SECURITIES.—

"(A) IN GENERAL.—An applicable defined contribution plan shall meet the requirements of subparagraphs (B) and (C).

"(B) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of the account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this subparagraph if each applicable individual in such plan may elect to direct the plan to divest any such securities in the individual's account and to reinvest an equivalent amount in other investment options which meet the requirements of subparagraph (D).

"(C) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—

"(i) IN GENERAL.—In the case of the portion of the account attributable to employer contributions (other than elective deferrals to which subparagraph (B) applies) which is invested in employer securities, a plan meets the requirements of this subparagraph if, under the plan—

"(I) each applicable individual with a benefit based on 3 years of service may elect to direct the plan to divest any such securities in the individual's account and to reinvest an equivalent amount in other investment options which meet the requirements of subparagraph (D), or

"(II) with respect to any employer security allocated to an applicable individual's account during any plan year, such applicable individual may elect to direct the plan to divest such employer security after a date which is not later than 3 years after the end of such plan year and to reinvest an equivalent amount in other investment options which meet the requirements of subparagraph (D).

"(ii) APPLICABLE INDIVIDUAL WITH BENEFIT BASED ON 3 YEARS OF SERVICE.—For purposes of clause (i), an applicable individual has a benefit based on 3 years of service if such individual would be an applicable individual if only participants in the plan who have completed at least 3 years of service (as determined under section 411(a)) were taken into account under subparagraph (F)(ii)(I).

"(D) INVESTMENT OPTIONS.—The requirements of this subparagraph are met if—

"(i) the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this paragraph, each of which is diversified and has materially different risk and return characteristics, and

"(ii) the plan permits the applicable individual to choose from any of the investment options made available under the plan to which such proceeds may be so directed, subject to such restrictions as may be provided by the plan limiting such choice to periodic, reasonable opportunities occurring no less frequently than on a quarterly basis.

"(E) DEFINITIONS AND RULES.—For purposes of this paragraph—

"(i) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term 'applicable defined contribution plan' means any defined contribution plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7)) unless there are any contributions to such plan (or earnings thereon) held within such plan that are subject to subsection (k)(3) or (m)(2).

"(ii) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(I) any participant in the plan, and

"(II) any beneficiary of a participant referred to in clause (i) who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of the participant.

"(iii) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A) (as in effect on the date of the enactment of this paragraph).

"(iv) EMPLOYER SECURITY.—The term 'employer security' shall have the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of this paragraph).

"(v) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' shall have the same meaning given to such term by section 4975(e)(7) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this paragraph).

"(vi) ELECTIONS.—Elections under this paragraph may be made not less frequently than quarterly.

"(F) EXCEPTION WHERE THERE IS NO READILY TRADABLE STOCK.—This paragraph shall not apply with respect to a plan if there is no class of stock issued by any employer maintaining the plan that is readily tradable on an established securities market.

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—In the case of any defined contribution plan which, on the effective date of this subsection, holds employer securities of any class that were acquired before such date and on which there is a restriction on diversification otherwise precluded by this paragraph, this paragraph shall apply to such securities of such class held in any plan year only with respect to the number of such securities equal to the applicable percentage of the total number of such securities of such class held on such date.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be as follows:

"Plan years for which provisions are effective:	Applicable percentage:
1st plan year	20 percent.
2nd plan year	40 percent.
3rd plan year	60 percent.
4th plan year	80 percent.
5th plan year or thereafter.	100 percent.

"(iii) ELECTIVE DEFERRALS TREATED AS SEPARATE PLAN NOT INDIVIDUAL ACCOUNT PLAN.—For purposes of clause (i), the applicable percentage shall be 100 percent with respect to—

"(I) employee contributions to a plan under which any portion attributable to elective deferrals is treated as a separate plan under section 407(b)(2) of the Employee Retirement Income Security Act of 1974 as of the date of the enactment of this paragraph, and

"(II) such elective deferrals.

"(iv) CONTRIBUTIONS HELD WITHIN AN ESOP.—In the case of contributions (other than elective deferrals and employee contributions) held within an employee stock ownership plan, in the case of the 1st and 2nd plan years referred to in the table in clause (ii), the applicable percentage shall be the greater of the amount determined under clause (ii) or the percentage determined under paragraph (28) (determined as if paragraph (28) applied to a plan described in this paragraph).

"(v) COORDINATION WITH PRIOR ELECTIONS UNDER PARAGRAPH (28).—In any case in which a divestiture of investment in employer securities of any class held by an employee stock ownership plan prior to the effective date of this paragraph was undertaken pursuant to an election under paragraph (28) prior to such date, the applicable percentage (as determined without regard to this clause) in connection with such securities shall be reduced to the extent necessary to account for the amount to which such election applied.

"(H) REGULATIONS.—The Secretary shall prescribe regulations under this paragraph in consultation with the Secretary of Labor.".

(2) CONFORMING AMENDMENTS.—

(A) Section 401(a)(28) of such Code is amended by adding at the end the following new subparagraph:

"(D) APPLICATION.—This paragraph shall not apply to a plan to which paragraph (35) applies.".

(B) Section 409(h)(7) of such Code is amended by inserting before the period at the end "or subparagraph (B) or (C) of section 401(a)(35)".

(C) Section 4980(c)(3)(A) of such Code is amended by striking "if—" and all that follows and inserting "if the requirements of subparagraphs (B), (C), and (D) are met.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2) and section 109, the amendments made by this section shall apply to plan years beginning after December 31, 2002, and with respect to employer securities allocated to accounts before, on, or after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to employer securities held by an employee stock ownership plan which are acquired before January 1, 1987.

SEC. 105. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

"(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries, "(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

"(B) The transactions described in this subparagraph are the following:

"(i) the provision of the advice to the plan, participant, or beneficiary;

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.".

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

"(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

"(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

"(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

"(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(vi) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

"(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(2) STANDARDS FOR PRESENTATION OF INFORMATION.—

"(A) IN GENERAL.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(B) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary shall issue a model form for the disclosure of fees and other compensation required in paragraph (1)(A)(i) which meets the requirements of subparagraph (A).

"(3) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

"(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

"(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

"(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

"(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

"(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

"(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

"(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

"(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

"(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

"(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(ii) a bank or similar financial institution referred to in section 408(b)(4), but only if the advice is provided through a trust department of the bank or similar financial institution which is subject to periodic examination and review by Federal or State banking authorities,

"(iii) an insurance company qualified to do business under the laws of a State,

"(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(v) an affiliate of a person described in any of clauses (i) through (iv), or

"(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

"(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

(b) Amendments to the Internal Revenue Code of 1986.—

(1) Exemption from prohibited transactions.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking "or" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

"(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

"(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.".

(2) Allowed transactions and requirements.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(7) Provisions relating to investment advice provided by fiduciary advisers.—

"(A) Transactions allowable in connection with investment advice provided by fiduciary advisers.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

"(i) the provision of the advice to the plan, participant, or beneficiary;

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

"(B) Requirements relating to provision of investment advice by fiduciary advisers.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

"(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

"(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(VI) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

"(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(C) Standards for presentation of information.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(D) Exemption conditioned on making required information available annually, on request, and in the event of material change.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

"(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

"(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

"(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

"(E) Maintenance for 6 years of evidence of compliance.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(F) Exemption for plan sponsor and certain other fiduciaries.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

"(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

"(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

"(G) Definitions.—For purposes of this paragraph and subsection (d)(16)—

"(i) Fiduciary adviser.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

"(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(II) a bank or similar financial institution referred to in subsection (d)(4), but only if the advice is provided through a trust department of the bank or similar financial institution which is subject to periodic examination and review by Federal or State banking authorities,

"(III) an insurance company qualified to do business under the laws of a State,

"(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(V) an affiliate of a person described in any of subclauses (I) through (IV), or

"(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

"(ii) Affiliate.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the

Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(iii) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

SEC. 106. STUDY REGARDING IMPACT ON RETIREMENT SAVINGS OF PARTICIPANTS AND BENEFICIARIES BY REQUIRING CONSULTANTS TO ADVISE PLAN FIDUCIARIES OF INDIVIDUAL ACCOUNT PLANS.

(a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor shall undertake a study of the costs and benefits to participants and beneficiaries of requiring independent consultants to advise plan fiduciaries in connection with individual account plans. In conducting such study, the Secretary shall consider—

(1) the benefits to plan participants and beneficiaries of engaging independent advisers to provide investment and other advice regarding the assets of the plan to persons who have fiduciary duties with respect to the management or disposition of such assets,

(2) the extent to which independent advisers are currently retained by plan fiduciaries,

(3) the availability of assistance to fiduciaries from appropriate Federal agencies,

(4) the availability of qualified independent consultants to serve the needs of individual account plan fiduciaries in the United States,

(5) the impact of the additional fiduciary duty of an independent advisor on the strict fiduciary obligations of plan fiduciaries,

(6) the impact of new requirements (consulting fees, reporting requirements, and new plan duties to prudently identify and contract with qualified independent consultants) on the availability of individual account plans, and

(7) the impact of a new requirement on the plan administration costs per participant for small and mid-size employers and the pension plans they sponsor.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall report the results of the study undertaken pursuant to this section, together with any recommendations for legislative changes, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 107. TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) IN GENERAL.—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by adding at the end the following new paragraph:

"(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by a qualified investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.".

(b) CONFORMING AMENDMENTS.—

(1) Section 403(b)(3)(B) of such Code is amended by inserting "132(m)(4)," after "132(f)(4),".

(2) Section 414(s)(2) of such Code is amended by inserting "132(m)(4)," after "132(f)(4),".

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting "132(m)(4)," after "132(f)(4),".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 108. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) As used in this section:

(1) BENEFICIAL OWNER.—The term "beneficial owner" has the meaning provided such term in rules or regulations issued by the Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

(2) BLACKOUT PERIOD.—The term "blackout period" with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan;

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(3) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(4) INDIVIDUAL ACCOUNT PLAN.—The term "individual account plan" has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) ISSUER.—The term "issuer" shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

SEC. 109. EFFECTIVE DATES OF TITLE AND RELATED RULES.

(a) IN GENERAL.—Except as otherwise provided in this title or in subsection (b), the amendments made by this title shall apply with respect to plan years beginning on or after January 1, 2003.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 2003" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

(c) PLAN AMENDMENTS.—If the amendments made by sections 101, 102, 103, and 104 of this Act require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(1) during the period after such amendments made by such sections take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by such sections, and

(2) such plan amendment applies retroactively to the period after such amendments made by such sections take effect and before such first plan year.

(d) AMENDMENTS RELATING TO INVESTMENT ADVICE.—The amendments made by section 104 shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2003.

TITLE II—OTHER PROVISIONS RELATING TO PENSIONS

SEC. 201. AMENDMENTS TO RETIREMENT PROTECTION ACT OF 1994.

(a) TRANSITION RULE MADE PERMANENT.—Paragraph (1) of section 769(c) of the Retirement Protection Act of 1994 is amended—

(1) by striking "transition" each place it appears in the heading and the text, and

(2) by striking "for any plan year beginning after 1996 and before 2010".

(b) SPECIAL RULES.—Paragraph (2) of section 769(c) of the Retirement Protection Act of 1994 is amended to read as follows:

"(2) SPECIAL RULES.—The rules described in this paragraph are as follows:

"(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

"(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

"(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974, the mortality table shall be the mortality table used by the plan.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2001.

SEC. 202. REPORTING SIMPLIFICATION.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury and the Secretary of Labor shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "one-participant retirement plan" means a retirement plan that—

(A) on the first day of the plan year—

(i) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated); or

(ii) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation);

(B) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

(C) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses);

(D) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

(E) does not cover a business that leases employees.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2002.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case of plan years beginning after December 31, 2003, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 employees on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).

SEC. 203. IMPROVEMENT OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program;

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;

(3) extending the duration of the self-correction period under the Self-Correction Program for significant compliance failures;

(4) expanding the availability to correct insignificant compliance failures under the Self-Correction Program during audit; and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

The Secretary of the Treasury shall have full authority to effectuate the foregoing with respect to the Employee Plans Compliance Resolution System (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 204. FLEXIBILITY IN NONDISCRIMINATION, COVERAGE, AND LINE OF BUSINESS RULES.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section 401(a)(4) of such Code, as in effect before January 1, 1994, but only if—

(A) the plan satisfies conditions prescribed by the Secretary to appropriately limit the availability of such test; and

(B) the plan is submitted to the Secretary for a determination of whether it satisfies such test.

Subparagraph (B) shall only apply to the extent provided by the Secretary.

(2) EFFECTIVE DATES.—

(A) REGULATIONS.—The regulation required by paragraph (1) shall apply to years beginning after December 31, 2003.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under paragraph (1)(A) shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(b) COVERAGE TEST.—

(1) IN GENERAL.—Section 410(b)(1) of the Internal Revenue Code of 1986 (relating to minimum coverage requirements) is amended by adding at the end the following:

"(D) In the case that the plan fails to meet the requirements of subparagraphs (A), (B) and (C), the plan—

"(i) satisfies subparagraph (B), as in effect immediately before the enactment of the Tax Reform Act of 1986,

"(ii) is submitted to the Secretary for a determination of whether it satisfies the requirement described in clause (i), and

"(iii) satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of this subparagraph.

Clause (ii) shall apply only to the extent provided by the Secretary.".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 2003.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under regulations prescribed by the Secretary under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(c) LINE OF BUSINESS RULES.—The Secretary of the Treasury shall, on or before December 31, 2003, modify the existing regulations issued under section 414(r) of the Internal Revenue Code of 1986 in order to expand (to the extent that the Secretary determines appropriate) the ability of a pension plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

SEC. 205. EXTENSION TO ALL GOVERNMENTAL PLANS OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) IN GENERAL.—

(1) Subparagraph (G) of section 401(a)(5) of the Internal Revenue Code of 1986 and subparagraph (H) of section 401(a)(26) of such Code are each amended by striking "section 414(d))" and all that follows and inserting "section 414(d)).".

(2) Subparagraph (G) of section 401(k)(3) of the Internal Revenue Code of 1986 and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 are each amended by striking "maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)".

(b) CONFORMING AMENDMENTS.—

(1) The heading for subparagraph (G) of section 401(a)(5) of such Code is amended to read as follows: "GOVERNMENTAL PLANS.—".

(2) The heading for subparagraph (H) of section 401(a)(26) of such Code is amended to read as follows: "EXCEPTION FOR GOVERNMENTAL PLANS.—".

(3) Subparagraph (G) of section 401(k)(3) of such Code is amended by inserting "GOVERNMENTAL PLANS.—" after "(G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2002.

SEC. 206. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

(A) IN GENERAL.—Subparagraph (A) of section 417(a)(6) of the Internal Revenue Code of 1986 is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 to substitute "180 days" for "90 days" each place it appears in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).

(2) AMENDMENT OF ERISA.—

(A) IN GENERAL.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under part 2 of subtitle B of title

I of the Employee Retirement Income Security Act of 1974 to the extent that they relate to sections 203(e) and 205 of such Act to substitute "180 days" for "90 days" each place it appears.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1)(A) and (2)(A) and the modifications required by paragraphs (1)(B) and (2)(B) shall apply to years beginning after December 31, 2002.

(b) CONSENT REGULATION INAPPLICABLE TO CERTAIN DISTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 and under section 205 of the Employee Retirement Income Security Act of 1974 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2002.

(B) REASONABLE NOTICE.—In the case of any description of such consequences made before the date that is 90 days after the date on which the Secretary of the Treasury issues a safe harbor description under paragraph (1), a plan shall not be treated as failing to satisfy the requirements of section 411(a)(11) of such Code or section 205 of such Act by reason of the failure to provide the information required by the modifications made under paragraph (1) if the Administrator of such plan makes a reasonable attempt to comply with such requirements.

SEC. 207. ANNUAL REPORT DISSEMINATION.

(a) REPORT AVAILABLE THROUGH ELECTRONIC MEANS.—Section 104(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended by adding at the end the following new sentence: "The requirement to furnish information under the previous sentence with respect to an employee pension benefit plan shall be satisfied if the administrator makes such information reasonably available through electronic means or other new technology.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for years beginning after December 31, 2002.

SEC. 208. TECHNICAL CORRECTIONS TO SAVER ACT.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking "2001 and 2005 on or after September 1 of each year involved" and inserting "2002, 2006, and 2010";

(2) in subsection (b), by adding at the end the following new sentence: "To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.), with any appropriate, qualified entity.";

(3) in subsection (e)(2)—

(A) by striking "Committee on Labor and Human Resources" in subparagraph (D) and inserting "Committee on Health, Education, Labor, and Pensions";

(B) by striking subparagraph (F) and inserting the following:

"(F) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;";

(C) by redesignating subparagraph (G) as subparagraph (J); and

(D) by inserting after subparagraph (F) the following new subparagraphs:

"(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

"(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

"(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and";

(4) in subsection (e)(3)—

(A) by striking "There shall be not more than 200 additional participants." in subparagraph (A) and inserting "The participants in the National Summit shall also include additional participants appointed under this subparagraph.";

(B) by striking "one-half shall be appointed by the President," in subparagraph (A)(i) and inserting "not more than 100 participants shall be appointed under this clause by the President,";

(C) by striking "one-half shall be appointed by the elected leaders of Congress" in subparagraph (A)(ii) and inserting "not more than 100 participants shall be appointed under this clause by the elected leaders of Congress";

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) PRESIDENTIAL AUTHORITY FOR ADDITIONAL APPOINTMENTS.—The President, in consultation with the elected leaders of Congress referred to in subsection (a), may appoint under this subparagraph additional participants to the National Summit. The number of such additional participants appointed under this subparagraph may not exceed the lesser of 3 percent of the total number of all additional participants appointed under this paragraph, or 10. Such additional participants shall be appointed from persons nominated by an organization referred to in subsection (b) which is made up of private sector businesses and associations partnered with Government entities to promote long term financial security in retirement through savings and with which the Secretary is required thereunder to consult and cooperate and shall not be Federal, State, or local government employees.";

(5) in subsection (e)(3)(C) (as redesignated), by striking "January 31, 1998" and inserting "3 months before the convening of each summit;"

(6) in subsection (f)(1)(C), by inserting ", no later than 90 days prior to the date of the commencement of the National Summit," after "comment";

(7) in subsection (g), by inserting ", in consultation with the congressional leaders specified in subsection (e)(2)," after "report" the first place it appears;

(8) in subsection (i)—

(A) by striking "for fiscal years beginning on or after October 1, 1997,"; and

(B) by adding at the end the following new paragraph:

"(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph."; and

(9) in subsection (k)—

(A) by striking "shall enter into a contract on a sole-source basis" and inserting "may enter into a contract on a sole-source basis"; and

(B) by striking "in fiscal year 1998".

SEC. 209. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).".

(b) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(1) by striking "title IV" and inserting "section 4050"; and

(2) by striking "the plan shall provide that,".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 210. REDUCED PBGC PREMIUM FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement

Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined)," after "single-employer plan,",

(2) in clause (iii), by striking the period at the end and inserting ", and", and

(3) by adding at the end the following new clause:

"(iv) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year.".

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor's controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

"(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

"(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans first effective after December 31, 2002.

SEC. 211. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR NEW AND SMALL PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new clause:

"(v) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

"(I) 0 percent, for the first plan year.

"(II) 20 percent, for the second plan year.

"(III) 40 percent, for the third plan year.

"(IV) 60 percent, for the fourth plan year.

"(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.".

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by section 210(b), is amended—

(1) by striking "The" in subparagraph (E)(i) and inserting "Except as provided in subparagraph (G), the", and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

"(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined by taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied.".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans first effective after December 31, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2002.

SEC. 212. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) IN GENERAL.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking "(b)" and inserting "(b)(1)", and

(2) by inserting at the end the following new paragraph:

"(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act.

SEC. 213. SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

"(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(i) owns the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation. For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).

"(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

"(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner.".

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(B)".

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking "as defined in section 4022(b)(6)", and

(B) by adding at the end the following new subsection:

"(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(1) owns the entire interest in an unincorporated trade or business,

"(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

"(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation. For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)). '.

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking "section 4022(b)(6)" and inserting "section 4021(d)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2002, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2003.

SEC. 214. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under subparagraph (B) of section 203(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation in connection with any suspension of benefits described in such subparagraph—

(1) in the case of an employee who returns to service described in section 203(a)(3)(B)(i) or (ii) of such Act after commencement of payment of benefits under the plan, shall be made during the first calendar month or the first 4 or 5-week payroll period ending in a calendar month in which the plan withholds payments, and

(2) in the case of any employee who is not described in paragraph (1)—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2002.

SEC. 215. STUDIES.

(a) MODEL SMALL EMPLOYER GROUP PLANS STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall conduct a study to determine—

(1) the most appropriate form or forms of—

(A) employee pension benefit plans which would—

(i) be simple in form and easily maintained by multiple small employers, and

(ii) provide for ready portability of benefits for all participants and beneficiaries,

(B) alternative arrangements providing comparable benefits which may be established by employee or employer associations, and

(C) alternative arrangements providing comparable benefits to which employees may contribute in a manner independent of employer sponsorship, and

(2) appropriate methods and strategies for making pension plan coverage described in paragraph (1) more widely available to American workers.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary of Labor shall consider the adequacy and availability of existing employee pension benefit plans and the extent to which existing models may be modified to be more accessible to both employees and employers.

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall report the results of the study under subsection (a), together with the Secretary's recommendations, to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate. Such recommendations shall include one or more model plans described in subsection (a)(1)(A) and model alternative arrangements described in subsections (a)(1)(B) and (a)(1)(C) which may serve as the basis for appropriate administrative or legislative action.

(d) STUDY ON EFFECT OF LEGISLATION.—Not later than 5 years after the date of the enactment of this Act, the Secretary of Labor shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the effect of the provisions of this Act and title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 on pension plan coverage, including any change in—

(1) the extent of pension plan coverage for low and middle-income workers,

(2) the levels of pension plan benefits generally,

(3) the quality of pension plan coverage generally,

(4) workers' access to and participation in pension plans, and

(5) retirement security.

SEC. 216. INTEREST RATE RANGE FOR ADDITIONAL FUNDING REQUIREMENTS.

(a) IN GENERAL.—Subclause (III) of section 412(l)(7)(C)(i) of the Internal Revenue Code of 1986 is amended—

(1) by striking "2002 or 2003" in the text and inserting "2001, 2002, or 2003", and

(2) by striking "2002 AND 2003" in the heading and inserting "2001, 2002, AND 2003".

(b) SPECIAL RULE.—Subclause (III) of section 302(d)(7)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)(7)(C)(i)) is amended—

(1) by striking "2002 or 2003" in the text and inserting "2001, 2002, or 2003", and

(2) by striking "2002 AND 2003" in the heading and inserting "2001, 2002, AND 2003".

(c) PBGC.—Subclause (IV) of section 4006(a)(3)(E)(iii) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended to read as follows—

"(IV) In the case of plan years beginning after December 31, 2001, and before January 1, 2004, subclause (II) shall be applied by substituting '100 percent' for '85 percent' and by substituting '115 percent' for '100 percent'. Subclause (III) shall be applied for such years without regard to the preceding sentence. Any reference to this clause or this subparagraph by any other sections or subsections (other than sections 4005, 4010, 4011 and 4043) shall be treated as a reference to this clause or this subparagraph without regard to this subclause.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 405 of the Job Creation and Worker Assistance Act of 2002.

SEC. 217. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this title or title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this title or such title VI, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2005.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting "2007" for "2005".

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

TITLE III—STOCK OPTIONS

SEC. 301. EXCLUSION OF INCENTIVE STOCK OPTIONS AND EMPLOYEE STOCK PURCHASE PLAN STOCK OPTIONS FROM WAGES.

(a) EXCLUSION FROM EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Section 3121(a) of the Internal Revenue Code of 1986 (relating to definition of wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

"(B) any disposition by the individual of such stock.".

(B) Section 209(a) of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) Remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b) of the Internal Revenue Code of 1986) or under an employee stock purchase plan (as defined in section 423(b) of such Code), or

"(B) any disposition by the individual of such stock.".

(2) RAILROAD RETIREMENT TAXES.—Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:

"(11) QUALIFIED STOCK OPTIONS.—The term 'compensation' shall not include any remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

"(B) any disposition by the individual of such stock.".

(3) UNEMPLOYMENT TAXES.—Section 3306(b) of such Code (relating to definition of wages) is amended by striking "or" at the end of

paragraph (16), by striking the period at the end of paragraph (17) and inserting "; or", and by inserting after paragraph (17) the following new paragraph:

"(18) remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

"(B) any disposition by the individual of such stock.".

(b) WAGE WITHHOLDING NOT REQUIRED ON DISQUALIFYING DISPOSITIONS.—Section 421(b) of such Code (relating to effect of disqualifying dispositions) is amended by adding at the end the following new sentence: "No amount shall be required to be deducted and withheld under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence.".

(c) WAGE WITHHOLDING NOT REQUIRED ON COMPENSATION WHERE OPTION PRICE IS BETWEEN 85 PERCENT AND 100 PERCENT OF VALUE OF STOCK.—Section 423(c) of such Code (relating to special rule where option price is between 85 percent and 100 percent of value of stock) is amended by adding at the end the following new sentence: "No amount shall be required to be deducted and withheld under chapter 24 with respect to any amount treated as compensation under this subsection.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired pursuant to options exercised after the date of the enactment of this Act.

TITLE IV—SOCIAL SECURITY AND MEDICARE HELD HARMLESS

SEC. 401. PROTECTION OF SOCIAL SECURITY AND MEDICARE.

The amounts transferred to any trust fund under the Social Security Act shall be determined as if this Act had not been enacted.

The SPEAKER pro tempore. After 2 hours of debate on the bill, as amended, it shall be in order to consider a further amendment printed in part B of the report, if offered by the gentleman from California (Mr. GEORGE MILLER), or the gentleman from New York (Mr. RANGEL), or a designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. THOMAS), and the gentleman from New York (Mr. RANGEL) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from California (Mr. THOMAS) for 30 minutes.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

There has been a quiet revolution going on in the United States, and it was so quiet that a lot of people did not notice. One of the fundamental tenets of Marxism was that there was a separation between those who own the means of production and those who labored at that production; as Marx said in the Communist Manifesto, the capitalists and the proletariat. And there was a belief, still somewhat attempted to be carried on by some folks, that there is a significant and fundamental class difference, an economic difference, which produces a cultural difference between "classes," the captains of industry, the big corporate folk and the workers that to a certain extent, this political argument is perpetuated today.

The quiet revolution that I am talking about is the change that has occurred over the last half century, speeding up significantly in the last third of the 20th century, and really culminating in part for why we are on the floor today; and that is, there is becoming less and less of a distinction between workers and owners. As a matter of fact, based upon legislation in the 1970s, more and more companies are being owned by the workers.

If my colleagues do not think that shows a fundamental flaw in Marxism and a significant and historic modification of capitalism, talk to any worker who has a 401(k), who owns shares in the stock market. And, frankly, that is becoming more and more your everyday American because, at the same time, the concept that one was supposed to go to work for a company and be employed for 20 years, 30 years, a lifetime, and that if they committed themselves to that company, they were rewarded by a pension or a decent retirement payment, exemplified, for example, a gold watch for loyalty.

Today, not only are individuals working a number of different jobs in their lifetime, they wind up oftentimes with several different careers in their lifetime. And what is most remarkable about being on the floor today is that all of this occurred without a significant or heavy hand of government trying to make it happen. It just kind of occurred. There was an enlightenment that management ought to allow workers to participate as owners, and workers thought it might be a good idea to get a piece of the action.

Frankly, since it developed to a very great extent below the radar screen and it was not going to be focused on until there were some problems that occurred, and obviously Enron as a focal point could be described as a problem, we are here today to make modest adjustments to a system that needs to continue to evolve largely in the private sector, not controlled or dictated to by government.

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However, in the chairman's opinion, government ought to watch very carefully what is occurring in this area because I believe there are a number of successful models that can be examined to help us in our dilemma of one of the key safety nets, the entitlement of Social Security, where over the next several years we are going to have to make several decisions about how we modify the Social Security system.

It is, I think, significant that we are here today to put into place modest, but appropriate, changes in that structure in which workers have become owners, part or whole.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. SHADEGG) for the purpose of a colloquy pointing to the fact that there is a difference between certain types of employee-owned companies, commonly known because of the law, as ESOPs.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, first I would like to clarify that the diversification requirements in the legislation do not apply to privately owned corporations, but only to those corporations whose securities are tradeable or traded on an established securities market.

Mr. THOMAS. Mr. Speaker, the gentleman is correct. The diversification rules exempt privately held companies. Only public companies are subject to the rules.

Mr. SHADEGG. Mr. Speaker, secondly, a company may continue to make contributions to such an employee stock ownership plan, an ESOP, for purposes of meeting the safe harbor provisions of the nondiscrimination test established by section 401(k), and that such contributions would not be subject to the diversification requirement established by this legislation.

Mr. THOMAS. Mr. Speaker, the gentleman is correct. Employer contributions used to satisfy the 401(k) safe harbor test will not be subject to the diversification rules, as long as the contributions are made to a so-called pure ESOP, which is defined as an ESOP which holds no employee contributions, no employer-matching contributions, and no employer contributions used to meet the nondiscrimination test.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I thank the distinguished chairman for that eloquent essay against communism. It is refreshing to know that this bill is trying to minimize the class differences that we have in this Nation between the captains of industry and employees, that this gap is being closed.

Most of us thought this was a question about the Enron scandal. Most of us thought, like the President, that we ought to repair the damages that have been made to see that it does not happen to employees in the future. Most of us thought that this was a tax issue since the 401(k)s, that so many employees, rank and file employees, got hurt by with Enron, that we on the Committee on Ways and Means would be providing the leadership for the House in order to repair the code so that these things would not happen again.

Instead, the debate is led off by the Committee on Education and the Workforce by the gentleman from Ohio (Mr. BOEHNER). It is good to know that things are getting better and the gap is getting closed, but to say that we do not know what is in this bill is similar to a statement we heard yesterday, nobody knew what was in the taxpayer bill.

When the day is over, the vote is going to be which side were Members on. Were Members with the executives that managed to protect their pensions and not pay taxes on it; or were Members with employees that, as the President said, as the sailors of this ship, they should have the same rights as the captains do?

Here we find that the captains of the Enron ship jumped ship and took the lifeboats with them, took the lifesavers with them, and employees sunk and lost their life savings. We want to know what we do about it today. Of course the Member says modest adjustments. That is code words for we do nothing about it today.

Some of us on the committee voted for it because we were under the impression that we could work out our differences and really put some teeth in this, and to try in some way to bring to the floor a bipartisan bill so the American people would believe as it relates to pension, there was some equity, some parity between how we treat executives and how we treat the rank and file.

We see here that the issue is not communism versus capitalism, it is campaign contributions versus doing the right thing.

I hope as the question was put to us yesterday, whether or not we should maintain loopholes for people to make campaign contributions that we thought we had closed, or whether or not people want to do the right thing, that we do not have people walking in lockstep to party leaders, but we have Members doing the right thing because that is what is expected of us. The closer we get to election, the more honestly we will be seeing our votes.

Mr. Speaker, I ask Members to listen not to the virtues of capitalism that we all really treasure, support, adore and want to maintain, and not in attacking communism because I think we have won that argument, but which side are Members on: the highly paid executives or protecting the rank-and-file employees.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it ironic that the gentleman closed his statement right along the same class lines that I said have been blurred significantly. I was not talking about communism; I was talking about Marxism.

The gentleman's reference that the captains of industry get to be treated differently than their employees is one of the reasons we are here today. If the gentleman would turn to page 75 of the bill, the gentleman would find section 108, which clearly prohibits the so-called captains from participating in activities that the employees are denied. Exactly the point that the gentleman makes is contained in the legislation.

In addition to that, the reason we are here today with a shared committee responsibility is because in 1974 Congress passed, and the President signed, the Employer Retirement Income Security Act, known as ERISA. The jurisdiction of the Committee on Ways and Means is to the Tax Code. The jurisdiction of the Committee on Education and the Workforce is to that portion of the law known as ERISA. As is oftentimes the case, there are two different sections of the law.

Mr. Speaker, if the gentleman would wish that the Committee on Ways and Means also controlled the ERISA portion of the code, the Chair would reach out to the gentleman, and we could try to figure out a way to put that under our jurisdiction as well. But at least temporarily, it is under the jurisdiction of the Committee on Education and the Workforce. They have to be accommodated since that is their jurisdiction.

It was a pleasure to work with the chairman of that committee, the gentleman from Ohio (Mr. BOEHNER), in putting together this package.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. HOUGHTON), who is someone who understands the relationship between owners and workers and the change that has occurred over time in that relationship, the chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to support the pension improvements in this legislation, and I want to talk briefly about three issues.

First of all, payroll taxes on stock options: for over 30 years, since 1971, the IRS has taken the position that employee purchases of company stock and stock options do not give rise to employment tax obligations. Now the IRS is totally reversing its position, and employees I am sure will consider this a tax increase.

What this bill does is to preserve that 30-year policy which we have been operating under for so many years. In addition to higher taxes, several adverse consequences, I feel, are likely to flow from the failure to address the problem.

First of all, employee stock purchases will be depressed, reversing the trend in recent years toward greater ownership. Also, because employment taxes are higher until an employee reaches the maximum Social Security wage base of approximately $85,000, the change will also tend to harm those earning below the maximum wage base more than those earning above it. For the same reason, it is going to become more expensive for companies to award stock options to the average worker because employers will bear half the burden of employment taxes. By enacting this legislation, we will preserve existing laws on the incentive stock options.

Secondly, some outside the process have criticized other aspects of the bill for creating loopholes. I do not believe that. Democrats have joined Republicans in calling these loopholes reform. I hope they are reforms. What this does is fix mechanical rules that produce irrational results.

The simplification provision that is now criticized merely directs the Department of Treasury and Department of Labor to develop simplified annual reporting requirements for businesses with fewer than 25 employees. I have a feeling that the Democratic substitute, although well intentioned, is likely to have the unintended consequence of sharply restricting the availability of the 401(k) plans. Right now the 401(k) plans are a critical part of the structure of incentives for individual savings that we have built into our tax codes. These incentives can only be offered to employees if employers participate.

The Enron fraud has taught us the need for diversification to protect a workers' plan. This substitute would impose tough conditions on plan administrators that the best-run companies will have to reevaluate their decision to offer these tax-favored saving plans. They are all voluntary. I do not believe this is what was intended by this particular legislation.

Mr. Speaker, I support the pension improvement plan. I support the security plan, H.R. 3762.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from California (Mr. STARK) for purposes of control.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I appreciate the opportunity to speak, as I am not on either the Committee on Ways and Means or the Committee on Education and the Workforce, but when Enron started to collapse, many people in Houston saw their life savings evaporate before their eyes.

My constituents' hands were tied because Enron executives prevented them from touching the 401(k)s, even though these same executives were able to unload their stock by other means as it continued to spiral down. Innocent employees and investors lost all their investments while the CEO and executives cut their losses with their stock losses and deferred compensation. Congress should be able to stand up to these folks who take free enterprise and abuse it, these corporate insiders who took advantage of their employees' trust.

This legislation, as I look at it, and I know that we have two different committees working on it, does little to help the average rank-and-file worker who could do nothing to prevent what was happening at Enron. This reminds me of a saying from Texas that we can put earrings and lipstick on a pig and call her Monique, but it is still a pig. Even with earrings and lipstick, this bill does not do much to prevent future Enrons.

Mr. Speaker, I do not want to throw out the baby with the bath water, and I agree that we need to continue the efforts for stock options and ESOPs; but somehow we have to send the message by legislation that we will not have what has happened at Enron ever happen again.

The President said he wanted the CEOs treated the same as the workers. The Democratic substitute does that. It makes sure that executives play on the same field as their workers and investors. If employees are prohibited from selling their stock, executives should be, too, without any special dealings or deferred-compensation ways that they can get to their stock, and that is what the Republican bill that we have today does not do. The majority bill, even with the earrings and lipstick, is still no beauty.

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Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. PORTMAN) control the remainder of the time on this side.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN) who has been instrumental in ensuring that we have broad coverage under our 401(k) plans.

Ms. DUNN. Mr. Speaker, today I rise in support of the Pension Security Act of 2002. This bill does have strong bipartisan support in the Committee on Ways and Means and it adheres to the principles outlined by President Bush. Most importantly, it will provide protections for employee-investors without impinging on employers' own abilities to establish, support and have some degree of control over their own retirement plans. Media hype notwithstanding, we cannot allow the unfortunate actions of a few, who will be penalized, to ruin a successful program that has created trillions of dollars in wealth for millions of Americans.

I want to highlight two important changes that are in this bill to protect employees. First, we included sensible diversification requirements for employee investments. We know that one of the principles of retirement security is personal control over a diversified portfolio. Our bill prohibits employers from requiring employees to invest their own money in company stock. Companies would be required to offer at least three investment options to their employees. And employees would also be given advice in plain English about the benefits of diversification of their investments.

Secondly, I want also to mention how we address employee stock purchase plans, or ESPPs. For decades, ESPPs have been exempt from payroll taxes because they were not considered wages. However, a recent IRS ruling overturned this longstanding practice. Our bill reaffirms that ESPPs are exempt. This is an important clarification that protects rank-and-file employees from a huge tax increase. Without this provision, you would have the very ironic situation of a junior programmer at Microsoft being forced to sell stock just to pay the payroll tax. Without this provision, small companies, which have used ESPPs to attract and to reward young workers, would be discouraged from offering these plans.

Our private retirement system is a great success, Mr. Speaker. It should make us all proud. Let us continue that tradition by passing this very important bill.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from California for yielding me this time.

Mr. Speaker, I am disappointed. I think today we have missed an opportunity to pass legislation on a bipartisan basis that would have gone a long way to helping America's workers. If the Committee on Rules would have allowed the work product of the Committee on Ways and Means to come forward, the gentlewoman from Washington was correct, we passed that by a strong bipartisan vote in our committee, and we would be here today, Democrats and Republicans, urging the passage of that legislation. That was not to be the case.

Instead, the Committee on Rules brought forward the product of the Committee on Education and the Workforce and included some provisions that I believe should not be enacted. Therefore, I find it regrettable that I cannot support this legislation.

Mr. Speaker, there are some very important provisions in the legislation before us that we need to make sure gets enacted into law. There are certain protections for employees to be able to diversify their investment portfolio, to be able to take company stock and to put it into a more diversified portfolio for their retirement. Particularly in these days as we are changing from defined benefit plans to defined contribution plans, those changes are important.

The legislation was basically worked out in a bipartisan way. I thank the gentleman from Ohio (Mr. PORTMAN). The two of us have combined together a lot of pension legislation, including many of the provisions that were included in the Ways and Means bill but unfortunately have gotten clouded in the legislation before us. It includes notice, for example, of blackout periods and that employees should diversify their investment portfolios. It includes tax incentives so that individuals can get tax advice. It includes help for small business that was not included in last year's tax bill because of the rules in the other body. That is the good stuff that is in the bill. That is what was worked out in a bipartisan way. That is what I had hoped would have been before us. That is what I had asked the Committee on Rules to make in order. But that is not the bill before us.

The bill before us includes other provisions, including a restriction on diversification that I do not think is workable, that requires employees to wait 3 years after every new contribution by an employer of company stock before they can diversify it. How many of us look at our portfolios every year and set up plans for diversification every year? I think that is asking employees to do too much. How many of us can plan how much we are going to have available for retirement if we do not have complete control over our decisions? The legislation before us does not give that to us.

More importantly, the legislation before us opens up certain conflict situations on giving advice by making an exception to the prohibited transaction rules under ERISA. I supported change in that rule. I went to the Committee on Education and the Workforce and tried to work with them on sensible restrictions in opening this up so that the manager of the investment plan would at least be required to offer options and choice to the participants. But that amendment was not adopted. Instead, there is just a blanket exemption to the ERISA statute.

I regret that I will not be able to support a bill that I worked very hard with with the gentleman from Ohio (Mr. PORTMAN) to bring forward today. I do hope that as this legislation works its way through the other body and through conference that we will be able to bring back a bipartisan process, one in which the Committee on Ways and

Means participated in, and have a bipartisan bill that can enjoy broad support in this body and that we can send to the President and get enacted into law. That is not the legislation before us. I hope we will have that when it returns from the other body.

Mr. PORTMAN. Mr. Speaker, I yield myself 30 seconds.

I would like to thank the gentleman from Maryland (Mr. CARDIN) for the good work he did on this legislation. As he says, the majority of this legislation is the product of the Committee on Ways and Means and the Portman-Cardin legislation.

He indicated that there were two areas he had disagreements: The workability of the 3-year rolling provision, that of course can be done as an option for the company. Second, he talked about his concern about the conflict situation of giving investment advice. We are very close on that one as well. I just want to underline the fact that we are very close in this legislation. I think, in fact, that this legislation is bipartisan still. I assume it will be. I look forward to working with him into the future to addressing those relatively small concerns in a good bill.

Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Ohio for yielding me the time, and I appreciate the comments from my good friend from Maryland. If you listened closely, while there were some disagreements as to what is transpiring in the bill that my friend from Ohio addressed, there seems to be more of a concern about process, and we have joint jurisdiction with the Committee on Education and the Workforce and some of these questions of process can be worked out in the course of the legislation.

But what we do in this bill is address a definite need. This is an example where the House of Representatives responds to a challenge that confronts the American people. It is precisely because of the diversification rights that I would recommend this legislation. Plans would be required to offer at least three investment options other than company stock and to allow employees to change investment options at least quarterly. Employees must have the option of investing their own contributions in any investment option offered by the plan. Employers would be allowed to match in the form of company stock. However, employees would be allowed to sell this stock and diversify into other assets according to a couple of different options, a 3-year service option or a 3-year rolling option.

Another concern addressed by this legislation is that it strikes a balance. Mr. Speaker, many folks in Arizona have come to me about ESOPs and what goes on there, and it is important to note that the new diversification rules would apply only to plans that hold publicly traded employer securities and to plans that are not pure ESOPs. A pure ESOP does not hold any employee contributions, employer matching contributions, or employer contributions used to meet nondiscrimination tests.

As you take a look at this legislation, it actually enlarges and improves access to retirement security. It would make it easier for small businesses to start and maintain pension plans. It will simplify reporting requirements for pension plans with fewer than 25 participants.

If the question is access to pension security, it only makes sense to enlarge the possibilities for small business, and we should really redefine that as essential business since more Americans are employed by small businesses than all the corporations of the United States, we are able to set up a mechanism so that they can actually come up with their own plans, with their own pension programs, and it will provide for discounted insurance premiums that small businesses pay to the Pension Benefit Guaranty Corporation.

On balance, this legislation strikes a balance. It is an appropriate first step. I urge passage of the legislation.

Mr. STARK. Mr. Speaker, I yield myself 4 minutes.

As many speakers who have gone before suggest, this bill points out so clearly the difference between the Republicans and the Democrats. Not only is this bill terribly unfair to the average working person and abundantly generous to rich and high-paid executives and to the insurance industry who are contributing to the authors of this plan for the munificent tax loopholes it creates, but in structuring the plan in the dead of night, there were provisions put back into the bill in the Committee on Ways and Means which further discriminate against the average worker in the small business.

This is not about creating plans which, of course, is what the Republicans would like to do, to create plans for the rich executives. This is about fairness in coverage. This is how many people are covered by the plan in a fair way.

We have had for many years antidiscrimination laws which this bill attempts to eliminate. These have been a subject of contention time and time again as the Republicans, if you choose to support that philosophy, would give tax loopholes to the very rich and ignore the average working person. This has been the interest of the people selling the plan, selling the investments, selling the insurance or selling the service, is to line the pockets of the rich who, of course, will continue their contributions to the Republican campaigns at the expense of the average working person who will get precious little from these plans.

Why we should continue to think that we can say this helps anybody to retire, it helps a very small percentage of very rich people or small business owners to retire. And who pays for that? The average taxpayer pays for that. We pay for that tax loophole. And the price that we were previously extracting was that that small business owner had to give an equivalent protection to every employee in his or her business. This bill eviscerates that idea.

There is some claptrappy language in here that will turn it over to the Secretary of the Treasury, but if the Secretary of the Treasury does nothing, there will be no requirement for antidiscrimination laws. And guess who will have won? The Republican Party and their rich friends and the people who sell these plans, the investment brokers and the insurance agents who do it. What is worse is that it was brought into the bill in the dead of night without the knowledge of the Democrats on the committee. To me, this is underhanded, it is sneaky, and it is indeed the operating procedure of the Republican Party.

I cannot help but suggest, because our chairman brought up the idea of Marxism, and I guess he used to teach history or something like that at some junior college, and he might remember that it was in a European country in the thirties that the fascist leader of that country enlisted the corporate executives to support a war effort in the fight against Marxism and, in the process, enslaved the workers. This seems to be the pattern that the Republicans in this House are following today, by sneaking through in the dead of night, not telling us the truth about what is in the bill, and harming the average working American to the benefit of the very rich business owners. That is wrong, that is obscene, that is immoral.

Vote "no" on the bill.

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Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, that was pretty good theater, and I guess I have to compliment the gentleman for his partisanship, but there was no basis in fact for almost anything he just said.

This was done without the Democrats knowing about it? It is the Portman-Cardin legislation that has been voted five times on the floor of this House. You have voted for it, sir. There was a 36-to-2 vote out of the Committee on Ways and Means. It was in H.R. 10. It was in all the previous legislation that has come before this floor. It was passed by this House by over 400 votes. It has been fully vetted.

The way in which the gentleman described it is, frankly, inaccurate. Let me quote the gentleman: "There is no requirement for any nondiscrimination testing."

Where does that come from? The gentleman from Maryland (Mr. CARDIN) is on the floor here, as is the gentleman from North Dakota (Mr. POMEROY) on the other side of the aisle. They have worked well on a bipartisan basis with us to put forward this legislation over the years. Frankly I am, again, very disappointed that we cannot have a debate on the merits.

Let us talk about the facts. I know the gentleman has a disagreement with some of the facts. I know the gentleman is not for the investment advice part of this bill. The gentleman from Maryland (Mr. CARDIN) made it clear he is not. I respect that.

But I would urge on both sides of the aisle that we try to stick to the facts as we are talking about pension reform, not that we should not on every issue, but this one has been historically bipartisan, and it is so important to the workers of this country, including the 55 million people who now take advantage of defined contribution plans.

It is the 70 million Americans who have no plan, primarily because small businesses do not offer them, that need our help. That is what this relatively modest provision that the gentleman referenced as being "a Republican idea that was brought up in the dark of the night" is all about. It is one that has been supported by Democrats and Republicans alike, it is one that was fully vetted over a 5-year period, it is one that has been the subject of hearings and markups; it is one that will help small businesses to be able to offer plans by giving them just a little relief from the rules, the regulations, the costs and burdens under the pension rules, and it does not, does not, I repeat, eliminate the need for nondiscrimination testing.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I rise in support of this legislation, legislation which has so much bipartisan work invested in this legislation, the Pension Security Act of 2002. I commend the gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. THOMAS) and the gentleman from Ohio (Mr. BOEHNER), who have led this effort to bring this legislation to the floor.

We have all learned over the last several months of some terrible things that occurred in Enron and Global Crossing and how they have impacted the retirement savings of the workers of those companies, and certainly we want to find a solution. We are going to hear the rhetoric of some who are going to choose to seize this as an opportunity for name calling and partisanship and class warfare.

We are also going to see Members of this House who are going to rise up and do the right thing, and that is offer a solution, a solution that does what we want to achieve, and that is to protect workers and to strengthen retirement savings.

That is what this is all about, pension security. That is why I stand in strong support of this legislation.

Let us look at what this bill does for America's workers. It empowers employees. Employee rights and protections are enhanced without further burdensome regulations. The bill also gives employees more control over the investment of their accounts once they own or become fully vested with that money. It also requires employers to notify workers in advance of a blackout so that employees have the same opportunity to make changes before the restrictions come into effect.

I would also note that employees are given the opportunity for investment education, something that many employees have told me they are looking for, because we give them in this legislation the opportunity for investor education and access to professional investment advice, and that is all improved with this bill.

We also help employers, because we want to encourage employers to provide pension benefits, because we want to encourage, particularly smaller employers, to provide retirement savings opportunities for their employees because they are the ones, frankly, that have a harder time doing it because of the regulatory and administrative costs. And this House has worked so hard with the leadership of the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN) to make it easier for small employers to offer pensions.

This bill also reduces costs and regulatory burdens for employers who voluntarily sponsor pension plans. I would note that thanks to the leadership of the gentleman from New York (Mr. HOUGHTON), this legislation prevents the IRS and the Federal Government from imposing further taxes on employee stock options. If we do not pass this legislation, workers who have employee stock options may suffer payroll taxes. We do not want that to happen.

This legislation deserves bipartisan support. It would make it easier for small employers to provide retirement savings opportunities for their workers. We empower employees. It is a bipartisan bill and deserves bipartisan support. Let us do the right thing. We have a solution. I urge support.

Mr. STARK. Mr. Speaker, I yield 4¼ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me time.

In the aftermath of the Enron-Andersen fiasco, certainly we should be concerned about activity that was lawless. But I believe we here in Congress need to be equally concerned about activity that was lawful, but simply awful, in its impact on American families.

This is a scandal involving the deliberate decisions of policymakers in this House of Representatives to allow and overlook loopholes, shortcuts, back doors, exemptions, and exceptions that riddle our laws, that provide special protection and special opportunities to special interests that devote such energy to lobbying us here in Washington. It works to the detriment of blameless employees at Andersen and Enron and at companies across this country, the blameless participation of retirees and investors and of taxpayers who work hard to contribute to make this the great country that it is.

And for those Enron employees who lost all their life savings, for those taxpayers that are out there completing their tax return and wondering why it was that Enron did not pay a dime in taxes, for all those people across America who are saying "there ought to be a law to do something about this," those folks do not need to look any further than the House Committee on Ways and Means that has responsibility for people paying their taxes and for protecting pensions, to ask why did they not do something about it. Why do they continue to enable and facilitate and encourage companies like Enron to not pay a dime on their taxes, while Americans are working hard to pay for the costs of the security of this country? Why have they been so indifferent to ordinary workers that are concerned about their pension security?

This bill is not about the protection of pensions for hard-working employees; it is about political cover for Members of Congress who have not done very much about these kinds of problems in the past. It is based on the premise of how very little can this Congress do and still go out with a straight face and say they have done something about this problem.

Let me tell you, if your family's future is dependent upon an employee pension plan, and you are asking what is this Congress doing to protect me, to protect my family, what is this Congress doing to prevent another Enron-type debacle from destroying our retirement security, the answer is practically nothing.

That is not just my assessment, that was the assessment of the American Association of Retired Persons when this bill came out of committee, and I am proud to have voted against it. That was also the assessment of the New York Times on the front page yesterday—serious concerns that have not been answered by supporters of this bill.

In fact, a former Treasury official said the bill opens the door to discrimination between executive and lower-paid workers.

While its proponent did not have time to take care of ordinary folks, they could certainly provide new favors for highly-paid workers.

If management tells you to buy more company stock while they are selling theirs, does management have to tell even the pension plan that it made these sales? No, not under this bill. If management continues to stuff your retirement plan with company stock, is that illegal? Not only is it lawful, they give a tax break to the company if they do that. And they tell us a company can give some advice to people: "We will let Jeff Skilling go out and hire a consultant to advise people to sell their Enron stock." If you believe that, I am sure the Brooklyn Bridge is available for you.

A company under this bill can continue to encourage employee contributions of company stock and hire an advisor to give advice limited to other investment issues. It is more conflicted interests atop the very kind of conflicted interests we have had in the past.

I am so pleased that the gentleman from California (Chairman THOMAS) brought up Marx, because I am a real fan of their movies. I can tell you that what this bill does in the way of pension protection for American families is just about as much as if we turned the job over to Groucho, Harpo and Chico.

Mr. PORTMAN. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the gentleman said that there is a New York Times article that has not been responded to. We have spent a good part of today responding to it and its inaccuracies.

Just to do it once more, because the gentleman said we had not responded, the provision we are talking about is to be able to use a facts-and-circumstances test at the Department of Treasury when a plan is fair on its face. It is entirely within the discretion of the Department of Treasury to determine the procedures for that. It is entirely within their discretion to say even though your plan is fair, even though it treats everybody the same, even though you have a uniform benefit all the way through, still you do not meet the test.

There are circumstances where a plan is perfectly fair. In fact, you could have a uniform benefit for every level of paid worker in the plan, but because one of the workers at the middle or higher level came on to the plan at an earlier age, it might not meet the specific mathematical tests that the Treasury Department uses.

There needs to be some kind of test, but tests are just that; they are mathematical, they are specific. Sometimes they do not work to determine whether something is fair or not. Should there not be some safety valve? The junior senator from New York thinks there should. It is in the Grassley bill that she has cosponsored. It has passed this House five times, by votes of over 400 votes it has passed this House. It is something that has been totally bipartisan from the start. This is nothing new.

I would just like to be clear, finally, that the legislation before us does address problems that have arisen because of what happened at Enron, but it affects all folks who are in defined contribution plans in this country. It does make significant steps forward.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). Members are reminded that improper references to members of the other body are to be avoided.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I am a Houston area Congressman. Many of the Enron employees are my neighbors. They are good people, and they have lost their jobs and they have lost their retirement through no fault of their own. They do not have time to sit around thinking of clever movie titles to stick into their speeches. They are too busy finding jobs and trying to rebuild their homes and their lives.

I am ashamed of those in Congress who continue to try to score political points off the misery of these workers from Enron. The fact of the matter is the biggest threat to future retirement plans is not the prospect of future Enrons. The biggest threat is political grandstanding here in Washington that destroys companies' incentives to share their wealth with the workers who helped achieve it.

The fact is these are thoughtful safeguards today to give workers more control over their retirement plans, while encouraging companies to help them build up their nest egg for retirement.

This legislation does not satisfy the business community, it does not satisfy all the workers. It certainly does not satisfy the lawyers who would like to sue everybody. But when combined with needed accounting reforms, stiffer penalties for corporate fraud and a healthy dose of buyer beware for anyone looking to invest in stock, this should help to prevent the Enrons of the future, and this is a sound balance that we need.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I have heard it all today. I really have. When my friend from Arizona says that what we need is a balanced approach, at this time of the game? You tell that to Wayne and Kathy Stevens, who in their 401(k) had $720,000 in savings wiped away.

□ 1300

You tell them what they need is a balanced approach. We are beyond a balanced approach. Besides someone going to jail, those people need relief; and they are not getting it in this legislation. My colleagues may think that is theatrics. You tell that to them, that couple out in Washington State.

This legislation includes no bona fide structural changes that will create protection. It does not require equal representation of employers and employees on the 401(k) plan management boards. It does not create equity between the claims of workers and the executives if the company files for bankruptcy. It does not mandate that independent, unbiased investment advice be provided to rank-and-file employees. In other words, this bill is at worst, a placebo; at best, a Band-Aid on a deep wound.

For these reasons and for what the bill does not do, I urge my colleagues to vote against the Republican bill and for the Democratic substitute. We know who brought you to the dance; but you do not have to keep on saying yes, yes, yes.

Our substitute levels the playing field. It gives rank-and-file employees the same pension protection as the executives. For us to ask anything less, we will not do a service to all Americans, just a few.

The way I see it is certain assets of the company that I have invested in, if I am part of the pension plan, are the property of the employees.

In conclusion, Mr. Speaker, I think our substitute does a better job in trying to address the problem.

Mr. STARK. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time.

The security of retirement programs of America's workers is about as important a thing as I think we are going to tackle. It has been my pleasure to work with people on both sides of the aisle on this issue for many years. I want to commend, in particular, the gentleman from Ohio (Mr. PORTMAN) for the substantive and serious-minded work he has put into this topic. He is truly one of the experts in the Congress, House and Senate, on this issue; and his leadership has been important.

Let us look at where we are today. Only half the people in the workforce today have access to workplace retirement savings. We have absolutely a collapse in the number of defined benefit plans providing reliable pensions to workers. The plans are not collapsing; they are converting to defined contribution plans, a different arrangement, in my opinion, over the long run, one not likely to serve the worker quite as well. We have 401(k) choices, a bewildering array, facing workers, without having provided them sufficient information to best steer their interests in light of their new responsibilities. And, obviously, as the Enron case has so sadly shown, we have insufficient protections that protect workers from the kind of abuse that occurred by an employer acting in what, I believe, will be very actionable ways in the Enron circumstance.

So what we have before us are two approaches to try and fix some of these issues. Sometimes the choices before us are dumb and dumber. Today, I think they are good and better. I am going to vote for the underlying bill. I am going to vote for the substitute, in any event. I think we are making a step forward with the passage of either one of these choices today.

Let us take a look at, first, the underlying bill. It allows diversification protection that we do not have today. The 3-year rolling average is not as good as the Committee on Ways and Means' 3-year provision, which is a distinct advantage in the underlying substitute; but it is an advantage, and it will protect workers, allow them to be able to put a more healthy investment balance into their retirement funds; the 30-day notice on blackout periods and an absolute guarantee they will have a right to trade and diversify within that period of time. That was in the underlying bill that was obviously tragically not in the Enron circumstance, to the abuse of many of those employees. A big step forward with that one.

A big step forward in my opinion on providing investment advise, much greater availability of investment advice to workers facing these 401(k) choices. I am very pleased that the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, incorporated into this draft changes that I proposed that make sure that a fiduciary standard applies in the providing of that advice; and it discloses fees in a clear and uniform way, and that it has all of the advisors providing this advice, subject to administrative penalties in those circumstances where they have a vested interest in the sale.

I believe that this will go a long way in a very secure format to provide them the advice they need.

This is a choice; two good choices. Yes on the substitute is the preferred choice. The other one is good too.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, what is at stake here today is the faith of the American people in their economic system and in this Congress. The American dream is work hard, get ahead, give your life to a company, get a secure, decent retirement pension. Well, that dream is being destroyed by corporate executives who are cheating people out of their hard-earned retirement benefits.

As the Nation watched enormous corporate bankruptcies unfold at Enron and Global Crossing, and as the people of my district watched Chapter 11 proceedings at LTV Steel, we see the plot thicken around one major theme. There are two sets of rules. Executives get one set of rules and the employees have to play under a different set of rules. Corporate executives get special treatment, including more investment choices, no lockdown restrictions, generous deferred compensation plans that are not required to be disclosed, guaranteed rates of return on pension investments, and a golden parachute of retention bonuses and other benefits when a company goes under.

Employees, on the other hand, have barriers to information, fewer options, more restrictions on investment, and no guaranteed returns. The most egregious disparity is that during a bankruptcy, executive pension plans are totally protected from creditors, and executives can count on cashing in their entire package. On the other hand, employee protections are not protected from creditors. Employees stand at the end of the line and must wait behind other creditors to claim what rightfully belongs to them for compensation that is already earned. Finally, if employees do get to make a claim, that claim is capped at a mere $4,650.

At the end of the Enron debacle, Ken Lay still receives $475,000 each year for the rest of his life and a prepaid $12 million insurance policy; but the employees' 401(k)s are drained, and they will be lucky if they get their $4,650 maximum severance pay.

This bill does nothing to protect employee pensions in a bankruptcy. It fails to give equal protection to the employee pension as the law currently provides to executive pensions. I urge a "no" vote on this bill.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY), a valued member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding me this time. Let me commend the gentleman from Ohio (Mr. PORTMAN) for his hard work on this legislation. He has been at this for many, many years; and I salute him.

What this bill says loudly and clearly: if it is good for the brass, it ought to be the same for the middle class. We are taking care of employees; we are defining benefits; we are giving investment advice; we are providing advanced notice of blackouts; we are giving diversification; we are taking off, if you will, the corporate handcuffs that have locked many employees in their employee stock option plans. It improves access to retirement planning services so the average line worker, or the CEO, can take advantage of up-to-date, latest investment advice.

I am encouraged by the action of this House, and I applaud the leadership on this issue. There is no question that Americans need security and safety in their pensions. This is a fantastic step in that direction. I salute all who have participated. I urge my colleagues, as they prepare to leave this Capitol, that when they vote for this bill, they are giving an underlying security to the pensions of all American workers.

Mr. PORTMAN. Could we have a division of time, Mr. Speaker.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Ohio (Mr. PORTMAN) has 5½ minutes remaining; the gentleman from California (Mr. STARK) has 4¾ minutes remaining.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I want to thank the gentleman for yielding me this time; and I also want to commend him on his efforts on not only this bill, but years' long efforts on making sure that retirement security is a reality for all Americans.

This legislation really does address in the right kind of way the problems that we have seen so much in the press lately. Employee rights and protections are enhanced. We do not have burdensome regulations to affect investment and keep people from investing. We will see pension benefit statements; we will see investment education notices. The bill will give employees more control over the investment of their accounts once they own them, or become vested in that money. They will have three investment options to choose from, and that will be required under this bill. There will be an advanced notification to workers if there is a blackout period so that employees have the same opportunity to make changes as anyone else does that is involved in that plan before the restrictions come into effect.

Investor education and access to retirement planning and professional investment advice are improved under this legislation. This bill will reduce the cost of regulatory burdens for employers who voluntarily sponsor these plans.

This clarifies current law treatment by making stock options not subject to payroll tax, and it is a good bill, and I urge its passage.

Mr. STARK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding and for his leadership.

Mr. Speaker, I had hoped that we could have come to this floor in a bipartisan manner and supported either the Committee on Ways and Means proposal on this issue, the total Committee on Ways and Means proposal, or the complete Committee on Ways and Means proposal and/or the Miller substitute. Let me share with my colleagues why, Mr. Speaker.

I live with this every day. The 18th Congressional District has Enron in its district. I am hoping for rehabilitation and reconstruction and the opportunity for a new entity to grow and thrive, but I live every day with the heartfelt tragedies of employees who now still are in foreclosure, who cannot have health care, whose pension benefits, along with the retirees, are long gone.

When they ask me what are we doing, they are asking for a comprehensive and inclusive response. They wonder if the hearings of these past months, where there was great drama, whether this Congress had come together in a bipartisan way.

I would say to my colleagues, Mr. Speaker, that I am very sad that as a member of the Committee on the Judiciary, the Committee on Rules did not see fit to establish some parameters to give penalties to the destruction of documents. It answers the concerns of Andersen employees, and it answers the concerns of ex-Enron employees; but it does not answer the concerns that we would never want this to happen again.

Mr. Speaker, I wanted to vote for this legislation today; and I want my constituents to know why I am not going to vote for it, because this pension bill does not answer the concerns. It does not give independent advice that is needed for these employees. It does not give them the opportunity to fully diversify their company stock, and fails to give workers a voice in administering and protecting their retirement savings through employee representation on pension boards; and for the first time since this bill was enacted, the Republican pension bill provides employees with biased and conflicted investment advice.

Mainly, let me share with my colleagues a story that is ongoing. The Creditors Committee refuses to give a legal severance pay to these employees, Mr. Speaker, as I close. Why? Because these are the big guys, and the little guys do not get heard. We need to pass legislation where the little guys will be heard. I ask my colleagues to reject this legislation.

I thank the distinguished gentleman from California for yielding and for his leadership.

Mr. Speaker, I had hoped that we could have come to this floor in a bipartisan manner and supported either the Committee on Ways and Means proposal on this issue, the total Committee on Ways and Means proposal, or the complete Committee on Ways and Means proposal and/or the Miller substitute. Let me share with my colleagues why, Mr. Speaker.

I live with this every day. The 18th Congressional District has Enron in its district. I am hoping for rehabilitation and reconstruction and the opportunity for a new entity to grow and thrive, but I live every day with the heartfelt tragedies of employees who now have homes in foreclosure, who cannot pay for health care, whose pension benefits, along with the retirees, are long gone.

When they ask me what are we doing, they are asking for a comprehensive and inclusive response. They wonder if the hearings of these past months, where there was great drama, whether this Congress had come together in a bipartisan way to do something effective. This legislation today is not effective.

I would say to my colleagues, Mr. Speaker, that I am very sad that as a member of the Committee on the Judiciary, the Committee on Rules did not see fit to allow an amendment that would establish some parameters and add criminal penalties to the destruction of documents. That would answer the concerns of the Andersen employees, and it answers the concerns of ex-Enron employees; but the legislation today is not the tough reform it should be.

Mr. Speaker, I wanted to vote for this legislation today; and I want my constituents to know why I am not going to vote for it, because this pension bill does nothing serious. It does not give independent advice that is needed for these employees in these investment choices. It does not give them the opportunity to fully diversify their company stock, and fails to give workers a voice in administering and protecting their retirement savings through employee representation on pension boards; and the bill does not give notices to employees if executives are dumping their stock. This bill provides employees with biased and conflicted investment advice.

Mainly, let me share with my colleagues a story that is ongoing regarding ex Enron employers. They hope to fight a Creditors Committee that refuses to give a legal severance pay to these employees, Mr. Speaker, as I close. Why? Because these are the big guys, and the little guys do not get heard. We need to pass legislation where the little guys will be heard. I ask my colleagues to reject this legislation, and fight for and with the little guys!

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON), who is chairman of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce, as well as serving on the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I hate to tell everybody this, but there is independent advice authorized in this bill; and it is for everybody, not just the bottom, but the top and the bottom.

I thank the gentleman for yielding time to me.

The Pension Security Act contains some important provisions that will modernize pension legislation. The gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, also included in this bill a very important pension-related provision that will overturn a new IRS position on employee stock purchase plans.

I have received a number of calls, letters, and e-mails from constituents regarding the new IRS position that is overturning 30 years of tax policy, that was, the employee stock purchase plans are not subject to payroll tax. The IRS overturned that 1971 policy just recently. Imposing payroll taxes for Social Security and unemployment on employee stock purchase plans is just wrong, just as imposing payroll taxes on contributions to 401(k) plans would be wrong. At least the IRS did not go that far.

I hope the IRS sees we are serious about this matter and they do the right thing and simply make this issue go away. This IRS ruling penalizes hardworking people and is just wrong. Again, I want to thank the gentleman from California (Mr. THOMAS) for his dedication to this issue and for making sure that America's pension plans are safe and secure.

Mr. STARK. Mr. Speaker, I yield myself the balance of our time. I will try and summarize. Admittedly, this bill will encourage more plans.

□ 1315

The best way to encourage plans is to have no restriction on them at all, and then the very rich will have plans, but they will not cover the employees.

Professor Halperin at the Harvard Law School has written and suggested that this really solves a minor problem by creating a loophole through which we could march an elephant, or a donkey, too, perhaps, to be bipartisan in the closing minutes of this debate.

But the fact is that this is a bill written to satisfy rich contributors to the Republican Party, and it gives assistance to major corporations and to owners of small businesses without any regard to protecting the employees who are under them.

And it is couched in some language that will say there is a little bit here and there, but the fact is that we give the Treasury the right to make the decision of whether the plans meet the antidiscrimination rules, and then give the Treasury no direction. So if the Secretary of the Treasury does not act, there are no antidiscrimination rules.

Mr. Speaker, this is a bad bill. It is a bill that is unfair. It is a bill that helps only the very rich and the owners of businesses, but leaves the workers with less protection than they start with now.

I guess that is what we have to expect from a Republican-controlled House. That is what they have been doing at every step of the way.

There is the tax bill, which only gives 90 percent of the benefits to 2 percent of the richest people in this country. That is a Republican operation.

There is a bill that talks about education, but does not fund it. That is a Republican plan.

So one more step in a Republican-controlled House to hammer down the working people and the average person in this country to the benefit of the few rich people, the few extreme right-wing radicals who will support the Republican Party and their blatant, blatant, obsequious bowing to the wealthy and the large corporations in this country.

It is something that should shame them. I do not know what they are going to tell their children some day: I came to Congress and helped the rich, and I destroyed the poor. I destroyed pension plans by supporting Enron. I took a lot of money from Enron, and I destroyed the pension plans of those workers. I denied seniors medical care coverage. I refused to give a pharmaceutical benefit.

What a wonderful way to take their pension money that they are going to get, far better than any workers are going to get, and then sit and tell their children and grandchildren what they did for this country. I hope they enjoy that retirement, because the average working person in this country is not going to enjoy it if he is subject to the rules that are written in this law by the Republican majority in this House.

Vote no on the bill.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I am so glad my colleague, the gentleman from California, did not get too partisan there at the end, as he said he would not. I do not know how he could be much more partisan than that.

Again, I think it is a sad day on the floor of the House when we have that kind of rhetoric over legislation that traditionally has been bipartisan, and that in fact is commonsense legislation that helps working people.

I do want to apologize to the gentleman because earlier I said I had thought he had voted for the provision he was talking about. It passed the House 407 to 24. It has passed the House five times, as he knows. But he was not one of the people who voted for that, and I apologize for saying that.

Earlier speakers have said there are no bona fide structural changes in this bill. The gentleman from California (Mr. STARK) has just talked about it in strictly political terms.

Let me tell Members what the bill does. It provides more education, it provides more information, and it provides more choice to workers. That is what it does. All of that leads to more security in retirement.

In terms of education, it says to workers that we are now going to allow them to get pre-tax advice. They can take pre-tax dollars, and go out and get their own advice. I think that is a good thing. There is a bipartisan consensus in the pension world that that is one of the things we need to focus on now is giving better information so they can make informed choices.

It also provides for investment advice the employer can provide to the employee. It also provides for the first time a requirement that employers, as people enter 401(k)s or other retirement plans, send a statement which provides generally-accepted investment principles that say, you ought to diversify. To put all your eggs in one basket, as in the case of Enron, is a bad idea. That notice is good. We want to do that for the workers.

It provides more information. For the first time ever, we are going to say that if there is a black-out period, that is when they cannot change their stock because that is when we are changing plan managers or plan administrators, they ought to know about that. We provide for a 30-day notice period. It is not in current law. That is an important change. It lets people get out of the stock if they want to.

In terms of choice, right now if you are in a 401(k) plan, your employer can tie you with the employer-matched stock until you retire. At Enron, it was age 50. In an ESOP it could be up to age 55 plus 10 years particpation. We say no, it ought to be 3 years. Once you are there 3 years, you ought to be able to make that choice with better education, with better information; to be able to sell that stock you have gotten through an employer match.

That is what this bill does. It has been mischaracterized today. There has been a lot of rhetoric on the floor, but those are the facts. Those are substantial changes from current law. Those are structural changes to the law that are going to give the workers in this country more security in their retirement by giving them better information to make choices, by giving them educational tools, and by giving them choice, and empowering them to make decisions for their own retirement.

The SPEAKER pro tempore (Mr. MILLER of Florida). All time for debate by the Committee on Ways and Means has expired.

Under the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 30 minutes of debate.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, late last year, thousands of Americans employed by Enron Corporation watched helplessly as their company collapsed, and their retirement savings were lost with it. Today we are here to restore worker confidence in our Nation's pension system.

Enron workers may be the victims of criminal wrongdoing. We do not know that yet. But we already know they are victims of an outdated Federal pension law. The bill before us today will modernize our Nation's pension law and help promote security, education, and freedom for employees who have worked and saved all of their lives for a safe and secure retirement.

President Bush followed up his State of the Union speech this year by outlining a series of bipartisan reforms that could have made a critical difference for Enron workers who lost their retirement savings. The bipartisan Pension Security Act of 2002 is based on those reform principles.

But let us be very clear: Congress should take action to protect Americans' retirement benefits, not endanger them. One of the great strengths of our country is that employees of companies can own stock in their place of business and become part of the corporate ownership. This has allowed workers who stock shelves at Wal-Mart and run the checkout counters at Target, not just the top-level management, allow these other workers to build wealth and significantly enhance their own retirement security.

On a bipartisan basis, we have consistently rejected efforts to place arbitrary caps on a company's stock because Congress should encourage employers to provide matching contributions to their workers, not enact extreme proposals that could jeopardize Americans' retirement security, or spell the death of 401(k) plans altogether.

The bipartisan Pension Security Act takes a balanced approach by expanding worker access to investment advice and including new safeguards to help workers preserve and enhance their own requirement security, such as giving employees new freedoms to diversify their own portfolios.

But it also insists on greater accountability from senior company insiders. We believe it is unfair for workers to be denied the opportunity to sell company stock in their 401(k) accounts during blackout periods, while corporate insiders can sell off their investments and preserve their own savings. Enron insiders got away with this, and we are going to change it.

The Pension Security Act before us gives rank and file workers parity with senior company executives. It also strengthens the notice requirements by requiring companies to give 30 days' notice before a blackout period can begin.

The bill also empowers workers to hold company insiders accountable for abuses by clarifying the company is responsible for worker savings during blackout periods when workers cannot make changes to their 401(k) plans.

Under the Pension Security Act, as under current law, workers can sue company pension officials if they violate their fiduciary duty to act solely in the interest of 401(k) participants.

Enron barred workers from selling company stock until age 50. The bill gives workers new freedoms to sell their company stock within 3 years of receiving it in their 401(k) plan if they get company stock as a match. The benefits of diversification will help workers better plan and save for their own future over the long term.

As we all know it, defined contribution 401(k) type plans have become a primary vehicle for retirement savings. Yet today, the vast majority of American workers receive no investment advice on how best to structure their 401(k) retirement plans, and most cannot afford to pay for it on their own like the company insiders can.

I think it is time to fix outdated Federal rules that discourage employers from giving workers access to professional investment advice. Like most U.S. companies, Enron did not provide its workers with access to this type of advice. This type of investment guidance would have alerted Enron workers to the need to diversify their accounts, and enable many of them to preserve their retirement nest eggs.

The pension act today that we have changes these outdated Federal rules and encourages employers to provide quality investment advice for their workers. We need to give investors more choices and more information to choose wisely, so that they are better able to navigate their way through the volatile markets and maximize the potential of their hard-earned retirement savings.

Workers must also be fully protected and fully prepared with the tools they need to protect and enhance their retirement security. The Pension Security Act accomplishes these goals.

I want to thank my colleague and the chairman of our subcommittee, the gentleman from Texas (Mr. JOHNSON), who is also a member of the Committee on Ways and Means, for all of the work that he has done at both of our committees to enhance the bills that we have before us, and for the important role he played in the process.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, the challenge today is whether or not the House of Representatives is prepared to take the lessons of the Enron scandal and use those lessons to apply to greater security of the millions of workers' 401(k) plans across the country.

I would suggest that, in the Republican bill, they have failed to do that. Later, we will offer a Democratic substitute that I believe provides for that greater security, greater control, and greater say by the employees of the assets that belong to them that make up much of their retirement nest egg, so we do not again see, as we saw on Enron, where, because of unethical behavior by corporate executives, where because of greedy behavior by corporate executives, where because of illegal behavior by corporate executives, where because of conflicts of interest by corporate executives, the employees lost everything.

They were never given advance notice. They were never told what was really happening with the corporation. They never had a representative on the pension board which was controlling the assets which 100 percent belonged to the employees.

So we will have an opportunity with that substitute to reject the Republican bill that fails to learn any lessons and provide those greater protections to the workers of this country, and to, in its place, provide for an employee representative, a rank and file employee representative, on the pension boards so we do not have the situation that we had at Enron and other corporations where members of the pension board who were executive vice presidents have a conflict of interest between their career track and taking care of the beneficiaries, the employees, of the corporation; where they sold their stock but never told the pension beneficiaries that they were selling, or that they thought it was the right thing to do.

We are going to make sure that a rank and file member is a member, so they will have access to the information and they will be able to make determinations for their fellow employees.

We are going to make sure that, after 3 years, they have a complete right to divest, so if they want to diversify their portfolio, if they want to make other decisions about their retirement, they will be free to do it.

□ 1330

In the Republican bill, which you see, it takes 5 years to be fully able to diversify; and every 3 years a new period starts with a new contribution. Three years ago we were in the throws of a bull market, the greatest bull market in modern history. And today, many of those same people have lost much of their retirement because they were locked into it. Three years is a very long time, and a rolling 3-year period is an unacceptable time to lock up people's assets that belong to them so they cannot make a determination about their retirement.

We will also make sure people are treated equally. What we see in Enron and many corporations today is that the retirement plans are ensured for the executives. The retirement plans are guaranteed. The benefits of the 401(k) plans are guaranteed for the executives but not for the employees. So while Enron or other corporations go into bankruptcy, the executives are taken care of. They are taken care of. They walk away with millions. The employee, they have to walk around the corner and stand in line at the bankruptcy courts and hope that there is something left over at the end to see if they can put back together their retirement.

This is really about a fundamental test, about the workers of this Nation who now have got a rude awakening call; and through the tragedy of the workers at Enron that their 401(k) plan that they are being required to lean on more and more for their retirement as vulnerable beyond their expectations, is far more vulnerable than they were led to believe.

Finally, we say yes, investment advice is important; but that advice should not be conflicted.

We have just witnessed this week once again the incredible conflicts in the financial institutions of the country where Merrill Lynch was offering retail advice to people to buy their stocks; and in their e-mail traffic they were making jokes about the stock. They were raising ethical concerns about offering these stocks for sale because they knew their company was conflicted because it was earning fees as an investment bank from the very clients whose stock it was touting. The investment advice can be offered and it can be helpful, but it cannot be conflicted. The Republican bill allows that investment advice to continue to be conflicted.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SAM JOHNSON), the chairman of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, conflicted advice, we keep hearing about; but there is not any conflicted advice when you have somebody who is recognized as a professional stock or option advisor being concerned.

I have been concerned about many of the pension proposals that have been introduced aimed at protecting Americans from themselves. If history is any guide, Congress should very well protect Americans by simply destroying another successful pension plan. Just look at what happened with the government's over-regulation of the defined benefit pension system. Congress killed those plans with kindness. Let us not repeat those mistakes here.

The bill we are debating here is moving pension reforms cautiously in the right direction, and it is balanced and fair. And I want to commend the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) for their hard work in putting together this bill.

As a subcommittee chairman for the Committee on Education and the Workforce, I will focus on those sections of the bill. First, I believe that the rolling 3-year diversification rights for employees who are given company stock as a match in their 401(k) is as important an improvements as any in this proposed legislation. Rolling diversification will preserve employees' ownership ethics as stockholders, but will also permit individuals to diversify into other investments as they see fit.

Next, I am glad that we have clarified the issue of employer liability for stock market fluctuations in a 401(k) plan during a black-out period. We heard a lot of testimony in my subcommittee on this subject. Under the bill reported by the full committee, employers are not responsible for market swings and 401(k) accounts during a black-out period, as long as they provide 30 days' notice in advance and make sure they have a legitimate reason for doing the black out.

The bill today also exempts privately held businesses from being subjected to the diversification mandates and permits them to use their most recent annual valuation for reporting stock value on 401(k) stock benefit statements.

I probably sat through more hours of hearings on pension benefit issues in this session of Congress than any other Member.

One thing that has been confirmed for me during these hearings is that employees want, need and deserve to receive professional investment advice for their 401(k) plans. This bill does this.

Last month, Mr. Dary Ebright was a witness before the Committee on Ways and Means; and he told his personal story about the horrors of putting all your eggs in one basket. His personal tragedy could have been prevented if he had received professional investment advice.

He had invested 60 percent of his 401(k) into Enron stock, and then he cashed out his traditional pension plan and bought Enron stock. His defined benefit pension would have paid him roughly $2,000 per month for the rest of his life. But instead, at the age of 54, the only retirement savings that he has left is the portion of his 401(k) that was diversified.

I asked if he received any professional advice on these decisions. He said he did not. Too many workers lack access to quality investment advice on how to invest their hard-earned savings. Without a doubt, investment advice must become law soon, and I urge Members to vote for this sensible bill which does that. It educates. It provides investments advice. It provides diversification, and it stops big executives from selling their stock during a black-out period.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we should not replace no advice for workers with bad advice for workers. A few days ago, the attorney general for New York alleged a scheme involving the Merrill Lynch firm that worked like this: one part of the Merrill Lynch house, he alleged, was collecting huge fees for raising capital for Internet companies. The other side of the Merrill Lynch house was giving investment advice to individual clients, telling those individual clients that these Internet companies were the way to go with their money, encouraging them to buy the stock.

This is not what these advisors were telling each other, though, in private e-mails and conversations that the attorney general of New York later found. What they were telling each other was these stocks were a joke; these stocks were a disaster. They were using words that should not be used in mixed company or on the House floor.

This bill wants to take the quality of investment advice the New York attorney general alleged those people were receiving and offer it to the pensioners of this country. No advice should not be replaced with bad advice. The proposal would enshrine into the law, would legalize and legitimize the opportunity of unscrupulous advisors to offer advice which benefits them but not the pensioners to whom the advice is offered.

Employees do need advice. They should be given a full array of choices. They should be made aware, and as the Democratic substitute does, made available as to how to pay for the offering and receipt of independent advice. One of the many flaws in the majority's bill is that it enshrines into law the practice of authorizing and permitting the giving of advice by people who have more to look out for themselves than for the pensioners to whom the advice is offered.

For this and many other reasons the underlying bill should be defeated and the Democratic Miller substitute should be adopted.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to my colleague and friend, the gentleman from California (Mr. McKEON).

Mr. McKEON. Mr. Speaker, I rise today in strong support of H.R. 3762, the Pension Security Act; and I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) for their hard work on this legislation.

In his State of the Union address, President George W. Bush called on Congress to enact important new safeguards to protect the pensions of millions of American workers. The President called on Congress to move quickly to enact these important reforms so that people who work hard and save for their retirement can have full confidence in our retirement system.

In response to the President's call, Congress immediately took action by holding several hearings on the Enron collapse and its implications for worker retirement security.

Mr. Speaker, we have listened to both workers who have lost or are at risk of losing their retirement savings, and we have listened to employers who voluntarily offer their employees retirement savings plans. After listening to employees and employers, I am pleased to announce that the House is here today to provide new safeguards to help workers preserve and enhance their retirement savings. At the same time, it will still allow employers to have the incentive to provide retirement benefits by refraining from overprecipitous regulation.

The Pension Security Act provides workers with the tools they need to protect their retirement savings. For example, the bill gives workers freedom to diversify their investment options, creates parity between senior corporate executives and rank-and-file workers, clarifies the fiduciary duty of employers, gives workers better information about their pensions, and enhances worker access to quality investment advice.

Mr. Speaker, H.R. 3762 promotes security, education and freedom for America's workers who have saved all of their lives for a secure retirement. I, therefore, encourage all of my colleagues to join me in strongly supporting it.

I would like to use the balance of my time, Mr. Speaker, to engage with the chairman in a colloquy.

Mr. Speaker, I am very concerned that the diversification provision of the act not be applied in the case of a nonpublicly traded employer with affiliates that may have a limited amount of publicly traded stock outstanding. I do not believe it is the intent of the legislation to have the diversification provision apply in such a situation; and I would ask the distinguished chairman if he would confirm my understanding, and if he would be prepared to work with me to clarify the application of the provision in this respect as this legislation moves.

Mr. BOEHNER. Mr. Speaker, if the gentleman will yield, I would say to my colleague that the act is not intended to apply to diversification provision in the indication of a nonpublicly traded employer with affiliates that have only a limited amount of publicly traded stock outstanding. In this special case, as in others that may arise, I would be pleased to work with my colleague to clarify the application of the provision to reflect this intent and to provide for flexibility that may be necessary to clarify the intent of the legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, clearly this morning when I spoke on the rule I think I made a point worth repeating here and that is that the majority did not want to have a rule that allowed for individual amendments to be made because that would allow us to set up each aspect of this bill side by side so that the public would have an education and an informed debate on the provisions of the respective bill versus the substitute bill.

Frankly speaking, we have executive accountability in the Democratic substitute. The other bill does not. We have honest, accurate and timely information for employees provided in the substitute. The bill does not have adequate provisions for that.

We provide for unbiased, independent investment advice. The main bill specifically allows for biased, conflicted advice. And there is no reason on the planet why that should ever be the case. There are more than ample resources out there to give unbiased, unconflicted advice. Employers only want to make sure that they are not held liable when they take the precautions to get proper advisors in there, and all bills can do that. But, simply, even after Enron's Ken Lay was advising people against their interests, when we see news articles as recently as yesterday about Merrill Lynch having a conflict of interest that works against employees' rights right on down the line, this bill still goes up and hails the fact that they are bringing in conflicted advice as if that is the only way they can get advice for employees, and that is simply not the case.

The Democratic substitute takes care of lock-out restrictions and provisions. It lets employees know that if they are locked out, the executives will not be taking advantage of that period of time to their benefit. We give parity of benefits for executives and rank-and-file workers to make sure that everybody is treated fairly. The substitute gives employees control over their retirement savings in much greater degree than does the bill itself. And we have additional protections for workers' pension benefits and a representative of employees on the pension board; and history shows us that when that happens the pension itself does better.

All of these things are lacking and found wanting in the Republican bill itself. That is why we do not have a rule that allows us to bring up individual motions. That is why we are not allowed to stand here and side by side, motion by motion sit here and tell the public why the provisions of the substitute are in fact much better than those provisions of the bill.

□ 1345

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, certainly I think it is very important in light of a lot of the discussion we have heard about Enron about a number of people losing investments over a number of years because of the ill-advice, because of the way Enron reported its financing, and because of the lack of financial advice, I want to say I encourage everyone to support 3762, the Pension Security Act of 2002, because it includes new safeguards and options to help workers preserve and enhance their retirement security.

It insists on greater accountability from companies and senior corporate executives during blackout periods when rank-and-file workers are unable to change investments in their retirement accounts. Workers must be fully protected and fully prepared with the tools they need to protect and enhance their retirement savings.

This bill gives workers freedom to diversify. We have heard it gives employers options to allow sale of company stock after 3 years, the 3-year rolling diversification, or allows workers to sell company stock after 3 years of service, the 3-year diversification cliff. It prohibits companies from forcing worker investment in company stock.

Opponents of the bill, in the bill that will be offered as an option here, allow actually the employees to self-direct stock and money that actually is not theirs but it may belong in the future to other employees for several years, and I think that is a major problem in consistency that exists with the other proposals here.

This bill creates parity between senior corporate executives and rank-and-file workers, the captain and sailor equity provisions the President has talked about. It prevents senior executives from selling stock during blackout periods because workers are unable to sell stocks in the plans during these periods, and it requires a 30-day notice to workers before the start of a blackout period.

It clarifies that employers are responsible for workers' savings during blackouts. It clarifies that companies have a fiduciary responsibility for workers' savings during a blackout period and does outline situations where they may not be liable for losses in individually directed accounts.

It enhances worker access to quality investment advice. It includes the Retirement Security Advice Act which was passed since the 106th Congress. This provision allows workers access to information and advice about their 401(k) plans, which is greatly needed to ensure the growth we have seen in the last two decades in the defined contribution retirement plans, and as my colleagues will recall, the House passed this legislation in November with a strongly bipartisan bill, but the Senate has failed to act on this bill as of yet.

There are three reasons, I think, or three important differences with the opponent's bill. It does not include investment advice access, which is one of the provisions that would actually have helped Enron employees. It does not rely on education. Rather, it relies on overregulation.

It increases the regulatory red tape that I believe will discourage these types of defined contribution plans.

Lastly, their answer always seems to be, let us sue for some redress. Let us not give the personal freedom, responsibility, and the choice along with the education.

I encourage the passage of 3762.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, until the collapse of Enron, most Americans felt that their pensions would be there for them when they retired. They felt their savings earned from a lifetime of hard work were protected.

We know better now. We know that our pension rules do not do enough to protect helpless employees from being locked out of their pension plans while their life savings go down the drain. They are not protected from venal executives who took their money and ran.

Two years ago, employees from a Westbrook, Connecticut lighting company learned a similar lesson. The company lost $2 million from their pension plan. I met with these men and women as we worked together to win back their hard-earned retirement savings, and no one should ever have to go through what those families did.

This Republican bill does virtually nothing to prevent what happened there or at Enron. It fails to allow employees the right to fully diversify their stock. It fails to hold executives who are fiduciaries of the pension plan accountable if they violate the law; and Ken Lay has to be accountable. It continues to allow employers to give the same conflicted financial advice the Republicans tried to push on the American workers last fall before the Enron scandal broke.

We have an opportunity today to do something worthwhile for middle-class Americans, for working men and women in this country. We can tell them today that, yes, we want to protect your pensions because your life's work has to be there for you and your family when you retire. That is what this country is built on. That is what our values are. That is the direction we should go in.

I urge my colleagues to vote against this flawed Republican bill and vote for the Democratic substitute.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I thank the distinguished chairman of the Committee on Education and the Workforce for this opportunity.

Pension security has two components. First is protecting the workers' investment but also is preserving that investment to exist at all. As we deal with the ramifications of the immoral and possibly illegal actions of Enron executives, and the loss to their employees, we must be very careful not to react in such a way that we destroy the benefits that most Americans have and the wealth that most have created.

We have talked a lot about Enron, and some people have painted with a pretty broad brush. It has become almost a corporate America statement. The gentleman from California (Mr. GEORGE MILLER), the distinguished ranking member in our committee, brought us a chart during the debate to raise the question about the disproportionate investment in some 401(k) plans by employees, and a couple of those companies were in Atlanta, Georgia. They were in my district.

As we talk about Enron, we must also remember the Coca-Cola Company and Home Depot. Coca-Cola, with 83 percent of the value of its 401(k) in Coca-Cola stock, and Home Depot is 73 percent, and the risk that the gentleman from California (Mr. STARK) kept criticizing about a half an hour ago happened to be rank-and-file Coca-Cola and rank-and-file Home Depot employees who invested in their company and became millionaires because of a program that we in this Congress created to create pension security.

Were there bad actors at Enron? Yes. Were there loopholes that need to be closed? Yes. This bill closes those loopholes and brings about responsibility, but we have to be very careful not to throw the baby out with the bath water. We do not need to paint a broad brush that destroys pension security by destroying any incentive for businesses to have pensions and 401(k)s, and we have to be very careful about who we castigate as being rich because, in fact, most of America's wealth has been earned by people who have invested in the sweat and the blood of their businesses and their companies, and they have been treated right.

There are bad actors. The Merrill Lynch example sounds bad, but it does not mean that every advice any professional ever gave was conflicted, nor should we sell the American worker short that they are not capable of giving information and making an intelligent decision.

I commend the President, the chairman of our committee, the chairman of the Committee on Ways and Means, and this Congress for dealing deliberately in closing the loophole that Enron used, holding corporate executives example, allowing people to diversify and allowing people the ability to get unconflicted and accurate advice.

Let us not castigate all of corporate America nor the great benefits that most American workers have gained by this important program. Let us not throw the baby out with the bath water. Let us not adopt a Democratic substitute. Let us adopt the House pension security plan.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT) for the purposes of his remarks and entering into a colloquy with the chairman of the committee.

Mr. SCOTT. Mr. Speaker, I rise today to talk about an amendment I offered in committee to conduct a study looking into whether and how insurance could be provided for defined contribution plans. A defined benefit plan is one that defines the benefits one will get at retirement. But a defined contribution plan only speaks to the amount of money one can put into the plan, says nothing about what will be there for someone's retirement.

ERISA provided many protections, including guarantees for defined benefit plans but not for defined contribution plans. The Enron accounts we have heard so much about were defined contribution plans and, therefore, were not guaranteed.

In 1974 when ERISA was enacted, the contribution plans represented an insignificant portion of the plans, but today they constitute almost half of all plans, and because those plans are not insured, those employees have no assurances that their money will actually be there when they retire.

That is why I have been pleased to work with the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee, to include a study which will explore the feasibility of developing an insurance program for defined contribution plans, just as we have for defined benefit plans. The study could recommend, for example, a procedure for private insurance paid for with the premium on assets. To put that potential cost in context, a defined benefit insurance now costs about $19 a year per account.

The study could also show what kinds of assets could be insured; for example, broadly based index funds, or AAA bonds could be insured, whereas individual stocks or junk bonds may not. The recommendation of the study could protect future employees from losing their retirement funds because stock prices collapse or because the funds in their account have been lost to fraud or theft.

I would like to engage the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee, the primary sponsor of the legislation, in a colloquy for the purposes of clarifying the importance of including the study I have offered on insurance for defined contribution plans, and I would like his comments on the importance in including that study in the bill.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, I want to thank the gentleman for his work on this issue, and I want to state that we, too, believe that his study could be important in informing future public policy positions on this issue. And we regret that there was not enough time to finish out the few remaining details of the study to include his provision in this bill at this time. It is our intention to continue working with him, the other committee of jurisdiction on this issue, and the other body, as this issue goes to conference.

Mr. SCOTT. Mr. Speaker, reclaiming my time, I thank the gentleman for his assurance and look forward to working with him.

Mr. BOEHNER. Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, can the Chair tell us how much time each side has remaining?

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from California (Mr. GEORGE MILLER) has 16½ minutes remaining, and the gentleman from Ohio (Mr. BOEHNER) has 12 minutes remaining.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE), a senior member of the committee.

Mr. KILDEE. Mr. Speaker, I thank the gentleman from California for yielding me the time.

Mr. Speaker, I rise in opposition to H.R. 3762 and in strong support of the Miller-Rangel substitute. The Enron disaster has illustrated a number of glaring loopholes in our pension system that led to some 15,000 Enron employees losing more than $1.3 billion from their 401(k) retirement accounts.

Testimony in our committee indicated that the actions of some Enron executives went beyond simple misfeasance to actual malfeasance. The Miller-Rangel substitute ensures that employees will receive honest, accurate information by providing, first, regular benefit statements to workers that would include information regarding the importance of diversification; second, employees will be provided representation on pension boards; third, the substitute also provides for independent, nonconflicted investment advice when company stock is offered as an investment option; and finally, it ensures that executives are not given special treatment over rank-and-file employees.

Mr. Speaker, the collapse of Enron has revealed a number of serious flaws in our pension system. This substitute is a major step forward in addressing those flaws. I urge my colleagues to support the Miller-Rangel substitute.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman from California for this time.

Mr. Speaker, I rise today in strong opposition to the Republican's misnamed pension protection bill. Rather than prevent future Enrons, the Republican version of their plan only weakens our current pension laws and ignores the very basic reforms that Enron's disaster created for us.

□ 1400

Mr. Speaker, unlike the Republican version of pension reform, our bill would give employees a voice about their pension plans. It requires a employee representative to serve on pension boards. What a great idea.

I am sure that the Enron employees who recently lost their life savings would have loved to have had an opportunity to be at the table to discuss how their pension plan funds would be spent.

Eliminating the disparity between employer and employee pension protection goes way beyond just making up the composition of a board. We must also close the loopholes that provide greater legal protections for executive retirement plans. Because of this loophole, Enron executives not only rescued their money from a sinking ship, but they were also able to shield their luxurious homes and other assets from attacks by general creditors during the bankruptcy. Once again, the hardworking rank-and-file men and women of Enron do not enjoy such protections. Instead, they are vulnerable and left to defend for themselves.

Mr. Speaker, the Democratic substitute eliminates this special treatment for executives and levels the playing field for employees. I urge my colleagues to support the Democratic substitute.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I join my colleagues in support of the Pension Security Act. The district that I represent is very rural, small towns and small businesses; and I think it is important to point out that most of the business done in this country is done by small businesses, not by Fortune 500 companies. My father was a small businessman, and my brother currently runs one.

The number one complaint that I hear is that government regulation is so burdensome that many small businesses are damaged or driven out of business entirely. Examples of this would be parts of the Tax Code, ergonomic regulation, health care paperwork, and retirement plan paperwork.

The President's plan addresses the major issues that resulted in the loss of retirement benefits of Enron employees without adding significant regulatory burdens. I think it strikes a good balance. The Pension Security Act allows employees to sell stock within 3 years. One of the major problems at Enron was an employee had to be 55 years of age or more and had to be employed for 10 years or more.

It prohibits senior executives from selling stock during blackout periods, and requires 30 days' notice before declaring blackouts. Neither of these were true in the Enron case.

In addition, the plan requires companies to give regular financial reports on the value of the stock. Also the President's plan includes the Retirement Security Advice Act, which has already passed the House, which provides for increased availability of investment advisers to assist plan participants in making good decisions about their investments. Currently, only 16 percent of businesses provide this advice; and in most cases small businesses do not provide it at all, whereas roughly 75 percent of employees would like such advice. I think this would be very helpful.

So the greatest concern I have is that this well-intentioned substitute, and I am sure it is motivated from good intentions, will provide safeguards that will really eliminate pension plans, and that is absolutely something that helps no one.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, as a former investment banker and a small business owner, I am well aware of the complexities that are involved with pensions and with private investments. I believe that most bankers and business owners try to do a good job for their clients and employees; but many Americans invest too much of their money in their company's stock, unaware of the type of problems that arise, like the ones that we have seen with Enron.

The Pension Security Act opens a dangerous loophole that allows self-interested people at investment firms to serve as principal financial advisers to employees and to offer conflicted advice. We saw this as an example in the Merrill Lynch case detailed in the Washington Post and other major newspapers.

The Miller-Rangel substitute would offer employees independent financial advice when company stock is offered as an investment option under their pension plan. This is just one example of how the Miller-Rangel substitute offers real reform to our pension system and how the base bill fails to give employees control over their money.

Mr. Speaker, employees have already lost too much. We must pass legislation that gives them more security for their retirement, and I urge my colleagues to reject the base bill and to vote for the Miller-Rangel substitute.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I went to a grade school in suburban Cleveland about a month ago to talk about current affairs, and I asked for a show of hands of about 300 grade schoolers, How many have heard of Enron? Every hand went up. These are first through sixth graders. And then I asked, What do you know about Enron? Some of the sixth graders actually knew there were workers who were cheated out of their pensions. These were sixth graders.

I think it is fair to say just about everybody in America knows about Enron, and most adults certainly know about the fact that people were cheated out of their pensions. Everyone in America knows this except some Members in the House of Representatives. It is as if Enron never happened.

Mr. Speaker, the bill that we consider today continues special treatment for company executive pension plans at the expense of the employees. It is like Enron never happened.

It is just like Enron was some passing fancy, instead of it being symptomatic of something that is wrong at the core of this system, and that is that workers do not get fair treatment.

The Miller substitute is the only bill that addresses the inequity between executives and employees. A vote for the Miller substitute is a vote for fair treatment for workers. The Miller substitute would prohibit plans for executives from receiving greater protections under the law than the 401(k)-type plans that employees have.

As Enron began to implode in a wave of accounting scandals, company executives not only cashed out millions in company stock, but also protected themselves through a number of executive-type plans. Enron employees stand as general creditors to recover 401(k) losses from the misconduct of the corporation. Enron executives prefunded deferred compensation plans that were immune from claims of general creditors once the company went into bankruptcy.

Meanwhile, executive savings plans operate under different rules from the employees' 401(k) plans. Executive savings plans afford executives more choice, more protection of assets, and guarantee more money. Most companies offer these plans. As shown in the 2000 study of Fortune 1000 companies, 86 percent of companies surveyed already had those plans, with the remainder considering adding one. Enron set up an executive savings plan that lets participating executives contribute 25 percent of their salaries and 100 percent of cash bonuses each year. Executives were guaranteed a 9 percent rate of return on the first 2 years of the plan, and allowed to put money in a variety of investments. Executives were not limited to just Enron stock.

In addition, Ken Lay holds a pension that will pay $475,000 each year for the rest of his life and a prepaid, $12 million life insurance policy. Think about the workers at Enron. Think about how they have to worry about making ends meet, how they may not be able to make mortgage payments, and about how they may not be able to send their kids to college or have bread on the table. Meanwhile, the executives walk away wealthier than ever.

Enron executives had similar pension or insurance agreements, but employees' 401(k)s are drained. They will be lucky if they get their $4,650 maximum severance pay. The lack of a consistent set of rules between employees and executives is unjust and unfair, and it should be illegal. Only the Miller substitute makes it so because executive plans have legal protections that put a barrier between the money and the general creditors. Enron executives were protected from losing their retirement. Employees were totally exposed. It is time we stood up for the American workers here.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, it is really quite simple. We have learned some very simple lessons; perhaps we should have learned them a long time ago, but we certainly should learn them now in light of Enron. The employees have been left holding the bag, while the corporate executives, sometimes in a very duplicitous way, walk away with their options, walk away with their bundles.

We have such a good opportunity here to get things right. But the bill before us, the underlying bill, fails to give employees notice when executives are dumping company stock. It fails to hold the plan fiduciaries accountable and limits the ability of the employees to collect damages resulting from misconduct under the pension plan. It denies employees a spot on the pension board. How simple could that be? Yet the bill fails to do that.

Mr. Speaker, it also continues special treatment of executives. In other words, executives could continue to have their savings set aside and protected through their stock options and so forth when a company fails, while rank and file would be at the end of the line in bankruptcy holding this empty bag.

Perhaps most important, it fails to give employees early control of their assets. Anybody's standard financial advice would be to diversify, and yet the employees are denied the opportunity to diversify for at least 5 years under the underlying bill. Ordinary employees would be prevented from diversifying while corporate executives would be allowed to sell the stock they receive in stock options. We are missing a real opportunity here to help the employees.

Mr. GEORGE MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me close with our section on the general debate and thank my colleagues on both sides of the aisle for their contributions to this process.

Members on both sides of the aisle believe it is important to protect retirement security of American workers, and Members need to understand that there are outdated Federal laws that need to be dealt with.

A bipartisan group of Members believes that the bill, the Pension Security Act, the base bill today, is the reasonable approach to deal with this issue in a balanced way that protects the rights of employees further than it does under current law without driving employers out of the pension business or discouraging employers from setting up new pensions; nor does it restrict the ability of employees to make decisions with regard to their own accounts.

I believe my colleagues on the other side of the aisle want to go too far, too far that will have unintended consequences. As we get into the substitute in a few minutes, we will have an opportunity to talk about those differences and shortcomings.

Mr. MOORE. Mr. Speaker, I rise today to express my reasons for voting against H.R. 3762, the Pension Security Act, and the Miller-Rangel substitute to this legislation.

During my time in Congress, I have strongly supported legislation that would help employees prepare for their retirement. Pension reform legislation affects all working Americans, and as such both parties in Congress have a responsibility to work together in a thoughtful and conscientious manner on this issue. To that end, I am a cosponsor of the bipartisan Employee Savings Bill of Rights Act, which empowers employees to take control of their retirement plan investments and gives workers substantial new rights to avoid over-concentration in the stock of their own company. By modifying the rules that apply to the 401(k) plans and Employee Stock Ownership Plans (ESOPs) of publicly-traded companies, the Employee Savings Bill of Rights provides workers with needed control over their retirement plan investments while preserving the opportunity for employee ownership. Through new diversification rights, new disclosure requirements and new tax incentives for retirement education, this legislation would help employees achieve retirement security through their 401(k) plans and ESOPs.

I have serious concerns with both H.R. 3762 and the Miller-Rangel substitute to this legislation. I am disappointed that the House has not been able to come together on this issue to advance reasonable, much needed pension reform that will benefit working Americans. Unfortunately, the substitute overreacts to the unfortunate circumstances surrounding Enron's historic bankruptcy. Congress has a duty to the American people to enact responsible legislation that will benefit employees rather than impose new administrative burdens on millions of retirement plans.

The substitute would thwart bipartisan efforts to reduce administrative burdens on employers who voluntarily sponsor retirement plans by imposing new, expensive rules on such plans. The substitute's provision that would require retirement plans to insure against vaguely defined plan asset losses would increase the cost of these retirement plans, creating a disincentive for employers to offer their employees a pension plan.

Additionally, under the substitute, a plan participant is allowed to divest of company stock held in an account after just one year. The bipartisan Employee Savings Bill of Rights Act, of which I am cosponsor, requires only current holdings to be diversified out over five years. The substitute's one-year diversification provision runs the significant risk of causing disruptions in both plan administration and the markets.

Further, the substitute would require employers to create joint employer-employee retirement plan trusteeships. Employers in Kansas's Third District have assured me that this provision has the potential to complicate plan administration to the point that some employers may drop their plans altogether. The working people of this country deserve a more thoughtful, careful process from their federal representatives.

While the substitute goes too far in seeking to ensure reasonable safeguards on employer-sponsored retirement plans, the so-called Pension Security Act does not go far enough in protecting working Americans. Additionally, I am extremely disappointed that the House leadership decided to schedule this legislation for floor consideration instead of the bipartisan Employee Savings Bill of Rights. Last month, the Ways & Means Committee approved this legislation by a near-unanimous vote of 36–2. I am frustrated, though not surprised, at the House leadership's unwillingness to address the important issue of pension reform in a bipartisan fashion.

I will continue to support bipartisan efforts to reform our nation's retirement system in a manner that benefits both employers and employees. I urge my colleagues to do the same.

Mr. ETHERIDGE. Mr. Speaker, I rise in opposition to H.R. 3762, the Pension Security Act and in support of the Miller Substitute. Today, we have an important opportunity to protect our working families and their retirement security from greedy, unscrupulous corporate wrongdoers. But, Mr. Speaker the Republican Leadership has wasted that opportunity.

Earlier this year, the Ways and Means Committee passed a truly bipartisan pension reform bill. But, the Republican Majority chose to merge that bipartisan measure with a controversial bill passed by the Education and Workforce Committee. The product of that merger, H.R. 3762, does not protect employee pensions, fails to prevent future scandals like Enron, and opens a new loophole that jeopardizes employee savings. H.R. 3762 also establishes complicated diversification rules that do not allow workers substantial control over their retirement investments. Under the Miller Substitute employees would be able to diversify company-matched stock after three years of participation in a 401K plan.

Under current law, employees are allowed to receive independent, comprehensive investment information as a part of their employee benefits package. H.R. 3762 would overturn current law, and allow employers to offer conflicted investment advice to their employees. Financial institutions should not be able to give an employee investment advice if the financial institution stands to profit from that advice. About 15,000 Enron employees lost their retirement savings because Ken Lay and other Enron executives assured their employees that Enron stock was a sound investment. Ken Lay and his cronies lined their pockets while they misled their employees with bad advice. The conflicted investment advice provisions in this bill would set workers up for another Enron. Mr. Speaker, we know all too well the corrupting power of greed.

In contrast the Miller Substitute would offer employees honest, accurate, and timely investment information. It would prohibit pension plans from giving misleading information, require that workers receive regular benefit statements and are notified of plan lockdowns at least 30-days in advance.

As more Americans turn to 401K and other retirement plans to help them prepare for their golden years, we must act to prevent future Enrons. The Republican Leadership had an opportunity to act in bipartisan manner to protect the retirement security of working families, but they chose not do so. H.R. 3762 fails to solve our pension law problems. In fact, the bill would actually create new ones. The Miller Substitute protects workers and their investments from greedy corporate entities, provides unbaised, independent investment advice, and gives employees control over their retirement savings.

I urge my colleagues to oppose H.R. 3762 and to vote for the Miller Substitute.

Mr. BLUMENAUER. Mr. Speaker, I rise today in strong opposition to H.R. 3762, the Republican leadership's missed opportunity to address concerns for the security of working Americans' pension plans. I fully support the Democratic substitute amendment, which makes an honest attempt to correct the problems apparent in the wake of the Enron debacle.

I represent as many Enron survivors as anyone outside of Houston. Portland, Oregon is the home of Portland General Electric (PGE), a stable utility company founded in 1889 that has provided steady employment to 2,700 employees. Enron purchased PGE in 1997. PGE line employees did not volunteer for this takeover. They were working for a profitable and respected company, earning a fair salary and saving for retirement in a stable pension plan. After Enron's purchase of PGE, it was only a few years before the stability of Enron. PGE and their employee's retirement savings began to unravel. Enron executives continued to encourage employee investment in Enron stock and spoke of the integrity of the comapny's financial position, while they sold their personal holdings of Enron stock and drove the company into bankruptcy proceedings.

I have seen the pain and disbelief of PGE employees firsthand. Dozens of people I know personally have had dreams shattered, been forced to postpone life decisions and delay retirement. Those involved in the Enron debacle have failed and abused honest hardworking employees in my district and across the country.

Sadly, it may yet be determined that past Congressional and governmental actions contributed to the betrayal of these honest employees. Today, we have the opportunity to pass legislation that can help to prevent the destruction of working families' lives and retirement savings in the future. It would be tragic if Congress fails American workers again, which will surely happen under the Republican leadership's proposal. The Republican pension bill not only falls short of improving an obviously flawed pension system, but actually weakens current law by providing employees with biased and conflicted investment advice without access to an independent alternative.

To provide true security for retirement savings, pension reform must:

- hold corporate executives accountable for their actions,
- give employees control over their own retirement dollars.
- ensure workers a voice on management pension boards, and
- provide independent advice for workers.

I strongly support the Democratic substitute amendment, which will provide these needed reforms and help protect workers' retirement savings from the misdeeds of executives and corporations. The pain I have witnessed firsthand among the PGE employees in my district demands that Congress provide true pension security.

Mr. MEEHAN. Mr. Speaker, today, the House voted on H.R. 3762, the Pension Security Act. Had I been present, I would have voted in favor of the Democratic substitute authored by Representatives MILLER and RANGEL and against final passage of H.R. 3762, the so-called Pension Security Act.

I would have opposed H.R. 3762, the Republican proposal, because it would have done little to prevent future "Enron" scenarios, where executives and pension administrators withheld financial information from the employees of that company. Without the necessary information about the financial status of the company, Enron's non-executive employees then lost the bulk of their retirement sayings when the value of the company's stock fell through the floor.

H.R. 3762 fails to require anyone to alert employees when company officials begin dumping company stock, as Enron executives did just before the value of Enron stock dropped dramatically on the market. H.R. 3762 also fails to hold fiduciaries of pension plans accountable if they violate the law. Furthermore, under H.R. 3762, employees would not have the option to fully diversify their stock in a timely manner, nor would they have a voice in the administration and protection of their retirement savings. Combined, these failings would leave future workers vulnerable to the same type of financial disaster facing Enron's employees today.

I would have supported the Democratic substitute to H.R. 3762 because I believe it would go a long way towards preventing a future "Enron" situation from occurring. The Democratic substitute to H.R. 3762 would arm employees with the same access to information as corporate executives, giving employees the tolls they need to make informed investment decisions regarding their pension plans. Moreover, H.R. 3762 would give employees representation on the boards that manage pension plans and a say in the administration and protection of those plans. I would have also supported the Democratic substitute because it would require executives to notify the pension plan when they are selling large amounts of company stock, and it would give the employees the right to diversify their investments as soon as they are vested in the funds.

I was unable to vote for the Democratic plan and against H.R. 3762 because of a compelling obligation in my Congressional district occurring at the time of the votes. Former Mayor of New York City Rudolph Guiliani is giving remarks in Lowell, Massachusetts today—which is located in my Congressional District. Mayor Giuliani demonstrated superb and heralded leadership immediately following the September 11th terrorist attacks on the World Trade Center in New York City. Tragically, 30 of my constituents lost their lives in those attacks, as they were on the American Airlines jet which was one of two airplanes that crashed into the Twin Towers. Their families continue to mourn the loss of parents, children and siblings and every day feel the pain that terrorism has visited upon them. Mayor Giuliani has provided unique comfort to families who lost loved ones on September 11th because of his boundless compassion, tremendous leadership in the face of unspeakable tragedy, and unstinting efforts to help these families overcome the financial and emotional difficulties caused by this terrible event. I have accordingly arranged for the Mayor to meet privately with these families at my residence and will miss these votes to attend that gathering.

As I was unable to vote for the Democratic substitute today, I am looking forward to having the opportunity to vote for a balanced and effective pension reform bill that I hope will be the result of a House-Senate compromise on this critical issue.

Ms. HARMAN. Mr. Speaker, the collapse of Enron and its impact on employees' retirement plans underscores the need to enact additional federal protections.

The bill before us is a step in that direction. It is far from perfect—but perfection is not an option. Forward progress is.

Similarly, the substitute amendment offered by my colleagues, GEORGE MILLER and CHARLES RANGEL, is not perfect either. While making some improvements over the committee bill, it too has some features that may have the effect of discouraging employers from providing retirement benefits to employees.

Striking the right balance is often a difficult task. But it is especially difficult in an area like defined contribution pension plans where a poor investment or management decision may cause untold financial hardship on individuals in or near their retirement years.

We clearly need to move the process of reform forward—hopefully combining the best features of both the bill and substitute and more thoroughly vetting the more problematic features of each.

Mr. Speaker, we don't have the luxury of doing nothing. We have long recognized the outdated nature of many of our pension laws. Enron's collapse has provided the impetus for action.

Protecting workers' retirement benefits and encouraging the expansion of pension plans to more companies and workers are positive goals in the abstract. But writing the rules is always more difficult.

We should proceed carefully.

Mr. KIND. Mr. Speaker, this past winter, thousands of ENRON employees, stockholders, and their families saw their life savings disappear. While their nest eggs were being crushed, top executives were selling stock at top dollar and the auditors were shredding documents. The ENRON debacle shook the foundation of our country's private pension system and caused many people to wonder if the same thing could happen to them. Today, 46 million Americans participate in 401(k) and other pension programs with more than $4 trillion invested in the private pension system.

Congress has a responsibility to improve retirement security and restore confidence in the pension system for millions of Americans. In 1974, Congress enacted the Employee Retirement Income Security Act (ERISA) to provide protection of pension benefits for American's private sector employees. While ERISA made great strides, the growth of 401(k) plans and increased participation in the securities markets call for improved safeguards to protect these individually controlled pension accounts.

Our Democratic substitute includes important provisions that should be included in the underlying bill. For example, the Miller bill would provide employees a voice on their pension board where critical decisions about workers' retirement security are made. In addition, the substitute seeks parity of benefits for executives and rank-and-file workers by closing a current loophole that gives special treatment for executive pension plans.

While I would prefer that the legislation on the floor today contain some of the provisions included in the Miller substitute, the Pension Security Act, is a step in the right direction to provide employees more control and decision making over their 401(k) plans. Pension reform must be carefully done so as not to impose such onerous new restrictions that employers would be unwilling to offer pension plans, or might be encouraged to discontinue the plans they already offer.

Specifically HR 3762 would:

Allow employees to sell their company-contributed stock after three years.

Ensures that corporate executives are held to the same restrictions as average American workers during "lockdown" periods.

Provide workers quarterly statements about their investments and their rights to diversify them.

Ensure that employers assume full fiduciary responsibility during "lockdown" periods.

Expand workers' access to investment advice.

These are common sense reforms that will help employees make better, more informed investment choices to prepare for their golden years. The ENRON scandal exposed weaknesses in our pension laws that could jeopardize these retirement savings. Hardworking Americans should not lose all of their retirement savings due to the wrong doing of corporate executives and loopholes in our pension laws. The legislation, while not perfect, will bring much needed improvements to our private pension system and help millions of American workers save for a happy and healthy retirement.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GEORGE MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Employee Pension Freedom Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
TITLE I—IMPROVEMENTS IN DISCLOSURE
Sec. 101. Pension benefit information.
Sec. 102. Immediate warning of excessive stock holdings.
Sec. 103. Additional fiduciary protections relating to lockdowns.
Sec. 104. Report to participants and beneficiaries of trades in employer securities.
Sec. 105. Provision to participants and beneficiaries of material investment information in accurate form.
Sec. 106. Enforcement of information and disclosure requirements.
TITLE II—DIVERSIFICATION REQUIREMENTS
Sec. 201. Freedom to make investment decisions with plan assets.
Sec. 202. Effective date of title.
TITLE III—EMPLOYEE REPRESENTATION
Sec. 301. Participation of participants in trusteeship of individual account plans.
TITLE IV—EXECUTIVE PARITY
Sec. 401. Inclusion in gross income of funded deferred compensation of corporate insiders if corporation funds defined contribution plan with employer stock.
Sec. 402. Insider trades during pension fund blackout periods prohibited.
TITLE V—INCREASED ACCOUNTABILITY
Sec. 501. Bonding or insurance adequate to protect interest of participants and beneficiaries.
Sec. 502. Liability for breach of fiduciary duty.
Sec. 503. Preservation of rights or claims.
Sec. 504. Office of Pension Participant Advocacy.
Sec. 505. Additional criminal penalties.
Sec. 506. Study regarding insurance system for individual account plans.
TITLE VI—INVESTMENT ADVICE FOR PARTICIPANTS AND BENEFICIARIES
Sec. 601. Independent investment advice.
Sec. 602. Tax treatment of qualified retirement planning services.
TITLE VII—GENERAL PROVISIONS
Sec. 701. General effective date.
Sec. 702. Plan amendments.

TITLE I—IMPROVEMENTS IN DISCLOSURE

SEC. 101. PENSION BENEFIT INFORMATION.

(a) PENSION BENEFIT STATEMENTS REQUIRED ON PERIODIC BASIS.—

(1) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended—

(A) by striking "shall furnish to any plan participant or beneficiary who so requests in writing," and inserting "shall furnish at least once every 3 years, in the case of a participant in a defined benefit plan who has attained age 35, and annually, in the case of an individual account plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests,", and

(B) by adding at the end the following flush sentence:

"Information furnished under the preceding sentence to a participant in a defined benefit plan (other than at the request of the participant) may be based on reasonable estimates determined under regulations prescribed by the Secretary.".

(2) MODEL STATEMENT.—Section 105 of such Act (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Labor shall develop a model benefit statement which shall be used by plan administrators in complying with the requirements of subsection (a). Such statement shall include—

"(A) the amount of nonforfeitable accrued benefits as of the statement date which is payable at normal retirement age under the plan,

"(B) the amount of accrued benefits which are forfeitable but which may become nonforfeitable under the terms of the plan,

"(C) the amount or percentage of any reduction due to integration of the benefit with the participant's Social Security benefits or similar governmental benefits,

"(D) information on early retirement benefit and joint and survivor annuity reductions, and

"(E) the percentage of the net return on investment of plan assets for the preceding plan year (or, with respect to investments directed by the participant, the net return on investment of plan assets for such year so directed), itemized with respect to each type of investment, and, stated separately, the administrative and transaction fees incurred in connection with each such type of investment, and

"(F) in the case of an individual account plan, the amount and percentage of assets in the individual account that consists of employer securities and employer real property (as defined in paragraphs (1) and (2), respectively, of section 407(d)), as determined as of the most recent valuation date of the plan.

"(2) The Secretary shall also develop a separate notice, which shall be included by the plan administrator with the information furnished pursuant to subsection (a), which advises participants and beneficiaries of generally accepted investment principles, including principles of risk management and diversification for long-term retirement security and the risks of holding substantial asssets in a single asset such as employer securities.".

(3) Rule for multiemployer plans.—Subsection (d) of section 105 of such Act (29 U.S.C. 1025) is amended to read as follows:

"(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a).".

(b) Disclosure of Benefit Calculations.—

(1) In general.—Section 105 of such Act (as amended by subsection (a)) is amended further—

(A) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b)(1) In the case of a participant or beneficiary who is entitled to a distribution of a benefit under an employee pension benefit plan, the administrator of such plan shall provide to the participant or beneficiary the information described in paragraph (2) upon the written request of the participant or beneficiary.

"(2) The information described in this paragraph includes—

"(A) a worksheet explaining how the amount of the distribution was calculated and stating the assumptions used for such calculation,

"(B) upon written request of the participant or beneficiary, any documents relating to the calculation (if available), and

"(C) such other information as the Secretary may prescribe.

Any information provided under this paragraph shall be in a form calculated to be understood by the average plan participant.".

(2) Conforming amendments.—

(A) Section 101(a)(2) of such Act (29 U.S.C. 1021(a)(2)) is amended by striking "105(a) and (c)" and inserting "105(a), (b), and (d)".

(B) Section 105(c) of such Act (as redesignated by paragraph (1)(A) of this subsection) is amended by inserting "or (b)" after "subsection (a)".

(C) Section 106(b) of such Act (29 U.S.C. 1026(b)) is amended by striking "sections 105(a) and 105(c)" and inserting "subsections (a), (b), and (d) of section 105".

(c) Amendments to Internal Revenue Code of 1986.—

(1) Excise tax on failure of defined contribution plans to provide notice of generally accepted investment principles.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980I. FAILURE OF DEFINED CONTRIBUTION PLANS TO PROVIDE NOTICE OF GENERALLY ACCEPTED INVESTMENT PRINCIPLES.

"(a) Imposition of Tax.—There is hereby imposed a tax on the failure of any defined contribution plan to meet the requirements of subsection (e) with respect to any participant or beneficiary.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be $1,000 for each day on which such failure is not corrected.

"(c) Limitations on Amount of Tax.—

"(1) Tax not to apply to failures corrected as soon as reasonably practicable.—No tax shall be imposed by subsection (a) on any failure if—

"(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

"(B) such person provides the notice described in subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed.

"(2) Overall limitation for unintentional failures.—

"(A) In general.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

"(B) Taxable years in the case of certain controlled groups.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(3) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

"(d) Liability for Tax.—The following shall be liable for the tax imposed by subsection (a):

"(1) In the case of a plan other than a multiemployer plan, the employer.

"(2) In the case of a multiemployer plan, the plan.

"(e) Requirements Relating to Notice of Generally Accepted Investment Principles.—The plan administrator of any defined contribution plan shall provide annually a separate notice which advises participants and beneficiaries of generally accepted investment principles, including principles of risk management and diversification for long-term retirement security and the risks of holding substantial assets in a single asset such as employer securities.".

(2) Clerical amendment.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"SEC. 4980I. FAILURE OF DEFINED CONTRIBUTION PLANS TO PROVIDE NOTICE OF GENERALLY ACCEPTED INVESTMENT PRINCIPLES.".

SEC. 102. IMMEDIATE WARNING OF EXCESSIVE STOCK HOLDINGS.

Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) (as amended by section 101 of this Act) is amended further by adding at the end the following new subsection:

"(g)(1) Upon receipt of information by the plan administrator of an individual account plan indicating that the individual account of any participant which had not been excessively invested in employer securities is excessively invested in such securities (or that such account, as initially invested, is excessively invested in employer securities), the plan administrator shall immediately provide to the participant a separate, written statement—

"(A) indicating that the participant's account has become excessively invested in employer securities,

"(B) setting forth the notice described in subsection (e)(7), and

"(C) referring the participant to investment education materials and investment advice which shall be made available by or under the plan.

In any case in which such a separate, written statement is required to be provided to a participant under this paragraph, each statement issued to such participant pursuant to subsection (a) thereafter shall also contain such separate, written statement until the plan administrator is made aware that such participant's account has ceased to be excessively invested in employer securities or the employee, in writing, waives the receipt of the notice and acknowledges understanding the importance of diversification.

"(2) Each notice required under this subsection shall be provided in a form and manner which shall be prescribed in regulations of the Secretary. Such regulations shall provide for inclusion in the notice a prominent reference to the risks of large losses in assets available for retirement from excessive investment in employer securities.

"(3) For purposes of paragraph (1), a participant's account is 'excessively invested' in employer securities if more than 10 percent of the balance in such account is invested in employer securities (as defined in section 407(d)(1)).".

SEC. 103. ADDITIONAL FIDUCIARY PROTECTIONS RELATING TO LOCKDOWNS.

(a) Amendment to Employee Retirement Income Security Act of 1974.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

"(e)(1) In the case of any eligible individual account plan (as defined in section 407(d)(3)) no lockdown may take effect until at least 30 days after written notice of such lockdown is provided by the plan administrator to such participant or beneficiary (and to each employee organization representing any such participant).

"(2) Subject to such regulations as the Secretary may prescribe, the requirements of paragraph (1) shall not apply in cases of emergency.

"(3) A plan described in paragraph (1) shall provide that each participant and beneficiary required to receive a notice under paragraph (1)(A) is entitled to direct the plan to divest within 3 business days (but in no event later than the beginning of the lockdown) any security or other property in which any assets allocated to the account of such individual are invested and to reinvest such assets in any other investment option offered under the plan.

"(4) For purposes of this subsection, the term 'lockdown' means any temporary lockdown, blackout, or freeze with respect to, suspension of, or similar limitation on the ability of a participant or beneficiary to exercise control over the assets in his or her account as otherwise generally provided under the plan (as determined under regulations of the Secretary), including the ability to direct investments, obtain loans, or obtain distributions.".

(b) Amendments to Internal Revenue Code of 1986.—

(1) Excise tax on failures with respect to lockdowns.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980G. FAILURE OF DEFINED CONTRIBUTION PLANS WITH RESPECT TO LOCKDOWNS.

"(a) Imposition of Tax.—There is hereby imposed a tax on the failure of any defined contribution plan to meet the requirements of subsection (e) with respect to any participant or beneficiary.

“(b) Amount of Tax.—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be $100.

“(c) Limitations on Amount of Tax.—

“(1) Tax not to apply to failures corrected as soon as reasonably practicable.—No tax shall be imposed by subsection (a) on any failure if—

“(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

“(B) such person meets the requirements of subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed.

“(2) Overall limitation for unintentional failures.—

“(A) In general.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

“(B) Taxable years in the case of certain controlled groups.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

“(3) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

“(d) Liability for Tax.—The following shall be liable for the tax imposed by subsection (a):

“(1) In the case of a plan other than a multiemployer plan, the employer.

“(2) In the case of a multiemployer plan, the plan.

“(e) Requirements Relating to Lockdowns.—

“(1) In general.—In the case of any defined contribution plan no lockdown may take effect until at least 30 days after written notice of such lockdown is provided by the plan administrator to each participant or beneficiary (and to each employee organization representing any such participant).

“(2) Exception for emergency.—Subject to such regulations as the Secretary may prescribe, the requirements of paragraph (1) shall not apply in cases of emergency.

“(3) Requirement relating to divestment.—A plan described in paragraph (1) shall provide that each participant and beneficiary required to receive a notice under paragraph (1)(A) is entitled to direct the plan to divest within 3 business days (but in no event later than the beginning of the lockdown) any security or other property in which any assets allocated to the account of such individual are invested and to reinvest such assets in any other investment option offered under the plan.

“(4) Lockdown defined.—For purposes of this subsection, the term ‘lockdown’ means any temporary lockdown, blackout, or freeze with respect to, suspension of, or similar limitation on the ability of a participant or beneficiary to exercise control over the assets in his or her account as otherwise generally provided under the plan (as determined under regulations of the Secretary), including the ability to direct investments, obtain loans, or obtain distributions.”.

(2) Clerical amendment.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

“SEC. 4980G. FAILURE OF DEFINED CONTRIBUTION PLANS WITH RESPECT TO LOCKDOWNS.”.

SEC. 104. REPORT TO PARTICIPANTS AND BENEFICIARIES OF TRADES IN EMPLOYER SECURITIES.

(a) In General.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d)(1) In any case in which assets in the individual account of a participant or beneficiary under an individual account plan include employer securities, if any person engages in a transaction constituting a direct or indirect purchase or sale of employer securities and—

“(A) such transaction is required under section 16 of the Securities Exchange Act of 1934 to be reported by such person to the Securities and Exchange Commission, or

“(B) such person is a named fiduciary of the plan,

such person shall comply with the requirements of paragraph (2).

“(2) A person described in paragraph (1) complies with the requirements of this paragraph in connection with a transaction described in paragraph (1) if such person provides to the plan administrator of the plan a written notification of the transaction not later than 1 business day after the date of the transaction.

“(3)(A) If the plan administrator is made aware, on the basis of notifications received pursuant to paragraph (2) or otherwise, that the proceeds from any transaction described in paragraph (1), constituting direct or indirect sales of employer securities by any person described in paragraph (1), exceed $100,000, the plan administrator of the plan shall provide to each participant and beneficiary a notification of such transaction. Such notification shall be in writing, except that such notification may be in electronic or other form to the extent that such form is reasonably accessible to the participant or beneficiary.

“(B) In any case in which the proceeds from any transaction described in paragraph (1) (with respect to which a notification has not been provided pursuant to this paragraph), together with the proceeds from any other such transaction or transactions described in paragraph (1) occurring during the preceding one-year period, constituting direct or indirect sales of employer securities by any person described in paragraph (1), exceed (in the aggregate) $100,000, such series of transactions by such person shall be treated as a transaction described in subparagraph (A) by such person.

“(C) Each notification required under this paragraph shall be provided as soon as practicable, but not later than 3 business days after receipt of the written notification or notifications indicating that the transaction (or series of transactions) requiring such notice has occurred.

“(4) Each notification required under paragraph (2) or (3) shall be made in such form and manner as may be prescribed in regulations of the Secretary and shall include the number of shares involved in each transaction and the price per share, and the notification required under paragraph (3) shall be written in language designed to be understood by the average plan participant. The Secretary may provide by regulation, in consultation with the Securities and Exchange Commission, for exemptions from the requirements of this subsection with respect to specified types of transactions to the extent that such exemptions are consistent with the best interests of plan participants and beneficiaries. Such exemptions may relate to transactions involving reinvestment plans, stock splits, stock dividends, qualified domestic relations orders, and similar matters.

“(5) For purposes of this subsection, the term ‘employer security’ has the meaning provided in section 407(d)(1).”.

(b) Effective Date.—The amendments made by this section shall apply with respect to transactions occurring on or after July 1, 2002.

SEC. 105. PROVISION TO PARTICIPANTS AND BENEFICIARIES OF MATERIAL INVESTMENT INFORMATION IN ACCURATE FORM.

Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

“(4) The plan sponsor and plan administrator of a pension plan described in paragraph (1) shall have a fiduciary duty to ensure that each participant and beneficiary under the plan, in connection with the investment by the participant or beneficiary of plan assets in the exercise of his or her control over assets in his account, is provided with all material investment information regarding investment of such assets to the extent that the provision of such information is generally required to be disclosed by the plan sponsor to investors in connection with such an investment under applicable securities laws. The provision by the plan sponsor or plan administrator of any misleading investment information shall be treated as a violation of this paragraph.”.

SEC. 106. ENFORCEMENT OF INFORMATION AND DISCLOSURE REQUIREMENTS.

(a) In General.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph:

“(7) The Secretary may assess a civil penalty against any person required to provide any notification under the provisions of section 104(d), any statement under the provisions of subsection (a), (d), or (f) of section 105, any information under the provisions of section 404(c)(4), or any notice under the provisions of section 404(f)(1) of up to $1,000 a day from the date of any failure by such person to provide such notification, statement, information, or notice in accordance with such provisions.”.

(b) Conforming Amendment.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) (as amended by section 102(b)) is amended further by striking “(5), or (6)” and inserting “(5), (6), or (7)”.

TITLE II—DIVERSIFICATION REQUIREMENTS

SEC. 201. FREEDOM TO MAKE INVESTMENT DECISIONS WITH PLAN ASSETS.

(a) Amendments to the Employee Retirement Income Security Act of 1974.—Section

404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) (as amended by section 103) is amended further by adding at the end the following new subsection:

"(f)(1)(A)(i) Subject to clause (ii), an individual account plan under which a participant or beneficiary is permitted to exercise control over assets in his or her account shall provide that—

"(I) any such participant or beneficiary has the right to allocate all assets in his or her account (and any portion thereof) attributable to employee contributions to any investment option provided under the plan, and

"(II) any such participant who has completed 3 years of service (as defined in section 203(b)(2)) with the employer, or any such beneficiary of such a participant, has the right to allocate all assets in his or her account (and any portion thereof) attributable to employer contributions to any investment option provided under the plan.

The application of any penalty or any restriction based on age or years of service in connection with any exercise of such right as provided under this clause shall be construed as a violation of this clause.

"(ii) Clause (i) shall apply only to so much of a nonforfeitable accrued benefit as consists of employer securities which are readily tradable on an established securities market.

"(B)(i) Except as provided in clause (ii), within 5 days after the date of any election by a participant or beneficiary allocating his or her nonforfeitable accrued benefit to any investment option provided under the plan, the plan administrator shall take such actions as are necessary to effectuate such allocation.

"(ii) In any case in which the plan provides for elections periodically during prescribed periods, the 5-day period described in clause (i) shall commence at the end of each such prescribed period.

"(C) Nothing in this paragraph shall be construed to limit the authority of a plan to impose limitations on the portion of plan assets in any account which may be invested in employer securities to the extent that any such limitation is consistent with this title and not more restrictive than is permitted under this title.

"(2) Not later than 30 days prior to the date on which the right of a participant under an individual account plan to his or her accrued benefit becomes nonforfeitable, the plan administrator shall provide to such participant and his or her beneficiaries a written notice—

"(A) setting forth their rights under this section with respect to the accrued benefit, and

"(B) describing the importance of diversifying the investment of account assets.".

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXCISE TAX ON FAILURE TO PERMIT DIVERSIFICATION OF EMPLOYER SECURITIES.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980H. FAILURE OF DEFINED CONTRIBUTION PLANS TO PERMIT DIVERSIFICATION OF EMPLOYER SECURITIES.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any defined contribution plan to meet the requirements of subsection (e) with respect to any participant or beneficiary.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be $1,000 for each day for which the failure is not corrected.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY TO FAILURES CORRECTED AS SOON AS REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) on any failure if—

"(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

"(B) such person meets the requirements of subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed.

"(2) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

"(A) IN GENERAL.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

"(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

"(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

"(1) In the case of a plan other than a multiemployer plan, the employer.

"(2) In the case of a multiemployer plan, the plan.

"(e) REQUIREMENTS RELATING TO DIVERSIFICATION OF EMPLOYER SECURITY.—

"(1) IN GENERAL.—The requirements of this subsection are the requirements of paragraphs (2), (3), and (4).

"(2) RIGHT TO DIRECT INVESTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a plan meets the requirements of this paragraph if, under the plan—

"(i) any participant or beneficiary who is permitted to exercise control over assets in his or her account has the right to allocate all assets in his or her account (and any portion thereof) attributable to employee contributions to any investment option provided under the plan, and

"(ii) any such participant who has completed 3 years of service (as defined in section 411(a)(5)) with the employer, or any such beneficiary of such a participant, has the right to allocate all assets in his or her account (and any portion thereof) attributable to employer contributions to any investment option provided under the plan.

The application of any penalty or any restriction based on age or years of service in connection with any exercise of such right as provided under this clause shall be construed as a violation of this clause.

"(B) LIMITATION TO READILY TRADABLE EMPLOYER SECURITIES.—Subparagraph (A) shall apply only to so much of a nonforfeitable accrued benefit as consists of employer securities which are readily tradable on an established securities market.

"(3) PROMPT COMPLIANCE WITH DIRECTIONS TO ALLOCATE INVESTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a plan meets the requirements of this paragraph if the plan provides that, within 5 days after the date of any election by a participant or beneficiary allocating his or her nonforfeitable accrued benefit to any investment option provided under the plan, the plan administrator shall take such actions as are necessary to effectuate such allocation.

"(B) SPECIAL RULE FOR PERIODIC ELECTIONS.—In any case in which the plan provides for elections periodically during prescribed periods, the 5-day period described in subparagraph (A) shall commence at the end of each such prescribed period.

"(4) NOTICE OF RIGHTS AND OF IMPORTANCE OF DIVERSIFICATION.—A plan meets the requirements of this paragraph if the plan provides that, not later than 30 days prior to the date on which the right of a participant under the plan to his or her accrued benefit becomes nonforfeitable, the plan administrator shall provide to such participant and his or her beneficiaries a written notice—

"(A) setting forth their rights under this section with respect to the accrued benefit, and

"(B) describing the importance of diversifying the investment of account assets.

"(5) PRESERVATION OF AUTHORITY OF PLAN TO LIMIT INVESTMENT.—Nothing in this subsection shall be construed to limit the authority of a plan to impose limitations on the portion of plan assets in any account which may be invested in employer securities.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"SEC. 4980H. FAILURE OF DEFINED CONTRIBUTION PLANS TO PERMIT DIVERSIFICATION OF EMPLOYER SECURITIES.".

(c) RECOMMENDATIONS RELATING TO NON-PUBLICLY TRADED STOCK.—Within 1 year after the date of the enactment of this Act, the Secretary of Labor and the Secretary of the Treasury shall jointly transmit to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate their recommendations regarding legislative changes relating to treatment, under section 404(e) of the Employee Retirement Income Security Act of 1974 and section 401(a)(35) of the Internal Revenue Code of 1986 (as added by this section), of individual account plans under which a participant or beneficiary is permitted to exercise control over assets in his or her account, in cases in which such assets do not include employer securities which are readily tradable under an established securities market.

SEC. 202. EFFECTIVE DATE OF TITLE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall apply with respect to plan years beginning on or after January 1, 2003.

(b) DELAYED EFFECTIVE DATE FOR EXISTING HOLDINGS.—In any case in which a portion of the nonforfeitable accrued benefit of a participant or beneficiary is held in the form of employer securities (as defined in section 407(d)(1) of the Employee Retirement Income

Security Act of 1974) immediately before the first date of the first plan year to which the amendments made by this title apply, such portion shall be taken into account only with respect to plan years beginning on or after January 1, 2004.

TITLE III—EMPLOYEE REPRESENTATION

SEC. 301. PARTICIPATION OF PARTICIPANTS IN TRUSTEESHIP OF INDIVIDUAL ACCOUNT PLANS.

(a) IN GENERAL.—Section 403(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The assets of a single-employer plan which is an individual account plan and under which some or all of the assets are derived from employee contributions shall be held in trust by a joint board of trustees, which shall consist of two or more trustees representing on an equal basis the interests of the employer or employers maintaining the plan and the interests of the participants and their beneficiaries and having equal voting rights.

"(B)(i) Except as provided in clause (ii), in any case in which the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and one or more employers, the trustees representing the interests of the participants and their beneficiaries shall be designated by such employee organizations.

"(ii) Clause (i) shall not apply with respect to a plan described in such clause if the employee organization (or all employee organizations, if more than one) referred to in such clause file with the Secretary, in such form and manner as shall be prescribed in regulations of the Secretary, a written waiver of their rights under clause (i).

"(iii) In any case in which clause (i) does not apply with respect to a single-employer plan because the plan is not described in clause (i) or because of a waiver filed pursuant to clause (ii), the trustee or trustees representing the interests of the participants and their beneficiaries shall be selected by the plan participants in accordance with regulations of the Secretary.

"(C) An individual shall not be treated as ineligible for selection as trustee solely because such individual is an employee of the plan sponsor, except that the employee so selected may not be a highly compensated employee (as defined in section 414(q) of the Internal Revenue Code of 1986).

"(D) The Secretary shall provide by regulation for the appointment of a neutral individual, in accordance with the procedures under section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)), to cast votes as necessary to resolve tie votes by the trustees.".

(b) REGULATIONS.—The Secretary of Labor shall prescribe the initial regulations necessary to carry out the provisions of the amendments made by this section not later than 90 days after the date of the enactment of this Act.

TITLE IV—EXECUTIVE PARITY

SEC. 401. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS IF CORPORATION FUNDS DEFINED CONTRIBUTION PLAN WITH EMPLOYER STOCK.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 409A. DENIAL OF DEFERRAL FOR FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS IF CORPORATION FUNDS DEFINED CONTRIBUTION PLAN WITH EMPLOYER STOCK.

"(a) IN GENERAL.—If an employer maintains a defined contribution plan to which employer contributions are made in the form of employer stock and such employer maintains a funded deferred compensation plan—

"(1) compensation of any corporate insider which is deferred under such funded deferred compensation plan shall be included in the gross income of the insider or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(2) the tax treatment of any amount made available under the plan to a corporate insider or beneficiary shall be determined under section 72 (relating to annuities, etc.).

"(b) FUNDED DEFERRED COMPENSATION PLAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'funded deferred compensation plan' means any plan providing for the deferral of compensation unless—

"(A) the employee's rights to the compensation deferred under the plan are no greater than the rights of a general creditor of the employer, and

"(B) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable to such amounts, remain (until made available to the participant or other beneficiary) solely the property of the employer (without being restricted to the provision of benefits under the plan), and

"(C) the amounts referred to in subparagraph (B) are available to satisfy the claims of the employer's general creditors at all times (not merely after bankruptcy or insolvency).

Such term shall not include a qualified employer plan.

"(2) SPECIAL RULES.—

"(A) EMPLOYEE'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(A) unless, under the written terms of the plan—

"(i) the compensation deferred under the plan is paid only upon separation from service, death, or at a specified time (or pursuant to a fixed schedule), and

"(ii) the plan does not permit the acceleration of the time such deferred compensation is paid by reason of any event.

If the employer and employee agree to a modification of the plan that accelerates the time for payment of any deferred compensation, then all compensation previously deferred under the plan shall be includible in gross income for the taxable year during which such modification takes effect and the taxpayer shall pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income in the taxable years deferred.

"(B) CREDITOR'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(B) with respect to amounts set aside in a trust unless—

"(i) the employee has no beneficial interest in the trust,

"(ii) assets in the trust are available to satisfy claims of general creditors at all times (not merely after bankruptcy or insolvency), and

"(iii) there is no factor (such as the location of the trust outside the United States) that would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States.

"(c) CORPORATE INSIDER.—For purposes of this section, the term 'corporate insider' means, with respect to a corporation, any individual who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

"(2) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

"SEC. 409A. DENIAL OF DEFERRAL FOR FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS IF CORPORATION FUNDS DEFINED CONTRIBUTION PLAN WITH EMPLOYER STOCK."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts deferred after the date of the enactment of this Act.

SEC. 402. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) As used in this section:

(1) BENEFICIAL OWNER.—The term "beneficial owner" has the meaning provided such

term in rules or regulations issued by the Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

(2) BLACKOUT PERIOD.—The term "blackout period" with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan;

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(3) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(4) INDIVIDUAL ACCOUNT PLAN.—The term "individual account plan" has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) ISSUER.—The term "issuer" shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

TITLE V—INCREASED ACCOUNTABILITY

SEC. 501. BONDING OR INSURANCE ADEQUATE TO PROTECT INTEREST OF PARTICIPANTS AND BENEFICIARIES.

Section 412 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112) is amended by adding at the end the following new subsection:

"(f) Notwithstanding the preceding provisions of this section, each fiduciary of an individual account plan shall be bonded or insured, in accordance with regulations which shall be prescribed by the Secretary, in an amount sufficient to ensure coverage by the bond or insurance of financial losses due to any failure to meet the requirements of this part.".

SEC. 502. LIABILITY FOR BREACH OF FIDUCIARY DUTY.

(a) LIABILITY FOR PARTICIPATING IN OR CONCEALING FIDUCIARY BREACH.—

(1) APPLICATION TO PARTICIPANTS AND BENEFICIARIES OF 401(k) PLANS.—

(A) IN GENERAL.—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101 et seq.) is amended by adding after section 409 the following new section:

"SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(k) PLANS.

"(a) Any person who is a fiduciary with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1986 who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to each participant and beneficiary of the plan any losses to such participant or beneficiary resulting from each such breach, and to restore to such participant or beneficiary any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for a violation of section 411 of this Act.

"(b) The right of participants and beneficiaries under subsection (a) to sue for breach of fiduciary duty with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of such Code shall be in addition to all existing rights that participants and beneficiaries have under section 409, section 502, and any other provision of this title, and shall not be construed to give rise to any inference that such rights do not already exist under section 409, section 502, or any other provision of this title.

"(c) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he or she became a fiduciary or after he or she ceased to be a fiduciary."

(B) CONFORMING AMENDMENT.—The table of contents for part 4 of subtitle B of title I of such Act is amended by inserting the following new item after the item relating to section 409:

"SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(k) PLANS."

(2) INSIDER LIABILITY.—

(A) IN GENERAL.—Section 409 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1109) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1)(A) If an insider with respect to the plan sponsor of an employer individual account plan that holds employer securities that are readily tradable on an established securities market—

"(i) knowingly participates in a breach of fiduciary responsibility to which subsection (a) applies, or

"(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subsection for such breach in the same manner as the fiduciary who commits such breach.

"(B) For purposes of subparagraph (A), the term 'insider' means, with respect to any plan sponsor of a plan to which subparagraph (A) applies—

"(i) any officer or director with respect to the plan sponsor, or

"(ii) any independent qualified public accountant of the plan or of the plan sponsor.

"(3) Any relief provided under this subsection or section 409A—

"(A) to an individual account plan shall inure to the individual accounts of the affected participants or beneficiaries, and

"(B) to a participant or beneficiary shall be payable to the individual account plan on behalf of such participant or beneficiary unless such plan has been terminated."

(B) CONFORMING AMENDMENT.—Section 409(c) of such Act (29 U.S.C. 1109(c)), as redesignated by subparagraph (A), is amended by inserting before the period the following: ", unless such liability arises under subsection (b)".

(b) MAINTENANCE OF FIDUCIARY LIABILITY.—Section 404(c)(1)(B) of such Act (29 U.S.C. 1104(c)(1)(B)) is amended by inserting before the period the following: ", except that this subparagraph shall not be construed to exempt any fiduciary from liability for any violation of subsection (e) or (f)".

SEC. 503. PRESERVATION OF RIGHTS OR CLAIMS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) The rights under this title (including the right to maintain a civil action) may not be waived, deferred, or lost pursuant to any agreement not authorized under this title with specific reference to this subsection.

"(2) Paragraph (1) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement is entered into knowingly and voluntarily by the parties involved after the dispute has arisen or is pursuant to the terms of a collective bargaining agreement.".

SEC. 504. OFFICE OF PENSION PARTICIPANT ADVOCACY.

(a) IN GENERAL.—Title III of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 3001 et seq.) is amended by adding at the end the following:

"(1) IN GENERAL.—There is established in the Department of Labor an office to be known as the 'Office of Pension Participant Advocacy'.

"(2) PENSION PARTICIPANT ADVOCATE.—The Office of Pension Participant Advocacy shall be under the supervision and direction of an official to be known as the 'Pension Participant Advocate' who shall—

"(A) have demonstrated experience in the area of pension participant assistance, and

"(B) be selected by the Secretary after consultation with pension participant advocacy organizations.

The Pension Participant Advocate shall report directly to the Secretary and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

"(b) FUNCTIONS OF OFFICE.—It shall be the function of the Office of Pension Participant Advocacy to—

"(1) evaluate the efforts of the Federal Government, business, and financial, professional, retiree, labor, women's, and other appropriate organizations in assisting and protecting pension plan participants, including—

"(A) serving as a focal point for, and actively seeking out, the receipt of information with respect to the policies and activities of the Federal Government, business, and such organizations which affect such participants,

"(B) identifying significant problems for pension plan participants and the capabilities of the Federal Government, business, and such organizations to address such problems, and

"(C) developing proposals for changes in such policies and activities to correct such problems, and communicating such changes to the appropriate officials,

"(2) promote the expansion of pension plan coverage and the receipt of promised benefits by increasing the awareness of the general public of the value of pension plans and by protecting the rights of pension plan participants, including—

"(A) enlisting the cooperation of the public and private sectors in disseminating information, and

"(B) forming private-public partnerships and other efforts to assist pension plan participants in receiving their benefits,

"(3) advocating for the full attainment of the rights of pension plan participants, including by making pension plan sponsors and fiduciaries aware of their responsibilities, "(4) giving priority to the special needs of low and moderate income participants,

"(5) developing needed information with respect to pension plans, including information on the types of existing pension plans, levels of employer and employee contributions, vesting status, accumulated benefits, benefits received, and forms of benefits, and

"(6) pursuing claims on behalf of participants and beneficiaries and providing appropriate assistance in the resolution of disputes between participants and beneficiaries and pension plans, including assistance in obtaining settlement agreements.

"(c) Reports.—

"(1) Annual report.—Not later than December 31 of each calendar year, the Pension Participant Advocate shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on its activities during the fiscal year ending in the calendar year. Such report shall—

"(A) identify significant problems the Advocate has identified,

"(B) include specific legislative and regulatory changes to address the problems, and

"(C) identify any actions taken to correct problems identified in any previous report.

The Advocate shall submit a copy of such report to the Secretary and any other appropriate official at the same time it is submitted to the committees of Congress.

"(2) Specific reports.—The Pension Participant Advocate shall report to the Secretary or any other appropriate official any time the Advocate identifies a problem which may be corrected by the Secretary or such official.

"(3) Reports to be submitted directly.—The report required under paragraph (1) shall be provided directly to the committees of Congress without any prior review or comment than the Secretary or any other Federal officer or employee.

"(d) Specific Powers.—

"(1) Receipt of information.—Subject to such confidentiality requirements as may be appropriate, the Secretary and other Federal officials shall, upon request, provide such information (including plan documents) as may be necessary to enable the Pension Participant Advocate to carry out the Advocate's responsibilities under this section.

"(2) Appearances.—The Pension Participant Advocate may represent the views and interests of pension plan participants before any Federal agency, including, upon request of a participant, in any proceeding involving the participant.

"(3) Contracting authority.—In carrying out responsibilities under subsection (b)(5), the Pension Participant Advocate may, in addition to any other authority provided by law—

"(A) contract with any person to acquire statistical information with respect to pension plan participants, and

"(B) conduct direct surveys of pension plan participants."

(b) Conforming Amendment.—The table of contents for title III of such Act is amended by adding at the end the following:

"Subtitle C—Office of Pension Participant Advocacy

"3051. Office of Pension Participant Advocacy.".

(c) Effective Date.—The amendment made by this section shall take effect on January 1, 2003.

SEC. 505. ADDITIONAL CRIMINAL PENALTIES.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "Sec. 501.";

(2) by striking "$5,000" and inserting "$50,000" and by striking "$100,000" and inserting "$500,000";

(2) by adding at the end the following new subsection:

"(b) Any person described in subsection (a) of 402 of the Employee Pension Freedom Act of 2002 who willfully violates such section or section 104(d) or causes an individual account plan to fail to meet the requirements of section 409A of the Internal Revenue Code of 1986 shall upon conviction be fined not more than $500,000 or imprisoned not more than one year, or both.".

SEC. 506. STUDY REGARDING INSURANCE SYSTEM FOR INDIVIDUAL ACCOUNT PLANS.

(a) Study.—As soon as practicable after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall contract to carry out a study relating to the establishment of an insurance system for individual account plans. In conducting such study, the Corporation shall consider—

(1) the feasibility and impact of such a system, and

(2) options for developing such a system.

(b) Report.—Not later than 3 years after the date of the enactment of this Act, the Corporation shall report the results of its study, together with any recommendations for legislative changes, to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate.

TITLE VI—INVESTMENT ADVICE FOR PARTICIPANTS AND BENEFICIARIES

SEC. 601. INDEPENDENT INVESTMENT ADVICE.

(a) In General.—Section 404(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(1)) (as amended by section 102(c)) is amended further—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting "(A)" after "(c)(1)"; and

(2) by adding at the end the following new subparagraphs:

"(B)(i) In the case of a pension plan described in subparagraph (A) which provides investment in employer securities as at least one option for investment of plan assets at the direction of the participant or beneficiary, such plan shall make available to the participant or beneficiary the services of a qualified fiduciary adviser for purposes of providing investment advice described in section 3(21)(A)(ii) regarding investment in such securities.

"(ii) No person who is otherwise a fiduciary shall be liable by reason of any investment advice provided by a qualified fiduciary adviser pursuant to a request under clause (i) if—

"(I) the plan provides for selection and monitoring of such adviser in a prudent and effective manner, and

"(II) such adviser is a named fiduciary under the plan in connection with the provision of such advice.

"(C) For purposes of subparagraph (B)—

"(i) The term 'qualified fiduciary adviser' means, with respect to a plan, a person who—

"(I) is a fiduciary of the plan by reason of the provision of qualified investment advice by such person to a participant or beneficiary,

"(II) has no material interest in, and no material affiliation or contractual relationship with any third party having a material interest in, the security or other property with respect to which the person is providing the advice,

"(III) meets the qualifications of clause (ii), and

"(IV) meets the additional requirements of clause (iii).

"(ii) A person meets the qualifications of this subparagraph if such person—

"(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.),

"(II) if not registered as an investment adviser under such Act by reason of section 203A(a)(1) of such Act (15 U.S.C. 80b–3a(a)(1)), is registered under the laws of the State in which the fiduciary maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary's registration under the laws of such State, also filed a copy of such form with the Secretary,

"(III) is registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(IV) is a bank or similar financial institution referred to in section 408(b)(4),

"(V) is an insurance company qualified to do business under the laws of a State, or

"(VI) is any other comparable entity which satisfies such criteria as the Secretary determines appropriate.

"(iii) A person meets the additional requirements of this clause if every individual who is employed (or otherwise compensated) by such person and whose scope of duties includes the provision of qualified investment advice on behalf of such person to any participant or beneficiary is—

"(I) a registered representative of such person,

"(II) an individual described in subclause (I), (II), or (III) of clause (i), or

"(III) such other comparable qualified individual as may be designated in regulations of the Secretary.".

(b) Maintenance of Fiduciary Liability.—Section 404(c)(1)(B) of such Act (29 U.S.C. 1104(c)(1)(B)) is amended by inserting before the period the following: ", except that this subparagraph shall not be construed to exempt any fiduciary from liability for any violation of this section".

SEC. 602. TAX TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) In General.—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by adding at the end the following new paragraph:

"(4) No constructive receipt.—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by a qualified investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.".

(b) Conforming Amendments.—

(1) Section 403(b)(3)(B) of such Code is amended by inserting "132(m)(4)," after "132(f)(4),".

(2) Section 414(s)(2) of such Code is amended by inserting "132(m)(4)," after "132(f)(4),".

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting "132(m)(4)," after "132(f)(4),".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

TITLE VII—GENERAL PROVISIONS

SEC. 701. GENERAL EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall apply with respect to plan years beginning on or after January 1, 2003.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 2003" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

SEC. 702. PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after the effective date specified in section 601, if—

(1) during the period after such amendment made by this Act takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this Act, and

(2) such plan amendment applies retroactively to the period after such amendment made by this Act takes effect and before such first plan year.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Ohio (Mr. BOEHNER) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a great deal today and over these past many months about the Enron scandal. I think there is general agreement throughout the halls of Congress and throughout this Nation that it was, in fact, a scandal; that we saw the very worst in human behavior with respect to corporate responsibility, and the responsibility of employers to employees, of the corporation to its shareholders, of the corporation to the general public.

□ 1415

But this legislation is more than about Enron, because Enron is in bankruptcy. Enron may very well cease to exist as an ongoing financial entity. Its parts are being sold off. Its parts are being salvaged and people are trying to get hold of their lives again after the financial collapse. But Enron was also a beacon of warning to millions of American workers about what their particular situation might or might not be with respect to the security of their 401(k) plan; a 401(k) plan of which the workers are being told over and over again they are going to have to rely on more and more for their retirement because companies refuse to provide a defined benefit plan which would provide them much more security and much more future security with their retirement, something that they could count on.

So what have we learned from Enron? We learned from Enron that many employees did not have control over that part of the stock that was contributed by the corporation. We also found out that many employees were prevented from having any control over that stock until age 50 or 55. But we also found out that that was not unique to Enron. That was true of many corporations, of the Fortune 500 and unnamed corporations that we do not know a lot about, but that was true of them and a holding period for the employees not to divest themselves of the stock. That was done for the convenience of the corporation. That was done because the corporation believed it made their employees more loyal. But when the plans went wrong with their financial future, the company went wrong, we found out that the employees were locked into a situation from which they could not extract themselves.

So this legislation takes the Enron lesson and says we ought not let that happen to other employees in other corporations. So we say that after 3 years of employment, you ought to be able to diversify your 401(k), your 401(k), in a manner which you think is best for your retirement. The 3 years is a maximum period of time which you ought to be able to force the employee to hold onto the stock, because markets move fast, financial markets move fast, and the future of corporations changes all the time. The Republicans do not do that. They have a rolling 3 years. They have a 5-year phaseout. We do not think that that is fair to the worker. We think the worker ought to have that control.

It is interesting now that as corporations review their plans, they are moving toward the Democratic bill. Chevron, in its merger with Texaco, decided that people could diversify immediately. Time Warner decided that people in AOL could diversify immediately. Walt Disney, Gillette, Quest Communications, Procter & Gamble, McDonald's, Coca-Cola, Pfizer, Abbot Laboratories. So this is not a radical approach. People realize this is what workers are entitled to now because the 401(k) is made up, 100 percent, of the assets that belong to the worker.

We also said that if this is the employees' assets, if this is their money, this is their stock portfolio, this is their retirement, maybe they ought to have a say on the board. At Enron we saw that they had no say on the board, that the board was made up of executive vice presidents who did not want to deliver any bad news to the corporation, who when they found out bad news did not tell the employees, did not tell the pension board, went off and privately sold their own stock.

But we have also seen that that has been true in other corporations beyond Enron. We have seen that family members have been selling stock when the corporations are in trouble. Obviously somebody whispered to their son or daughter, "The company is not doing so well, sell the stock."

Why should the employees not have that information? We believe there should be a rank-and-file member on the pension board since the pension represents 100 percent of the employees' money. Research has shown us that where we have rank-and-file members on the pension board, people tend to invest more in their retirement plans and they do a little better on the rate of return. We think that that is important. That is a lesson of Enron that is important for other corporations and for the employees.

We also saw the situation where employers were dumping stock, where Ken Lay was telling people in e-mails that he was buying stock. But he was not really buying stock, he was trading stock and, in fact, he was selling the stock to liquidate the large loans, personal loans, that he had taken from the Enron Corporation.

Again, as we have seen the fortunes of companies change over the last several months in a down economy, in a changed dot-com society, we have seen that many employers have been dumping stock. We think that maybe the employee ought to know that when the corporate heads of the company decide to dump the stock, that they ought to be told about that. Today you can hide that sale of stock for 6 months or a year. Six months or a year can be an economic disaster for the employees if you are caught behind that wave. So we say when you sell $100,000 of shares, inform the pension board, inform the employees. What is it that we cannot trust these employees to understand? They will make the decision if they want to also sell their stock, like the CEOs and the FAO of the corporations.

We also decided and we learned from Enron that there was much corporate misconduct, where the employees who were devastated by that conduct had no right to proceed against those people who defrauded them, who had looted the companies. Again, tragically, not unique to Enron, but we have seen the same instances in a number of other corporations, so we said those people ought to be able to proceed to recover their retirement nest egg, to recover their financial future, to recover the plans that they have made for themselves and their families because somebody acted in an illegal fashion.

Today those people can do that. And under ERISA there is no right of recovery, so this is beyond the Enron employees. This is about the millions of other employees who are out there in this same situation.

What else did we learn from Enron? We learned that the employees had one plan, a 401(k) plan, and that the executives had another 401(k) plan. The executives' plan was insured. It was guaranteed. So as Enron goes on the rocks, as it becomes bankrupt, the executives leave with life preservers in the lifeboat. The employees leave with nothing.

We think that if you are going to insure the executives' plan, insure the employees' plan. Both of them are contributing to making the wealth of the company. Both of them are creating the earnings of the company. It is not like the Enron employees were not working hard in this company. They just did not get a chance to be protected like the executives.

So this is really about whether or not we are going to continue to accept a system where we have an elite group of executives that get insured pension plans, get incredible compensation, are able to buy multimillion-dollar homes in Florida or in Texas that are exempt from bankruptcy, that can have insurance plans that guarantee a payout, and then there are the employees who go to work every day, who build the financial future of the company, who do the job for which they were hired and can be left with nothing.

This really is about equity. This is about fairness. This is about what we owe the workers in these companies. Mind you, these very same companies made a decision that this was really good for the executives, for the top corporate elite, that these were all good things to do. But now when you suggest that maybe you should do them for the employees, for the rank-and-file people who are on the line working every day, that somehow it is radical or it is un-American or it is against the free enterprise system.

I think President Bush got it about right. In his first public statement after the Enron case down in North Carolina, I believe it was at a naval base, he said, "What is good for the captain should be good for the sailor." That is what the Democratic substitute says. It says that we ought to recognize the dignity and the hard work of the employees and they should not be put in a position of disadvantage. They should not be put in a position where they could lose everything when the executives are in a position of losing nothing. That is a very important principle. It is a very important principle for this Nation. The President recognized it, but the Republican bill does not.

The Republican bill concentrates on getting the employees better investment advice, and that is a good idea. Clearly, even the Enron employees did not understand the real value of diversification. So good investment advice makes sense as people are trying to plan for their retirement. We believe that that advice should not be conflicted. The Republican bill does not provide for that kind of protection.

We recognize, as we have seen, where Arthur Andersen was deeply conflicted between the commissions it was making on consulting from Enron and auditing the books they were presenting to the public, to the shareholders, and to the employees about the health of the company.

We have now seen all of the labyrinth of commissions and fees and financial arrangements that had distorted the financial marketplace, the most recent of which is Merrill Lynch, where Merrill Lynch was seeking to make millions, tens of millions of dollars as an investment bank, but it was doing business with the same people whose stock it was touting, so it did not want to say "don't buy ABC stock" when it was trying to negotiate a commission worth tens of millions of dollars, so it had its people keep saying "buy ABC stock" and even those people said, "That is lousy stock. It's no good." They were conflicted.

Yes, investment advice is good, but it ought to be independent. It ought to be independent of those commissions, of those holdings, of those conflicts. And they run throughout the financial markets.

If America got any lesson from Enron, through Arthur Andersen, through Global Crossing, through so many others, they learned that there really are two systems; a system for the privileged, for the elite, for the executives, and another system for the employees who are investing in these companies.

That is why we have introduced the substitute, because half of the Republican bill is missing. Yes, it deals with investment advice, but it does not deal with the lessons of Enron. It does not deal with the peril of millions of Americans who are leaning very hard on their 401(k) to help provide for their retirement. It does not deal with the unethical behavior of corporate executives who are not in Enron. It does not deal with the ability of corporate executives to hide their transactions from their employees and from the investors. And it does not deal with the fairness of the treatment of those two parts of the corporation.

The Democratic substitute does it. It does it in a way that does not place a burden on the system. It is really about disclosure. It is really about fairness. And it is making sure that as we walk away from the Enron disaster, that we really in fact have changed the manner in which we are doing business to make sure that there is fairness in treatment and there is protection for the American worker. The bill as presented to us today is incomplete in that fashion. The Democratic substitute will complete that part of the story, to provide that kind of protection for the American worker.

I will hope that our colleagues in this House on both sides of the aisle will embrace this substitute and discharge their obligation that we have to provide for the retirement future and protection of the American worker.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

As I said earlier, with all due respect to my colleagues, some on the other side who believe that the base bill before us does not go far enough, I would argue that the proposal offered by my good friend, the gentleman from California (Mr. GEORGE MILLER), does in fact go way too far.

Let me point out several of those differences. As the gentleman said, when it comes to company-matched stock in a 401(k) plan, companies today can require you to hold that until such time as you retire, not allowing you to take the company match and to convert it into some other type of stock or bond, or cash for that matter, within the account. And so the gentleman from California has a 3-year limit that would go into effect at the signing of the bill, but after that there is no holding period at all.

□ 1430

The underlying bill, beyond the 5-year phase-in, has a 3-year rolling average. Any new matched company stock, the maximum it could be required to be held by the company is 3 years. Many employers are already doing it on their own, doing 1 year, doing quicker time frames.

But why do we have a 3-year rolling average? Because we do not want to discourage companies from offering the company match that many do in stock today. They find that this is a perfect way of trying to retain employees, to encourage employees to stay with the company. And I am concerned that in a proposal similar to the one the gentleman from California (Mr. GEORGE MILLER) is proposing, that many employers would in fact eliminate the match of company stock that they do today. We do not want to do anything in this bill that would hurt the ability of employees to maximize their employment security.

Another problem we see with the substitute being offered is that we expand remedies. We expand more remedies, more lawsuits for those who may have just made a mistake. I am not talking about criminal behavior here, we will get into that in a moment. But to expand remedies is a nice big red flag for employers that says, if you open a pension plan, you are going to be opening yourselves to expanded liability.

What that is going to do, plain and simple, is discourage, especially small companies, from setting up a pension plan for their employees, at a time when we have worked for years here to try to encourage more employers to offer these plans to their employees. I think there are sufficient remedies today within ERISA and within the code, and expanding those remedies at this time I think is a very big mistake.

Let me also say that the substitute creates criminal penalties that do lead to personal liability again for mere mistakes that someone might make. Again, there is another red flag. If I am an employer looking at setting up a plan or maintaining my plan, why would I want to open myself up for the possibility of criminal wrongdoing if I made a mistake in the administration of my plan? Again, I think we have sufficient remedies today within ERISA to deal with this.

One of the other issues that the gentleman from California (Mr. GEORGE MILLER) talked about is the fact that corporate executives have insured plans and 401(k) plans are not insured. Now, we are dealing a little bit here with apples and oranges, because when it comes to the corporate governance issues, it is controlled by another committee, and we are strictly dealing here with ERISA and with the Tax Code and with pension issues.

But one of the issues that is in the gentleman's bill is he would require liability insurance for the full value of all of the 401(k) accounts within the company. Now, if you want to talk about a staggering bill that would discourage employers from setting up 401(k) accounts, here is probably the single one big issue that would stop them cold in their tracks. They would say, listen, if I have got to buy an insurance policy for several hundred million dollars, do I really want to have 401(k) accounts?

The last issue I would like to talk about, though, that is of great concern to all of us is the issue of investment advice. We have some 50 million Americans today who have self-directed 401(k)-type of accounts. We all know that they need good, solid investment advice that meets their particular needs. So both sides have the issue in their bill.

But the difference here is very simply this: There are two issues that have to be dealt with to get more investment advice into the marketplace. One, we have to do something about employer liability, and both the Miller substitute and the underlying bill, the Pension Security Act, deal with protecting employers from liability, other than they have to exercise their fiduciary duty in hiring a good investment advisor.

But the second issue is this: It says if you sell products, you are prohibited from giving investment advice. Now, the idea here is to get more investment advice in the marketplace, and under the Miller proposal they would have to go get independent third-party advice. It is well-meaning, well-intentioned, but very expensive, and, I would add, most employers are not going to ever go down that path. My point is, we will end up with very little investment advice in the marketplace.

Under the underlying bill, we say you could go out and get independent advice if you like, or you could have those who sell product set up investment advice under these conditions: You have to disclose any potential conflicts; you have to disclose any differences in fees between the products that you are selling; you have to do this at the same time commensurate with the giving of the advice; and, above all, you are required to be held to the highest fiduciary duty in the giving of that advice, which means that when you give the advice, it has to be solely in the interest of that employee, and there are penalties if you violate any or all of those.

We believe what this will do is to bring more investment advice into the marketplace in a much quicker way and cover far more employees. As a matter of fact, the House thought this was such a good idea last November, before we knew what we know today about Enron, that the House voted 280 to 141 to support the exact investment advice bill, virtually the same investment advice bill, that is contained here.

So I would say to my colleagues on both sides of the aisle, my Democrat friends are as concerned about this as we are. I do in fact believe that if we were to adopt the Miller substitute, that we would in fact limit the ability of employers to set up plans, we would discourage employers from setting up plans, and we would see companies fold up their plans. I do not think that is what we want to do at this day and hour.

We should be looking at how can we secure the retirement security for more American workers, how we can expand the number of workers covered by high-quality retirement plans, and not go in the other direction.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the gentleman from New Jersey (Mr. ANDREWS) will be recognized to control the time in favor of the amendment.

There was no objection.

Mr. ANDREWS. Mr. Speaker, I yield myself 3 minutes in support of the Miller substitute.

Mr. Speaker, there is some confusion on the issue here of the competing proposals and how long someone is required to hold shares of stock contributed by an employer when that is the employer stock. I want to be very clear: The proposal that we support, the Democratic substitute, does call for a 3-year period, not a 1-year period as some groups outside of this body are alleging. It is a 3-year period.

The Republican proposal, the underlying bill though, I want to be clear about what it means to a person who is in a 401(k) plan that has her or his employer's stock matched in that 401(k) plan. Under the underlying bill, it would be 5 years before an employee could completely divest himself or herself of that stock. So here is what this means: If you were working for a company and the company put matching shares of its stock into your 401(k), and the company started to slide downhill the way Enron slid downhill, and you decided the best thing for you to do was to get your retirement fund out of that stock, get it out of there so that you would not be losing your pension, under the Republican bill that we are amending it would be a 5-year process, 5 years, before you could get all of that stock out. It is phased out 20 percent, then 40 percent, then 60 percent, then 80 percent.

I do not see why people should be required to wait 5 years. Next week will commemorate the anniversary of the sinking of the Titanic, April 15. The Republican proposal reminds me of the Titanic in this respect: When the Titanic was sinking, the wealthy people got off the ship in their lifeboats and the working class people were locked down below in steerage, unable to get off the boat as it was sinking. That very unfortunate proposal is carried out in the underlying bill.

Frankly, there are those of us that believe 3 years is far too long, but in an attempt to compromise, to make sure we could draw as many people to support the proposal as we could, the Democratic plan talks about 3.

I do not want any confusion about the fact that the bill that we are amending, the underlying plan, calls for at the beginning of the plan a 5-year period before someone can get completely off that sinking ship. That is wrong, and that is another good reason to support the Democratic substitute and oppose the underlying bill.

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that 15 minutes of the time in opposition be given to the Committee on Ways and Means and controlled by the gentleman from Ohio (Mr. PORTMAN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. BALLENGER), a long-term member of the Committee on Education and the Workforce.

Mr. BALLENGER. Mr. Speaker, let me just say I rise in support of the base bill and in opposition to the Miller-Rangel substitute on the grounds that it would oppose a host of new government regulations that will drive businesses out of offering, and I emphasize the word, voluntary retirement savings plans.

I happened to be in a situation in 1950 in my company back home where we had an employee that had worked for the company for 30 years and decided to retire, and I found out at that time, I did not realize much about the way things went, I realized that this gentleman after 30 years with me had only his Social Security to count on. So what I did is I put into our company at that time a defined benefit plan that was going to take care of all the employees, some retirement and so forth. This whole situation, to my way of thinking, was a fabulous thing. We should take care of employees.

All of a sudden, somewhere down the road we ran into the fact that the government's regulations were coming along and it appeared to me I was not trustworthy of Uncle Sam, so what I did is I liquidated the whole pension plan and gave the employees all the money and started over again. And we ended up with a 401(k) and an ESOP right now, which I realize the ESOP is not involved in this. But I want you to know, I got out of this pension plan even before I knew about trial lawyers or fiduciary responsibility.

The Democrat substitute creates a new resource for trial lawyers to line their pockets by increasing the liability exposure of employers, administrators, service providers to an ill-defined and uncapped damage. From the CEOs to the middle managers and those who have no control over the plan's investment decisions, they could be personally liable for losses in their retirement plan, and these men and women who are sued for something out of their control could be forced to pay damages beyond the lost value of their retirement plan. Current law allows Labor, Treasury and the Justice Department, as well as affected individuals, to take actions to recover damages from a plan.

Additionally, the Democrat substitute would extend this unlimited right to sue to all ERISA plans, including retirement, health, disability, all of these plans, as well as reducing the availability of retirement plans. This amendment would destroy the current system of employer provided health insurance, leaving millions of Americans uninsured.

The Miller-Rangel substitute would force every fiduciary to a defined contribution plan to have insurance themselves in case there was a breach of fiduciary duty. I do not know how many of you have looked at the cost of that insurance, but today it is unbelievably expensive. However, mandating each individual fiduciary to have his or her own insurance would be redundant and costly, and, once again, these costly, unneeded measures would discourage employers from offering retirement plans.

Finally, the substitute would mandate that retirement plans include an employee representative on the joint board of trustees. What employee can you find that would be willing to serve on a board when he knew he was going to get sued? That is an interesting situation.

This is already allowed under ERISA, and some employers do it. This mandate would increase administrative burdens on employers, and since ERISA currently requires that plan administrators act solely in the interest of participants and beneficiaries, what is the benefit of mandating an employee to join the Board of Trustees? There is not one, but it does add a substantial burden.

While I believe the government has a role in protecting employees' retirement plans, I cannot support a massive imposition of Federal regulations that will destroy the incentive for employers to offer retirement plans. I urge a "no" vote on the substitute amendment and a "yes" vote on final passage of H.R. 3762.

Mr. ANDREWS. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. PAYNE), who is a strong voice for workers both in New Jersey and around the country.

Mr. PAYNE. Mr. Speaker, let me thank the gentleman from New Jersey for yielding me time and commend him for the outstanding work that he did on the subcommittee handling this very important Pension Security Act.

There are, in my opinion, defining financial points in every decade. In the seventies we suffered a gasoline shortage, where long lines disrupted the daily lives of American people and lost productivity ensued.

□ 1445

In the 1980s, there was the savings and loan debacle where greedy investors and unscrupulous brokers went away with billions of dollars of Americans' money. In the 1990s we suffered a recession where the market dropped. However, we bounced back because President Clinton and his great program in the early 1990s cut $250 billion of spending and another $250 billion to the 1 percent of the top earners in the country, and that $500 billion put us on to a projected $5 trillion surplus over the years. However, we have seen that wilted away by the new administration.

In this decade, it is safe to say that the Enron debacle will go down in the books as an example of deception and mismanagement and which has ruined the lives of thousands of people. That is the human side that we do not see.

What have we learned from this tragedy? How can we protect ourselves from a recurrence of the financial disasters of this magnitude? By not supporting the Republican bill. Why? Because their bill fails the American people. Because they create new loopholes and a relaxed requirement. Their bill lacks real teeth to hold companies accountable. It fails to hold plans accountable, and it fails to provide real diversification in plans; and it fails to give employees' notice when companies are dumping company stock, and it continues to give preferential treatment to executives.

The Democratic alternative provides real pension reform. How? By, one, including strong criminal penalties for executives who engage in mismanagement and abuse, by requiring notification of employees when executives are dumping company stock, and ensuring that employees receive honest and timely information about their pensions from unbiased, independent financial advisors, and it gives employees a voice on pension boards.

During the markup in the Committee on Education and the Workforce, the Democrats offered amendments, amendment after amendment, which would strengthen the current law that would protect the American workers, holding their hard-earned savings to their own portfolio, which were denied. Because the bottom line is, this is their money, and the employees should have more say over it.

It appears to me that the Republican bill serves the interests of corporate executives rather than the rank-and-file employees who lost billions of dollars of their retirement savings. There must be an end to this giving special treatment to executives while employees suffer. Enough is enough.

Support the Democratic substitute, which seeks to correct loopholes, shifting less risk on our workers, putting more control of their money in their hands. Support the substitute which provides unbiased, independent advice, a parity of benefits for all employees, representation on pension boards, and tougher criminal enforcement.

We can all agree we cannot let this happen again. The Miller-Rangel bill seeks to correct the loopholes, shift less risk to our workers by putting the control of their money in their hands. Stop favoring executives, and let us protect our workers. Support the Democratic substitute.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me this time. I strongly support the underlying bill, and I ask my colleagues to vote down the Miller substitute. There are many reasons to do that. We have heard many of them this afternoon. I would like to focus in on just one area.

Mr. Speaker, this substitute is a classic case of putting the fox in charge of the hen house. Believe it or not, their substitute would make union officials trustees of any savings plan that is given to workers they represent. This will jeopardize hundreds of billions of dollars in workers' savings.

Just blocks away from this House, just a couple of blocks, a Federal grand jury is determining whether a dozen or so union presidents violated their fiduciary duties by inside trading of stocks tied to Global Crossings Corporation, in which they have invested workers' pensions through union life insurance companies. Meanwhile, workers were losing billions from the bankruptcy of their company. This substitute will turn private savings of union workers over to these same leaders.

As chairman of the Subcommittee on Workforce Protections, I can tell my colleagues that this country is suffering from what The New York Times reports is a wave of union corruption. Just yesterday, I heard testimony about the embezzlement of millions by New York City's largest public employee union. I heard about workers who only make $20,000 a year forced to pay dues of $700 a year, which was then used for penthouses, maid services that were really male prostitutes, clothing, overseas trips, Super Bowl tickets, topless bars, and it goes on and. Do we really want that same crowd to get their claws into the individual savings of these workers? I do not believe any of us would want to do that.

As some of my colleagues know, I raised a few chickens on my place back in Georgia. I have had dogs on that property, and I love them very much. However, I would never let my dogs start eating my chickens. It would naturally be rough on the chickens, and the dogs would never hunt again.

Now, I know my Democratic friends love the support they get from labor leaders. I know they want to feed them any chance that they can get. But please do not feed them the savings of hard-working American families. It is bad for the dogs, and it is murder for the chickens. Friends, that dog has already got feathers on his snout that look a whole lot like pension money.

I urge my colleagues to vote down the Miller substitute.

Mr. ANDREWS. Mr. Speaker, may I inquire as to how much time our side has left.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from New Jersey (Mr. ANDREWS) has 9½ minutes; the gentleman from Ohio (Mr. BOEHNER) has 30 seconds remaining; and the gentleman from Ohio (Mr. PORTMAN) has 15 minutes remaining.

Mr. ANDREWS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy of yielding me this time.

I have been listening in disbelief to the testimony here before us today. I represent as many Enron survivors as probably almost anybody in the House, and I have heard people ask, Could we find some workers that would be willing to serve on the board? I will tell my colleagues, they are lining up in Portland, Oregon. They would love to serve. I have heard people who are concerned about the trial lawyers being involved. Well, the trial lawyers did not create the problem in Portland; but I will tell my colleagues, there are lots of Republicans lining up to hire them to try and salvage a little bit of their dream.

Today's Republican pension bill I think falls far short in an obviously flawed pension system. I support the substitute.

The chairman of the committee referenced the act that we passed last fall before we knew about some of these abuses dealing with conflicted investment advice. Well, I will tell my colleagues, it was wrong last fall; and if the Members on this floor knew of the abuses and the problems, I do not think it would have passed then.

It is critical that we provide true security for retirement savings, that we hold corporate executives accountable for their actions, that we give employees some mode of control over their own retirement dollars, that we give them a voice. God forbid that there be as many employee representatives as employer representatives. I am not afraid of that; and I will tell my colleagues, the people in Portland who have been brutalized by this system, I think they would find it to be a great, great proposal to put into effect.

I will tell my colleagues the pain that I have witnessed firsthand with people who have had to delay their retirement, who have had their family's dreams shattered; and being disillusioned as a result of this is impossible to be able to give voice to. But thankfully, some of these witnesses have come to Washington, D.C.

Mr. Speaker, I would just say that it happened in Portland, Oregon; and it can happen anywhere. That is why we need to support this substitute.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I think the gentleman addressed the concerns, and all I can say is the underlying bill does address them. If you are an Enron employee, you had to hold that stock until you were 50 years old. What this underlying bill says is, you cannot do that anymore. A company cannot require that the employee hold the company-matched, it goes into a 401(k), until the employee is age 50. In fact, you cannot do it for more than 3 years. There is an initial 5-year period where you can unload 20 percent per year so you do not disrupt the markets; and after that point, you cannot hold an employee with the corporate stock for more than 3 years. The handcuffs are off. That is a big change.

Under current practice, you can hold somebody until they retire. You can hold them for 40 or 50 or 60 years. It also provides more education, and this is extremely important. I think there is a consensus on that among people in this area, on the outside and people here in Congress, that we have to provide people with better tools so that they can make better decisions once they have been given more flexibility and more choice. We have disagreed here on the floor as to what kinds of tools those should be; but I think we agree, for the most part, that we ought to be getting people more advice.

There are three ways this bill does that. First, it says that every time someone gets into a plan, they have to be given a notice saying you must look at your portfolio and you should diversify; in retirement, you should not have all of your eggs in one basket. It also says that on a quarterly basis, you get a report as to what is going on in your plan. That is not currently required. None of these are. It also says, under commonly accepted investment practices, you should diversify, in plain English.

Second, it lets employees, on a pretax basis, pay for investment advice. That is not currently available. It could be like a cafeteria plan or like an eye glass plan or a health plan or a pension plan. It lets employees have a tax preference to go out and get investment advise on their own. They can choose whoever they want. That is expensive. That is one reason why people do not seek it. That is what the surveys show. So we are trying to help people.

Finally is the investment advice piece that passed this House last November with 64 Democrats supporting it, and that piece says the company should be able to bring in people who are certified, qualified, who disclose any potential conflict of interest, who have a fiduciary responsibility to only do what is good for the workers; otherwise, they face penalties, and those people offer advice. That is a pretty practical way to do it, because some companies will be willing to pay for that and offer it. We want to encourage that.

If we really believe education is a problem, and I think most of us do, we have to do something that is going to address it directly and that is really going to work in the real world. I think this substitute and the proposal there would not work nearly as well in the real world because I do not think employers would take advantage of it.

Finally, we provide a lot more information in this bill. We tell people when there is a blackout period. Right now there is no requirement for that. Thirty days before a blackout period, and now you have to have a notice. That is going to help people who are stuck in a situation like the Enron scandal.

So this is much more than Enron. It affects 55 million Americans who are in defined contribution plans, particularly those who are in a plan where you can get some corporate stock as a match, which is not the majority of plans, unfortunately, because we want these plans to be generous; but it will help millions of Americans, and it would have helped people who were stuck in the Enron situation. It would have helped them.

Someone said that there is not adequate protections in here or there is nothing in here relating to what is good for the goose is good for the gander or, as someone said earlier, the captains ought to abide by the same rules as the sailors. Well, there is. First of all, if you are a captain or if you are a goose, and you have something of a 401(k) plan, you have some assets in a 401(k) plan, you are treated like everybody else. You are subject to the same blackout notice, the same blackout period where you cannot trade.

The question is, what if you have stock outside of the 401(k)? Should you have an additional requirement for those employees of a company, senior executives or not, who have stock outside; and we say, yes, you should. If half or more of the people in a company are affected, as was the case of Enron, then you cannot trade during a blackout period, even though your stock has nothing to do with a 401(k) plan. That is a big change from current law. I think that needs to be clear.

We are doing things that change structurally the way we deal with pensions in this country. Not every business is happy about this, but we have tried to achieve a balance. Because at the same time that we are providing more protections for the workers, information, education, disclosure, accountability, all equaling more retirement security, we are also very sensitive to this balance. Remember, there are 42 million Americans in 401(k)s, 55 million Americans in other kinds of plans. When we add them all up, there is $2.5 trillion of assets in these plans. We do not want to do harm to these plans. More important, there are 70 million Americans, half the workforce, who have no plan at all. They do not have anything.

□ 1500

They do not have a 401(k). They do not have a SIMPLE plan, a SEP, or any retirement savings through their employer.

The whole goal of this Congress over the last 5 years has been to expand pensions to those people. Where do they work? In small business, that is where the great bulk of them are; in small businesses, businesses that do not have a lawyer, they do not have an accountant, they do not have somebody to go through this maze, with the burdens, the costs and burdens and liabilities of pension plans. That is the real world.

That is why, on a bipartisan basis, this House has acted, with over 400 votes on this floor, to pass legislation to expand pensions to these smaller employers by cutting down on the costs and burdens and liabilities.

The alternative we are looking at here, the substitute we are debating right now, increases costs, burdens, and liabilities. In fact, it makes people personally liable for decisions that they have no control over with regard to pensions.

Now, if one is a small business person and is trying to decide how to get into this business of offering pensions, and is worried about the costs, burdens, and liabilities, and now you discover you could have a criminal liability, a personal liability, more costs, more burdens, what are you going to do?

Mr. Speaker, it is a voluntary system. We need to provide incentives. All the surveys show that. They all show the same things: Small businesses are going to get into providing pensions and the pension coverage we want them to provide only if it is easier, less expensive, less burdensome, and has less liability. That is the direction we ought to be going.

So we do have a balance here. We do provide the employees more rights and protections, and we think that is appropriate, but we do not go so far as to discourage those people who are already offering plans, and again, more importantly, to discourage those that might be interested in getting into the pension business now that we are offering higher contribution levels, more protections, lower costs and burdens and liabilities.

We cannot go the wrong way here. We cannot go too far. My concern is that the substitute does go too far.

Remember, in 1983 there were 175,000 defined benefit plans in this country. Those are the good, guaranteed plans. There were 175,000 of them; today there are 50,000. This Congress has, over time, added costs and burdens and liabilities to those plans to the point that most employers throw up their hands and say, I am not going to offer them anymore.

We did things last year in this Congress to encourage defined benefit plans. We increased the limits, made it easier to offer them. But we do not want defined contribution plans, the 401(k)s, to go the way of the defined benefit plans, do we? Do we not want more pension coverage? In a voluntary system, we ought to do everything we can to encourage them.

There are a couple of provisions that I see in the substitute that I am concerned with. Why should internal dispute resolutions be prohibited? Employers and employees alike like that, public and private sector alike. Why increase litigation costs? Why increase litigation? I do not get that. Why would we want to vote for a substitute that has increased litigation, increased costs?

Second, there is an amendment in here, well-meaning, trying to close a loophole, by a colleague of mine in the Committee on Ways and Means, not vetted. It is a brand new amendment. It did not even come up in committee. The one that came up in committee was a different amendment. It has to do with those deferred comp plans that are not qualified plans. The Treasury Department has not even looked at it. We have not had a hearing on it.

I would urge my colleagues not to move forward with this amendment until we have a chance to look at it and see what effect it would have. We do not want to, by trying to protect workers, create additional problems that will lead to less retirement coverage.

So the underlying bill has important structural changes: more information, more education, more choice, more security, more accountability. The substitute, while well-meaning, goes too far and strikes the wrong balance. This Congress ought to be working to expand retirement security, not to decrease it.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a valued member of the Committee who has valuable experience as a human rights executive.

Ms. WOOLSEY. Mr. Speaker, I am a member of the Committee on Education and the Workforce, and I can tell the Members that this Republican Pension Security Act of 2002 will not make retirement secure for the majority of employees. Instead, it allows a two-tiered retirement system that gives top executives, the captains, special benefits and protections while leaving their employees, the crew, to fend for themselves if the company has troubled times. That is plain wrong.

Our President has agreed: What is good for the captain is good for the sailor; or what is good for the captain is good for the crew.

I introduced an amendment during the committee that would ensure that all of the crew have the pension parity, exactly the same as their captains. Every Democrat on the committee voted for my amendment for parity. Every Republican opposed it.

This Republican bill leaves employees that are seeing troubled times with their firms at the end of the line when it comes to collecting retirement benefits, while the captains, those like Kenneth Lay from Enron, do not even have to get in line. Their benefits are paid for up front in full.

The Miller substitute makes pension benefits for the rank and file, for the crew, as secure as for the executives, the captains. It is real pension reform, and we must support it.

Mr. PORTMAN. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. WELLER), my colleague on the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, I rise in opposition to the substitute, and, of course, I support the bill that is being managed and offered by the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) and the gentleman from Ohio (Mr. PORTMAN) today.

We have had a situation in our country that we are all concerned about. The situation has been illustrated by Global Crossing and by Enron, and we have heard those names in the debate today. Because of that, it reinforces a goal we have been working on in this House, and that is to work to provide safe and secure retirement opportunities for the men and women who work in America.

We have made a lot of progress in the legislation we have passed out of here. This legislation before us today, the base bill, the Pension Security Act of 2002, is a real solution towards concerns that have been raised by the so-called Enron and Global Crossing problem. In fact, the base bill provides worker security and pension security.

Let me express some concerns about the substitute that has been offered by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL). While I have great respect, I know they are well-intentioned, I do not believe they are trying to be partisan and political, but I believe what they are offering is pretty radical. It is an attempt to offer a so-called solution which is way overboard, and in the end would actually reduce retirement savings opportunities for workers, particularly because, while maybe not intended, this legislation would actually discourage small business from providing retirement savings. The increased liability and damages that would result would push employers out of providing retirement benefits. Again, that is anti-small business.

Also, I just do not understand why, in the substitute that has been offered, something that both Democrats and Republicans have both agreed upon, that workers and employers have agreed upon in the past, that the substitute actually bans and prohibits alternative dispute resolution when there is an argument over pension benefits or how they are being operated.

Why would anyone want to do that? The only ones who benefit by banning alternative dispute resolutions are lawyers. Why do we want to create more litigation, when I think everyone in our society agrees there is too much litigation today?

The bottom line is, the Pension Security Act of 2002 is good legislation. It is bipartisan. It is put together very thoughtfully over a period of time, recognizing there are challenges and we need to offer solutions.

Let us do the right thing, Mr. Speaker, and let us reject the substitute and support the Pension Security Act of 2002 with a bipartisan vote.

Mr. ANDREWS. Mr. Speaker, it is a pleasure to yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), our former majority whip and one of the leading voices in America for minority rights.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this Democratic substitute that is being offered by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL) and others.

What we are talking about here today are the real lives of working people. This is about valuing and respecting a person's labor. It is about honoring a commitment. It is about keeping trust.

It is not just about Enron employees. In my home State of Michigan earlier this year, the auto supplier DCT laid off its last 400 employees with 30-minute notices, and then locked them out of their 401(k)s. The collapse of DCT hurt not only the DCT employees, but also the city workers in the city of Detroit, whose pension fund lost $32 million in DCT investment.

Our pension laws are too outdated to protect people. They are too weak to protect the K-Mart workers all across this country who now face uncertain futures. They are too weak to protect our R&R workers up in northern Michigan, in the Upper Peninsula, in the Mesabi Range, who are losing their benefits due to the flood of cheap steel into our country.

Pensions ought to be sacred. They ought to be a symbol of a trust between a company and a worker. By the way, I would say to my friend, the gentleman from Georgia (Mr. NORWOOD), we would not have pensions if it was not for unions, let us make no mistake about that, for workers.

Pensions are not handouts, they are something people earn. One of the worst things that could be done to a worker and their family is to take their pension away. People dream about their pension at their work site, in the factory, in the office, on construction. They think about getting to that point in their lives when they can enjoy their pension. And then to yank it from them, to take it, to pull it out from underneath them, to deceive them, to break that trust, to break that commitment, is the worst thing anyone can do.

This Democratic substitute is the right substitute. I urge my colleagues to support it.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague, the gentleman from Ohio, for yielding time to me.

I appreciate the words of my friend, the gentleman from Michigan, who preceded me in the well. Would that this substitute from the other side, would that it in fact concentrated on workers.

I do not dispute a thing that my friend, the gentleman from Michigan, said about the desirability of pension plans. Indeed, the bill we offer has an opportunity to expand pension plans on into small businesses, opportunities for businesses with as few as 25 employees.

The problem with the substitute is that instead of being pension protection, it is a trial lawyer's bonanza. The language in this substitute would authorize suits to recover unlimited damages alleging economic and non-economic losses, and welcome to the litigation bonanza.

Should pensions be protected? Absolutely. But if we want to help working people, we want to expand the pension pool. We want to set up new opportunities for small business to go into these pension plans to do the very things my friend, the gentleman from Michigan, talked about.

We do not want an economic bonanza, or, sadly, and I am sure it is not the intention of my friends, but one can almost see a situation where we would have an economic bonanza and the equivalent of whiplash, whiplash.

Look, we are talking about people's lives. It is precisely because of the dignity of work and the opportunity that retirement brings, and their hopes and dreams, that we do not want to see funds jeopardized by unlimited liability and damages that enrich only the trial lawyers' lobby and does nothing to help working people. That is the choice we have to make today.

Mr. Speaker, we have a bipartisan piece of legislation with many commonsense remedies that people on both sides of the aisle have championed. Do not sacrifice that for a substitute that enriches the trial lawyers' lobby. Reject the substitute and go with our bipartisan plan.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 2 minutes to our ranking member, the gentleman from California (Mr. GEORGE MILLER), the author of the substitute and a tenacious fighter for workers across America.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman who just preceded me in the well might be interested to know that this year, the man of the year of the American trial lawyers is going to be Ken Lay. He has developed more business than any single American in the history of the country.

A lot has been talked about about investment advice. We all agree that investors need to know more about planning for their security. But it is interesting that when Jane Bryant Quinn, the financial writer for Newsweek Magazine, looked at the investment advice bill in light of the Enron scandal, she yelled, "Help, I am scared for my 401(k)." Post-Enron, how could anyone even think of creating such a conflict of interest that is in the underlying bill? You might as well turn the system over to the ice skating judges, because that is the situation you have.

We have the very same people who are making millions, hundreds of millions of dollars in Commissions and fees as investment bankers providing retail advice to people who are trying to plan for their retirement, the average worker.

□ 1515

And they are being told on the level, this is a good investment. But, in fact, what we know is they are making that decision based upon the millions of dollars in fees, not the best interests of the investor. This is really about whether or not we are going to treat the corporate elite and the workers the same.

It is a radical notion in the Republican Party that workers would have some say in their own retirement; that workers would be warned when the corporate elite are bailing out of the corporate towers; when the corporate elite are selling their stock. A radical notion that the workers at Enron and other corporations would be told of that. But we should expected that; we saw that in committee.

The Wall Street Journal said it best: "The Republican-led panel rejected a dozen Democratic amendments which would have offered workers greater protections and improved stricter rules on employer-sponsored 401(k)s and other defined contribution plans." Yes, they had a chance to help out workers, to give them notice when the big shots are selling their stock; to give them a say in the control of retirement funds that belong to them, it is 100 percent of their assets; to make sure that they had the same rights as the corporate elite. But the Republicans have not seen fit to do that. You can support the Democratic substitute, and you can make sure that the workers after Enron have more protections than they had before.

Mr. PORTMAN. Mr. Speaker, I yield the balance of our time for purposes of control to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the gentleman from Ohio (Mr. BOEHNER) will control the remainder of the time and has 2¼ minutes remaining and will have the right to close. The gentleman from New Jersey (Mr. ANDREWS) has 2 minutes remaining.

Mr. ANDREWS. Mr. Speaker, I assume we have the right to close.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) has the right to close.

Mr. ANDREWS. Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), our dynamic leader, the highest woman elected in the history of the House of Representatives.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership and kind words.

Mr. Speaker, an extremely important matter is before the House today. Nothing short of pension security of America's working families is at risk. We all agree that this is a very, very complicated issue; and we also agree that we want to maintain confidence in our financial systems in the decisions we make today.

That is why it is so very regrettable that the Republicans have brought an irresponsible proposal to the floor. Every day it seems Republicans are dragging another Trojan horse on to the House floor, a horse that has some nice features but covers up the dangers within.

I tell my colleagues, beware of Republicans bearing gifts. A vote for their bill is a vote to weaken existing law by giving employees biased and conflicted advice without access to an independent alternative.

A vote for the Democratic substitute empowers workers; and it means giving them control of their investment, accurate investment advice, representation on pension boards to protect their interests, and notification when executives are dumping company stock. It also means holding plans accountable through tougher criminal penalties for misconduct and the ability of employees to collect damages when they are misled. The Republican bill fails on all of these counts.

A comparison of these two bills makes it very clear that President Bush was right when he said, What is good for the captain is good for the crew.

Let us follow that advice of President Bush and give employees control of investments of their nest egg and a voice on their pension boards; give employees the opportunity to be notified when executives dump company stock; give employees the right to be protected from conflicts of interest when receiving investment advice. And on that score, the Republican proposal not only fails, it is regressive. It is regressive. It makes matters worse for American workers and their pension funds. It gives employee and executive plans exactly the same treatment, employees and executives exactly the same treatment. And it gives tougher penalties for company misconduct.

The Republican bill, on the other hand, gives no control, no voice for employees over their own nest egg. It allows for conflicts of interest in investment advice of employees, a very important point because this is where it makes matters worse. No notification to employees when executives dump company stock. We know how many were victimized by that. It gives preferential treatment for executive pension funds. We want success to be awarded both at the executive and the employee level. Why cannot Republicans recognize that? There are no new penalties for pension plan abuse.

The contrast is stark. The decision is important. We have a responsibility on this day to restore confidence in pension plans and investments of workers and executives. We have a responsibility today to maintain confidence in our financial systems.

Vote "yes" on the Democratic substitute to do just that. Vote "no" on the Republican proposal, a bill that makes matters worse for workers investing in their retirement pensions.

I urge my colleagues to do just that.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have talked a lot today about diversification, blackout periods, fiduciary duty; but at the end of the day what this bill really is about is real people and their own financial security.

Current pension law is simply outdated, and we have the responsibility to change that. We have the responsibility to ensure that America's retirement futures are not jeopardized by laws that are out of step with our current times. If this bill had been law, it would have made a real difference for Enron's employees.

Under this bill they would have had access to professional investment advice, people who could have warned them that they had too many eggs in one basket. They would have been better informed about upcoming blackout periods, and they would have had more freedom to diversify their portfolios.

The retirement future of our Nation's workers is too important for political gamesmanship. In the wake of the Enron collapse, the American people are counting on us to make practical and necessary changes to our pension system that basically is healthy, and that, on the balance, works very well.

But my colleagues on the other side of the aisle are being encouraged by the political leaders of their party to support an alternative to this bill that would do far more harm than good. Instead of supporting bipartisan protections that would shield millions of American workers, the partisan opponents of this bill are putting their own political interests ahead of those of ordinary Americans. The House Democrat leadership alternative is really no alternative at all. It would enrich trial lawyers. It would hurt small businesses, impose costly new mandates, and even endanger 401(k)-type plans. Most importantly of all, it would continue to deny workers from getting access to the professional investment advice that is crucial for them to maximize their own retirement security. In short, the opponents of this bill would take us in exactly the wrong direction.

The underlying bill, the Pension Security Act, which has been embraced by Republicans and Democrats alike, would change what is wrong with current pension law without, and I say without, breaking what does not need to be fixed. I urge my colleagues to vote against the substitute and for the underlying bill.

Mr. UDALL of Colorado. Mr. Speaker, this bill is not all that it should be. It is not even the bill that we should be passing today.

We should be passing the substitute offered by the gentleman from California, Mr. GEORGE MILLER, and the gentleman from New York, Mr. RANGEL. That was why I voted for that substitute and why I am very disappointed that it was not adopted.

But now we are left with the choice of voting for this bill or voting for no legislation at all. And I think there definitely is an urgent need for legislation to address the serious problems made so evidently by recent events, including the collapse of the Enron Corporation.

For that reason—and solely for that reason—I will vote for the bill. I do not think that it would be responsible to say that it would be better to do nothing.

In voting for the bill, I am under no illusions about its flaws. In particular, I very much disapprove of the changes the bill would make in current law related to investment advice provided to employees. Those provisions are similar to those in H.R. 2269, which the House passed last year. I voted against that bill, and if this bill did not include anything more, I would vote against it as well.

However, while the rest of the bill falls short of what I would prefer, it does make some improvements in current law. Further, passage of the bill will set the stage for the Senate to make further improvements—including correction or deletion of the investment-advice provision. I am voting for the bill today so that can take place, as I expect it will.

Mr. POMEROY. Mr. Speaker, I rise in opposition to the Miller substitute and in support of the underlying bill. Earlier in this debate, I indicated my support for the Miller amendment. In many respects, it does improve on the underlying bill. After further reviewing the substitute, however, I have found legal liability provisions that I believe will seriously discourage employers from offering retirement plans, to detriment of workers.

Setting aside the Enron fiasco, employer-sponsored retirement plans are a great success story of the American workplace. Such plans help employees accrue the assets they will need to live comfortably in retirement. Unfortunately, only half of American workers have access to employer-sponsored plans.

Therefore, as we seek to address the problems revealed by the collapse of Enron, we must both increase worker protection and encourage employers to expand pension coverage. We should protect workers by allowing them to diversify their retirement portfolio rather than keeping them locked into company stock. We should provide workers with adequate notification of impending black-out periods so that they may make changes in their portfolios before the temporary freeze occurs. Both the substitute and the underlying bill include these worker protections.

We should encourage the expansion of pension coverage by providing the type of rational, regulatory relief that is found in the underlying bill. What we should not do is increase employers' exposure to litigation arising from their retirement plan. Regrettably, the substitute does so in significant fashion. Rather than limiting liability to the fiduciary, who exercises control over the assets in the plan, the substitute expands liability to other parties who have no such control or responsibility. In addition, it greatly expands damage awards beyond simple losses to the plan. This increase in legal exposure would at least retard the growth of employer-sponsored plans and could even result in the contraction of retirement plans.

For these reasons, I must oppose the Miller substitute.

Mr. PASTOR. Mr. Speaker, I rise today in opposition to the Pension Protection Act as it is being presented to the House of Representatives and in favor of the alternative plan being offered by Congressman RANGEL and Congressman MILLER.

As we all know, the collapse and bankruptcy of the Enron Corporation left thousands of people without their retirement funds and wondering how they might make ends meet when they are no longer working. While the high ranking officials of the company were able to dump their stock in the last few days of the company's existence, the middle level and lower level workers, the people who had no idea of the financial disaster that lurked on the horizon, were locked out of selling their company stock and ended up losing most of if not all of their hard earned retirement funds.

Accordingly, it is incumbent on us in Congress to address this issue and to take the necessary steps, no matter how difficult they may be, to ensure that this never happens again. I strongly support efforts to do so.

However, Mr. Speaker, the bill we are voting on today does nothing to keep another "Enron" debacle from occurring today, or next month, or in years to come. The basic reforms that are needed are simply not there. True, this bill takes marginal actions, but these merely address the symptoms and not the core of the problems.

This bill would allow a dangerous situation to develop by allowing the investment firm that manages a company's pension plan to advise the employees on investment decisions that they should make. This is a fundamental conflict of interest and the classic example of the fox guarding the hen house.

The so-called Pension Protection Act also denies employees a voice on their own Pension Board. It is clear in the Enron scandal that the Enron Pension Trustees failed to take any actions at all to protect the savings of Enron employees. I believe it is critical that the Pension Board include some rank and file employees who have the interests of other employees at heart.

Also, Mr. Speaker, the bill we are considering today leaves employees locked into company stock for long periods of time, whether it is in their best interest to be there or not. And, just like the case in the Enron situation, this bill does nothing to let employees know when executives are "dumping" company stock.

But, I say to the employees of America, there is an alternative to this misguided legislation. Mr. RANGEL and Mr. MILLER are offering a substitute that addresses all these concerns and will take significant steps to ensure that your pension plans are safe and viable for your days of retirement.

The substitute requires that retirement plan participants be notified within three days when any significant sales of company stock by company executives occurs. Hopefully, the employees will then be able to make their own judgments as to the necessity to sell their own stock.

The substitute also will no longer allow company executives to dump their stock while the employees are in a blackout period. In my mind, this was one of the most horrific examples of executive greed in the entire Enron scandal, and we must do whatever is necessary to ensure that this never occurs again.

The substitute also provides for independent financial advice for employees when company stock is offered as an investment option. And, it gives employees a voice on their Pension Board.

Mr. Speaker, I hear over and over again in this House the desire to allow individuals to have more control of their money, whether it be through massive tax cuts, or the creation of individual Social Security accounts, or other innumerable examples. Yet, this bill does not give employees any control over their money. It keeps control of their pensions in the hands of their employers.

This is the perfect vehicle to finally give the people more control of their hard earned money. Let's take the responsible step and pass the Rangel-Miller Substitute and make sure that employees' retirement accounts are protected.

Ms. KILPATRICK. Mr. Speaker, so the pattern continues. In October 2001, we provided $15 million to the airline industry following the September 11th attack but the Republican leadership did nothing to assist the rank-and-file workers who were laid off. In November 2001, the Republican leadership bailed out the insurance industry at $30 plus million, but did nothing for the rank-and-file workers. In February 2002, the Republican leadership secured big business with several tax breaks, but again, no real assistance for the rank-and-file worker.

Mr. Speaker, this pattern begs the question, "who are we here to represent?" According to the actions of the leadership, it would seem that we are to represent big business only.

What about the rank-and-file workers who make up more than half of our country? Do they not deserve protection and security by the United States of America?

Today, we are attempting to pass a bill that purports to protect workers from future Enron debacles. Thousands of workers at Enron were left distraught and with little to no retirement savings. Executives, who knew of the situation, secured their assets. These employees lost well over $1 billion of their retirement savings because corporate management kept their employees in the dark about the actual net worth of Enron and the safety of the 401(k) plans.

The leadership claims to fix that situation with H.R. 3762. This bill proposes a 30-day notice prior to "blackout" periods for rank-and-file employees. This, supposedly, will allow employees to alter their 401(k) plans before the blackout. Executives, however, will have the option to adjust their 401(k) plans at anytime, even during the blackout. The bill also permits executives to move thousands of dollars from their stock plans without rank-and-file employees being notified of the drastic change. Additionally, executives would be the only individuals on the Pension Board deliberating the pension plans for the entire company. Amendments to include workers on the Board have been struck down.

This bill supports what occurred at Enron. We need a bill that works for the rank-and-file, not just for the corporate executive. We need extensive disclosure of pension information for the rank-and-file. We need independent, unbiased and accurate financial advice. We need rank-and-file representation on the Pension Boards so their voices will be heard. We need a level playing field during blackouts. If rank-and-file employees cannot touch their 401(k) plans, executives should be prohibited too. All of these suggestions are addressed in the Democratic substitute but not in the bill.

Mr. Speaker, it is due time that the leadership acknowledge the pension rights of workers and seek to secure them. For that reason, I will vote "no" on H.R. 3762. This is another attempt to protect the wealthy, with little concern for the worker. We can do much better, Mr. Speaker, and I await that day.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the previous question is ordered on the bill, as amended, and on the amendment by the gentleman from California (Mr. GEORGE MILLER).

The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ANDREWS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 232, not voting 15, as follows:

[Roll No. 90]

YEAS—187

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—232

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Allen
Burton
Buyer
Callahan
Cooksey
Diaz-Balart
Ford
Jones (NC)
Meehan
Pitts
Pryce (OH)
Roukema
Ryan (WI)
Sessions
Traficant

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Messrs. SKEEN, SMITH of Texas, EHLERS, HYDE, and TIBERI changed their vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. MILLENDER-MCDONALD. Mr. Speaker, I mistakenly voted "no" on rollcall 90, the Miller substitute. My intention was to vote "yes."

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEORGE MILLER of California. Mr. Speaker, yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEORGE MILLER of California moves to recommit the bill H.R. 3762 to the Committee on Education and the Workforce with instructions to report the same back to the House promptly with the following amendment:

Add at the end thereof the following new section:

SEC. 501. TREATMENT OF CERTAIN FUNDED DEFERRED COMPENSATION PLANS FOR CORPORATE INSIDERS AS PENSION PLANS COVERED UNDER ERISA.

(a) INCLUSION IN DEFINITION OF PENSION PLAN.—Section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) is amended by adding at the end the following new subparagraph:

"(C)(i) The terms 'employee pension benefit plan' and 'pension plan' shall also include any arrangement providing for the deferral of compensation of a corporate insider of a corporation that is not otherwise a pension plan within the meaning of subparagraph (A), unless—

"(I) all amounts of compensation deferred under the arrangement,

"(II) all property and rights purchased with such amounts, and

"(III) all income attributable to such amounts, property, or rights,

remain (until made available to the corporate insider or other beneficiary under the arrangement) solely the property and rights of the employer (without being restricted to the provision of benefits under the arrangement), subject only to the claims of the employer's general creditors.

"(ii) For purposes of clause (i), the term 'corporate insider' means, in connection with a corporation, any individual who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation.

"(iii) In the case of any arrangement that is a pension plan under clause (i)—

"(I) the corporation shall be treated as an employer (within the meaning of paragraph (5)) of the corporate insider,

"(II) the corporate insider shall be treated as an employee (within the meaning of paragraph (6)) of the corporation, and

"(III) the arrangement shall not be treated as an unfunded arrangement.".

(b) COMPLIANCE WITH CERTAIN PARTICIPATION STANDARDS.—Section 202 of such Act (29 U.S.C. 1052) is amended by adding at the end the following new subsection:

"(c) An arrangement that is a pension plan under section 3(2)(C)(i) shall comply with the requirements of section 410 of the Internal Revenue Code of 1986 necessary for a trust forming a part of such plan to constitute a qualified trust under section 401(a) of such Code.".

Mr. GEORGE MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes in support of his motion to recommit.

Mr. GEORGE MILLER of California. Mr. Speaker, one of the things we learn from the Enron tragedy and one of the things that we have learned from Global Crossing and so many other companies that have started to fail or turned on bad times is that the corporate elite, the CEO and others, have 401(k) plans that are absolutely protected. Their ability to collect on their pension plans has nothing to do with the financial health of the company, how well the company does or how poorly the company does. Yet we see the employees with their 401(k) plans: they are absolutely tied to how the company does. And in many instances, they are locked into the stock of the company.

What we are seeing here is what the President said when he went to North Carolina, if it is good for the captain, it is good for the crew. We cannot have the executives ensuring their pension plans so that they walk off with millions and tens of millions of dollars, lifetime pensions, and the employees have got to go to bankruptcy court and hope that there is something left over for them. If we insure one, we insure others. If preference is given to one, preference is given to the other.

Mr. Speaker, it is a very important principle. The theory of executive compensation is that we are rewarding an executive, one, for how well their company does. Yet we see time and again executive compensation has nothing to do with the performance of the company. Their pension plans are guaranteed; and yet the employee must be more productive, must do all that they can to make that company perform so that their stock is worth what it should be in their retirement plans.

We think that they ought to be treated alike, and this is an opportunity to vote to make sure that there is parity among the elite executives of a corporation with respect to pension plans, and among the employees, that they not get left out.

It is terribly important that as the executives walk off stage with tens of millions of dollars, that the employees not be left holding the bag; and that is the purpose of this amendment.

Mr. Speaker, I yield to the gentleman from California (Mr. MATSUI), who offered this in the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I have to say what happened with the Enron situation was not unique because this is going to happen more and more. Essentially what has happened is CEOs and top management people in many corporations have set up a plan that basically violates the principles of our pension laws.

Ken Lay, for example, was able to get deferred compensation, that is, he did not have to pay any taxes on his retirement program. Yet when Enron filed bankruptcy, he was able to collect about $2 million from that plan, whereas every other Enron employee lost valuable assets in their 401(k) plan. This would merely tighten that up and make it consistent where Members of both the House and the Senate, and certainly Democrats and Republicans would not want anyone to be able to defer taxes, and at the same time be able to get a fully funded program that is protected from bankruptcy.

Mr. Speaker, this has to be tightened up. This is closing a loophole. This is something that we cannot allow to happen as we see more and more of these Enron scandals occur.

Mr. GEORGE MILLER of California. Mr. Speaker, all of us in the Committee on Financial Services, the Committee on Energy and Commerce, and the Committee on Education and the Workforce have listened to these workers who have had their retirement plans destroyed, workers who are 55, 59, 62 years old; their plans are destroyed, and they are now dependent on their children. The life they thought they were going to lead, they are not going to be able to.

Yet Ken Lay, who looted this company and destroyed these people's retirement nest egg walks off stage with $475,000 a year in guaranteed income and a multimillion dollar house in Texas that is protected under bankruptcy law.

Somehow there has to be parity and fairness. This is our chance to repair what is lacking in the Republican bill and provide fairness and protection for the employee, the same as the CEO and the chief operating officers of this corporation get, to make sure that employees are not left holding the bag.

Mr. Speaker, I would urge an "aye" vote on the motion to recommit.

Mr. BOEHNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. BOEHNER. Mr. Speaker, this is a rather unusual motion to recommit. It does not change the bill and allow it to move on; it actually would send the bill back to the committee. After all of the work that we have done in two committees, and all of the work we have done here, the last think we want to do is send this bill off to a black hole.

But more importantly, what the gentleman from California (Mr. GEORGE MILLER) is suggesting is that we try to change IRS code and bankruptcy code through ERISA, trying to get at the top end of employees who have deferred compensation plans.

All of us know that deferred compensation plans are not tax-qualified pension plans. They are payment plans for high-level executives. I could not agree more with the gentleman from California (Mr. MATSUI) that what Ken Lay and other executives at Enron did was absolutely wrong. But to try to change bankruptcy protections through ERISA is not going to change the employees who we are attempting to help in the underlying bill.

Mr. Speaker, I would ask my colleagues, considering the time, that we do not want to send this bill off to oblivion. We want to move this process on. This is not a very good idea and will not help the employees that we are attempting to help. I urge my colleagues to vote "no."

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 204, noes 212, not voting 19, as follows:

[Roll No. 91]

AYES—204

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—212

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Putnam
Quinn
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—19

Allen
Burton
Buyer
Callahan
Cooksey
Diaz-Balart
Ford
Hoyer
Meehan
Meek (FL)
Pryce (OH)
Radanovich
Riley
Roukema
Ryan (WI)
Sessions
Tiahrt
Traficant
Young (FL)

□ 1616

Mr. LUCAS of Kentucky changed his vote from "aye" to "no."

Ms. JACKSON-LEE of Texas changed her vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. TIAHRT. Mr. Speaker on rollcall No. 91, I was unavoidably detained. Had I been present, I would have voted "no."

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 255, noes 163, not voting 17, as follows:

[Roll No. 92]

AYES—255

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)

Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—163

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Berkley
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Gutknecht
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—17

Allen
Burton
Buyer
Callahan
Cooksey
Diaz-Balart
Ford
Horn
Meehan
Meek (FL)
Paul
Pryce (OH)
Riley
Roukema
Ryan (WI)
Sessions
Traficant

☐ 1625

Mr. STRICKLAND changed his vote from "aye" to "no."

Mr. LUTHER changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, during rollcall votes Nos. 90, 91, and 92, I was unavailable due to an illness in my family. Had I been here I would have voted "no" on rollcall votes Nos. 90 and 91 and "yea" on rollcall vote No. 92.

LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I take this time for the purpose of inquiring about the schedule for next week.

I am pleased to yield to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentlewoman for yielding.

I am pleased to announce that the House has now completed its legislative business for the week. The House will next meet for legislative business on Tuesday, April 16, at 12:30 p.m. for morning hour, and 2 o'clock p.m. for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. On Tuesday, recorded votes will be postponed until 6:30 p.m.

For Wednesday and Thursday, the majority leader has scheduled H.R. 476, the Child Custody Protection Act. The majority leader is also working with the chairman of the Committee on Ways and Means to bring legislation to the floor next week to repeal the sunsets on the Bush tax relief plan that was passed by Congress last year.

Ms. PELOSI. Mr. Speaker, reclaiming my time, I thank the gentleman for the information. I would just like to inquire if the gentleman knows which day the tax bill will be scheduled?

Mr. PORTMAN. If the gentlewoman will yield further, it looks as though the tax bill will be scheduled for Thursday, and the child custody bill will likely be scheduled for Wednesday.

Ms. PELOSI. Will the legislation on pensions from the Committee on Financial Services come to the floor next week?

Mr. PORTMAN. It is my understanding that the Committee on Financial Services marked that legislation up today. It is being looked at now. It is unlikely to come up next week. More likely it would come up in later weeks. But we are still looking at the legislation.

Ms. PELOSI. Is there any other legislation that is expected to come to the floor, apart from the two bills that the gentleman mentioned?

Mr. PORTMAN. There is no other legislation, other than the suspensions on Tuesday, that is anticipated at this time.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for the information.

ADJOURNMENT TO MONDAY, APRIL 15, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 16, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 15, 2002, it adjourn to meet at 12:30 p.m. on Tuesday, April 16, 2002, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3598

Mr. WELDON of Pennsylvania. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3598.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMITTING OFFICIAL PHOTOGRAPHS OF HOUSE WHILE IN SESSION

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 378) permitting official photographs of the House of Representatives to be taken while the House is in actual session, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 378

Resolved, That at a time designated by the Speaker of the House of Representatives, official photographs of the House may be taken while the House is in actual session. Payment for the costs associated with taking, preparing, and distributing such photographs may be made from the applicable accounts of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING UNIVERSITY OF MARYLAND FOR WINNING 2002 NCAA MEN'S BASKETBALL CHAMPIONSHIP

Mr. McKEON. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the resolution (H. Res. 383) congratulating the University of Maryland for winning the 2002 National Collegiate Athletic Association men's basketball championship, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HOYER. Mr. Speaker, reserving the right to object, of course I not only will not object, but will enthusiastically support this resolution.

But I rise, as everyone I am sure in the Chamber can understand, with great pride in 12 young men and Coach Gary Williams, who had an extraordinary season; who won the national championship for the first time in the school's history; who won the Atlantic Coast Conference championship for the first time in 22 years; who beat teams who had won 15 national championships in Kentucky, in Indiana and in Kansas; who overcame personal adversity as well as they played throughout the season; who went 15 and 0 at home, one of the first times that any team has done that in Maryland's history, and in doing so, crowned an extraordinary history for Cole Field House, which is now going to be closed, at least for the basketball team, who will play in a new arena next year.

All in all, it was an extraordinary season for extraordinary young men and for an extraordinary coach. Gary Williams has coached for 30 years now, 24 years as a head coach. He has a winning record of great proportions and is clearly recognized as one of the great coaches of basketball in America.

□ 1630

At this time, if I might, Mr. Speaker, under my reservation, I yield to the distinguished gentleman from Maryland (Mr. WYNN). I might say that the gentleman and I have the privilege of representing Prince George's County in which the University of Maryland at College Park is located.

Mr. WYNN. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER), the distinguished leader of our delegation, for yielding me this time; and I thank the University of Maryland. I would say that I certainly want to join with him in this resolution commending the University of Maryland Terrapins basketball team. There is a new motto in our State. It says, the University of Maryland: whether they played football in January and basketball in April. We have indeed had a very fine year, both in football and now in basketball, and we are certainly proud to honor our outstanding Terrapins basketball team and their outstanding coach, Gary Williams.

I would just like to offer a word of congratulations to the also very fine University of Indiana team that put up a good fight in the championship game; but as they say, the Terrapins prevailed. Many fans say, fear the Terrapin. I would say, love the Terrapin. We have had a great season with the great support from our fans, the entire university and the entire State promoting the Terrapins, and it has been a truly wonderful and outstanding experience.

I would also note the outstanding story of our star player, Juan Dixon, who represents an outstanding example of triumph over adversity. He has emerged as not only an outstanding basketball player, but also an outstanding individual and role model for an individual who started off in less than ideal circumstances and, through force of will, perseverance and commitment rose to heights of accomplishments. I again hail the University of Maryland Terrapins.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Continuing under my reservation, I yield to the distinguished gentleman from California (Mr. McKEON), and thank him for providing for such a rapid consideration of this resolution.

Mr. McKEON. Mr. Speaker, I thank the gentleman for yielding. From the other side of the country I also, Mr. Speaker, would like to rise in support of House Resolution 383. This resolution congratulates the University of Maryland Terrapins for winning the 2002 NCAA Basketball Championship.

As my colleagues know, the Terrapins finished the 2002 season with 32 wins. This is quite an accomplishment and one that we should recognize. I would also like to congratulate Coach Gary Williams, who led the team during this victorious season. Many good things have been said about him, and I would like to recognize and associate myself with those words.

I would also like to thank our colleague, the gentleman from Maryland (Mr. HOYER), for introducing this resolution, and our colleague, the gentleman from Maryland (Mr. GILCHREST), for bringing this resolution to my attention. I would ask all of my colleagues for their support.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments and for his leadership in facilitating, as I said, this resolution coming to the floor.

Mr. Speaker, I yield to the very distinguished gentleman from Baltimore City, Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for yielding, and I also thank the gentleman for the resolution. It is certainly a pleasure to congratulate the Maryland Terrapins on winning the NCAA tournament. As a graduate of the University of Maryland, it makes me feel real good.

I think the thing that impressed me so much about this team was not just what they did on the court, but it was their demeanor off the court. They were never bragging; they showed a lot of humility and a determination that I have not seen from many teams. Just talking to the people in my neighborhood, many of them are admirers of the team; but, in particular, many of them knew Juan Dixon personally. I think it inspired a lot of them to be the best that they can be, even under adverse circumstances. So often when we look at a team, we look at the win and loss column. But that is not all that goes into it. Particularly with this University of Maryland team, with Juan, whose both parents died as a result of AIDS and drug use, and to emerge to where he has gotten to today says a whole lot, and has given a lot of hope to a lot of people. So not only is it a great team on the court, but a great team off the court too.

To Gary Williams, I worry about him quite a bit on the sidelines. I will tell my colleagues, I worry whether he is going to have a heart attack over there. But the fact is he puts his soul into this team, and we are certainly very, very proud in the State of Maryland to have such a great team; and may God bless all of them, and may God bless the University of Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments and for his telling of the story of Juan Dixon. Frankly, all of the young men on that team have faced adversity at one time or another. All of us have. As a matter of fact, Coach Williams' dad died shortly before the final tournament, and they overcame that. They overcame it as a team, they overcame it as individuals, because as the gentleman from Maryland (Mr. CUMMINGS) said, they had a great deal of courage and a great deal of a sense of purpose, and what a joy it is.

Mr. Speaker, I yield to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, just briefly, my chief of staff, Kirk Fordham, graduated from the University of Maryland; and I watched with great excitement as his alma mater racked up those points and won kind of a come-from-behind team, a Cinderella team, if you will.

Florida has been lucky enough to produce many champions: University of Miami, Florida State and, of course, the University of Florida, and to watch a team that displayed such class and such enthusiasm and, even though all of the pundits pretty much ruled them out at the very beginning, to watch them emerge each time after a game up the ladder to the Final 4 and then, of course, to victory, I salute you.

I salute your team. I salute the parents, the coaches, all of those in the athletic department that support us. Because it does take a colossal effort to move the enthusiasm to the level where you reach a national championship.

So I salute the gentleman from Maryland (Mr. HOYER) on his phenomenal team and his phenomenal State. My brother-in-law, in fact, was born in Havre de Grace, so I take a little bit of pride to being at least a distant relative of Maryland and share with my colleagues their great victory.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments, and I would only add that when FSU joined the Atlantic Coast Conference in football we all took it roughly, because they are all so good; and as the gentleman knows, Maryland had one of its best years in football ever, finishing 10 and one in the regular season. And, of course, because FSU lost to Tennessee, it came down to the Orange Bowl and taught us how to play football, a very excellent team. Of course, we returned the favor by taking Steve Spurrier up to Washington, as the gentleman knows. But I thank the gentleman for his comments.

The resolution, in addition to congratulating the Terrapins, congratulates all 65 teams, as my colleagues know, for their participation. Because it is the quality of every program that really makes March Madness such an extraordinary athletic event, exciting the entire country and indeed, much of the world, that knows about basketball, so that this resolution congratulates all who participated.

Along that line, I mentioned the fact of the three teams that were extraordinarily able teams that we beat to get to the finals; but I did not mention UCONN, the University of Connecticut under Coach Calhoun, also an extraordinary team.

Mr. Speaker, frankly, if I took another half an hour or another hour, I could not, by virtue of words, exceed what the Maryland Terrapins have done by their actions; but there is somebody who would like to add some words, I see.

Mr. Speaker, it is my understanding we have more time on the clock, so I yield to the distinguished gentlewoman from Maryland (Mrs. MORELLA), of Montgomery County, which has a major campus of the University of Maryland in her district, and she is right beside the University of Maryland at College Park.

Mrs. MORELLA. Mr. Speaker, I appreciate the gentleman bringing up this resolution, which has a lot of symbolism attached to it.

First of all, of course, coming in at the last minute, one can never tell with the University of Maryland. They are going to do it, whether people expect they will or not. I am very proud of the University of Maryland and what they have been doing in so many areas, and this is one of those examples.

I rise to congratulate the University of Maryland Terrapins for winning the 2002 NCAA men's basketball championship. As we all knew, the key to the Terps' winning team was teamwork. The camaraderie among the players, the leadership of its seniors, and the guidance of Coach Gary Williams led to their success.

Incidentally, Gary Williams came from the American University to the University of Maryland.

Knowing that 2001-2002 marked the last season in Cole Field House, the Terps triumphed and won every game at home, beating all the ACC teams that walked on their court. I am particularly proud of the Montgomery County native, Lonnie Baxter, who hails from Silver Spring, Maryland. Lonnie was named the Most Valuable Player in NCAA regional play 2 years in a row, averaging almost 15 points and eight rebounds each game. Congratulations to Lonnie, and we wish you the best of luck as you pursue a career in the NBA.

Again, congratulations to the Terps and their victory. Everyone on the team has made the State of Maryland proud. I thank my colleagues on both sides of the aisle for allowing me to come in, to make this final statement and tribute.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her comments. She did mention something that really does bear focus, and that is the extraordinary academic achievements of the University of Maryland. In the final analysis, obviously, although the football team was extraordinarily successful and the basketball team, and indeed, the entire athletic program under our athletic director, Debbie Yow, one of two women who leads an NCAA-1 team in the athletic department in that division, has done an extraordinary job, but as well, Dan Mote, the president of the University of Maryland and his predecessors as president of the University of Maryland have brought it up academically so that it is one of the finest academic institutions in the country as well; and I think it reflects the balance between the mental and the physical that the Greeks, of course, and the Olympics tried to reflect. So I thank the gentlewoman for focusing on that point.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 383

Whereas on April 1, 2002, the University of Maryland Terrapins won the National Collegiate Athletic Association men's basketball championship;

Whereas the Maryland Terrapins compiled a school record for wins during the 2002 season with 32, their 4th straight season with 25 wins or more;

Whereas the Maryland Terrapins went undefeated at home in the last year of play at historic Cole Field House by achieving a record of 15-0;

Whereas the Maryland Terrapins won their 1st outright Atlantic Coast Conference regular season championship in over 22 years;

Whereas Maryland Terrapins qualified for their 9th consecutive NCAA tournament under Coach Gary Williams and obtained a number 1 seed in the East Region this year, and advanced to their 2nd consecutive Final Four;

Whereas in the NCAA championship game the Maryland Terrapins faced the Indiana University Hoosiers and came away victorious by a score of 64-52;

Whereas the Maryland Terrapins had to beat perennial basketball powerhouses Kentucky, Connecticut, and Kansas before earning the right to play in the championship game;

Whereas the NCAA men's basketball championship was the 1st in Maryland's school history;

Whereas the Maryland Terrapins are 1 of only 5 teams in history to have won national championships in both basketball and football;

Whereas University of Maryland senior Juan Dixon was named the Most Outstanding Player of the tournament, First Team All-American, and Atlantic Coast Conference Player of the Year;

Whereas University of Maryland senior Lonny Baxter was named the Most Valuable Player in regional play for the 2nd year in a row;

Whereas the entire Maryland Terrapin team, including Earl Badu, Lonny Baxter, Steve Blake, Andre Collins, Juan Dixon, Mike Grinnon, Tahj Holden, Calvin McCall, Byron Mouton, Drew Nicholas, Ryan Randle, and Chris Wilcox, demonstrated the highest level of teamwork, skill, tenacity, and sportsmanship throughout the entire 2001–2002 season;

Whereas Coach Gary Williams and his coaching staff of Dave Dickerson, Jimmy Pastos, Matt Kovarik, and Director of Basketball Operations Troy Wainwright have built one of the preeminent college basketball programs in the Nation, as demonstrated by this championship win and more than a decade of achievement;

Whereas Coach Gary Williams, a 1968 alumnus of the University of Maryland, led his alma mater to the 2002 National Championship and has compiled a tremendous track record of achievement and success in his more than 30 years in coaching, including 24 years as a head coach; and

Whereas University of Maryland Athletic Director Deborah Yow has played an instrumental role in elevating all of the University's intercollegiate athletic programs, including, the men's basketball team and the football team, which under the direction of Head Coach Ralph Friedgen compiled a 10–1 regular season record and earned an invitation to the 2002 Orange Bowl: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates—

(A) the University of Maryland Terrapins for winning the 2002 National Collegiate Athletic Association Basketball Championship on April 1, 2002;

(B) all of the 65 outstanding teams who participated in the 2002 tournament; and

(C) the National Collegiate Athletic Association for its continuing excellence in providing a supportive arena for the Nation's college athletes to display their talents and sportsmanship;

(2) commends the Maryland Terrapins for their outstanding performance during the entire 2002 season and for their commitment to high standards of character, perseverance, and teamwork;

(3) recognizes the achievements of the players, coaches, and support staff who were instrumental in helping the Maryland Terrapins win the 2002 championship; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) Dr. C.D. "Dan" Mote, the President of the University of Maryland;

(B) Deborah Yow, the Athletic Director at the University of Maryland; and

(C) Gary Williams, the head coach of the University of Maryland Terrapins men's basketball team.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 383.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RESIGNATION AS MEMBER OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Permanent Select Committee on Intelligence:

APRIL 10, 2002.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective at 5 pm tomorrow, April 11, 2002, I hereby resign my seat as a Member of the House Permanent Select Committee on Intelligence.

As always, I appreciate your support and friendship.

Warmly,

ALCEE, L. HASTINGS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Without objection, and pursuant to clause 11 of rule X and clause 11 of rule I, the Chair announces the Speaker's appointment of the following Member of the House to the Permanent Select Committee on Intelligence to fill the existing vacancy thereon:

Mr. CRAMER of Alabama.

There was no objection.

PENSION PROTECTION ACT

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GUTKNECHT. Mr. Speaker, later today the House will take up a bill called the Pension Protection Act of 2002; and as far as it is concerned, it is a pretty good bill. There is nothing really wrong with it. The problem is it is not strong enough. Most Americans do not know that right now employers have the right to change their pension plan at any moment, even vested employees. And, Mr. Speaker, when we look up in the dictionary the term "vested," it says "settled, fixed or absolute, being without contingency, as in a vested right."

The problem is that employers now have the right to change their pension plan in mid-course. Mr. Speaker, right now there are over 48 million American workers who are over the age of 45. Forty percent of all workers are engaged in what we call "defined benefit plans." Those can be changed and have tremendous cost to those employees.

Mr. Speaker, I have an amendment I would like to offer to that bill to make it clear that employers cannot raid the pension funds for their own benefit and deny people the benefits that they are vested in.

Mr. Speaker, this may be a good bill; but it really is not pension protection. I hope the Committee on Rules will make in order the amendment that I am offering today, and I hope my colleagues will join in supporting it.

Several years ago, thousands of IBM workers in my district came into work one morning to find that the defined pension plan they had been promised had been changed without warning. For years these employees had been able to calculate their future benefits with a pension calculator located on their computer, compliments of IBM. When the plan changed, the calculator disappeared. So did the employees' promised benefits.

Right now, companies can, at any time and for any reason, change a vested employee's pension plan—this is wrong.

Most often this change involves a company converting a traditional, defined benefit plan to a cash-balance plan, which usually results in anywhere from a 20–50% reduction in final benefits.

These conversions disproportionately burden older, career-oriented employees.

Bureau of Labor Statistics indicate there are more than 48 million workers over the age of 45.

More than 40 million workers or their spouses participate or receive benefits from defined benefit plans.

This amendment would:

(1) Provide 90 days notice of any pension plan conversion to all workers.

(2) Give fully vested employees the choice of staying in their current plan or switching to the new, amended plan.

This amendment exempts companies in financial distress from penalties (distress is to be determined by the Secretary of the Treasury, following guidelines set out in ERISA).

This amendment will have no adverse effect on profitable companies that simply keep their promises to their employees.

WHAT DO YOUR CONSTITUENTS THINK "VESTED" MEANS?

DEAR COLLEAGUE: In my dictionary, "vested" is defined as follows:

vested, *adj.* 1. Settle, fixed, or absolute; being without contingency: *a vested right.*

Despite this definition, being "vested" in a pension plan does not mean what most employees think it means. Did you know that companies can, at any time and for any reason, change a vested employee's pension plan? Most often, this change in plans involves a company changing from a traditional, defined benefit pension plan to a "cash balance" pension plan. This usually results in anywhere from a 20–50% reduction in final pension benefits, with long "wear-away" periods during which employees do not accrue any new benefits.

Bureau of Labor statistics indicate there are more than 48 million American workers over the age of 45. The latest Bureau of Labor statistics also show that more than 40 million workers or their spouses participate or receive benefits from defined benefit plans! Many of these 40 million workers fall into the over-45 category. Pension plan conversions disproportionately burden these older, career-oriented employees—those employees who need the most protection.

This is wrong! When companies change their retirement plans in a way that may reduce employee benefits, vested employees should be allowed to stay in the original pension plan that they were promised. Next week, I will introduce the Vested Worker Protection Act of 2002, and I'm looking for original cosponsors. This bill will require healthy companies to:

(1) provide 90 days notice of any pension plan change to all workers; and

(2) give fully vested employees the choice of staying in their current plan or switching to the new, amended plan.

This bill exempts companies in financial distress from penalties, while otherwise healthy companies will be subject to an excise tax should they violate the provisions of this bill.

This bill will have no adverse effect on profitable companies that simply keep their promises to their employees. Support employees in your district by signing on as an original co-sponsor of the Vested Worker Protection Act of 2002. To co-sponsor, please call James Beabout at extension 5–2472.

Sincerely,

GIL GUTKNECHT,
Member of Congress.

APRIL 10, 2002.

DEAR COLLEAGUE: When Congress considered major pension reform in 2000, I proposed an amendment to prevent healthy companies from changing the pension plans to the detriment of their fully vested employees. Unfortunately, the Rules Committee did not allow debate on my amendment.

Congress will revisit pension reform as soon as this week. I strongly feel that any pension reform legislation must include a provision to protect fully vested employees from having their pension plans changed overnight.

Several years ago, thousands of IBM workers in my district came into work one morning to find that the defined benefit pension plan they had been promised had been changed without warning. For years these employees had been able to calculate their future benefits with a pension calculator located on their computer, compliments of IBM. When the plan changed the calculator disappeared. So did the employees' promised benefits.

Most Americans take protection of their pension plans for granted. The Enron situation has demonstrated the need for employees to carefully monitor how their employer handles their retirement benefits. As more companies change their pension plans and reduce future benefits for employees, we must provide, at a minimum, protection for vested workers who are planning for retirement based on promises made by their employers. Strengthening the definition of "vested" and providing employee choice will go a long way toward re-establishing balance and fairness for workers with respect to pensions.

Sincerely,

GIL GUTKNECHT,
Member of Congress.

□ 1645

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PATRICK HENRY: THE VOICE OF A REVOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, in the 1830s, the French observer Alexis de Tocqueville took a road trip through America. We were a very young Nation, less than 60 years old, progressing, as Thomas Jefferson said, "beyond the reach of the mortal eye."

De Tocqueville came to find out for himself whether the great democratic revolution he had been told about was really true. Believing that this young nation would "sway the destinies of half the globe", de Tocqueville wrote, "I sought for the greatness and genius of America in her commodious harbors and her ample rivers, and it was not there; in her fertile fields and boundless prairies, and it was not there; in her rich mines and her vast world commerce, and it was not there. Not until I went to the churches of America and heard her pulpits aflame with righteousness did I understand the secret of her genius and her power."

After all he saw and heard in this young republic, Mr. Speaker, de Tocqueville came to believe that the church was the source of America's nascent greatness. And it should really come as no surprise that from the high steeples and the rows of pews have come some of America's greatest figures and most defining moments.

Chief among them was on March 23, 1775. It was a full year before the Declaration of Independence would be signed in Philadelphia. The seeds of revolution were sewn in Virginia. The midnight hour of British tyranny was approaching, forcing the leaders of that Commonwealth to choose their course. The debates were fierce and divided. Some argued for revolution; others for a more diplomatic outcome.

In St. John's Church in Richmond, Virginia, the leaders met again to decide the people's fate, and a fiery orator named Patrick Henry rose from his chair. Murmurs and whispers greeted him. He was known for his lively speeches, entertaining visitors and leaders alike. But the opposition was growing increasingly uncomfortable with his claims and his call for liberty at any cost.

Patrick Henry's speech began like an approaching storm. His words grew with intensity and power. "Besides, sir, he said, we shall not fight our battle alone. There is a just God who presides over the destinies of nations, who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone, it is to the vigilant, the active, and the brave." And then, with growing momentum, he concluded, "Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God. I know not what course others may take, but as for me, give me liberty or give me death." This was, in fact, the rhetorical shot heard around the world.

For Patrick Henry, the church was the natural place to say such words. He grew up listening to the passionate teachings of traveling preachers. He studied their movements and tone. He watched as they swayed audiences towards belief.

But religion for Henry was not a sideshow or politics, or something to be left to the pulpit. He knew true belief transformed lives, inspiring the heart and steeling the will. He said, "It cannot be emphasized too strongly or too often that this great Nation was founded not by religionists, but by Christians."

Patrick Henry would go on to be Governor of Virginia five times, and was instrumental in drafting its first constitution. But in all his experience, he grew more and more to believe in the importance and the centrality of the Christian faith.

Let us close with the words of Alexis de Tocqueville, who would write some 50 years later of the experiences of the Revolution that, as was the case with Patrick Henry, "Christianity is the companion of liberty in all its conflicts, the cradle of its infancy and the divine source of its claims."

Mr. Speaker, may we ever remember that from the fire of faith comes the future of freedom.

CHILD NUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, today I rise to speak about a serious problem that is affecting the health of our children. I am talking about childhood obesity.

In his recent "Call to action to prevent and decrease overweight and obesity," the surgeon general found that in 1999, over 13 percent of children ages 6 to 11 and 14 percent of adolescents ages 12 to 19 years are overweight. Nationwide, the number of overweight children has tripled over the last two decades.

This has led to a staggering increase in children with Type 2 diabetes, a disease that normally affects senior adults. Sixty percent of obese children ages 5 to 10 have at least one risk factor for heart disease, and 25 percent have two or more factors.

As obese children grow up, they are likely to remain obese as adults, and continue to be at risk for a variety of health problems. If we are to reverse this trend, parents, schools, and the government must work harder to address this problem early, before our children's health is affected.

I want to commend two organizations in my congressional district that are doing just that. The Region One Education Service Center in Edinburg, Texas, and the Texas School Food Service Association have taken the lead in working with our schools to improve nutrition and encourage physical activity to reduce childhood obesity.

Our schools are working hard to reverse this trend toward obesity. Many schools that eliminated physical education programs are reinstating them.

Mr. Speaker, I would like to show that there is a great need for improvement in school meals, with this poster. Our schools are working hard to reverse the trend, as I said earlier. Thanks to the work of the Texas Food Service Association and the National Food Service Association, between 1991 and 1998, there has been a significant trend toward lower levels of fat and saturated fat in school meals. More schools serve low-fat milk and provide healthful food choices in the school cafeterias.

Despite these successes, there still is work to be done. While school breakfasts are close to meeting all Federal nutrition standards, many of the school lunch programs still do not meet Federal nutrition guidelines.

The school meal programs also face competition from vending machines and fundraising food sales at schools that encourage children to skip the more nutritious school meal and eat snacks and sodas that are full of fat, salt, and sugar. Despite their good efforts, our schools cannot do it all. Parents need to take responsibility, and the Federal Government has to do its part.

I urge my colleagues here in Congress to join me in cosponsoring H.R. 2129, the Better Nutrition for Schoolchildren Act of 2001. This bill will give the U.S. Department of Agriculture the authority to extend nutrition guidelines to every food product in our schools, including those outside of the cafeteria.

As we look towards next year's reauthorization of the Child Nutrition Act, I hope that we in Congress will be a partner, not a hindrance, in improving the health and nutrition of our schoolchildren. Our children deserve no less.

Again, I urge my colleagues on both sides of the aisle to join me in cosponsoring H.R. 2129, and let us pass this legislation.

VIOLENCE IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. First, let me commend the House, Mr. Speaker, for its passage of the very, very important retirement security bill today, the Pension Security Act of 2002. I state emphatically, the bill brings about some necessary reform.

My best quote, if you will, relative to this important legislation is, if it is good enough for the brass, it ought to be the same for the middle-class workers. So hopefully we have leveled the playing field, provided some protection, and it is well overdue. I commend the gentleman from Ohio (Mr. PORTMAN) for his outstanding efforts on leading us in this direction. He has been working on this for years.

This is not as a result of Enron, but it certainly has been aided and abetted by that scandal that took place in Texas, so I am thrilled we are able to pass it to the floor today.

Let us turn our attention to a very serious issue that is confronting the world, if you will, and that is what is going on in the Middle East.

Mr. Speaker, I rise today to reiterate my strong support for Israel. There is no escaping the mire of violence that has taken such a horrible toll in the Middle East. All of us wish collectively that peace would come sooner rather than later for the Israelis and the Palestinians. But in the interim, we must look past the graphic images being broadcast on the nightly news and fully appreciate why the United States has such a stake in what is happening there.

Israel has been a strong, true partner of the United States, anchoring our policies in the Middle East. A strong, true partner, I want to underscore those important words. Whatever second-guessing anyone might have over tactics, Israel must have the ability to protect itself and its people in what has become a dangerous and hostile everyday environment.

From its inception, Israel, which is the most stable democracy in the region, has shown strength and resolve in the face of adversity. The war of terrorism that has increasingly been waged against it has become untenable and inexcusable. Both Israelis and Palestinians now live in a constant state of fear, a fear that their lives may end in a restaurant, an open-air market, or simply crossing the street.

Let me underscore, this is not between military personnel on each side, this is about average citizens, men, women, and children, going about their daily lives, being blown up in the streets of these cities. Before September 11, few Americans could imagine such fear. Even after September 11, it remains hard to envision living our everyday lives with the ghost of death almost hovering. Yet, this is what Israel faces and Israelis face every day.

Since the new wave of terrorism has swept over the land, this is what many Palestinians also face. Yet, the Palestinian leadership continues to escalate the violence, plunging the region further into chaos.

We have a moral obligation to both the Israelis and the Palestinians to forge ahead for peace, but we also must keep in mind that many of Israel's enemies have sworn to destroy the country of Israel. They hate Jews. The Jihad, the Islamic Jihad, the Hezbollah, the Hamas are all desperate to destroy others because of their ethnicity or religious belief.

For Americans, the shells that fall in the Middle East impact us here close to home. Just as the carpenter would not start building a home on a soft sand foundation, we cannot hope to defeat terrorism at home and abroad when terrorism in the Middle East undermines the very foundation of peace we seek to achieve.

This has certainly not been lost on my constituents, many of whom have mothers and fathers, sisters and brothers, cousins, aunts, uncles, and friends in Israel. It should not be lost on anyone who recognizes that the United States cannot fight a successful war against terrorism unless and until the Arab world in general and the Palestinians in particular join us in seeking peace, not war in the guise of Jihad, and certainly not in martyrdom.

It is a troubling time for us, it is a troubling time for them, and I urge that we all work collectively in support of Secretary Powell's visit there on behalf of the President of the United States. I think it is clear that we must do all we can to achieve peace, but it has to be a just peace for all.

I have often felt that if average Israelis and Palestinians could meet together and sort this out, they probably would. I have very little confidence in Mr. Arafat. I have very little confidence. He attempts to show a good face and smiling demeanor when he talks peace in the United States, as he has many times, and then he goes back home and straps a rifle to his waist and swaggers around and insists that he has no interest in dealing with Israelis, in order to keep his job.

It is about time we stopped worrying about keeping our jobs and started worrying about saving lives. I urge all sides to begin immediately, before more deaths take the innocent.

□ 1700

MIDDLE EAST PEACE AND STABILITY

The SPEAKER pro tempore (Mr. CULBERSON). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I wish to say this past week I have called on President Bush to request an emergency meeting of the United Nations security council for the purpose of enforcing a peacekeeping or enforcement action in the Middle East.

In the past few months the world has witnessed a frightening increase in the level of violence in the Middle East. In this 21st century, which we had hoped would be a century of peace, our children have watched on television over

2,000 more people killed in this unnecessary fighting between the Palestinians and Israelis. We have seen lives and neighborhoods destroyed. We have seen children blown up and shot. We have seen the hope for peace diminished. Innocent Israelis and Palestinians have been literally caught in the crossfire of violence.

To date, as many as 1,400 more Palestinians and 500 more Israelis have died. The situation is clearly out of control.

I applaud President Bush's demands that Israel and the Palestinian Authority step back from one another. But the Israelis have refused to comply with the President's demand and the Palestinians have refused to comply with the President's demand.

What happens in the Middle East is crucial to U.S. interests. What happens in the Middle East is crucial to the United States's war against terrorism. What happens in the Middle East is crucial to our economy. The Bush administration's initial policy of disengagement for almost an entire year was ill conceived. But with Secretary Powell's mission to the Middle East, we have some indication that the administration realizes how important it is to put the full weight of our diplomatic and foreign policy apparatus behind the search for peace.

The United Nations should approve a peacekeeping or an enforcement action that is international in scope, because if the two sides can be separated and a situation created for dialogue, the world may have an opportunity to move forward.

A U.N.-supported force, after bringing down the level of violence, could help provide for regional stability that is necessary for preserving the State of Israel's continuing right to exist and establishing an independent Palestinian state.

Americans, I suppose, could ask, Why are we there? Is it because of regional stability, or is it because of our own oil interests? Let me reference a complicating factor and urge Americans to think domestically what we can do here at home also to contribute to a solution.

U.S. dependence on imported petroleum remains our chief strategic vulnerability. We watch gas prices going up again, and we see the recession we are beginning to pull out of being triggered perhaps again because of a 20 percent increase in gas prices here at home. Too often our dependence on imported petroleum, including from places like the Middle East, have served as proxy for our foreign policy.

I will insert into the RECORD this week important articles written in USA Today, which the headline reads, "Gas Prices Up 20 Percent and Rising," and its relationship to what is going on in Iraq, in spite of the embargo, providing us with a minimum of 8 percent of the petroleum that we import into this country every day.

I will also supply for the RECORD articles from the New York Times of yesterday talking about the missing energy strategy of the Bush administration.

We have got to get serious here at home. Over half the petroleum we use is imported from very unstable places. It is time for America to become energy independent.

And an article from the Times on Tuesday talking about Venezuela: "Venezuela Woes Worsen as State Oil Company Calls Strike." This is going to impact prices here at home as well.

Who or what is leading our foreign policy? Are we promoting democracy or securing international oil interests as our primary goal? Americans here at home need to demand a declaring of energy independence.

The U.S. Energy Department headed by Spencer Abraham reported this week that consumers can expect no relief at the gas pump before fall and predicted that the average price of regular unleaded gas to be $1.46 between now and September, and in many parts of the country it is higher already. In fact, prices went up 23 cents a gallon last month alone, the fastest monthly increase in history.

There is a connection between what is happening internationally and what is happening here at home. The same insatiable appetite for foreign oil drives our domestic policy. We gave over $4 billion in taxpayer dollars to Enron folks to protect their overseas natural gas and oil interests. If we had spent that money over the last 10 or 15 years on alternative fuel research and development here at home, we might be self-sufficient by now. And that is the direction our country needs to head. We need to have a Manhattan Project to the extent that we involve every single major research university in this country in helping us become energy independent and having a foreign policy again designed for democracy, not just oil.

[From the New York Times, Apr. 9, 2002]

VENEZUELA WOES WORSEN AS STATE OIL COMPANY CALLS STRIKE

(By Juan Forero)

MÉRIDA, VENEZUELA, Apr. 8.—A six-week tussle over President Hugo Chávez's management of the state oil company has turned into his most serious crisis, with exports of oil disrupted by a labor slowdown and a general strike called for Tuesday by labor and business leaders.

"This can only end with the president resigning," Humberto Calderón Berti, a former minister of energy and mines, told a throng of protesting executives from the oil company Petróleos de Venezuela in Carcas. "All Venezuelans from all walks of life, from all social strata, from all the political and ideological sectors, must take part in the stoppage. This is about him or us. It is a choice between democracy or dictatorship."

Government ministers said today that exports of oil and refined products remained normal for Venezuela, the world's No. 4 exporter. But analysts and executives from Petróleos de Venezuela said a five-day work slowdown among oil workers and managers had forced a scaling back of operations at several refineries and a cutback in production at wellheads, all of which has disrupted oil shipments to the United States and other countries.

"The reality is you don't have business as usual," said Larry Goldstein, president of the Petroleum Industry Research Foundation, an industry-supported consulting group in New York. "We believe half to two-thirds of their exports have been impacted. But it is literally an hour-by-hour situation."

Latin America's fourth-largest economy may also grind to a halt on Tuesday, as dissident business leaders have promised, in protest against what they see as Mr. Chávez's autocratic style of governing and his treatment of oil company managers. The first such stoppage took place on Dec. 10. Millions of workers stayed home as part of a growing wave of protests aimed at forcing Mr. Chávez from power.

The showdown that has churned up the current crisis began when Mr. Chávez, a left-leaning former army paratrooper who won office in 1998, took on the management of Petróleos de Venezuela, a behemoth with 40,000 employees. Calling it a "state within a state" that sapped resources while benefiting a small number of high-flying executives, Mr. Chávez in February fired the company president, a general whom he had appointed months earlier, and appointed five board members with ties to his administration.

For many of the company's 15,000 office workers, who had long celebrated it as a meritocracy known for efficiency and high standards, the president's management decision was enough. The workers organized protests and slowdowns, which have won the support of leaders from business and labor, as well as from the local media, which report every anti-Chávez protest or pronouncement with relish.

With Mr. Chávez refusing to withdraw his appointments or negotiate with dissident oil executives, the office workers and production workers persisted with their slowdowns, which have intensified since last week. At one drilling site on Thursday, two oil workers were killed when fighting broke out between government supporters and opposition party members.

The exact impact on oil production, refining and the transport of crude and oil products was unclear today.

But analysts and executives said the Amuay Cardón refinery, which processes 950,000 barrels of crude daily and is a crucial supplier of finished oil products to the United States, had reduced operations. At least two other installations, the Palito refinery on the north-central coast and Puerto La Cruz to the east halted operations, they said.

Dissident oil executives, reading a statement outside a Petróleos de Venezuela office building in Caracas, said extraction of oil was slowing in the Furrial field in the east while refineries and plants that produce chemicals or distribute natural gas were also ratcheting down.

"Progressively everything is shutting down," said Alberto Quiroz, an oil analyst and former executive at Petróleos de Venezuela (which is known worldwide by its Spanish acronym, Pdvsa, pronounced peh-déh-VEH-sah).

Top government officials, among them Vice President Diosdado Cabello, Energy and

Mines Minister Álvaro Silva, and the oil company president, Gastón Parra, have sought to minimize the effects of the slowdown.

"Everything is normal," Mr. Silva told reporters. "Go to the refineries. Everything is normal. There is a small group protesting, but everything is operating normally."

The commander of the armed forces, Gen. Lucas Rincón, announced that the military was beefing up its presence at refineries and oil fields, which are routinely protected by the National Guard.

Through it all, Mr. Chávez has refused to back down or acknowledge that the slowdown could hurt Venezuela, whose economy relies on oil for 80 percent of exports and 50 percent of government revenues.

In a long nationally televised address on Sunday, the president said the military could run oil production and refining sites if necessary. He also took the opportunity to announce that he had fired 7 dissident executives and forced 12 more to retire.

Blowing a soccer referee's whistle and calling the executives "off sides," Mr. Chávez warned about a "subversive movement in neckties" trying to destabilize the country. But, he warned, "I can do away with all of them," he said.

Rafael Sandrea, president of the oil committee of Fedecámaras, a powerful business group, said Mr. Chávez's uncompromising approach had only made the opposition that much more defiant.

"The president has closed the door of reconciliation and opened the doors for war," Mr. Sandrea said. "That is what this is now, war, between the people of PDVSA and the government."

[From USA Today, April 9, 2002]

GAS PRICES UP 20% AND RISING

(By James R. Healey and Barbara Hagenbaugh)

EXPERTS FEAR HIGHER ENERGY COSTS COULD PUT BRAKES ON RECOVERY

Gasoline, blood of the economy and soul of consumers, is 20% more expensive than a month ago—like finding out that sport-utility vehicle you want is now $30,000 instead of $25,000, or that the suit you're planning to buy is $600, not $500.

That's the kind of price inflation we associate with South American or Eastern European countries that supposedly lack U.S. economic stability.

The bad guys in this case aren't obvious. The big fuel-price climb is due mainly to a complicated switch to summer-blend fuel from winter blend, required by federal air pollution regulations; by the routine and seasonal rise in crude oil prices; and by a strike in Venezuela that's keeping oil off tankers.

Only after ticking through that list are the experts and analysts—if not politicians—ready to name Iraq's just-announced 30-day oil-export boycott, fears that the USA will invade Iraq and the Israeli-Palestinian tinderbox as underlying causes. (Story, 2B.)

Consultants, analysts and other experts think the nationwide average price should peak near $1.60 a gallon, perhaps within a month. The government said $1.46 Monday, before the Iraqi export embargo. Experts also foresee a chance of local shortages, as refineries making ingredients for specific summer blends are overtaxed or have mechanical problems.

Not cheery, but not as bad as the last two summers, when fuel passed $2 in some places and the Midwest ran short because of refinery and pipeline problems.

More broadly and ultimately more important: Fuel price increases could blunt whatever edge the economic rebound has honed, although economists and experts say it shouldn't flatten the recovery.

"I certainly don't regard it as being helpful," says William Poole, president of the Federal Reserve Bank of St. Louis.

Higher energy prices "act like a tax on consumers and businesses. The key is how long the rise is sustained and how high it will go," says Richard Berner, chief economist at Morgan Stanley. If they stay at today's level, it'll cut economic growth 0.4 of a percentage point, which he calls "not a big deal."

Price of benchmark light, sweet crude oil closed at $26.54 a barrel Monday, and Berner says that would need to "go north of $35" to be "a serious concern."

Crystal Siembida of Columbiana, Ohio, puts a finer point on it: "I can hardly afford to pay the price of gas as it is," and thinks she might have to switch to carpooling or bicycling to work if the price keeps rising.

Bonnie Sporn of Los Angeles drives a Jeep Cherokee SUV and says she deals differently with her friends now that prices are up: "In the past, if I drove with my friends on an extended trip, I did not expect them to contribute gas money. Things have changed . . . . We figure out the portions we all owe for gas before we get out of the car."

Beyond gasoline, higher oil prices also translate into higher heating oil and jet fuel prices. Both have the potential to hurt the recovery. But heating oil season has ended, "so it's not going to crunch household budgets" as it has the past few years, says Paul Taylor, chief economist for the National Automobile Dealers Association.

Still, price hikes will discourage some driving and car buying, he says, and will push on industries such as utilities that generate electricity using oil and chemical manufacturing that uses crude oil.

Jet fuel is the second-biggest cost for airlines, after labor. And that fuel is up about 40% this year, 71 cents a gallon Monday. Airlines, though, often contract in advance for fuel at a specific price to avoid big swings. Airlines and private jet operators don't appear to be buying less. There's been "a lot of fussing," says Ed Hayman, vice president of supply for World Fuel Service to Miami, but "we haven't seen a cutback.

PUSHING COSTS

A look at what's driving prices: Summer-blend gas. The Environmental Protection Agency can fine a service station $27,500 a day for selling winter-blend fuel after May 1, so the switch has to begin now. Fuel evaporates into the air and pollutes it easier in hot weather, so summer gas is made to compensate.

But there are more than 100 types of summer fuel across the USA. Some, such as in the Mid-west, require ethanol—grain alcohol—to support area farmers. Ethanol must be mixed locally and distributed by trucks. If an ethanol plant or a refinery supplying the special gas to blend with ethanol has trouble, there's an immediate shortage threat, and prices spike.

Last Aug. 14, for instance, the Lemont refinery outside Chicago caught fire, stopping production of fuel needed for the area's unique ethanol blend. By Aug. 16, the average wholesale price there jumped 12.1 cents a gallon, and pump prices averaged 12 cents higher than the day before the fire.

Crude oil prices. They rise and fall with demand. Crude oil accounts for about 38% of gasoline's price. The retail gas price hike "is mostly crude and the changeover to summer fuel. Everybody tries to read more into the numbers, but that explains what's going on," says Alan Struth, oil market consultant at Energy Insights.

Venezuelan strike. Oil-market experts worried more about Venezuela than about the Arab nations Monday. Workers at the state-owned oil company known as PDVSA have been protesting management changes mandated by President Hugo Chavez for about six weeks. Venezuela is a major supplier of gasoline and heating oil to the USA. If a strike there lasted a week, the USA would feel the pinch, Struth says. "It's that tight."

SADDAM MAKES A MOVE

Despite mutterings it would happen, Iraqi leader Saddam Hussein's pledge to sell no oil for 30 days unless Israel withdraws from the West Bank caught traders and politicians by surprise Monday and sent crude prices up.

Reassurances from the U.S. government and international energy officials were prompt, but the boycott nonetheless could cause disruptions. And disruptions cause oil traders fits.

Monday "was another wild and wooly day," says Peter Beutel of Cameron Hanover, which advises companies at risk when energy prices change drastically. "Prices shot up. They did come back down, but at one point, prices did look as if they would roar out of control," he says.

Even before Iraq, "the market was primed," Beutel says. "We are in the pre-summer urgency period. Everybody says, 'If I don't get it now I won't have enough,'" because summer driving uses up stockpiles of gas. This summer's demand is expected to be a record 8.8 million barrels a day.

Even though other members of OPEC—the Organization of Petroleum Exporting Countries—are expected to make up for any Iraqi shortfall, "there is the whole exercise of flipping the switches," Beutel points out.

"Saudi Arabia can go ahead and increase production today, but the oil takes three or four weeks to get out of the ground and into a tanker. And the Saudis won't do that unless they're sure he's serious, so there's the whole question of how serious is Saddam?"

It would be May before increases by other oil exporters would show up in the USA.

And to heck with it, anyway, says Sherry Jones Nelson of suburban Minneapolis. She'll take her usual long-distance driving vacation, regardless: "We won't let any company, or country, stop us."

The Missing Energy Strategy

The events of the past year—prominently, a power crisis in California and the terrorist attacks on Sept. 11—gave the nation many reasons to reexamine its energy strategy. Now comes another: Saddam Hussein's decision to halt oil imports to the United States, at least temporarily, in retaliation for Washington's support of Israel.

In an interview with The Wall Street Journal earlier this week. President Bush warned that the recent 20 percent jump in oil prices could threaten economic recovery. While Iraq accounts for about 8 percent of America's imports, according to Washington's estimates, there is spare oil capacity in the system, and thus there should be no petroleum shortage if other Middle Eastern producers refuse to follow Baghdad. Even so, Mr. Hussein's action draws attention once again to America's dependence on imported oil, including oil supplied by the troubled countries of the Persian Gulf. It also points to Washington's sorry failure to devise a balanced strategy to reduce America's reliance on gulf imports and give itself greater maneuvering room in the war on terrorism and other foreign policy issues as well.

The Senate, which has resumed debate on the energy bill, is the last hope for such a strategy. Admittedly, the prospects are dimmer than they were a month ago, when the Senate took up an imperfect but honorable measure cobbled together by Jeff Bingaman of New Mexico and Tom Daschle, the majority leader. The bill included a mix of incentives for new production of fossil fuels, largely natural gas, along with provisions aimed at increasing energy efficiency and the use of renewable energy sources. As such it stood in stark contrast to a grievously one-sided House bill that provided $27 billion in incentives for the oil, gas and coal industries and less than one-quarter that amount for efficiency. The House bill also authorized the opening of the Arctic National Wildlife Refuge to oil exploration and drilling.

On its first big test, however, the Senate collapsed under industry and union pressure and rejected a provision requiring the first increase in fuel economy standards since 1985. To Mr. Daschle's dismay, Democrats deserted the cause of fuel conservation in droves; New York's senators, Charles Schumer and Hillary Rodham Clinton, were among the honorable exceptions. The only bright moment in a dismal two weeks of debate and defeat was the approval of a "renewable portfolio standard" that would require utilities to generate between 5 and 10 percent of their power from wind, solar and other forms of renewable energy.

There are several things the Democrats and their moderate Republican allies can do to produce a respectable bill. First, they must defeat any amendment aimed at opening the Arctic refuge to drilling. Such an amendment is almost certain to be offered by Frank Murkowski of Alaska, but the facts are not on his side. Every available calculation—including those that accept Mr. Murkowski's inflated estimates of the amount of oil underneath the refuge—show that much more oil can be saved by fuel efficiency than by drilling.

Next, they must resist efforts to weaken the renewable energy provision, while defending energy efficiency measures that have yet to be voted on—chiefly a provision that would increase efficiency standards for air-conditioners by 30 percent. The Senate should also preserve a useful provision that would require companies to give a public accounting of their production of carbon dioxide and other so-called greenhouse gases. On the supply side, it can take steps to improve the reliability of the nationwide electricity grid, while increasing incentives for smaller and potentially more efficient producers of power.

These are modest measures, less ambitious than the Senate's original agenda. But at least they point in the right direction, toward a strategy that includes conservation as well as production.

CONGRATULATIONS TO THE UCONN HUSKIES

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Connecticut (Mr. SIMMONS) is recognized for 5 minutes.

Mr. SIMMONS. Mr. Speaker, I rise here today on the floor of the House to commend and congratulate the 2002 NCAA women's basketball champions, the University of Connecticut Huskies. This past Saturday in my home State of Connecticut and the State capital, over 150,000 men and women and children, enthusiastic fans, gathered for an hour-long parade in freezing temperatures to congratulate and cheer on these young women who not only have excelled on the basketball court but have excelled academically as well.

The UCONN Huskies team were led by Most Outstanding Player Swin Cash; and they capped a perfect 39–0 season, beating the University of Oklahoma 82 to 70 in what was a closely contested competition. All of the State of Connecticut watched with pride as the Huskies claimed their place as undefeated champions and one of the great all-time women's basketball teams in NCAA basketball history.

The University of Connecticut was founded in 1881 and has a rich tradition of academic excellence as well as athletic ability. The Huskies now add another national championship to their title and their world-class academic reputation. The pride of Eastern Connecticut and Storrs is now the pride of Connecticut and the pride of the United States of America.

It is with great joy, Mr. Speaker, that I commend and honor the UCONN team because I was a teaching assistant at that university for 4 wonderful years. And I want to say to all of those here present and to those listening and to the Huskies, way to go, Lady Huskies. I especially would like to congratulate the players, Sue Bird, Swin Cash, Asjha Jones, Diana Taurasi, and Tamkia Williams, and Head Coach Geno Auriemma, and Associate Head Coach Chris Dailey, the staff, as well as Lou Perkins, the head of the athletic department.

In the words of the cheerleaders of the UCONN Huskies, U-C-O-N-N, UCONN, UCONN, UCONN.

HONORING BILLY CASPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, this is the first day of the Masters, one of the most prestigious sports events in our Nation and, indeed, the world. And I rise today to commemorate the fact that for only the second time in 45 years, one of the great golfers of this decade, in fact, one of the great golfers of this century, Billy Casper, is not playing in the Masters. Billy Casper, won the Masters in 1970. He also won a couple of United States Open championships. In fact, in 1966 at Olympic Country Club in San Francisco, he came from behind in what is considered to be one of the most stunning come-from-behind victories in the history of golf. That is when he was seven shots back to Arnold Palmer with only nine holes to go and Billy Casper, called by Golf Magazine the greatest putter in the history of golf, managed to shoot a 32 on the back nine at Olympic Country Club in San Francisco, one of the most difficult golf tracks in the world. He tied Arnold Palmer for the U.S. Open championship and the next day shot a 69 and beat Arnold Palmer.

If you add to that great win, that great success, and his other U.S. Open success and his 1970 Masters success the fact that Billy Casper won 51 times on the PGA tour, which puts him the sixth winningest golfer of all time, and you add to that the fact that he has the best Ryder Cup record in terms of wins and losses of any player in American history, and you add to that the five Vardon trophies he won on having the lowest scoring average on the U.S. PGA tour, then you have to conclude that Billy Casper indeed is one of the great heroes in sports history.

Mr. Speaker, I am proud that Billy Casper lives in San Diego, California. He still plays golf at San Diego Country Club, where he worked as a caddy as a kid. He has a big heart. He has been a great leader of junior golf in developing young golfers in our country and, indeed, the Nation. Billy Casper is joined by his wife, Shirley, in all of his efforts. He not only is a great athlete and a great teacher but a great person and a great leader in our community.

Mr. Speaker, I know that the greatest golf field in the world is playing in the Masters right now. The game is still on. We will have a leader today; and ultimately on Sunday afternoon we will see who the champion is. But there is one great champion, the 1970's Masters champion who is not playing this time for only the second time in 45 years, but he will be down there because he is a wonderful person. He has a big heart. He loves this event. He loves the tradition. He loves the galleries which in turn love him because he is indeed a great sportsman, one of the great representatives of the game of golf. Billy Casper.

WELFARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 60 minutes as the designee of the minority leader.

Mrs. MINK of Hawaii. Mr. Speaker, I appreciate the minority leader's designation of this hour to the discussion of welfare reform.

The Bush administration has submitted various proposals. Most of them go to the technicalities of States' performance and percentages of people that must be in a work program. They have increased the work requirements from 30 hours to 40 hours, with some allowance for the use of 16 hours for other than actual work activity. But in most cases the administration's proposals do not go to the matter of the actual recipients and families that have been affected by the many changes that we made in 1996.

I do not think there is any dispute on either side of the aisle that the provision of the 1996 Welfare Reform Act did dramatically lower the number of welfare recipients all across the country. This was because there were mandatory requirements on work. If you did not work, if you did not register for work, if you did not go into some sort of a work project, you would lose the cash assistance. Therefore, the numbers that fell dramatically to about 50 percent of what they were in 1996 is basically because of the rules that were included in the 1996 TANF legislation.

The requirement to work has removed many of these families from the welfare roles. The problem with just removing these families from the welfare roles, however, is that they have simply gone to dead-end jobs, most of them earning minimum wage, perhaps some as much as $6 or $7 an hour, but that is it. So most of these families remain under the poverty level and, therefore, continue to be a responsibility of the national and State governments.

□ 1715

They continue to be eligible for housing support. They continue to be eligible for food stamps. They are eligible for Medicaid allowances and are, of course, as former TANF recipients, going to work under the TANF rules entitled to significant amounts of child care support.

The object of welfare reform, it seems to me, is to really take a look at the outcomes, not simply the mechanisms; what percentage, 50 percent, 60 percent are at work. The mechanisms have been proven to work, partly because of the flexibility that the States have been given to implement these new requirements.

The real way that we can measure the success of welfare reform, it seems to me, is to look at the quality of the family life after they have left welfare. Are these families earning sufficient funds to really take their family out of poverty, out of all of the support services that the poor in this country are entitled to? I think the answer to that question is that the substantial majority of families that have gone off welfare are still poor, are still below poverty and are still dependent upon the wide variety of support mechanisms that are there for the poor in America. So, therefore, welfare reform, it seems to me, has stopped short of accomplishing the real mission which it should be, and that is to bring these families up to economic self-sufficiency, to a matter of economic security.

One of the real mistakes I think that we made in the enactment of TANF in 1996 is that we did not consider these families as being those that might benefit from education. We have 1 year vocational training as a work activity, but for many of the individuals on welfare, additional educational opportunities ought to be provided. That is the number one goal of legislation that I have introduced in the House last November, which now enjoys 90 cosponsors. And it looks to the welfare reform legislation from the perspective of the recipient, not from the perspective of the mechanic, the percentages that are being held or the percentages that are being gotten off of welfare or all of those mathematical statistical charts.

What we have done in the bill I introduced, H.R. 3113, is to look to see how it impacted the families, and as a result of the legislation, H.R. 3113 currently enjoys the support and endorsement of over 80 organizations throughout the country, the YWCA, the National League of Women Voters, a large number of women's organizations, Business Professional Women, Center for Women Policy Studies, and on and on.

These individuals have not come on to support the legislation as casual observers. In most instances, they have participated in the writing of the bill from, again, the perspective of the child, of the family, of the single parent, to see what we could do to enhance their condition, their standing in our society.

The people on welfare have to be looked at as individuals who want desperately to improve their condition, and I think that the major item that is missing in the current law and in the Bush administration's proposal is the importance of education.

Our bill hopes to consider education as a work activity. The law says one must be in a work activity. So in order to comply with the law, and not to be sanctioned for failure to comply, we must first of all say education is a work activity, and if we do that, then it would enable families to continue on to junior college, community colleges, major colleges and universities, to get substantial education so that they could really basically improve the future sustainability of the finances of their family. I think that is terribly important.

President Bush for his initial thrust, when he came to this Chamber and addressed the country from that podium there, he said that we must not leave any child behind. Following that message, we passed a major education bill, elementary and secondary education, H.R. 1, as it went through this House, and today it is Public Law 107–110. And the whole approach is that we have to uplift the standards of our public educational system so that no child in America is deprived of the basic opportunities to earn an education and to be somebody to the best of their talents and abilities.

That is the approach I think we should be taking with welfare reform. What can we do to uplift and enhance the quality of life of these children? It is still aid to dependent children, even if we call it temporary assistance for needy families. It is still based upon what can we do to support, help these children.

I think, for instance, that care giving is an important responsibility of all parents, not just those in the middle class and in the upper middle class and the rich, to be free and able to stay home and care for their own children, nurture them, raise them until they are school age. That should be the social, moral responsibility that is recognized by government for all mothers. But we do not do that in TANF. We do not do that in this welfare reform law that we enacted in 1996, nor do we do that in the current reauthorization versions that have been submitted.

Instead, we say that everyone on welfare must go to work, must have a self-sufficiency plan, must perform 40 hours of work, because we must train these individuals to understand what work responsibility is, and we ignore the fact that nurturing a child at home is as important a responsibility as engaging oneself in a minimum wage job.

Furthermore, many of these parents, in a collection of comments that I have been reading through in a publication called Faces of Change, written by welfare recipients and those that have left welfare and are now engaged in work, how troubled they are because they come from troubled families. They have many difficulties in their own personal situations. They have sickness in their family, a child that is asthmatic, or there are mental difficulties and other kinds of health difficulties within the family that makes steady employment almost impossible. And certainly if the child care is not adequate, they raise the concerns of the mother even more.

So I think we have to bear in mind that the individuals who are on welfare need to have this special consideration. The legislation that I have put forth, H.R. 3113, explicitly says for the non-school-age children that the option ought to be left to the mother to decide whether to remain at home and to care for these small children. Even with the children who are in school, the teenagers who are apt to get into trouble, apt to find themselves in difficulty, need a parent at home.

Many of these parents who write their story say the only job they could get was something at night that brought them home at 5 or 6 o'clock in the morning. Their teenaged children were left unsupervised. How can we say that this is in the best interests of the children of these poor families not to have an adult or parent there to supervise them when they are home from school?

We do not have after-school programs also in many places, and as a consequence, school is over after 2 or 3 o'clock, these teenage children, age 14, 15, are out on the street. No one is at home to take care of them, because under our TANF law the parent is required to work; and now, under the new proposals, to work not just 30 hours but to work the full 40 hours, not necessarily in compensated work, because the assumption is that if they cannot get compensated work, they ought to be doing volunteer work or doing workfare for the State or for some charitable institution.

I think that this is all very, very wrong. It does not accord the respect to our mothers in this country who are struggling to raise their children. Just because they are on welfare, they do not love their children any less. They do not have any lesser responsibilities for their children. And therefore it seems to me that we need to put first things first, and that is to enact legislation that carries with it this sense of responsibility of this government and of the States for its smallest citizens, for the children.

So I am hoping that this perspective can come into the discussion and the debate as we work these bills in the two committees. The Committee on Education and the Workforce will be doing markup, the bill was only introduced yesterday, but will be doing markup next Wednesday. And I am told that the Committee on Ways and Means also has an expedited schedule.

The general public is not going to have adequate time to reflect on it, to react to it, to contact the Members of Congress to express their personal objections to the various changes that the administration is proposing, and therefore I take this means today to heighten the awareness of the community out there, which I know is engaged in this subject, and ask for their attention and urge them to contact members of the Committee on Ways and Means and of the Committee on Education and the Workforce and to convey their concerns about the recipients of welfare, or the children and the children's welfare, and not to enact stricter requirements on work which will make it even harder for these families to survive.

I would like at this time to yield to my colleague who serves on the Committee on Education and the Workforce, has been a stalwart defender of the rights of families and mothers, and works hard to benefit the children of America. She is also a cochair of the Task Force on Welfare Reform on the Democratic side, and she has been working very, very hard to try to amass public opinion, learned discussions about this subject, so that this House can have the benefit of the best information, best records that we can put together. And I am really pleased at this time to yield to my colleague, the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank my colleague the gentlewoman from Hawaii (Mrs. MINK) for the partnership she provides for me in this House of Representatives. I appreciate it so much.

We might want to just talk back and forth a bit, because I think there is a lot we can talk about that I think is so important. My colleague may have said most of it, but I think it bears repeating.

In 1996 when we passed welfare reform, after both of us voting against it because it did not provide a safety net for children, we warned the President, then Bill Clinton, and our colleagues, many of whom agreed with us and voted with us, that getting women off of welfare and into jobs would not be enough, that just could not be the end result of welfare reform, and we warned them that that was particularly important to look at if there was a downturn in our economy.

We did not mean to be prophetic. I mean, we did not want to be seers. We just knew, and there it is. We were right, because this recent economic downturn has exposed the problem that we talked about in the 1996 welfare reform bill.

The guiding principle of 1996 reform was that welfare was the enemy. But the enemy was not welfare, and we knew it. The enemy, and still is, is poverty. When I hear people brag about how successful welfare reform has been, I wonder how they are measuring the success. I know how they are measuring the success. We both do. The success of welfare reform must be measured by how we break down the cycle of poverty, not how many people have left the welfare rolls.

□ 1730

First of all, we do not know that everybody that has left the welfare rolls has gone to work. We just know how many people are no longer on welfare.

We have to measure when we are looking at the success of welfare reform, we have to measure if families have become self-sufficient, which means that they are able to raise their families, that they have enough money for housing, enough money for health care, they have enough money for child care and the transportation that they need to get back and forth to their jobs and to take their children to school and the market. That is self-sufficiency. We are not saying that they have to live in mini-mansions. We are saying that they have a right to have a roof over their head; and when they are working every day and playing by the rules, they deserve to feel self-sufficient.

President Bush wants to increase the requirement to 40 hours a week from what is currently 30. The only way this requirement is going to work is if we count education as work. I know the gentlewoman just discussed this, but if we want self-sufficiency and women particularly to go from welfare and get out of poverty, we have to see that they have education and training to qualify for jobs that pay a livable wage.

Mr. Speaker, to that end I have introduced legislation called the Education Counts Act. What this does is allows education activities to count as work activities and not be counted against a welfare recipient who is going to school in order in the long run to earn a real living. Rather than penalize them, the clock is ticking and her welfare limits are disappearing while she is at school, I think that we should stop the clock entirely because only by giving women access to education and training will they have the background and skills needed for jobs that pay a livable wage so they can become self-sufficient.

Also, if we expect women to go to school or to go to work, in particular, because that is what the goal of the President's plan is, to put everybody into jobs, whether or not those jobs pay a livable wage, and if we want families to transition into self-sufficiency, we have to make sure that we have good child care available, quality child care and enough child care because we have to ensure that moms can free their minds when they are at work and know that their children are well cared for. By quality and availability I mean also nighttime work and weekend work. That is very important.

A lot of welfare moms are going into jobs working weekends and at night, and there is no child care available for them and for their children. We cannot afford to leave our children behind, and what is happening in the President's proposed welfare bill is flat-funding child care, which does not account for any increase in costs; and in the long run, it means a cut in child care when we need an increase because we are increasing the number of hours that these moms are expected to go to work.

Just as welfare recipients need to be held accountable for working their way off welfare, States have to be held accountable for how they use the taxpayers' money earmarked for welfare programs. The current system rewards States for lowering the number of families on welfare without any regard to what happens to those families. That could be throwing money out the window because if States are not helping families be self-sufficient, then they are keeping families subsidized in the long run, and that costs money.

Mr. Speaker, I have introduced the Self-Sufficiency Act, which helps States figure out how much it would cost for families in their States to be actually self-sufficient, to take care of their children without any public assistance. Once States have this information, they can better allocate resources to help families move towards self-sufficiency.

In doing that, they will be looking at housing costs, transportation costs, child care costs, and health care costs in their communities. Every community is different. Some are higher and some are lower, and each State can look at that individually.

I know what it means to need a leg up, to need some help, to hit hard times and realize that there is no place else to go but to one's government for help.

Mr. Speaker, 35 years ago my children's father left us when my children were 1, 3 and 5. He was emotionally and mentally ill, and would not get help for his illness, and plain abandoned us. Lucky me, I had good job skills, some college education; and I was able to go to work because my children were solely my responsibility. It never entered my mind that I was not going to take care of them.

In order to have the health care that we needed and the child care coverage and the food stamps, I went on Aid for Dependent Children while I was working. Without that, we would not be where we are today. That was exactly the safety net that it took, and it took 3 years for this mom with an education. I was very healthy; my children were healthy. Members have to know I was assertive. I could get through the system. I knew what needed to be done, but I could not do it without that help. And that was 35 years ago. It is way more difficult for young mothers now. It has never entered my mind, I did it, so can you.

Lucky me, I have four great, grown children; and I am a Member of Congress. My kids are successful in what they do in their lives, and I am here as a Member of the House of Representatives; and I can tell Members, we have paid back what the government invested in us many, many, many times over. But I can also tell Members if we had not had that help, I do not know what we would have done.

Mr. Speaker, I ask the public and I ask my colleagues, please, please, do not be hesitant to invest in young families and in moms who have fallen on hard times. Do not assume that if someone is having a bad time, they did it on their own and deserve it, and if they were worth their salt they would not be there in the first place because that is just not true for any of the people who are in need today.

Mr. Speaker, I thank the gentlewoman from Hawaii (Mrs. MINK) for being part of the welfare task force with me. We know that the things that we need to be concentrating on child care, education counting as work, flexibility in the welfare system, making sure that individuals who have domestic abuse problems, substance abuse problems, mental illness, language difficulties, making sure that they get an opportunity to get their situations together before the clock starts ticking on them will make a difference in ensuring that welfare makes work pay and count, and these people all count.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) for her contribution here today. It is very powerful, especially her own personal explanation of how much the program meant to her and her young family.

I think that is the message that we have to carry to our colleagues, that these individuals who are on welfare having hard times, they are worthy parents. They care about their children. They do not want to do anything to damage their future; but in many cases they need the time and the education, they need the training and they need the assurance that there is quality child care before they are forced off to work.

I thank the gentlewoman for her contribution to this afternoon. We will engage the House, I am sure, on many of these issues as we go to our markup in the committee and full committee and eventually on the floor.

Ms. WOOLSEY. Mr. Speaker, I thank the gentlewoman and look forward to working with her in getting the message across that the enemy is poverty, the enemy is not welfare or the welfare recipient. The enemy is poverty. If we can get that message across and do something about it, we will have helped welfare recipients as well as the working poor.

Mrs. MINK of Hawaii. Mr. Speaker, I think all of us want to do what we can to provide a safety net. Every President that I have worked with talks about the necessity of a social safety net. That is really all that the welfare program is. It is a safety net for families that have fallen on hard times, have recently gotten divorced, or lost a family member, as my colleague explained in her situation; and they need a helping hand. They should not be treated as though they are of less worth and dignity than all of us. We want their children to have the benefit of the best possible family situation that they could have.

In talking about welfare benefits, I think Members have the feeling that there is this huge amount of money that is being remitted to the families on welfare, and that is certainly not true. The amounts of money that are allocated per month can be gotten by downloading the Congressional Research Service. It has a list of each State and what they pay each month to a family, family of one, two, three, four, five or six. Let us pick a family of three, that is, a single mom and two children. Alabama's monthly benefit for a family with two children is $164. One is barely able to keep oneself together with that amount of money; and yet we are saying to these families that they must go out to work and improve themselves. Arkansas is $204 a month; Delaware, $338; Florida, $303; Idaho, $293; Indiana, $288; Kentucky, $262; Louisiana, $240; Mississippi, $170; Missouri, $292; North Carolina, $272; Ohio, $373; Oklahoma, $292; South Carolina, $203; Tennessee, $185; Texas, $201. The list is available for public scrutiny.

I recite this list of those that are in the lower threshold of monthly compensation to give Members an idea that we are not talking about very large sums of money that they are receiving to just tide themselves over. In addition, they have Medicaid and food stamps, and usually housing assistance as well to help them through.

So this work idea is to try to uplift them from their condition of dependency upon the State, but it is not a lot of money. So the notion is how do we uplift them; and it seems to me that the most logical thing that we can do is to help them improve themselves through education and to fill the jobs that are available in teaching, nursing, in high tech, in other kinds of occupations that are available.

The requirement of 40 hours is really punitive in rural America. I represent a rural district. I do not see how we are going to find jobs to fill the requirement of 40 hours. We cannot even fill the 30 hours in my remote areas on the Big Island, on Maui, Molokai, and Kauai.

□ 1745

So I think that there has to be flexibility. Like my colleague the gentlewoman from California (Ms. WOOLSEY) suggested, we have to give States flexibility. We know that they can exempt 20 percent of their population. That is already in the old law. No one seems to be changing that. We have to bear in mind that in some areas of America it is just not possible to get a job, so we have to think of other alternatives. Certainly an alternative is through education to uplift them, to qualify them for professions and careers. If we were satisfied with just a poverty-level compensated job and say, well, we have done our duty under TANF, then what we are saying is that for the rest of time, this family is going to receive food stamps, Medicaid, housing support and other kinds of support services dependent upon a condition of poverty. If they work, they will also get earned income tax credit refunds, $2,000, $3,000, $4,000, $5,000 depending on how much they earn and how many dependents they have.

This is not the kind of policy that I think we want to perpetuate. What we want to do is to give these families the hope and the realization that our government policy is going to recognize self-betterment.

And so if a woman, a single parent, wants to go to college, get a degree in nursing or some other profession, that should be encouraged, not discouraged by not considering it part of the program. Our bill is very modest. The gentlewoman from California (Ms. WOOLSEY) and myself in our bills provide that education is a work activity. So when the law says you must be in a work activity, going to school constitutes a work activity, and you cannot be penalized because you decided that you wanted to go to school. The colleges can decide whether the individual is sustaining herself by keeping up her grades and attendance and so forth, and so those kinds of requirements can be levied. Going to college, that family will have Pell grants, undoubtedly, being on welfare. That will help to pay the tuition and other costs of getting there, transportation and so forth. She can probably qualify for work-study, so that she can produce some work hours and earn some money at the same time. This is the sort of support that a safety network ought to provide.

The TANF legislation that we passed in 1996 completely ignores this part of our government responsibility. We have passed countless pieces of legislation having to do with higher education, expanding the opportunity of young people to go to college. It should be no different for a family person who is on the welfare rolls. That person ought to have the same encouragement to get off welfare by getting an education that will then sustain that family at a salary that would lift them up from poverty so that they do not have to rely on food stamps, housing subsidies, earned income tax credit and all the rest of it.

So I think that this comprehensive look at what welfare reform should be, not just getting any job, but lifting people out of poverty, enhancing their condition and making it possible for the children of these families to have the kind of family life, family stability, with somebody who will be able to nurture them, carry them on to college because they themselves have had that opportunity.

It is this outlook that we hope to engage this House further upon as we take this bill up in subcommittee and full committee and bring the matter to the floor. It is expected that this legislation will come before us sometime in early or mid-May. So we have not much time. I invite the enlarged community to contribute their thoughts and views, because there are many, many organizations out there that have contributed already, in the hundreds of meetings that they have conducted where they have consulted with welfare recipients, and we have learned so much from them about the agony of raising families and how difficult it is to match the requirements of the law with their responsibilities for their families.

I am delighted that we are joined here by my dear friend, the distinguished gentlewoman from North Carolina (Mrs. CLAYTON) who has, I am sure, many words of advice to give us on this very, very important area, particularly rural America which I was just talking about.

Mrs. CLAYTON. I want to thank the gentlewoman very much for holding this special order and raising this whole issue of welfare reform and giving us the opportunity, our colleagues and the American people, to know that this is an issue that is being debated and which the President now has made a proposal. We know Ways and Means will be debating those areas and the committee on which the gentlewoman from Hawaii serves, the Committee on Education and the Workforce.

We have a unique opportunity in the reauthorization of welfare-to-work. The whole idea for welfare-to-work was indeed to move people from dependency to independence. In our State we call it Work First. You have an opportunity to try to find a job. The requirement was to make sure you entered into those kinds of activities to prepare you for a job, and the State, supposedly with the assistance of the Federal Government, was supposed to do that. There was not a policy that we were going to move people out of poverty. That would have been a better one, but it was that we were moving people to work.

But we have learned some things during that process. I would caution us that even some of the things we have learned from State studies may not be as reflective as it should be, because when you understand that our State as a whole may have some areas that work better than others, we have some parts of our States that have more opportunities for jobs, more opportunities to move people to work, and you have some places where I come from, the rural areas, where there is indeed a great decline in low-skill jobs. The economy, as we know, has depressed even those jobs who were upward mobile and diminished agriculture opportunity, so we are having less opportunities to move people into.

Also, when we look at what we are doing or, better still, we are looking at how Governors in the States may use waivers. They use waivers in a variety of ways. Sometimes it is more of an advantage to the Governor or a State than it is to the individual communities for that. For instance, they can use waivers to exempt areas that have a high concentration of unemployment. But if the State looks at it as a whole, they may not see that, because the State as a whole may be in that. So States have not used those waivers to target resources strategically where people have opportunities or people have a lack of opportunities. I think we have some opportunity to refine that.

The area that I am most interested in, and I am interested in all of them, but is the area of day care and child care. The child care capacity for parents who have very young children, if we expect them to be independent, they need to have the assurance that there is adequate, safe, child care and affordable child care. In rural areas, just having the access almost to any child care is not there. And then to have the assurance that you have placed your child in a qualified, well-equipped, designed, child care facility is almost remote, particularly when you understand that child care gets to be expensive.

And if you are not investing in training the personnel, if you are not investing in the infrastructure of the community college, or you are not creating opportunities for nonprofits or faith-based organizations to provide that child care, saying that people should find child care without providing for it I think is not only grossly negligent, I think it is unforgivable when we are expecting that this should be strengthening families.

One whole premise is strengthening families. Very few families I know of think they are strengthening their family if they throw their kids at just any place without regard to the quality and the safety of it, and then when you are not affording the kind of reimbursement.

As you begin to craft the bill, I hope you will understand that there is some differential between our urban communities and our rural communities. The suffering may be the same. I am not arguing against anything that should go in the urban areas, but the infrastructure is different. We have to travel longer periods of time, for a longer distance, for health care, for education, for shopping. We travel for job opportunities. If you are going to ignore the lack of transportation to facilitate this, then you will have put my district and my communities within my district at a disadvantage.

So in order to make sure that there is access to that, child care must be there. That means providing sufficient money for training as well as reimbursement for opportunities.

Then when you think about actually getting to a job, if I live 10 miles from the Wal-Mart that is going to hire me, by the way for $7 an hour, chances of me getting a car on $7 and paying for it, hey, as our young kids say, we need to get real if we really want this to happen.

I think we want to make the welfare bill even better. We just do not want to have statistics that say we have moved people off of welfare. Moving people off welfare is much easier, I submit to you, than moving people off welfare into meaningful work, where they can move from dependency to self-sufficiency, working, advancing themselves.

Finally, the whole issue of education of the welfare mother or the welfare adult, that is critical not only to the economy of our district but also to the stability of that person working and not going from welfare to work, laid off. If we understand, if we invest in their upward mobility by providing them training on a continuous basis, we are investing not only in the statistic of movement from welfare, but we are investing in the vitality of our community and a statistical reality that these people will stay as employed persons.

I commend the gentlewoman for giving attention to this. I just urge as you go forward that you will consider those infrastructure needs as well as the distance and the economies of scale and what that means in putting the same kinds of programs that we would have in urban areas, where things are relatively close to each other, and there may be a sufficient infrastructure there that would accommodate day care, where there are well-established church day cares or well-established nonprofits, and even for-profits.

They are not in my communities, unfortunately. I wish they were there. We have to find a way to give some incentives to those nonprofits or faith-based organizations investing in child care. We have to find ways of accommodating transportation in rural areas for the purpose of both education as well as for employment. We also have to find adequate resources to reimburse people for the day care.

Finally, the education of our mothers and people who are dependent is not only investing in that individual, which is worthy in and of itself, but we are investing in the vitality of that community and the stability of that community.

Again, I commend the gentlewoman for her leadership in this area. By the way, I say to you, we are trying to relieve the responsibility of food stamps out of day care. I am a part of the agriculture conference committee, and part of the idea as we considered that was to try to reform and bring new quality to food stamps. You remember, food stamps and welfare reform are partners. If you examine who is getting food stamps now, a little better than half of the people who are getting food stamps are working families. And if you take who those people may be, they are children of working families as well as their parents; and then senior citizens and children, just combine those alone, are over 60 percent.

So making food stamps and the transition from welfare or Work First to work, having the ability to supplement that $7-an-hour job I talked about with food stamps with a family of three, that is a big help. And so we want to make sure that that goes in tandem with it. Just as Medicaid has been made a little easier for the transition, we are trying to make an alignment between Medicaid and welfare reform and food stamps, so that this will be a part of the package we put together in enabling the tools for a person moving from welfare to have those additional tools to supplement a very low-wage job.

□ 1800

Mrs. MINK of Hawaii. Mr. Speaker, reclaiming my time, I commend the gentlewoman for her contributions, and I certainly hope that in her conference on the farm bill that she can work this alignment so that the families that are moving off of welfare getting their minimum wage job will have easier access to food stamps.

Right now we are told that many of them fall between the cracks, because the eligibility requirements are so different and nobody is there to help them qualify, so many of these families, though they are eligible income-wise, are not really getting this benefit at all.

Mrs. CLAYTON. We are very hopeful, and I think it is moving in the right direction.

Mrs. MINK of Hawaii. Wonderful. We had the opportunity to hear from Secretary Tommy Thompson the other day. He came and testified about the importance of child care. I want to say that I was very impressed with the passion with which he made his comments about child care, that you cannot have a national policy that requires work of single-parent families unless you provide adequate quality child care. So I think we have a friend there as far as the concept is concerned, but the mechanics of making this statement a reality for families is still short. It is not there.

In our bill, H.R. 3113, we say that if the government is not able to find child care for a family that it is requiring work activity out of, then the family is exempt from finding work activity until such child care can be made available, and the clock stops. It seems to me that is simple justice. If we believe that the work requirement cannot be enforced without child care, then we cannot put sanctions and penalties upon the family for something over which they have no control.

So I am hoping that we can work together with the administration and with Secretary Thompson to clarify this, because he feels that this is already current law, that if you cannot get child care, you are not required to go to work. But there is nothing in the legislation that exempts such a family from sanctions or from other kinds of prohibitions. So I hope we can work that out.

Child care is so important. There is a set-aside that requires the States, from the Federal monies it gets under TANF, to improve child care under the quality child care requirement. And I think that we need to up that ante, perhaps double it from 4 to 8 percent, so that more attention is given to quality child care services and not just simply child care and assume that the State has fulfilled its responsibility by finding any child care that might be available.

I think that these parents are entitled to have quality child care, and we should be moving in that direction. Part of the problem is that we are not able to pay the individuals who work in these child care centers sufficient income to make it worthwhile for them to qualify as early childhood education personnel, so with their low pay and low expectations, we cannot upgrade the child care centers in the way we should be.

There are many aspects to this issue that are very important. The stop-the-clock things on education and child care, drug treatment services that might be needed by that family, domestic violence, sexual abuse conditions, any severe mental illness or physical illness ought to exempt that family from the work requirements.

So I hope that we look at this legislation from the perspective of the family and how hard they are struggling to comply, rather than impose new requirements that are based upon percentage of participation or performance rates that the States are required to do. Rural America cannot possibly meet the 70 percent work requirement that the administration is asking. There are simply no jobs to which these individuals could find any sort of satisfaction of employment.

So I think we have to bear that in mind and find some way in which we can soften the requirement based upon flexibilities given to the States or waiver provisions given to the States where we have large rural populations with high unemployment rates. I think that is a very important quest that we must make in this reauthorization.

Mr. Speaker, I thank you very much for giving me the opportunity to expound on an issue that is very important to me and to 90 other Members of the House. I include for the RECORD a list of the 80 organizations that endorse H.R. 3113.

GROUPS THAT HAVE ENDORSED H.R. 3113, THE TANF REAUTHORIZATION ACT

1. Acercamiento Hispano/Hispanic Outreach.
2. African American Women's Clergy Assn.
3. American Civil Liberties Union.
4. Americans for Democratic Action.
5. American Friends Service Committee.
6. Arizona Coalition Against Domestic Violence.
7. Ayuda Inc.
8. Business and Professional Women/USA.
9. California Food Policy Advocates.
10. California Welfare Justice Coalition.
11. Campaign for America's Future.
12. Center for Battered Women's Legal Services at Sanctuary for Families.

13. Center for Community Change.
14. Center for Third World Organizing.
15. Center for Women Policy Studies.
16. The Center for Women and Families.
17. Center on Fathers, Families and Public Policy.
18. Central Conference of American Rabbis.
19. Chicago Women in Trades.
20. Child Care Action Campaign.
21. Child Care Law Center.
22. Choice USA.
23. Church Women United.
24. College Opportunity to Prepare for Employment (COPE).
25. Communications Workers of America.
26. Covenant House Washington.
27. Family Violence Prevention Fund.
28. Florida CHAIN (Communications Health Information Action Network).
29. Friends Committee on National Legislation (Quaker).
30. (GROWL) Grass Roots Organizing for Welfare Leadership.
31. Harbor Communities Overcoming Violence (HarborCOV).
32. Harlem Fight Back.
33. HELP USA.
34. Human Services Coalition of Dade County, Inc.
35. Hunger Action Network of NYS.
36. Jewish Women International.
38. Los Angeles Coalition to End Hunger & Homelessness.
39. Mothers on the Move Committee of the Philadelphia Unemployment Project.
40. National Association of Service and Conservation Corps.
41. National Association of Commissions for Women.
42. National Center on Poverty Law.
43. National Coalition Against Domestic Violence.
44. National Coalition of 100 Black Women, Metropolitan Atlanta Chapter
45. National Council of La Raza.
46. National Employment Law Project.
47. National League of Women Voters of the U.S.
48. National Organization for Women.
49. National Urban League.
50. National Welfare Rights Union.
51. NETWORK, A National Catholic Social Justice Lobby.
52. New Directions Center.
53. New Mexico Center on Law & Poverty.
54. Nontraditional Employment for Women.
55. NOW Legal Defense and Education Fund.
56. North Carolina Coalition Against Domestic Violence.
57. Ohio Domestic Violence Network.
58. Oregon Law Center.
59. Public Justice Center.
60. Research Institute for Independent Living.
61. RESULTS.
62. Rural Law Center of NY, Inc.
63. Safe Horizon.
64. Southeast Asia Resource Action Center.
65. The Miles Foundation.
66. The Union of American Hebrew Congregations.
67. Unitarian Universalist Association of Congregations.
68. United States Student Association.
69. Welfare Made A Difference Campaign.
70. Welfare Rights Organizing Coalition.
71. Welfare-to-work Advocacy Project.
72. Wider Opportunities for Women.
73. Wisconsin Council on Children and Families.
74. Women and Poverty Public Education Initiative.
75. Women's Committee of 100.
76. Women Employed.
77. Women Empowered Against Violence, Inc. (WEAVE).
78. Women's Housing and Economic Development Corporation (WHEDCO).
79. Workforce Alliance.
80. YWCA of the USA.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. ROUKEMA (at the request of Mr. ARMEY) for today on account of illness.

Mr. BUYER (at the request of Mr. ARMEY) for today after 1:00 p.m. on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. SIMMONS, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on April 9, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 1432. To designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building".

H.R. 1748. To designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the "Tom Bliley Post Office Building".

H.R. 1749. To designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the "Herbert H. Bateman Post Office Building".

H.R. 2577. To designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the "Bob Davis Post Office Building".

H.R. 2876. To designate the facility of the United States Postal Service located in Harlem, Montana, as the "Francis Bardanouve United States Post Office Building".

H.R. 2910. To designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the "Norman Sisisky Post Office Building".

H.R. 3072. To designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the "Vernon Tarlton Post Office Building".

H.R. 3379. To designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building".

ADJOURNMENT

Mrs. MINK of Hawaii. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, April 15, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6143. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Industrial Hygiene Practices [DOE-STD-6005-2001] received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6144. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Management Assessment And Independent Assessment Guide [DOE-STD-6005-2001] received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6145. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Kansas, Missouri and Nebraska; Correction [FRL-7161-9] received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6146. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates—received March 14, 2002, pursuant to 5 U.S.C.. 801(a)(1)(A); to the Committee on International Relations.

6147. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendment to the List of Proscribed Destinations—received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6148. A letter from the Chairman, Broadcasting Board Of Governors, transmitting the Annual Program Performance Report on the FY 2001 Performance Plan; to the Committee on Government Reform.

6149. A letter from the Acting Chairman, Consumer Product Safety Commission, transmitting the Fiscal Year 2001 Annual Program Performance Report; to the Committee on Government Reform.

6150. A letter from the Director, Holocaust Memorial Museum, transmitting the Annual Performance Report for Fiscal Year 2001; to the Committee on Government Reform.

6151. A letter from the Director, Institute of Museum and Library Services, transmitting the FY 2001 Annual Program Performance Report; to the Committee on Government Reform.

6152. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's FY 2001 Performance Report; to the Committee on Government Reform.

6153. A letter from the Secretary, Department of the Interior, transmitting the Department's legislative proposal to reauthorize appropriations for the Bureau of Land Management under the Federal Land Policy and Management Act; to the Committee on Resources.

6154. A letter from the Secretary, Department of Commerce, transmitting the biennial report regarding the activities of the National Oceanic and Atmospheric Administration's Chesapeake Bay Office Activities; to the Committee on Resources.

6155. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to establish the crime of attempted international parental kidnapping, and for other purposes; to the Committee on the Judiciary.

6156. A letter from the Chairman, STB, Department of Transportation, transmitting the Department's final rule—Regulations Governing Fees For Services Performed In Connection With Licensing And Related Services—2002 Update—received March 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Britten-Norman Limited BN-2, BN-2A, BN-2B, BN-2T, and BN2A MK. III Series Airplanes [Docket No. 2001-CE-39-AD; Amendment 39-12639; AD 2002-02-11] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6158. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes [Docket No. 97-NM-242-AD; Amendment 39-12646; AD 2002-03-05] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6159. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2001-NM-153-AD; Amendment 39-12635; AD 2002-02-07] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6160. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes [Docket No. 2000-NM-381-AD; Amendment 39-12630; AD 2002-02-02] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6161. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30298; Amdt. No. 2096] received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6162. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, UH-1P, and Southwest Florida Aviation Model SW204, SW204HP, SW205, and SW205A-1 Helicopters, Manufactured by Bell Helicopter Textron, Inc. for the Armed Forces of the United States [Docket No. 2001-SW-14-AD; Amendment 39-12628; AD 2002-01-31] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 476. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions (Rept. 107-397). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2628. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Muscle Shoals National Heritage Area in Alabama, and for other purposes (Rept. 107-398). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 347. Resolution authorizing the use of the Capitol grounds for the National Peace Officers' Memorial Service (Rept. 107-399). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 348. Resolution authorizing the use of the Capitol grounds for the National Book Festival (Rept. 107-400). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 354. Resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run (Rept. 107-401). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 356. Resolution authorizing the use of the Capitol Grounds for the Greater Washing Soap Box Derby (Rept. 107-402). Referred to the House Calendar.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 3839. A bill to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes; with an amendment (Rept. 107-403). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 3801. A bill to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes; with an amendment (Rept. 107-404). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3983. A bill to ensure the security of maritime transportation in the United States against acts of terrorism, and for other purposes; with an amendment (Rept. 107-405). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 4167. A bill to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. DELAY:

H.R. 4168. A bill to extend the suspension of duty on Methyl thioglycolate; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. BARR of Georgia, Mr. HOSTETTLER, Mr. PETRI, Mr. GOODE, Mr. WAMP, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. KERNS, Mr. FLAKE, Mr. CRANE, Mr. KINGSTON, Mr. MANZULLO, Mr. DUNCAN, Mr. SCHAFFER, Mr. WELDON of Florida, Mr. SESSIONS, Mr. ROHRABACHER, and Mr. TANCREDO):

H.R. 4169. A bill to provide that the International Criminal Court is not valid with respect to the United States, and for other purposes; to the Committee on International Relations.

By Mr. FLETCHER:

H.R. 4170. A bill to amend the Public Health Service Act to provide for cooperative governing of health insurance policies by primary and secondary States and to provide assistance to States to promote the establishment of qualified high risk pools, to provide financial incentives to encourage health coverage for employees and individuals, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER:

H.R. 4171. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-bis(phenylthio)-; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4172. A bill to suspend temporarily the duty on a mixture of 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)- and 9,10-Anthracenedione, 1,5-diaminochloro-4,8-dihydroxy-; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4173. A bill to suspend temporarily the duty on Chromate(3-), bis[3-(hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthal enyl]]azo-.kappa.N1]-7-nitro-1-naphthalenesulfonato(3-)]-,tri sodium; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4174. A bill to suspend temporarily the duty on a mixture of 9,10-Anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-and 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-; to the Committee on Ways and Means.

By Mr. BARTON of Texas:

H.R. 4175. A bill to suspend temporarily the duty on hand held scanners; to the Committee on Ways and Means.

By Mr. BARTON of Texas:

H.R. 4176. A bill to suspend temporarily the duty on scanners not combined with a clock; to the Committee on Ways and Means.

By Mr. BARTON of Texas:

H.R. 4177. A bill to suspend temporarily the duty on mobile based scanners valued at more than $40; to the Committee on Ways and Means.

By Mr. CHABOT:

H.R. 4178. A bill to extend the suspension of duty on chloro amino toluene; to the Committee on Ways and Means.

By Mrs. CHRISTENSEN (for herself, Mrs. JOHNSON of Connecticut, and Mr. MCNULTY):

H.R. 4179. A bill to amend the Harmonized Tariff Schedule of the United States with respect to the production incentive certificate program for watch and jewelry producers in possessions of the United States, including the Virgin Islands, Guam, and American Samoa; to the Committee on Ways and Means.

By Mr. DOGGETT (for himself, Mr. SHAYS, Mr. MEEHAN, Mr. RANGEL, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mr. JEFFERSON, Mr. TANNER, Mr. POMEROY, Mr. ALLEN, Mr. ANDREWS, Mr. BENTSEN, Mr. DAVIS of Florida, Mr. GONZALEZ, Mr. GRAHAM, Mr. GREEN of Texas, Mr. HALL of Ohio, Ms. JACKSON-LEE of Texas, Mrs. MINK of Hawaii, Mr. MOORE, Mr. PLATTS, Mr. SANDLIN, and Mr. TURNER):

H.R. 4180. A bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local political committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes; to the Committee on Ways and Means.

By Mr. GUTKNECHT (for himself, Mr. GILMAN, Mr. SWEENEY, Mr. SABO, Mr. SANDERS, and Mr. HASTINGS of Florida):

H.R. 4181. A bill to amend the Internal Revenue Code of 1986 to prohibit pension plan amendments reducing the rate of future benefit accrual, subject to a safe harbor where the plan provides notice of the amendment and an election to continue benefit accruals under the former plan instead of the amended plan; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4182. A bill to suspend temporarily the duty on cases for certain toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4183. A bill to suspend temporarily the duty on bags for certain toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4184. A bill to suspend temporarily the duty on certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4185. A bill to suspend temporarily the duty on certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4186. A bill to suspend temporarily the duty on cases for certain children's products; to the Committee on Ways and Means.

By Mr. HORN (for himself, Ms. SCHAKOWSKY, Mr. BURTON of Indiana, Mr. WAXMAN, Mr. OSE, Mr. FRANK, Mr. MCDERMOTT, Mr. UDALL of Colorado, Mr. BENTSEN, Mr. ALLEN, Mr. BLAGOJEVICH, Mr. CLAY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. KUCINICH, Mr. LANTOS, Mr. LYNCH, Mrs. MALONEY of New York, Ms. NORTON, Mr. OWENS, Mr. TOWNS, Mr. LATOURETTE, and Mr. BAIRD):

H.R. 4187. A bill to amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records; to the Committee on Government Reform.

By Mr. HOUGHTON:

H.R. 4188. A bill to suspend temporarily the duty on certain 12-volt batteries; to the Committee on Ways and Means.

By Mr. HULSHOF:

H.R. 4189. A bill to suspend temporarily the duty on cyclanilide; to the Committee on Ways and Means.

By Mr. HULSHOF:

H.R. 4190. A bill to suspend temporarily the duty on ethoprop; to the Committee on Ways and Means.

By Mr. HULSHOF:

H.R. 4191. A bill to suspend temporarily the duty on foramsulfuron; to the Committee on Ways and Means.

By Mr. KIND (for himself, Mrs. EMERSON, Mr. PETRI, Mr. BAIRD, Mr. DAVIS of Florida, Mr. KUCINICH, Ms. LEE, and Mr. SCHIFF):

H.R. 4192. A bill to amend the Richard B. Russell National School Lunch Act to establish pilot projects to support and evaluate the provision of before-school activities that advance student academic achievement and encourage the establishment of, and increase participation in, school breakfast programs; to the Committee on Education and the Workforce.

By Mr. LANGEVIN (for himself, Mr. ABERCROMBIE, Mr. BLAGOJEVICH, Ms. BROWN of Florida, Mr. CLAY, Mr. CAPUANO, Ms. DELAURO, Mr. FRANK, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. MEEHAN, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. PASCRELL, Mr. SERRANO, Mr. SHAYS, Mr. STARK, Mrs. TAUSCHER, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 4193. A bill to ensure greater accountability by licensed firearms dealers; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia:

H.R. 4194. A bill to amend the Internal Revenue Code of 1986 to provide an increased low-income housing credit for property located immediately adjacent to qualified census tracts; to the Committee on Ways and Means.

By Mr. MANZULLO:

H.R. 4195. A bill to suspend temporarily the duty on certain custom-made automotive magnets; to the Committee on Ways and Means.

By Mr. MANZULLO:

H.R. 4196. A bill to suspend temporarily the duty on certain epoxy molding compounds; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. WILSON of South Carolina):

H.R. 4197. A bill to suspend temporarily the duty on certain high-performance loudspeakers; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. WILSON of South Carolina):

H.R. 4198. A bill to suspend temporarily the duty on parts for use in the manufacture of certain high-performance loudspeakers; to the Committee on Ways and Means.

By Mrs. MCCARTHY of New York:

H.R. 4199. A bill to suspend temporarily the duty on Hydrated Hydroxypropyl Methylcellulose; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 4200. A bill to suspend temporarily the duty on dimethyldicykan; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 4201. A bill to suspend temporarily the duty on triacetone diamine; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 4202. A bill to suspend temporarily the duty on Polycaprolactam-pigment concentrate; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 4203. A bill to suspend temporarily the duty on Polycaprolactam; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 4204. A bill to suspend temporarily the duty on Poly (hexamethylene adipamide); to the Committee on Ways and Means.

By Mrs. MEEK of Florida:

H.R. 4205. A bill to authorize the Secretary of Housing and Urban Development to permit public housing agencies to transfer unused low-income rental assistance amounts for use under the HOME investment partnerships program or for activities eligible for assistance from the public housing Capital Fund; to the Committee on Financial Services.

By Mr. MOLLOHAN:

H.R. 4206. A bill to reduce temporarily the duty on ethylene/tetrafluoroethylene copolymer (ETFE); to the Committee on Ways and Means.

By Ms. NORTON (for herself and Mrs. MORELLA):

H.R. 4207. A bill to permit statues honoring citizens of the District of Columbia to be placed in Statuary Hall in the same manner as statues honoring citizens of the States are placed in Statuary Hall, and for other purposes; to the Committee on House Administration.

By Mr. PETERSON of Minnesota:

H.R. 4208. A bill to approve the use or distribution of judgment funds of the Red Lake Band of Chippewa Indians of Minnesota by the Senate and the House of Representatives, and for other purposes; to the Committee on Resources.

By Mr. ROEMER (for himself, Mr. HOUGHTON, Mr. GILMAN, Mr. BERMAN, Mr. ACKERMAN, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. MORAN of Virginia, Mr. MCDERMOTT, Mr. GREENWOOD, Mr. LUTHER, Mr. KIRK, Mr. HALL of Ohio, Mr. DICKS, Mr. CARSON of Oklahoma, Mr. CONYERS, Mrs. MEEK of Florida, Ms. ESHOO, Mrs. DAVIS of California, Mr. HORN, Mr. ALLEN, Mr. MOORE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP, Ms. CARSON of Indiana, Mr. MCNULTY, Mr. FROST, Mr. PASTOR, Ms. MILLENDER-MCDONALD, Mrs. MORELLA, Mr. PRICE of North Carolina, Mr. LARSON of Connecticut, Mr. SABO, Mr. BOEHLERT, and Mr. BRADY of Pennsylvania):

H.R. 4209. A bill to amend the Foreign Assistance Act of 1961 to reauthorize microenterprise assistance programs under that Act and to expand sustainable poverty-focused microenterprise programs under that Act by implementing improved poverty measurement methods under those programs; to the Committee on International Relations.

By Mrs. ROUKEMA (for herself and Mr. TIERNEY):

H.R. 4210. A bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. SESSIONS:

H.R. 4211. A bill to suspend temporarily the duty on triethyleneglycol-bis-(3-tert-butyl-4-hydroxy-5-methylphenyl)propionate; to the Committee on Ways and Means.

By Mr. SHERMAN (for himself, Mr. HUNTER, and Mr. WYNN):

H.R. 4212. A bill to direct the Secretary of Energy to conduct a study of the effects of year-round daylight saving time on fossil fuel usage; to the Committee on Energy and Commerce.

By Mr. SMITH of Washington:

H.R. 4213. A bill to amend title 38, United States Code, to extend to all members of the Armed Forces eligible for educational assistance under the Montgomery GI Bill the authority to transfer entitlement to such educational assistance to dependents; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Washington:

H.R. 4214. A bill to amend titles 10 and 38, United States Code, to extend the time limitation for use of eligiblity and entitlement to educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico:

H.R. 4215. A bill to amend title XVIII of the Social Security Act to apply a uniform geographic cost-of-practice index value for physicians' services furnished under the Medicare Program of 1; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISTOOK (for himself, Mr. STENHOLM, Mr. NUSSLE, Mr. ADERHOLT, Mr. AKIN, Mr. BACHUS, Mr. BAKER, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BILIRAKIS, Mr. BISHOP, Mr. BLUNT, Mr. BOEHNER, Mrs. BONO, Mr. BOOZMAN, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. BRYANT, Mr. CALVERT, Mr. CANNON, Mr. CANTOR, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mr. COMBEST, Mr. CONDIT, Mr. CRANE, Mr. CRENSHAW, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DELAY, Mr. DEMINT, Mr. DOOLITTLE, Mr. DUNCAN, Ms. DUNN, Mr. EDWARDS, Mr. ENGLISH, Mr. FLETCHER, Mr. FORBES, Mr. GANSKE, Mr. GEKAS, Mr. GOODE, Mr. GOODLATTE, Mr. GRAHAM, Mr. GRAVES, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANSEN, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HORN, Mr. ISAKSON, Mr. ISSA, Mr. JENKINS, Mr. JOHN, Mr. JONES of North Carolina, Mr. KELLER, Mr. KENNEDY of Minnesota, Mr. KERNS, Mr. KINGSTON, Mr. KIRK, Mr. KOLBE, Mr. LAHOOD, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LUCAS of Oklahoma, Mr. MANZULLO, Mr. MCCRERY, Mr. MCKEON, Mr. JEFF MILLER of Florida, Mr. DAN MILLER of Florida, Mrs. MYRICK, Mr. NETHERCUTT, Mrs. NORTHUP, Mr. NORWOOD, Mr. OSBORNE, Mr. OTTER, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. POMBO, Ms. PRYCE of Ohio, Mr. RADANOVICH, Mr. REGULA, Mr. REHBERG, Mr. ROHRABACHER, Mr. ROYCE, Mr. RYUN of Kansas, Mr. SCHAFFER, Mr. SCHROCK, Mr. SESSIONS, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMMONS, Mr. SIMPSON, Mr. STEARNS, Mr. SULLIVAN, Mr. SWEENEY, Mr. TANCREDO, Mr. TERRY, Mr. THUNE, Mr. TIBERI, Mr. TOOMEY, Mr. WALDEN of Oregon, Mr. WAMP, Mr. WELLER, Mr. WICKER, and Mr. WILSON of South Carolina):

H.J. Res. 86. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. BARTON of Texas (for himself, Mr. BOUCHER, Mr. UPTON, Mr. TOWNS, Mr. TAUZIN, Mr. BURR of North Carolina, Mr. WYNN, Mr. WHITFIELD, Mr. RUSH, Mr. NORWOOD, Mr. SHIMKUS, and Mr. PICKERING):

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Commerce.

By Mr. NEY:

H. Con. Res. 374. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001; to the Committee on House Administration.

By Mr. GUTKNECHT (for himself, Mr. EHRLICH, Mr. ROHRABACHER, Mr. NEY, Mr. SMITH of New Jersey, and Mr. GILMAN):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress in support of the people of Iran and their legitimate quest for freedom, economic opportunity, and friendship with the people of the United States, and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. MEEKS Of New York.
H.R. 103: Mr. CUNNINGHAM.
H.R. 128: Mr. BISHOP and Mr. RANGEL.
H.R. 303: Mr. BOOZMAN, Mr. FLAKE, and Mr. LEVIN.
H.R. 320: Mr. PHELPS.
H.R. 600: Mr. CLAY and Mr. ISRAEL.
H.R. 638: Mr. LYNCH and Mr. LARSON of Connecticut.
H.R. 658: Mr. ROGERS of Kentucky.
H.R. 690: Mr. COYNE.
H.R. 951: Mr. TANNER, Mr. BAIRD, and Mrs. CUBIN.
H.R. 953: Ms. RIVERS.
H.R. 984: Mr. NETHERCUTT.
H.R. 990: Ms. RIVERS and Mr. HOLT.
H.R. 1073: Mr. TIBERI.
H.R. 1092: Mr. GRAVES.
H.R. 1108: Ms. CARSON of Indiana.
H.R. 1171: Mr. TOWNS.
H.R. 1172: Mrs. LOWEY.
H.R. 1176: Mr. ANDREWS and Mrs. LOWEY.
H.R. 1202: Mr. LEACH.
H.R. 1212: Mr. PRICE of North Carolina.
H.R. 1256: Mr. JACKSON of Illinois and Mr. ISRAEL.
H.R. 1324: Mr. OWENS.
H.R. 1331: Mr. NEY and Mr. KINGSTON.
H.R. 1342: Mr. CHAMBLISS.
H.R. 1375: Mr. BASS.
H.R. 1434: Mr. QUINN and Mr. KIRK.
H.R. 1460: Mr. SOUDER.
H.R. 1462: Mr. OSBORNE.
H.R. 1522: Mr. LEACH.
H.R. 1581: Mr. CANTOR and Mr. HILLEARY.
H.R. 1609: Mr. CANTOR, Mr. SULLIVAN, Mr. ORTIZ, and Mr. PASTOR.
H.R. 1656: Mr. CRANE.
H.R. 1680: Mr. KILDEE and Mr. BARRETT.
H.R. 1711: Mr. BOYD.
H.R. 1723: Mr. TRAFICANT, Mr. BAKER, Mr. STRICKLAND, Mr. HOLDEN, Mr. PASCRELL, Mr. HOYER, Mr. LANTOS, and Mr. NORWOOD.
H.R. 1774: Mr. LAMPSON and Mr. ADERHOLT.
H.R. 1784: Ms. WATSON, Mr. DEFAZIO, and Mr. BOUCHER.
H.R. 1796: Ms. COSTELLO and Mrs. MORELLA.
H.R. 1808: Mr. HASTINGS of Florida.
H.R. 1822: Mr. ALLEN.
H.R. 1897: Mr. HOEFFEL.
H.R. 1903: Ms. KILPATRICK, Mr. SMITH of New Jersey, Ms. WATSON, and Mr. OWENS.
H.R. 1904: Mrs. LOWEY, Mr. ENGEL, and Mr. REYES.
H.R. 1962: Mrs. JO ANN DAVIS of Virginia.
H.R. 1979: Mr. NORWOOD, Mr. PENCE, Mrs. MEEK of Florida, Ms. MCKINNEY, Mr. JOHNSON of Illinois, Mr. RYAN of Wisconsin, Mr. BARTON of Texas, Mr. BLUMENAUER, Mr. BALLENGER, and Mrs. WILSON of New Mexico.
H.R. 1987: Mr. FROST, Mrs. BIGGERT, and Mr. JENKINS.
H.R. 2009: Mr. SABO, Mr. GUTIERREZ, Ms. WOOLSEY, Mr. HORN, Mr. KIND, Mr. SNYDER, Mr. LOBIONDO, Mr. ROEMER, Mr. TERRY, and Mr. HILL.
H.R. 2037: Mr. GOSS, Mrs. NORTHUP, and Ms. GRANGER.
H.R. 2063: Mr. LYNCH.
H.R. 2118: Mrs. MORELLA, Mr. HOEFFEL, and Ms. MCCOLLUM.
H.R. 2125: Mr. LIPINSKI, Mr. EDWARDS, Mr. BACHUS, Ms. MCCARTHY of Missouri, Mr. PHELPS, and Ms. DUNN.
H.R. 2138: Ms. SOLIS and Mr. LYNCH.
H.R. 2148: Mr. MCGOVERN and Mr. STARK.
H.R. 2160: Mr. UDALL of New Mexico.
H.R. 2173: Mr. NADLER, Mr. RANGEL, and Mr. DAVIS of Illinois.
H.R. 2211: Mr. RAHALL.
H.R. 2219: Mr. BACA, Mr. BARCIA, Mr. TOWNS, Mr. MCHUGH, Mr. MCINNIS, and Mr. CLAY.
H.R. 2220: Mr. FALEOMAVAEGA, Mr. KING, and Mr. LYNCH.
H.R. 2280: Mr. MCCRERY.
H.R. 2294: Ms. CARSON of Indiana.
H.R. 2316: Mr. THUNE and Mr. FERGUSON.
H.R. 2466: Mr. STUMP, Mr. JENKINS, and Mr. BALLENGER.
H.R. 2527: Ms. PRYCE of Ohio, Mr. CHABOT, Mrs. CAPITO, Mr. BAKER, Mr. WELLER, Ms. BERKLEY, Mr. LYNCH, Mr. SIMMONS, Mr. GORDON, Mr. ROYCE, Mrs. DAVIS of California, Mr. WU, Mr. MALONEY of Connecticut, Mr. DICKS, Ms. HOOLEY of Oregon, Mr. DEFAZIO, and Mrs. MALONEY of New York.
H.R. 2576: Mr. FOLEY.
H.R. 2592: Mr. SHERMAN.
H.R. 2605: Mr. GEORGE MILLER of California.

H.R. 2608: Mr. Frank.

H.R. 2618: Mr. Herger.

H.R. 2663: Ms. Norton, Mr. George Miller of California, and Mr. Conyers.

H.R. 2695: Mr. Udall of Colorado, Mr. Schiff, and Mr. Honda.

H.R. 2714: Mr. LaTourette, Mr. Hoekstra, Mr. Crane, Ms. Hart, Mr. Foley, Mr. Brown of South Carolina, Mr. Fletcher, Mr. Taylor of North Carolina, Mr. Duncan, Mr. Smith of Michigan, Mr. Paul, Mr. Doolittle, Mrs. Myrick, Mr. Hansen, Mr. Pitts, Mr. Ballenger, Mr. Baker, Mr. Petri, Mr. Kingston, Mr. Ryun of Kansas, Mr. Jeff Miller of Florida, Mr. Norwood, and Mr. Wilson of South Carolina.

H.R. 2735: Mrs. Wilson of New Mexico, Mrs. Myrick, Mr. Pence, and Mr. Isakson.

H.R. 2777: Mr. Blumenauer and Mr. Smith of Washington.

H.R. 2799: Mrs. Lowey.

H.R. 2817: Mr. Kirk, Mr. Bartlett of Maryland, Mr. Pence, and Mr. Hansen.

H.R. 2820: Mr. Carson of Oklahoma, Mr. Shimkus, Mr. Lewis of Georgia, and Mr. Dingell.

H.R. 2829: Mr. Flake, Mr. Brady of Texas, Mr. Jeff Miller of Florida, Mr. Linder, Mr. Bartlett of Maryland, Ms. Dunn, Mr. Deal of Georgia, Mr. Peterson of Pennsylvania, Mr. Akin, Mr. Paul, Mr. Gary G. Miller of California, Mr. Hunter, Mr. Issa, Mr. Royce, Mr. Thune, Mr. Barton of Texas, Mr. Calvert, and Mr. Barr of Georgia.

H.R. 2867: Ms. Millender-McDonald.

H.R. 2874: Mr. Stark and Ms. Kilpatrick.

H.R. 2941: Mr. Toomey.

H.R. 3066: Mr. Cummings and Mr. Holden.

H.R. 3113: Mr. Boucher.

H.R. 3132: Mr. Lipinski, Mr. Delahunt, Mr. Capuano, and Mr. Tierney.

H.R. 3183: Mr. Carson of Oklahoma, Ms. Carson of Indiana, and Mr. Evans.

H.R. 3186: Mr. Foley.

H.R. 3231: Mr. Sam Johnson of Texas, Mr. Green of Texas, and Mr. Weller.

H.R. 3238: Ms. McKinney.

H.R. 3244: Mr. Hoekstra, Mr. Holt and Mr. Isakson.

H.R. 3258: Mr. Tauzin.

H.R. 3278: Mr. Neal of Massachusetts.

H.R. 3321: Mr. Brown of South Carolina Mr. McHugh, Mr. Graves, Mr. Meeks of New York, Mr. Rogers of Kentucky, and Mr. Price of North Carolina.

H.R. 3335: Mrs. Thurman, Mr. Green of Texas, and Mr. Frost.

H.R. 3360: Mr. Mascara and Mr. Boucher.

H.R. 3374: Mr. Kildee.

H.R. 3382: Mr. Pascrell.

H.R. 3389: Mr. Isakson and Mr. Oxley.

H.R. 3414: Mr. Schiff and Mrs. Davis of California.

H.R. 3430: Mr. Graham and Mr. Latham.

H.R. 3437: Mr. King and Mr. Wexler.

H.R. 3439: Mr. Thune and Ms. Granger.

H.R. 3450: Mr. Serrano, Mr. Meeks of New York, Mr. Hefley, and Mr. Holt.

H.R. 3464: Ms. DeGette.

H.R. 3465: Mr. McIntyre, Mr. Watt of North Carolina, and Mr. Bonior.

H.R. 3476: Mrs. Bono.

H.R. 3479: Mr. McGovern and Mr. Ehrlich.

H.R. 3512: Mr. Watkins and Mr. Thune.

H.R. 3524: Ms. Baldwin.

H.R. 3569: Mr. Owens.

H.R. 3574: Mr. McDermott.

H.R. 3584: Mrs. Christensen.

H.R. 3592: Mr. Etheridge, Mr. English, Ms. Ros-Lehtinen, Mr. Snyder, and Mr. Shows.

H.R. 3597: Mr. Owens.

H.R. 3617: Ms. Lee.

H.R. 3618: Mr. Clyburn.

H.R. 3625: Mr. Farr of California, Ms. DeLauro, Mr. Bentsen, and Mr. McGovern.

H.R. 3659: Mr. Cooksey, Mr. Becerra, Mrs. Jones of Ohio. Mr. Markey, Mr. Wamp, Mr. Schiff, Mr. Leach, Mr. Gonzalez, Mr. Barrett, Mr. McIntyre, Mr. Turner, Mr. Kind, Mr. Filner, Ms. Woolsey, Mrs. Kelly, Mr. McGovern, Mr. Hinojosa, Mr. Simmons, Mr. Green of Wisconsin, Mr. Ortiz, Mr. Cunningham, Mr. Ganske, Ms. Baldwin, and Mr. Pastor.

H.R. 3686: Mr. Bartlett of Maryland and Mr. Davis of Illinois.

H.R. 3694: Mr. Gutierrez and Mr. Sullivan.

H.R. 3698: Mr. Pence, Mr. Weldon of Florida, and Mr. Tancredo.

H.R. 3713: Ms. McCarthy of Missouri.

H.R. 3717: Mr. Bartlett of Maryland.

H.R. 3733: Mr. Carson of Oklahoma.

H.R. 3772: Ms. Brown of Florida, Mr. English, Mr. Frost, Mr. Cunningham, Ms. Carson of Indiana, Mr. Lynch, Mr. Frank, and Mr. McGovern.

H.R. 3782: Mr. Barr of Georgia, Mr. Terry, Mrs. Wilson of New Mexico, Mr. Gordon, Mr. Payne, and Mr. Walden of Oregon.

H.R. 3799: Mr. LaTourette.

H.R. 3825: Mr. Sullivan, Mrs. Roukema, and Mr. Barr of Georgia.

H.R. 3831: Mr. LaTourette and Mr. Simmons.

H.R. 3833: Mr. Dingell, Mr. Vitter, and Mr. Foley.

H.R. 3834: Ms. Baldwin, Mr. Price of North Carolina, Mr. Kennedy of Rhode Island, and Ms. Hart.

H.R. 3836: Mr. Edwards, Ms. Woolsey, and Mr. Stark.

H.R. 3842: Mr. Jones of North Carolina, Mr. Ferguson, Mr. Grucci, Mr. Wexler, and Mr. Foley.

H.R. 3884: Mr. Wynn, Mr. Gephardt, and Ms. DeLauro.

H.R. 3890: Mr. Crowley Mr. Owens, Mr. Frost, Mr. Dingell, and Ms. Watson.

H.R. 3894: Mr. Owens and Ms. McKinney.

H.R. 3895: Mr. Calvert.

H.R. 3897: Mr. Tom Davis of Virginia, Mr. Bonior, Mr. Smith of New Jersey, Ms. Solis, and Mr. Frank.

H.R. 3899: Ms. Woolsey.

H.R. 3912: Ms. Velázquez.

H.R. 3915: Mr. Pallone, Mr. Clay, Mr. Kucinich, Mr. Stark, Mr. Filner, and Mr. Moran of Virginia.

H.R. 3916: Mr. Davis of Florida, Mr. Green of Texas, Mr. Allen, Mr. George Miller of California, Mr. Filner, Mr. Hoeffel, Mrs. Thurman, Ms. Rivers, Mr. Serrano, and Ms. Woolsey.

H.R. 3933: Mr. Blagojevich, Ms. Norton, and Mr. Owens.

H.R. 3940: Mr. Spratt and Mr. Clyburn.

H.R. 3961: Ms. Schakowksy and Mr. Hinchey.

H.R. 3974: Mr. Frost.

H.R. 3981: Mr. Thune.

H.R. 3989: Ms. Carson of Indiana, Mr. Mascara, Mrs. Capps, Ms. Schakowsky, Mrs. Roukema, Mr. Evans, Mr. Maloney of Connecticut, Ms. Watson, Ms. Woolsey, Mr. Owens, and Mr. Stark.

H.R. 4003: Ms. McCollum.

H.R. 4008: Mr. Owens, Mr. Dingell, Ms. Kaptur, Mr. Stark, Mr. Frost, and Mr. Frank.

H.R. 4009: Mr. Bartlett of Maryland.

H.R. 4018: Mr. Carson of Oklahoma and Ms. Woolsey.

H.R. 4019: Mr. Souder, Mr. Sensenbrenner, and Ms. Ros-Lehtinen.

H.R. 4030: Mr. Gutknecht, Mr. Crenshaw, Mr. Stump, and Mr. Walden of Oregon.

H.R. 4043: Mr. Barr of Georgia, Mr. Bereuter, and Mr. Pitts.

H.R. 4061: Ms. Carson of Indiana, Mr. Owens, Mr. Bonior, Mr. Pomeroy, Mr. Pascrell, Mr. Ford, Mr. Cummings, Mr. Matsui, and Mr. Gonzalez.

H.R. 4071: Mr. Foley.

H.R. 4098: Mr. McGovern and Mrs. Mink of Hawaii.

H.R. 4104: Ms. Eshoo and Mr. Larson of Connecticut.

H.R. 4108: Mr. Tancredo.

H.R. 4112: Mr. Foley, Mr. Watkins, and Mr. Schaffer.

H.R. 4152: Mr. Sweeney, Mr. Boyd, Mr. Crenshaw, Mr. Pence, Mr. Schrock, Mr. Culberson, and Mr. Platts.

H.R. 4156: Mr. Gordon, Mr. Goode, Mr. Taylor of North Carolina, Mr. Hoeffel, Mr. McGovern, Mr. Isakson, and Mr. Coble.

H. Con. Res. 297: Mr. Royce.

H. Con. Res. 315: Mr. Boozman and Mr. Green of Texas.

H. Con. Res. 328: Mr. CLay.

H. Con. Res. 346: Mr. Blumenauer.

H. Con. Res. 350: Mr. Whitfield and Mr. Stupak.

H. Con. Res. 351: Ms. Millender-McDonald, Mr. Kind, Mrs. Mink of Hawaii, Mr. Blagojevich, Mr. Doyle, Mr. Shaw, Mrs. Meek of Florida, Mr. Farr of California, Mr. McGovern, Ms. Woolsey, and Mr. George Miller of California.

H. Con. Res. 371: Mr. Fossella, Ms. Woolsey, Mr. Shimkus, Mr. Collins, Mr. Frost, Mr. Serrano, Mr. Horn, Ms. McKinney, Mr. Lynch, Ms. McCollum, and Mr. Knollenberg.

H. Res. 17: Ms. McCollum.

H. Res. 302: Mr. Walsh and Mr. Bachus.

H. Res. 361: Mr. Souder, Mr. Kleczka, Ms. Rivers, and Mr. Kirk.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3479: Mr. Kucinich.

H.R. 3598: Mr. Weldon of Pennsylvania.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 6, by Mr. STEVE ISRAEL on House Resolution 352: Adam Smith, Christopher John, Jim Matheson, Ronnie Shows, and Rod R. Blagojevich.

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Bart Gordon.

SENATE—*Thursday, April 11, 2002*

The Senate met at 10:01 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Hazdan.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Sovereign of the Universe and Father of Mankind, in these soul stirring times we need Thy guidance and Thy blessing. Serious is the challenge that free countries and America face. We seek peace, but we must safeguard life and liberty from possible onslaughts of godless, ruthless, and unprincipled aggressors.

Earnestly we seek Thee and we invoke Thy blessing upon all assembled here in this shrine of freedom. Thy faithful servants, the Senators who have been chosen to speak for our Nation, stand upon a pedestal of power, of privilege, and responsibility. Do Thou, O gracious guardian, ever direct their deliberations that their vision and wisdom may make America a better country in which to live, and thus strengthen the national foundations of our beloved Republic.

May we, the citizens of the United States, ever be reverent toward Thee, our loving G-d, loyal to our obligations as Americans, honorable in our dealings with our fellow men, compassionate to the unfortunate, be as brothers to the oppressed, the persecuted, and the homeless everywhere.

Gracious Sovereign who is the ruler of the universe, do Thou bless and guide and guard the President of the United States, these Senators and all associated with them who labor zealously for the welfare of our Nation and for the advancement of the cause of democracy throughout the world.

May the biblical ideals of freedom and fraternity, of justice and equality enshrined in the American Constitution become the heritage of all people of the earth.

We ask this in Thy name, our Father in heaven. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BILL NELSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 11, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Senator from the State of Florida, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. NELSON of Florida thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, as the Chair announced, the Senate is now resuming the consideration of the energy reform bill. We expect the Senator from California to be here momentarily to offer an amendment. I believe the subject matter of that will deal with ethanol. This will be offered, I hope, within the next few minutes.

The consideration of this legislation will be interrupted as a result of the unanimous consent request granted last night. The Senate is slated to resume the election reform measure at 11:30 a.m. today, with 30 minutes of debate remaining prior to the Senate conducting up to three rollcall votes at 12 noon today. That 30 minutes will be equally divided between Senator DODD and Senator MCCONNELL. Once the election reform measure has been disposed of, the Senate will resume consideration of the energy bill with other votes this afternoon and this evening.

I say to all Senators, we need to move this legislation along. I sound like a broken record. We have been told on several occasions that the ANWR amendment was going to come forward. It will come forward today in some fashion or form. I think it is fair to say if this is not offered by Senator MURKOWSKI or someone of his choosing, either I or someone else will offer it. ANWR must come before the Senate and we must debate this issue; I hope everyone understands. Whoever wants to offer it wants it just right, and I think the just right time has arrived. We need to have this amendment before the Senate. As was indicated yesterday, it may become necessary to offer the same language in the House bill so we can get this debate underway and this legislation completed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 and 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Durbin amendment No. 3094 (to amendment No. 2917), to establish a Consumer Energy Commission to assess and provide recommendations regarding energy price spikes from the perspective of consumers.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

AMENDMENT NO. 3114 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. Mr. President, I rise today to open the debate on the so-called renewable fuels or ethanol mandate in the Senate energy bill. I strongly believe the fuel provisions in this legislation are egregious public policy, that they amount to a wish list for the ethanol industry, and the Senate has to consider the impact of these provisions on the rest of the Nation.

Frankly, I believe it is terrible public policy. Frankly, I believe this amounts to a wealth transfer of literally billions of dollars from every State in the Nation to a handful of ethanol producers. Frankly, I believe this mandate amounts to a new gas tax in the Nation.

Here are my objections to the renewable fuels requirement in the Senate energy bill: First, despite limited clean air benefits, the mandate will almost triple the amount of ethanol in our Nation's fuel.

Second, even if States do not use this ethanol, they are required—forced—to pay for it anyway.

Third, forcing more ethanol into gasoline will only drive prices up at the pump.

Fourth, since over 98 percent of the production capacity of ethanol is based in the Midwest, it is extremely difficult to transport large amounts of ethanol to States where it is not produced.

Fifth, I am very concerned the limited number of ethanol suppliers in the United States will be able to exercise their market power and drive up price. This is exactly what happened last year in the West when electricity and natural gas prices soared due to supply manipulation by out-of-State energy companies.

Sixth, there may not be enough ethanol produced in the United States to meet future demand.

Seventh, almost tripling the amount of ethanol we produce raises serious health and environmental questions. Tripling it is a big step into the unknown, environmentally and healthwise. I hope to show this in my remarks.

Finally, because ethanol is subsidized, mandating more of it will divert money from the highway trust fund. What I mean by this is there is a 5.4-cent-per-gallon tax credit for ethanol that will continue to divert more and more resources to ethanol instead of the highway trust fund where every State gets its essential resources to reduce traffic congestion and improve the safety of roads and bridges.

Let me explain each objection, one at a time. Let me begin by talking about my concerns with mandating more ethanol than is needed. This bill forces California, my State, to use 2.68 billion gallons of ethanol over the 9 years it does not need to meet clean air standards.

Look at this chart. The red is the amount of ethanol California will be forced to use from 2004 to 2012 under the mandate in the Senate energy bill. The blue is the amount of ethanol we would use without the mandate, largely in the winter months in the southern California market.

Here you see, to meet clean air standards, by 2004, we will be forced to use 126 million gallons. This bill forces us to use 276 million gallons in 2004 and it forces us to use 312 million gallons in 2005 and it ratchets up every year until we are forced to use, by the end of this mandate, 600 million gallons of ethanol in 2012 when we only need to use 143 million gallons to meet clean air standards.

What kind of public policy would do that? What kind of public policy would require a State to use a dramatic amount more of ethanol, an untested health and environmental additive to gasoline, that it doesn't really need? Is that good public policy? I do not think it is.

What makes it even more egregious—and the reason I use the word "egregious" is if we do not use it, if we trade it, we are forced to pay for it anyway. That is the massive transfer of wealth that takes place under this amount. No one knows how much more consumers will be forced to pay, but a recent study by the Department of Energy indicates that prices will increase 4 to 10 cents a gallon across the United States if this ethanol mandate becomes law.

A study sponsored by the California Energy Commission indicates that in a State such as California, where ethanol is not produced, gas prices could double and even reach $4 per gallon. This chart shows the real hazard this mandate is on both coasts. In California, where it is estimated the price increase is .096 cents per gallon. Then in other states: Connecticut, it will increase the price of gasoline 9 cents a gallon; Delaware, 9 cents a gallon; New Hampshire, 8 cents a gallon; New Jersey, 9 cents a gallon; New York, 7 cents a gallon; Pennsylvania, 5 cents a gallon; Rhode Island, 9 cents a gallon; Virginia, 7 cents a gallon; Massachusetts, 9 cents a gallon; Missouri, 5 cents a gallon—and on and on and on. This is bad public policy.

California does not have the infrastructure in place to be able to transport large amounts of ethanol into the State, therefore any shortfall of supply—either because of manipulation or raw market forces—will be exacerbated because the State will be reliant on ethanol from another area of the United States.

According to a recent report issued by the GAO, over 98 percent of the U.S. ethanol production capacity is located in the Midwest. Here it is: In the West, 10 million gallons—that is all we produce; in the Rocky Mountain region, 12 million gallons; the South, here, 15 million gallons; and the east coast, 4 million gallons.

In the Midwest, which is the big beneficiary of this ethanol mandate—nobody should doubt that—they produce 2.27 billion gallons of ethanol. So the ethanol is all produced in the Midwest.

There is only one ethanol plant in California today, so it is going to be impossible for California to respond to any ethanol shortage. As the GAO reports:

> Ethanol imports from other regions are vital. However, any potential price spike could be exacerbated if it takes too long for supplies from out-of-State (primarily the Midwest where virtually all the production capacity is located) to make their way to California.

Since there is no quick or effective way to send ethanol to California as of yet, more time is needed to develop the proper ethanol delivery infrastructure. One of the amendments I will be sending to the desk essentially delays the beginning of this by an additional year to give us the time to get the infrastructure.

This is why it is important. Because moisture causes ethanol to separate from gasoline, this fuel additive cannot be shipped through traditional gasoline pipelines. So it needs a whole new infrastructure. Ethanol needs to be transported separately by truck, by boat, and by rail, and blended into gasoline after arrival. Unfortunately, this makes the 1- to 3-week delivery time from the Midwest to either coast—either to California and the west coast, or to the east coast—dependent upon good weather conditions as well as available ship, truck, and train equipped to handle large amounts of ethanol. Again, this is a tripling of the ethanol use in America over the next 9 years.

I believe everyone outside of the Midwest will have to grapple with how to bring ethanol to their States. According to the California Energy Commission:

> The adequacy of logistics to deliver large volumes of ethanol to California on a consistent basis—

This is the key. Gasoline is sold every day. You can't just import it once and then forget it for 3 weeks. Every single day on a consistent basis is uncertain.

A recent report sponsored by the same energy commission predicts that there will be future logistical problems since the gasoline supply is currently constrained with demand exceeding the existing infrastructure capacity.

This means that California is already at its refining capacity. It is actually at about 98 percent of refining capacity. If there is insufficient transportation infrastructure to ship large amounts, this just makes the problem worse.

I don't see any way for California to avoid experiencing a new energy crisis. This one would be a direct result of an unnecessary Federal requirement that increases our mandatory use of ethanol far beyond what we need to use to meet the clean air standard.

The fact that there are limited numbers of suppliers in the ethanol market reminds me of the situation with electricity a year ago when prices soared in the West because of a few out-of-State generating firms dominating the market. What do I mean by that?

According to the GAO, the largest ethanol producer is Archer Daniels Midland. That is this company. They have a 41-percent share of the ethanol market. The entire ethanol market really consists of these companies: Minnesota Corn Producers, 6 percent; Williams Bio-Energy, 6 percent; Cargill, 5 percent; High Plains Corporation, 4 percent; New Energy Corporation, 4 percent; Midwest Grain, 3 percent; and, Chief Ethanol, 3 percent.

These eight companies corner the market on ethanol. There is a market concentration of ethanol. That is a danger signal for all of us—a concentrated market, and a huge mandate that triples.

ADM has a 41-percent market share. The top eight firms have a 71-percent market share. The GAO finds their market share to be "highly concentrated."

How can those in the West who suffered last year believe these firms will not abuse their market power to drive prices up? If we learned anything from the energy crisis last year, it is that when there is not an ample supply or adequate competition in the marketplace, prices will soar, and consumers will pay.

Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed by Peter Schrag that appeared in the Sacramento Bee on January 30.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Jan. 30, 2002]

CAN CALIFORNIA AVOID THE NEXT ENERGY MESS?

(By Peter Schrag)

The two sets of terms aren't corollaries, but close enough. The Bush administration has ruled that without an "oxygenate" additive such as ethanol or MTBE, now being phased out because of water pollution problems, California gasoline won't burn cleanly enough to meet air-quality standards. It thus won't give the state a waiver from the federal requirement. But as a leading environmentalist says, the decision is based a lot more on political science than science. And it could cost California motorists close to a half-billion a year.

And that's where ADM comes in. The monster agribusiness company, which calls itself supermarket to the world, markets about half the ethanol produced in this country. ADM's contributions to politicians of both parties—some $4.5 million in the 1990s, plus some $930,000 in soft money in the 2000 election cycle alone, including $100,000 for the Bush inauguration last year—put it ahead of Enron on many lists of political-influence peddlers.

The investment, bolstered by intensive lobbying from Midwest farmers, is paying off handsomely. The president says that ethanol, a "renewable" fuel that comes mostly from corn, not only reduces emissions but also fosters energy independence.

The claim is dubious. Many studies indicate that ethanol, while reducing carbon monoxide emissions, increases the emission of smog-producing and other toxic compounds. A 1999 report commissioned by the U.S. Environmental Protection Agency itself called for an end to the requirement. That, the panel said, "will result in greater flexibility to maintain and enhance emission reductions, particularly as California pursues new formulation requirements for gasoline.

The Sierra Club, the Natural Resources Defense Council, the Clean Air Trust and other environmental groups echo the findings. But Washington hasn't paid much attention. Despite evidence that ethanol has contributed nothing to energy independence, every gallon of gas with ethanol gets a 5.4-cent federal subsidy (without costs $600 million a year in federal highway funds). And as MTBE is being phased out—in California, Gov. Gray Davis has set Jan. 1, 2003, as the deadline—ADM and other ethanol producers stand to gain handsomely.

Davis has lobbied vigorously for a waiver of the ethanol requirement, arguing, with considerable evidence, that California's auto and fuel standards will achieve the same or even better results without ethanol. He's also suing the federal EPA.

According to a North American Free Trade Agreement claim by Methanex Corp., a Canadian producer of MTBE, Davis himself got $200,000 from ADM during the 1998 gubernatorial campaign and allegedly was flown to ADM headquarters in Decatur, Ill., to meet with company officials. MTBE didn't have to be phased out, Methanex says; the problem is not the compound but the flawed underground tanks from which it leaks. Davis' phaseout order, says the claim, suggests still more influence peddling.

But in this case, ADM's investment hasn't paid off. There's been overwhelming pressure in California, as elsewhere, to get MTBE out of gasoline as quickly as possible. Davis is not doing ADM's bidding; he's trying to straddle a line between cleaner water and higher gas prices. Chances are he'll extend the MTBE phaseout and try to negotiate with Congress for (at least) more flexibility on ethanol.

Unlike Enron, ADM is not likely to implode; there's no sign of accounting shenanigans, no "partners" where red ink can be hidden. But six years ago, ADM was forced to pay $100 million in what was then the largest price-fixing fine ever imposed. In 1998, three of its senior executives, including Chief Operating Officer Michael Andreas, son of former board chairman Wayne Andreas, were sentenced to prison.

The case, said a federal appeals court, reflects "an inexplicable lack of business ethics and an atmosphere of general lawlessness. . . . Top executives at ADM and its Asian co-conspirators . . . spied on each other, fabricated aliases and front organizations to hide their activities, hired prostitutes to gather information from competitors, lied, cheated, embezzled, extorted and obstructed justice." These are not the kind of guys you want to depend on when you fill your tank.

California's gasoline situation will probably never become the crisis that electricity was last year—and in this case, no one can blame the state or its politicians. But if something doesn't give before the end of the year, the state will not only be paying for ethanol it doesn't need, but also be subject to sudden supply shortages.

California may be able to produce some of its own ethanol, but most will have to come from the Midwest, either by ship (down the Mississippi, which sometimes freezes) or by train. Without a federal waiver, every gallon of ethanol not available at the refinery means a shortage of 14 gallons of gas. If ever there was a price-spike formula, this one is it.

Last week, California's Republican gubernatorial candidates once again rehashed last year's energy crisis. Somebody ought to start asking what they'd do about the next one.

Mrs. FEINSTEIN. Mr. President, in this article, Schrag mentions:

> Now that "energy crisis" and Enron have become household words, Californians had better get familiar with ethanol and Archer Daniels Midland.

ADM is already an admitted price-fixing firm. Three of its executives have served prison time for colluding with competitors.

In 1996, ADM pled guilty and paid a $100 million fine for conspiring to set the price of an animal feed additive. That is the company that has a 41-percent share of ethanol.

The ethanol industry tells us they will be able to produce enough ethanol to meet future demands under this mandate. But what if some of the planned ethanol plants fail to be built? This is a key point. Plants could be delayed, or not coming online at all. We are finding this with the electricity-generation facilities right now in California. Plants that said they were going to come in, because of the economy, or because of their own financial conditions, or one thing or another, have decided no—they are not really going to go ahead with it. What is to preclude that same thing from happening with respect to ethanol? The answer to the question is nothing precludes it.

The GAO reports:

> Projected capacity may be lower if some plants cease production, plants under construction don't come online in time, or some new plants' plans do not materialize.

The ethanol industry is asking this Nation to make a blind leap of faith that there will be a sufficient amount of ethanol in the future. In fact, projections of the future domestic ethanol supply are based upon numbers supplied by ethanol producers themselves. We are taking a very big risk here. We should know it.

I am also particularly concerned about the long-term effect of nearly tripling the amount of ethanol in our gasoline supply. What effect will this have on our environment? What are the health risks of ethanol?

The answers are truthfully largely unknown. That is the rub, too. I believe it is bad public policy to mandate an amount of ethanol that is way above what is required to meet clean air standards before scientific and health experts can fully investigate the impact of ethanol on the air we breathe and the water we drink.

There was a 2-percent oxygenate requirement put in some time ago. One of the oxygenates that was chosen was MTBE. Now we find that MTBE has contaminated 10,000 wells in California, the water supply for Santa Monica, the Santa Clara Valley reservoirs, Lake Tahoe, and a number of other places in California. We now find that MTBE may well be a human carcinogen. We learned all of this, the horse is out, and the barn door is shut. Now we are going to do the same thing with respect to ethanol.

Just what are the environmental ramifications of more ethanol in our fuel supply?

Although the scientific opinion is not unanimous, evidence suggests that, one, reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it. We have reformulated gasoline. That is why we don't need to use it. The finding is that there is more smog pollution with ethanol than if States simply went to reformulated gasoline.

Second, ethanol enables the toxic chemicals in gasoline to seep further into ground water and even faster than conventional gasoline.

Ethanol is also made out to be an ideal renewable fuel, giving off fewer emissions. Yet on balance, ethanol can be a cause of more air pollution because it produces smog in the summer months. Smog is a powerful respiratory irritant. It affects a large amount of the population. It has an especially pernicious effect on the elderly, on children, and individuals with existing respiratory problems such as asthma. And asthma is going up in America. It is time we begin to ask why.

A 1999 report from the National Academy of Sciences found:

> [T]he use of commonly available oxygenates [like ethanol] in [Reformulated Gasoline] has little impact on improving ozone air quality and has some disadvantages. Moreover, some data suggests that oxygenates can lead to higher Nitrogen Oxide (NO_X) emissions.

Nitrogen oxides are known to cause smog.

The National Academy report also found that ethanol-blended gasoline will "lead to increased emissions of acetaldehyde"—a toxic pollutant.

Thus, ethanol is both good and bad for air quality. And we triple it. That is the unknown. That is the big step into the unknown we are taking. To me, it would make sense to maximize the advantages of ethanol and minimize the disadvantages. This bill, this mandate does not do that. This is exactly why States should have flexibility to decide what goes into their gasoline in order to meet clean air standards. Ethanol should not be mandated, certainly not at this level.

Why are some forcing smog pollution into our air during the summer?

Evidence also suggests that ethanol accelerates the ability of toxins found in gasoline to seep into our ground water supplies. The EPA Blue Ribbon Panel on Oxygenates found that ethanol "may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks."

Now, benzene is a carcinogen. Just know what we are doing.

Let me quote the EPA Blue Ribbon Panel on Oxygenates. Ethanol "may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks."

According to a report by the State of California entitled, "Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate," there are valid questions about the use of ethanol and its impact on ground and surface water. An analysis in the report found that there will be a 20-percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used—a 20-percent increase in public drinking water wells contaminated with benzene, a known carcinogen.

We are tripling the amount of ethanol, and we are tripling it when it isn't needed to meet clean air standards. What kind of public policy is this? It is egregious public policy. It is wrong public policy. If you think I am passionate about it, you are right.

So what is the rush to force more ethanol on the American motorists if it will only drive up the price of gasoline and produce mixed environmental results?

On top of that, how can the Senate favor protecting the ethanol industry from liability? And this is the clincher in this bill: They are protected from liability. So if you get sick from it, if it pollutes our wells, if benzene increases, you cannot sue. What kind of public policy is this?

I urge my colleagues to look at pages 204 and 205 of the energy legislation where a so-called safe harbor provision gives the ethanol industry unprecedented protection against consumers and communities that may seek legal redress against the harm ethanol may cause. I am very pleased to say that my colleague, Senator BOXER from California, will have an amendment which will eliminate this safe harbor provision.

More ethanol will force the Government to collect less gasoline tax revenue for the highway trust fund. This is a very big consideration. It is huge.

Let me argue this point. Ethanol is exempted from 5.3 cents of the Federal motor fuels tax. The Congressional Research Service has indicated that the ethanol mandate in this bill will divert $7 billion over the 9 years away from the highway trust fund, which States use to pay for essential transportation projects. And that is on top of the cut that is in the Bush budget.

So per gallon of gasoline today, 18.4 cents goes into the trust fund. With the tripled amount of ethanol, CRS estimates there will be a $7 billion loss in the highway trust fund over the next 9 years—a $7 billion loss. That is enough in itself to vote against this legislation.

California is able to produce special gasoline that is the cleanest burning gasoline in the country today. We meet clean air standards with reformulated gasoline. The State only needs to use ethanol in the winter months to meet clean air requirements. That is why the State has continually asked the Federal Government for a waiver of the 2-percent oxygenate requirement.

Yet time and time again, the ethanol industry has flexed its political muscle in the White House, in the Senate, and in the House to force California to use fuel additives the State does not need. This time is no different. And it is clear to me that all of this is merely serving to prop up an industry that would fall apart without overwhelming Government subsidy and action.

I am very concerned about the repercussions this mandate may have on the price and supply of gasoline. I cannot vote for this bill with this mandate in it. It is bad public policy. It is egregious public policy.

The California Energy Commission again points out:

> The combination of limited local capacity, restrained imports, limited storage, and a strong demand, has caused the California gasoline market to become increasingly unstable, with wild price swings.

The bottom line is that my State's gasoline market is extraordinarily volatile and vulnerable. And this is the fifth largest economic engine in the world. People have to get to work, and gasoline fuels the economy as well as automobiles. And we are going to do this to it?

In 1999, fires at Tosco and Chevron refineries during the summer forced the price of gasoline to double in California.

This bill will strain California's gasoline supply even further with a Federal ethanol mandate that risks plunging California and other States into the next energy crisis. Every indicator I have seen points to this ethanol requirement as having unanticipated side effects, such as supply problems and resulting in higher gasoline prices for the consumer.

So by passing this legislation, the Senate will be making California's and the Nation's gasoline more expensive by mandating a fuel additive with a negative value as an energy source and a mixed value for the environment.

On balance, it makes no public policy sense. I want to make clear, once again, my strong opposition to this greedy and misguided renewable fuels requirement. The mandate is a dangerous step that could force gasoline prices to soar, cause shortages of fuel, create more smog, and usher in the next energy crisis.

Plain and simple, it is bad policy to charge all consumers more to benefit a collection of very few ethanol producers. I hope this commentary will begin an honest debate in the Senate about the ethanol provisions of the Senate energy bill and what they will really do.

I know Senator SCHUMER is going to follow up on this. However, I take this opportunity to indicate that there will be a number of amendments from those of us on the west coast and those of us on the east coast. We intend to press this debate. We do not intend to let this bill go forward if we can prevent it.

I begin with one of my first amendments. Another diabolical thing in this bill is essentially to state that if a waiver is provided, if a State asks to waive—this is on page 195 of the bill—the Administrator, in consultation with the Secretary of Energy, may waive the renewable fuels requirement in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this section based on a determination by EPA, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or the environment of a State or a region or the United States; and that based on a determination by the EPA Administrator, after public notice and opportunity, there is an inadequate domestic supply or distribution capacity to meet the requirement.

In simple English, this means that if there is an emergency, the ethanol mandate can be temporarily suspended.

This is the rub: The bill, as currently drafted, gives EPA 240 days in an emergency to make a decision. That is a good part of a year to decide whether or not to grant a waiver. This is unconscionable. In other words, if you can't obtain enough ethanol and you have an emergency and you petition to waive it, it takes 240 days. What do you do for 240 days?

This, in my view, is ridiculous. Can you imagine if in a few years there is an ethanol shortage, there are problems getting enough ethanol to New York or to California and our two Governors ask for a waiver and we have to wait 240 days to get it? Our economy would take a devastating blow if such a situation were to occur.

To make this waiver more reasonable, I am offering this amendment to require the EPA to respond in a reasonable time to an emergency request by a State for a waiver. This amendment will give the EPA 30 days to rule on a waiver so consumers will not unduly suffer. By reducing the time period, the Administrator will have not 240 days but 30 days to decide whether or not an emergency waiver should be approved. We can ensure that any price spikes or supply shortage will be as temporary as possible.

I believe that 240 days is in there for a reason: Because if your gasoline spikes in price, as we think it is, you can't stop it. It goes on for the 240 days.

I will end my remarks. I reserve the right to come back for additional remarks. One of the things I would like to go into is how energy inefficient this ethanol proposal really is because ethanol increases the need for gasoline, it does not reduce it. MTBE reduces the amount of gasoline you need. So if you are short refinery capacity, MTBE works to your advantage. Ethanol does exactly the opposite. If you don't have that refinery capacity, you are stuck. It is a big problem.

I would like to do more on that, but at the present time I send an amendment to the desk and yield the floor. I notice the distinguished senior Senator from New York is here and will continue our opposition to this ethanol mandate.

I yield the floor, if I might, to the Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3114.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement)

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

"(B) PETITIONS FOR WAIVERS.—

"(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received by the Administrator.

"(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

AMENDMENT NO. 3030 TO AMENDMENT NO. 2917

The ACTING PRESIDENT pro tempore. The Chair recognizes the senior Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague for her strong and eloquent remarks. I ask unanimous consent to lay aside the pending amendment and call up amendment No. 3030 and ask for its consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 3030.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the section establishing a renewable fuel content requirement for motor vehicle fuel)

Beginning on page 186, strike line 9 and all that follows through page 205, line 8.

On page 236, strike lines 7 through 9 and insert the following:

is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

"(o) ANALYSES OF MOTOR VEHICLE FUEL CHANGES".

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I compliment my colleague from California for her fine remarks on this issue, which I share. We have a serious problem in this bill, a problem that most Members don't know about. There is a hidden gas tax in this bill. It is not going to be hidden after today.

This bill will raise the cost of gasoline on average in America more than the nickel gas tax did back in 1993, when I was not a Member of this distinguished body but which caused so much controversy.

I urge my colleagues to pay careful attention over the next few days as many of us bring up this issue. It is complicated. It is anti-free market, I say to my friend from Oklahoma who I know has been a strong defender of free market principles, when I agree with him and when I disagree with him. It is something that should not be in this bill. I think it could be the death knell of this bill, as the Senator from California said. I myself—and I know many others—cannot vote for this final bill with this provision included.

Let me express my concerns about this unprecedented new ethanol mandate provision which was quietly inserted into the Senate energy bill a few weeks ago without any debate. The provision accomplishes two goals not being disputed by my amendment. One is banning the use of MTBEs which has resulted in groundwater pollution all over the country. The second is scrapping the oxygenate mandate that led so many States to make such heavy use of MTBEs in the first place.

The proposal in the bill provides an anti-backsliding provision to require continued efforts on clean air. Though those provisions could be stronger, we are not opposing any of those parts of the bill. But beyond those provisions, this new amendment adds an astonishing new anti-consumer, anti-premarket requirement that every refiner in the country, regardless of where they are located, regardless of whether the State mandates it or not, regardless of whether the State chooses a different path to get to clean air, must use an ever-increasing volume of ethanol. If they don't use the ethanol—and this is the most amazing part of the bill—they still have to pay for ethanol credits.

Now, our amendment—the amendment I have introduced—would simply strike that provision, plain, simple, and clean. As to the provision we are striking, simply put, what it does is it requires all gasoline users, our consumers, to pay for ethanol whether or not they use it. It is nothing less than an ethanol gas tax levied on every driver—the mom who is driving the kids to school, a truck driver who earns a living. Every gasoline user in this country will pay.

Under this ethanol gas tax, gas prices will rise significantly, even under the best of circumstances. I am first going to bring this part out because I think this part will get the most attention in terms of people understanding how bad this provision is. Using Department of Energy numbers, impartial Hart/IRI Fuels Information Services estimates that gasoline prices will increase by a staggering 4 cents to 9.7 cents per gallon, depending on the region. Should there be market disruptions, which my friend from California brought up, the price would go much higher because without the gasoline they need, the ethanol they need, boom, it goes way up. It also favors some regions over others, so that California would pay the most—about 9.7 cents a gallon. So would New England. My State of New York would pay about 7 cents. But every part of the country would pay more—every single part. Even in the Midwest, where there is lots of ethanol production, the average price of gasoline would go up 4 or 5 cents a gallon.

Listen to this, my colleagues. In the heart of farm country—and I want to help farmers, as I think I have shown in my few years here—both Iowa and Nebraska had a referendum on the ballot to require this kind of provision and rejected it. Well, if the voters in the heart of farm country, in the heart of ethanol country, were against this provision, how are we in the Senate imposing this on every part of the country? I don't know what their philosophy is, but let me read from the Des Moines Sun Register:

> An ethanol mandate would deny Iowans a choice of fuels and short circuit the process of establishing its own worth in the marketplace. The justification is to marginally boost the price of corn. If that were the goal, other measures would be far more effective.

How about the Quad City Times editorial entitled "Ethanol Only Proposal Doesn't Help Consumers."

How about the Grand Island (Nebraska) Independent: "Ethanol use should not be a forced buy."

How about the Omaha World Herald: "More Alcohol, Less Choice."

These are all editorials. I don't know about these newspapers. I doubt they are philosophically like the New York Times; yet they are thinking this is a bad proposal. I want to read for you about your States. This is a low estimate, but this is how much the price of gasoline will go up if this provision is kept in the bill, if our amendment is defeated. I will read every State. I think you ought to know it. This is important. The minimum is 4 cents, and in many it is 4 cents. In many it is higher. Keep your ears perked. Alabama would go up 4 cents a gallon; Alaska, 4 cents; Arizona, 7.6 cents; Arkansas, 4 cents; California—the senior Senator from California is here—9.6 cents a gallon; Colorado, 4 cents; Connecticut, 9.7 cents a gallon; Delaware, 9.7 cents; District of Columbia, 9.7 cents; Florida, 4 cents a gallon; Georgia, 4 cents a gallon; Hawaii, 4 cents a gallon; Idaho, 4 cents; Illinois—I just read in today's newspaper how the price of gasoline is going through the roof in Illinois. That would be an additional 7.3 cents a gallon. We are going to tell the drivers in Chicago and Springfield and East St. Louis, where the price is through the roof already, we are going to impose a mandate that will raise their price 7.3 cents a gallon. How can we?

Indiana, 4.9 cents; Iowa, 4 cents; Kansas, 4 cents; Kentucky, 5.4 cents; Louisiana, 4.2 cents a gallon; Maine, 4 cents; Maryland, 9.1 cents; Massachusetts, 9.7 cents a gallon; Michigan, 4 cents a gallon; Minnesota, 4 cents a gallon; Missouri, 5.6 cents a gallon; Mississippi, 4 cents; Montana, 4 cents; Nebraska, 4 cents a gallon for a product we don't make in New York, that we might not even use?

I have spoken to some of the refiners in our area. They think we can meet the clean air mandate in a lot cheaper and better way. If we choose to, we still have to buy the ethanol credit. My goodness.

Nevada, 4 cents; North Carolina, 4 cents; North Dakota, 4 cents; Ohio, 4 cents; Oklahoma, 4 cents; Oregon, 4 cents; Pennsylvania, 5.5 cents a gallon; Rhode Island, 9.7 cents; Tennessee, 4 cents a gallon; Texas, 5.7 cents a gallon; Utah, 4 cents a gallon; Vermont, 4 cents a gallon; Virginia, 7.2 cents a gallon; Washington, 4 cents a gallon; West Virginia, 4 cents; Wisconsin, 5.5 cents a gallon; Wyoming, 4 cents a gallon.

The reason it varies, of course, is the availability of ethanol. It is very hard to ship. You can't create a pipeline—even though that could be expensive to do—the way you can for oil. So the ethanol has to be reduced, and you can see it is mainly in a few States in the heartland, where nice, hard-working people live, in the middle of the country.

If you are far away from these ethanol plants, it is hard to get to; it is hard for you to get the ethanol. It usually has to be produced, put on a truck, a barge, sent down to Mississippi, and then, by boat, sent all around the country and then loaded back, put on a truck, and put into the gasoline. You can see why it is so expensive.

Now, that is in normal times. Should there be market disruptions, of which you can be sure-as-shooting, if we are going to impose this huge mandate requiring more ethanol to be added to gasoline than we produce in the United States right now, there are going to be disruptions and the price of gasoline could double.

This is one of these quiet little amendments that could come back to haunt every one of us. I have been here in the Congress—only 4 years in the Senate but 18 in the House. Every so often, there is an amendment and people vote for it and don't pay much attention, and a year later the public gets wind and says: What the heck have those guys done? Everybody here says: I didn't know or, oh, we didn't realize it. The Senator from California, I, and the others joining us in this debate are putting you on notice: This is one of those amendments. Beware. If there was ever an amendment quietly put in a bill that should have a skull and crossbones on it, be careful, this is it. So pay attention.

Now, my State has already banned the use of MTBEs. We don't take that out in this bill. So have 12 other States, including Arizona, California, Colorado, Connecticut, Illinois, Kansas, Michigan, Minnesota, Nebraska, New Hampshire, South Dakota, and Washington. All have banned MTBEs. A number of other States are in the process of taking action as well because MTBEs pollute the ground water.

Every one of those States that has banned MTBEs is going to be in an impossible dilemma. Their citizens are demanding they ban MTBE, but with the oxygenate requirement in place, they cannot successfully do so.

Last year President Bush's administration denied California's petition to waive the oxygenate requirement, despite the State's ability to comply with air quality standards without it. In New York, we are in the same position. This denial forced the State to defer its critical ban on MTBE and suffer ground water contamination. New York State is now considering requesting a waiver, and I expect their request will be met with the same denial.

We are between a rock and a hard place. Our citizens' health and the environment are being held hostage to the desire of the ethanol lobby to make ever larger profits. We all know one company is way ahead of everybody else in producing ethanol. That was brought out by my colleague from California. I am not going to bring it out—maybe I will since we are at the beginning of the debate.

This chart, which was prepared by my colleague from California, shows that 41 percent of the ethanol comes from one company. This is what we are doing in this great free market, capitalistic economy: We are requiring everybody to buy this stuff, and one company has 41 percent of the market—one company.

We are setting ourselves up for a huge fall, the kind of price spikes we have seen occasionally in California, in Illinois, and in other places. We are going to see them everywhere. They are going to pop up like weeds if we increase the demand for ethanol when only one company is making it and there is a natural bottleneck. It is not quite like electricity, but it is not that far away, electricity being an actual monopoly.

The bottom line is for many States that are outside the Corn Belt and lack the infrastructure to transport and refine ethanol, the most efficient method of achieving clean air goals will be to reformulate gasoline without using large amounts of ethanol.

Again, I have talked to leaders in the refining industry in my area, and they believe they can do it and do it rather easily. States outside the Corn Belt that do not currently use much ethanol will have to pay to have the ethanol, as I say, trucked across the country or floated on barges to the Gulf of Mexico and loaded on to tankers.

Those States will also have to pay to retrofit their refineries. Every refinery that does not now use ethanol will have to be refitted to add ethanol to the gasoline. Both of these would represent significant increases in costs for refineries supplying my State. Retrofitting would cost millions of dollars, and under this bill New York would incur millions more in ethanol transportation costs.

What is the public policy for mandating the use of ethanol? I have not heard one. If you believe ethanol works, as the Iowa, Nebraska, and Illinois newspapers said, let the market determine it. This is a mandate that sort of assumes we know ethanol is best for everybody, and most people do not believe it is.

We all know what is going on here. The Senator from California mentioned it. It is the ethanol lobby, their power. But we also have one other thing. They made their deal with the petroleum industry, and so we have this provision that does not allow one to sue. I am surprised that so many people on both sides of the aisle who have maintained the right to sue in every other area now say: Never mind. The provision is renewable fuels safe harbor.

There is another reason, too, and this is probably the most legitimate reason. I know many of my colleagues from the Midwest want to help their farmers who are suffering. We know that. I want to help those farmers. I have voted for large amounts of agricultural subsidies to help the farmers in the West and the South with their row crops. I did not used to do that when I was in the House, but as I traveled around my State, I learned the burdens that farmers face.

It is a heck of a lot different if the Government makes a collective decision to help support the price of a crop to keep farmers in existence than an inefficient, jerry-built contraption that does not just make this what the Government does but, rather, forces every consumer to pay. When we have done agricultural subsidies, the rationale has been cheap food. This is not cheap gasoline. This is more expensive gasoline, and it absolutely makes no sense to help our farmers in this way. If it did, I suspect this amendment would have been debated in the open, but instead, as I said, there has been no debate.

I, frankly, wrestled with my conscience whether to go forward. I do want to help my colleagues in the farm areas, but this one was so far off the charts and so deleterious to my constituents, in terms of raising the price of gasoline, that I just could not come to do that.

I say to my colleagues from the Midwest, figure out better ways we can help the farmers, and I say that as somebody who has been supportive of doing that before.

Let me show my colleagues how crazy this proposal is. Currently, refiners across the Nation use 1.7 billion gallons of ethanol. That is what refiners use right now. Starting in 2004, a mere 2 years away, they would be required to use 2.3 billion gallons of ethanol.

Right away we are asking them to use a lot more ethanol. If the production does not happen, we know what is going to happen: a price spike.

We ratchet up that number to 5 billion gallons of ethanol in 2012 and increase it every year by a percentage equivalent to the proportion of ethanol in the entire U.S. gas supply after 2012 in perpetuity. That means that from 2012 on, the Nation's ethanol producers will have a guaranteed annual market of over 5 billion gallons, which every gasoline consumer in this country will pay at the pump.

It will stifle any development and new ways of finding cleaner gasoline and cleaner burning fuels. It means if someone comes up with a better way, it does not matter. It means a huge investment in infrastructure. I would rather have that money go to build our highways, for God's sake, than to build new ethanol refineries.

In my State, our highways are hurting, and we are going to be debating in the appropriations bill whether to cut Federal highway funding.

The ethanol mandate will reduce the amount of money that goes into the highway trust fund. In addition, it will cost our consumers more as well. If we want to build a big infrastructure, do not create a whole new ethanol infrastructure which the market is not demanding, build more highways. It makes no sense.

One other point I have made already, this safe harbor provision is sort of the cherry on top of the icing on top of the cake, the evil cake it is. The safe harbor provision gives unprecedented product liability protection against consumers and communities that seek legal redress from the manufacturers and oil companies that produce and utilize defective additives in their gasoline. Not just ethanol; all of them. That was the sort of deal, I guess, that was made.

So for those who believe in their consumers, God forbid, and a refinery makes a huge mistake and puts something terrible in the gasoline that either pollutes the air or is defective, you cannot sue. We have held that insurance reform be over the right to sue. Much legislation ends up shipwrecked on the shoals of the battle of tort reform, and yet in this bill we say not only never mind, we put in a safe harbor provision that makes one's jaw drop.

The Presiding Officer was out of the room, but as I stated, it will raise the cost of gasoline in his great State of Delaware some 9.7 cents a gallon by the time this is implemented, something I think the drivers in Dover, Wilmington, Rehoboth, and all the other beautiful cities of Delaware would dare not want to pay.

For consumers throughout this country, this ethanol gas tax is a one-two punch. First, consumers will be forced to pay more at the pump to meet arbitrary goals that boost the sale of ethanol but are not necessary to achieve the bill's air quality goals.

Second, consumers will face restrictions from suing manufacturers and oil companies, and they will have less incentive to ensure the additives they manufacture and use are safe. The provision denies consumers and communities appropriate redress, eliminates an important disincentive to pollute, and creates a dangerous precedent for future environmental policy.

In conclusion, I support the antibacksliding air quality provisions. I want to see our air cleaner without dirtying our ground water. I do not want to be put between that rock and hard place, but I strongly oppose creating a mandatory ethanol market, whether it is used or not, and providing the producers of that ethanol with extraordinary legal protections to boot. The ethanol industry already benefits from billions of dollars in direct farm subsidies and a 54-cent-per-gallon subsidy. If my colleagues want to subsidize that more, let us debate that in the Senate. Who knows? I might support it.

But do not make our drivers pay for it and do not mandate it.

Ethanol, which is twice as expensive as gasoline, right now would not be economically viable but for the massive Federal subsidies it already receives. On top of that, with the phase-out of MTBEs, regardless, the demand for ethanol by free market processes is going to go up. States near the Corn Belt will probably use more ethanol. So ethanol is in good shape.

All that is not enough to satisfy the ethanol lobby. As I said, do not take the word of a New Yorker or a Californian. Look at the voters in Iowa and Nebraska, the heartland—where if anyplace on the face of this continent or in this country would benefit from this mandate, they would—they both recently defeated efforts in those States to create a statewide ethanol mandate.

They knew, as I hope we will learn in this body, that mandated ethanol is an indefensible public policy and will unnecessarily hurt consumers all across the country. To my colleagues, defeat the ethanol gas tax.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New York for his comments. I thought they were excellent. I appreciate him naming every State that will have an effective gas tax, and stating that this methanol mandate is a tax hike anyway one looks at it. I do not think there is any doubt there is going to be an increase in gas prices. I do not doubt them at all.

I also appreciate his concern for farmers. I come from a State that is the largest farming State in the Union. I have spent time in the central valley of California. I know what farmers go through, and I appreciate it.

I am also faced with the problem in my State of forcing a tax hike for something that we do not need to meet clean air standards, which has questions about its environmental value as well as its real questions about what it might do to the public health, that prevents anybody's right to sue if there is a real hazard that comes about. This, to me, is unbelievable.

I will take a couple of moments on the subject of what ethanol does in gasoline. I mentioned in my remarks that ethanol is also fundamentally different from MTBE because the two oxygenated additives react differently when mixed with gasoline. I think this is an important point because this is not going to help the energy shortage. It is going to exacerbate it.

The same amount of ethanol, as opposed to MTBE, actually contracts fuel so it takes more to produce the same amount of gasoline.

The report, sponsored by the California Energy Commission, predicts replacement of MTBE by ethanol will result in a supply shortfall of 5 to 10 percent for the California gasoline pool as a whole. Thus, California's gasoline supply is not going to go as far as it did.

That is critical because we are at 98 percent of refining capacity. So I do not know how we meet the need without a huge price spike that will result from a shortage of gasoline, and that is why I think for my State this mandate actually produces a very egregious gas spike. It also can impact refineries very critically.

So what I have tried to point out today is that essentially this mandate triples the amount of ethanol from 1.7 billion gallons used nationally today to 5 billion gallons nationally by 2012.

Secondly, because of the way the credit situation is set up, one pays whether they use it or not.

Thirdly, what it does to gas prices.

Fourthly, the market concentration of ethanol: 41 percent from one company, 71 percent from eight companies. That in itself creates a problem that if there is a shortfall the price can be manipulated.

I have mentioned the environmental problems, that we can anticipate the smell in the summer months will get worse, not better, because of the use of ethanol. I also indicated that essentially over the 9 years everybody should know that this is a $7 billion cut in the highway trust fund.

There is another point I would like to make. The ethanol mandate essentially helps the producer. Only 30 percent goes to the farmers, and about 70 percent goes to producers. This is a windfall for those companies, any way you look at it. The New York Times ran an editorial pointing this out, mentioning that an energy economist estimated 30 percent of the cost will end up in the pockets of farmers, while about 70 percent will go to the processors, such as ADM. This mandate is a ridiculously expensive way to subsidize farmers.

Additionally, it cuts imports by about only 9,000 barrels, of about 8 million barrels. So no one can say this saves a great deal of our energy requirements related to fuel.

I ask unanimous consent this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 8, 1994]

THIS CLEAN AIR LOOKS DIRTY

The Environmental Protection Agency has effectively ordered refiners to add corn-based ethanol to make gasoline environmentally friendly. But the added ethanol will not clean the air beyond what the 1990 Clean Air Act would already require; nor will it, as advocates claim, raise farm income very much or significantly cut oil imports.

What the E.P.A.'s rule will do is take money from consumers and taxpayers and hand it over to Archer Daniels Midland, which produces about 60 percent of the nation's supply of ethanol. It is certainly no coincidence that A.D.M.'s chief executive, Dwayne Andreas, is a major political contributor; he donated **$100,000** to a recent Democratic fund-raising dinner. The Clean Air Act requires high-smog areas to phase in use of "reformulated" gasoline whose weight is at least 2 percent oxygen; the goal was to reduce pollution by replacing gasoline with oxygenates. The E.P.A. order would now add another requirement: 30 percent of the oxygenates would have to come from "renewable" resources—which in reality means corn-based ethanol.

Because the oxygen content of reformulated gasoline remains unchanged, the order will not reduce smog-creating emissions. But by forcing refiners to use ethanol rather than less expensive oxygenates like methanol, the rule will drive up the cost of gasoline. Indeed, ethanol remains a high-cost additive even though it benefits from substantial tax breaks. And some experts argue that ethanol may be environmentally damaging because coal used in producing it contributes to carbon dioxide emissions, adding to global warming.

David Montgomery, an energy economist for Charles River Associates, estimates that only 30 percent of the cost of ethanol will wind up in the pockets of farmers while about 70 percent will go to processors like A.D.M. So the rule is a ridiculously expensive way to subsidize farmers. And the addition of ethanol will cut imports by only 9,000 barrels out of about eight million barrels a day.

Carol Browner, head of the E.P.A., asserts that the policy will spur development of renewable energy sources. But the impact looms small when stacked against the obvious defects. President Clinton is twisting high-minded environmental promises into low-minded favors for special interests.

ADDITIONAL GASOLINE COSTS FROM PROPOSED RENEWABLE FUELS STANDARD FOR YEARS 2003–2007 (AVERAGE INCREASE IN $/GAL)

Hart Downstream Energy Services (Hart) compiled the following information based on the recent analysis from the Department of Energy, Energy Information Administration (EIA). According to EIA's analysis, the impact of the fuels provisions contained in S517 will cause conventional gasoline prices to rise by 4 cents per gallon, and Reformulated Gasoline (RFG) prices to rise by approximately 9.75 cents per gallon.

Assuming annual growth in U.S. gasoline demand of 2 percent, Hart measured the impact on each individual state by calculating the total gasoline cost increase and the total gallons of conventional gasoline and/or RFG sold in each state.

State	Gasoline price increase
Alabama	0.04
Alaska	0.04
Arizona	0.076
Arkansas	0.04
California	0.096
Colorado	0.04
Connecticut	0.097
Delaware	0.097
District of Columbia	0.097
Florida	0.04
Georgia	0.04
Hawaii	0.04
Idaho	0.04
Illinois	0.073
Indiana	0.049
Iowa	0.04
Kansas	0.04
Kentucky	0.054
Louisiana	0.042
Maine	0.04
Maryland	0.091
Massachusetts	0.097

State	Gasoline price increase
Michigan	0.04
Minnesota	0.04
Missouri	0.056
Mississippi	0.04
Montana	0.04
Nebraska	0.04
New Hampshire	0.084
New Jersey	0.091
New Mexico	0.04
New York	0.071
Nevada	0.04
North Carolina	0.04
North Dakota	0.04
Ohio	0.04
Oklahoma	0.04
Oregon	0.04
Pennsylvania	0.055
Rhode Island	0.097
South Carolina	0.04
South Dakota	0.04
Tennessee	0.04
Texas	0.057
Utah	0.04
Vermont	0.04
Virginia	0.072
Washington	0.04
West Virginia	0.04
Wisconsin	0.055
Wyoming	0.04
Aggregate Annual Cost Impact of All 50 States: $8,389 Billion	

Source: Energy Information Administration (EIA), "Impact of Renewable Fuels Provisions of S1766," March 12, 2002. Compiled by Hart Downstream Energy Services.

AMENDMENT NO. 3115 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. I send another amendment to the desk which delays the beginning date from 2004 to 2005. It is sent to the desk on behalf of Senator BOXER and myself.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mrs. BOXER, proposes an amendment numbered 3115.

Mrs. FEINSTEIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004)

On page 189, line 3, strike "2004" and insert "2005".

On page 189, line 5, strike "2004" and insert "2005".

On page 189, line 8, strike "2004" and insert "2005".

On page 189, in the table between lines 10 and 11, strike the item relating to calendar year 2004.

On page 193, line 10, strike "2004" and insert "2005".

On page 194, line 21, strike "2004" and insert "2005".

On page 196, line 17, strike "2004" and insert "2005".

On page 197, line 4, strike "2004" and insert "2005".

On page 199, line 4, strike "2004" and insert "2005".

On page 199, line 17, strike "2004" and insert "2005".

Mrs. FEINSTEIN. This is modest and delays the implementation of the ethanol mandate by a year, eliminating a requirement to use 2.3 million gallons of ethanol in 2004 and will give States more time to make essential infrastructure, refinery, and storage improvements.

This is an essential modification since virtually all ethanol, as has been explained, comes by tank—not pipeline—from the Midwest.

Although the ethanol industry says they can meet the future demand, virtually every single expert we have talked with has said delivery interruptions and shortfalls are likely, if not inevitable.

I ask I be included as a cosponsor of the amendment of Senator SCHUMER to strike the renewable fuels section of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I send to the desk to be printed in the RECORD an editorial from the Sacramento Bee entitled "Highway Robbery," which essentially characterizes what this does to the highway trust fund, how it hurts the country, how energy experts show that producing ethanol from corn requires more energy than the fuel produces, and that the ethanol mandate would make the country more fossil fuel dependent, not less.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Apr. 8, 2002]

HIGHWAY ROBBERY—CORN IS FOR EATING, NOT FOR DRIVING

Here's another piece of the ethanol idiocy in Washington: Not only will Californians soon have to pay more for gasoline laced with corn liquor, but as a result, we'll have less money to alleviate congestion on our roads.

Blame this nonsense on Senator Majority Leader Tom Daschle, D-S.D., and President Bush. They are pushing a provision for the Senate energy bill that would require gasoline producers to use rising amounts of ethanol. Ethanol is mostly made from corn in states that Bush would dearly like to win in the next election.

The measure would eliminate the current requirement in the Clear Air Act that smoggy areas use gasoline containing an oxygen additive—either ethanol or MTBE. But then it goes ahead to require that refineries triple their purchases of ethanol for gasoline by 2012.

The mandate hurts consumers in obvious ways: It will drive up the cost of driving, taking dollars out of the pockets of motorists and putting them into the coffers of Archer Daniels Midland, the Enron of the Corn Belt, which dominates the ethanol market. (Why is it that the politicians who are eager to give back their Enron donations seem to have no trouble taking money from—and giving billions in benefits to—a company that was convicted of price fixing a few years ago?)

The mandate will also hurt the country. Although ethanol is touted as a renewable fuel, a recent study by Cornell University scientist David Pimentel shows that producing ethanol from corn actually requires more energy than the fuel produces. The ethanol mandate would thus make the country more fossil-fuel dependent, not less.

But the mandate will also hit in a less obvious way: It will take dollars away from transportation investment. That's because ethanol already gets another federal subsidy—the federal fuel tax at the pump is a nickel less on fuel containing ethanol. If the Daschle-Bush ethanol mandate is passed, federal revenues for transportation repair, operation and construction will plummet by nearly $3 billion a year, transportation experts estimate.

So this is what Californians get from the proposed Daschle-Bush ethanol bailout—higher prices at the pump and more crowded roads. It gives the term "highway robbery" a whole new dimension.

Mrs. FEINSTEIN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I have listened to portions of the debate this morning. Obviously, on the issue of ethanol we will have extended discussion, but I am sympathetic to the concerns expressed by the Senator from California and the Senator from New York. It addresses an underlying situation in this country of which we should all be aware. The mandate on ethanol in the energy bill is quite clear, and the realization that the ethanol industry is not prepared, does not have current capacity.

As a consequence, more gasoline will have to be used. That brings into focus the reality of where our gasoline comes from; it comes from crude oil. Where does crude oil come from? Most of it comes from overseas. We are seeing a price increase for a couple of reasons. The effectiveness of the OPEC cartel, which some time ago set a floor of $22 and a ceiling of $28, is shown with the price of oil up to $27. We are seeing a situation escalate in the Middle East. Saddam Hussein, who is supplying this Nation with roughly a million barrels a day, has indicated he is going to cease production for 30 days. Venezuela, our neighbor, that we depend on from the standpoint of proximity, is on strike. It is estimated the United States, in the last few days, has lost 30 percent of its available imports. These are the underlying issues associated with the debate in the sense of price.

Where does gasoline come from? It comes from crude oil. Where does crude oil come from? From overseas, because we have increased our dependence on those sources. It gets more complex when considering the motivation occurring as a consequence of the policies of Saddam Hussein and Iraq. He is paying the families of those who sacrificed their lives to kill people in Israel. It used to be $10,000 per family; now it is $25,000 per family. This whole thing is escalating. It is escalating as a consequence of the costs of oil increasing because that is where the cashflow emanates.

Procedurally, may I make an inquiry as to where we are on the timing and so forth?

The PRESIDING OFFICER. There is an order to proceed to another measure at 11:30.

Mr. MURKOWSKI. I ask unanimous consent for 4 more minutes, until such time as I see Members are ready to proceed.

The PRESIDING OFFICER. The Chair will note the presence of the manager for the majority. Is there objection to the request to proceed for 4 minutes?

Mr. DODD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, let me summarize the dilemma. By our own inaction, we are seeing, if you will, greater vulnerability as this country increases its dependence on imported oil. As I have indicated, Venezuela is on strike. Iraq has terminated its production. We are told there is a grave threat in Colombia by revolutionists who are threatening to blow up the pipeline. There are complications now that the Saudis have been accused of funding, if you will, terrorist activities associated with the deaths of Israelis and the bombings, human bombings that have taken place.

As we address this vulnerability, we have to recognize the reality. It focuses in on the current debate on ethanol. As we look at where we are, we are going to have to have more gasoline in California; we are going to have to have more gasoline in New York. The price is going to go up.

Our alternatives, it seems to me, are quite obvious. We should reduce our dependence on imported sources. That brings us to the ANWR debate which will be taking place very soon.

Finally, the Schumer amendment would strike the renewable fuels standards, as we know, contained in section 819 of the bill. That portion called for mandated use of renewable motor fuels such as ethanol and biodiesel. This mandate is part of a larger package of provisions on MTBE and boutique fuels, and I am certainly supportive of reducing the boutique fuels.

I am not usually a big fan of mandates, but the renewable fuel standards will reduce our dependence on foreign oil.

I will have more to say later, but I encourage my colleagues to participate in this discussion and recognize the significance of our increased vulnerability and why we are going to be using the gasoline when in reality we will be paying for it.

I find it ironic that California is dependent on Alaska, and as Alaskan oil declines, that dependence is going to shift over to the importation of oil to California from Iran, Iraq, wherever—Saudi Arabia. Of course, New York is dependent on Venezuelan oil as well. If we do not do something domestically, we are going to pay the piper.

I yield the floor.

EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 565, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal Elections, and for other purposes.

Pending:

Roberts/McConnell amendment No. 2907, to eliminate the administrative procedures of requiring election officials to notify voters by mail whether or not their individual vote was counted.

Clinton amendment No. 3108, to establish a residual ballot performance benchmark.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate equally divided between the Senator from Connecticut, Mr. DODD, and the Senator from Kentucky, Mr. MCCONNELL, or their designees.

MODIFICATION TO AMENDMENT NO. 3107

Mr. DODD. Mr. President, I ask unanimous consent that amendment No. 3107, previously agreed to, be modified with the technical correction that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The modification to the amendment is as follows:

At the appropriate place in the bill, insert page 13, line 12 through page 14, line 7 of the amendment.

Mr. MCCONNELL. Mr. President, this is a big day for the Senate. After a year and a half of discussions, negotiations, introduction, and reintroduction of legislation, we are finally prepared to pass a comprehensive, truly bipartisan election reform bill.

I say "finally," but the truth is, a year and a half is lightning fast in the Senate. Senator TORRICELLI and I proposed a comprehensive election reform bill before the dust had settled in Florida. Shortly after, Senator TORRICELLI and I joined with Senator SCHUMER to put together yet another bill which garnered the support of 71 Senators—fairly evenly split between Democrats and Republicans. Senator DODD, meanwhile, introduced legislation that was supported by all Democratic Senators.

Four months ago, Senators DODD, BOND, SCHUMER, TORRICELLI, and I reached a bipartisan compromise. That was brought before this body in February. Through the passage of thoughtful amendments offered by my colleagues on both sides of the aisle, we have substantially improved the underlying bill. The final product is legislation which ensures that all Americans who are eligible to vote, and who have the right to vote, are able to do so, and to do so only once. This bill strengthens the integrity of the process so that voters know that their right to vote is not diluted through fraud committed by others. This legislation will make American election systems more accurate, more accessible, and more honest while respecting the primacy of States and localities in the administration of elections.

I look forward to a House-Senate conference so that soon we may move even closer toward enactment of a law that will improve America's election systems.

I thank Senator DODD for his steadfast and persistent leadership on this issue. He truly has been the champion of promoting accessibility in elections. My thanks to Senator BOND who gave us our rallying cry behind this bill, "making it easier to vote, and harder to cheat." This bill does just that and Senator BOND deserves the lion's share of the credit for that accomplishment. I also thank Senator SCHUMER, who joined with me nearly 1 year ago to advance a new approach to this issue. Any my thanks to Senator TORRICELLI, who has been there from the beginning with me in this exercise. I thank you all for your hard work and perseverance which has brought us to this triumphant moment.

Before I yield the floor, I would like to reiterate my strong opposition to the Clinton amendment which we will vote on shortly. The amendment creates a federally mandated acceptable error rate that is a one size fits all number. This approach is completely contrary to every other provision of this legislation.

If adopted, this amendment would do three things:

No. 1, Deliver the Department of Justice into our home States to prosecute our State and local election officials for choices made by or errors committed by voters;

No. 2, Undermine the sanctity of the secret ballot and

No. 3, Force the elimination of many voting systems used across this country.

On that last point, I urge my colleagues who hail from States which use paper ballots, mail-in voting or absentee voting to take a close look at this amendment. Your States will have a choice: change their systems or recruit top notch legal talent to defend themselves in court.

This choice will also be faced by States using lever machines, punch cared systems, optical scans, and DRE machines.

If this amendment is agreed to, perhaps we should move to increase the Justice Department appropriation so that it can ready a team of lawyers for each State.

Finally, I thank my staff on the Rules Committee: Brian Lewis, Leon Sequeira, Chris Moore, Hugh Farrish, and our staff director, Tam Somerville—all of whom have been deeply involved in this issue from the beginning—and, from Senator DODD's staff, Shawn Maher, Kenny Gill, Ronnie Gillespie, we have enjoyed working with them.

Also, on Senator BOND's staff, Julile Dammann and Jack Bartling have been truly outstanding. It has been a pleasure to work with them.

On Senator SCHUMER's staff, Sharon Levin; and, on Senator TORRICELLI's staff, Sarah Wills—we appreciate the opportunity to work with all of these folks in developing this legislation.

I see my colleague from Missouri is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, how much time is available on this side?

The PRESIDING OFFICER. Ten minutes.

Mr. BOND. I thank the Chair. I will not require that much time, but please advise me if I go over 5 minutes.

Mr. President, I come back again to congratulate and thank the chairman and ranking member of this committee, Senator DODD and Senator MCCONNELL, for their great work.

It has been 10 long, arduous months to do something that is vitally important to the health and the vitality of our system of legislative government. The 2000 election opened the eyes of many Americans to the flaws and failures of our election machinery, our voting systems, and even how we determine what a vote is. We learned of hanging chads, inactive lists, and we discovered our military votes were mishandled and lost. We learned that legal voters were turned away while dead voters cast ballots. We discovered that many people voted twice while too many were not even counted once.

That is why we are here today. The final compromise bill—and it is a compromise in the true essence of the word—tries to address each of these fundamental problems we have discovered and to meet the basic test. That test, I trust all of my colleagues now understand, is that we must make it easier to vote but tough to cheat.

In the 2000 elections, fraud was prevalent. Fraud was too frequently found. Among the most bizarre and fraudulent efforts that occurred in St. Louis was the filing of a lawsuit by a dead man to keep the polls open beyond closing time because he feared the long lines would prevent him from voting. That probably wasn't the only problem he had. His identification was later switched to that of a partisan political operative for a congressional candidate even though evidence showed that man had already voted that day. Unfortunately, the practice of the deceased voting was not limited to the lawsuit to keep the polls open. We have had a number of ballot registrations made in the name of people who have departed this earthly veil.

Albert "Red" Villa registered to vote on the 10th anniversary of his death—truly a significant theological effort. The deceased mother of a prosecuting attorney in St. Louis City was also registered to vote.

This was the mayoral primary of 2001 which got people excited in St. Louis because it wasn't a minor election where we just voted for the President, the Governor, the Senators, and Congress. We were talking about relevant votes there. We were talking about the race for the mayor's office which controls votes and which controls jobs in the City of St. Louis.

We also had our own outrageous system of provisional voting underway in St. Louis City. People went to judges and said they didn't show up on the registration list so they asked for court orders to be permitted to vote. Some of the reasons given, which were accepted by our judiciary, were that they should be allowed to vote because they were legally registered. One of them said: I am him a Democrat. The other said: I wanted to vote for Gore. The other said: I was suffering from a mental illness. My favorite was: I am a convicted felon and didn't realize I had to reregister. That person, and 1,300 others, were allowed to vote even though it is against the law for a felon to vote in Missouri.

Subsequent investigation by the secretary of state in Missouri found that 97 percent of those who were ordered to vote by judges voted illegally. They were not entitled to vote.

That is why the whole structure of this bill is so important. Provisional voting will be permitted, but actually putting the ballot in the ballot box will be delayed until there has been an opportunity to ascertain that the person is a registered voter.

We have seen fraud. I think perhaps it was best described by the Missouri Court of Appeals in shutting down the fraudulent effort to keep the polls open. The argument in St. Louis City was that the Democratically controlled City Election Board in the Democratic City of St. Louis was conspiring to keep the Democratic voters in St. Louis City from voting for Democratic candidates. That was the suit filed by the dead man who said that the long lines kept him from voting. The Missouri Court of Appeals said it best in its order shutting down the polls when it said:

> Commendable zeal to protect voting rights must be tempered by the corresponding duty to protect the integrity of the voting process. Equal vigilance is required to ensure that only those entitled to vote are allowed to cast a ballot. Otherwise, the rights of those lawfully entitled to vote are inevitably diluted.

We have seen not only people who have rightfully been denied the opportunity to vote. Unfortunately, the votes of those who have the right to vote have been diluted and have been canceled because fraud has been prevalent in St. Louis, and I believe in other areas of the country.

This bill goes a long way towards achieving the goal of making it easier to vote and harder to cheat.

I urge the support of my colleagues for this very important bipartisan measure. I extend my thanks to the chairman and the ranking member of the Rules Committee.

Mr. DODD. Mr. President, I yield 2 minutes to the distinguished Senator from Oregon, Mr. WYDEN, and 2 minutes to the distinguished Senator from New York, Mr. SCHUMER.

For the information of Members, at the conclusion of that, depending on the time left of my friend from Kentucky, we will close debate, and there will be a vote on the Roberts amendment, then a vote on the Clinton amendment, and then a vote on final passage. That is how this will play out over the next 45 minutes or an hour.

So with that, let me turn to my colleague from Oregon and thank him and the Senator from New York for their tremendous support and tireless effort on behalf of this piece of legislation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I begin by expressing my thanks to Senator DODD and Senator MCCONNELL. Both of them worked tirelessly with me and Senator CANTWELL and others.

This legislation we will vote on will now protect an innovation, a pioneering step forward that I think is going to make a huge difference for the American people; that is, voting by mail.

What we saw earlier, as the debate went forward, was various proposals that would have put new hurdles, new obstacles in front of this legislation that has empowered thousands and thousands of Americans. I am very proud that my State has led the way in this innovative approach, but I think it is the wave of the future.

There is a reason why millions of older people and disabled people and others enjoy and prefer voting by mail. They like the convenience, and they understand that it meets the test that Senator BOND and others have talked about, which would be a winning combination for the American people.

Let's make it easier to vote but not easier to cheat. Voting by mail has proven it is up to that challenge. We have shown in our State that we will come down with a every aggressive effort against those who try to abuse the system, try to exploit it. We have not seen any significant problem with it.

It is a bipartisan effort. Senator SMITH has joined with me in it. Senator CANTWELL has made the case for the State of Washington.

I close by saying that over many months Senator DODD and Senator McCONNELL, knowing that we were camped out with their staffs, could have said, look, this is an issue that only a couple States care about, but they did not. I think they have showed their commitment not just to protecting people in Oregon or Washington who feel so passionately about this subject, but I think they understand this truly is a pioneering step forward. It is part of the wave of future. It is the next step before we see people voting online.

From the beginning of this debate, I have said that this legislation should be about deferring voter fraud and promoting voter participation. Many weeks of negotiations finally have produced an agreement that I believe will do both.

If first-time Oregon voter Mabel Barnes had mailed in her ballot under the election reform bill that was on the Senate floor 6 weeks ago, her vote probably would not have counted—even if she were legally registered to vote. Her vote would have been tossed away simply because she failed to include with it a photo ID or other proof of identification.

Mabel Barnes would not have been alone. Under the bill that was on the Senate floor then, millions of first-time voters would have been disenfranchised just because they failed to bring a copy of their photo ID to the polls.

But Mabel Barnes and millions of other first-time voters won't have to worry about their votes counting now, and they won't have to worry about stopping by a copy center before they vote. That's because over the course of the last few weeks Senators CANTWELL, BOND, McCONNELL, MURRAY, and I have worked out an agreement that protects Oregon's vote-by-mail system and the right to have every mail-in-vote by a legally registered first-time voter count.

The agreement Senators CANTWELL, BOND, McCONNELL, MURRAY, and I worked out gives voters who register by mail more options to verify their identity. Instead of a photo ID or proof of residence, first-time voters in a state may put their driver's license number or the last four digits of their social security card on their registration card. This means they won't have to stop by a copy center before they register or before they vote. This will mean business as usual for the petition drives and campus registration efforts in Oregon, where thousands of first-time voters register by mail.

The agreement also guarantees that voters who cast their ballots by mail have the same provisional or replacement ballot rights as voters who go to the polls. Under the agreement if a first-time voter in a state fails to supply a driver's license number or the last four digits of their social security number when they register, their vote will still count if state election officials determine they are eligible under state law. In Oregon, this means that the vote of every legally registered Oregonian will count if an election official verifies that the signature on the ballot matches the signature on file with the registration.

Under the agreement, Oregon's pioneering vote-by-mail system will continue, unchanged.

I understand where the photo ID requirement sprang from: a concern that mail-in voter registration and balloting engender fraud. But in Oregon—the only all vote-by-mail state and the state that pioneered motor voter—there is very little fraud. No one has come forward with proof of widespread fraud in Oregon. In fact, I was elected to the United States Senate in the first all vote-by-mail special election. Senator GORDON SMITH, my opponent in that race, never raised any questions about fraud. Oregon's penalties for fraud are much tougher than federal law—up to $100,000 in fines and or 5 years in jail.

Since Oregonians voted overwhelmingly to use a vote-by-mail system, participation has gone up and fraud has gone down. In fact, in the last federal election, 80 percent of the registered voters cast a ballot. Since the May 1996 primary, 13 cases of fraud have been prosecuted; convictions were won in five and eight are still pending. In the last federal election, only 192 ballots were not counted because they failed the signature verification test. This is a pretty good record.

This legislation should be about deterring voter fraud and not voter participation. The agreement Senators CANTWELL, BOND, McCONNELL, MURRAY, and I have reached does this. The time to fight fraud is at the beginning of the process—at the time of registration. That is what our agreement does. At the same time, I have also said that legislation should not make it harder for legally registered voters to cast a ballot, or discourage people from voting. The agreement will do this as well.

This has not been an easy task. I want to commend Senators BOND, CANTWELL, McCONNELL, and MURRAY for sticking with the negotiations, and I especially want to thank Chairman DODD for the support he and his staff have given us in reaching the agreement and in including it in the managers' package.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New York.

Mr. SCHUMER. Mr. President, I reiterate what I said last night. Senator DODD was indefatigable on this bill. It would not have happened without him. Senator McCONNELL was steadfast in terms of principle, sticking to what he believed but making sure we had a bill done. I thank them both for their leadership as well as my other colleagues who worked so hard on this bill.

Mr. President, democracy works slowly—sometimes too slowly—but inexorably. We had the great scandal in Florida where people could not vote, where people's votes were not counted, where people voted for the wrong person despite their intention.

Now, almost 2 years later, we are doing something very real about it. I wish it had come sooner, but this bill has been worth waiting for.

And the problem is not just in Florida, as we learned. In my State of New York, I voted, first, in 1969. I used the same exact type of machine when I voted in 2001, despite all of our technological changes. And the lines to vote in New York are legion. Just because we are the world's oldest democracy does not mean we have to use the world's oldest technology.

At the core of this bill is a view that that changes, that we will help the States update.

Despite the strength of our democracy, if we do not do a good job maintaining the actual mechanism that drives it—our voting systems—we fail the voters and undermine the values for which our Founding Fathers fought and died.

Voting should be accessible, accurate, and speedy in all places, all of the time. This is not a someplace, some-of-the-time proposition. The right to vote is too sacred. This bill provides both the funds and the standards to make sure that exactly happens.

So I urge all my colleagues to have a rousing vote of support for this bill. We often have an opportunity to support legislation that makes our lives better. That is why we are here. But today we have an opportunity to make a little history. And it is something we will never forget.

PROVISIONAL VOTING AND VERMONT

Mr. JEFFORDS. Mr. President, I would first like to thank Senator DODD for all his hard work on this very important bill. This legislation will help ensure that the problems that occurred during the 2000 elections will not happen again, and hopefully increase the number of Americans that participate in the most sacred right of a democracy, voting. I would like to take this opportunity though to discuss the provisional voting section of the bill and its effect on the affidavit voting system we have in Vermont.

Mr. DODD. Mr. President, I thank Senator JEFFORDS for his early support of reform of the election system. I also appreciate his hard work to ensure that the good qualities of Vermont's election system are protected and replicated around the United States. I would be pleased to take the time to answer any question he may have on the provisional voting section of the bill.

Mr. JEFFORDS. In Vermont when a person arrives at the polling place to vote and their name does not appear on the voter checklist, even though they believe they have properly registered, we have a system that would allow them to cast a ballot. The voter completes an affidavit form swearing that they had properly applied but were not added to the voter checklist. The form is reviewed by the Board of Civil Authority at the polling place and unless the information appears false the person is allowed to cast a ballot. If the information appears to be false, the Board of Civil Authority will not allow the person to cast a ballot and refers them to a local judge to get added to the voter checklist for the election that day.

The ballots cast this way are counted exactly like the other ballots and included in the final totals. The information from the approved affidavits is immediately used to update the voter checklist. My question to you Senator DODD is that while this system is not called a provisional balloting system it appears to me that the affidavit voting system conforms to all the requirements in this legislation, and therefore the State of Vermont would already have satisfied the provisional balloting requirements of the bill?

Mr. DODD. I would agree with the Senator from Vermont. In mine and my staff's review of different States' election procedures, Vermont's system of affidavit voting would satisfy the provisional balloting requirements of this legislation.

Mr. JEFFORDS. I appreciate Senator DODD's clarification of this issue, and look forward with working with him to ensure enactment of this important legislation.

MAINE'S SAME DAY REGISTRATION

Ms. COLLINS. Maine has same day registration so a voter can register at the polls or at a public office nearby and vote on the same day. If someone challenges the voter's right on that day, the ballot is marked as a challenged ballot. If a voter goes to the polls to vote and does not have identification or does not appear on the voting rolls, the presiding election official will challenge the voter, and his or her ballot will be treated as a challenged vote. The presiding election official keeps a list of voters challenged and the reason why they were challenged. After the time for voting expires, the presiding election official seals the list. The challenged votes are counted on election day. In the event of a recount, and if the challenged ballots could make a difference in the outcome of the election, the ballots and list are examined by the appropriate authority. The distinguished chairman of the Senate Committee on Rules has done excellent work crafting the important bill before us. I would ask him whether, then, Maine's system comply with this Election Reform Act?

Mr. DODD. I thank the Senator from Maine for her excellent question and for her steadfast support for election reform efforts. Let me assure her that Maine's system does comply with the Election Reform Act.

Ms. COLLINS. I would like to thank the senior Senator from Connecticut for his assistance and congratulate him on the impending passage of this bill.

ELECTION DAY AS NATIONAL HOLIDAY COLLOQUY

Mrs. BOXER. I thank my good friend from Connecticut and commend him for his hard work on this bill; I agree with him when he refers to this as "landmark legislation." The Dodd-McConnell compromise makes many necessary improvements in our current elections system and moves us toward the ultimate goal that we all share of ensuring that our elections are fair, accurate and accessible to all.

In addition to securing the fairness of elections, however, I believe that it is in the best interest of our Nation, as with any representative democracy, to see that as many people as possible participate in the process. Would my friend from Connecticut agree with me that ensuring high turnout at the voting booth is also an important goal in terms of improving our electoral process?

Mr. DODD. I certainly agree with my good friend from California, and hope that this bill will help achieve that goal by improving accessibility, offering ballot materials in alternative languages and by addressing some of the things that can make the voting process intimidating or confusing.

Mrs. BOXER. One idea that has come up time and again in conversation with my constituents and various organizations in my State of California, is the possibility of creating a Federal holiday on election day. I think that this would be one of the most effective ways to ensure that as many people as possible have an opportunity to cast their vote and exercise that most fundamental democratic right. Many of the hard-working people in this country—people for whom election day represents a unique opportunity to make their voices heard—find it difficult to get to the polls. Many work long hours, or have children that they have to get to school. Would the Senator from Connecticut agree that we should make it easier for these people to cast their vote as well?

Mr. DODD. I agree with the Senator from California, and I would tell her that is the idea behind the entire legislation. We want to make sure that all eligible voters have an opportunity to cast their ballot and have it counted fairly and accurately.

Mrs. BOXER. I had considered offering an amendment to this bill that would in fact create a federal holiday on election day to help give as many people as possible the opportunity to vote. I would ask my friend from Connecticut if such a proposal was ever considered when this bill was being drafted?

Mr. DODD. I say to my friend from California that I did consider including a provision to that effect in the bill. We looked into the ramifications such a provision would have and, with time running short, ultimately concluded that there were too many variables and that we simply did not have enough information to include it as a requirement in the bill. We did, however, instruct the Election Administration Committee—the new election oversight body created by the bill—to conduct a study on conducting elections on different days, at different places, and during different hours, including the possibility of creating an election day holiday.

Mrs. BOXER. I hope that such a study would be thorough in investigating each of those possibilities and that it would be conducted as soon as reasonably possible. If such a study were to conclude that the creation of an election day holiday was possible and would indeed further the goals of this bill, we would want to begin the process of making it happen as soon as possible. Could my friend from Connecticut assure me that this study will be thorough and will be undertaken promptly upon enactment of this legislation?

Mr. DODD. I share the Senator from California's interest in moving forward with such a study as soon as is possible.

Mrs. BOXER. I look forward to working with my good friend from Connecticut in pushing the Commission to complete the study. In the meantime, I am introducing legislation to establish election day in Presidential election years as a legal public holiday.

Mr. DODD. I thank the Senator from California.

ELECTRONIC VOTING

Ms. CANTWELL. Mr. President, I take this opportunity to commend Senators DODD, MCCONNELL, SCHUMER, and BOND for their dedication and diligence in addressing what I believe to be an issue of critical importance to our country—protecting voting rights and ensuring the integrity of the electoral system in our Nation. Especially given the events in the world today, making certain that each citizen's vote is counted and promoting public trust and confidence in our election process is crucial.

The State of Washington has a long and trusted history as a leader in election administration. Through great efforts and cooperation, the state has pioneered such programs as Motor Voter, provisional balloting, vote by mail, and absentee voting.

I would like to thank Senator DODD, the chairman of the Rules committee for his support for an amendment that I offered with Senator MURRAY'S support that has been adopted. The amendment guarantees that states are able to continue using mail-in voting, while also providing new safeguards to make mail-in voters aware of how to properly fill out their ballots, and how, if needed to obtain a replacement.

Voters in my State are proud of our system that offers voters the option of voting by mail or in the polling place, and they are extremely committed to seeing it continue. The mail-in ballot, in my opinion, offers voters several advantages. First, it allows voters to cast their ballots on their own time and at their own convenience. It also allows voters to make more informed choices, as they are able to consult literature sent by the State and by the campaigns in making their decisions. Because these votes are cast without the pressure of other voters waiting in line, or without the time crunch of being late to work or to pickup the kids, voters are also less likely to make mistakes that will disqualify their ballots.

In addition, the mail-in system is very secure. Each ballot that is cast by mail requires, that the voter sign the outer envelope. This signature is then checked against the voters signature that is kept on file and only when there is agreement that the signatures match is the ballot counted. Washington State has consistently increased the number of voters choosing to vote by mail and through provisional voting without any allegations that these types of voting have involved fraud or other misconduct. In fact, the procedures in place have consistently ensured the integrity and security of our elections and led to public confidence in our system that is unparalleled anywhere in the country.

It has not always been this way. In the early 1990s, we had several close elections that pointed out the vulnerabilities in our system. These close elections led Washington to become one of the first States to adopt statewide guidelines that ensured that each jurisdiction followed the same rules in determining how ballots are verified and counted. In addition, my State also adopted other requirements for testing and procedural consistency. It is my hope that this legislation will lead other states to follow our example and institute similar guidelines and procedures that will result in more people voting and making sure that all votes are properly cast and counted.

Our challenge, at the Federal level, is to ensure that in passing legislation that reduces hurdles to civic participation across the country, we respect the role of the States in selecting types of voting that work well for their citizens and lead to maximum participation. I believe that this bill as amended does that, and I would like to thank the chairman of the Rules Committee for his commitment to this bill and to ensuring that states have the flexibility to keep their systems in place.

I would like to address one additional point. In drafting legislation, it is often very difficult to look to the future and anticipate the impact that legislation will have on new technologies. To truly reform the Federal election process, this legislation must remedy the infirmities of the present system. However, it also must be forward-looking in its approach. It should welcome the implementation of new election technologies. The flexibility of this legislation to accommodate innovation will be•the ultimate strength of federal election reform.

I firmly believe that voting by computer, whether by internet or some other remote electronic system, is likely to happen in many states in the near future. In fact, Arizona has already held a party caucus in which voters were permitted to vote over the internet. At the same time, I believe that the security concerns are such that most States, mine included, are not yet ready to provide this option to voters.

However, in the interests of looking to the future, I would like to seek clarification from the chairman of the Rules Committee about how this legislation would affect internet or other forms of remote electronic voting.

Is it the Chairman's understanding that the bill as it is currently written would not prevent States from offering voters the option of voting on the internet, so long as the State could show that the internet voting system complied with the security protocol standards written by the new Election Administration Commission, and that the voting system also complied with the requirements of the legislation on accessibility for the disabled, providing an audit trail of ballots, and by providing voters a means to make certain they had not made a mistake?

Mr. DODD. I agree with Senator CANTWELL that very serious concerns remain about voting by internet. As she knows, this legislation specifically requests that the new organization, the Election Administration Commission, study internet voting. I am looking forward to seeing what it learns. However, I hope very much that States will think very carefully before moving to internet voting, and will make sure that the security concerns are fully addressed.

That said, the Senator is correct that nothing in this bill prohibits states from implementing voting on a remote electronic system like the internet, as long as the system is certified by the new Election Administration Commission, and complies with the other standards in the legislation.

I agree with the Senator that it is important to welcome the development of new election technologies and it was my intent, and my cosponsors' intent to provide the states as much flexibility as possible to accommodate innovation while still implementing necessary minimum standards that will ensure that all our citizens' right to vote is protected.

Ms. CANTWELL. Thank you, Mr. Chairman. I appreciate all your efforts on this legislation, and I agree that this bill is drafted in a manner that will not limit the development and implementation of new election technologies so long as the new technologies satisfy security protocols and meet the requirements of the minimum standards. I also hope that this legislation will in fact spur the development of new election technologies that are more voter friendly and more cost efficient.

INTERACTIVE VOTER REGISTRATION AND FUNDING MECHANISM

Mrs. LINCOLN. Mr. President, I rise to commend the sponsors of the election reform bill that is before the Senate today. I especially want to recognize Senators DODD and MCCONNELL who have worked tirelessly to overcome many obstacles in an effort to strengthen the fundamental right of all citizens to participate in the democratic process. I wholeheartedly support their overarching goal to make it easier for every eligible American to vote and to have their voted counted and I appreciate their willingness to work with me to address some specific concerns about how the bill may impact my home State of Arkansas.

I wish to engage in a brief colloquy with Chairman DODD to clarify for the record his understanding of how two specific provisions in the legislation will work in practice. The first point I want to raise involves the requirement in the Senate bill that all States implement a statewide interactive voter registration list. Is it the Senator's understanding that States can meet this requirement by having an interactive computer containing voter registration information at each county clerk's office but not at each individual polling location?

Mr. DODD. As the lead sponsor of the Senate bill, I am pleased to reassure the Senator from Arkansas that State and local election officials would not have to place an interactive computer containing voter registration information at each polling place to meet the requirements of this legislation. As my colleague from Arkansas indicated, States could met this particular requirement if they had an interactive computer containing the States' voter registration list at each county clerk's office. I and others who crafted this language were aware that polling places in Arkansas and in many other States lack phone service and therefore it would be impractical to set up a computer network or the like at each polling location during every Federal election.

Mrs. LINCOLN. I thank my colleague for his comments. Another concern that has been brought to my attention is the funding mechanism in the Senate bill. I know my colleague from Connecticut is aware that the method through which Federal funds are distributed to State and local governments to meet the requirements in this bill is very different than the House bill. The House bill distributes Federal funding based on the proportion of eligible voters in each State. This is commonly referred to as a formula.

Conversely, the Senate bill establishes three separate discretionary grant programs to help States improve their voting systems and meet the requirements that are in this bill. I certainly support the goal of helping all States improve their voting systems. However, I also support helping all states get their fair share of federal funding. Based on my knowledge of competitive grants in other Federal programs, I am concerned about this program turning into a competition among professional grant writers. I do not think such a system helps my State nor do I believe it is good public policy when you are applying new mandates on thousands of jurisdictions in all 50 States. So I would appreciate knowing my colleague's view on how he and others who drafted this legislation envision the discretionary grant process working in practice. What if Congress only appropriates half of the funding that is authorized in this bill? Will there still be enough for all states to meet their needs, or is it first come first served?

Mr. DODD. I am certainly aware of the concerns raised by my colleague from Arkansas. I can assure my good friend and other Senators who have raised similar concerns that we have not designed a funding distribution system where only the best applications will be funded. In fact, we have carefully calculated the amount of funding we feel will be needed for all states and local jurisdictions to meet the minimum standards we have included in this legislation. Therefore, I appreciate the opportunity today to clear up any confusion surrounding this issue by saying that I and others who crafted this bill fully intend for the Justice Department to distribute funding to all states and local governments based on the need for improvement they identify in their application.

Our intent certainly is not to enact a jobs program for professional grant writers no do we expect states or local governments to hire grant writers in order to receive Federal funding under this bill. As chairman of the Senate Rules Committee, I certainly intend to closely monitor the implementation of this legislation to ensure it is applied in practice as Congress intended. You have my word that I will be the first to object if I think the federal agency charged with distributing funding is not distributing resources to eligible recipients in a fair and equitable manner.

Mrs. LINCOLN. I thank my friend from Connecticut for his clarification on these two issues. Based on his assurance I look forward to supporting this bill.

FULL-TIME RECREATIONAL VEHICLE OWNERS

Mrs. FEINSTEIN. Mr. President, I wish to engage the chairman of the Committee on Rules and Administration, Senator DODD, in a colloquy concerning the voting rights of thousands of American citizens, many of whom are members of the Good Sam Club, which is based in California.

The citizens to whom I am referring own recreation vehicles, RVs, and live in them year round. The number of full-time "RVers" grows larger each year. These individuals, most of whom are retirees, have sold their conventional homes and travel around the country year round in their RVs and mobile homes. Ostensibly, they do not have a permanent address.

While nobody can question these individuals' right to travel, the fact is that this lifestyle does create a series of logistical problems, particularly as it relates to their ability to establish a domicile. While they may not remain at any one location, full-time RVers must still register their vehicles, maintain a current driver's license, obtain insurance, have some kind of legal address, and pay taxes. They also have, or should have, the right to register to vote if they so choose.

Two years ago, the voting rights of over 9,000 full-time RVers who were registered to vote in Polk County, TX, was challenged in court. The plaintiffs in this case argued that since these individuals did not reside in Polk County on a permanent basis, they constituted a significant voting block of "nonresidents" that was likely to have an effect on the outcome of the election, and that their votes should be disallowed. Ultimately, the full-time RVers' constitutional right to vote was upheld in court, but future challenges are likely.

The legislation that we are considering today would establish an Election Administration Commission, EAC. Among other responsibilities, this Commission is mandated to conduct a number of studies on various election issues, and report its findings to the President and Congress. Does the Senator from Connecticut agree that, at the very least, the issue of full-time RVers voting rights would be a suitable topic for the Commission to study?

Mr. DODD. Yes, I certainly agree with the Senator from California. We do not want to disenfranchise anyone, accidentally or otherwise, who is eligible to vote, and we need to address the unique set of circumstances surrounding our fellow citizens who have chosen not to live in one particular location, but rather to travel year round across our great nation. The right to vote of all full-time RVers needs to be safeguarded. Certainly this is an issue the Commission could study.

Mrs. FEINSTEIN. I thank the Senator for his remarks and for his leadership on this bill. I am pleased that he shares my strongly-held view that we need to ensure that the voting rights of all American citizens, regardless of where they reside, needs to be safeguarded.

PATH OF TRAVEL

Mr. ENZI. Mr. President, I would like to inquire of the Senator from Connecticut, Mr. DODD, on the intent of the grants to be awarded to states for the purpose of constructing "polling places, including the path of travel." Is "path of travel" intended to cover the construction of paved, asphalted, or similarly surfaced disabled or handicapped parking spaces, as well as sidewalks, ramps, and similar disabled access ways to the buildings which house the voting system?

Mr. DODD. I thank the Senator from Wyoming for his question. The grants to be awarded to states under this act would include construction of these types of infrastructure improvements, and are intended to include things like disabled parking spaces, sidewalks, ramps, and similar access ways.

Mr. ENZI. As the chairman is aware, these grants are very important to small, rural states like Wyoming, which have polling places in some very remote or rural locations. In Wyoming, we actually have some polling places in trailers on gravel roads. Because the Act requires a special voting system for the disabled to be installed in each polling place, Wyoming needs to be sure it can accommodate the disabled by making certain the state can pay for these special systems and ensure the disabled can get into the building to vote. These types of grants will ensure that the buildings which house the special voting equipment for the disabled are ADA accessible.

I am also aware the chairman has included the Collins amendment in the manager's amendment to the act. I understand this amendment is intended to assure a minimum amount of grant money is available to each state to improve their voting systems and infrastructure. This is important to the

State of Wyoming so it can afford to install these special systems and construct the infrastructure necessary to give the disabled the same opportunity to enter a voting booth and exercise their right to vote.

Mr. DODD. As the Senator has indicated, the managers' amendment includes a provision to ensure that each state will be guaranteed a minimum of one half of one percent of the grant money available under the act, which is approximately $17.5 million dollars over five years. I am glad this act will help address the concerns of small, rural States like Wyoming, and I look forward to working with the Senator form Wyoming to address any further concerns or questions he may have on to how this act will impact rural states.

DETERRING VOTER FRAUD AND PROMOTING VOTER PARTICIPATION

Ms. CANTWELL. Mr. President, I rise to thank my colleague Senator BOND for his hard work in making sure that the identification requirements for first time voters in this bill did not have the unintended consequences for people who vote by mail. I think that we all agree that any election reform passed by the U.S. Senate should be about two things: deterring voter fraud and promoting voter participation. Many weeks of negotiations finally have produced an agreement that I believe will do both. Thanks to hard work by Senator WYDEN and Senator BOND, together with the managers of the bill, Senator DODD and Senator MCCONNELL, and Senator MURRAY and Senator SMITH, we have come up with a solution. The compromise addresses Senator BOND's concerns about making certain first time voters are who they say they are, but that doesn't have an unfair and burdensome impact on progressive states like Washington and Oregon where many—and in the case of Oregon all—voters vote by mail. This compromise will not simply benefit voters who vote by mail in Washington in Oregon, but will benefit all States that allow voters to vote by mail.

This compromise does two things. First, it creates a mechanism for election officials to verify the identity of first time voters who register by mail before they get to the polls. And second, it makes clear that voters who vote by mail, just like voters who go to the polls, can still cast a provisional or replacement ballot even if they fail to provide identification in their ballot when they cast their vote by mail. The provisional or replacement ballot will be counted as long as elections officials determine the voter's eligibility under the laws of their State.

With regard to the first part of the compromise, election officials in States like Oregon and Washington will be able to satisfy themselves about the identity of a first time voter before they arrive at the polls or cast their ballot by mail for the first time. If the election official is able to compare the information that the voter provides on his or her voter registration card with information contained in an existing state database such as the Department of Motor Vehicles, and the information matches, the voter will not be asked to produce independent identification when they vote. In fact, even if a voter fails to provide the identification information at the time they vote, the vote may still be cast as a provisional or replacement ballot and will be counted as long as State elections officials verify the voter's eligibility under the laws of the voter's State. Is that the Senator's understanding?

Mr. WYDEN. The Senator is correct. Under the agreement you and I have worked out with Senators BOND, MCCONNELL, DODD, and MURRAY, voters who register by mail are given more options to verify their identity. Our agreement protects Oregon's vote-by-mail system, as well as the majority of voters who vote by mail in Washington, and provides protections to make sure that every mail-in vote by a legally registered first-time voter can be counted.

Instead of an identification or proof to resident, first-time voters in a state may put their driver's license number or the last four digits of their Social Security card on their registration card.

If that number, along with the name and date of birth of the voter matches another State record, like the Department of Motor Vehicle's, the voter won't be required to provide any further identification. This means they won't have to stop by a copy center before they register or before they vote. This will mean business as usual for the petition drives, the campus registrations and every get-out-the-vote effort in Oregon, where thousands of first-time voters register by mail. Without this compromise, every one of these initiatives to get more citizens voting would have been stymied.

The agreement also guarantees that voters who cast their ballots by mail have the same provisional or replacement ballot rights as voters who go to the polls. Under the agreement if a first-time voter in a state fails to supply a driver's license number or the last four digits of their Social Security number when they register, their vote can still be counted even if their ballot is received without a photocopy of identification, if the state election officials determines that the voter is in fact legally registered under state law. These provisions will also not take effect until January of 2003 ensuring that this year's election will not be disrupted by new requirements.

Under the agreement, Oregon's pioneering and successful vote-by-mail system will continue, unchanged.

I understand the concerns that sparked the identification requirement: a concern that mail-in voter registration and balloting engender fraud. But in Oregon—the only all vote-by-mail state and the state that pioneered Motor Voter—there is very little fraud. No one has come forward with proof of widespread fraud in Oregon. In fact, I was elected to the Senate in the first all vote-by-mail special election. Senator GORDON SMITH, my opponent in that race, never raised any questions about fraud. Oregon's penalties for fraud are much tougher than federal law—up to $100,000 in fines and/or 5 years in jail.

Since Oregonians voted overwhelmingly in 1998 to use a vote-by-mail system, participation has gone up and fraud has gone down. In fact, in the last Federal election, 80 percent of the registered voters cast a ballot. Since the May 1996 primary, 13 cases of fraud have been prosecuted; convictions were won in five and eight are still pending. In the last Federal election, only 192 ballots were not counted because they failed the signature verification test. This is a pretty good record. Has the Senator had similar results in her State?

Ms. CANTWELL. I agree completely with my colleague from Oregon. The mail in voting system in my State has allowed voters to have flexibility in deciding whether to go to the polls or vote from home. In our last election, over 65 percent opted to vote by mail.

Our system has increased participation, and has resulted in no serious allegation of fraud. Like the mail in system in Oregon, I was elected in a very close election where the majority of ballots were cast by mail, but no allegations of fraud were raised.

In addition, voting by mail allows voters to be significantly more informed. By sitting at home with their ballot and their sample voting materials, voters are able to make more informed choices without the pressures of a busy schedule or a line at the booth.

I am very pleased that this agreement provides protections that will make sure that all legally registered first time voters who vote by mail, will still have their votes counted. Their votes will be counted if State election officials determine the voter is properly registered according to Washington State law. In Washington, if a first-time voter forgets to include a photocopy in their ballot, the election official will verify whether or not the voter is in fact legally registered by following the Washington state law, and performing a careful verification of the signature on the ballot.

This compromise makes sense because it allows each state to best determine how to count provisional ballots, and because it provides the same protection to mail in voters that are already provided to voters who vote at the polls in the original election reform bill.

I ask the Senator if he agrees that this is how the compromise will work?

Mr. BOND. I agree with my colleagues Senator WYDEN and Senator CANTWELL, as to how the compromise works, and I would like to thank them for working diligently on this compromise. I am pleased we were able to make a change to the identification provision that all states can comply with.

I have said repeatedly that requiring first time voters to verify their identity is a reasonable means of preventing fraud, and in fact many States already have this requirement.

But I agree completely with the Senators from Washington and Oregon that voters who vote by mail, but fail to include a copy of their photo identification, should be able to cast a provisional ballot, just like voters who go to the polls without their identification.

By ensuring that it is a state or local election official that is making the determination about whether a provisional vote is valid, I believe we have built in significant safeguards that will prevent fraud.

I also agree that allowing election officials to verify the identity of a first time voter by matching specific information about the voter on the registration card to an existing state record with information on the voter, is a reasonable means to prevent fraud.

I am happy to support this compromise and look forward to passing the final legislation later today.

Mr. WYDEN. This agreement follows the right priorities by fighting fraud at the beginning of the process—at the time of registration. That is what our agreement does. At the same time, I have also said that legislation should not make it harder for legally registered voters to cast a ballot, or discourage people from voting. The agreement will do this as well.

This has not been an easy task. I want to commend Senators BOND, CANTWELL, MCCONNELL, and MURRAY for sticking with the negotiations, and I especially want to thank Chairman DODD for the support he and his staff have given us in reaching the agreement and in including it in the managers' package.

Mr. LIEBERMAN. Mr. President, amendment No. 2926 will ensure that the Election Administration Commission studies State recount and contest procedures, so that we lessen the chance that what happened in Florida during the November 2000 election will occur elsewhere.

That election revealed many problems in our Nation's voting procedures, the bulk of which are being addressed in this historic legislation. When states fully implement the provisions of S. 565, I am confident that Americans will have good reason to have greater confidence that their Federal elections are fair, efficient, and accurate down to the last vote.

But, we also have to be concerned about what occurs after those ballots have been cast, especially in cases when an election is excruciatingly close. In November 2000, we all found out what can happen in our electoral democracy when recounts are required or when elections are contested to determine who won and who lost. In broad terms, the system that was designed by our Founders and has evolved over the years is a brilliant one. But given the sheer size of this country, the complexity of many State regulations, and the various ways and means of voting, we must ensure that the system we cherish is brought fully up to speed with the times in which we live.

Even after we say good riddance to chads and butterflies, we will certainly continue to have close Federal elections, and elections in which the first count has to be verified for one reason or another. Therefore I believe we will not have completed the job of election reform until we make sure that we—governments at all levels, as well as the public—better understand how States determine when votes should be recounted, how votes should be recounted, and who should do the recounting. We must not allow this window of reform to close without first enduring that we know whether or not State recount and contest procedures are adequate, so that in the future it is voters, without the intervention of the courts, who determine the winners of our elections.

In 2000, of course, it was Florida—surrounded on three sides by water and on all sides by media scrutiny—that became the poster state for recount procedures gone awry. But in frames, we must acknowledge that if other States had been placed under the same microscope as Florida, the same problems would have been revealed. Florida was not the only state that was totally unprepared to deal with a neck-and-neck election.

The National Commission on Federal Election Reform, chaired so ably by Presidents Carter and Ford, made several observations about this issue that were evident to the whole world watching events in Florida, but which could apply to many other States as well. The commission found that recount and contest laws are not designed for statewide challenges. They noted that state deadlines did not mesh well with the federal schedule. Each county in Florida made its own decisions about what, when, or whether to recount. And, perhaps most surprising to all of us involved, in performing recounts, the definition of a vote varied from county to county, and from official to official within the counties.

I do not want to recount, relieve, or rehash all of the painful debates from that election. There is no point to be served now re-enacting the legal battle that transfixed our country and the world.

But in our ongoing quest to form a more perfect union, we have to ask ourselves whether we can improve the procedures for future recounts, and how we can put in place procedures that are clear to voters, and I might add candidates, well before the election. If on the first Monday in November we are all on the same page as to what constitutes a vote on each type of voting equipment and for every kind of voting method, what recount and contest procedures are, and other critical questions, things will be much less confusion and frustrating to all Americans come the first Tuesday in November. In perfect hindsight, I think we would all agree that it is not one's benefit for us to rely on the courts or others to tell us the rules as we go along.

The amendment would simply require the new Election Administration Commission being created by this legislation to systematically examine the State laws and procedures governing recounts and contests in Federal elections, determine the best practices, and, report to the President and Congress whether or not state procedures are adequate. The commission would also study whether or not states have adopted uniform definitions for what constitutes a vote on each kind of voting machinery they use, and whether or not there is a need for more consistency in State recount and contest procedures.

This amendment recognizes that, as is appropriate under our system of government, administration of Federal elections will still remain primarily the purview of the States. However, be directing the Election Administration Commission to study State recount and contest laws and procedures and promote best practices, I hope we can help to ensure that the events in Florida following the November 2000 election are never repeated.

I want to thank the chairman and ranking member for working with us and accepting this amendment, and I urge its adoption by the Senate.

Mrs. FEINSTEIN. Mr. President, stand on the threshold of passing perhaps the most important bill of the 107th Congress. S. 565 makes a long-overdue Federal investment in the most vital infrastructure our nation has: the infrastructure of democracy.

We have neglected this infrastructure for too long, and at our peril. Problems in Florida and elsewhere during the November 2000 Presidential election underscored the effects of our years of neglect.

I was pleased to see that President Bush's fiscal year 2003 budget request included $400 million for a revolving fund for States for election improvements, and additional funds projected through fiscal year 2005, for a total of $1.2 billion over 3 years. This is commendable, but I think it falls short of what we need.

S. 565 authorizes $3.5 billion through fiscal year 2006 to help States and localities:

Meet new Federal standards for voting systems;

Replace or upgrade voting technology;

Educate and train voters, election officials, and poll workers; and

Make polling places and equipment physically accessible to the disabled.

As Senator BOND and others have said, the new standards contained in S. 565 are meant to "make it easier to vote, and harder to vote fraudulently." What a laudable goal.

Under the bill, voting systems must notify voters if they "over vote"—that is, if they vote for too many candidates for a particular office or position. Voters must be given the opportunity to change their ballot, and verify that it comports with their wishes before casting it.

Voting systems must provide nonvisual accessibility for the blind and visually impaired. They must provide ballots in other languages for voters with limited proficiency in English.

The bill requires that voters be informed of their right—and be allowed—to cast provisional ballots if their eligibility is challenged at the polling place, and to find out if their votes are counted.

The bill also requires the States to develop statewide computerized and interactive voter registration lists both to make it easier to vote and to deter fraud.

To meet these requirements, S. 565 provides a 100 percent Federal match. There is no unfunded mandate here foisted on State and local governments. We give them the money they need to do what we ask them to do.

The bill comes at an absolutely crucial time for California. Last September, California Secretary of State Bill Jones "de-certified" the punch-card voting systems in nine counties, which collectively have 8.6 million registered voters. That's more people than the total populations of 39 States. The counties include:

Los Angeles (4 million registered voters);

San Diego (1 million registered voters);

San Bernardino (700,000 registered voters);

Alameda (700,000 registered voters); and

Sacramento (600,000 registered voters).

The other affected counties are Mendocino, Santa Clara, Shasta, and Solano.

Secretary of State Jones gave these jurisdictions until the November 2006 elections to upgrade their systems, presumably to "touch screen" machines, also known as "Direct Record Electronic"—DRE—devices.

You can imagine what a challenge it will be to get new systems in place for so many voters. In Los Angeles alone, the cost is expected to be between $90 million and $100 million. In Sacramento, it will cost $20 million to $30 million.

But there is more: civil rights groups and other plaintiffs sued to move the date up from 2006 to 2004. Just 2 months ago, U.S. District Judge Stephen V. Wilson ruled in favor of the plaintiffs.

So these counties have about 2 years—less really—to get new systems. It is absolutely imperative that we pass this bill, work out a compromise with the House, and get Federal funds to these—and other—jurisdictions as soon as possible.

Last month, California voters approved Proposition 41, a $200 million bond measure that will provide 3-to-1 matching grants to county governments for the purchase of new election equipment. So the State is doing what it can to fix this problem. But it cannot do it by itself.

With regard to the bill before us, I want to commend Senators DODD and MCCONNELL for their hard work in negotiating the compromise we will be voting on shortly. Fixing our election systems—fixing the infrastructure of our democracy—is not a partisan issue. The chairman and ranking member of the Rules Committee have done an admirable job. I am confident that the Senate will approve the compromise amendment overwhelmingly.

I am also grateful that the Senate saw fit to approve 2 of my amendments. I offered these amendments to address concerns my staff and I heard from California election officials, notably Bradley J. Clark, the Alameda County Registrar who serves as President of the California Association of Clerks and Election Officials, and Connie B. McCormack and Mischelle Townsend, the Los Angeles County and Riverside County Registrars, respectively.

My first amendment would task the Election Administration Commission—EAC—created under the bill with studying the technical feasibility of providing ballots and other election materials in eight or more languages. Section 101(a)(4) of S. 565 as amended significantly expands the Voting Rights Act—VRA—of 1965 requirement regarding the availability of voter registration and election materials in foreign languages.

The VRA currently requires the availability of voter registration and election materials in native languages for specified "language minority groups" if a certain threshold is reached: No. 1, more than 5 percent of the voting-age citizens within the jurisdiction are members of a "single language minority" and have limited English-proficiency; or No. 2, there are at least 10,000 such voters.

The VRA restricts the term "language minority groups/single language minority" to people who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

S. 565, as amended, goes beyond the four categories above, and the registrars are concerned that it could require a larger jurisdiction like Los Angeles, San Francisco, or San Diego to prepare ballots and other election materials in languages not covered by the VRA without first assessing the need for such ballots.

We have school districts in these cities where 48 different languages are spoken.

In the November 2000 elections, Los Angeles County spent $2.2 million out of a total budget of $21 million to prepare registration materials and ballots in six languages: Spanish, Chinese, Japanese, Korean, Vietnamese, and Tagalog—the native language of Filipinos.

According to the Los Angeles County Registrar, Ms. McCormack, each language costs about $250,000 per election, and she anticipates adding Cambodian for the November 2002 election.

She certainly does not want to disenfranchise any voter, nor would I countenance such an effort. But I think it is important for the EAC to study the technical challenges the multi-lingual ballot provision places on a jurisdiction like Los Angeles.

For instance, Ms. McCormack told my staff that while the technology is improving, it is still very difficult to devise ballots in "character" languages such as Chinese, even on the newer machines.

Prior to the November 2000 elections, she invited companies to bid on a contract to provide a limited number of machines with multi-lingual ballot capabilities. She drew just two bids.

Another chief concern I heard about is the requirement in Section 102(a) of the substitute amendment that appropriate election officials must notify a provisional voter in writing within 30 days if his or her provisional ballot is rejected, and the reason for it being rejected.

The goal—getting voters properly registered—is certainly worthwhile, but the requirement is administratively cumbersome for some jurisdictions. Los Angeles County, for instance, received over 100,000 provisional ballots in the November 2000 elections, and rejected close to 40,000.

In addition to notifying, in writing, those voters whose provisional ballots have not been counted, the amended bill reburies election officials in each jurisdiction to establish a "free access system" such as a toll-free number or an official Website that voters can contact to determine if their provisional ballots have been counted.

It strikes me that establishing the free access system, informing voters about it, and allowing them to find this information out for themselves is more manageable than requiring the written notification.

In either instance, I am concerned about protecting the privacy of the data that such a free access system would contain.

S. 565, as amended—Section 102(a)(6)(BN)—is silent on that point.

Identify theft is one of the Nation's fastest growing crimes. I felt compelled to offer an amendment to the bill—which has been adopted—to direct the appropriate State or local election officials to protect the security of the personal information contained in the free access systems that will be created.

I am pleased that the Senate also adopted the amendment senators CHAFEE and REED of Rhode Island offered to ensure that State and local governments making multi-year payments for new voting equipment purchased prior to January 1, 2001 are eligible to apply for grants under this bill.

This amendment, as I understand it, "grandfathers" Riverside and Marin Counties so that they can tap into Section 203 grant monies to help them defray the cost of equipment they purchased prior to the November 2000 elections.

According to Ms. Townsend, the Riverside County Registrar, prior to the 2000 elections, Riverside County using Pitney Bowes for financing—purchased 4,250 touch screen machines from Sequoia, an Oakland manufacturer, at a cost of $14 million amortized over 15 years (for a total cost, including interest, of roughly $20 million).

The new DRE system was so successful that Riverside had one of the ten lowest voter error rates of all counties nationwide—less than one percent.

Ms. Townsend told my staff that much of the error rate was attributable to paper absentee ballots. "Over-voting" is impossible on touch screens, and "under-voting" is the prerogative of individual voters and, consequently, may not represent an error.

Riverside was the first county nationwide to rely exclusively on touch screens and is serving as a model for other jurisdictions. The county was commended in the report issued by the Election Reform Commission former Presidents Ford and Carter co-chaired.

Clearly, we do not want to punish Riverside County—or Marin County, which purchased DRE touch screen machines and precinct-based optical scanners in time for the November 2000 elections—for acting responsibly.

As I said a moment ago, I want to thank Senators DODD and McCONNELL for accommodating my concerns. I think the amendments I offered and the Chafee-Reed amendment make an already outstanding bill even better.

While much of our discussion concerning specific provisions in the bill may sound arcane or parochial, there is also something much larger at stake here.

One hundred years ago, democracy was still very much a tenuous experiment around the world. Even in the United States, African-American men were largely disenfranchised and women still had to wait for 2 more decades before they could vote.

According to a 1999 report issued by Freedom House, in 1900, only 5 percent of the world's population had the right to elect their leader(s). Now, 58 percent of the world has this right.

In 1900, no nation elected its leader by universal adult suffrage; now, 119 nations do. That is 62 percent of all of the countries in the world.

According to the report, entitled Democracy's Century:

> Like economic progress, political progress has been uneven. But the general trends are hard to ignore. They reinforce the conclusion that humankind, in fits and starts, is rejecting oppression and opting for greater openness and freedom.

This report was published before the terrorist attacks on September 11. We have been reminded in a visceral way that enemies of freedom still exist. We have met those enemies on the battlefields of Afghanistan. The battle we now wage is every bit as serious as the cold war. I fervently believe that freedom will win out. Democracy will continue its march. Respect for human rights will grow.

The newly established or emerging democracies of the world look to us for inspiration and for guidance. That is why it is so crucial that we pass S. 565 and set about mending our democracy.

I traveled abroad after the 2000 elections, and I heard an earful from foreigners. "Don't lecture us," they said, and rightfully so.

While we were able to settle on the results peacefully, in our courts, the events surrounding that election shame us, diminish us in the eyes of those who aspire to be like us, and embolden our enemies, freedom's enemies.

On April 27, 1994, 43 million black South Africans—86 percent of the eligible voters—cast their first ballots. Can any of us forget the poignant images we saw on television back then of people waiting 8 hours or more to vote, of lines of voters seemingly stretching to the horizon?

Yes, democracy is on the march. But it is fragile. We have to protect and nourish it. Even here in America—especially here in America. We are a beacon to the rest of the world, especially to oppressed people everywhere.

We Americans have been complacent and neglectful with regard to our democracy. We have allowed the infrastructure that sustains it to fray around the edges. Our democracy has lost some of its marvelous luster. It is time to restore that luster.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of this historic election reform legislation, which of course comes before the Senate at a time when our Nation is responding to new challenges at home and abroad.

I want to thank Senators DODD and McCONNELL and other Senators for their hard work to create this bipartisan bill, and I thank the majority leader and the minority leader for working together and ensuring that this legislation is being considered at this time. Our efforts to address this issue together demonstrate to the American people that a matter as critical as election reform can and should be driven by the national interest, not by partisan, parochial or political interests.

After all, the integrity of self-governed democracies starts with the right of citizens to vote, and when that right is not shared equally, the strength of our democracy is diminished.

We must recognize and celebrate the fact that American history has been a story of continual progress in this regard. Generation after generation, voting booths have been opened and voting rights extended to groups of citizens once disenfranchised. That wonderful process of growth has, over the generations, built a broader and better America that has become a brighter beacon of equality and opportunity to people around the world.

But we can never stop forming, in the words of our Constitution, a more perfect union, and to that end we must realize that haphazard or bureaucratic disenfranchisement still occurs in America today as a result of arcane or confusing voting systems. We must realize that millions of Americans who are eligible to vote still encounter unnecessary barriers to casting their vote, and to having their votes counted. That disenfranchisement, whenever and however it occurs, is a blemish on the sanctity of our system, and it is a blemish that only we—the democratic representatives of the people—can help to heal.

The provisions in this legislation will help guarantee access and accuracy in the voting booth and ballot box by making sure that the fundamental right to vote of all citizens is protected, that the ballots of all registered voters are counted, and that only those persons who are eligible to vote can do so.

We can all agree that the November 2000 election—which I seem to recall reading a thing or two about in the newspapers—exposed serious flaws in our federal election process, and I am happy to say that this legislation has an answer for most of the flaws exposed.

Experts estimate that in November 2000, some 2.5 million Americans had their ballots for President discarded for any number of reasons. In some cases, the cause was faulty voting equipment, in others confusing ballots. This legislation will wisely require States to adopt voting systems which permit voters to verify their ballot choices and correct errors before their vote is cast. It requires states to adopt systems that address the needs of disabled voters, and of voters with limited English proficiency. And to make sure that these provisions have teeth, the bill sets Federal standards for voter error rates and requires states to meet or beat those benchmarks.

In the 2000 election, many citizens who believed they were eligible to vote were simply turned away from the polls. This legislation will make sure that all citizens who show up to vote have the right to cast provisional ballots, so that their votes can be tabulated if and when their eligibility is verified.

According to reports, in the 2000 election, other citizens were denied the right to vote because registration lists were simply not accurate. This legislation will require each State to create computerized, statewide voter registration lists and to coordinate those lists with other databases to ensure that the lists are as up-to-date and as error-free as possible.

The November 2000 election also made it painfully clear that states were being forced to bear the total financial burden for federal elections, and many states lacked the funding necessary to implement more efficient voting systems. This legislation authorizes $3.5 billion to help states and localities meet the requirements for upgrading voting systems, to improve accessibility for disabled and special needs voters, and to implement new procedures to increase voter turnout, educate voters, and identify, deter, and investigate voter fraud.

Mr. President, the revolutionary idea at the core of American democracy is that our government's power is derived from the consent of the governed. In other words, small-r republican government depends upon the small-d democratic right to vote. Two hundred years ago, Thomas Jefferson wrote, "The will of the people . . . is the only legitimate foundation of any government, and to protect its free expression should be our first object."

Today, the best way for us to protect the free expression of the will of the people is to build an election system that all Americans can count on, by ensuring that all their votes and only their votes are counted. This legislation furthers our progress toward that noble goal. It deserves our strong support.

Mr. GRASSLEY. Mr. President, we have before us a bill that seeks to take unprecedented steps to improve the methods by which Americans vote for our elected officials. To a large extent, Congress is charting new territory in an area where States have traditionally been left to their own devices. Congress has in the past stepped in to guarantee the right to vote for American military personnel and U.S. citizens who live abroad as well as to protect the voting rights of Americans against discrimination. Most recently, Congress has involved itself in the area of voter registration with the National Voter Registration Act of 1993. However, the Federal Government to date has had little or no role with respect to the administration of elections, which is traditionally a State and local responsibility.

Since this is new territory for Congress, we must start by asking ourselves what we are trying to accomplish. The closeness of the 2000 presidential election highlighted some of the shortcomings in the voting systems and processes that are used throughout the country. Many suggestions have been tossed around for ways we can improve elections in the United States ranging from radical constitutional reforms to minor adjustments on the local level. It is clear to me that the most important role Congress can play is to provide the resources, both financial and technical, that are necessary for states and communities to administer fair and accurate elections.

The Dodd-McConnell compromise legislation being considered by the Senate takes steps to help State and local governments achieve high standards of fairness and accuracy in elections. Still, the bill is not perfect. Because of the nature of compromise legislation, every Senator can find things they like and things they do not.

Nevertheless, this bill does accomplish one of the key objectives of Federal election reform. Central to any attempt to help States and localities improve their election systems is providing funds to do so. It's usually not lack of will but lack of funds that hinders local reform efforts. I'm pleased that this bill provides a total of $3.5 billion to States and localities to help improve the administration of elections. Funds will become available through a newly created Election Administration Commission for items like upgrading or replacing voting machines, improving accessibility for disabled voters, and simplifying voting and voter registration procedures.

On the other hand, one problem with this bill is the degree of Federal control that will be exerted on elections. It's difficult to strike the right balance between helping States and localities improve the administration of elections while still allowing for local flexibility. This bill contains a number of well intentioned but specific mandates on States and localities along with potentially heavy handed enforcement procedures if they are deemed to be out of compliance with Federal mandates. Still, the bill does provide for 100 percent funding for all Federal mandates thus lessening the impact on the State and local governments that must implement these mandates.

Finally, I'm pleased that measures were included in this bill, largely through the work of Senator BOND, to combat the problem of voter fraud. The Dodd-McConnell compromise strengthens language in current law providing penalties for giving false information with respect to voting or voter registration, or for conspiring to do so. It also clarifies that these penalties apply for giving false information with respect to naturalization, citizenship, or alien registration.

The compromise also contains carefully balanced language designed to protect against the kinds of fraud that can occur with mail-in voter registration and mail-in voting. While efforts to strip out these anti-fraud protections threatened to unravel the compromise, I am pleased that this matter was resolved and a compromise was found that protects the ability to vote by mail without weakening the bill's anti-fraud protections.

In addition, other measures have been added to the bill through amendments on the Senate floor to give States more tools to ensure the integrity of their voter lists and prevent fraud, including my amendment to allow for coordination of statewide voter lists with social security records to check for deaths and individuals registered under false identities. Voter fraud is a direct threat to the electoral process and these measures represent progress toward eliminating that threat.

At the end of the day, we have a bipartisan bill that takes concrete steps to help state and local governments improve the administration of elections. While it isn't perfect, the Dodd-McConnell legislation represents a positive move that should give Americans greater confidence in their elections and our system of government.

Mr. DOMENICI. Mr. President, I rise today to speak about Election Reform. Today is a good day for this country and the manner in which we hold federal elections.

For several weeks after the last vote was cast in the 2000 elections, Americans were inundated with image after image of ballots being counted and recounted. As the election was further scrutinized, numerous stories of voter fraud were brought to the nation's attention.

While the list of problems encountered during the last election is seemingly unending, the point is that there are improvements to the system that must be made. Today, we have taken a very big, very important step in making sure that this system works better. After all, we have no more important right as American citizens than the right to vote.

In this bill, we set forth some very important standards and procedures to protect this right. We will require systems to permit a voter to verify his ballot choices and correct errors before the ballot is cast so that the voter can be certain that his vote will be for the candidate of his choice.

In the case where an individual claims to be a registered voter who is eligible to vote but isn't on the official registration list, that individual will be allowed to cast a provisional vote. The appropriate election official must then verify the claim of eligibility. If the claim is verified, that vote will be counted. There will then be a free access system that the voter can use to check to see whether that vote was counted, and if not, the system will give the reason for that decision.

These measures, and others in the bill, are intended to make certain that the people who are eligible to vote are given that right. The other side of the coin is to make certain that people who are not eligible to vote are prevented from voting. One of the things that this bill does is require each state to implement an interactive, computerized, statewide, voter registration list. This will also help to make certain that no one is able to vote more than once.

One of the concerns that many states would have had with this piece of legislation is the cost involved in implementing these reforms. Recognizing these concerns, we have authorized $3.5 billion to make certain that the states do not bear the burden of these reforms.

This legislation represents the hard work of many members from both sides of the aisle. It is truly a testament to the good that can come from bi-partisanship and I commend all of the Senators who worked so hard to make this happen.

Mr. ROCKEFELLER. Mr. President, I thank Chairman DODD and Ranking Member MCCONNELL for working closely with me to reach agreement on an amendment to help ensure that the millions of Americans living overseas can vote in Federal elections.

Millions of Americans live abroad. Some are business people, some are military personnel, others are students, and some are Peace Corps volunteers. Their votes should count, too.

This amendment is simple and reasonable, but important. It directs the Commission created in the Election Reform package to consider the needs and concerns of millions of overseas voters, both civilian and military personnel. The amendment directs the commission to study the issue of long-term registration for overseas voters and make recommendations. It would create a single office in every state that overseas voters could contact for information about voter registration and absentee ballots. The Commission is asked to determine if this office could, and should do more. It states that when election officials reject an absentee ballot, the overseas voter should be notified and given an explanation on why their application was rejected. Finally, this amendment also ask states to report on the number of absentee ballots, within a reasonable time frame.

Early in my political career, I served as the Secretary of State for West Virginia, so I understand the importance of voting issues and the need to be sensitive to the concerns of states. But we also have an obligation to overseas Americans who deserve the chance to vote.

I deeply appreciate the interest and support of Chairman DODD, Senator MCCONNELL and their staffs. I know that the bipartisan House Election Reform legislation includes important provisions for overseas voters, both civilian and military, recognizing that they, too, deserve to vote.

Mr. MCCAIN. Mr. President, this afternoon I would like to commend my colleagues for passing S. 565, the Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2001. I believe that this historic piece of legislation will resolve many of the problems that the country experienced in the Year 2000 election.

This bill includes a number of important elements that are designed to improve and safeguard the voting process across the country. The bill establishes uniform and nondiscriminatory Federal standards, including voter notification procedures and a uniform error rate for voting systems, that will reassure voters that their votes will be correctly registered. The bill also includes mandatory procedures for provisional voting that will ensure that all legitimate voters have the right to vote. Additionally, the bill establishes an interactive, computerized, statewide voter registration system that will prevent future incidents of election fraud. The bill also includes Federal grant programs that will help the States pay for these new mandatory requirements, and provide incentives for States to replace voting machines, educate voters, and train poll workers. The bill also establishes an Election Administration Commission to improve the administration of elections across the country by using grant programs, studies, and recommendations.

Most importantly, this bill will play a role in improving the situation for disabled voters. The obstacles facing millions of disabled voters have concerned me long before the 2000 elections. I find it particularly distressing that many of our nation's disabled veterans, who sacrificed so much for our country, are confronted with too many obstacles, including inaccessible polling places and machines that cannot be used by blind and visually impaired voters. According to a 2001 GAO report, requested by Senator HARKIN and me, 84 percent of all polling places in the U.S. are not accessible to disabled voters. Additionally, no polling place visited by the GAO had a ballot or voting system available for blind or visually-impaired voters to mark a ballot without requiring assistance from a poll worker or companion.

I would like to thank my colleagues in the Senate for supporting my amendment to ensure that the Federal Access Board will be consulted on the new voting systems standards. The Access Board has a good deal of insight and experience in solving the accessibility issues facing voters with disabilities. I am also grateful to my colleagues for accepting Senator HARKIN's amendment, which I cosponsored, to make it the Sense of the Senate that "curbside voting" should be allowed by states only as a last resort. For many disabled voters, "curbside voting" strips away their sacred right to cast a private ballot. It is my hope that these amendments, combined with the $100 million grant program to improve the accessibility of polling places and the new voting systems standards, will ensure that the disabled community and our Nation's veterans will become more involved in our Nation's election process.

One major issue for the Senate was how to strike a balance between preventing voter fraud and ensuring greater participation by legitimate voters. The compromise substitute amendment included provisions that would both include mandatory Federal standards to make the election process easier for legitimate voters and prevent voter fraud. I cosponsored this amendment, because it struck the necessary bipartisan compromise that was required to ensure the passage of election reform legislation.

I voted against the Schumer-Wyden amendment and against two cloture motions regarding this amendment, because I believed that it would destroy this bipartisan compromise. The issue of election reform is so important that it requires broad bipartisan support, as was achieved in the House of Representatives with the Ney-Hoyer bill. While I understand the intentions of the proponents of the Schumer-Wyden amendment, I was concerned that this amendment would strip out the anti-fraud provisions of the compromise, and endanger passage of this bill. My hope was that this impasse would force the parties to work together to achieve meaningful election reform legislation. I am glad that Senators WYDEN and BOND were able to work together to resolve this obstacle, and that we are now voting on final passage of this bill.

Again, I would like to congratulate my colleagues on passing this legislation. It is my hope that the House-Senate Conference on this bill can be resolved soon. We owe it to the American people to ensure that they have fair, open, and accurate elections.

Mr. DASCHLE. Mr. President, I thank the distinguished chairman and ranking member of the Rules Committee, Senators DODD and McCONNELL, for their incredible leadership, perseverence and hard work in getting us a strong bipartisan election reform bill.

I also thank Senators SCHUMER, BOND, TORRICELLI, McCAIN and DURBIN for their tireless efforts in crafting this bipartisan substitute amendment. Without their collaboration and compromise, we would not even be considering, let alone passing, this very important piece of legislation.

It has been several months since we first began floor consideration of this bill, and I appreciate the tireless efforts, and diligence that Senator DODD has maintained. Without his leadership we would not be here today.

By working together, our colleagues have produced legislation that will protect the most basic of all American rights: the right to vote, and to have that vote counted.

This bill represents a fair, balanced, and responsible approach.

It will ensure that nondiscriminatory voting procedures exist in every polling place, while strengthening the integrity of the Federal election process.

We all know why this bill is necessary.

We remember the stories from the 2000 elections about: inadequate voter education; confusing ballots; outdated and unreliable voting machines; poll workers who were unable to assist voters who needed assistance because they were overwhelmed or undertrained, or both; and registered voters who were wrongly denied the right to vote, because their English was less than perfect, their name was mistakenly purged from a registration list, or some other equally unacceptable reason.

We heard reports of police roadblocks and other barriers that prevented some voters from even reaching the polls, not in the 1920s or 30s, or even the 1960s, but in 2000.

Today, we are celebrating the 34th anniversary of the 1968 Civil Rights Act, which prohibited discrimination in the sale, rental, or financing of housing.

In every generation, we have tried to tear down barriers to full participation in the life of this Nation.

But there is one means of participation that forms the foundation of every other: the right to vote.

And that is why we cannot allow those barriers to voting, physical or otherwise, which so tainted our democracy in the last century, to stretch into this one.

In all, it is estimated that between 4 million and 6 million Americans were unable to cast a vote, or did not have their vote counted, in the 2000 elections.

Between 4 and 6 million Americans, disenfranchised. In this day and age, that is simply unacceptable.

It is not enough for Congress to document or decry the problems we saw in the last election. We need to fix the problems before the next election.

It should not matter where you live, what color your skin is, or who you vote for. In America, the right to vote must never be compromised. Too many people have given too much to defend that right.

Our system leaves it to States to decide the mechanics of election procedures.

But the right to vote is not a State right. It is a constitutional guarantee. And it is up to us to see that it is protected.

Not all States experienced problems with voting in the last election. And some States that did have problems have taken steps to rectify them, and they are to be commended for that.

But there are still States, nearly 17 months after the 2000 elections, where equal access to the voting booth is not guaranteed. It is time for this Congress to step in and enact basic standards, to ensure that every American who is eligible to vote can vote.

That is what this bill does.

It requires States to ensure that their voting equipment meets minimum Federal standards for accuracy.

It says that voters who cast "overvotes" must be notified, and given a chance to correct their ballot.

It ensures that voting machines are accessible to individuals with disabilities, as well as those with limited English proficiency.

It establishes statewide computerized voter registration lists.

And it allows individuals whose names don't appear on voting lists to cast "provisional" ballots.

If it is determined that the person's name was left off the registration list mistakenly, the vote will then be counted. This will prevent voters from having to wait hours at the polls, or not vote at all, simply because of someone else's clerical mistake.

These are not onerous requirements, and they are not unfunded mandates. This bill includes $3.5 billion for States, to help them upgrade their voting systems. And it establishes a new, bipartisan commission to oversee the grant program and administer voting system standards.

I commend my colleagues, particularly the sponsors of this bill, for bringing us such a fair and balanced proposal. And for committing their time and energy to seeing this through.

I am hopeful that this bill will move through conference quickly so we can implement these reforms as soon as possible.

If people are denied their right to vote on issues that affect them directly, or if they fear their votes are not counted, democracy itself is threatened. If that happens, both parties, and all Americans, lose. This bill will go a long way in restoring the integrity of our system and ensuring that all Americans will be truly able to exercise their right to vote.

Voting is the most basic right in our democracy, the one that guarantees the preservation of all other rights against governmental tyranny.

Let us now pass this bill and protect that most basic right.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. Nine minutes.

Mr. DODD. How much on the Republican side?

The PRESIDING OFFICER. Almost 4 minutes.

Mr. DODD. Almost 4 minutes.

Mr. President, why don't I yield myself 5 minutes, and then the Senator from Kentucky may want to speak for 1 minute, and then we will just move on to the amendments.

Mr. President, first of all, I explained the order of the votes that will occur.

I express my thanks to Senator DASCHLE and his staff and to Senator LOTT and his staff. I know I probably tried the patience of all the staffs of both sides over the last number of weeks as we moved this product forward to get to the point where we are today. I would not want to leave this debate without expressing publicly my sincere gratitude to both the Democratic and Republican floor staffs and the cloakroom staffs for their expression of patience—I say that diplomatically—over the last number of weeks.

Secondly, I express my gratitude to my colleagues in the other body who have worked very hard on this as well. JOHN CONYERS from Michigan is my principal co-author, if you will, of this proposal on the House side, along with my colleagues here, although Congressman NEY and Congressman HOYER also have a very important bill they passed in the House, and we will be working with them.

EDDIE BERNICE JOHNSON, SILVESTRE REYES, the respective heads of the Black Caucus and Hispanic Caucus, as well as friends from the AFL–CIO, worked hard on this.

The Leadership Conference on Civil Rights—I will have printed in the RECORD the respective members of the Leadership Conference; it is a lengthy list—but I express my gratitude to them as well for their efforts.

I join my colleague, Senator MITCH McCONNELL, in expressing our gratitude to the members of our committee, Senator SCHUMER and Senator TORRICELLI, who worked diligently to bring us to this point. I also want to join the Ranking Member in thanking our colleagues who are not part of the committee. I say to Senator BOND, I really meant what I said last evening. I think—I say to my colleague through the Chair—but for the provisions you added, which are the antifraud provisions, I think this bill would be a far weaker bill, and I am not sure we would even have gotten a bill. So while not a member of the Rules Committee, I know Senator McCONNELL and I are deeply appreciative of your contribution to this effort.

Senator WYDEN and Senator CANTWELL worked through the Oregon and Washington issue with their respective colleagues. GORDON SMITH was very concerned about this; PATTY MURRAY as well. We thank them for their efforts.

The staffs of our respective offices—Shawn Maher, Kennie Gill and Ronnie Gilliespie, and Carole Blessington, Sue Wright, and Jennifer Cusick who supported them as well—I thank them for their work. I also thank Tam Somerville, Brian Lewis, and Leon Sequeira of Senator McCONNELL's staff; Julie Dammann and Jack Bartling of Senator BOND's staff; Sharon Levin and Polly Trottenberg of Senator SCHUMER's staff; Sara Wills of Senator TORRICELLI's staff; Carol Grunberg of Senator WYDEN's staff; and Beth Stein of Senator CANTWELL's staff. I thank them for their terrific work. If I have left anyone out, I will add their names before the RECORD is closed today.

I said this before, but Senator McCONNELL and I are of different political parties. We share the distinction of having gone to the same law school. We represent the alumni association of the University of Louisville. We share that point in common.

I wish to tell him how much I appreciate his efforts. I know he has a lot of things going on. He has had a huge battle on campaign finance reform that occurred in the middle of all of this. The fact that he and his staff would find time to help us work through this election reform bill is something for which I will always be grateful to him. I know I was hounding him. I know I bothered Brian and Jack and others to get this done. And they showed patience, as well, to me and my staff. I am really grateful to them for their help on that.

Lastly—it has been said by others—I know we have a lot of important bills we deal with. We have the energy bill we are considering. We have appropriations bills. And we are dealing with homeland security and terrorism issues.

I do not minimize at all the importance of that. But this bill goes beyond any specific current issue—it goes to the heart of who and what we are as Americans. Aside from the obvious results of the 2000 elections which provoked, I suppose, this discussion and this bill—this effort is not about addressing a single issue or event. We are dealing with the underlying structure of our very Government.

Patrick Henry once said that: The right to vote is the right upon which all other rights depend. The idea that by this legislation we make it easier to vote in this country and more difficult to scam the system is not an insignificant contribution. It may not get the notoriety of other provisions, but the fact that we are proposing to spend $3.5 billion of taxpayer money on our elections system to allow States to improve equipment, to allow people who are disabled, blind to be able to cast a ballot in private and independently—the idea that we are going to have statewide voter registration lists, provisional balloting, these are major, major changes in the law. In addition this bill provides for the establishment of the independent commission on elections, as well as, of course, the antifraud provisions.

I have been proud of a lot of things with which I have been involved in my 22 years. Nothing exceeds the sense of pride I have this morning, as we close out the debate, on this bill and this Senate accomplishment.

Mr. DODD. Mr. President, today is an historic day in the Senate marked by passage of S. 565, the Martin Luther King, Jr. Equal Protection of Voting Rights Act. It has been my great honor and privilege to have served as Chairman of the Rules and Administration Committee during the pendency of this legislative effort and to have served as floor manager during the Senate consideration.

This is landmark legislation. By enacting this bipartisan bill, the Senate will have established the authority, and responsibility, of Congress to regulate the administration of Federal elections, both in terms of assuring that voting systems and procedures are uniform and nondiscriminatory for all Americans and in ensuring the integrity of federal election results. The House has already passed similar legislation and I am confident that a House-Senate conference can act expeditiously to send this measure to the White House.

While we should not underestimate the significance of this action, we have been careful not to overstate the federal role in the administration of Federal elections. This legislation does not replace the historic role of state and local election officials, nor does it create a one-size-fits-all approach to balloting.

It does establish minimum Federal requirements for the conduct of Federal elections to ensure that the most fundamental of rights in a democracy—the right to vote and have that vote counted—is secure.

In Bush v. Gore, the Supreme Court condemned a recount process that was " . . . inconsistent with the minimum procedures necessary to protect the fundamental right of each voter . . . "

The basic equal protection doctrine underlying the majority opinion in Bush v. Gore is consistent with the principle of equal weight accorded to each vote and equal dignity owed to each voter. The Court stated in pertinent part:

> The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the state may not, by later arbitrary and disparate treatment, value one person's vote over that of another.

This legislation ensures that every eligible American voter is assured of such minimum procedures. Only then can we be sure that every eligible American citizen has an equal opportunity to cast a vote and have that vote counted, so that the integrity of the results of our Federal elections remains unchallenged. That is the minimum that a Federal legislature should do to ensure the vitality of its democracy.

This journey to secure our democratic system of government began when the presidential November 2000 general election exposed to the citizens of this Nation, and the people of the entire world, the inadequacies of our Federal elections system. Throughout the last fifteen months of Congressional review, hearings, and legislative consideration, the efforts of this Senator have been guided by the words of Thomas Paine who described the right to vote as the "primary right by which other rights are protected." I would suggest that those are the words that should guide the consideration and review of this legislative effort.

The bipartisan compromise being adopted by the Senate today is the culmination of several months of work by a dedicated group of our colleagues with strongly held and diverse views on how best to improve our system of Federal elections. The compromise is just that—it is not everything that all of us wanted, but it is something that everyone wanted. And the more than 40 amendments adopted during the debate have further improved the measure. Clearly, in the case of this legislation, the ability of the Senate to freely work its will through amendment and debate has produced a superior product.

This bill is the culmination of efforts begun by the distinguished ranking member, Senator McCONNELL, in the fall of 2000, as then-Chairman of the Senate Rules Committee.

Shortly after the November 2000 general election, then-Chairman McCONNELL announced a series of hearings on election reform. Under his leadership, the Committee held an initial hearing on March 14, 2001.

After the leadership of the Senate changed on June 6, 2001, I announced that election reform would continue to be the primary legislative priority of the Committee. As a result, the Rules Committee held an additional three days of hearings last year on election reform, including an unprecedented, and enlightening, field hearing in Atlanta, Georgia on July 23.

The Committee received testimony and written statements from a conglomeration of civil rights organizations, Congressional House members and caucuses, State and local election officials, study commissions, election associations, task forces, academics, and average voters.

But it was the field hearing in Atlanta that underscored this Senator's belief that this issue is not about what happened in one State or in one election. Election reform is about the systemic flaws in our Federal election system that we have long neglected—flaws which the problems in Florida in November 2000 simply brought to our nation's attention.

Prior to the Atlanta hearing, the chief election official of the State of Georgia, Cathy Cox, testified to her experience. In her words:

> As the presidential election drama unfolded in Florida last November, one thought was foremost in my mind: there but for the grace of God go I. Because the thought is, if the presidential margin had been razor thin in Georgia and if our election systems had undergone the same microscopic scrutiny that Florida endured, we would have fared no better. In many respects, we might have fared even worse.

Ms. Cox testified before the Rules Committee at its field hearing in Atlanta, hosted by my good friend, the Senator from Georgia, Senator MAX CLELAND. Ms. Cox reflected what many of our state and local election officials believe—it could have been any State in the media spotlight that year—any state where the election was close.

In fact, according to the Caltech-MIT report, other States, including Georgia, Idaho, Illinois, South Carolina, and Wyoming, and other cities, such as Chicago and New York, had higher rates of spoiled and uncounted ballots than Florida. Nor were these problems limited to just the November presidential election.

The shortcomings in our election process have existed in many elections in States across this Nation. The Caltech-MIT report found that there have been approximately 2 million uncounted, unmarked or spoiled ballots in each of the last four presidential elections. During hearings before the Senate Rules Committee last year, Carolyn Jefferson-Jenkins, President of the League of Women Voters, testified that:

> . . . [t]he kinds of problems that we saw in 2000 are not unusual. They represent the harvest from years of indifference that has been shown toward one of the most fundamental and important elements in our democratic system.

This concern was confirmed by the General Accounting Office, GAO, which conducted several comprehensive studies on the administration of elections. GAO found that 57 percent of voting jurisdictions nationwide experienced major problems conducting the November 2000 elections.

Following the Rules Committee hearings, the Committee met on August 2 and voted to order reported S. 565, the Equal Protection of Voting Rights Act. Shortly thereafter, I approached Senator BOND and Senator MCCONNELL and suggested that we attempt to find a bipartisan way to approach election reform. We were joined by Senator SCHUMER and Senator TORRICELLI and began meeting to craft a bipartisan compromise that could be enacted prior to the completion of this Congress.

Each of my colleagues brought a unique perspective to the table. Senator MCCONNELL has been steadfast in his pursuit of a new, bipartisan agency to ensure the continuing partnership between the Federal, State and local governments in Federal elections.

Senator BOND's long-standing interest in ensuring the integrity of Federal elections is reflected in the anti-fraud provisions contained in this compromise. Senator SCHUMER and Senator TORRICELLI were among the first members of the Rules Committee to introduce bipartisan reform measures, and their commitment to the bipartisan process is evident throughout this compromise.

I am grateful to all of them, and to their very talented staff, for the time and dedication that each one committed to ensuring that a bipartisan solution could be presented to the Senate.

Throughout this process, all of us were committed to seeing meaningful reform enacted. All of us were convinced that real reform had to make it easier to vote but harder to defraud the system.

These twin goals—making it easier to vote and harder to corrupt our Federal elections system—underpin every provision of this compromise. These goals are fundamental to ensuring that not only does every eligible American have an equal opportunity to vote and have that vote counted, but that the integrity of the results is unquestioned.

Nothing in this legislation, and no words spoken by this Senator in this debate, should be construed to call into question the results of the November 2000 elections. This effort is not about assessing whether a particular candidate was legitimately elected. The fact that Congress may ultimately enact minimum Federal requirements for the conduct of Federal elections should not imply that prior elections conducted inconsistently with such requirements are somehow less legitimate.

But what we cannot fail to recognize is that the mere closeness of the presidential election in November 2000 tested our system of Federal elections to its limits and exposed both its strengths and its failures.

To underscore the uniqueness of the November 2000 general election, the Carter-Ford National Commission on Federal Election Reform observed, and I quote in pertinent part:

> In 2000 the American electoral system was tested by a political ordeal unlike any in living memory. From November 7 until December 12 the outcome of the presidential election was fought out in bitter political and legal struggles that ranged throughout the state of Florida and ultimately extended to the Supreme Court of the United States. Not since 1876–77 has the outcome of a national election remained so unsettled, for so long. The nineteenth century political crisis brought the United States close to a renewal of civil war. Fortunately, no danger of armed conflict shadowed the country in this more recent crisis. The American political system proved its resilience. Nonetheless, the . . . election shook American faith in the legitimacy of the democratic process. . . . [I]n the electoral crisis of 2000 . . . the ordinary institutions of election administration in the United States, and specifically in Florida, just could not readily cope with an extremely close election.

The legitimacy of our democratic process was called into question by a close election because some Americans—be they people of color, or language minority, or disability, or lesser economic condition—believed that the voting system they used, or the administrative processes they encountered, did not provide them an equal opportunity to cast their vote and have that vote counted.

The U.S. Commission on Civil Rights conducted an extensive study on voting irregularities that occurred in Florida during the 2000 presidential election. The Commission found that African-Americans were nearly 10 times more likely than white voters to have their ballots rejected. The Commission found that poorer counties, particularly those with large minority populations, were more likely to use voting systems with higher spoilage rates than more affluent counties with significant white populations.

Additionally, an independent review of Florida's election systems conducted by members of the media found that, quoting from the New York Times and Washington Post:

> Black precincts had more than three times as many rejected ballots as white precincts in [the November 2000] presidential race in Florida, a disparity that persists even after accounting for the effects of income, education and bad ballot design . . . [s]imilar patterns were found in Hispanic precincts and places with large elderly populations.

Again, this problem was not limited to Florida. The Committee also heard testimony at the Atlanta hearing that nearly half of all black voters in Georgia used the "least reliable equipment," while less than 25 percent of white voters used that same equipment.

Election reform is clearly the first civil rights battle of the 21st century.

As Congresswoman MAXINE WATERS, Chairperson of the Democratic Caucus Special Committee on Election Reform, has stated, "there is no question, that the right to vote is the most important civil rights issue facing our Nation today." The Committee heard testimony to this effect at the Atlanta field hearing from Reverend Dr. Joseph E. Lowery, Chairman of the Georgia Coalition for the People's Agenda. Reverend Doctor Lowery testified that:

> No aspect of democracy is more sacred than the right to vote and to have those votes counted. In 1965, thousands of us marched from Selma to Montgomery to urge this nation to remove any and all barriers based on race and color and ethnicity related to the right to vote. . . . Dr. King could not have anticipated that once we secured the ballot in 1965, that we would be back here in 2001 demanding that our government now assure us that our votes are fairly and accurately counted.

And we must ensure that all Americans have an equal opportunity to have their votes counted.

That is why this Senate, and this Congress, and this President, cannot squander this opportunity to reinforce the strengths and correct the failures in our system of Federal elections. To fail to act would be nothing less than an abdication of our collective obligations.

Luckily, unlike many other challenges that are presented to the U.S. Congress, the vast majority of flaws in our federal election system are eminently fixable. As the Carter-Ford Commission found, "the weaknesses in election administration are, to a very great degree, problems that government can actually solve."

Further, the Rules Committee found remarkable consensus regarding the problems that exist with our Federal election systems and the statutory changes that need to be made in response. The distinguished Ranking Member, Senator MCCONNELL, noted during one of our hearings that the message to Congress was unanimous: "Congress must act, and act soon, to come to the aid of states and localities."

And such cannot be accomplished in a partisan manner. Only through a bipartisan effort to assess and support the strengths and identify and correct the failures can we achieve meaningful, and lasting, election reform.

I submit to my colleagues that the provisions of the bipartisan substitute we are voting on today are intended to accomplish just that.

The principle behind our approach is very simple. The Federal Government has an obligation to provide leadership, both in terms of establishing minimum Federal requirements for the conduct of Federal elections and in terms of providing financial resources to State and local governments to meet those minimum requirements.

For too long leadership at the federal level has been lacking. After the elections of November 2000, Congress can no longer afford to ignore our obligation to the States to be an equal partner in the administration of the elections that choose our national leadership.

The provisions of this bipartisan compromise attempt to meet our obligation by establishing minimum Federal requirements—not a-one-size-fits-all solution—but broad standards that can be met in different ways by every balloting system used in America today. And this bipartisan compromise provides the necessary resources to fully fund these requirements in every one of the 186,000 polling places across this Nation.

Let me first give my colleagues a broad overview of what the bill we are about to adopt does and then go through each section to more fully explain how the provisions will work.

The compromise bill, as improved by amendments adopted during Senate debate, establishes three Federal minimum requirements for Federal elections that will affect voting systems, including machines and ballots, and the administration of Federal elections. These three requirements touch the very voting systems and administrative procedures that alienated Americans across this Nation in November of 2000 and called into question the integrity of the final election results.

The first requirement sets minimum Federal standards that voting systems and election technology must meet by the federal elections of 2006. Essentially, these common sense standards are designed to provide notice and a second-chance voting opportunity for all eligible voters, including the disabled, the blind and language minorities, in case the voter's ballot was incorrectly marked or spoiled.

This requirement conforms to important recommendations from the Caltech-MIT and Carter-Ford Commission reports. As the Carter-Ford report stated, we must " . . . seek to ensure that every qualified citizen has an equal opportunity to vote and that every individual's vote is equally effective."

The Carter-Ford report specifically recommended that the Federal Government develop a comprehensive set of voting equipment system standards. The Commission also took great pains to encourage the use of technology and election systems that ensure the voting rights of all citizens, including language minorities. Similarly, the Caltech-MIT report emphasized the importance of equipment that allows voters to fix their mistakes, provides for an audit trail, and is accessible to the disabled and language minorities.

The second requirement provides that all voters be given a chance to cast a provisional ballot if for some reason his or her name is not included on the registration list or the voter's eligibility to vote is otherwise challenged.

Almost every organization that has examined election problems has recommended the adoption of provisional voting, including, but not limited to the: National Association for the Advancement of Colored People (NAACP); National Commission on Federal Election Reform (Carter-Ford Commission); National Association of Secretaries of State (NASS); National Association of State Election Directors (NASED); National Task Force on Election Reform; Democratic Caucus Special Committee on Election Reform; Caltech-MIT Voting Technology Project; Constitution Project; League of Women Voters (LWV); American Association of Persons with Disabilities (AAPD); Leadership Conference on Civil Rights (LCCR); National Council of La Raza (NCLR); Asian American Legal Defense and Education Fund (AALDEF); U.S. Commission on Civil Rights; and Federal Election Commission.

The Caltech-MIT report estimates that the aggressive use of provisional ballots could cut the lost votes due to registration problems in half. The Carter-Ford Commission recommended going even farther than the compromise. The Commission noted, "No American qualified to vote anywhere in her or his State should be turned away from a polling place in that State."

According to a survey by the Congressional Research Service, at least 15 States and the District of Columbia have a provisional ballot statute; 17 States have statutes that provide for some aspects of a provisional balloting process; and 18 States have no provisional ballot statute but have related provisions. For example, five of these States have same-day voter registration procedures and at least one State, North Dakota, does not require any voter registration.

Studies by GAO confirm that over three-quarters of the jurisdictions nationwide had at least one procedure in place to help resolve eligibility questions for voters whose name does not appear on the registration list at the polling place. However, the procedures and instructions developed to permit provisional voting differed across jurisdictions.

Provisional voting, as defined under the bipartisan compromise, would avoid situations like the one recounted to the Democratic Caucus Special Committee on Election Reform by two citizens living in Philadelphia, Juan Ramos and Petricio Morales.

They testified that in Philadelphia, voters whose names did not appear on the precinct roster were forced to travel to police stations and go before a judge, who would then determine whether or not they had the right to vote. Not surprisingly, many voters whose names were missing from the list wound up not voting rather than face these intimidating logistical hurdles.

If an individual is motivated enough to go to the polls and sign an affidavit that he or she is eligible to vote in that election, then the system ought to protect that individual's right to cast a ballot, even if only a provisional ballot. And that right is so fundamental, as is evidenced by its widespread use across this Nation, that we must ensure that it is offered to all Americans, not in an identical process, but in a uniform and nondiscriminatory manner.

And that is what the compromise accomplished by ensuring that so long as the minimum standards were satisfied regarding the provisional voting process, it does not matter what that provisional balloting process is called so long as it is a way to ensure equal access to the ballot box. While all jurisdictions must meet this requirement, the amendment offered by the Senator from New Hampshire, Senator GREGG, further clarifies that those States which are currently exempt from the provisions of the National Voter Registration Act, or Motor-Voter, can meet the requirements for provisional balloting through their current registration systems.

The second requirement also provides that election officials post information in the polling place on election day, such as a sample ballot and voting instructions to inform voters of their rights. Provisional balloting must be available by the Federal elections of 2004, while the posting of voting information on election day must begin upon enactment of the legislation.

GAO found that the two most common ways jurisdictions provided voter information were to make it available at the election office and to print it in the local newspapers.

With respect to sample ballots, 91 percent of the jurisdictions nationwide made them available at the election office, and 71 percent printed them in the local newspaper. Nationwide, 82 percent of the jurisdictions printed a list of polling places in the local paper.

In contrast, only 18 percent to 20 percent of jurisdictions nationwide placed public service ads on local media, performed community outreach programs, and put some voter information on the Internet. Mailing voter information to all registered voters was the least used approach, with 13 percent of the jurisdictions mailing voting instructions, 7 percent mailing sample ballots; and finally, 6 percent mailing voter information on polling locations.

The third requirement is intended to facilitate the administration of elections, especially on election day, and to guard against possible corruption of the system. This requirement calls for the establishment, by Federal elections in 2004, of a statewide computerized registration list that will ensure all eligible voters can vote. It will also ensure that the names of ineligible voters will not appear on the rolls.

The Carter-Ford Commission explicitly recommended that every state adopt a system of statewide voter registration. The Caltech-MIT report similarly recommended the development of better databases with a numerical identifier for each voter. The Constitution Project also called for the development of a statewide computerized voter registration system that can be routinely updated and is accessible at polling places on election day.

Additionally, this requirement establishes identification procedures for first-time voters who have registered by mail. In order to ensure against fraud and the possibility that mail-in registrants are not eligible to vote, first-time voters unless otherwise exempted will present verification of their identify at the polling place or submit such verification with their absentee ballot. The manager's amendment adopted last evening harmonizes this provision with the 2004 effective date for provisional balloting and the creation of computerized statewide registration lists. This is an important change that recognizes the administrative burden of the provision on both States and voters and so provides adequate time for jurisdictions to come into compliance and educate voters about the new provision. This amendment also establishes a uniform effective date of January 1, 2003 for first-time voter registration subject to the first-time voter provision. This assures that all eligible voters, regardless of where they live or vote, will know that if they register to vote after that date, they will have to meet the new requirements for first-time mail-registrant voters.

In order to fund these requirements and other election reforms by the States, the bipartisan compromise establishes three grant programs. The first grant program, the requirements grant program, provides funds to State and local governments to implement these three requirements. The compromise authorizes $3 billion over 4 years, with no matching requirement, for this purpose. Under the amendment offered by Senators COLLINS, JEFFORDS, and others, as adopted by the Senate, each State will receive a minimum grant equal to one-half of 1 percent of the total appropriation.

The second grant program is an incentive grant program designed to authorize $400 million in this fiscal year to allow State and local governments to begin improving their voting systems and administrative procedures, even before the requirements go into effect. These funds may also be used for reform measures, such as training poll workers and officials, voter education programs, same-day registration procedures, and programs to deter election fraud.

Finally, in response to the GAO report that 84 percent of all polling places, from the parking lot to the voting booth, remain inaccessible to the disabled, the compromise creates a third grant program to provide funds to States and localities to improve the physical accessibility of polling places. This important initiative will help assure that no matter what the physical impediment, all eligible Americans will be able to not only reach and enter the polling place, but enter the voting booth to cast their ballot as well. While this bill does not eliminate curbside voting, the amendment offered by Senators MCCAIN and HARKIN, and incorporated into the bill, as well as provisions of the amendment by Senator THOMAS adopted last night, expresses the sense of the Senate that curbside voting be the last alternative used to accommodate disabled voters. We are hopeful that these funds will make that a reality.

The final provision of the compromise establishes a new, bipartisan Federal agency to administer the grant programs and provide on-going support to State and local election officials in the administration of Federal elections. This new entity reflects an appropriate continuing federal role in the administration of Federal elections.

This bipartisan Federal election commission will be comprised of four presidential appointees, confirmed by the Senate, who will each serve a single, 6-year term. In order to ensure that all actions taken by the commission are strictly bipartisan, including the approval of any grants and the issuance of all guidelines, every action of the commission must be by majority vote.

With that overview, let me go through the compromise and explain its provisions in greater detail. The first title of the bill lays out three uniform and nondiscriminatory election technology and administration requirements which shall be met.

Although some have advocated instituting optional reforms, others have insisted that only minimum Federal requirements would ensure that every eligible voter can cast a vote and have that vote counted. The co-author of the "Equal Protection of Voting Rights Act" who serves as the ranking Democrat of the House Judiciary Committee, Congressman JOHN CONYERS, cautioned in his testimony before the Rules Committee against adopting measures that would allow "States to simply elect to opt out of any standards," noting that past landmark civil rights bills, including the Voting Rights Act and the Americans with Disabilities Act, also set minimum Federal standards.

As the Democratic Caucus Special Committee on Election Reform reported:

> We do not believe that funding, without some basic minimum standards, is sufficient to achieve meaningful reform. If states were allowed to opt out of the recommended changes in Federal elections, voters in those States would be denied the opportunity to participate in Federal elections on the same basis as voters in other States which adopt the reforms. In presidential elections, where the votes of citizens in one State are dependent on the votes of citizens in others, this discrepancy could diminish the impact of votes in those States that agree to implement these reforms.

The requirements approach is also supported by six members of the Carter-Ford Commission, who wrote in an additional statement following the report that Congress should insist upon certain requirements, including voting systems and practices that produce low rates of uncounted ballots, accessible voting technologies, statewide provisional balloting, and voter education and information, including the provision of sample ballots.

As Christopher Edley, Jr., a member of the Carter-Ford Commission and professor at Harvard Law School, wrote, "At their core, their reforms are intended to vindicate our civil and constitutional rights. They are too fundamental to be framed as some intergovernmental fiscal deal, bargained out through an appropriations process."

These requirements are not intended to produce a single uniform voting system or a single set of uniform administrative procedures. On the contrary, they are intended to ensure that any voting system and certain administrative practices meet uniform standards that result in an equal opportunity for all eligible Americans to cast a ballot and have that ballot counted.

GAO found that both a jurisdiction's voting equipment and its demographic make-up had a statistically significant effect on the percentage of uncounted votes. As a result, GAO found that counties with higher percentage of minority voters had higher rates of uncounted votes. GAO also reported that the percentages of uncounted presidential votes were higher in minority areas than in others, regardless of voting equipment. These findings underscore the importance of instituting minimum Federal requirements that will ensure that all voters have an equal opportunity to vote and have their vote counted, regardless of their race, disability or ethnicity or the state in which they reside.

The House Democratic Caucus Special Committee on Election Reform specifically recommended that Congress institute minimum national standards that require voting systems with error detection devices that are fully accessible to elderly voters, voters with physical disabilities, and visually impaired voters. Likewise, six members of the Carter-Ford Commission advised Congress to require states and localities to use voting technologies that produce low rates of uncounted ballots, are accessible to voters with disabilities, are adaptable to non-English speakers, and allow all voters to cast a secret ballot.

The first requirement establishes standards that all voting systems must meet for any Federal election held in a jurisdiction after January 1, 2006.

It is important to note, that with regard to effective dates, the actual date on which the requirements must be implemented will vary from jurisdiction to jurisdiction depending upon when the first Federal election occurs in 2006. A Federal election is intended to include a general, primary, special, or runoff election for Federal office.

There are five basic standards that all voting systems shall meet under the first requirement:

First, a notification procedure to inform a voter when he or she has over-voted, including the opportunity to verify and correct the ballot before it is cast and tabulated. This first standard is modified for voting systems in which the voter casts a paper or punch card ballot or votes are counted at a central location, as provided for in the amendment offered by Senator CANTWELL and incorporated into the bill.

Second, all voting systems must produce a record with an audit capacity, including a permanent paper record that will serve as an official record for recounts. As the Chairman of the Rules Committee, let me advise my colleagues of the importance of this feature in the unlikely event that a petition of election contest is filed with the Senate. Often, in order to resolve such contests, the Rules Committee must have access to an audit trail in order to determine which candidate received the most votes.

Third, all voting systems must be accessible to persons with disabilities.

Fourth, all voting systems must provide for alternative language accessibility; and

Fifth, all voting systems must meet a Federal error rate in counting ballots, which will be established by the new election administration commission.

A few of these standards merit additional discussion. With regard to the first standard, which requires notification to the voter of an over-vote, there has been a great deal of misunderstanding about this provision. The compromise before us made significant changes in the original bill reported by the Rules Committee. The original bill required that voting systems notify a voter of both over-votes and under-votes. This compromise deletes the required notification of an under-vote. While the new commission is charged with studying the feasibility of notifying voters of under-votes, there is no under-vote notification requirement in the compromise.

To further clarify the purpose of over-vote notification, there is no intent to have an adverse impact on any jurisdiction with election administration procedures for instant runoff or preferential voting. All jurisdictions, including Alaska, California, Florida, Georgia, New Mexico and Vermont are not prohibited from using such voting procedures to conduct instant runoff or preferential under this Act.

Notification is an essential standard because it provides an eligible voter a "second chance" opportunity to correct his or her ballot before it is cast and tabulated.

The Caltech-MIT report emphasized the need for voting equipment that ". . . give[s] voters a chance to change their ballots to fix any mistakes . . ." Similarly, the Carter-Ford Commission explicitly recommended that: "Voters should have the opportunity to correct errors at the precinct or other polling place . . ."

With regard to the notification, it is the voting system itself, or the educational document, and not a poll worker or election official, which notifies the voter of an over-vote. The sanctity of a private ballot is so fundamental to our system of elections, that the language of this compromise contains a specific requirement that any notification under this section preserve the privacy of the voter and the confidentiality of the ballot.

The Caltech-MIT study noted that secrecy and anonymity of the ballot provides important checks on coercion and fraud in the form of widespread vote buying.

This concern for preserving the sanctity of the ballot, as well as practical differences in paper ballots versus machines, led us to create an alternative notification standard for paper ballots, punch card systems, and central count systems.

Paper ballot systems include those systems where the individual votes a paper ballot that is tabulated by hand. Central count systems includes mail-in absentee ballots and mail-in balloting, such as that used extensively in Oregon and Washington State, and to a lesser extent in Alaska, California, Colorado, Florida, Kansas, and 13 other States where a paper ballot is voted and then sent off to a central location to be tabulated by an optical scanning or punch card system. Under the bill as clarified by Senator CANTWELL's amendment, a mail-in ballot or mail-in absentee ballot is treated as a paper ballot for purposes of notification of an over-vote under section 101 of this compromise, as is a ballot counted on a central count voting system. However, if an individual votes in person on a central count system, as is used in some states which allow early voting or in-person absentee voting, for that voter, such system must actually notify the voter of the over-vote.

In the case of punch cards and paper ballot and central count systems, including mail-in ballots and mail-in absentee ballots, the state or locality need only establish a voter education program specific to that voting system in use which tells the voter the effect of casting multiple votes for a single Federal office.

Regardless of a punch card system or a paper ballot voting system, all mail-in ballots and mail-in absentee ballots must still meet the requirement of providing a voter with the opportunity to correct the ballot before it is cast and tabulated under section 101 of this compromise.

I also want to note for the record that although this compromise provides an alternative method of notifying voters of over-votes for punch card and paper ballot systems, nothing in this legislation precludes jurisdictions from going beyond what is required, so long as such methods are not inconsistent with the Federal requirements under this title or any law described in section 402 of this Act.

In fact, Cook County, Illinois uses a punch card reader that can be programmed to notify the voter of both over-votes and under-votes. It is my understanding that this technology can provide an individual voter with such notification in a completely private and confidential manner. The system allows the voter to correct his or her ballot or override the notice if the voter so desires.

As for the other types of voting systems, namely lever machines, precinct-based optical scanning systems, and direct recording electronic systems—or DREs—the voting system itself must meet the standard. Specifically, the voting system must be programmed to permit the voter to verify the votes selected, provide the voter with an opportunity to change or correct the ballot before it is cast or tabulated, and actually notify the voter if he or she casts more than one vote for a single-candidate office.

Again, it is important to understand that it is the machine itself, and not the poll worker or official, that notifies the voter.

We believe that the bill as amended recognizes the inherent differences between paper ballot systems and mechanical or electronic voting systems, and is a reasonable accommodation which nonetheless ensures that all voters will have the information and the notice necessary to avoid spoiling their ballot due to an over-vote.

Let me also take a minute to discuss the disabled accessibility standard. This is perhaps one of the most important provisions of this compromise. The fact is ten million blind voters did not vote in the 2000 elections in part because they cannot read the ballots used in their jurisdiction. In this age of technology that is simply unacceptable.

The Committee received a great deal of disturbing testimony regarding the disenfranchisement of Americans with disabilities. Mr. James Dickson, Vice President of the American Association of People with Disabilities, testified that our Nation has a ". . . crisis of access to the polling places." Twenty-one million Americans with disabilities did not vote in the last election—the single largest demographic groups of non-voters.

To respond to this "crisis of access," this compromise requires that by the federal elections of 2006, all voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired. Most importantly, that accommodation must be provided in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

In order to assist the states and localities in meeting this standard, the bill adds an important new provision that allows jurisdictions to satisfy this standard through the use of at least one direct recording electronic (DRE) voting system in every polling place.

Let me note that these voting systems are not just for the use of the disabled. According to GAO, approximately 12 percent of registered voters nationwide used DREs in the last Federal election. Obviously, anyone in the polling place can use the system. But these machines can be manipulated by not only the blind and vision-impaired, but by paraplegic and other individuals with motor skill disabilities.

Furthermore, the Caltech-MIT study suggests that DREs have the potential to allow for more flexible user interfaces to accommodate many languages. This means that DRE voting systems can also be used to meet the accessibility requirements for language minorities as well. Moreover, the bill does not require that a jurisdiction purchase a DRE to meet the accessiblity requirements. Jurisdictions may also choose to modify existing systems to meet the needs of the disabled.

Some of my colleagues have expressed concerns that this may be a wasteful requirement for jurisdictions that have no known disabled voters. Let me make clear that the purpose of this requirement is to ensure that the disabled have an equal opportunity to vote, just as all other non-disabled Americans, with privacy and independence. It is simply not acceptable that the disabled should have to hide in their homes and not participate with other Americans on election day simply because no one knows that they exist.

I have indicated my willingness to look at the impact of the each of the bill's provisions on small communities and rural areas in conference, and the amendment by Senator THOMAS adopted last evening expresses that. With regard to the disability provisions, I will do so with the twin goals of ease of administration but equality of voting opportunity in mind.

Finally, let me touch on the issue of alternative language accessibility. This standard generally follows the procedures for determining when a language minority must be accommodated under the Voting Rights Act, with an important difference. The Voting Rights Act recognizes only four general groups of language minorities: Asian Americans, people of Spanish heritage, Native Americans and native Alaskans.

This compromise leaves in place the numerical triggers under the Voting Rights Act. It merely allows groups who otherwise do not meet the very narrow definition in the Voting Rights Act to nonetheless receive an alternative language ballot. So, if a Haitian or a Croatian population meets the numerical triggers, they, too, will have access to bilingual materials in their native language.

With the addition of section 203 in 1975 to the Voting Rights Act of 1965, Congress sought to increase voter turnout of language minorities by requiring bilingual voting assistance.

In 1992, Congress amended, reauthorized and strengthened section 203 by passing the Voting Rights Language Assistance Act with an expiration date of 2007.

This Act requires states and political subdivisions with significant numbers of non-English speaking citizens of voting age to improve language assistance at the polls for American voters. The required bilingual assistance includes bilingual ballots, voting materials, and oral translation services.

These bilingual services are triggered when the Census Bureau determines that more than 5 percent of the voting age citizens are of a single language minority and are limited-English proficient; or more than 10,000 citizens of voting age are members of a single language minority who are limited in their English proficiency.

Here we are in 2002 with the same concerns for our language minorities. Accordingly, our compromise follows the Congressional tradition of strengthening voting assistance to our language minority citizens by including language minority groups that were not included in earlier amendments to the Voting Rights Act. It merely widens the coverage of language minorities to ensure that a large number of limited-English speakers may participate in the elections process.

This is accomplished by ensuring alternative language accessibility to voting systems, provisional balloting, and inclusion as a registered voter in the statewide voter registration lists.

These safeguards provide an equal opportunity for all eligible language minorities to cast a vote and have that vote counted.

In the spirit of minority language accessibility under the Voting Rights Act, the purpose of this bill is to establish uniform, nondiscriminatory standards for voting systems and administration of elections. To continue to recognize only four distinct language minority groups is neither uniform nor nondiscriminatory.

This Act also provides for a Commission study to determine whether the voting systems are, in fact, capable of accommodating all voters with a limited proficiency in the English language and make necessary recommendations.

This compromise includes provisions specifying how lever voting systems may meet the multilingual voting requirements if it is not practicable to add the alternative language to the lever voting system and the state or locality has filed a request for a waiver.

Finally, the requirement that voting systems meet a uniform, national error rate standard is a particularly important reform. Requiring voting systems to conform to a nationwide error rate ensures the integrity of the results and greater uniformity and nondiscriminatory results in the casting and tabulating of ballots. It is important to note that error rates encompass more than just errors due to the mechanical failure of the equipment and can reflect design flaws that impede the ability of voters to accurately operate the voting system. Error rates should reflect the design, accuracy, and performance of systems under normal voting conditions.

Similarly, operating failures of the voting system, or voter confusion about how to operate technology or use various types of ballots, may be the result of unclear instructions or poor ballot design. The Committee received information from the American Institute of Graphic Arts regarding the importance of design in the voting experience. AIGA has been working with the Federal Election Commission to educate the FEC on the importance of communication design. It would be appropriate for the new Election Administration Commission to study the issue of communication design criteria and consider incorporating such ideas into its guidelines.

In order to ensure that states and localities have sufficient time to meet these requirements, the compromise directs that the Office of Election Administration—which is currently housed at the Federal Election Commission but will be transferred to the new Election Administration Commission—issue revised voting system standards by January 1, 2004, two years before the standards must be in place. This should give vendors sufficient time to modify and certify their products and allow State and local governments to procure DREs which are disable accessible for each polling place.

Most importantly, the compromise states that nothing in the language of the voting system requirements shall require a jurisdiction to change their existing voting system for another. Unlike the H.R. 3295, the bill that passed the House, this compromise presumes, protects, and preserves, all methods of balloting. And while some systems may have to be enhanced or modified to some extent, or additional voter education conducted, no jurisdiction is required by this bill to exchange the current voting system used in that jurisdiction with a new system in order to be in compliance.

However, the voting system that is in use must meet these standards in order to ensure that all eligible voters have access to a uniform, nondiscriminatory system.

It is vitally important that the Congress institute these basic voting system standards. As Congresswoman EDDIE BERNICE JOHNSON, Chair of the Congressional Black Caucus testified, "All over the world, the United States is seen as the guarantor of democracy. This country has sent countless scores of observers to foreign lands to assure that the process of democracy is scrupulously maintained. We cannot do less for ourselves than we have done for others."

The second Federal minimum requirement contained in the compromise provides for provisional balloting and the posting of voting information in the polling place on election day.

For Federal elections beginning after January 1, 2004, State and local election officials shall make a provisional ballot available to voters whose names do not appear on the registration rolls or who are otherwise challenged as ineligible.

In order to receive a provisional ballot, the voter must execute a written affirmation that he or she is a registered voter in that jurisdiction and is eligible to vote in that election. Once executed, the affidavit is handed over to the appropriate election official who must promptly verify the information and issue a ballot.

The election official then makes a determination, under state law, as to whether the voter is eligible to vote in the jurisdiction, or not, and shall count the ballot accordingly.

It is important to note that in some jurisdictions, the verification of voter eligibility will take place prior to the issuance of a ballot based upon the information in the written affidavit. In other jurisdictions, the ballot will be issued and then laid aside for verification later. Both procedures are equally valid under the compromise, and the amendment adopted last evening, offered by the Senator from Michigan, Senator LEVIN, reflects that. The authors of the compromise have repeatedly said that we do not require a one-size-fits-all approach to elections in this bill. The same is true for the provisional balloting requirement which provides flexibility to states to meet the needs of their communities in slightly differing ways.

In order to ensure that voters who cast provisional ballots are properly registered in time for the next election, within 30 days of the election the appropriate election official must notify, in writing, those voters whose ballots are not counted. A voter whose provisional ballot is counted does not have to be individually notified of such.

This bipartisan compromise requires all 50 States and the District of Columbia to provide for provisional balloting in Federal elections, even if a State also permits same-day registration or requires no registration. In States without voter registration requirements, provisional balloting will protect the rights of voters whose eligibility to cast a ballot is officially challenged, for whatever reason, at the polling place.

In States with same-day voter registration, the right to cast a provisional ballot will protect an eligible voter who pre-registers and whose name is not on the official list of eligible voters or whose eligibility is challenged by an election official, but who cannot re-register on Election Day. For example, a properly registered legal voter heading to the polls might not carry the identification required by the State for same-day voter registration. Under this compromise, if that voter's name does not appear on the list of eligible voters or the voter's eligibility is officially challenged, the voter could cast a provisional ballot. If the voter does have the identification required to register on Election Day, he or she would have the option of registering again and casting a ballot in accordance with state law. Same-day registration thus not only boosts voter turnout but also offers another way that states can guard against disenfranchising voters as the result of registration problems that arise on election day.

This compromise further ensures that a voter will receive a provisional ballot if he or she needs one. The provisional ballot will be counted if the individual is eligible under State law to vote in the jurisdiction. It is our intent that the word "jurisdiction," for the purpose of determining whether the provisional ballot is to be counted, has the same meaning as the term "registrar's jurisdiction" in section 8(j) of the National Voter Registration Act.

However, the appropriate election official must also establish a free access system, such as a toll-free phone line or Internet website, through which any voter who casts a provisional ballot can find out whether his or her ballot was counted, and if it was not counted, why it was not counted. Voters casting a provisional ballot will be informed of this notification process at the time they vote. And the compromise requires that the security, confidentiality, and integrity of the information be maintained.

In order to ensure that voters are aware of the provisional balloting process and are provided information about sample ballots and their voting rights, the compromise requires that certain election information be posted at the polling place on election day. This is a significant change from the original bill which required an actual mailing to each registered voter or the equivalent of such notice through publication and media distribution. Although some states already mail individual sample ballots to the homes of registered voters and post voting information in the polling place, the compromise will establish a national uniform standard with respect to voting information.

Like provisional voting, increased voter education is widely endorsed. The Carter-Ford report recommends the use of sample ballots and other voter education tools. The report of the Democratic Caucus Special Committee on Election Reform also urged increased voter education efforts, especially targeted to new voters.

The Caltech-MIT report advocates increased voter education, including the publication of sample ballots, providing instructional areas at polling places, and additional training for poll workers, as a way to reduce the number of lost votes. Other organizations support additional voter education, including the League of Women Voters, the Constitution Project, and the NAACP.

Voter education is particularly important for communities disproportionately impacted by the current inadequacies in our voting systems. As Anil Lewis, President of the Atlanta metropolitan chapter of the National Federation of the Blind, testified to at the Committee hearing in Atlanta:

> Many of the disenfranchised, disabled voters do not have [a] record of knowing that the polls are now accessible. Many of them, out of frustration, have refused to go to the polls to vote. They have not taken advantage of the absentee opportunity to vote as an absentee ballot, but by educating them that these accommodations are now in place, we are going to increase the vote turnout for people with disabilities.

Hilary O. Shelton, president of the Washington, D.C. chapter of the NAACP, testified before the Committee about poll workers who told African-American voters that they could not have another ballot after they had made a mistake on their first one, despite a State statutory requirement that voters be given another punch card if they needed one.

The clear message the Committee received is that voters, particularly those with special needs, simply do not know what services and voting opportunities are available to them. This requirement will ensure that voting information will be provided.

The specific information that must be posted in the polling place includes: a sample ballot with instructions, including instructions on how to cast a provisional ballot; information regarding the date and hours the polling place will be open; information on the additional verification required by voters who register by mail and are voting for the first time; and general information on voting rights under Federal and State law and instructions on how to contact the appropriate official if such rights are alleged to have been violated.

The requirement for posting voting information in the polling place is effective for federal elections which occur after the date of enactment of the legislation.

While it is not anticipated that extensive guidelines will be necessary to implement the provisional ballot requirement, any such guidelines must be issued by January 1, 2003, either by the Department of Justice, or the new Election Administration Commission if it is up and running.

The third requirement calls for the creation of a statewide computerized voter registration list and new verification procedures for first-time voters who register by mail. This requirement will facilitate the administration of election day activities and addresses concerns about possible voter registration fraud. Although GAO found there is less than a 1 percent to 5 percent incident of fraud nationwide the reality is that even an insignificant potential for fraud can undermine the confidence of voters, election officials, political parties, etc., in the results of a close election.

More specifically, GAO found as a general matter that most jurisdictions did not identify this type of fraud as a major concern, because state and local election officials have established procedures for preventing mail-in absentee fraud.

GAO estimated that less than 1 percent to 5 percent of jurisdictions nationwide experienced special problems with absentee voting fraud during recent elections. However, the absentee voting fraud concerns tend to fall into three categories, including: one, someone other than the appropriate voter casting the mail-in absentee ballot; two, absentee voters voting more than once; and three, voters being intimidated or unduly influenced while voting the mail-in absentee ballot.

GAO also reported that during the November 2000 elections, local election jurisdictions used several procedures to prevent fraud in the above three areas, including providing notice to such voters about the potential legal consequences of providing inaccurate or fraudulent information on the balloting materials.

Finally, GAO reported that some of the local election officials commented that they had referred certain cases to the local District Attorney's office for possible prosecution.

Specifically, the third requirement of the compromise provides that each State, acting through the chief State election official, shall establish an interactive computerized statewide voter registration list by the first Federal election in 2004.

This computerized list must contain the name and registration information for every legally registered voter in the State. To ensure accurate list maintenance and to deter potential fraud, the list must assign a unique identifier to each voter, and the list must be accessible to State and local election officials in the State. Furthermore, the compromise permits the use of social security numbers for voter registration while ensuring that privacy guarantees are maintained.

List maintenance must be performed regularly, and the purging of any name from the list must be accomplished in a fashion that is consistent with provisions of the National Voter Registration Act, more commonly known as the Motor-Voter law.

While this compromise reflects a belief that technology can provide an effective deterrent to fraud through the use of computerized registration lists, the amendment offered last evening by Senator NICKLES also ensures that such technology is not subject to unauthorized use by hackers or others who wish to defraud the system by use of technology. Similarly, voting system error rates do not include system security. A voting system with a computer modem, such as used in the DRE and optical scan technology, could be compromised through a computer network. Senator NICKLES amendment requires that State and local officials address the security of voting systems technology. It would also be appropriate for the new commission to consider developing security protocols for voting systems as a part of its overall responsibility for overseeing the creation and updating of the voluntary voting system standards.

Essentially, the compromise provides for the removal of individuals from official voter registration lists if such individuals are not eligible to vote. There are many reasons an individual might be ineligible to vote. The individual may have moved outside the State or may have died. Some may have been convicted of a felony or been adjudicated incompetent, either of which under some State laws could end the individual's eligibility.

The compromise provides a mechanism for removing the names of such individuals from the rolls. Under this mechanism there are three essential elements. First, the individual is to be notified that the State believes he or she is ineligible. Second, the individual is to have an opportunity to correct erroneous information or to confirm that his or her status has changed. And third, if the individual has not responded to the notice, the individual is to be given an opportunity to go to the polls and correct erroneous information and then vote.

This third element is needed to ensure that the right to vote is not dependent on the mails. It allows an individual to correct erroneous information when that individual goes to the polls. These are the mechanisms outlined in the National Voter Registration Act, and these are the mechanisms that will be used under this compromise to remove any ineligible individuals from the voter registration rolls.

In addition, under this compromise, a State or its subdivisions shall complete, not later than 90 days prior to the date of an election, any program that systematically removes the names of ineligible voters from an official list of eligible voters.

And, of course, any voter removal system must be uniform, nondiscriminatory and in compliance with the Voting Rights Act. The voter removal system shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

The managers of this bill intend to ensure, and the legislation ensures, that only voters who are not registered or who are not eligible to vote are removed from the voter rolls.

As a practical matter, once the computerized list is up and running, list maintenance will be almost automatic. While many of us have read of allegations of massive duplicate registrations, the truth is that even though duplicate names appear on more than one jurisdiction's list, the vast majority of voters only live in one place and only vote in one place.

In a highly mobile society likes ours voters move constantly. And while they may remember to change their mailing address with the post office, with utility companies, and with the bank and credit card companies, they may not even think about changing their address with the local election official until it comes time to vote.

If there is no statewide system for sharing such information, voters can easily remain on lists long after they have moved. If the State or jurisdiction is not vigilant about conducting list maintenance, the number of so-called duplicate names can easily grow.

The State of Michigan has a very good system which we used as a model for judging what was possible under this requirement. As I understand it, under the Michigan system, when a voter changes his or her address, the address change is entered into the system, and it automatically notifies both jurisdictions simultaneously. This results in an automatic update which precludes the possibility of duplicate registration.

Moreover, while the compromise does not require it, many States will make this computerized list available to local officials at the polling place on election day. This tool can then be used to immediately verify registration information at the polling place, without the frustration of dialing into a toll-free number that always rings busy.

Let me also address an issue that has been raised by local election officials. Some local officials are concerned that they will lose the ability to effectively manage their voter rolls if the primary responsibility for input and list maintenance is shifted to the State.

This requirement does not specify who is responsible for the daily maintenance of the list—that is left to each State to decide as it best sees fit. However, in order to have an interactive statewide list, a central authority must have the ultimate responsibility for establishing such a computerized system.

That responsibility falls clearly to the chief State election official. This proposal envisions close cooperation and consultation with local election officials who are interacting with new voters every day.

Several States have already begun implementing such systems or have been running such systems for years. The Council of State Governments notes that the States of Oklahoma, Kentucky and Michigan have particularly good models for other States to follow.

To further guard against potential fraud, the third requirement also establishes new verification procedures for first-time voters who register by mail.

In the case of an individual who registers by mail, the first time the individual goes to vote in person in a jurisdiction, he or she must present to the appropriate election official one of the following pieces of identification: a current valid photo ID or a copy of any of the following documents: a current utility bill; a bank statement; a government check; a paycheck; or another government document with the voter's name and address.

The compromise does not specify any particular type of acceptable photo identification. Clearly, a driver's license, a student ID, or a work ID that has a photograph of the individual would be sufficient.

If the voter does not have any of these forms of identification, he or she must be allowed to cast a provisional ballot, following the procedures outlined in the second requirement of the compromise under Section 102.

In the case of a voter who registers by mail and votes absentee for the first time in the jurisdiction, the voter must include a copy of one of these pieces of identification with their absentee ballot.

It is important to note that it is the voter, and not the State or local election official, who determines which piece of identification is presented for the purposes of casting a provisional ballot.

A first-time voter may avoid producing identification at the polling place or including it with an absentee ballot by mailing in a copy of any of the listed pieces of identification with his or her voter registration card.

Additionally, as added by the amendment of the Senator from Oregon, Senator WYDEN, adopted last evening, the voter may choose to submit his or her driver's license number or the last four digits of his or her Social Security number which the State can then match against an existing database to see if the number submitted match the name, address, and number in the state file. In the event that a first-time mail-registrant voter cannot produce the required identification, he or she may cast a provisional ballot if voting in person. In the case of a mail-in ballot, if the required identification verification information is not included, the ballot will nonetheless be counted as a provisional ballot.

This is an important and common sense change to the compromise which preserves the anti-fraud provisions while at the same time providing voters with more options for verifying their identity while increasing the flexibility of State and local administrators to verify such identity. Either way, it will be easier to vote and harder to defraud the system. I am greatly appreciative to all of my colleagues, and their staff, for working so diligently to achieve this modification.

The compromise also preserves the existing exemptions under the Motor-Voter law under section 1973gg-4(c)(2) of title 42 in the implementation of this compromise. A State may not by law require a person to vote in-person if that first-time voter is: one, entitled to vote by absentee ballot under section 1973ff-1 of title 42 of the Uniformed and Overseas Citizens Absentee Voting Act; two, provided the right to vote otherwise than in-person under section 1973ee-1(b)(2)(b)(ii) and 1973ee-3(b)(2)(b)(ii) of the Voting Accessibility for the Elderly and Handicapped Act; and three, entitled to vote otherwise than in-person under any other Federal law.

There is no question about the intent to this Senator. The exemptions under Motor-Voter are preserved under this compromise. There is no attempt to change current law with respect to preserving the long-standing practice of States permitting eligible uniform service voters and eligible American overseas voters to continue to vote by absentee ballot without this first-time voters requirement attaching.

Similarly, there is no attempt to change current law with respect to preserving the States' practice of permitting disabled voters and senior voters to continue to vote by absentee ballot without this first-time voter requirement attaching.

According to GAO, "All states provide for one or more alternative voting methods or accommodations that may facilitate voting by people with disabilities whose assigned polling places are inaccessible." For example, all States have provisions allowing voters with disabilities to vote absentee without requiring notary or medical certification requirements, although the procedures for absentee voting vary among States. The GAO State survey demonstrates that all States permit absentee voting for voters with disabilities. There is no intent to change the underlying law for any of these covered individuals since covered individuals are not subject to the requirements for first-time voters under Section 103.

Finally, the compromise adds two new questions to the mail-in registration form under the Motor-Voter law. These questions are designed to assist voters in determining whether or not they are eligible to register to vote in the first place and thus reduce the number of ineligible applications. When a non-citizen fills out a voter registration form while waiting to renew a driver's license, or a 16-year-old high school senior applies to vote along with his or her classmates during the voter registration drive at the high school, it does not mean that these individuals are attempting to defraud the system. They may actually be very civic-minded individuals who are just misinformed about whether or not they are eligible to register.

These two additional questions will help alert such voters to the fact that they are not yet eligible to vote. First, the mail-in registration card must include the question with a box for checking "yes" or "no": "Are you a citizen of the United States of America?" Second, the mail-in registration card must include the question with a box for indicating "yes" or "no": "Will you be 18 years of age on or before election day?" If a voter answers "no" to either question, the registration card must instruct the voter not to fill out the form.

There has been an issue raised with regard to those States that allow for early registration and the impact of this provision on that. However, this bill only applies to Federal elections and a voter must be 18 years of age to vote in a Federal election. This requirement does not affect State law with regard to the minimum age for registration.

To the extent that guidelines are required to implement the statewide computerized voter list requirement or the first-time voter provision, the Department of Justice, or the new commission if it has been constituted, must issue these guidelines by October 1, 2003.

As with any such law, enforcement of the three requirements in Title I will fall to the Department of Justice, and the rights and remedies established under this bill are in addition to all others provided by law.

Title II of the measure before us contains three grant programs to assist states in meeting the minimum Federal requirements and to fund other election reform initiatives.

From the beginning of this debate it has been clear to this Senator that the Federal Government has not lived up to its responsibility to ensure adequate funding for the administration of Federal elections. The fundamental principle of this bipartisan compromise is that if the Federal Government is going to establish minimum requirements for the conduct of Federal elections, then we must provide the resources to State and local governments to meet those requirements.

Of equal importance is the principle that there should not be a one-size-fits-all approach to meeting the Federal minimum requirements. Consequently, the compromise provides broad latitude to States and localities on how they meet the minimum requirements and what specific activities they fund with the Federal grants.

The first grant program authorizes $3 billion over 4 years for grants to State and local governments to be used to meet the three minimum Federal requirements of the bill. The only limitation on the use of these funds is that they be used to "implement" these requirements. The compromise envisions that implementation activities may vary widely both between States and across jurisdictions within a State. Clearly, funds may be used to purchase new voting systems or enhance or modify existing ones.

Obviously, specific grant approvals will necessarily have to be made by the Department of Justice or the new Election Administration Commission once it becomes effective, in light of the overall funding requests. However, it is the intent of this Senator that States and localities be given broad latitude in making the case that the reforms they seek to fund are in direct support of the implementation of these requirements.

For example, a State may decide to upgrade an entire State from a lever voting system to an electronic system in order to meet the accessibility standard for the disabled. Clearly, the purchase of a new, statewide system would be an authorized activity used to implement the voting system standards of the first minimum requirement. But to meet the same requirement, another State might use these funds to lease one DRE machine for each polling place. That would be equally allowable and in compliance with this compromise.

Similarly, if some jurisdictions within a State use a central count punch card system, funds may be used to implement the voter education program required to notify voters of the effect of an over-vote, while other jurisdictions within that same State might use the funds to purchase precinct-based optical scan systems.

If a State or jurisdiction appears to already meet the requirements of the bill, but wishes to upgrade old equipment to newer models or add improvements to ensure that it will continue to be in compliance, such would also be an allowable use of funding.

The compromise also authorizes retroactive payments for those jurisdictions which incurred expenses on or after January 1, 2001 for costs that would otherwise have been incurred to implement the minimum requirements. An amendment offered by Senators CHAFEE and REED, which was adopted by the Senator, clarifies that multi-year contract for the purchase of voting systems can also qualify for retroactive payments.

There is no matching requirement for these grants. If we are going to require that States and localities meet certain minimum Federal standards with regard to Federal elections, then we should provide them with the Federal resources to do so.

The requirements of the grant application process are designed specifically to allow both States and localities to apply for funds without creating either overlapping funding or inconsistencies within States.

To apply for funds to implement the requirements, States must submit an application to the attorney general with a State plan.

The State plan contains four basic components.

First, a description of how the state will use the funds to meet the three minimum requirements, including a description of how State and local election officials will ensure the accuracy of voter registration lists; and the precautions the State will take to prevent eligible voters from being removed from the list.

Second, an assessment of the susceptibility of Federal elections in the State to voting fraud and a description of how the State intends to address such.

Third, assurances that the State will comply with existing Federal laws, specifically: Voting Rights Act; Voting Accessibility for the Elderly and

Handicapped Act; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act (or Motor-Voter); and Rehabilitation Act of 1973.

Fourth, and finally, the State plan must include a timetable for meeting the elements of the plan.

In order to ensure the broadest support for the State plan, it must be developed in consultation with State and local election officials and made available for public review and comment prior to submission with any grant application.

In addition to the State plan, each application must include a statement of how the State will use the Federal funds to implement the State plan.

Localities may also submit a separate application for funds, but the use of funds must be consistent with the State plan. The application must also contain any additional information required by the attorney general or the new commission once it is effective.

Grant recipients must keep such records as the attorney general determines and, as is usually the case for Federal grant programs, any grant recipient may be audited by the attorney general or comptroller general. Grantees may be required to submit reports, and the attorney general must report to Congress and the President annually on the activities funded under this program.

One of the goals of this legislation is to encourage states and localities to move forward with election reform initiatives and apply for Federal grants, even before the effective dates established for meeting those requirements.

This is reflected in the larger appropriations in the early years and the fact that the appropriations remain available until expended.

This is one of the provisions of the committee-reported bill which has been retained in the compromise. The requirements under this compromise are so simple and so self-explanatory, that we do not believe that complicated guidelines, much less full-blown regulations, are going to be necessary to implement the requirements.

Consequently, the original bill, and this compromise, encourages States and localities to move expeditiously by essentially providing for a grandfathering of early action.

The compromise allows jurisdictions that apply for Federal grants prior to the issuance of any guidelines or standards to nonetheless receive funding to implement the requirements of the bill. If the attorney general approves the grant, then that approval acts as a determination that the State plan, and the activities in the State plan which will be funded with the grant, are deemed to otherwise comply with the minimum requirements of the bill.

However, in encouraging quick action we did not want to deter State and local governments, much less penalize them if the early action they took turns out to be somehow inconsistent with subsequently issued guidelines. The most obvious instance in which this might occur would be with regard to the voting system standards and the not-yet-issued voting system error rate.

In order to avoid placing a State or locality at risk of non-compliance, the compromise essentially grandfathers the action that the State takes pursuant to an approved State plan and grant application and provides a safe harbor from enforcement actions on that basis.

Without such a provision, the Federal Government might end up literally funding a State or locality twice for essentially the same reform—once when the State took early action and a second time when any subsequent guidelines or standards were finally issued.

Moreover, in promoting early action, the safe harbor provision attempts to give jurisdictions a reasonable amount of time to come into compliance with any subsequently issued guidelines or standards by extending the grandfather period to 2010, except for the requirements for disability access. Although the effective dates for most of the requirements are 2004 and 2006, this additional time period provided by the grandfather provision will minimize the otherwise disruptive effect to both voters and election officials of repeated changes to systems and procedures. It will also provide those States poised to act with the assurance that the decision to take early action will not end up in an enforcement action.

With regard to the disability accessibility standard under the voting system requirement, because the bill provides for a specific compliance mechanism in the requirement of one DRE machine in every polling place, it was believed that the extended safe harbor period was unnecessary and potentially disruptive to the disabled community. Consequently, in taking early action jurisdictions will still have to meet the disability access standards by 2006.

Similarly, with this same goal of encouraging States to take early action, the compromise creates a second incentive grant program designed to fund other election reform initiatives not necessarily funded under the requirements grant program.

The incentive grant program authorizes $400 million in this fiscal year to fund such activities as: poll worker and volunteer training; voter education; same-day registration procedures; procedures to deter and investigate voting fraud; improvements to voting systems; and action to bring the jurisdiction into compliance with existing civil rights laws.

The compromise also establishes a program to recruit and train college students to serve as poll workers.

The incentive grant programs has a matching requirement of 80 percent Federal to 20 percent State or local funding. The attorney general, however, can reduce the 20 percent matching requirement for States or localities that lack resources.

Although grants cannot be used to implement reforms that are inconsistent with the minimum Federal requirements, these grants can be used to take interim action to bring voting systems into compliance.

As with the requirements grant program, early action under the incentive grant program to implement the three minimum requirements is similarly grandfathered to 2010, with the exception of the disability requirements.

To apply for incentive grant funds, a State or locality submits an application to the attorney general or the new commission upon its enactment. Patterned after the requirements of the legislation introduced by Senators MCCONNELL and SCHUMER as S. 953, applications for incentive grant funds must contain a specific showing that the jurisdiction is in compliance with a number of existing civil rights laws, including: Voting Rights Act; Voting Accessibility for the Elderly and Handicapped Act; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act; Americans with Disabilities Act; and Rehabilitation Act of 1973.

Before a grant application can be approved, the assistant attorney general for civil rights must certify that the jurisdiction is either in compliance, or has demonstrated that it will be using the grant funds to come into compliance, with these laws. Entities which receive funds to come into compliance with these laws are subject to audit.

The purpose of this provision is not to penalize or place in jeopardy those jurisdictions which are attempting to overcome compliance issues. Instead, it is intended to provide a source of funds for States or localities to address compliance issues under existing civil rights laws before facing the effective dates for minimum Federal standards under this new civil rights law. To ensure that jurisdictions are not penalized by this process, the compromise prohibits action being brought against a State or local government on the basis of any information contained in the application.

In order to ensure that these funds are available this year, the attorney general must establish any general policies or criteria for the application process so that grant applications can be approved no later than October 1, 2002.

The final grant program contained in Title II of the compromise provides funds to make polling places physically accessible to the disabled. GAO found that 84 percent of all polling places in the United States are not physically accessible from the parking area to the voting room. Moreover, not one of the 496 polling places visited by GAO on election day 2000 had voting equipment adapted for blind voters.

This is a modest grant program which authorizes $100 million beginning in fiscal year 2002, with such funds to remain available until expended. States or localities may use these funds to ensure accessibility of polling places, including entrances, exits, paths of travel and voting areas of the polling facility.

Funds may also be used for education and outreach programs for those with disabilities to inform voters about the accessibility of polling places. Education programs to train election officials, poll workers and volunteers on how best to promote access and participation of individuals with disabilities can also be funded under this program.

This grant program will also be administered initially by the Department of Justice, and then by new Election Administration Commission. However, the general policies and criteria for the approval of applications for the accessibility grant program will be established by the Architectural and Transportation Barriers Compliance Board, also known as the Access Board, which was established under the Rehabilitation Act of 1973.

The Access Board is uniquely qualified to determine what physical modifications would be appropriate to make polling facilities accessible to disabled voters. The Board must establish such policies in time to ensure that applications can be approved by October 1, 2002.

Grants under the accessibility grant program are funded at an 80 percent Federal share, although the Attorney General can provide a greater share to jurisdictions which lack resources. Grantees must keep appropriate records and are subject to audit.

The final title of the compromise establishes a new independent agency within the executive branch for administering the three grant programs and providing on-going assistance to State and local governments in the administration of Federal elections.

The Election Administration Commission will be composed of four members appointed by the President and confirmed by the Senate. To reflect the need for a continuing nonpartisan approach to election administration, no more than two commissioners may be members of the same political party.

In recognition of the national significance of these appointments and to ensure the broadest bipartisan support for the President's nominees, the four respective leaders of the House and Senate, including the Speaker and the House Minority Leader and the Majority and Minority Leaders of the Senate, shall each submit a candidate recommendation to the President before the initial appointment of nominees and prior to the appointment of a vacancy.

The qualifications for appointment to the new commission reflect the desire to create a diverse and experienced commission that will bring more to the job than just experience in election administration or loyalty and service to a particular party. We would hope to also attract scholars and historians who appreciate and understand the broadest experience of voters of all backgrounds, abilities, and party affiliations.

It would be this Senator's hope that we would attract candidates who have an appreciation of the fundamental importance of the citizen vote to a democracy and are committed to ensuring both the inclusiveness and the integrity of Federal elections.

Specifically, commissioners are to be appointed on the basis of their knowledge and experience with election law, election technology, and Federal, State or local election administration, as well as their knowledge of the Constitution and the history of the United States.

Appropriately, a commissioner at the time of appointment cannot be an elected or appointed officer or employee of the Federal Government. Unlike the House bill, this is a permanent, full-time commission. Consequently, commissioners cannot engage in any other business or employment while serving on the commission.

To ensure that the best talent that America has to offer will be continually reflected in appointees, we limit each commissioner to one 6-year term. Similarly, to ensure the broadest participation in the work of the commission, the compromise provides that a chair and vice-chair must be of different parties and serve for a term of 1 year, and an individual may serve as chair only twice during his or her 6-year term.

The duties of the commission reflect the fundamental approach of this compromise—that of forming a partnership between the Federal Government and State and local election officials. The purpose of this bill is not to replace or minimize the authority or responsibilities of State and local election officials in administering Federal elections. It is, however, an attempt to provide leadership at the Federal level, in the form of both financial resources and minimum Federal requirements, to ensure uniform and nondiscriminatory participation in those elections.

Consequently, the duties of the commission augment, but do not replace, those of State and local election officials. The commission can best be viewed as a resource for election officials rather than as a regulatory or enforcement body.

Primarily, the commission shall serve as a clearinghouse on Federal election administration and technology by gathering information, conducting studies and issuing reports on Federal elections. What became evident in the Rules Committee hearings and discussions with election officials across this Nation was the apparent lack of unbiased information regarding election technology. Today, the primary source of information about the efficiency and effectiveness of voting systems and machines is often the manufacturer of the voting system or its vendor. The commission can provide a much needed role as an unbiased clearinghouse for technology assessments.

The compromise envisions that the current authority of the office of election administration, at the Federal Election Commission, to develop voluntary voting system standards would continue once this office is transferred to the new commission. While the compromise does not mandate what types of machines must be used in Federal elections, the fact that it establishes minimum requirements for voting systems, specifically acceptable error rates, necessitates that procedures for testing and assessing voting technology will be required. Such would be an appropriate activity for the new commission. To ensure that the commission has the best advice on technical and accessibility matters as it develops standards, the compromise directs the commission to consult with the National Institute of Standards and Technology and the Compliance Board in developing the standards.

The commission will also serve an important role in communicating information regarding Federal elections to the public and the media. Specifically, the compromise provides that the commission compile and make available to the public the official results of elections for Federal office and statistics regarding national voter registration and turnout. The compromise also requires that the commission establish an Internet website to facilitate public access, comment, and participation in the activities of the commission.

The compromise does not go as far as the Carter-Ford Commission recommended in this regard. As my colleagues may remember, the Carter-Ford Commission recommended that ". . . news organizations should not project any presidential election results in any State so long as polls remain open elsewhere in the 48 contiguous States . . ." and that Congress should consider appropriate legislation, consistent with the first amendment to encourage the media to withhold early results. While the commission is in no way intended to replace the appropriate role of responsible media in informing the public of the outcome of Federal elections, the 2000 presidential election highlighted the need for a national clearinghouse for election results. Over time, the new commission may come to be accepted as the most authoritative source of election results.

The commission will conduct ongoing studies regarding election technology and administration in addition to other subjects impacting Federal elections. Over the course of the last year, a number of excellent election reform proposals have been made that simply require more study and review before they can be enacted.

Specifically, the commission is charged with making periodic studies of the following: election technology, including both over-vote and under-vote notification capabilities of such technology; ballots designs for Federal elections; methods of ensuring accessibility to all voters; nationwide statistics on voting fraud in Federal elections and methods of identifying, deterring and investigating any such corruption; methods of voter intimidation; the recruitment and training of poll workers; the feasibility of conducting elections on different days, or for extended hours, including the advisability of establishing a uniform poll closing time or a federal holiday; Internet voting; Media reporting of election related information; Overseas voters issues; ways in which the Federal Government can assist in the administration of Federal elections; and any other matters which the commission deems appropriate.

The commission will be providing reports and recommendations for administrative and legislative action. Through the oversight process, I would anticipate that the Rules Committee will be reviewing those recommendations and acting to bring additional reform proposals to the floor in subsequent Congresses.

In addition to the study and clearinghouse authorities, the commission is empowered to hold hearings, take testimony, and administer such oaths as are necessary to carry out its responsibilities. However, since the commission is not an enforcement agency, it does not have the authority to issue subpoenas.

Most importantly, the commission will ultimately assume the ongoing responsibility for administering the three minimum Federal requirements and the three grant programs under the bill. But so as not to discourage immediate election reform or delay the flow of Federal funds to support reform, the compromise does not tie the effective dates of the minimum requirements and the grant programs to the establishment of the commission.

The compromise attempts to expedite the appointment of the commissioners by requiring that the President act within ninety days of the date of enactment. As Chairman of the Rules Committee, the committee of jurisdiction over such nominations, it is my intent to move expeditiously to consider the nominations if they occur this year.

But realistically, the President may require additional time to appoint nominees and the committee cannot act until those nominations are made. Because the compromise requires the commission to appoint both the executive director and the general counsel by majority vote, even once confirmed, it will take some time for the commissioners to create a new agency and hire staff to administer over three billion dollars in grant programs.

Consequently, the compromise initially places the administration of both the Federal minimum requirements and the three grant programs at the Department of Justice and provides for a transition of most, but not all, of those authorities to the new commission upon its establishment.

Specifically, the compromise transfers to the commission the authority to issue standards or guidelines for the three minimum Federal requirements, to issue policies and criteria for the three grant programs, and to approve by majority vote all grant applications. The Department of Justice retains the authority to approve State plans submitted under the requirements grant program and the certification authority under the incentive grant program.

In order to ensure that the transfer of authority does not impede the continuity of the requirements or the expeditious review of grant applications, the compromise sets specific dates by which the commission must act to overturn or modify any action of the Department of Justice.

If the Department of Justice has issued standards or guidelines pursuant to the Federal minimum requirements, the commission must act by majority vote within 30 days of the transition date to either affirm that action or to issue revised standards or guidelines. If the Department of Justice has not acted as of the transition date, then the commission must act by majority vote by the later of the effective date provided for in Title I or within 30 days of the transition date.

Similarly, if the Department of Justice has issued policies and criteria for the approval of grant applications, the commission must act by majority vote within thirty days of the transition date to either affirm or modify such. If the Department of Justice has not acted, the commission must similarly issue policies and criteria by the later of the date specified in Title II or within 30 days of the transition date.

The compromise defines the effective date of the transition as the earlier of sixty days after all of the commissioners have been appointed, or the date that is 1 year after the date of enactment of the act.

While the compromise attempts to coordinate the transition dates for transfer of responsibilities to the new agency with a reasonable time frame for appointing and confirming commissioners, it remains the prerogative of the President as to when he appoints and the will of the Senate as to when it confirms. And until those twó actions occur, the commission will exist in name only and the Department of Justice will be left to administer the act.

In addition to assuming certain authorities of the Department of Justice under the bill, the new Election Administration Commission will also assume certain functions of the Federal Election Commission.

First, all functions of the director of the Office of Election Administration of the Federal Election Commission are transferred to the new commission. Beginning on the transition date, the director of the Office of Election Administration is named as the interim executive director of the new commission and serves until an executive director is appointed by a majority vote of the commission. The executive director is appointed for a term of 6 years and may be reappointed by majority vote of the commission for a second term.

Second, all functions of the Federal Election Commission under the National Voter Registration Act of 1993, the so-called Motor-Voter Act, are transferred to the new Election Administration Commission. Section 9 of the act provides that the Federal Election Commission shall prescribe appropriate regulations necessary to carry out the act with respect to developing a mail voter registration application form for Federal elections and submit reports. The compromise also provides for the transfer of Federal Election Commission personnel employed in connection with the offices and functions which are transferred by the act.

Finally, Title IV of the compromise clarifies the relationship of this bill to other existing civil rights laws, and makes improvements in voting procedures for members of the military.

With respect to criminal penalties, this compromise includes two provisions that track existing laws and do not constitute new law. Both provisions merely are restatements of the existing underlying laws and do not alter the specific intent element described in sections 401(a) or 401(b) of this compromise. In the amendment which I offered and was adopted by the Senate, I inserted the existing specific intent of "knowingly and willfully" and "knowingly" in the respective provisions to ensure that those standards are the explicit legal standards of review for section 1973(i)(c) of title 42 and section 1015 of title 18 and therefore are the same standards to be applied under this act.

The first provision recognizes that the criminal penalties established under the National Voter Registration Act, specifically section 1973(i)(c) of title 42 and means in plain language that it is unlawful for any individual who knowingly and willfully gives false information as to his or her name, address, or period of residence in the voting district for the purpose of establishing his or her eligibility to register or vote in an election for Federal office, or conspires with another individual for the purpose of encouraging his or her false registration to vote in an election for Federal office.

The second provision clarifies that any individual who commits fraud or makes a false statement with regard to citizenship, such as in the context of the new citizenship question on registration forms as provided for under section 103 of the compromise, is in violation of section 1015 of title 18 and means in plain language that it is unlawful for any individual who knowingly makes a false statement relating to naturalization, citizenship or registry of aliens, for the purpose of establishing his or her eligibility to register or vote in an election for Federal office.

With regard to the effect of the bill on existing civil rights laws, the compromise is specifically not intended to impair any right guaranteed, nor require any conduct which is prohibited under the various civil rights laws, nor are the provisions of the compromise intended to supercede, restrict, or limit such other laws, including: Voting Rights Act; Voting Accessibility for the Elderly and Handicapped Act; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act of 1993; Americans with Disabilities Act of 1990; and Rehabilitation Act of 1973.

This Senator intents that nothing in this compromise should be interpreted in any manner other than to protect and preserve any and all rights guaranteed by these existing civil rights and voting laws.

For example, the approval of the Attorney General of any state plan under the provisions of the requirements grant in Title II of the compromise, or any other action taken by the Attorney General or a state under the grant programs in Title II, specifically shall not have any effect on requirements for pre-clearance under section five of the Voting Rights Act.

We do not profess to have all the answers or even the best solution for reforming our system of Federal elections. But we do present a compromise that reflects an incremental step, but not a sea change, in the role of the Federal Government in our Nation's system of Federal elections. This compromise has been developed with a true sense of the historical importance of the work and a fundamental belief that only a bipartisan effort will be acceptable to the American people.

Let me address a final concern—and that is the constitutional question of whether this bipartisan legislation is on its face, constitutional. In the opinion of this Senator, this compromise is entirely consistent with the scope of Congress's authority to enact statutes regulating Federal elections.

According to the GAO study on the scope of congressional authority in election administration, Congress has constitutional authority over both congressional and Presidential elections. This report concludes that there is a role for both the State and the Federal Government. States are responsible for the administration of Federal, State and local elections. But, notwithstanding the traditional State role in elections, Congress has the authority to affect the administration of elections in certain ways.

While the Constitution does not explicitly provide the right to vote, many amendments to the Constitution protect the right to vote. Congress has previously acted under this explicit grant of constitutional power to protect the voting rights of eligible Americans.

Congress passed the landmark Voting Rights Act of 1965. More recently, Congress enacted federal legislation to remove barriers to voting for persons with disabilities, facilitate voting by those in the military and Americans living overseas, and standardize voter registration procedures under the Motor-Voter legislation.

When Congress enacted these Federal statutes, Congress legislated in the subject matter of election administration in such areas as voting rights, voter registration, absentee voting requirements, timing of Federal elections, and accessibility for elderly and disabled voters. Similarly, Congress also legislated to enforce prohibitions against specific discriminatory practices in all elections, including Federal, State, and local elections.

Congress's scope of power is derived from a number of constitutional sources, including the 15th amendment's prohibition on voting discrimination on the basis of race, color, or previous condition of servitude; the 19th amendment's prohibition on the basis of sex; and the 26th amendment's prohibition on the basis of age.

These three amendments do not grant the right to vote, but all three prohibit States from denying the franchise to individuals who are racial or ethnic minorities, women, or citizens aged 18 or older.

The Carter-Ford Task Force on Constitutional Law and Federal Election Law also concluded that Congress has great power to regulate elections. The task force makes the point that the Constitution grants to Congress broad power to directly regulate Congressional elections, less power to directly regulate Presidential elections, and less power still to directly regulate state and local elections.

But as a practical matter, Congress has great power to collaterally regulate all elections through its power over the "time, place and manner" of Congressional elections and through its power to determine how Federal funds are made available to States for expenditures. That same authority derives from its enforcement powers of constitutional safeguards, such as the equal protection clause and due process clause of the 14th Amendment.

Opponents of this legislation might argue that it goes too far by providing Federal requirements in the areas of voting system standards, provisional voting and statewide voter registration lists. This Senator does not believe that will prove to be the case.

While the precise parameters of Congressional authority in election administration relating to presidential elections are unsettled and have not been clearly established, the Supreme Court has recently recognized that certain measures protecting voting rights are within Congress's power to enforce the 14th and 15th Amendments, despite administrative burdens placed on the States.

In Bush v. Gore which was decided following the November 2000 Presidential election, the Supreme Court held that differing definitions of a vote within the state of Florida during the recount violated the equal protection clause and were therefore unconstitutional.

The enforcement powers from the 14th amendment alone provide adequate support for all three of the minimum Federal requirements in the bipartisan compromise bill. The reasoning of the Supreme Court in Bush v. Gore suggests that there may be a compelling governmental interest and constitutional authority for Congress to act in light of extensive evidence that African American or Asian American voters, for example, are being treated unequally with respect to their right to vote.

It should also be noted that while we take a different approach, the Carter-Ford Commission's recommendations also include voting system standards, provisional voting and a statewide voter registration system. Many other commissions and study groups also consistently recommended provisional voting.

We believe that the Constitution provides ample authority for these minimum Federal requirements and all the other provisions in this bipartisan compromise. Except in one instance, this legislation applies only to elections for Federal office, putting this urgently needed legislation beyond constitutional dispute.

I applaud the majority leader, Senator DASCHLE, for his commitment to make this measure a priority of this session of Congress and for his unfailing commitment to bring it to the floor for debate. I also commend the distinguished Republican Leader, Senator LOTT, for his assistance in facilitating consideration of this bipartisan compromise.

Our distinguished colleagues in the House, Chairman BOB NEY and Congressman STENY HOYER of the House Administration Committee have already shepherded a bipartisan reform proposal through that body. The differences between the approach in the House and our bipartisan compromise are not irreconcilable.

Both recognize that there are minimum standards that every voting system should meet. Both bills strive to ensure the greatest possible access to the polling place for disabled Americans and the blind. Both bills ensure that all eligible voters may cast a vote and have that vote counted. Both bills establish a new Federal agency to provide on-going support to State and local governments. And both approaches provide significant resources to the States and localities to underwrite the Federal share of administering Federal elections.

Not insignificantly, President Bush has also indicated his support for providing assistance to the States for election reform. Included in his fiscal year 2003 budget submission is a request for $1.2 billion over the next three fiscal years, including $400 million for fiscal year 2003, to fund an election reform initiative.

There appears to be a uniform desire in both houses of Congress to see that the Federal Government meets its obligation to be a partner with State and local election officials in the conduct of Federal elections. But time is running short and state budgets are growing thin. It is time for the Senate to enact election reform. It is time for the Senate to meet with the House to produce a bipartisan bill that is worthy of the signature of the President and the support of all the American people, regardless of color or class, gender or age, disability or native language, and party or precinct.

As this debate draws to a close, it is appropriate to recognize the significant contributions of both individuals and organizations which have provided input and expertise to the committee, and to me personally, in the course of this legislative matter. I have already expressed my gratitude to my colleagues on and off the committee and to my distinguished coauthor in the House, Congressman JOHN CONYERS, and to many other House Members who truly have made this effort their cause.

As we all know, no such effort can be undertaken without the considerable effort of our staff. In addition to those already mentioned, I want to thank Sheryl Cohen, Marvin Fast, Alex Swartsel and Tom Lenard of my personal staff, and two former Rules Committee staff members, Candace Chin and Laura Roubicek.

We have also received considerable assistance from the support offices of the Senate, including from James Fransen and Jim Scott in the Office of Legislative Counsel and from attorneys and analysts at the Congressional Research Service including Kevin Coleman, Eric Fischer, L. Paige Whitaker, and Judith Fraizer, and finally from the Government Accounting Office.

The list of organizations which have provided invaluable assistance to this effort over the last 18 months is almost too lengthy to include here. But it is important to note the breadth and depth of the input that went into crafting this historic legislation. At the risk of inadvertently leaving someone out, I want to recognize and thank the following organizations which have provided their expertise to this effort: American Association of People With Disabilities; American Civil Liberties Union; American Federation of State, County and Municipal Employees; American Institute of Graphic Arts; Asian American Legal Defense and Education Fund; Brennan Center for Justice; Center for Constitutional Rights; Common Cause; Commission on Civil Rights; Caltech-MIT Voting Technology Project; Constitution Project; Lawyers Committee for Civil Rights Under Law; Leadership Conference on Civil Rights; Mexican American Legal Defense & Education Fund; National Asian Pacific American Legal Consortium; National Association for the Advancement of Colored People; NAACP Legal Defense & Education Fund, Inc.; National Commission on Federal Election Reform (Carter-Ford Commission); National Association of Secretaries of State; National Association of State Election Directors; National Coalition on Black Civic Participation; National Congress of American Indians; National Conference of State Legislatures; National Council of La Raza; National Federation of the Blind; Paralyzed Veterans of America; People for the American Way; Public Citizen; U.S. PIRG.

It is the fervent view of this Senator that at the end of this historic process, the Senate will have made a lasting contribution to the continued health and stability of this democracy for the people, by the people and of the people in the United States.

My thanks to all who have been involved. I urge the adoption of this bill and yield back whatever time remains on this side.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Kentucky.

Mr. MCCONNELL. Madam President, let me take my last minute by thanking again my friend and colleague Senator DODD. This has been a happy experience. We can proudly recommend to all Members of the Senate today that they vote in favor of an important new piece of legislation that goes right to the core of what our democracy is all about; that is, the ability to vote.

This legislation will make a positive difference in our country, and is a step forward for our democracy. This bill has been fashioned in a way that I wish we could produce more legislation, which is in a bipartisan fashion.

I enthusiastically support this bill and urge all of my Republican colleagues—in fact, all of our colleagues in the Senate—to proudly vote for this legislation.

I yield back the remainder of my time.

AMENDMENT NO. 2907

The PRESIDING OFFICER. Under the previous order, the Senate will turn to the amendment offered by the Senator from Kansas. There are 2 minutes of debate equally divided.

Mr. ROBERTS. Madam President, what we have before us is an amendment to the election reform bill that is now pending that would basically eliminate the mass mailing requirement to give local and State election officials more time and resources to improve the overall election management and to register voters and to comply with the newly enacted mandates of this bill.

This is an unfunded mandate. This amendment is supported by the National Association of Secretaries of State. It is cosponsored by the distinguished Senator from Kentucky, Mr. MCCONNELL, and Senators FEINSTEIN and LEVIN. Why? Because the secretaries of state and county election officers have indicated there is no need to put in a mandate to make sure that your voters who are provisional voters must be notified by mail within 30 days. There are other ways you can do this.

Our amendment says to States, if you want to do a mass mailing, you can do that. But at least there is an option here to use a Web site and toll-free numbers and other means of communication that will actually allow a provisional voter to know much faster than the mass mailing whether or not they are properly registered and their vote counted. As a matter of fact, it will enable local county officials and others to make sure a provisional voter is registered, so you can actually make the argument that we will make more progress.

I urge support of the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, following the Roberts amendment, which will be the normal 15-minute vote, I ask unanimous consent that votes on the Clinton amendment and final passage be 10-minute votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Madam President, I speak with great reluctance in opposition to the amendment of the Senator from Kansas. I misidentified his State last evening. I apologize.

I appreciate the motivations behind this. Let me first say there is nothing in this bill that creates an unfunded mandate. One of the things we have provided for in this bill is that every requirement must be paid for by the Federal Government. That is very important to us. We realize if we asked otherwise, we would in fact be doing just what the Senator from Kansas has suggested. But that is simply not the case.

We are saying with regard to provisional voters—these are some of the most disadvantaged voters in the sense of where they live and their circumstances, economic and otherwise—if you show up to vote and there is a question about whether or not you have the right to vote, this bill is going to give you the right to cast a provisional ballot. If at the end of that process it is discovered you don't have the right to vote, we are saying that the state and local officials must notify that voter so they don't come back and show up the next time as a provisional voter and their vote doesn't count again.

The underlying bill already allows a state or locality to create an internet site or establish a 1-800 number, and I don't have a problem with that. But don't exclude the requirement that you must specifically notify a voter whose ballot was not counted. Registrars of voters notify voters on all sorts of things during the year. Saying to a provisional voter, your vote didn't count for the following reasons, this is what you need to do to correct it, is a minor request. This bill truly makes it easier to vote and harder to cheat. We urge the defeat of the Roberts amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2907. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—56

Allard
Allen
Bennett
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cleland
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feinstein
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Johnson
Kyl
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Reid
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—43

Akaka
Baucus
Biden
Bingaman
Bond
Byrd
Cantwell
Carnahan
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Fitzgerald
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Leahy
Lieberman
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NOT VOTING—1

Bayh

The amendment (No. 2907) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. So everyone is aware, the next two votes are 10-minute votes.

AMENDMENT NO. 3108

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes evenly divided for debate on amendment No. 3108.

Who yields time?

The Senator from New York.

Mrs. CLINTON. Madam President, this next amendment, called the "leave no vote behind" amendment, aims at making sure the Office of Election Administration has the authority to determine whether or not there are unintentional or intentional human errors. With all due respect to the ranking member, it is not a burdensome provision because election officials are going to have to sort out the ballots to determine whether there are mechanical errors or not.

Secondly, this does not have to be enforced until after January 1, 2010, and so the language that is in the bill provides more than sufficient flexibility for the Office of Election Administration to make a determination as to what benchmark standard to set. If we do not deal with this issue, we are not dealing with the underlying concern that many citizens have, that in some way their vote will not be counted.

I urge our colleagues to give the Office of Election Administration the flexibility and authority to make a determination about this kind of error, along with mechanical errors. They get to set the standard. We do the same thing in most States to try to determine whether there are unintentional errors that a citizen makes in casting a vote, and in the absence of having this provision in the underlying bill we will not have addressed one of the major concerns that citizens have; not only from the 2000 election but from many elections.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I strongly oppose the Clinton amendment. This is about the sanctity of the ballot and about the right of voters not to vote in an election if they choose. This amendment mandates a single voter error rate for all machines and all systems of voting.

Each State will be forced to calculate how many voter errors are allowed, divide that number by the number of precincts, and tell poll workers in those precincts how many errors each is allowed; all of this under threat of Department of Justice prosecution.

Those poll workers will closely monitor undervotes and overvotes, and when they approach their maximum allowable number, they will be forced to plead with voters to cast a vote or to change votes they have already made; all of this under threat of Department of Justice prosecution.

I say to my colleagues, especially the Senators from Oregon and Washington, if their home State uses paper ballots, mail-in ballots, or absentee ballots, this amendment will fundamentally alter, if not eliminate, those systems of voting. There is no way to control voter error unless one is face-to-face with the voter.

This is an amendment that essentially unravels this legislation. I strongly urge its defeat.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the question is on agreeing to amendment No. 3108 offered by the Senator from New York.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—48

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman

Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—52

Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Carnahan
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Dodd
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

The amendment (No. 3108) was rejected.

Mr. DODD. Madam President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Madam President, I ask unanimous consent that upon the passage of S. 565, the Rules Committee be discharged from further consideration of H.R. 3295, the House companion, and that the Senate then proceed to its consideration; that all after the enacting clause be stricken and the text of S. 565, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed; that the title amendment which is at the desk be considered and agreed to, the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, that the ratio be 3-2; and that this action occur with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank the Chair.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill (S. 565) having been read the third time, the question is, Shall the bill pass?

Mr. DODD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—1

Burns

The bill (S. 565) was passed.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Under the previous order, the Rules Committee is discharged from further consideration of H.R. 3295; all after the enacting clause is stricken, and the text of S. 565, as amended, is inserted in lieu thereof. The bill is read a third time, passed, and the motion to reconsider is laid upon the table. The title amendment is agreed to, and the motion to reconsider is laid upon the table.

Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees on the part of the Senate.

The ratio of conferees on the bill will be 3 to 2.

The bill (H.R. 3295), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3295) entitled "An Act to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

Sec. 101. Voting systems standards.
Sec. 102. Provisional voting and voting information requirements.
Sec. 103. Computerized statewide voter registration list requirements and requirements for voters who register by mail.
Sec. 104. Enforcement by the Civil Rights Division of the Department of Justice.
Sec. 105. Minimum Standards.

TITLE II—GRANT PROGRAMS

Subtitle A—Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program

Sec. 201. Establishment of the Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program.
Sec. 202. State plans.
Sec. 203. Application.
Sec. 204. Approval of applications.
Sec. 205. Authorized activities.
Sec. 206. Payments.
Sec. 207. Audits and examinations of States and localities.
Sec. 208. Reports to Congress and the Attorney General.
Sec. 209. Authorization of appropriations.
Sec. 210. Effective date.

Subtitle B—Federal Election Reform Incentive Grant Program

Sec. 211. Establishment of the Federal Election Reform Incentive Grant Program.
Sec. 212. Application.
Sec. 213. Approval of applications.
Sec. 214. Authorized activities.
Sec. 215. Payments; Federal share.
Sec. 216. Audits and examinations of States and localities.
Sec. 217. Reports to Congress and the Attorney General.
Sec. 218. Authorization of appropriations.
Sec. 219. Effective date.

Subtitle C—Federal Election Accessibility Grant Program

Sec. 221. Establishment of the Federal Election Accessibility Grant Program.
Sec. 222. Application.
Sec. 223. Approval of applications.
Sec. 224. Authorized activities.
Sec. 225. Payments; Federal share.
Sec. 226. Audits and examinations of States and localities.
Sec. 227. Reports to Congress and the Attorney General.
Sec. 228. Authorization of appropriations.
Sec. 229. Effective date.

Subtitle D—National Student/Parent Mock Election

Sec. 231. National Student/Parent Mock Election.
Sec. 232. Authorization of appropriations.

TITLE III—ADMINISTRATION

Subtitle A—Election Administration Commission

Sec. 301. Establishment of the Election Administration Commission.
Sec. 302. Membership of the Commission.
Sec. 303. Duties of the Commission.
Sec. 304. Meetings of the Commission.
Sec. 305. Powers of the Commission.
Sec. 306. Commission personnel matters.
Sec. 307. Authorization of appropriations.

Subtitle B—Transition Provisions

Sec. 311. Equal Protection of Voting Rights Act of 2001.
Sec. 312. Federal Election Campaign Act of 1971.
Sec. 313. National Voter Registration Act of 1993.

Sec. 314. Transfer of property, records, and personnel.
Sec. 315. Coverage of Election Administration Commission under certain laws and programs.
Sec. 316. Effective date; transition.

Subtitle C—Advisory Committee on Electronic Voting and the Electoral Process

Sec. 321. Establishment of Committee.
Sec. 322. Duties of the Committee.
Sec. 323. Powers of the Committee.
Sec. 324. Committee personnel matters.
Sec. 325. Termination of the Committee.
Sec. 326. Authorization of appropriations.

TITLE IV—UNIFORMED SERVICES ELECTION REFORM

Sec. 401. Standard for invalidation of ballots cast by absent uniformed services voters in Federal elections.
Sec. 402. Maximization of access of recently separated uniformed services voters to the polls.
Sec. 403. Prohibition of refusal of voter registration and absentee ballot applications on grounds of early submission.
Sec. 404. Distribution of Federal military voter laws to the States.
Sec. 405. Effective dates.
Sec. 406. Study and report on permanent registration of overseas voters; distribution of overseas voting information by a single State office; study and report on expansion of single State office duties.
Sec. 407. Report on absentee ballots transmitted and received after general elections.
Sec. 408. Other requirements to promote participation of overseas and absent uniformed services voters.
Sec. 409. Study and report on the development of a standard oath for use with overseas voting materials.
Sec. 410. Study and report on prohibiting notarization requirements.

TITLE V—CRIMINAL PENALTIES; MISCELLANEOUS

Sec. 501. Review and report on adequacy of existing electoral fraud statutes and penalties.
Sec. 502. Other criminal penalties.
Sec. 503. Use of social security numbers for voter registration and election administration.
Sec. 504. Delivery of mail from overseas preceding Federal elections.
Sec. 505. State responsibility to guarantee military voting rights.
Sec. 506. Sense of the Senate regarding State and local input into changes made to the electoral process.
Sec. 507. Study and report on free absentee ballot postage
Sec. 508. Help America vote college program
Sec. 509. Relationship to other laws.
Sec. 510. Voters with disabilities.
Sec. 511. Election day holiday study.
Sec. 512. Sense of the Senate on compliance with election technology and administration requirements.
Sec. 513. Broadcasting false election information.
Sec. 514. Sense of the Senate regarding changes made to the electoral process and how such changes impact States.

TITLE I—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

SEC. 101. VOTING SYSTEMS STANDARDS.

(a) REQUIREMENTS.—Each voting system used in an election for Federal office shall meet the following requirements:

(1) IN GENERAL.—

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—

(i) permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii) provide the voter with the opportunity to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and

(iii) if the voter selects votes for more than 1 candidate for a single office, the voting system shall—

(I) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or locality that uses a paper ballot voting system, a punchcard voting system, or a central count voting system (including mail-in absentee ballots or mail-in ballots), may meet the requirements of subparagraph (A) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

(2) AUDIT CAPACITY.—

(A) IN GENERAL.—The voting system shall produce a record with an audit capacity for such system.

(B) MANUAL AUDIT CAPACITY.—

(i) PERMANENT PAPER RECORD.—The voting system shall produce a permanent paper record with a manual audit capacity for such system.

(ii) CORRECTION OF ERRORS.—The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(iii) OFFICIAL RECORD FOR RECOUNTS.—The printed record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election for Federal office in which the system is used.

(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—The voting system shall—

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and

(C) meet the voting system standards for disability access if purchased with funds made available under title II on or after January 1, 2007.

(4) MULTILINGUAL VOTING MATERIALS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the voting system shall provide alternative language accessibility—

(i) with respect to a language other than English in a State or jurisdiction if, as determined by the Director of the Bureau of the Census—

(I)(aa) at least 5 percent of the total number of voting-age citizens who reside in such State or jurisdiction speak that language as their first language and who are limited-English proficient; or

(bb) there are at least 10,000 voting-age citizens who reside in that jurisdiction who speak that language as their first language and who are limited-English proficient; and

(II) the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate; or

(ii) with respect to a language other than English that is spoken by Native American or Alaskan native citizens in a jurisdiction that contains all or any part of an Indian reservation if, as determined by the Director of the Bureau of the Census—

(I) at least 5 percent of the total number of citizens on the reservation are voting-age Native American or Alaskan native citizens who speak that language as their first language and who are limited-English proficient; and

(II) the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate.

(B) EXCEPTIONS.—

(i) If a State meets the criteria of item (aa) of subparagraph (A)(i)(I) with respect to a language, a jurisdiction of that State shall not be required to provide alternative language accessibility under this paragraph with respect to that language if—

(I) less than 5 percent of the total number of voting-age citizens who reside in that jurisdiction speak that language as their first language and are limited-English proficient; and

(II) the jurisdiction does not meet the criteria of item (bb) of such subparagraph with respect to that language.

(ii) A State or locality that uses a lever voting system and that would be required to provide alternative language accessibility under the preceding provisions of this paragraph with respect to an additional language that was not included in the voting system of the State or locality before the date of enactment of this Act may meet the requirements of this paragraph with respect to such additional language by providing alternative language accessibility through the voting systems used to meet the requirement of paragraph (3)(B) if—

(I) it is not practicable to add the alternative language to the lever voting system or the addition of the language would cause the voting system to become more confusing or difficult to read for other voters;

(II) the State or locality has filed a request for a waiver with the Office of Election Administration of the Federal Election Commission or, after the transition date (as defined in section 316(a)(2)), with the Election Administration Commission, that describes the need for the waiver and how the voting system under paragraph (3)(B) would provide alternative language accessibility; and

(III) the Office of Election Administration or the Election Administration Commission (as appropriate) has approved the request filed under subclause (II).

(5) ERROR RATES.—The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall not exceed the error rate standards established under the voting systems standards issued and maintained by the Director of the Office of Election Administration of the Federal Election Commission (as revised by the Director of such Office under subsection (c)).

(b) Voting System Defined.—In this section, the term "voting system" means—

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—

(A) to define ballots;

(B) to cast and count votes;

(C) to report or display election results; and

(D) to maintain and produce any audit trail information;

(2) the practices and associated documentation used—

(A) to identify system components and versions of such components;

(B) to test the system during its development and maintenance;

(C) to maintain records of system errors and defects;

(D) to determine specific system changes to be made to a system after the initial qualification of the system; and

(E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

(c) Administration by the Office of Election Administration.—

(1) In general.—Not later than January 1, 2004, the Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) and the Director of the National Institute of Standards and Technology, shall promulgate standards revising the voting systems standards issued and maintained by the Director of such Office so that such standards meet the requirements established under subsection (a).

(2) Quadrennial review.—The Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board and the Director of the National Institute of Standards and Technology, shall review the voting systems standards revised under paragraph (1) no less frequently than once every 4 years.

(d) Construction.—Nothing in this section shall require a jurisdiction to change the voting system or systems (including paper balloting systems, including in-person, absentee, and mail-in paper balloting systems, lever machine systems, punchcard systems, optical scanning systems, and direct recording electronic systems) used in an election in order to be in compliance with this Act.

(e) Effective Date.—Each State and locality shall be required to comply with the requirements of this section on and after January 1, 2006.

SEC. 102. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.

(a) Requirements.—If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place, or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

(A) a registered voter in the jurisdiction in which the individual desires to vote; and

(B) eligible to vote in that election.

(3) An election official at the polling place shall transmit the ballot cast by the individual or voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote in the jurisdiction, the individual's provisional ballot shall be counted as a vote in that election.

(5) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain through a free access system (such as a toll-free telephone number or an Internet website) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.

(6) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.

States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (6)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

(b) Voting Information Requirements.—

(1) Public posting on election day.—The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

(2) Voting information defined.—In this section, the term "voting information" means—

(A) a sample version of the ballot that will be used for that election;

(B) information regarding the date of the election and the hours during which polling places will be open;

(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

(D) instructions for mail-in registrants and first-time voters under section 103(b); and

(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(c) Voters Who Vote After the Polls Close.—Any individual who votes in an election for Federal office for any reason, including a Federal or State court order, after the time set for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a).

(d) Administration by the Civil Rights Division.—Not later than January 1, 2003, the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice shall promulgate such guidelines as are necessary to implement the requirements of subsection (a).

(e) Effective Date.—

(1) Provisional voting.—Each State and locality shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

(2) Voting information.—Each State and locality shall be required to comply with the requirements of subsection (b) on and after the date of enactment of this Act.

SEC. 103. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.

(a) Computerized Statewide Voter Registration List Requirements.—

(1) Implementation.—

(A) In general.—Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement an interactive computerized statewide voter registration list that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the "computerized list").

(B) Exception.—The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

(2) Access.—The computerized list shall be accessible to each State and local election official in the State.

(3) Computerized list maintenance.—

(A) In general.—The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg–6).

(ii) For purposes of removing names of ineligible voters from the official list of eligible voters—

(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg–6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and

(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg–6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.

(iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.

(B) Conduct.—The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that—

(i) the name of each registered voter appears in the computerized list;

(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and

(iii) duplicate names are eliminated from the computerized list.

(4) Technological security of computerized list.—The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.

(5) INTERACTION WITH FEDERAL INFORMATION.—

(A) ACCESS TO FEDERAL INFORMATION.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Commissioner of Social Security shall provide, upon request from a State or locality maintaining a computerized centralized list implemented under paragraph (1), only such information as is necessary to determine the eligibility of an individual to vote in such State or locality under the law of the State. Any State or locality that receives information under this clause may only share such information with election officials.

(ii) PROCEDURE.—The information under clause (i) shall be provided in such place and such manner as the Commissioner determines appropriate to protect and prevent the misuse of information.

(B) APPLICABLE INFORMATION.—For purposes of this subsection, the term "applicable information" means information regarding whether—

(i) the name and social security number of an individual provided to the Commissioner match the information contained in the Commissioner's records; and

(ii) such individual is shown on the records of the Commissioner as being deceased.

(C) EXCEPTION.—Subparagraph (A) shall not apply to any request for a record of an individual if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

(1) IN GENERAL.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4(c)) and subject to paragraph (3), a State shall require an individual to meet the requirements of paragraph (2) if—

(A) the individual registered to vote in a jurisdiction by mail; and

(B)(i) the individual has not previously voted in an election for Federal office in the State; or

(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of section 103(a).

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter.

(B) FAIL-SAFE VOTING.—

(i) IN PERSON.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(ii) BY MAIL.—An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 102(a).

(3) INAPPLICABILITY.—Paragraph (1) shall not apply in the case of a person—

(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4) and submits as part of such registration either—

(i) a copy of a current valid photo identification; or

(ii) a copy of a current utility bill, bank statement, Government check, paycheck, or Government document that shows the name and address of the voter;

(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4) and submits with such registration either—

(I) a driver's license number; or

(II) at least the last 4 digits of the individual's social security number; and

(ii) with respect to whom a State or local election official certifies that the information submitted under clause (i) matches an existing State identification record bearing the same number, name and date of birth as provided in such registration; or

(C) who is—

(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1 et seq.);

(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee–1(b)(2)(B)(ii)); or

(iii) entitled to vote otherwise than in person under any other Federal law.

(4) CONTENTS OF MAIL-IN REGISTRATION FORM.—The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–4) shall include:

(A) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(B) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 or older on election day.

(C) The statement "If you checked 'no' in response to either of these questions, do not complete this form".

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to require a State that was not required to comply with a provision of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) before the date of enactment of this Act to comply with such a provision after such date.

(c) ADMINISTRATION BY THE CIVIL RIGHTS DIVISION.—Not later than October 1, 2003, the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice shall promulgate such guidelines as are necessary to implement the requirements of subsection (a).

(d) EFFECTIVE DATE.—

(1) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.—Each State and locality shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

(2) REQUIREMENT FOR VOTERS WHO REGISTER BY MAIL.—

(A) IN GENERAL.—Each State and locality shall be required to comply with the requirements of subsection (b) on and after January 1, 2004, and shall be prepared to receive registration materials submitted by individuals described in subparagraph (B) on and after the date described in such subparagraph.

(B) APPLICABILITY WITH RESPECT TO INDIVIDUALS.—The provisions of section (b) shall apply to any individual who registers to vote on or after January 1, 2003.

SEC. 104. ENFORCEMENT BY THE CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—Subject to subsection (b), the Attorney General, acting through the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

(b) SAFE HARBOR.—

(1) IN GENERAL.—Except as provided in paragraph (2), if a State or locality receives funds under a grant program under subtitle A or B of title II for the purpose of meeting a requirement under section 101, 102, or 103, such State or locality shall be deemed to be in compliance with such requirement until January 1, 2010, and no action may be brought under this Act against such State or locality on the basis that the State or locality is not in compliance with such requirement before such date.

(2) EXCEPTION.—The safe harbor provision under paragraph (1) shall not apply with respect to the requirement described in section 101(a)(3).

(c) RELATION TO OTHER LAWS.—The remedies established by this section are in addition to all other rights and remedies provided by law.

SEC. 105. MINIMUM STANDARDS.

The requirements established by this title are minimum requirements and nothing in this title shall be construed to prevent a State from establishing election technology and administration requirements, that are more strict than the requirements established under this title, so long as such State requirements are not inconsistent with the Federal requirements under this title or any law described in section 509.

TITLE II—GRANT PROGRAMS

Subtitle A—Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program

SEC. 201. ESTABLISHMENT OF THE UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS GRANT PROGRAM.

(a) IN GENERAL.—There is established a Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 204 and in consultation with the Federal Election Commission and the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), is authorized to make grants to States and localities to pay the costs of the activities described in section 205.

(b) ACTION THROUGH OFFICE OF JUSTICE PROGRAMS AND CIVIL RIGHTS DIVISION.—In carrying out this subtitle, the Attorney General shall act through the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice and the Assistant Attorney General in charge of the Civil Rights Division of that Department.

SEC. 202. STATE PLANS.

(a) IN GENERAL.—Each State that desires to receive a grant under this subtitle shall develop a State plan, in consultation with State and local election officials of that State, that provides for each of the following:

(1) UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.—A description of how the State will use the funds made available under this subtitle to meet each of the following requirements:

(A) The voting system standards under section 101.

(B) The provisional voting requirements under section 102.

(C) The computerized statewide voter registration list requirements under section 103(a), including a description of—

(i) how State and local election officials will ensure the accuracy of the list of eligible voters

in the State to ensure that only registered voters appear in such list; and

(ii) the precautions that the State will take to prevent the removal of eligible voters from the list.

(D) The requirements for voters who register by mail under section 103(b), including the steps that the State will take to ensure—

(i) the accuracy of mail-in and absentee ballots; and

(ii) that the use of mail-in and absentee ballots does not result in duplicate votes.

(2) IDENTIFICATION, DETERRENCE, AND INVESTIGATION OF VOTING FRAUD.—An assessment of the susceptibility of elections for Federal office in the State to voting fraud and a description of how the State intends to identify, deter, and investigate such fraud.

(3) COMPLIANCE WITH EXISTING FEDERAL LAW.—Assurances that the State will comply with existing Federal laws, as such laws relate to the provisions of this Act, including the following:

(A) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), including sections 4(f)(4) and 203 of such Act (42 U.S.C. 1973b(f)(4) and 1973aa–1a).

(B) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(C) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(D) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(E) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) TIMETABLE.—A timetable for meeting the elements of the State plan.

(b) AVAILABILITY OF STATE PLANS FOR REVIEW AND COMMENT.—A State shall make the State plan developed under subsection (a) available for public review and comment before the submission of an application under section 203(a).

SEC. 203. APPLICATION.

(a) IN GENERAL.—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time and in such manner as the Attorney General may require, and containing the information required under subsection (b) and such other information as the Attorney General may require.

(b) CONTENTS.—

(1) STATES.—Each application submitted by a State shall contain the State plan developed under section 202 and a description of how the State proposes to use funds made available under this subtitle to implement such State plan.

(2) LOCALITIES.—Each application submitted by a locality shall contain a description of how the locality proposes to use the funds made available under this subtitle in a manner that is consistent with the State plan developed under section 202.

(c) SAFE HARBOR.—No action may be brought under this Act against a State or locality on the basis of any information contained in the application submitted under subsection (a), including any information contained in the State plan developed under section 202.

SEC. 204. APPROVAL OF APPLICATIONS.

The Attorney General shall establish general policies and criteria with respect to the approval of applications submitted by States and localities under section 203(a) (including a review of State plans developed under section 202), the awarding of grants under this subtitle, and the use of assistance made available under this subtitle.

SEC. 205. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle for any of the following purposes:

(1) To implement voting system standards that meet the requirements of section 101.

(2) To provide for provisional voting that meets the requirements of section 102(a) and to meet the voting information requirements under section 102(b).

(3) To establish a computerized statewide voter registration list that meets the requirements of section 103(a) and to meet the requirements for voters who register by mail under section 103(b).

SEC. 206. PAYMENTS.

(a) PAYMENTS .—

(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall pay to each State having an application approved under section 203 the cost of the activities described in that application.

(2) INITIAL PAYMENT AMOUNT.—The Attorney General shall pay to each State that submits an application under section 203 an amount equal to 0.5 percent of the amount appropriated under section 209 for the fiscal year during which such application is submitted to be used by such State for the activities authorized under section 205.

(b) RETROACTIVE PAYMENTS.— The Attorney General may make retroactive payments to States and localities having an application approved under section 203 for any costs for election technology or administration that meets a requirement of section 101, 102, or 103 that were incurred during the period beginning on January 1, 2001, and ending on the date on which such application was approved under such section. A State or locality that is engaged in a multi-year contract entered into prior to January 1, 2001, is eligible to apply for a grant under section 203 for payments made on or after January 1, 2001, pursuant to that contract.

(c) PROTECTION AND ADVOCACY SYSTEMS.—

(1) IN GENERAL.—In addition to any other payments made under this section, the Attorney General shall pay the protection and advocacy system (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)) of each State to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places. In providing such services, protection and advocacy systems shall have the same general authorities as they are afforded under part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(2) MINIMUM GRANT AMOUNT.—The minimum amount of each grant to a protection and advocacy system shall be determined and allocated as set forth in subsections (c)(3), (c)(4), (c)(5), (e), and (g) of section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e), except that the amount of the grants to systems referred to in subsections (c)(3)(B) and (c)(4)(B) of that section shall be not less than $70,000 and $35,000, respectively.

SEC. 207. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) RECORDKEEPING REQUIREMENT.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) AUDITS AND EXAMINATIONS.—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

SEC. 208. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) REPORTS TO THE ATTORNEY GENERAL.—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this subtitle the following amounts:

(1) For fiscal year 2003, $1,000,000,000.

(2) For fiscal year 2004, $1,300,000,000.

(3) For fiscal year 2005, $500,000,000.

(4) For fiscal year 2006, $200,000,000.

(5) For each subsequent fiscal year, such sums as may be necessary.

(b) PROTECTION AND ADVOCACY SYSTEMS.—In addition to any other amounts authorized to be appropriated under this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006, and for each subsequent fiscal year such sums as may be necessary, for the purpose of making payments under section 206(c): Provided, That none of the funds provided by this subsection shall be used to commence any litigation related to election-related disability access; notwithstanding the general authorities of the protection and advocacy systems are otherwise afforded under part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(c) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

SEC. 210. EFFECTIVE DATE.

The Attorney General shall establish the general policies and criteria for the approval of applications under section 204 in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle B—Federal Election Reform Incentive Grant Program

SEC. 211. ESTABLISHMENT OF THE FEDERAL ELECTION REFORM INCENTIVE GRANT PROGRAM.

(a) IN GENERAL.—There is established a Federal Election Reform Incentive Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 213(a) and in consultation with the Federal Election Commission and the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), is authorized to make grants to States and localities to pay the costs of the activities described in section 214.

(b) ACTION THROUGH OFFICE OF JUSTICE PROGRAMS AND CIVIL RIGHTS DIVISION.—In carrying out this subtitle, the Attorney General shall act through—

(1) the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice; and

(2) the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice (in this subtitle referred to as the "Assistant Attorney General for Civil Rights").

SEC. 212. APPLICATION.

(a) IN GENERAL.—Each State or locality that desires to receive a grant under this subtitle

shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General shall require, consistent with the provisions of this section.

(b) CONTENTS.—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought;

(2) contain a request for certification by the Assistant Attorney General for Civil Rights described in subsection (c);

(3) provide assurances that the State or locality will pay the non-Federal share of the cost of the activities for which assistance is sought from non-Federal sources; and

(4) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subtitle.

(c) REQUEST FOR CERTIFICATION BY THE CIVIL RIGHTS DIVISION.—

(1) COMPLIANCE WITH CURRENT FEDERAL ELECTION LAW.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each request for certification described in subsection (b)(2) shall contain a specific and detailed demonstration that the State or locality is in compliance with each of the following laws, as such laws relate to the provisions of this Act:

(i) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), including sections 4(f)(4) and 203 of such Act (42 U.S.C. 1973b(f)(4) and 1973aa–1a).

(ii) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(iii) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(iv) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(v) The Americans with Disabilities Act of 1990 (42 U.S.C. 1994 et seq.).

(vi) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(B) APPLICANTS UNABLE TO MEET REQUIREMENTS.—Each State or locality that, at the time it applies for a grant under this subtitle, does not demonstrate that it meets each requirement described in subparagraph (A), shall submit to the Attorney General a detailed and specific demonstration of how the State or locality intends to use grant funds to meet each such requirement.

(2) UNIFORM AND NONDISCRIMINATORY REQUIREMENTS FOR ELECTION TECHNOLOGY AND ADMINISTRATION.—In addition to the demonstration required under paragraph (1), each request for certification described in subsection (b)(2) shall contain a specific and detailed demonstration that the proposed use of grant funds by the State or locality is not inconsistent with the requirements under section 101, 102, or 103.

(d) SAFE HARBOR.—No action may be brought under this Act against a State or locality on the basis of any information contained in the application submitted under subsection (a), including any information contained in the request for certification described in subsection (c).

SEC. 213. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—Subject to subsection (b), the Attorney General shall establish general policies and criteria for the approval of applications submitted under section 212(a).

(b) CERTIFICATION PROCEDURE.—

(1) IN GENERAL.—The Attorney General may not approve an application of a State or locality submitted under section 212(a) unless the Attorney General has received a certification from the Assistant Attorney General for Civil Rights under paragraph (4) with respect to such State or locality.

(2) TRANSMITTAL OF REQUEST.—Upon receipt of the request for certification submitted under section 212(b)(2), the Attorney General shall transmit such request to the Assistant Attorney General for Civil Rights.

(3) CERTIFICATION; NONCERTIFICATION.—

(A) CERTIFICATION.—If the Assistant Attorney General for Civil Rights finds that the request for certification demonstrates that—

(i) a State or locality meets the requirements of subparagraph (A) of section 212(c)(1), or that a State or locality has provided a detailed and specific demonstration of how it will use funds received under this section to meet such requirements under subparagraph (B) of such section; and

(ii) the proposed use of grant funds by the State or locality meets the requirements of section 212(c)(2),

the Assistant Attorney General for Civil Rights shall certify that the State or locality is eligible to receive a grant under this subtitle.

(B) NONCERTIFICATION.—If the Assistant Attorney General for Civil Rights finds that the request for certification does not demonstrate that a State or locality meets the requirements described in subparagraph (A), the Assistant Attorney General for Civil Rights shall not certify that the State or locality is eligible to receive a grant under this subtitle.

(4) TRANSMITTAL OF CERTIFICATION.—The Assistant Attorney General for Civil Rights shall transmit to the Attorney General either—

(A) a certification under subparagraph (A) of paragraph (3); or

(B) a notice of noncertification under subparagraph (B) of such paragraph, together with a report identifying the relevant deficiencies in the State's or locality's system for voting or administering elections for Federal office or in the request for certification submitted by the State or locality.

SEC. 214. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle—

(1) to improve, acquire, lease, modify, or replace voting systems and technology and to improve the accessibility of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and providing assistance to individuals with limited proficiency in the English language;

(2) to implement new election administration procedures to increase voter participation and to reduce disenfranchisement, such as "same-day" voter registration procedures;

(3) to educate voters concerning voting procedures, voting rights or voting technology, and to train election officials, poll workers, and election volunteers;

(4) to implement new election administration procedures such as requiring individuals to present identification at the polls and programs to identify, to deter, and to investigate voting fraud and to refer allegations of voting fraud to the appropriate authority;

(5) to meet the requirements of current Federal election law in accordance with the demonstration submitted under section 212(c)(1)(B) of such section;

(6) to establish toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations and general election information; or

(7) to meet the requirements under section 101, 102, or 103.

SEC. 215. PAYMENTS; FEDERAL SHARE.

(a) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall pay to each State or locality having an application approved under section 213 the Federal share of the costs of the activities described in that application.

(2) INITIAL PAYMENT AMOUNT.—The Attorney General shall pay to each State that submits an application under section 212 an amount equal to 0.5 percent of the amount appropriated under section 218 for the fiscal year in which such application is submitted to be used by such State for the activities authorized under section 214.

(3) RETROACTIVE PAYMENTS.—The Attorney General may make retroactive payments to States and localities having an application approved under section 213 for the Federal share of any costs for election technology or administration that meets the requirements of sections 101, 102, and 103 that were incurred during the period beginning on January 1, 2001, and ending on the date on which such application was approved under such section.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the costs shall be a percentage determined by the Attorney General that does not exceed 80 percent.

(2) EXCEPTION.—The Attorney General may provide for a Federal share of greater than 80 percent of the costs for a State or locality if the Attorney General determines that such greater percentage is necessary due to the lack of resources of the State or locality.

SEC. 216. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) RECORDKEEPING REQUIREMENT.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) AUDITS AND EXAMINATIONS.—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

(c) OTHER AUDITS.—If the Assistant Attorney General for Civil Rights has certified a State or locality as eligible to receive a grant under this subtitle in order to meet a certification requirement described in section 212(c)(1)(A) (as permitted under section 214(5)) and such State or locality is a recipient of such a grant, such Assistant Attorney General, in consultation with the Federal Election Commission shall—

(1) audit such recipient to ensure that the recipient has achieved, or is achieving, compliance with the certification requirements described in section 212(c)(1)(A); and

(2) have access to any record of the recipient that the Attorney General determines may be related to such a grant for the purpose of conducting such an audit.

SEC. 217. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) REPORTS TO THE ATTORNEY GENERAL.—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 218. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $400,000,000 for fiscal year 2002 to carry out the provisions of this subtitle.

(b) Availability.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 219. EFFECTIVE DATE.

The Attorney General shall establish the general policies and criteria for the approval of applications under section 213(a) in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle C—Federal Election Accessibility Grant Program

SEC. 221. ESTABLISHMENT OF THE FEDERAL ELECTION ACCESSIBILITY GRANT PROGRAM.

(a) In General.—There is established a Federal Election Accessibility Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 223 by the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) (in this subtitle referred to as the "Access Board"), is authorized to make grants to States and localities to pay the costs of the activities described in section 224.

(b) Action Through Office of Justice Programs and Civil Rights Division.—In carrying out this subtitle, the Attorney General shall act through—

(1) the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice; and

(2) the Assistant Attorney General in charge of the Civil Rights Division of that Department.

SEC. 222. APPLICATION.

(a) In General.—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General shall require, consistent with the provisions of this section.

(b) Contents.—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought;

(2) provide assurances that the State or locality will pay the non-Federal share of the cost of the activities for which assistance is sought from non-Federal sources; and

(3) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subtitle.

(c) Relation to Federal Election Reform Incentive Grant Program.—A State or locality that desires to do so may submit an application under this section as part of any application submitted under section 212(a).

(d) Safe Harbor.—No action may be brought under this Act against a State or locality on the basis of any information contained in the application submitted under subsection (a).

SEC. 223. APPROVAL OF APPLICATIONS.

The Access Board shall establish general policies and criteria for the approval of applications submitted under section 222(a).

SEC. 224. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle—

(1) to make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; and

(2) to provide individuals with disabilities and the other individuals described in paragraph (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and to train election officials, poll workers, and election volunteers on how best to promote the access and participation of the individuals in elections for Federal office.

SEC. 225. PAYMENTS; FEDERAL SHARE.

(a) Payments.—

(1) In general.—Subject to paragraph (2), the Attorney General shall pay to each State or locality having an application approved under section 223 the Federal share of the costs of the activities described in that application.

(2) Initial payment amount.—The Attorney General shall pay to each State that submits an application under section 222 an amount equal to 0.5 percent of the amount appropriated under section 228 for the fiscal year in which such application is submitted to be used by such State for the activities authorized under section 224.

(b) Federal Share.—

(1) In general.—Except as provided in paragraph (2), the Federal share of the costs shall be a percentage determined by the Attorney General that does not exceed 80 percent.

(2) Exception.—The Attorney General may provide for a Federal share of greater than 80 percent of the costs for a State or locality if the Attorney General determines that such greater percentage is necessary due to the lack of resources of the State or locality.

SEC. 226. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) Recordkeeping Requirement.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Access Board, shall prescribe.

(b) Audits and Examinations.—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

SEC. 227. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) Reports to Congress.—

(1) In general.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) Contents.—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) Reports to the Attorney General.—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 228. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated $100,000,000 for fiscal year 2002 to carry out the provisions of this subtitle.

(b) Availability.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 229. EFFECTIVE DATE.

The Access Board shall establish the general policies and criteria for the approval of applications under section 223 in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle D—National Student/Parent Mock Election

SEC. 231. NATIONAL STUDENT/PARENT MOCK ELECTION.

(a) In General.—The Election Administration Commission is authorized to award grants to the National Student/Parent Mock Election, a national nonprofit, nonpartisan organization that works to promote voter participation in American elections to enable it to carry out voter education activities for students and their parents. Such activities may—

(1) include simulated national elections at least 5 days before the actual election that permit participation by students and parents from each of the 50 States in the United States, its territories, the District of Columbia, and United States schools overseas; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an "issues forum";

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences, and speech writing competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

(b) Requirement.—The National Student/Parent Mock Election shall present awards to outstanding student and parent mock election projects.

SEC. 232. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this subtitle $650,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

TITLE III—ADMINISTRATION

Subtitle A—Election Administration Commission

SEC. 301. ESTABLISHMENT OF THE ELECTION ADMINISTRATION COMMISSION.

There is established the Election Administration Commission (in this subtitle referred to as the "Commission") as an independent establishment (as defined in section 104 of title 5, United States Code).

SEC. 302. MEMBERSHIP OF THE COMMISSION.

(a) Number and Appointment.—

(1) Composition.—The Commission shall be composed of 4 members appointed by the President, by and with the advice and consent of the Senate.

(2) Recommendations.—Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the officer involved.

(b) Qualifications.—

(1) In general.—Each member appointed under subsection (a) shall be appointed on the basis of—

(A) knowledge of—

(i) and experience with, election law;

(ii) and experience with, election technology;

(iii) and experience with, Federal, State, or local election administration;

(iv) the Constitution; or

(v) the history of the United States; and

(B) integrity, impartiality, and good judgment.

(2) PARTY AFFILIATION.—Not more than 2 of the 4 members appointed under subsection (a) may be affiliated with the same political party.

(3) FEDERAL OFFICERS AND EMPLOYEES.—Members appointed under subsection (a) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees of the Federal Government.

(4) OTHER ACTIVITIES.—No member appointed to the Commission under subsection (a) may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment not later than the date on which the Commission first meets.

(c) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than the date that is 90 days after the date of enactment of this Act.

(d) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Members shall be appointed for a term of 6 years, except that, of the members first appointed, 2 of the members who are not affiliated with the same political party shall be appointed for a term of 4 years. Except as provided in paragraph (2), a member may only serve 1 term.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made. The appointment made to fill the vacancy shall be subject to any conditions which applied with respect to the original appointment.

(B) EXPIRED TERMS.—A member of the Commission may serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) UNEXPIRED TERMS.—An individual appointed to fill a vacancy on the Commission occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the unexpired term of the member replaced. Such individual may be appointed to a full term in addition to the unexpired term for which that individual is appointed.

(e) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—The Commission shall elect a chairperson and vice chairperson from among its members for a term of 1 year.

(2) NUMBER OF TERMS.—A member of the Commission may serve as the chairperson only twice during the term of office to which such member is appointed.

(3) POLITICAL AFFILIATION.—The chairperson and vice chairperson may not be affiliated with the same political party.

SEC. 303. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission—

(1) shall serve as a clearinghouse, gather information, conduct studies, and issue reports concerning issues relating to elections for Federal office;

(2) shall carry out the provisions of section 9 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7);

(3) shall make available information regarding the Federal election system to the public and media;

(4) shall compile and make available to the public the official certified results of elections for Federal office and statistics regarding national voter registration and turnout;

(5) shall establish an Internet website to facilitate public access, public comment, and public participation in the activities of the Commission, and shall make all information on such website available in print;

(6) shall conduct the study on election technology and administration under subsection (b)(1) and submit the report under subsection (b)(2); and

(7) beginning on the transition date (as defined in section 316(a)(2)), shall administer—

(A) the voting systems standards under section 101;

(B) the provisional voting requirements under section 102;

(C) the computerized statewide voter registration list requirements and requirements for voters who register by mail under section 103;

(D) the Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program under subtitle A of title II;

(E) the Federal Election Reform Incentive Grant Program under subtitle C of title II; and

(F) the Federal Election Accessibility Grant Program under subtitle B of title II.

(b) STUDIES AND REPORTS ON ELECTION TECHNOLOGY AND ADMINISTRATION.—

(1) STUDY OF FIRST TIME VOTERS WHO REGISTER BY MAIL.—

(A) STUDY.—

(i) IN GENERAL.—The Commission shall conduct a study of the impact of section 103(b) on voters who register by mail.

(ii) SPECIFIC ISSUES STUDIED.—The study conducted under clause (i) shall include—

(I) an examination of the impact of section 103(b) on first time mail registrant voters who vote in person, including the impact of such section on voter registration;

(II) an examination of the impact of such section on the accuracy of voter rolls, including preventing ineligible names from being placed on voter rolls and ensuring that all eligible names are placed on voter rolls; and

(III) an analysis of the impact of such section on existing State practices, such as the use of signature verification or attestation procedures to verify the identity of voters in elections for Federal office, and an analysis of other changes that may be made to improve the voter registration process, such as verification or additional information on the registration card.

(B) REPORT.—Not later than 18 months after the date on which section 103(b)(2)(A) takes effect, the Commission shall submit a report to the President and Congress on the study conducted under subparagraph (A)(i) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

(2) STUDIES.—The Commission shall conduct periodic studies of—

(A) methods of election technology and voting systems in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems;

(B) ballot designs for elections for Federal office;

(C) methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including blind and disabled voters, and voters with limited proficiency in the English language;

(D) nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office;

(E) methods of voter intimidation;

(F) the recruitment and training of poll workers;

(G) the feasibility and advisability of conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time and establishing election day as a Federal holiday;

(H) ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance;

(I)(i) the laws and procedures used by each State that govern—

(I) recounts of ballots cast in elections for Federal office;

(II) contests of determinations regarding whether votes are counted in such elections; and

(III) standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office;

(ii) the best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described in clause (i); and

(iii) whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office;

(J) such other matters as the Commission determines are appropriate; and

(K) the technical feasibility of providing voting materials in 8 or more languages for voters who speak those languages and who are limited English proficient.

(3) REPORTS.—The Commission shall submit to the President and Congress a report on each study conducted under paragraph (2) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

SEC. 304. MEETINGS OF THE COMMISSION.

The Commission shall meet at the call of any member of the Commission, but may not meet less often than monthly.

SEC. 305. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this subtitle hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths as the Commission or such subcommittee or member considers advisable.

(b) VOTING.—

(1) IN GENERAL.—Each action of the Commission shall be approved by a majority vote of the members of the Commission and each member of the Commission shall have 1 vote.

(2) SPECIAL RULES.—

(A) UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.—

(i) ADOPTION OR REVISION OF STANDARDS AND GUIDELINES.—If standards or guidelines have been promulgated under section 101, 102, or 103 as of the transition date (as defined in section 316(a)(2)), not later than 30 days after the transition date, the Commission shall—

(I) adopt such standards or guidelines by a majority vote of the members of the Commission; or

(II) promulgate revisions to such standards or guidelines and such revisions shall take effect only upon the approval of a majority of the members of the Commission.

(ii) ESTABLISHMENT OF STANDARDS AND GUIDELINES.—

(I) If standards or guidelines have not been promulgated under section 101, 102, or 103 as of the transition date (as defined in section 316(a)(2)), the Commission shall promulgate such standards or guidelines not later than the date described in subclause (II) and such standards or guidelines shall take effect only upon the approval of a majority of the members of the Commission.

(II) The date described this subclause is the later of—

(aa) the date described in section 101(c)(1), 102(c), or 103(c) (as applicable); or

(bb) the date that is 30 days after the transition date (as defined in section 316(a)(2)).

(B) GRANT PROGRAMS.—

(i) APPROVAL OR DENIAL.—The grants shall be approved or denied under sections 204, 213, and 223 by a majority vote of the members of the

Commission not later than the date that is 30 days after the date on which the application is submitted to the Commission under section 203, 212, or 222.

(ii) ADOPTION OR REVISION OF GENERAL POLICIES AND CRITERIA.—If general policies and criteria for the approval of applications have been established under section 204, 213, or 223 as of the transition date (as defined in section 316(a)(2)), not later than 30 days after the transition date, the Commission shall—

(I) adopt such general policies and criteria by a majority vote of the members of the Commission; or

(II) promulgate revisions to such general policies and criteria and such revisions shall take effect only upon the approval of a majority of the members of the Commission.

(iii) ESTABLISHMENT OF GENERAL POLICIES AND CRITERIA.—

(I) If general policies and criteria for the approval of applications have been established under section 204, 213, or 223 as of the transition date (as defined in section 316(a)(2)), the Commission shall promulgate such general policies and criteria not later than the date described in subclause (II) and such general policies and criteria shall take effect only upon the approval of a majority of the members of the Commission.

(II) The date described this subclause is the later of—

(aa) the date described in section 101(c)(1), 102(c), or 103(c) (as applicable); or

(bb) the date that is 30 days after the transition date (as defined in section 316(a)(2)).

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 306. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) STAFF.—

(1) APPOINTMENT AND TERMINATION.—Subject to paragraph (2), the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate an Executive Director, a General Counsel, and such other personnel as may be necessary to enable the Commission to perform its duties.

(2) EXECUTIVE DIRECTOR; GENERAL COUNSEL.—

(A) APPOINTMENT AND TERMINATION.—The appointment and termination of the Executive Director and General Counsel under paragraph (1) shall be approved by a majority of the members of the Commission.

(B) INITIAL APPOINTMENT.—Beginning on the transition date (as defined in section 316(a)(2)), the Director of the Office of Election Administration of the Federal Election Commission shall serve as the Executive Director of the Commission until such date as a successor is appointed under paragraph (1).

(C) TERM.—The term of the Executive Director and the General Counsel shall be for a period of 6 years. An individual may not serve for more than 2 terms as the Executive Director or the General Counsel. The appointment of an individual with respect to each term shall be approved by a majority of the members of the Commission.

(D) CONTINUANCE IN OFFICE.—Notwithstanding subparagraph (C), the Executive Director and General Counsel shall continue in office until a successor is appointed under paragraph (1).

(3) COMPENSATION.—The Commission may fix the compensation of the Executive Director, General Counsel, and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director, General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subtitle.

Subtitle B—Transition Provisions

SEC. 311. EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001.

(a) TRANSFER OF CERTAIN FUNCTIONS OF FEDERAL ELECTION COMMISSION.—There are transferred to the Election Administration Commission established under section 301 all functions of the Federal Election Commission under section 101 and under subtitles A and B of title II before the transition date (as defined in section 316(a)(2)).

(b) TRANSFER OF CERTAIN FUNCTIONS OF THE ATTORNEY GENERAL.—

(1) TITLE I FUNCTIONS.—There are transferred to the Election Administration Commission established under section 301 all functions of the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under sections 102 and 103 before the transition date (as defined in section 316(a)(2)).

(2) GRANTMAKING FUNCTIONS.—

(A) IN GENERAL.—Except as provided in paragraph (2), there are transferred to the Election Administration Commission established under section 301 all functions of the Attorney General, the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice, and the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under subtitles A, B, and C of title II before the transition date (as defined in section 316(a)(2)).

(B) EXCEPTION.—The functions of the Attorney General relating to the review of State plans under section 204 and the certification requirements under section 213 shall not be transferred under paragraph (1).

(3) ENFORCEMENT.—The Attorney General shall remain responsible for any enforcement action required under this Act, including the enforcement of the voting systems standards through the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under section 104 and the criminal penalties under section 502.

(c) TRANSFER OF CERTAIN FUNCTIONS OF THE ACCESS BOARD.—There are transferred to the Election Administration Commission established under section 301 all functions of the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) under section 101 and under subtitles A, B, and C of title II before the transition date (as defined in section 316(a)(2)), except that—

(1) the Architectural and Transportation Barriers Compliance Board shall remain responsible under section 223 for the general policies and criteria for the approval of applications submitted under section 222(a); and

(2) in revising the voting systems standards under section 101(c)(2) the Commission shall consult with the Architectural and Transportation Barriers Compliance Board.

SEC. 312. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) TRANSFER OF FUNCTIONS OF OFFICE OF ELECTION ADMINISTRATION.—There are transferred to the Election Administration Commission established under section 301 all functions of the Director of the Office of the Election Administration of the Federal Election Commission before the transition date (as defined in section 316(a)(2)).

(b) CONFORMING AMENDMENT.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) in paragraph (8), by inserting "and" at the end;

(2) in paragraph (9), by striking "; and" and inserting a period; and

(3) by striking paragraph (10) and the second and third sentences.

SEC. 313. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Election Administration Commission established under section 301 all functions of the Federal Election Commission under the National Voter Registration Act of 1993 before the transition date (as defined in section 316(a)(2)).

(b) CONFORMING AMENDMENT.—For purposes of section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7(a)), the reference to the Federal Election Commission shall be deemed to be a reference to the Election Administration Commission.

SEC. 314. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Administration Commission for appropriate allocation.

(b) PERSONNEL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Administration Commission.

SEC. 315. COVERAGE OF ELECTION ADMINISTRATION COMMISSION UNDER CERTAIN LAWS AND PROGRAMS.

(a) TREATMENT OF COMMISSION PERSONNEL UNDER CERTAIN CIVIL SERVICE LAWS.—

(1) COVERAGE UNDER HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting "or the Election Administration Commission" after "Commission".

(2) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting "or the Election Administration Commission" after "Commission".

(b) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ", the Election Administration Commission," after "Federal Election Commission,".

SEC. 316. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—This subtitle and the amendments made by this subtitle shall take effect on the transition date (as defined in paragraph (2)).

(2) TRANSITION DATE DEFINED.—In this section, the term "transition date" means the earlier of—

(A) the date that is 1 year after the date of enactment of this Act; or

(B) the date that is 60 days after the first date on which all of the members of the Election Administration Commission have been appointed under section 302.

(b) TRANSITION.—With the consent of the entity involved, the Election Administration Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

Subtitle C—Advisory Committee on Electronic Voting and the Electoral Process

SEC. 321. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT.—There is established the Advisory Committee on Electronic Voting and the Electoral Process (in this subtitle referred to as the "Committee").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Committee shall be composed of 16 members as follows:

(A) FEDERAL REPRESENTATIVES.—Four representatives of the Federal Government, comprised of the Attorney General, the Secretary of Defense, the Director of the Federal Bureau of Investigation, and the Chairman of the Federal Election Commission, or an individual designated by the respective representative.

(B) INTERNET REPRESENTATIVES.—Four representatives of the Internet and information technology industries (at least 2 of whom shall represent a company that is engaged in the provision of electronic voting services on the date on which the representative is appointed, and at least 2 of whom shall possess special expertise in Internet or communications systems security).

(C) STATE AND LOCAL REPRESENTATIVES.—Four representatives from State and local governments (2 of whom shall be from States that have made preliminary inquiries into the use of the Internet in the electoral process).

(D) PRIVATE SECTOR REPRESENTATIVES.—Four representatives not affiliated with the Government (2 of whom shall have expertise in election law, and 2 of whom shall have expertise in political speech).

(2) APPOINTMENTS.—Appointments to the Committee shall be made not later than the date that is 30 days after the date of enactment of this Act and such appointments shall be made in the following manner:

(A) SENATE MAJORITY LEADER.—Two individuals shall be appointed by the Majority Leader of the Senate, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(B) SENATE MINORITY LEADER.—Two individuals shall be appointed by the Minority Leader of the Senate, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(C) SPEAKER OF THE HOUSE.—Two individuals shall be appointed by the Speaker of the House of Representatives, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(D) HOUSE MINORITY LEADER.—Two individuals shall be appointed by the Minority Leader of the House of Representatives, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(E) SENATE MAJORITY AND HOUSE MINORITY JOINTLY.—Two individuals described in paragraph (1)(D) shall be appointed jointly by the Majority Leader of the Senate and the Minority Leader of the House of Representatives.

(F) HOUSE MAJORITY AND SENATE MINORITY JOINTLY.—Two individuals described in paragraph (1)(D) shall be appointed jointly by the Speaker of the House of Representatives and the Minority Leader of the Senate.

(3) DATE.—The appointments of the members of the Committee shall be made not later than the date that is 30 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all of the members of the Committee have been appointed, the Committee shall hold its first meeting.

(e) MEETINGS.—

(1) IN GENERAL.—The Committee shall meet at the call of the Chairperson or upon the written request of a majority of the members of the Committee.

(2) NOTICE.—Not later than the date that is 14 days before the date of each meeting of the Committee, the Chairperson shall cause notice thereof to be published in the Federal Register.

(3) OPEN MEETINGS.—Each Committee meeting shall be open to the public.

(f) QUORUM.—Eight members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The Committee shall select a Chairperson from among its members by a majority vote of the members of the Committee.

(h) ADDITIONAL RULES.—The Committee may adopt such other rules as the Committee determines to be appropriate by a majority vote of the members of the Committee.

SEC. 322. DUTIES OF THE COMMITTEE.

(a) STUDY.—

(1) IN GENERAL.—The Committee shall conduct a thorough study of issues and challenges, specifically to include the potential for election fraud, presented by incorporating communications and Internet technologies in the Federal, State, and local electoral process.

(2) ISSUES TO BE STUDIED.—The Committee may include in the study conducted under paragraph (1) an examination of—

(A) the appropriate security measures required and minimum standards for certification of systems or technologies in order to minimize the potential for fraud in voting or in the registration of qualified citizens to register and vote;

(B) the possible methods, such as Internet or other communications technologies, that may be utilized in the electoral process, including the use of those technologies to register voters and enable citizens to vote online, and recommendations concerning statutes and rules to be adopted in order to implement an online or Internet system in the electoral process;

(C) the impact that new communications or Internet technology systems for use in the electoral process could have on voter participation rates, voter education, public accessibility, potential external influences during the elections process, voter privacy and anonymity, and other issues related to the conduct and administration of elections;

(D) whether other aspects of the electoral process, such as public availability of candidate information and citizen communication with candidates, could benefit from the increased use of online or Internet technologies;

(E) the requirements for authorization of collection, storage, and processing of electronically generated and transmitted digital messages to permit any eligible person to register to vote or vote in an election, including applying for and casting an absentee ballot;

(F) the implementation cost of an online or Internet voting or voter registration system and the costs of elections after implementation (including a comparison of total cost savings for the administration of the electoral process by using Internet technologies or systems);

(G) identification of current and foreseeable online and Internet technologies for use in the registration of voters, for voting, or for the purpose of reducing election fraud, currently available or in use by election authorities;

(H) the means by which to ensure and achieve equity of access to online or Internet voting or voter registration systems and address the fairness of such systems to all citizens; and

(I) the impact of technology on the speed, timeliness, and accuracy of vote counts in Federal, State, and local elections.

(b) REPORT.—

(1) TRANSMISSION.—Not later than 20 months after the date of enactment of this Act, the Committee shall transmit to Congress and the Election Administration Commission established under section 301, for the consideration of such bodies, a report reflecting the results of the study required by subsection (a), including such legislative recommendations or model State laws as are required to address the findings of the Committee.

(2) APPROVAL OF REPORT.—Any finding or recommendation included in the report shall be agreed to by at least ⅔ of the members of the Committee serving at the time the finding or recommendation is made.

(3) INTERNET POSTING.—The Election Administration Commission shall post the report transmitted under paragraph (1) on the Internet website established under section 303(a)(5).

SEC. 323. POWERS OF THE COMMITTEE.

(a) HEARINGS.—

(1) IN GENERAL.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out this subtitle.

(2) OPPORTUNITIES TO TESTIFY.—The Committee shall provide opportunities for representatives of the general public, State and local government officials, and other groups to testify at hearings.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out this subtitle. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(c) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—

(1) IN GENERAL.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(2) UNUSED GIFTS.—Gifts or grants not used at the expiration of the Committee shall be returned to the donor or grantor.

SEC. 324. COMMITTEE PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Committee shall serve without compensation.

(b) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional

personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(2) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Committee who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMITTEE.—Subparagraph (A) shall not be construed to apply to members of the Committee.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 325. TERMINATION OF THE COMMITTEE.

The Committee shall terminate 90 days after the date on which the Committee transmits its report under section 322(b)(1).

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle not less than $2,000,000 from the funds appropriated under section 307.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this subtitle shall remain available, without fiscal year limitation, until expended.

TITLE IV—UNIFORMED SERVICES ELECTION REFORM

SEC. 401. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) by striking "Each State" and inserting "(a) IN GENERAL.—Each State"; and

(2) by adding at the end the following:

"(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

"(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

"(A) solely on the grounds that the ballot lacked—

"(i) a notarized witness signature;

"(ii) an address (other than on a Federal write-in absentee ballot, commonly known as 'SF186');

"(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

"(iv) an overseas postmark; or

"(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

"(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 402. MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.

(a) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 401(a) of this Act and section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) in paragraph (3), by striking "and" after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

"(6) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

"(A) has registered to vote under this section; and

"(B) is eligible to vote in that election under State law.".

(b) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

"(7) The term 'recently separated uniformed services voter' means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

"(A) presents to the election official Department of Defense form 214 evidencing their former status as such a voter, or any other official proof of such status;

"(B) is no longer such a voter; and

"(C) is otherwise qualified to vote in that election.";

(3) by redesignating paragraph (10) (as redesignated by paragraph (1)) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

"(10) The term 'uniformed services voter' means—

"(A) a member of a uniformed service in active service;

"(B) a member of the merchant marine; and

"(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 403. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) IN GENERAL.—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

"(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 404. DISTRIBUTION OF FEDERAL MILITARY VOTER LAWS TO THE STATES.

Not later than the date that is 60 days after the date of enactment of this Act, the Secretary of Defense (in this section referred to as the "Secretary"), as part of any voting assistance program conducted by the Secretary, shall distribute to each State (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6) enough copies of the Federal military voting laws (as identified by the Secretary) so that the State is able to distribute a copy of such laws to each jurisdiction of the State.

SEC. 405. EFFECTIVE DATES.

Notwithstanding the preceding provisions of this title, each effective date otherwise provided under this title shall take effect 1 day after such effective date.

SEC. 406. STUDY AND REPORT ON PERMANENT REGISTRATION OF OVERSEAS VOTERS; DISTRIBUTION OF OVERSEAS VOTING INFORMATION BY A SINGLE STATE OFFICE; STUDY AND REPORT ON EXPANSION OF SINGLE STATE OFFICE DUTIES.

(a) STUDY AND REPORT ON PERMANENT REGISTRATION OF OVERSEAS VOTERS.—

(1) STUDY.—The Election Administration Commission established under section 301 (in this subsection referred to as the "Commission"), shall conduct a study on the feasibility and advisability of providing for permanent registration of overseas voters under section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1279) and this title.

(2) REPORT.—The Commission shall submit a report to Congress on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

(b) DISTRIBUTION OF OVERSEAS VOTING INFORMATION BY A SINGLE STATE OFFICE.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278) and the preceding provisions of this title, is amended by adding at the end the following new subsection:

"(c) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN THE STATE.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and

overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.".

(c) STUDY AND REPORT ON EXPANSION OF SINGLE STATE OFFICE DUTIES.—

(1) STUDY.—The Election Administration Commission established under section 301 (in this subsection referred to as the "Commission"), shall conduct a study on the feasibility and advisability of making the State office designated under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (b)) responsible for the acceptance of valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from each absent uniformed services voter or overseas voter who wishes to register to vote or vote in any jurisdiction in the State.

(2) REPORT.—The Commission shall submit a report to Congress on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SEC. 407. REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

"(d) REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.—Not later than 120 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government that administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Administration Commission (established under the Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2002) on the number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the number of such ballots that were returned by such voters and cast in the election, and shall make such report available to the general public.".

(b) DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.—The Election Administration Commission shall develop a standardized format for the reports submitted by States and units of local government under section 102(d) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

SEC. 408. OTHER REQUIREMENTS TO PROMOTE PARTICIPATION OF OVERSEAS AND ABSENT UNIFORMED SERVICES VOTERS.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

"(e) REGISTRATION NOTIFICATION.—With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.".

SEC. 409. STUDY AND REPORT ON THE DEVELOPMENT OF A STANDARD OATH FOR USE WITH OVERSEAS VOTING MATERIALS.

(a) STUDY.—The Election Administration Commission established under section 301 (in this section referred to as the "Commission"), shall conduct a study on the feasibility and advisability of—

(1) prescribing a standard oath for use with any document under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq) affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury; and

(2) if the State requires an oath or affirmation to accompany any document under such Act, to require the State to use the standard oath described in paragraph (1).

(b) REPORT.—The Commission shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SEC. 410. STUDY AND REPORT ON PROHIBITING NOTARIZATION REQUIREMENTS.

(a) STUDY.—The Election Administration Commission established under section 301 (in this section referred to as the "Commission"), shall conduct a study on the feasibility and advisability of prohibiting a State from refusing to accept any voter registration application, absentee ballot request, or absentee ballot submitted by an absent uniformed services voter or overseas voter on the grounds that the document involved is not notarized.

(b) REPORT.—The Commission shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

TITLE V—CRIMINAL PENALTIES; MISCELLANEOUS

SEC. 501. REVIEW AND REPORT ON ADEQUACY OF EXISTING ELECTORAL FRAUD STATUTES AND PENALTIES.

(a) REVIEW.—The Attorney General shall conduct a review of existing criminal statutes concerning election offenses to determine—

(1) whether additional statutory offenses are needed to secure the use of the Internet for election purposes; and

(2) whether existing penalties provide adequate punishment and deterrence with respect to such offenses.

(b) REPORT.—The Attorney General shall submit a report to the Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Rules and Administration, and the House Committee on Administration on the review conducted under subsection (a) together with such recommendations for legislative and administrative action as the Attorney General determines appropriate.

SEC. 502. OTHER CRIMINAL PENALTIES.

(a) CONSPIRACY TO DEPRIVE VOTERS OF A FAIR ELECTION.—Any individual who knowingly and willfully gives false information in registering or voting in violation of section 11(c) of the National Voting Rights Act of 1965 (42 U.S.C. 1973i(c)), or conspires with another to violate such section, shall be fined or imprisoned, or both, in accordance with such section.

(b) FALSE INFORMATION IN REGISTERING AND VOTING.—Any individual who knowingly commits fraud or knowingly makes a false statement with respect to the naturalization, citizenry, or alien registry of such individual in violation of section 1015 of title 18, United States Code, shall be fined or imprisoned, or both, in accordance with such section.

SEC. 503. USE OF SOCIAL SECURITY NUMBERS FOR VOTER REGISTRATION AND ELECTION ADMINISTRATION.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraph:

"(I)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any voter registration or other election law, use the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is, or appears to be, so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if such individual has more than one such number) issued to such individual by the Commissioner of Social Security.

"(ii) For purposes of clause (i), an agency of a State (or political subdivision thereof) charged with the administration of any voter registration or other election law that did not use the social security account number for identification under a law or regulation adopted before January 1, 2002, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in such clause.

"(iii) If, and to the extent that, any provision of Federal law enacted before the date of enactment of the Equal Protection of Voting Rights Act of 2002 is inconsistent with the policy set forth in clause (i), such provision shall, on and after the date of the enactment of such Act, be null, void, and of no effect.".

(b) CONSTRUCTION.—Nothing in this section may be construed to supersede any privacy guarantee under any Federal or State law that applies with respect to a social security number.

SEC. 504. DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.

(a) RESPONSIBILITIES OF SECRETARY OF DEFENSE.—

(1) ADDITIONAL DUTIES.—Section 1566(g) of title 10, United States Code, as added by section 1602(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1274), is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by striking paragraph (2) and inserting the following new paragraphs:

"(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall ensure that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for Federal office is held.

"(3) The Secretary of each military department shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.".

(2) REPORT.—The Secretary of Defense shall submit to Congress a report describing the measures to be implemented under section 1566(g)(2) of title 10, United States Code (as added by paragraph (1)), to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in

section 1602 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1274) upon the enactment of that Act.

SEC. 505. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) Registration and Balloting.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1278), is amended—

(1) by inserting "(a) Elections for Federal Offices.—" before "Each State shall—"; and

(2) by adding at the end the following:

"(b) Elections for State and Local Offices.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

*(b) Conforming Amendment.—The heading for title I of such Act is amended by striking "**FOR FEDERAL OFFICE**".*

SEC. 506. SENSE OF THE SENATE REGARDING STATE AND LOCAL INPUT INTO CHANGES MADE TO THE ELECTORAL PROCESS.

(a) Findings.—Congress finds the following:

(1) Although Congress has the responsibility to ensure that our citizens' right to vote is protected, and that votes are counted in a fair and accurate manner, States and localities have a vested interest in the electoral process.

(2) The Federal Government should ensure that States and localities have some say in any election mandates placed upon the States and localities.

(3) Congress should ensure that any election reform laws contain provisions for input by State and local election officials.

(b) Sense of the Senate.—It is the sense of the Senate that the Department of Justice and the Committee on Election Reform should take steps to ensure that States and localities are allowed some input into any changes that are made to the electoral process, preferably through some type of advisory committee or commission.

SEC. 507. STUDY AND REPORT ON FREE ABSENTEE BALLOT POSTAGE.

(a) Study on the Establishment of a Free Absentee Ballot Postage Program.—

(1) In general.—The Election Administration Commission established under section 301 shall conduct a study on the feasibility and advisability of the establishment by the Federal Election Commission and the Postal Service of a program under which the Postal Service shall waive the amount of postage applicable with respect to absentee ballots submitted by voters in general elections for Federal office (other than balloting materials mailed under section 3406 of title 39, United States Code) that does not apply with respect to the postage required to send the absentee ballots to voters.

(2) Public survey.—As part of the study conducted under paragraph (1), the Election Administration Commission shall conduct a survey of potential beneficiaries under the program described in such paragraph, including the elderly and disabled, and shall take into account the results of such survey in determining the feasibility and advisability of establishing such a program.

(b) Report.—

(1) Submission.—Not later than the date that is 1 year after the date of enactment of this Act, the Election Administration Commission shall submit to Congress a report on the study conducted under subsection (a)(1) together with recommendations for such legislative and administrative action as the Commission determines appropriate.

(2) Costs.—The report submitted under paragraph (1) shall contain an estimate of the costs of establishing the program described in subsection (a)(1).

(3) Implementation.—The report submitted under paragraph (1) shall contain an analysis of the feasibility of implementing the program described in subsection (a)(1) with respect to the absentee ballots submitted in the general election for Federal office held in 2004.

(4) Recommendations regarding the elderly and disabled.—The report submitted under paragraph (1) shall—

(A) include recommendations of the Federal Election Commission on ways that program described in subsection (a)(1) would target elderly individuals and individuals with disabilities; and

(B) identify methods to increase the number of such individuals who vote in elections for Federal office.

(c) Postal Service Defined.—The term "Postal Service" means the United States Postal Service established under section 201 of title 39, United States Code.

SEC. 508. HELP AMERICA VOTE COLLEGE PROGRAM.

(a) Establishment of Program.—

(1) In general.—Not later than 1 year after the appointment of its members, the Election Administration Commission (in this section referred to as the "Commission") shall develop a program to be known as the "Help America Vote College Program" (in this section referred to as the "Program").

(2) Purposes of program.—The purpose of the Program shall be—

(A) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and

(B) to encourage State and local governments to use the services of the students participating in the Program.

(b) Activities Under Program.—

(1) In general.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in subsection (a)(2).

(2) Requirements for grant recipients.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(3) Coordination with institutions of higher education.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

(c) Authorization of Appropriations.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each succeeding fiscal year.

SEC. 509. RELATIONSHIP TO OTHER LAWS.

(a) In General.—Except as specifically provided in section 103(b) of this Act with regard to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), nothing in this Act may be construed to authorize or require conduct prohibited under the following laws, or supersede, restrict, or limit such laws:

(1) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(3) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(4) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(5) The Americans with Disabilities Act of 1990 (42 U.S.C. 1994 et seq.).

(6) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(b) No Effect on Preclearance or Other Requirements Under Voting Rights Act.—The approval by the Attorney General of a State's application for a grant under title II, or any other action taken by the Attorney General or a State under such title, shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) or any other requirements of such Act.

SEC. 510. VOTERS WITH DISABILITIES.

(a) Findings.—Congress makes the following findings:

(1) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) requires that people with disabilities have the same kind of access to public places as the general public.

(2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) requires that all polling places for Federal elections be accessible to the elderly and the handicapped.

(3) The General Accounting Office in 2001 issued a report based on their election day random survey of 496 polling places during the 2000 election across the country and found that 84 percent of those polling places had one or more potential impediments that prevented individuals with disabilities, especially those who use wheelchairs, from independently and privately voting at the polling place in the same manner as everyone else.

(4) The Department of Justice has interpreted accessible voting to allow curbside voting or absentee voting in lieu of making polling places physically accessible.

(5) Curbside voting does not allow the voter the right to vote in privacy.

(b) Sense of Congress.—It is the sense of Congress that the right to vote in a private and independent manner is a right that should be afforded to all eligible citizens, including citizens with disabilities, and that curbside voting should only be an alternative of the last resort in providing equal voting access to all eligible American citizens.

SEC. 511. ELECTION DAY HOLIDAY STUDY.

(a) In General.—In carrying out its duty under section 303(a)(1)(G), the Commission, within 6 months after its establishment, shall provide a detailed report to the Congress on the advisability of establishing an election day holiday, including options for holding elections for Federal offices on an existing legal public holiday such as Veterans Day, as proclaimed by the President, or of establishing uniform weekend voting hours.

(b) Factors Considered.—In conducting that study, the Commission shall take into consideration the following factors:

(1) Only 51 percent of registered voters in the United States turned out to vote during the November 2000 Presidential election—well-below

the worldwide turnout average of 72.9 percent for Presidential elections between 1999 and 2000. After the 2000 election, the Census Bureau asked thousands of non-voters why they did not vote. The top reason for not voting, given by 22.6 percent of the respondents, was that they were too busy or had a conflicting work or school schedule.

(2) One of the recommendations of the National Commission on Election Reform led by former President's Carter and Ford is "Congress should enact legislation to hold presidential and congressional elections on a national holiday". Holding elections on the legal public holiday of Veterans Day, as proclaimed by the President and observed by the Federal Government or on the weekends, may allow election day to be a national holiday without adding the cost and administrative burden of an additional holiday.

(3) Holding elections on a holiday or weekend could allow more working people to vote more easily, potentially increasing voter turnout. It could increase the pool of available poll workers and make public buildings more available for use as polling places. Holding elections over a weekend could provide flexibility needed for uniform polling hours.

(4) Several proposals to make election day a holiday or to shift election day to a weekend have been offered in the 107th Congress. Any new voting day options should be sensitive to the religious observances of voters of all faiths and to our Nation's veterans.

SEC. 512. SENSE OF THE SENATE ON COMPLIANCE WITH ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.

It is the sense of the Senate that full funding shall be provided to each State and locality to meet the requirements relating to compliance with election technology and administration pursuant to this Act.

SEC. 513. BROADCASTING FALSE ELECTION INFORMATION.

In carrying out its duty under section 303(a)(1)(G), the Commission, within 6 months after its establishment shall provide a detailed report to the Congress on issues regarding the broadcasting or transmitting by cable of Federal election results including broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

SEC. 514. SENSE OF THE SENATE REGARDING CHANGES MADE TO THE ELECTORAL PROCESS AND HOW SUCH CHANGES IMPACT STATES.

It is the sense of the Senate that—

(1) the provisions of this Act shall not prohibit States to use curbside voting as a last resort to satisfy the voter accessibility requirements under section 101(a)(3);

(2) the provisions of this Act permit States—

(A) to use Federal funds to purchase new voting machines; and

(B) to elect to retrofit existing voting machines in lieu of purchasing new machines to meet the voting machine accessibility requirements under section 101(a)(3);

(3) nothing in this Act requires States to replace existing voting machines;

(4) nothing under section 101(a) of this Act specifically requires States to install wheelchair ramps or pave parking lots at each polling location for the accessibility needs of individuals with disabilities; and

(5) the Election Administration Commission, the Attorney General, and the Architectural and Transportation Barriers Compliance Board should recognize the differences that exist between urban and rural areas with respect to the administration of Federal elections under this Act.

Amend the title so as to read: "An Act to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes.".

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I ask unanimous consent to speak for up to 20 minutes on the energy bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator may proceed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. ALLEN. Mr. President, I rise today to discuss the much needed energy security legislation that is before the Senate.

This week, at the very moment we debate this very important landmark legislation, we are seeing a confluence of factors in our energy supply and demand that amounts to what one might call the "perfect storm."

There have been few other times in the history of our nation where we have seen such a stark demonstration that our national security interests are synonymous with our energy security. And here are—in this "perfect storm"—the various storm fronts that are coming together and colliding to produce some very ominous results for the American people, their families, and small businesses.

The travel season is heading into its annual peak as more and more Americans hit the road, and those numbers are higher than usual because of people's fear of flying or the aggravation, the stress of commercial air travel due to security concerns and desires.

Refineries are also beginning their annual changeover from winter fuels to specially formulated, cleaner burning summer fuels that cost more to produce. Those increased costs at refineries, that are already running at near capacity, will be passed on to the American consumer.

In recent weeks, the Israelis have taken strong action to defend themselves from the escalating growth of heinous suicide bombings in Israel.

In response to all of this, the dictator of Iraq, Saddam Hussein, has pledged to embargo Iraq's oil exports for 30 days or until Israel withdraws from Palestinian territories.

The Associated Press quoted Saddam as saying:

> The oppressive Zionist and American enemy has belittled the capabilities of the [Arab] nation.

Combine all of these factors together, and the price of gasoline has increased about 25 cents a gallon in just the last few weeks. This is the sharpest increase in a 4-week period since the year 1990, right before the gulf war.

The price of a barrel of oil has risen to about $26 a barrel as of yesterday, and many projections indicate the price will spike to more than $30 a barrel.

The problem is one of basic economics that a fourth grade student in Virginia would understand, or as the Presiding Officer would certainly agree, a fourth grade student in West Virginia as well. I hope that the Senate also understands this very basic, simple matter of high demand and inadequate supply. Even as the demand for oil is rising, supply is constrained this year because the nations in OPEC have cut production since the end of the year 2000 by a total of about 5 million barrels of oil per day.

The result is financial hardship for families and enterprises that pay more out of pocket for their basic transportation needs. It is a loaded weapon aimed at our economy, which appears to be moving slowly on the road to recovery.

I wholeheartedly support a balanced energy policy, including conservation and new, advanced technologies, such as hydrogen-fuel-cell-powered vehicles, electric vehicles, hybrid vehicles, and clean coal technology. We are the "Saudi Arabia of coal." I know the Chair shares my desire in working for clean coal technologies—and also solar photovoltaic technology.

But at the same time, we must increase our American-based production to become less reliant and dependent on foreign sources of oil.

Rising tensions in the Middle East will further increase our prices at the gas pump, damage job opportunities, and take more money from working people. This increased cost in fuel will ultimately cause an increase in the cost of goods and products, 95 percent of which come by truck to some store or directly to your home.

Please be aware that the United States continues to import nearly 1 million barrels a day from Saddam Hussein. This is the same man who turns around and compensates the families of suicide bombers at a rate of $25,000. You could say that the compensation for 1 murderer is equivalent to about 900 barrels of oil that the United States and other nations buy from Saddam Hussein. We can no longer afford to let Saddam Hussein quite literally put us over the barrel.

At a time when Iraq is calling for an OPEC embargo on oil sales to America, environmentally safe production in a small and desolate place on the barren Arctic Plain on the North Slope of Alaska could alone replace more than 35 years of Iraqi oil imports. The potential is enormous for large oil reserves relatively near that of the current production at Prudhoe Bay—about 16 billion barrels. Conservative estimates state that ANWR has more oil than all of Texas.

I read that the Senator from Connecticut yesterday said it would take 10 years to get oil flowing from the North Slope of Alaska and this ANWR area. Let's assume it would take 10 years. Maybe this decision should have been made 10 years ago. Indeed, this Senate, in 1995, as well as the House, passed exploration permission legislation in 1995. Unfortunately, that legislation and that permission to explore ANWR was vetoed by the President in 1995. If that had not been vetoed, that oil would be flowing and we would not have as great a dependence on foreign oil, much less Saddam Hussein.

Also, there are groups of opponents. Many of those groups were also the opponents who were against the Prudhoe Bay production several decades ago. Thank goodness, reason and security prevailed and we are getting oil through the pipeline from Prudhoe Bay.

The reality is, with the infrastructure and the Trans-Alaska Pipeline less than about 50 miles away, just a few years of work are needed to get oil flowing from ANWR. The pipeline is already built. We just need to get that 50 mile span built from Prudhoe Bay to the exploration site at ANWR. It is not quite the magnitude of a project back in the 1970s.

The amount of oil we will be getting from there is about the same as what we could replace from 30 years of Saudi Arabian imports. And on top of it all, there are estimates—I will admit this is on the high side—of the creation of as many as 735,000 new jobs. The estimated oil at ANWR is valued at more than $300 billion, which could replace a large portion of foreign oil imports and clearly create hundreds of thousands of jobs for our economy.

Again, the North Slope of Alaska, the Arctic Plain, or ANWR, is not some mountainous, beautiful sanctuary. It is a flat, barren, cold, inhospitable place, and the small local population nearby is virtually unanimous in its desire to see the utilization of the resources beneath that frozen tundra. As it is very nearby, and similar to Prudhoe Bay, and as has been seen from studies, there will be no adverse impact on caribou or mosquitoes, which are plentiful in the summer, or other flora and fauna.

I support environmentally responsible exploration and production at ANWR to help at least ameliorate our dependence on OPEC. The announcement of curtailed exports by Iraq should remind us more than ever that our economy and national security will remain bound together as long as we allow tyrants and despots to control our destiny.

In addition to the Middle East, the political dispute in Venezuela has left their oil industry crippled as labor groups have staged a nationwide strike.

Simply put, we are entirely too dependent on foreign oil and we must expand our domestic production. We must also improve our energy security by identifying and developing new energy opportunities. Diversification of energy supplies is basic to our comprehensive national energy policy. We should encourage new, cooperative trade arrangements and new resources in willing prospects throughout the world.

All of these initiatives, discussions, and cooperative efforts are aimed at fulfilling just one part of our national energy policy, which is the diversification of our international sources of supply.

A commonsense, comprehensive, long-term energy plan will get us off this roller coaster of restrictive supply and demand that we have ridden for the past several decades. We must not allow the Saddam Husseins of the world to jerk us around and actually run that roller coaster.

President Bush's energy plan is comprehensive. It combines conservation and incentives for the development of alternative energy sources. I look forward to voting for tax incentives for alternative-fueled vehicles. It also includes increased domestic production. An energy policy without all of these components will not be effective.

We have a responsibility to the American people to address these challenges head on. If you think the situation is dire today, take a look just a short time from now into the future. Over the next 20 years, U.S. oil consumption is projected to increase by 33 percent and demand for electricity is projected to increase by 45 percent. Our dependence on foreign sources of oil will grow from 55 percent today to 64 percent by the year 2020. This compares to just 42 percent from foreign sources less than 10 years ago.

Clearly, we can see that something must be done, and soon. I am committed to working for commonsense solutions based upon sound science and the best available technologies so that all Americans can have affordable, reliable access to energy to fuel our motor vehicles, our homes, our farm operations, and our business operations across America.

I am also committed to making fuller use of the resources we have within our own borders in States that are supportive. While there may be oil off the coast of California, the people of California are opposed to oil development off their coast. Therefore, I respect their desires and would not support oil exploration off California.

In Alaska, Republicans, Democrats, Eskimos, Indians, all people are overwhelmingly in favor of production in ANWR.

There are other groups that support production on the North Slope of Alaska—groups such as the Vietnam Veterans Institute. I quote from them:

> War and international terrorism have again brought into sharp focus the heavy reliance of the U.S. on imported oil. During these times of crises, such reliance threatens our national security and economic well-being. . . . It is important that we develop domestic sources of oil.

Organized labor. This is from Jerry Hood of the International Brotherhood of Teamsters:

> America has gone too long without a solid energy plan. When energy costs rise, working families are the first to feel the pinch. The Senate should follow the example passed by the House and ease the burden by sending the President supply-based energy legislation to sign.

The Hispanic community. I quote from Mario Rodriguez, president of the United States-Mexico Chamber of Commerce:

> We urge the Senate leadership to pass comprehensive energy legislation. This is not a partisan issue. Millions of needy Hispanic families need your support now.

From Jewish organizations, Mort Zuckerman, chairman of the Conference of Presidents of Major American Jewish Organizations:

> The [Conference] at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil.

African-American groups. Harry Alford, chairman of the National Black Chamber of Commerce, states:

> Our growing membership reflects the opinion of more and more Americans all across the political spectrum that we must act now to end our dependence on foreign energy sources by addressing the nation's long-neglected energy needs.

And Bruce Josten of the U.S. Chamber of Commerce stated:

> The events of September 11 lend a new urgency to our efforts to increase domestic energy supplies and modernize our nation's energy infrastructure.

The point of all this is that it has broad, bipartisan support across the country, not just in Alaska. I also add that this is not simply a matter of our economic security our physical security is also at stake.

I challenge my colleagues to join Americans in this effort. Let's make America the most technologically advanced nation in the world for new sources of energy to propel our motor vehicles and to provide clean, efficient electricity. Let's also make sure we are less dependent upon unpredictable and, in some cases, threatening foreign sources of oil. Let's control our own destiny more than we have in the past. Let's move forward united for America's bright future.

Thank you Mr. President and I yield the floor.

The PRESIDING OFFICER. The Chair heard a clap from the gallery. Those here now, or at any time in the future, if that occurs again, they will be removed by the Sergeant at Arms under the rules of the Senate. That is not allowed and will not be tolerated.

The Senator from Nebraska is recognized.

AMENDMENT NO. 3114

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent to speak for up to 15 minutes in conjunction with my opposition to the Feinstein amendment, which has been introduced on the energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Mr. President, this amendment and other California amendments are outside the agreement and would negatively impact the renewable fuels standard contained in the bill. While I generally respect and certainly admire my colleagues from California, who are joined by my colleagues from New York in this particular situation, I must depart from their point of view and take this opportunity to explain that the facts do not support their amendment.

The renewable fuels standard is the culmination of 20 years of sound public policy. We have all worked at the State, local, and Federal levels to make sure we have brought together the best kind of public policy for energy as it relates to renewable fuels. This standard will almost triple production of biofuels over the next 10 years. The RFS, as it is known, will accelerate the biorefinery concept so that a wide range of cellulosic biomass feedstocks will cost-effectively be converted into biofuels, bioelectricity, and biochemicals.

Enactment of the RFS, along with other provisions in this bill, will emphasize new sources of energy production from biomass to wind power, as well as conservation, to further reduce our dependence upon foreign sources of energy. As the previous speaker, my colleague, Senator ALLEN, pointed out, this 100-year-old reliance on fossil fuels and on fuels from unstable parts of the world has put us in a position of instability. So this RFS is essential in helping us reverse this 100-year-old reliance on fossil fuels and on unstable governments. Enactment of this bill will strengthen national and energy security and improve our environment at the same time.

If you will look at this poster, according to a recent study conducted by AUS Consultants, adoption of the RFS will:

> . . . displace 1.6 billion barrels of oil over the next decade; reduce our trade deficit by $34.1 billion; it will increase new investments in rural communities by more than $5.3 billion—and this is all domestic, all money that will inure to the benefit of Americans. It will also boost the demand for feedgrains and soybeans by more than 1.5 billion bushels over the next decade; it will create more than 214,000 new jobs throughout the U.S. economy, and it will expand household income by an additional $51.7 billion over the next decade.

These days, we are witnessing substantial increases in gasoline prices at the pump because of disruption and turmoil in the Middle East. Gasoline prices are not going up because we are using ethanol; they are rising because we are not using enough ethanol. Over the next 10 years, the renewable fuels standard in S. 517 would increase United States gasoline supplies to 5 billion gallons per year in 2012, slightly less than the volume of crude oil we currently import from Iraq. That will come from the addition of these biofuels that will come from the renewable fuels standard. It will be bad public policy for us to eliminate the existing oxygenate standard without replacing it with the renewable fuels standard. That is exactly what S. 517 does.

I congratulate California Governor Gray Davis for his support of the RFS section of S. 517. He recently declared:

> Let's let the Daschle bill pass, have a nice schedule that will affect the entire country, phase in ethanol and protect the environment.

He also said:

> All we need to do is use about 250 or 275 million gallons of ethanol, which we already do and are prepared to do in the future.

Governor Davis recently delayed his ban on MTBE in California for 1 year, coinciding with the initiation of the renewable fuels standard, RFS, and his acceptance of that RFS package is the best option to meet California's current and certainly its future gasoline needs. This, in large part, is due to the fact that a Federal RFG with an MTBE ban would require about 700 million gallons of ethanol annually in California.

The next alternative would be a program to eliminate the current minimum oxygen standard, a ban on MTBE, and retain the existing wintertime carbon monoxide program using ethanol. This would require about 500 million gallons of ethanol annually.

In contrast, the Daschle-Lugar-Nelson RFS requires California refiners to use only about 250 million gallons of ethanol annually.

Finally, the RFS provision contained in the bill allows "credit training," which provides the option of reducing California's ethanol use to zero, with a cost of less than 2 cents per gallon.

Lest anyone thinks this is somehow a plan or decision by the States in the Midwest to support their own economies to the detriment of economies elsewhere, Governor Pataki from New York, and Governor Shaheen of New Hampshire, representing the Northeast States for Coordinated Air Use Management, and other Governors belonging to the Governors' Ethanol Coalition, have also signed a joint letter supporting the renewable fuels standards. These are Governors from all over the country.

I also remind my colleagues that the RFS agreement was unprecedented in that it was accepted through the extensive and cooperative work of the ethanol and biodiesel industries, their associations, most farm and agricultural groups, the environmental and renewable energy communities, and the American Petroleum Institute.

All of us, each and every one of us, is aware of how dangerously close we are to an overdependence on imported oil. As Senator ALLEN said, currently we are over 56 percent dependent on foreign sources, and it will rise to over 60 percent in the very near future.

Too many of these supplies come from troubled nations in the Middle East, the Caspian Basin, and Indonesia where almost 80 percent of the world's reserves are located.

As our colleague from North Dakota, Senator DORGAN, warned recently, we must recognize this vulnerability because it also extends to the potential of terrorist attacks on oil supply lines. An attack on our oil supply lines anywhere in the world would have us on our backs overnight.

The RFS is critical to the process of reducing our dependence on oil imports through the advancement of domestically dispersed renewable and environmentally benign technologies that will generate new industries, high-quality jobs, economic activity, and rural development, while at the same time expanding national and local tax bases. This is, in fact, a win-win for everyone in America.

Ethanol opponents claim that it takes more energy to make ethanol than is contained in the fuel. This is simply not the case. The most recent USDA report shows an increase in the net energy balance of corn ethanol from 1.24 in 1995 to 1.34 in 2002, and that new technologies continue that improvement. Furthermore, only 17 percent of the energy that goes into farming and ethanol plant operations is from liquid fuels, and with the advent of biodiesel and advanced farming practices, this number continues to drop and will continue to do so into the future.

Some opponents also claim that the price of gasoline could double. The issue of consumer cost is clearly important to all sectors of our Nation, certainly to the Midwest as well as to the West and the East. But historically, ethanol serves as a buffer to higher prices. It does so by actually extending supplies. It provides an alternative to costly imported oil and leverage for independent gasoline marketers to compete against the larger, more powerful integrated oil companies.

According to the Society of Independent Gasoline Marketers of America:

> The Federal benefits afforded ethanol-blended fuels have been an important procompetitive influence on the Nation's gasoline markets. By enhancing the ability of independent marketers to price compete with their integrated oil company competitors, this program has increased independent marketers' economic viability and reduced consumers' costs of gasoline.

On April 8 in Los Angeles, San Francisco, and the New York metropolitan areas, the price of ethanol-blended premium midgrade and regular ranged from .0133 to .0327 cents per gallon. So availability is not going to be a problem and neither is price.

Today and into the near future, ethanol will be in abundant supply because of market conditions and all the new plants that will be coming online.

This chart shows the past, present, and predicted growth of the ethanol capacity, and one can see that as it goes into this new century, the incline is rather steep. Some worry about ADM's control over the market and their ability to control prices, but their influence is dissipating, being replaced by farmer, rancher, and community-owned plants. It is not concentrated within only one industry or within one producer. It is widely spread out over all kinds of operations, from the small to the medium size to the large.

To attack some other myths, there are some claims that ethanol does not contribute to cleaner air, and that is not true. There is no question that ethanol blends reduce carbon monoxide and carbon dioxide, but most areas with polluted air are worried about ozone.

The good news is that 3 years of clean air quality data in the Chicago/Milwaukee area show that it is possible to effectively reduce ozone emissions while using ethanol blends. These blends also reduce air toxins, such as the carcinogen benzene.

The defeat of the renewable fuels standard in S. 517 would be a great loss to the national energy and economic security of the United States. The real tragedy would be a further loss to the Europeans as they advance their biorefinery technology to produce biofuels, bioelectricity, and biochemicals from a wide range of biomass, including much of which is wasted or ends up in landfills.

If there is a myth that somehow this is going to simply affect our food supply by providing alternative use, it is very clear to understand that ethanol can be made from any kind of biomass, including that which is waste, that which is garbage, that which is discarded and ends up in landfills.

As technology continues to increase, we will have more and more sources for a renewable resource that will come from those production sources that currently have other means of disposal. Unfortunately, some of them are disposed only in landfills.

The RFS provides a credit of 1.5 for biofuels made from cellulosic biomass, oilseeds, tallow, animal fat, and yellow grease compared to 1 credit for ethanol made from starch and sugar crops; that is, every gallon of these fuels is equal to 1.5 gallons in meeting the renewable fuels standards. In fact, it does go to other kinds of biomass. Consequently, the RFS will provide the stimulus and the market for biofuels needed to produce the next generation of biorefineries.

In the past, it has always been the question of how you can create the demand or whether you create the supply and hope, in fact, it will create the demand. This bill with the RFS in it creates both the demand and the opportunity and the incentive for more supplies in a cost-effective and a very environmentally friendly and very economic friendly manner.

During my two terms as Governor, I watched firsthand as the private sector invested hundreds of millions of dollars in new community-based ethanol plants. We went from one operating plant to more than seven when I left, and there continues to be more plants built around the State and a great deal of interest in further expanding the plants, depending on the passage of S. 517.

These investments occurred primarily in response to the demand created by the Clean Air Act's oxygenate requirements. Not one of those plants is owned by AD in Nebraska. Farmers and ranchers own most of them.

The ethanol industry in Nebraska has been one of the few bright spots in an otherwise underperforming agricultural economy, thereby creating quality jobs, increasing farm income, and, in some instances, maybe providing the only farm income by adding value to farmers' products and expanding local tax bases.

This is, in fact, sound public policy, and we should be doing more, not less, of it. If we are going to eliminate the oxygen requirement that has been proposed, then we must be sure to put in its place the renewable fuels standard in S. 517. The RFS is sound public policy. The provision will increase gasoline supplies and consequently serve to lower gasoline prices. It will have a positive impact on the Farm Belt economy and also reduce energy costs for other areas of the country. This is truly a national plan to control costs, spur economic activity, and reduce our dependence on foreign oil.

I ask my colleagues to vote to preserve the historic agreement manifested in the RFS. To do otherwise will certainly face us in the wrong direction, a step backwards, into deeper dependence on imported oil.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. If I still have time left, I am happy to use it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, earlier today, my colleagues from California and New York quoted extensively from an Energy Information Agency report which they said indicated the RFS would result in gasoline price increases from 4 cents to almost 10 cents per gallon.

We have read this report, and it is difficult for us to understand how they arrived at those cost figures when our reading of the report sets the increase at prices up to 1 cent per gallon for reformulated gasoline and up to a half a cent per gallon compared to the referenced case. This is with the reformulated fuel standard without the MTBE ban.

When there is an MTBE ban, there would then be a greater demand for gasoline that would drive prices up. The availability of ethanol to add volume as an additive and boost octane would put downward pressure on prices, which is what has been shown elsewhere in the country. So we are at a loss as to how that was arrived at.

There also was a suggestion there might be the possibility that ethanol-blended gasoline could extend the benzene plume and contaminate the ground water in the event of leaking tanks or spills.

Nebraska is the home of ethanol. It was first called, gasohol. It has been used extensively for the past 20 years. I have used it for as long as I can recall. There is absolutely no evidence of benzene-contaminated water supplies resulting from the use of ethanol in Nebraska, and we are not aware of anywhere else where ethanol has been used extensively or even modestly where there has been an increase in benzene.

It is going to boost the octane of gasoline, and I think most people looking at science will conclude it permits the reduction of aromatics, including benzene. We found that ethanol-blended gasoline in Nebraska has considerably less aromatics than unblended gasoline, and we do not understand nor do we follow the logic or the facts that have been presented.

I think it is important to consider the fact we must, indeed, reduce our reliance on foreign sources of oil, and we must, in fact, expand the opportunity for renewable resources so we are not reliant on foreign sources of oil. When we can do this in an environmentally friendly way, and at the same time have the economics of the country advanced, it seems only too sound of logic to conclude we should go the other way. We must, in fact, move forward with the RFS.

So I call on those who would have other information to return and let us debate the issue on the facts as they are.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I wish to speak on the Feinstein amendment for up to 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, in the wake of September 11, America and the rest of the free world now face dramatic new challenges as certainly evidenced by our Secretary of State being in the Middle East today. There are serious consequences to these great challenges. Energy independence is one of these challenges.

Today, less than 1 percent of America's transportation fuel comes from renewable sources. In the energy bill we are debating today renewable fuel would increase to approximately 3 percent of our total transportation fuel supply by 2012.

A few weeks ago, the Senate approved the renewable portfolio standard for electricity which mandates that 10 percent of all electricity must come from certain renewable sources. I note that my colleagues from California and New York in particular voted in favor of that renewable electricity mandate which the Department of Energy has estimated will cost the ratepayers of America about $88 billion through 2020.

I note also that my colleagues from California and New York voted for a 20-percent renewable electricity standard. Yet, as I heard this morning, they oppose a 3-percent renewable fuel standard. What is the difference between the renewable fuel standard and the renewable electricity standard?

Here is the difference.

Today, we spend about $300 million per day on foreign oil imports. We are nearing 60 percent of the total use of our oil coming from other nations. We spend $12 million a day on Iraqi oil alone—we used to. We did until Saddam Hussein announced this week that Iraq would halt its exports of oil for a month.

With Iraq capping its production, Venezuela imploding, and other producers such as Iran, Libya, and Nigeria sending very troubling signals to the world, America must develop an accountable, responsible, relevant, and workable energy policy that will replace the oil we now import with alternative fuels and renewable fuels produced here in the United States.

Despite the regional differences that sometimes arise, this renewable fuel standard is good for all America. That has been highlighted by the fact that this standard has broad bipartisan support in the Congress. It has been endorsed by a majority of Governors, Democrat and Republican; the Bush administration; agricultural and environmental groups; and the oil and gas industry.

Consider that this standard would replace 66 billion gallons—1.6 billion barrels—of foreign crude oil by 2012. It would reduce the U.S. trade deficit by as much as $34 billion.

The renewable fuel standard in the energy bill we debate today would also bring a needed boost to our economy. This single provision would create 214,000 jobs nationwide—not in the Midwest but nationwide. It would create $5.3 billion in new investment nationwide. It would increase household income by $52 billion nationwide. It would increase net farm income by $6.6 billion a year, reducing the amount spent on the farm price support program that we are now debating in a conference committee, trying to resolve the differences between the House and Senate agriculture bills. Unfortunately, since this landmark agreement was announced, the opponents of renewable fuels have distorted facts and tried to undermine our bipartisan compromise.

My colleagues from California and New York stated this morning that the renewable fuel standard would result in substantially higher prices at the gas pump. However, they fail to mention that the report by the Energy Information Administration at the Department of Energy stated that over 90 percent of any increased costs would come from the phaseout of MTBE.

They also failed to note that the recent reports by the Energy Information Administration and the GAO did not take into account the important fact that 13 States have already banned the use of MTBE. The fact is, any increased cost at the pump would be very minimal at most—perhaps a half cent a gallon—if there is an increased cost.

This standard does not require a single gallon of renewable fuel be used in any particular State or region. The additional flexibility provided by the credit trading provisions will result in much lower cost to refiners, and thus, to consumers. Renewable fuels will be used where they are most cost effective.

Others claim since renewable fuels are largely produced in the Midwest, this standard will require substantial investments in increased transportation costs. Again, not true. Ethanol has already transported cost effectively from coast to coast via barge and railcar. An analysis completed in January by the Department of Energy concluded that no major infrastructure barriers exist to expanding the U.S. ethanol industry to 5.1 billion gallons per year, which is comparable to the renewable fuel standard in the energy bill.

I also would like to point out that it is 7,666 miles direct from Baghdad to Los Angeles. It is 1,150 miles from Hastings, NE—home of two ethanol plants—to Los Angeles. If we can transport oil that we pay Saddam Hussein for from Iraq to the United States, we can surely transport ethanol across the United States cost effectively and certainly in the best security interests of our country.

Some have claimed there are not adequate supplies of renewable fuel to meet the demand created by this standard. That is not true. One look at the ethanol industry shows that it has been growing substantially in recent years. It has been growing in anticipation of the phaseout of MTBE—particularly in California.

According to the Renewable Fuels Association, 16 new ethanol plants—14 of them farmer-owned cooperatives, not big companies, which I heard this morning as well, not big companies, but individuals, small farmers banding together, small businesspeople banding together to build cooperatives—several of these expansions have been completed and new ones are being built. Thirteen additional plants are now currently under construction.

A survey conducted by the California Energy Commission concluded that the ethanol industry will have the capacity to produce 3.5 billion gallons a year by the end of 2004, and that capacity could double by the end of 2005. With the standard beginning in 2004 at 2.3 billion gallons, that means there will be an adequate amount of renewable fuel to provide the additional volume needed.

Even with those assurances, we have included in this amendment additional safeguards. If the standard is likely to result in significant adverse consumer impacts, then the EPA Administrator has the authority to reduce the volumes. Also, upon the petition of a State—any State—or by EPA's own determination, the EPA may waive the standard, in whole or in part, if it determines the standard would severely harm the economy or the environment of a State, a region, or the country.

Even more ludicrous is this claim by some who say the phaseout of MTBE will result in a shortage of fuel supplies. That is not true. Remember this agreement calls for a 4-year phaseout of MTBE.

The large expansion of the renewable fuel industry will easily cover the loss of MTBE, given this 4-year notice. As an example, in California, where polls show that more than 76 percent of the people of California support a ban on MTBE, the fuel industry is ready to make the transition from MTBE to renewable fuel. Why in the world do we think the oil companies agreed to this standard if they thought it could not be met?

All six California refiners are ready to use ethanol now, today. Both the ethanol industry and the California refining and transportation system have spent billions of dollars preparing to use ethanol.

I also keep hearing references to ethanol as an untested fuel. Ethanol has been used across this country successfully for more than 20 years. It is hardly untested. But I also note that the California Environmental Protection Agency completed a comprehensive analysis of ethanol's environmental and health impacts, giving it a clean bill of health, before approving ethanol for use as a replacement to MTBE.

Ethanol has helped the Chicago area become the only ozone nonattainment area in the country to come into compliance with the national ozone standard. Ethanol has been tested, and it has passed. And one of the reasons that Chicago has found itself in that unique position is because of its use of ethanol.

President Bush has proclaimed the promise of renewable fuels by saying recently:

> Renewable fuels are gentle on the environment, and they are made in America so they cannot be threatened by any foreign power.

As former President Clinton said during his administration:

> Ethanol production increases farm income, decreases deficiency payments, creates jobs in America, and reduces American reliance on foreign oil.

Both Presidents Clinton and Bush are absolutely right. This renewable fuel standard is good for all of America.

I, again, ask my colleagues to support the renewable fuels agreement in the Senate energy bill that we debate today. I do oppose any amendments that would undermine this carefully crafted agreement.

In conclusion, before I yield the floor, I wish to respond to a comment I heard this morning from one of my colleagues from New York. I believe he mentioned something to the effect that an ethanol bill in Nebraska failed. I am not sure what his point was. But, for the record, and for the edification of all who heard that, and especially my colleague, last year the Nebraska Legislature tried to mandate that every gas station—every gas pump—in the State sell an ethanol blend. Now, that is a bit different—completely different—if that was the parallel attempted to be drawn from this standard, this bipartisan standard that we have agreed to that is currently in the present energy bill.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I thank the Senator from Nebraska for his leadership in opposition to this amendment, and more importantly for his leadership over the last several months in bringing together unity on this issue that is both bipartisan as well as across industry and economic sectors.

Madam President, there was a time when the States of New York and California were represented by Senators who supported requiring the use of ethanol and other domestic alternative fuels.

In fact, there was a time, less than 3 years ago, when two of the current California Senators and the senior Senator from New York, voted in favor of replacing MTBE with ethanol.

What has changed to cause these Senators to reverse themselves? I frankly don't know.

But there is one thing that has changed since the time New York and California were represented by Senators who supported replacing foreign fuel with domestic alternative and renewable fuels.

Today, more than ever, our national security is at risk because of our dependence upon foreign energy.

Today, more than ever, the Middle East oil and MTBE producers, have us literally, over the barrel.

More than ever. That is the biggest change since the time California and New York Senators supported replacing Middle East oil and MTBE with home grown renewable and alternative fuels.

Yet, today, they come to the floor of the Senate, to offer an amendment which will help assure that Middle East oil and MTBE producers maintain and increase their grip over the United States.

Today, 75 percent of the MTBE California uses, is produced by foreigners.

Saudi Arabia is the largest supplier of California MTBE.

In March of 1999, California's Governor, Gray Davis, issued an executive order, stating that by the end of 2002, all MTBE would be banned from California.

In August of 1999, Senator BOXER of California introduced a Senate resolution, calling for MTBE to be replaced by renewable ethanol. With the help of Senator FEINSTEIN and Senator SCHUMER, that resolution was adopted by the Senate. That resolution underscored that renewable ethanol should replace MTBE. Why? It specifically stated that ethanol should replace MTBE to reduce our dependence upon foreign energy. It also stated that renewable ethanol should replace MTBE because MTBE was polluting drinking water.

Patriotic American farmers and ethanol producers, in direct response to these two initiatives by California's elected officials, invested $1.4 billion of their hard earned money to increase ethanol production by 1 billion gallons a year.

By the end of this year, when MTBE was supposed to be banned in California, our Nation's farmers and ethanol producers will be able to produce 400 to 500 million gallons more than is necessary to replace all of California's MTBE.

The California Energy Commission conducted a survey and concluded that by the end of 2004, U.S. ethanol production capacity will reach 3.5 billion gallons a year.

The renewable fuels standard, which these Senators want to gut, requires only 2.3 billion gallons of ethanol to be used starting in 2004. So even by the California Energy Commission's admission, the United States will be producing 1.2 billion gallons above and beyond what is required under the renewable fuels standard.

We are awash in ethanol produced in America's Midwest, yet 3 weeks ago, the Governor of California announced that MTBE can be used for another whole year. It doesn't make sense. Some elected officials would rather force their consumers to use MTBE from the Middle East, instead of ethanol from America's Middle West. They can't seriously be worried about motor fuel prices. How can increasing and diversifying your sources of energy, increase the price of your product?

Today, California has only seven refiners, and its two largest sources for MTBE are foreign. In sharp contrast, there are 61 ethanol plants in 19 States in the United States—two of which are in California.

The California Energy Commission has determined that fuel without oxygenates, such as MTBE or ethanol, will actually be more expensive.

In a recent report, the commission explained and I quote—"non-oxygenated reformulated alternatives are not necessarily easier to produce (than ethanol RFG), would involve significant capacity loss, and would require even more complex logistics."

A recent poll of Californian opinion, conducted by the California Renewable Fuels Partnership, found that 76 percent of likely voters support banning MTBE because we can't afford the pollution caused by MTBE. Only 13 percent of those polled thought that it was a bad idea to ban MTBE because of potential higher gasoline prices.

The concerns expressed by opponents of the renewable fuels standard don't stand up to the facts.

So it boils down to this: If you want to take a positive step toward helping our Nation become less dependent upon foreign energy and the Middle East and to encourage the development of jobs and family income here in the United States, then join me in defeating this attempt to gut the renewable fuels standard.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, I rise today to address the amendment introduced by my colleagues from New York and California to do away with the renewable fuel standard. I think it is important that we correct some of the misunderstandings, misapprehensions, and misstatements of fact that have gone on in this debate.

First, what does the bill do and what does it not do? The fact is that S. 517 does not require that a single gallon of renewable fuels be used in any particular State or region. The additional flexibility provided by the RFS credit trading system provisions of S. 517 will result in a much lower cost to refiners and thus to consumers. The credit trading system will ensure that ethanol is used where it is most effective.

Now, according to one of the leaders in the petroleum industry, ChevronTexas:

> The free market will not allow a California price differential of 20-30 cents a gallon to be sustained. The market will always find a way to take advantage of a much smaller differential.

Furthermore, a nationwide Federal MTBE ban provides certainty for investments and eliminates the greater use of boutique fuels, thereby lowering gasoline prices. The continuation of current policy whereby States may ban MTBE without any regard to regional coordination is more costly than a uniform Federal ban.

Increasing the use of renewable fuels, such as ethanol and biodiesel, diversifies our energy infrastructure, making it less vulnerable to acts of terrorism and increases the number of available fuel options, increasing competition, and reducing consumer costs of gasoline.

A review of the publicly available price information demonstrates that ethanol has been consistently less expensive per gallon in net cost to refiners than MTBE for the last 3 years. In fact, the March 4 issue of Octane Week quotes MTBE at 89 cents per gallon and ethanol at just 60 cents per gallon. Instead of higher prices, ethanol would lower pump prices. While this is undeniably true in conventional gasoline, it is also true in RFG areas. Refiners do incur a small cost per gallon to produce the RFG ethanol blendstocks, but the lower ethanol price more than makes up for the difference. Thus, replacing MTBE with ethanol should lead to reduced, not increased, consumer gasoline prices.

In other words, it is not accurate to say that the price in Missouri will rise 5.9 cents per gallon or 4 cents per gallon in Wyoming.

My good friend and colleague from New York tells me that in my home State of Missouri, gas prices as a result of the RFS will increase by 5.9 cents per gallon. He went on to tell us all that the increase is based on the unavailability of ethanol, the inability of us to get ethanol in Missouri.

I want to assure the senior Senator from New York that we produce a lot of corn in Missouri, and our friends seem to be ignoring all of the residual economic benefits of ethanol use.

For example, ethanol production increases personal and business income and results in a net savings to the Federal budget of $3.6 billion annually.

Ethanol also adds over $450 million to State tax receipts. Ethanol production reduces the taxpayer burden for unemployment benefits and farm deficiency payments.

When you raise the price of corn by increasing the demand, it cuts down on the amount of payments that are made under existing farm programs to people who raise corn.

Ethanol production reduces the unfavorable U.S. trade balance in energy by $2 billion annually.

Ethanol production increases net farm income by $4.5 billion, adding 30 cents to the value of every bushel of corn.

Ethanol reduces the consumer cost of gasoline by extending supplies, providing an alternative to more costly imported oil, and leverage for independent gasoline marketers to compete against the larger, more powerful, integrated oil companies.

A recent study found that doubling ethanol production would create nearly 50,000 new jobs, $1.9 billion in economic development, and increase household incomes by $2.5 billion.

Some may say: Isn't the ethanol program just corporate welfare? The simple answer is no. The ethanol tax credit is provided to gasoline marketers and oil companies, not ethanol producers, as an incentive to blend their gasoline with clean, domestic, renewable ethanol.

It is a cost-effective program that actually returns more revenue to the U.S. Treasury than it costs due to the increased wages, taxes, reduced unemployment benefits and, most importantly, reduced farm deficiency payments, while at the same time holding down the price of gasoline and helping the American farmer.

In summary, I encourage those who support the amendment against the renewable fuels standard to come out to the heartland where the occupant of the chair and I live to see Nebraska, to see Missouri, and see what the industry is all about. They can learn the benefits of ethanol, soy diesel, biodiesel, the home-grown renewable fuels to the environment and to the communities and our economy, particularly our rural economy.

Come down to my State and see what the Missouri Corn Growers Association has done to provide value-added opportunities for Missouri farmers. The Missouri Corn Growers Association and the Missouri Corn Merchandising Council provided support for two groups of Missouri farmers seeking to add value to their corn production by processing corn into ethanol. In 1994, Golden Triangle Energy of Craig, MO, and Northeast Missouri Grain Processors of Macon, MO, organized as new generation cooperatives.

The latter, known as NEMOGP, broke ground for their plant on April 17, 1999. I was pleased, proud, and excited to be there. It is now producing 22 million gallons of ethanol per year, and they are in the process of doubling the capacity to make over 40 million gallons.

Similarly, the prospects at Craig are also very promising, and other groups of farmers are looking to build ethanol plants and to build soy diesel plants. We are growing it, we are processing it, we are producing it, and we are ready to sell it. It is going to be good for our trade balance, for our farmers, for our economy, and for the environment.

I believe when one goes to a station that offers the E85 plan—there are 100 of them nationwide: 1 in Kansas City, 2 in St. Louis, 2 in Jefferson City, MO, and they are expected to have more around the country. One can find out about the closest station by checking the Web site of the National Ethanol Vehicle Coalition. One will find one can get good cleaner burning ethanol blended gasoline, and it is available.

Before we decide we are going to back off from this very wise, multiple-benefit usage of renewable fuels, come see in the heartland what a positive deal this is and come see why we in Missouri—I assume my neighbors in States around us—are proud to be using E85 ethanol and B20 soy diesel.

I yield the floor. I urge my colleagues not to support the amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CARNAHAN. Mr. President, I rise today to add my voice to those who support the ethanol provisions in this legislation. Ethanol is one of our most promising renewable resources. By blending ethanol with gasoline, we can reduce oil imports and reduce the environmental damage of vehicle emissions.

As America struggles to meet its growing energy needs, ethanol provides extraordinary opportunities. The product is made from corn. It can be produced in abundance, unlike other fossil fuels.

The more ethanol we use to fuel our cars and trucks, the less oil we need to import from hostile countries such as Iraq. Rather than looking to the Mideast for energy, we would be far better served to look to the Midwest.

This legislation lays out a plan for increasing the amount of ethanol Americans use to meet their transportation fuel needs.

I find it absurd that some claim these provisions are included in this bill simply for the benefit of ethanol producers. Ethanol is an environmentally safe and economically efficient way to reduce our dependence on foreign sources of oil.

In short, additional use of ethanol to meet our needs for transportation fuel will be good for our environment, good for our economy, and good for our national security interests. Not only do I support the renewable fuels standard we are debating today, I look forward to supporting an amendment that will be offered by the Finance Committee. That amendment incorporates several aspects of legislation that I introduced last year.

Specifically, it will expand eligibility for the tax credit available to small producers of ethanol. These changes will ensure that farmer-owned cooperatives are eligible to receive a tax credit. It will also encourage small producers to expand the size of their operation to meet increased demand. These changes will help us meet the demand for ethanol envisioned by the bill.

Ethanol is truly a win-win solution to our energy needs. The increased use required by this legislation represents a positive step, one for our farmers, for our environment, and for our energy independence. I support the compromise in this bill that will lead to increased uses of ethanol, and I urge my colleagues to support it as well. The renewable fuels standard included in this bill is an important part of a balanced energy policy that we need.

TRANSPORT OF SPENT NUCLEAR FUEL

Mr. President, on a separate topic, I would like to discuss an amendment I will be offering next week. Two years ago, the Department of Energy proposed to send a shipment of foreign spent nuclear fuel through Missouri. The route selected went through the heavily populated areas of St. Louis, Columbia, and Kansas City, along a major highway, Interstate 70, that was undergoing major repairs. Governor Carnahan intervened, and an alternate, more rural route was selected. The shipment was completed without incident.

Then last year, Missouri was asked to accept another shipment through the State. Governor Holden raised the same objections that had been discussed the year earlier. And after he did, a curious thing happened: The Department of Energy held up shipments from a reactor inside Missouri. This reactor produced isotopes used in cancer treatment. If these shipments did not go forward as scheduled, the reactor would have to be closed, halting production of needed medicines for bone cancer patients.

I insisted these two matters—the shipments from the reactor in Missouri and the transport of spent nuclear fuel through the State—be delinked, and they were.

Eventually, Governor Holden worked out a safety protocol with the Department and the foreign spent fuel shipment went forward. Although the shipment was completed, we encountered some problems with the timing of its passage through Missouri.

Our experience in Missouri over the past 2 years suggests the Department of Energy's route selection process deserves careful study. How we deal with spent nuclear fuel in this country may be a matter of great controversy, but regardless of one's position on this topic, everyone ought to be able to agree that when spent fuel has to be transported we want it to be done in the safest possible way.

One of the key components in ensuring safe transport of spent fuel is the process for selecting the safest route. My amendment would commission the National Academy of Sciences study of the Department of Energy's route selection process for shipments of spent nuclear fuel. The National Academy would examine the way DOE picks potential routes, the factors it uses to evaluate the safety of these routes, including traffic and accident data, the quality of roads and the proximity to population centers and venues where people congregate, and the process it uses to compare the risks associated with each route.

There are a number of reasons why it makes sense to commission this study now. First, the responsibility for this program is divided among multiple agencies. The Department of Transportation sets the regulations for transportation of spent nuclear fuel. The Nuclear Regulatory Commission has oversight responsibility and the Department of Energy makes the final decision in consultation with these organizations.

A study will help ensure these agencies are working together and are properly performing their function.

Secondly, these agencies are using regulations drafted in the 1990s. The devastating events of September 11 have taught us we have to rethink all of our security procedures, and while I understand the Nuclear Regulatory Commission has issued some additional guidelines since that date, I believe a complete review is in order and an NSA study will help us ensure that our agencies are focused on the appropriate safety factors.

Finally, Congress will be considering a highway bill next year. If there are safety problems on routes that are likely to be used for cross-country shipments of spent nuclear fuel, we ought to address them in the highway bill. We need to start the study now, however, if we want to have the information in time for a debate on the highway bill.

This amendment is not intended to take sides on the controversial issue that will soon be before this Senate. Its purpose is to get a neutral, nonpartisan review of an important public safety function that has received very little scrutiny.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3094, AS MODIFIED

Mr. REID. Mr. President, I ask the pending business be an amendment offered yesterday by Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I send a modification to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 3094), as modified, is as follows:

(Purpose: To establish a Consumer Energy Commission to assess and provide recommendations regarding energy price spikes from the perspective of consumers)

At the appropriate place in title XVII, insert:

SEC. 1704. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Consumer Energy Commission".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 11 members who shall be appointed within 30 days from the date of enactment of this section and who shall serve for the life of the commission.

(2) APPOINTMENTS IN THE SENATE AND THE HOUSE.—The majority leader and the minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 2 members—

(A) 1 of whom shall represent consumer groups focusing on energy issues; and

(B) 1 of whom shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 3 members—

(A) 1 of whom shall represent consumer groups focusing on energy issues;

(B) 1 of whom shall represent the energy industry; and

(C) 1 of whom shall represent the Department of Energy.

(c) INITIAL MEETING.—Not later than 60 days after the date of enactment of the Act, the Commission shall hold the first meeting of the Commission regardless of the number of members that have been appointed and shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(d) ADMINISTRATIVE EXPENSES.—Members of the Commission shall serve without compensation, except for a per diem and travel expenses which shall be reimbursed, and the Department of Energy shall pay expenses as necessary to carry out this section, with the expenses not to exceed **$400,000.**

(e) STUDY.—The Commission shall conduct a nationwide study of significant price spikes since 1990 in major United States consumer energy products, including electricity, gasoline, home heating oil, natural gas and propane with a focus on their causes including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, regulatory failures, demand growth, reliance on imported supplies, insufficient availability of alternative energy sources, abuse of market power, market concentration and any other relevant factors.

(f) REPORT.—Not later than 180 days after the date of the first meeting of the Commissions, the Commission shall submit to Congress a report that contains the findings and conclusions of the Commission; and recommendations for legislation, administrative actions, and voluntary actions by industry and consumers to protect consumers and small businesses from future price spikes in consumer energy products.

(g) CONSULTATION.—The Commission shall consult with the Federal Trade Commission, the Federal Energy Regulatory Commission, the Department of Energy and other Federal and State agencies as appropriate.

(h) SUNSET.—The Commission shall terminate within 30 days after the submission of the report to Congress.

Mr. REID. I ask unanimous consent that the Senate vote on or in relation to this amendment at 3:45, with the time prior to that time equally divided, and there be no amendments in order prior to that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I yield the floor to the majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 3525 AND ANWR

Mr. DASCHLE. Mr. President, I am waiting to propound a unanimous consent request having to do with border security. I will not do that, of course, until the Republican leader returns.

My preference, as I said before on several occasions, and Senator LOTT has said, is that we take up the ANWR amendment. We have even said we are prepared to offer it ourselves in order to move this process along. I am told the sponsors of the amendment still are not prepared to offer this amendment. So I have no choice, under these circumstances, as much as I would like very much to be on it right now, but to postpone consideration of the ANWR amendment and to make the most of what time we have available to us.

I have consulted with the distinguished Republican leader. I know the administration believes, as we do, to move the border security legislation along is something in everyone's interest.

The House has passed a bill. It is my hope that we can pass the border security bill as well. The House has passed two different versions of border security, one involving the so-called 245(i) provisions, and one without those provisions included. What we are doing this afternoon would be to take up a bill that does not include 245(i), but I have indicated publicly, and indicated to Senator LOTT and to my colleagues, that it is my desire to bring up the 245(i) provisions.

I know there is opposition—I am told on both sides of the aisle. But we must address the issue. It is an important issue. It is one that should be resolved. It is one on which the Senate has acted on several other occasions. So there will come a time when we will do that.

But in order to at least pass those pieces of border security that we all agree on, I will ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 3525, the border security bill, and that the Senate proceed to its consideration on Friday, April 12, at 11:30, and that no call for the regular order serve to replace the bill; and that, upon resumption of the energy bill, S. 557, Senator MURKOWSKI be recognized to offer his ANWR amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, if Senator DASCHLE will yield, I did not object because I think, all things considered, this is a good way to proceed at this time.

I, too, would prefer we go ahead and begin consideration of the ANWR amendment with regard to oil exploration in that area of Alaska. But we have other amendments that are pending. Work has continued to be done on those issues this afternoon and perhaps, I assume, some in the morning, even while a process is worked out as to exactly how to proceed with the ANWR amendment.

One of the problems I understand—it is a legitimate one—is that the amendment Senator MURKOWSKI would like to offer has some provisions that need to have some scoring done. I think that is legitimate. They want to know what it might cost. I think Members are entitled to know that. I presume he could have offered the amendment and had the scoring done over the weekend, but I think both sides were a little bit hesitant to have it offered and just have it kind of hanging out there, not knowing what the final form would be—whether, if it would be modified, we would get into a fuss over second-degree amendments. So I think this is a good way to go. Hopefully, we will be ready to go back to this on Tuesday, deal with the ANWR provisions, deal with the tax provisions, and finish the amendments we have remaining. I still think it is absolutely essential for our country that we get an energy bill.

I understand there is a need to complete our work next week on that issue so we can move on to other issues. We are pressing Senator DASCHLE to take up other issues, including this border security and the 245(i) immigration issue and the trade legislation—other issues.

By doing it this way, we can dispose of a bill that is needed. Border security needs to be dealt with. It has bipartisan support. The administration supports it. We can do that by taking it up tomorrow, being on it Monday, and I hope we can be done with it sometime early on Tuesday, and then go back to ANWR.

I have checked this out with the sponsors of the border security bill and with Senator MURKOWSKI and it seems this is agreeable to all parties and this is the way we can get some work done while we work out the process on the other amendments.

I yield the floor.

Mr. DASCHLE. Mr. President, I thank my colleagues for their cooperation in the effort to move this legislation along. As I say, my choice would have been to have completed our work on ANWR already. We have now been on the bill about a month. We have been on it 20 legislative days, but over a month of calendar days.

There is no reason why we should continue to wait for an amendment that I thought might have been the first out of the box.

Having said that, I urge my colleagues to come down to the floor. We are about to have a vote on the Durbin amendment. There are other amendments pending on which we can have votes. And there are other amendments to be offered that we should have votes on as quickly as possible.

I ask my colleagues to offer amendments this afternoon. The floor is open for additional business. This does not preclude additional amendment consideration this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me underscore what the majority leader has said, and also the Republican leader, and indicate that I also believe we can complete action on this energy bill fairly quickly once we come back to it and once we have the ANWR-related amendment offered by Senator MURKOWSKI and the other proponents of that amendment.

I regret that we are not able to begin dealing with that today. But we are not. Therefore, I support the majority leader's decision to move to this other legislation beginning tomorrow.

AMENDMENT NO. 3094

Let me say a few words about the Durbin amendment. The Durbin amendment was offered yesterday. It would establish the Consumer Energy Commission. It provides for an 11-member Commission which would have the job of doing a 180-day study of a variety of issues related to the generation of electricity in our country and the potential failures of the system.

I think it is a good amendment. I think it is one which has the prospect of improving our understanding of this issue.

This board is to be concluded after 180 days and report back to the Congress within 30 days. At the end of the 180 days, the group goes out of existence 30 days later.

I don't think there should be any substantial objection to this. To my mind, it is a meritorious amendment. I said yesterday that I thought it should be approved. I certainly believe that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding that in a moment we will vote on my amendment. I certainly thank the chairman, Senator BINGAMAN, for his kind words of support. A number of my colleagues are cosponsors of this amendment to create a Consumer Energy Commission: Senator SMITH, Senator SCHUMER, Senator JEFFORDS, and Senator STABENOW.

In this bill involving energy policy in America, there are many worthwhile issues to be considered. But I think there is one position that needs to be filled with this amendment. It is time for us to invite consumers from across America to be part of this conversation about America's energy future—the families who have to pay the heating bills, the hard-working people who have to pay for gasoline to get back and forth to work, the individuals and small businesses that may find because of price hikes they cannot keep their employees on the job, the farmers who are worried about aspects of energy price fluctuations and what that means to their lives.

This Commission is a short-term effort of limited duration and limited expense to try to invite that conversation so the consumers, small businesses, and family farmers will be part of our national strategy for energy security. We do not believe that the GAO, as good as it is, can really speak from that human and real perspective. They cannot provide the kind of study of which we are asking. The GAO and the IEA have provided plenty of studies and data on a variety of energy issues. However, they haven't brought the analysis, industry, and consumer groups together to consider particularly the problem of price spikes.

I have a chart that shows gasoline retail prices. You can see why a lot of people in the Midwest, for example, call me and call the President from time to time to ask: What is going on at the gasoline station? Today it is $1.30 a gallon and the next day it is $2 a gallon. Why would that happen? Has war broken out in the Middle East? No. It is just the Easter surprise that you have every year in the Midwest. Gasoline prices have gone out of control. For months at a time, families find they are spending extraordinary amounts for gasoline. Businesses cut back on their employees. Whether it is trucking companies, delivery services, we find a lot of sacrifices are being made.

I do not know that this Commission is going to come up with the direct answer to it, but what is wrong with inviting the consumers of America into this conversation? What is wrong with asking families and small businesses to join us in this effort?

That is why I hope we can bring all the stakeholders to the table. That is why I think we need to give consumers and small business a voice. I hope my colleagues in the Senate will join me in strong support of this amendment creating a Consumer Energy Commission.

I yield the floor.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—69

Akaka
Allard
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Sessions
Smith (OR)
Snowe
Specter
Stabenow
Thompson
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—30

Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
Ensign
Enzi
Fitzgerald
Frist
Hagel
Helms
Hutchinson
Inhofe
Kyl
Lott
Lugar
McConnell
Murkowski
Nickles
Roberts
Santorum
Shelby
Smith (NH)
Stevens
Thomas
Thurmond

NOT VOTING—1

Gramm

The amendment (No. 3094), as modified, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3114

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to amendment No. 3114, offered by Senator FEINSTEIN, and that the time until 4:35 p.m.—for the next 20 minutes—be equally divided in the usual form, and at 4:35 the Senate vote on or in relation to the amendment, with no second-degree amendments in order prior to the vote.

Mrs. BOXER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, reserving the right to object, I believe there is objection on this side. I am happy to check on that and respond.

Mr. REID. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSON. Mr. President, I rise in opposition to the Feinstein amendment on the renewable fuels standard.

The Senate energy bill contains a landmark renewable fuels standard that is an essential part of a sound national energy policy. The bill provides for an orderly phase-down of MTBE use, removal of the oxygen content requirement for reformulated gasoline (RFG) and the establishment of a nationwide renewable fuels standard—RFS—that will be phased in over the next decade. The standard has strong bipartisan support and is the result of long and comprehensive negotiations between farm groups, the American Petroleum Institute, and coastal and Midwestern states. It is the first time that a substantive agreement has been reached on an issue that will reduce our dependency on foreign oil and greatly improve the nation's energy security.

Moreover, the renewable fuels standard in S. 517 provides a nationwide, cost-effective solution to address the concerns over MTBE use. Although individual states are banning or considering banning MTBE, the states are still left with meeting the federal oxygenate standard for reformulated gasoline. The provisions of S. 517 address both of these issues in a balanced manner and do so without mandating individual states to meet specific levels of renewable fuels production or use.

I have spoken in the past about the benefits of renewable fuels. These home-grown fuels will improve our energy security and provide a direct benefit for the agricultural economy of South Dakota and other rural states. The new standard is largely based on legislation that I introduced with Senator CHUCK HAGEL. The leadership of Senators DASCHLE and BINGAMAN resulted in the consensus legislation on this issue.

The consensus package would ensure future growth for ethanol and biodiesel through the creation of a new, renewable fuels content standard in all motor fuel produced and used in the U.S. Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the U.S.—1.8 billion gallons is currently produced in the US. The consensus package would require that 5 billions gallons of transportation fuel be comprised of renewable fuel by 2012 nearly a tripling of the current ethanol production.

I do not need to convince anyone in South Dakota and other rural states of the benefits of ethanol to the environment and the economies of rural communities. We have many plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring states, demonstrate the hard work and commitment being expended to serve a growing market for clean domestic fuels.

Today, 3 ethanol plants—Broins in Scotland and Heartland Grain Fuels in Aberdeen and Huron—produce nearly 30 million gallons per year. With the enactment of the renewable fuels standard, the production in South Dakota and other states could grow substantially, with at least 2000 farmers owning ethanol plants and producing 200 million gallons of ethanol per year or more.

I understand the concerns raised by the senators from California and New York. This is a major a major change in the makeup of our transportation fuel. The goal of the agreement that has been reached on this title is to phase in the renewable fuels standard in a manner that is fair to every region of the country. It also bans MTBE and eliminates the oxygenate standard, two changes that Californians have sought for years. The goal of this agreement is not to raise gas prices, but to diversify our energy infrastructure and increase the number of fuel options. This helps to increase our energy security, increase competition and reduce consumer costs of gasoline.

The new standard does not require that a single gallon of renewable fuel must be used in any particular state or region. Moreover, the language includes credit trading provisions that gives refiners flexibility to meet the standard's requirements. In no way is this intended to penalize California, New York or any other region in the country.

In addition, there are allegations of huge price increases at the pump should the standard be enacted. This concern is unfounded and the analysis that the figures are based upon is flawed. Two recent reports by the Energy Information Administration—EIA—and the General Accounting Office—GAO—have raised some concerns about higher gasoline costs as well supply implications of the renewable fuels standard. These reports failed to take into account several factors, resulting in conclusions that are incomplete.

The EIA report notes that 90 percent of the costs associated with the provisions of the bill are because of the ban on MTBE, not the inclusion of the renewable fuels standard. The report also states that the RFS without the MTBE ban would raise prices up to one cent a gallon for reformulated gasoline and up to .5 cents a gallon for all gasoline. However, the report failed to account for the provisions of the legislation that allow for credit banking and trading, which would lower any increase in prices.

The GAO report only evaluated a California ban on MTBE but assumed the continuation of the federal oxygenate standard. Because S. 517 eliminates the oxygen standard, the high costs in the GAO report are exaggerated. The American Petroleum Institute analysis of the effect of the RFS on gasoline costs, including the trading program and the elimination of the oxygenate standard, indicates that there are almost no additional costs.

The renewable fuels standard in S. 517 addresses the difficulties that states have encountered in meeting the makeup of federal gasoline standards, while promoting the use of home-grown fuels that will reduce the nation's dependency on foreign oil. Any attempts to reduce or eliminate the standard should be opposed so that we can move forward and improve the nation's energy security.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table.

Mr. REID. Mr. President, I have a unanimous consent request. Well, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 3114. The clerk will call the roll.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the previous order be amended to allow 15 minutes for the parties to debate and, as indicated, the vote occur at 4:35 p.m; that the Senate resume consideration of amendment No. 3114, and the time before 4:35 p.m. be controlled equally and in the usual form; and that at 4:35 p.m. the Senate vote on or in relation to the amendment, with no second-degree amendment prior to that vote.

The PRESIDING OFFICER. Is there objection?

The Senator from New York.

Mr. SCHUMER. Mr. President, I thought we were going to be given 20 minutes, 10 on each side.

Mr. REID. That will be fine.

Mr. SCHUMER. I withdraw my objection.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

AMENDMENT NO. 3114

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3114. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—61

Akaka
Baucus
Bayh
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Carnahan
Carper
Chafee
Cleland
Cochran
Conrad
Craig
Crapo
Daschle
Dayton
Dorgan
Durbin
Edwards
Ensign
Feingold
Fitzgerald
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Jeffords
Johnson
Kerry
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Nelson (FL)
Nelson (NE)
Reid
Roberts
Rockefeller
Sarbanes
Smith (NH)
Stabenow
Stevens
Thomas
Thurmond
Voinovich
Wellstone

NAYS—36

Allard
Allen
Bennett
Biden
Boxer
Campbell
Cantwell
Clinton
Collins
Corzine
DeWine
Dodd
Domenici
Enzi
Feinstein
Hutchison
Inouye
Kennedy
Kohl
Kyl
Leahy
McCain
Murray
Nickles
Reed
Santorum
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Thompson
Torricelli
Warner
Wyden

NOT VOTING—3

Gramm
Gregg
Miller

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the majority leader has authorized me to announce there will be no more rollcall votes tonight. As per the agreement we made earlier this afternoon, there will be no rollcall votes tomorrow. There will be rollcall votes on Monday, for the information of all Senators.

This has been a difficult week, but we have made significant progress. We have completed election reform. We have gotten permission to move to the port security bill which we will start debating tomorrow. Senator BINGAMAN and Senator MURKOWSKI have slogged their way through this amendment process. I think we have made significant progress on the list of amendments we have. Although we have not gotten unanimous consent to agree to a finite list, each side has worked on amendments. We had a period when there were about 250 amendments. We are down now to probably 40 or so. Not all of those could be referred to as serious amendments. There is still a long way to go.

The amendment agreement entered into by the two leaders earlier today indicates we are going to finish the border security legislation, hopefully, by Tuesday. At that time, the Senator from Alaska will offer his amendment on ANWR. We are not going to take up the energy bill until the ANWR amendment is ready. When that is done, we will take it up.

It is my understanding in speaking with the Senator from Alaska, and several others, and also the Republican leader that they are very close to having an amendment which they feel good about and will offer. I hope that can be finalized by Tuesday.

AMENDMENTS NOS. 3119, 3120, 3121, 3122, AND 3123 EN BLOC

Mr. BINGAMAN. Mr. President, I send a series of amendments to the desk and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes amendments numbered 3119, 3120, 3121, 3122, and 3123 en bloc.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3119

(Purpose: To ensure the safety of the nation's mines and mine workers)

On page 564, after line 2, insert the following:

"SEC. 1506. FEDERAL MINE INSPECTORS.

"In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled mine inspectors (particularly inspectors with practical experience as a practical mining engineer) as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.".

AMENDMENT NO. 3120

(Purpose: To require the Secretary of Energy to conduct a study on the effect of natural gas pipelines and other energy transmission infrastructure across the Great Lakes on the Great Lakes ecosystem)

At the end of title XVII, insert the following:

SEC. 17 . STUDY OF NATURAL GAS AND OTHER ENERGY TRANSMISSION INFRASTRUCTURE ACROSS THE GREAT LAKES.

(a) DEFINITIONS.—In this section:

(1) GREAT LAKE.—The term "Great Lake" means Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Ontario (including the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude), and Lake Superior.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with representatives of appropriate Federal and State agencies, shall—

(A) conduct a study of—

(i) the location and extent of anticipated growth of natural gas and other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(ii) the environmental impacts of any natural gas or other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure on the Great Lakes ecosystem.

(2) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).

AMENDMENT NO. 3121

(Purpose: To promote the demonstration of certain high temperature superconducting technologies)

On page 406, line 8, strike "technologies." and insert "technologies; and

"(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, or power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems."

AMENDMENT NO. 3122

(Purpose: To authorize a study of the way in which energy efficiency standards are determined)

On page 301, after line 22, insert the following:

"SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.

"The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress."

AMENDMENT NO. 3123

(Purpose: To encourage energy conservation through bicycling)

On page 213, between lines 10 and 11, insert the following:

SEC. 8 . CONSERVE BY BICYCLING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By Bicycling pilot program that shall provide for up to 10 geographically dispersed projects to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit a report to Congress on the results of the pilot program.

(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than two years after enactment of this Act, on the findings of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation $5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this section.

Mr. LEVIN. Mr. President, the recent debate shows the challenges our country faces in balancing environmental protection with our Nation's energy security. Containing nearly 95 percent of our countries surface fresh water, the Great Lakes are a natural treasure which we must work to protect. Today I offered an amendment which would request that the Secretary of Energy, in consultation with representatives of the appropriate Federal and State agencies and the National Academy of

Science, conduct a study of the transmission of natural gas and electricity across the Great Lakes and report back to Congress within 365 days regarding the impacts of such lines and recommendations for minimizing their environmental impact.

As the cleanest fossil fuel, natural gas will play an increasingly important role in addressing our nations energy demands. Even today, natural gas consumption is forecasted to increase at over 2 percent per year. However, the infrastructure for transporting natural gas is already strained.

To address this problem, a number of companies have applied for permits to place pipelines and electric transmission lines across the Great Lakes. One such project is a pipeline which would transport up to 700 million cubic feet of natural gas per day to New York and the northeast. The pipeline would cross the bottom of Lake Erie for 93.8 miles, from Port Stanley, Ontario to Ripley, NY. This pipeline will be constructed using a new technique called jet trenching, which will suspend two and a half million cubic yards of sediment in Lake Erie. Much of this sediment may be contaminated and the effects of its redistribution are at best, unknown. Further, no one has analyzed the capacity of the Lakes to handle suspended sediments.

It is obvious that energy transmission infrastructure is important, but it is critical that we understand the impacts of placing this infrastructure across the lake beds. It is also imperative that we develop a long term strategy for their placement. This amendment would require the Department of Energy to examine these questions and make recommendations on how to assure that these incredible bodies of water are protected for future generations.

This amendment is simple, but its role in addressing the challenges we now face is essential. I want to thank my colleagues in supporting this amendment.

ENERGY TRANSMISSION LINES

Mr. LEVIN. Mr. President, as the Senate considers this nation's future energy policy, we would like to discuss the intent of the amendment that the Senate will adopt regarding the planning and coordination of energy transmission lines in the Great Lakes.

Mr. DEWINE. Mr. President, I would like to thank my colleagues, Mr. BINGAMAN and Mr. MURKOWSKI, for working with us to authorize the Department of Energy, in consultation with Federal and State agencies, to study the anticipated growth of energy transmission infrastructure in the Great Lakes. The Great Lakes ecosystem is complex, so it's important to understand how to minimize the possible impacts that the various energy transmission infrastructure proposals may have on the Great Lakes ecosystem.

Mr. BINGAMAN. Mr. President, I appreciate my colleagues' concerns and agree that a comprehensive study that considers the environmental impacts of energy transmission infrastructure in the Great Lakes will be useful, as will any recommendations on ways to minimize any possible impacts.

Mr. LEVIN. Mr. President, it is our intent that this amendment require the Secretary of Energy to complete a study that will include a review of the expected energy demand—including the geographic distribution of the demand—in the Great Lakes States and northeastern States for a 10-year period; a review of the proposed locations for new natural gas-fired electric generation facilities; a review of the locations and capacity of interstate and intrastate natural gas transmission pipelines in all Great Lakes states and other energy transmission infrastructure across the Great Lakes in existence or proposed as of the date of the completion of the study; a review of the potential environmental effects that could result from the construction of pipelines and other energy transmission infrastructure across the Great Lakes.

When reviewing the potential environmental effects of construction, the Secretary should consider contaminated sediment deposits. Areas of Concern as designated by the Great Lakes Water Quality Agreement, highly sensitive fisheries, and highly sensitive nearshore and coastal habitat. The Secretary should also include an analysis of potential environmental benefits of new natural gas-fired electric generation facilities and reduced consumption measure that could be undertaken; an analysis of the capacity of the Great Lakes to handle suspended sediment; takes into consideration the impacts of accommodating the energy transmission infrastructure on land use along the coasts of the Great Lakes; and takes into consideration the emergency response time for accidents in the energy transmission infrastructure. Not later than 180 days after enactment of the underlying bill, the Secretary should report his findings and recommendations for the coordination of the development of natural gas and other energy transmission infrastructure that would minimize the aggregate negative environmental effects on the Great Lakes ecosystem.

Mr. BINGAMAN. Mr. President, I want to thank the distinguished Senators from Michigan and Ohio and our colleagues from the Great Lakes states for clarifying the intent of their amendment.

Mr. DURBIN. Mr. President, today the Senate will pass by voice vote an amendment to the energy bill that would establish a Conserve by Bike Pilot Program in the Department of Transportation, as well as fund a research initiative on the potential energy savings of replacing car trips with bike trips. This program would fund up to 10 projects throughout the country, using education and marketing to convert car trips to bike trips. The research would document the energy conservation, air quality improvement, and public health benefits caused by increased bike trips. The goal is to conserve energy resources used in the transportation sector by turning some of our gas guzzling miles into bike rides.

There is no single solution for our nation's energy challenges. Every possible approach must be considered in order to solve our energy problems.

It would be unrealistic to expect most Americans to make a substantial increase in the number of trips they make by bicycle. But even a small percentage of bike trips replacing our shorter car trips could make a significant difference in oil and gas consumption.

Right now, less than one trip in one hundred—.88 percent—is by bicycle. If we can raise our level of cycling just a tiny bit: to one and a half trips per hundred, which is less than a bike trip every two weeks for the average person, we would save over 462 million gallons of gasoline in a year, worth over $721 million. That's one day a year we won't need to import any foreign oil.

In addition to conserving our energy, an increased number of bike trips can improve our air quality. Significant declines in vehicle emissions would follow from increased bike trips. A study in New York City showed that bicycling spares the city almost 6,000 tons of carbon monoxide each year. A reduced number of trips made by cars would increase this number and help to clean our nation's air.

The Federal Highway Administration estimates that 60 percent of all automobile trips are under five miles in length. And these short trips typically emit more pollutants because cars during these trips run on cold engines. Engines running cold produce five times the carbon monoxide and twice the hydrocarbon emissions per mile as engines running hot. These cold engine trips could most easily be replaced by bike rides.

Americans would experience additional advantages from increased bike usage. The decreased number of cars on our nation's highways would help reduce traffic and parking congestion. Congestion costs have reached as much as $100 billion annually according to the Federal Highway Administration. A reduction in cars on the roads will decrease the high costs associated with congestion.

The "Conserve by Bike" amendment will also improve public health. The exercise from more frequent bike trips would help improve our physical wellbeing. Biking has proven to be effective in the prevention of heart disease, our nation's number one killer. And, biking also has been shown to help individuals who are trying to give up health-impairing behaviors such as smoking and alcohol abuse.

The "Conserve by Bike" amendment will help America take a simple but meaningful step in energy conservation. It will help fund up to 10 pilot projects that will use education and marketing to facilitate the conversion of car trips to bike trips, and document the energy savings from these trips. These projects will facilitate partnerships among those in the transportation, energy, environment, public health, education, and law enforcement sectors. There is a requirement for a local match in funding, so that these projects can continue after the Federal resources are exhausted. In addition, this amendment will fund a research initiative with the National Academy of Sciences to examine the feasibility and benefits of converting bike trips to car trips.

It is imperative that Americans are fully informed of the entire range of benefits from biking in terms of energy conservation, air quality, and public health. We also need to provide the best resources in bike safety and convenience.

We have been spending a modest amount of Federal, State and local funds on bicycle facilities since 1991. This amendment will leverage those investments and help people take advantage of the energy conservation choices they have in getting around their communities. I am pleased that this amendment will be accepted by the Senate as part of the energy bill that Senators DASCHLE and BINGAMAN have brought to the floor.

Ms. COLLINS. Mr. President I am proud to join my colleague from Illinois in offering an amendment to recognize and promote bicycling's important impact on energy savings and public health.

With America becoming more and more dependent on foreign oil, it is vital that we look to the contribution that bike travel can make towards solving our Nation's energy challenges. This amendment would establish a Conserve By Bike pilot program that would oversee up to 10 pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. By replacing even a small percentage of short car trips with bike trips, we would save over 462 million gallons of gasoline in a year, worth over $721 million.

While more bike trips would benefit our energy conservation efforts, they would also contribute to the public's health. According to the U.S. Surgeon General, less than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity at least five days a week. Even more disturbing is the fact that approximately 300,000 U.S. deaths a year currently are associated with being obese or overweight. By promoting biking, we are working to ensure that Americans will increase their physical activity.

Earlier this month, I had the opportunity to meet with a delegation representing the Bicycle Coalition of Maine. This group has done an outstanding job of advocating bicycling safety, education, and access throughout the State. As a result of the work of the Bicycle Coalition of Maine, people living in and visiting Maine will have accessible and safe conditions where they may comfortably and responsibly bicycle. The "Conserve by Bike" amendment has received support from this group and many others on the national, State, and local level, and I urge my colleagues to support this amendment.

Mr. BINGAMAN. Mr. President, these five amendments have been cleared on both sides. They include an amendment by Senator ROCKEFELLER to ensure the safety of the Nation's mines and mine workers, one by Senator LEVIN to require the Secretary of Energy to conduct a study on the effects of natural gas pipelines in the Great Lakes, one by Senator SCHUMER to promote the demonstration of certain high-temperature superconducting technologies, one by Senator SMITH of Oregon to authorize a study of energy efficiency standards, and one by Senator DURBIN to encourage energy conservation through bicycling.

I believe there is no objection to any of these amendments. I urge the Senate to adopt them at this time.

Mr. MURKOWSKI. Mr. President, speaking from the standpoint of the minority, we have worked with the majority on these amendments and find them agreeable. They have been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3119, 3120, 3121, 3122, and 3123) were agreed to en bloc.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I want the body to note that on our side there are about 10 or 14 amendments. I have no idea what the situation is on the majority side with regard to amendments.

Mr. BINGAMAN. Mr. President, I reiterate what the Senator from Nevada said earlier, which is that we have a few more than that on the Democratic side. But we have been making very good progress in reducing the number of amendments. We are optimistic that after we conclude the debate on the amendment which the Senator from Alaska is going to offer next week, we will be able to move to complete other amendments and complete action on the bill.

I yield the floor.

Mr. MURKOWSKI. Mr. President, on a note of levity and in the spirit of Senator DURBIN with the authorization of a study on the use of bicycles as a pilot program, I am going to pilot my program home tonight on my girls' bicycle which I bought for $20. It is one which I don't have to lock up because nobody would bother to steal it. It gets me here a lot faster than driving.

I recall one day being behind an automobile of the junior Senator from New York which was stalled in the drive, and they had to push it out. I certainly recommend the amendment proposed by Senator DURBIN, which suggests obvious benefits of bicycling. It is much easier to get through security, and when the dogs come around you only have to worry about one thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. I thank the Chair.

(The remarks of Mr. NELSON of Nebraska are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New York?

Mrs. CLINTON. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I come to the floor today to join with my colleagues in talking about the very difficult choices that are being foisted upon some of our States and all of our consumers because of the renewable fuels provisions in the energy bill now under consideration.

Now, these renewable fuels provisions do accomplish some very important goals. First, they ban the use of MTBE, which has resulted in serious ground water pollution all over our country. They revoke the oxygenate requirements that led so many States to make such heavy use of MTBE in the first place. And they do keep in place the same stringent air pollution standards mandated by the Clean Air Act.

My State has, unfortunately, experienced firsthand the effects of MTBE contamination in our drinking water sources.

While the full health and environmental impacts of MTBE are still unknown, we do know that it smells bad, it tastes bad, and the bottom line is that people do not want to be drinking MTBE-contaminated water any more than they want to be drinking water with arsenic or some other contaminant in it.

As many of my colleagues know, because of poor air quality in certain areas of the country, we are required to meet something called an "oxygenate requirement" under the Clean Air Act.

New York City and surrounding counties constitute one of those areas. This requirement requires that consumers use gasoline additives that aid in reducing harmful air pollution. The additives available at this time are primarily MTBE and ethanol. So those of us in the Northeast, who need to meet this oxygenate requirement, have been adding MTBE to our gasoline because we have no readily accessible, affordable, available sources of ethanol in places such as New York.

The unfortunate consequence is that, as a result of leaking underground storage tanks, other leaks, and runoffs, we are now experiencing MTBE contamination in our underground water sources.

This has been a big problem in our State, particularly on Long Island, which has an aquifer that provides drinking water that runs the full length of the island. In Suffolk County alone, MTBE has been found in both private and public wells in all 10 of the towns in that county.

This is a serious problem and the costs of cleaning up this MTBE contamination are significant. While having clean air to breathe is critically important, so is having clean water to drink. We should not have to trade off air for water. We should be able to figure out how to provide both clean air and clean water.

That is why New York State took the very bold step of banning MTBE by January 1, 2004—less than 2 years from today. In fact, I believe that about 13 States—including my own—have made the decision to restrict or ban the use of MTBE in the next couple of years.

I agree that phasing out MTBE is exactly the right thing to do from a drinking water perspective and from an overall environmental perspective. That is why, in the last session, the Environment and Public Works Committee voted out S. 950 by voice vote, the provisions of which are incorporated in the renewable fuels provisions that we are now discussing.

S. 950 includes a phaseout of MTBE and a repeal of the Federal oxygenate requirement, as recommended by the EPA's Blue Ribbon Panel on Oxygenates in Gasoline. I strongly support these provisions, and I commend the bipartisan leadership of the EPW Committee for their work on this important issue. But the committee-passed bill did not include the ethanol mandate that we are here to discuss.

Now, I am not here—I want to make this absolutely clear—to oppose ethanol. I believe in ethanol. I think it is a great step forward for renewable fuels. And I know that it is an important use of the products that are grown in many parts of our country. It is a new market. And I believe that it does take us in the right direction.

And phasing out MTBE, even with a repeal of the oxygenate requirement, will still lead to an increase in the use of ethanol in our country. That is why a Federal mandate is not needed to ensure a continuing market for ethanol. And that is why I and my senior colleague from New York, and my colleagues from California, and others, are opposing the ethanol mandate that is included in this bill.

The energy bill we are currently debating includes what I can only describe as an astonishing new anticonsumer Government mandate: that every refiner in our country use an ever increasing volume of ethanol or pay for ethanol credits.

At first when this was described to me, I thought there had to be some mistake because I, and I guess the majority of my colleagues, support ethanol. But to be told it has to be used, and the amount of it has to increase over time, struck me as exactly the opposite of what we are trying to achieve in this new energy policy. Because regardless of the market, and whatever the demand would be for ethanol, this bill requires the use of ethanol or the purchase of ethanol credits at a set amount, an amount that will eventually exceed 5 billion gallons.

Currently U.S. refiners use approximately 1.7 billion gallons of ethanol. Starting in 2004, the Nation's refiners would be required to use 2.3 billion gallons of ethanol. And that number would ratchet up to 5 billion gallons of ethanol by 2012. And the use of a constant percentage of ethanol per volume of gasoline would be required every year thereafter no matter what kind of new breakthroughs we had in making gas both more efficient and cleaner. It would not matter. We would have a big brother, big-hand Federal Government mandate: You have to use it no matter what.

This means that from 2012 on, the Nation's ethanol producers would have a Government-guaranteed annual market of at least 5 billion gallons, or perhaps even more.

Now, oil refiners could, in a competitive market, find smarter, cleaner, and less expensive ways to reformulate gasoline, but they would be forced to keep using billions of gallons of ethanol annually nonetheless.

Refiners in States outside the Corn Belt that lack the infrastructure to transport and refine ethanol would nonetheless be forced to pay for ethanol credits. The credits would result in rising gas prices and the transfer of funds from hard-pressed consumers in one part of the country to ethanol-rich areas in the rest of the country, while doing nothing to improve air quality. In other words, consumers in every State would be forced to pay for ethanol whether they used it or not.

Make no mistake about it, this is tantamount to a new gas tax. This will cause the price of gasoline to go up anywhere from 4 cents to 10 cents a gallon. Others who spoke earlier today discussed specifically what would happen in their own States. I believe for New York this would mean more than 7 cents per gallon at the pump.

The reasons for these cost increases are manyfold. There are costs of production issues. Ethanol simply costs more to produce than gasoline or MTBE. Since ethanol is primarily made from corn, if there is a bad corn crop one year, we can expect not only food prices but gas prices as well to increase under this bill.

There are also supply issues. According to a recent report by the Congressional Research Service, in the short term ethanol is unlikely to be available in sufficient quantity. If the supply is not there, the gasoline supply can't be there, and prices will inevitably rise as a result.

There are transportation distribution issues, as has been discussed earlier. The cost of using ethanol is also influenced by the fact that almost 90 percent of ethanol production occurs in just five States: Illinois, Iowa, Nebraska, Minnesota, and Indiana. The geographic concentration of ethanol production is an obstacle to its use on either the east or west coasts, particularly because ethanol-blended gasoline cannot travel through petroleum pipelines and, therefore, it must be transported by truck, rail, or barge which significantly increases its per-unit cost.

As has already been mentioned, ethanol production is also concentrated among a few large producers. The top 5 companies that produce ethanol account for approximately 60 percent of production capacity, and the top 10 companies account for approximately 75 percent of production capacity. ADM alone markets about half of the ethanol produced in the country.

All of this is going to mean higher prices for the American consumer, particularly on the east and west coasts. There will be other costs to consumers as well.

As many know, ethanol already gets a tax break in terms of the gasoline tax. Every gallon of gas with ethanol gets a 5.4-cent Federal subsidy. The subsidy is currently costing $600 million in Federal highway funds at today's ethanol use level. That means that with a 5-billion-plus-gallon-a-year ethanol mandate, we will have even less dollars for much needed transportation projects in all of our States, resulting in more traffic congestion, less safe roadways, and other consumer costs.

Another cost to consumers will be the potential environmental cost of an increased use of ethanol, not to mention the safe harbor from liability that is included in this bill.

I have to give it to the sponsors and authors of this provision; they have thought of everything: subsidies; put a tax on everybody else who has to use it; make it even less likely that the environmental costs are going to be in any way taken care of because the environmental and public health impacts of ethanol are still not fully understood.

Studies have indicated that while reducing carbon dioxide emissions, ethanol may increase emissions of smog-producing and other toxic compounds.

Despite the questions on its environmental and public health impacts, this bill also includes a renewable fuels safe harbor provision. What does that mean? It gives product liability protection against consumers and communities that may seek legal redress from the manufacturers and oil companies that produce or utilize defective additives in their gasoline. That is adding insult to injury. First, we are going to tax you and, second, we are going to make it impossible for you to get any kind of redress if what we are making you buy makes you sick or pollutes the environment.

This means companies have less incentive to ensure that the additives they manufacture and use are safe, eliminating an important disincentive to pollute.

What is the net result? We are providing a single industry with a guaranteed market for its products—subsidies on top of subsidies on top of subsidies and, on top of that, protection from liability. What a sweetheart deal.

If the average American consumer tunes in on this debate and realizes what is happening, there will be a revolt. I dare predict that voting for this bill, which will raise gas prices in 45 of our States, will be a political nightmare for the people who end up voting for it. Higher gas prices at the pump, reduced Federal assistance for much needed transportation projects, possible negative air quality, and public health impacts, to say nothing of raiding the Federal Treasury to give this giveaway to these large producers, makes it impossible to understand why any proconsumer, prohealth, pro-environment, antigovernment mandate Member of this body would vote for this provision.

For consumers, the ethanol mandate is a one, two, three, four punch. First, consumers will pay more at the pump to meet arbitrary goals that boost the sale of ethanol, whether we need it or not. Second, consumers will face reduced Federal assistance for transportation projects because the money is going to be going to the ethanol producers, not to fix your roads or your bridges. Third, consumers may experience potential environmental and public health impacts. But guess what. You are barred from seeking redress. Who needs tort reform, just stick this in the energy bill and forget about ever getting any kind of liability against anybody who may be intentionally or negligently causing health or environmental harm. And fourth, you can't sue the manufacturers and the oil companies.

There are some very positive aspects of these provisions to phase out MTBE and eliminate the oxygenate requirement. We have long fought for this. There are many in this body who have been working on this a lot longer than I have. I applaud those Members for doing everything possible to ban MTBE and eliminate this oxygenate requirement. With about 13 States having already taken such action, this is an issue that needs to be addressed. But this is the wrong way to do it.

New York and California are on the front lines of this battle because California had originally banned MTBE as of January 1, 2003, although the Governor was forced to push the date back a year. Now California and New York, with millions and tens of millions of consumers, are in the same boat because New York has also banned MTBE. But Arizona has also taken final action to ban MTBE. Colorado has mandated a phaseout, Connecticut has also phased it out as of 2004, and even Illinois has banned the use, sale, distribution, blending, or manufacturing of MTBE as a fuel additive, along with Kansas and Michigan. And Minnesota has prohibited the sale of gasoline containing more than .3 percent volume by weight of MTBE and required the phaseout by July 2005.

There are many States that have taken actions. They have actually passed laws. There are numbers of others who are trying to take action to phase it out.

We do need Federal action. My colleagues from New York and California and I understand that we need to pass provisions that will work. But that does not mean we should pass a 5-billion-gallon, anticonsumer, gas-price-increasing ethanol mandate.

So, Mr. President, I hope that calmer heads will prevail in this debate, that we will understand the important role of ethanol, provide an opportunity for that market to grow, but not mandate it, not interfere with the operation of the market, not provide subsidies, not require consumers to buy it whether we need it or not, and not protect the producers from public health and environmental liability.

What is going on here? Any business or any sector of the economy would love to have a mandated tax increase directly into their pocketbooks. That is not the purpose of having an energy bill that puts us on the path to self-sufficiency. I certainly don't think the tens of millions of consumers who may be following this debate think at the end of the day they are going to be transferring hard-earned money out of their pockets into the pockets of ethanol manufacturers, whether it helps or not.

So I really hope my colleagues will consider the impact of this policy and join with those of us who are looking at this from the longer term perspective to come up with an amendment that provides the kind of support for ethanol we all believe would be in our best interest, without the damaging mandates that this approach would require.

Again, I don't think anybody in this body came to this energy debate thinking they were voting to raise this gas tax, but indeed if we pass this as currently written, that is exactly what we are going to do. Those people who are going to pay that increased cost, starting in a few years, are going to turn around and say: Why is this happening?

It is going to be hard for us to explain. There is no reason for us to make this decision when there are alternatives and we can work together and make it possible for us to have a much better approach without the damaging impact this amendment on ethanol would cause to our entire country.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I understand we have the regular order, and the Senator who is supposed to speak is not here.

The PRESIDING OFFICER. The Senator is correct. There is no order for speakers. The Senator may proceed.

Mr. DOMENICI. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

60TH ANNIVERSARY OF THE BATAAN DEATH MARCH

Mr. DOMENICI. Mr. President, I rise today to call attention to a very special anniversary that many in my home state of New Mexico will take time to remember this weekend. Saturday, April 13th will mark the sixty-year anniversary of the Bataan Death March. Some eighteen-hundred men from the 200th Coast Anti-Artillery Aircraft and the 515th Coast Anti-Artillery, Aircraft, New Mexico National Guard Units were involved in that infamous march.

I do not think words can fully describe the bravery of these veterans and the horrific conditions they endured. In all, more than seventy thousand American and Filipino prisoners of war were captured in April 1942 and force-marched to a Japanese work camp. Suffering from starvation and physical abuse, more than seven thousand died and only about fifty-six thousand reached the camp. Thousands later died from malnutrition and disease. Of those eighteen-hundred from the New Mexico Brigade, fewer than nine-hundred returned.

On Saturday, in Las Cruces, New Mexico, we will dedicate the Bataan Death March Memorial in memory and in honor of these men. And because New Mexicans made up such a large proportion of those prisoners involved in the march, this anniversary and dedication ceremony have stirred many emotions throughout my state. For those survivors and their families, there is a great sense of pride. Of course, there is much lingering pain, as well. But by establishing a memorial in their honor, we build a bridge to that emotion—a bridge that will allow all generations of Americans to imagine the suffering these men endured, and to remember, forever, their true valor.

For all Americans who are unable to travel to the Southwest to see the beautiful bronze statue portraying an American soldier and a Filipino soldier comforting an injured American comrade during the midst of that seven-day march, I would encourage you to take the time to learn about the horrors these men suffered—to learn their story. It is both sobering and inspiring, and I pay tribute to their heroism today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CLELAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. CLELAND. I thank the Chair.

(The remarks of Mr. CLELAND pertaining to the introduction of S. 2115 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CLELAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENTRY INTO FORCE OF THE INTERNATIONAL CRIMINAL COURT

Mr. DODD. Madam President, today with the deposit of the 66th instruments of ratification of the Rome Statute, the International Criminal Court is on track to enter into force on July 1. I rise to acknowledge and congratulate those who have labored to reach this moment—the creation of a permanent international forum to bring to justice heinous criminals who have committed crimes against humanity, the fulfillment of the legacy of Nuremberg. The Nuremberg Trial of the leading Nazi war criminals following World War II was a landmark in the struggle to deter and punish crimes of war and genocide, setting the stage for the Geneva and Genocide Conventions. It was also largely an American initiative. Justice Robert Jackson's team drove the process of drafting the indictments, gathering the evidence and conducting this extraordinary case.

My father, Thomas J. Dodd, served as executive trial counsel at Nuremberg, it was among his proudest accomplishments. I believe that he would have been proud today to see the International Criminal Court, ICC, come into existence. He believed that America had a special role to help make the rule of law relevant in every corner of the globe. I believe that he would have endorsed President Clinton's decision to sign the Rome Statute in December of 2000 on behalf of the United States. President Clinton did so knowing full well that much work remains to be done before the United States can become a party to the U.N. convention establishing an International Criminal Court.

Now that the establishment of the ICC is inevitable, the United States must now determine what its relationship with the Court will be. Rather than adopting a course that will pit us against our best friends and allies, I call for the United States to be actively engaged with the ICC in working to ensure that it demonstrates the highest standards of jurisprudence and integrity. Although the United States is not a party to the treaty, The United States should feel free to raise its voice and give its opinion on who should be selected to be the Court's judges and prosecutors. The United States should also use its seat on the U.N.'s Security Council to refer situations to the Court, such as the current conflict in Sudan that has already claimed over 2 million lives as a result of war crimes, genocide, and crimes against humanity. And above all, the United States should be a watchdog of the Court's integrity and keep it laser focused on its primary task, bringing to justice the worlds worst criminals.

There are those in Congress and the Administration who would have the United States repudiate the ICC, and work to tear it down. They would have us take the unprecedented step of "unsigning" the Rome Statute. I have just cited a number of vital American interests that are wrapped up in the Court. Those interests are not going to be erased with the name of the United States from the Rome Statute. That is why I strenuously oppose such action: it is irresponsible, isolationist, and contrary to our vital national interests. Many of our closest allies have put their faith in the vision of this new legal instrument. We should give them the benefit of the doubt that they are committed to making the court work to strengthen international respect for the rule of law. I will include the list of the States that have signed and ratified the Rome Statute at the conclusion of my remarks.

I call on the Bush administration to recognize that there is a constructive and useful role that the United States can perform without making a decision at this juncture concerning US ratification. We should be prepared to lend our expertise in grappling with the many issues that remain to be resolved before the court becomes fully functioning. That is what a global power with the stature of the United States should do.

I ask unanimous consent to print in the RECORD the list of States to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT—PARTICIPANTS

Participant	Signature	Ratification
Albania	18 Jul 1998	
Algeria	28 Dec 2000	
Andorra	18 Jul 1998	30 Apr 2001
Angola	7 Oct 1998	
Antigua and Barbuda	23 Oct 1998	18 Jun 2001
Argentina	8 Jan 1999	8 Feb 2001
Armenia	1 Oct 1999	
Australia	9 Dec 1998	
Austria	7 Oct 1998	28 Dec 2000
Bahamas	29 Dec 2000	
Bahrain	11 Dec 2000	
Bangladesh	16 Sep 1999	
Barbados	8 Sep 2000	
Belgium	10 Sep 1998	28 Jun 2000
Belize	5 Apr 2000	5 Apr 2000
Benin	24 Sep 1999	22 Jan 2002
Bolivia	17 Jul 1998	
Bosnia and Herzegovina	17 Jul 2000	11 Apr 2002
Botswana	8 Sep 2000	8 Sep 2000
Brazil	7 Feb 2000	
Bulgaria	11 Feb 1999	11 Apr 2002
Burkina Faso	30 Nov 1998	
Burundi	13 Jan 1999	
Cambodia	23 Oct 2000	11 Apr 2002
Cameroon	17 Jul 1998	
Canada	18 Dec 1998	7 Jul 2000
Cape Verde	28 Dec 2000	
Central African Republic	7 Dec 1999	3 Oct 2001
Chad	20 Oct 1999	
Chile	11 Sep 1998	
Colombia	10 Dec 1998	
Comoros	22 Sep 2000	
Congo	17 Jul 1998	
Costa Rica	7 Oct 1998	7 June 2001
Cote d'Ivoire	30 Nov 1998	
Croatia	12 Oct 1998	21 May 2001
Cyprus	15 Oct 1998	7 Mar 2002
Czech Republic	13 Apr 1999	
Democratic Republic of the Congo	8 Sep 2000	11 Apr 2002
Denmark	25 Sep 1998	21 Jun 2001
Djibouti	7 Oct 1998	
Dominica		12 Feb 2001[2]
Dominican Republic	8 Sep 2000	
Ecuador	7 Oct 1998	5 Feb 2002
Egypt	26 Dec 2000	
Eritrea	7 Oct 1998	
Estonia	27 Dec 1999	30 Jan 2002
Fiji	29 Nov 1999	29 Nov 1999

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT—PARTICIPANTS—Continued

Participant	Signature	Ratification
Finland	7 Oct 1998	29 Dec 2000
France	18 Jul 1998	9 June 2000
Gabon	22 Dec 1998	20 Sep 2000
Gambia	4 Dec 1998	
Georgia	18 Jul 1998	
Germany	10 Dec 1998	11 Dec 2000
Ghana	18 Jul 1998	20 Dec 1999
Greece	18 Jul 1998	
Guinea	7 Sep 2000	
Guinea-Bissau	12 Sep 2000	
Guyana	28 Dec 2000	
Haiti	26 Feb 1999	
Honduras	7 Oct 1998	
Hungary	15 Jan 1999	30 Nov 2001
Iceland	26 Aug 1998	25 May 2000
Iran (Islamic Republic of)	31 Dec 2000	
Ireland	7 Oct 1998	11 Apr 2002
Israel	31 Dec 2000	
Italy	18 Jul 1998	26 Jul 1999
Jamaica	8 Sep 2000	
Jordan	7 Oct 1998	11 Apr 2002
Kenya	11 Aug 1999	
Kuwait	8 Sep 2000	
Kyrgyzstan	8 Dec 1998	
Latvia	22 Apr 1999	
Lesotho	30 Nov 1998	6 Sep 2000
Liberia	17 Jul 1998	
Liechtenstein	18 Jul 1998	2 Oct 2001
Lithuania	10 Dec 1998	
Luxembourg	13 Oct 19998	8 Sep 2000
Madagascar	18 Jul 1998	
Malawi	22 Mar 1999	
Mali	17 Jul 1998	16 Aug 2000
Malta	17 Jul 1998	
Marshall Islands	6 Sep 2000	7 Dec 2000
Mauritius	11 Nov 1998	5 Mar 2002
Mexico	7 Sep 2000	
Monaco	18 Jul 1998	
Mongolia	29 Dec 2000	11 Apr 2002
Morocco	8 Sep 2000	
Mozambique	28 Dec 2000	
Nomibia	27 Oct 1998	
Nauru	13 Dec 2000	12 Nov 2001
Netherlands	18 Jul 1998	17 Jul 2001[1]
New Zealand	7 Oct 1998	7 Sep 2000
Niger	17 Jul 1998	11 Apr 2002
Nigeria	1 Jun 2000	27 Sep 2001
Norway	28 Aug 1998	16 Feb 2000
Oman	20 Dec 2000	
Panama	18 Jul 1998	21 Mar 2002
Paraguay	7 Oct 1998	14 May 2001
Peru	7 Dec 2000	10 Nov 2001
Philippines	28 Dec 2000	
Poland	9 Apr 1999	12 Nov 2001
Portugal	7 Oct 1998	5 Feb 2002
Republic of Koera	8 Mar 2000	
Republic of Moldova	8 Sep 2000	
Romania	7 Jul 1999	11 Apr 2002
Russian Federation	13 Sep 2000	
Saint Lucia	27 Aug 1999	
Samoa	17 Jul 1998	
San Marino	18 Jul 1998	13 May 1999
Sao Tome and Principe	28 Dec 2000	
Senegal	18 Jul 1998	2 Feb 1999
Seychelles	28 Dec 2000	
Sierra Leone	17 Oct 1998	15 Sep 2000
Slovakia	23 Dec 1998	11 Apr 2002
Slovenia	7 Oct 1998	31 Dec 2001
Solomon Islands	3 Dec 1998	
South Africa	17 Jul 1998	27 Nov 2000
Spain	18 Jul 1998	24 Oct 2000
Sudan	8 Sep 2000	
Sweden	7 Oct 1998	28 Jun 2001
Switzerland	18 Jul 1998	12 Oct 2001
Syrian Arab Republic	29 Nov 2000	
Tajikistan	30 Nov 1998	5 May 2000
Thailand	2 Oct 2000	
The Formere Yugoslav Republic of Macedonia.	7 Oct 1998	6 Mar 2002
Trinidad and Tobago	23 Mar 1999	6 Apr 1999
Uganda	17 Mar 1999	
Ukraine	20 Jan 2000	
United Arab Emirates	27 Nov 2000	
United Kingdom of Great Britain and Northern Ireland.	30 Nov 1998	4 Oct 2001
United Republic of Tanzania	29 Dec 2000	
United States of America	31 Dec 2000	
Uruguay	19 Dec 2000	
Uzbekistan	29 Dec 2000	
Venezuela	14 Oct 1998	7 Jun 2000
Yemen	28 Dec 2000	
Yugoslavia	19 Dec 2000	6 Sep 2001
Zambia	17 Jul 1998	
Zimbabwe	17 Jul 1998	

[1] Acceptance.
[2] Accession.

KIDS ARE GETTING KILLED

Mr. LEVIN. Mr. President, for the third time in 6 weeks, a gunman has killed a young girl in Detroit. The first time it was a 7-year-old, killed by a man who opened fire on a car full of children. The second time it was a 3-year-old, shot while she was watching television in her room. And just this past Wednesday, an 8-year-old was shot while sleeping at home. The Detroit Police Department has one man in custody, but no one has been formally charged. These are very tragic events. In addition to prosecuting the criminals who commit these horrific crimes, we can do more to prevent them, we should close the gun show loophole so that it is more difficult for criminals to gain access to guns.

In 1994, Congress passed the Brady Law, which requires Federal Firearm Licensees to perform criminal background checks on gun buyers. However, a loophole in this law allows unlicensed private gun sellers to sell firearms at gun shows without conducting a background check.

In April of last year, Senator JACK REED introduced the Gun Show Background Check Act which would close this loophole in the law. The Reed bill, which is supported by the International Association of Chiefs of Police, extends the Brady Bill background check requirement to all sellers of firearms at gun shows. I cosponsored that bill because I believe it is critical that we do all we can to prevent guns from getting into the hands of criminals and terrorists. I urge the Senate to debate and pass this common sense gun-safety legislation.

CELEBRATING OVER A HALF CENTURY OF SERVICE TO VETERANS

Mr. ROCKEFELLER. Madam President, I am pleased today to say a few words about the Paralyzed Veterans of America, PVA to those of us who work on veterans matters, in connection with the organization's PVA Awareness Week, which takes place next week.

PVA began in February 1947, when delegates from seven groups of paralyzed veterans from around the country met at the Hines VA Hospital in Chicago, IL. Those veterans agreed to form a national organization to address the needs of spinal cord injured veterans. They believed that veterans with spinal cord injuries would have the strongest voice in speaking for veterans with such injuries and for all who were similarly disabled, a belief that has been borne out over the years. The original members of PVA also emphasized the need both to conduct research to find a cure for spinal cord injury while, at the same time, providing for the basic, immediate needs of spinal cord injured veterans.

Since its inception, PVA has dedicated itself to the well being of some of America's most catastrophically disabled veterans as it has developed a unique expertise on a wide variety of issues involving the special needs of its members, veterans of the armed forces who have experienced spinal cord injury, SCI, or dysfunction. PVA, which received a Congressional charter as a veterans service organization in 1971, is a dynamic, broad-based organization with more than 40 chapters and subchapters nationwide and nearly 20,000 members. In addition to its Washington, D.C. headquarters, PVA operates 58 service offices around the country to serve the needs of all veterans seeking Department of Veterans Affairs' claims and benefits.

PVA is a leading advocate for quality health care not only for spinal cord injured veterans, but for all other veterans as well. They also continue to press for research and education addressing spinal cord injury and dysfunction.

PVA's commitment to research can be seen in its sponsorship of the Spinal Cord Research Foundation which supports research to alleviate, and ultimately end, medical and functional consequences of paralysis; its endowment in 1980 of a Professorship in SCI Medicine at Stanford University; its creation of the Spinal Cord Injury Education and Training Foundation to support innovative education and training programs; and its role in establishing the PVA-EPVA Center for Neuroscience and Regeneration Research at Yale University along with the Eastern Paralyzed Veterans Association, the Department of Veterans Affairs, and Yale University, with the goal of restoration of function in people with spinal cord dysfunction.

PVA also coordinates the activities of two coalitions of professional, payer, and consumer groups, the Consortium for Spinal Cord Medicine and the Multiple Sclerosis Council, which develop clinical practice guidelines defining standards of care for people with spinal cord injury and multiple sclerosis.

While PVA's Congressional charter requires it to devote substantial resources to representing veterans in their claims for benefits from VA, the PVA Veterans Benefits Department goes above and beyond the call of duty, providing assistance and representation, without charge, to veterans with a spinal cord dysfunction and other veterans seeking health care and other benefits for which they are eligible. This assistance is offered through a network of PVA national service officers across the nation who assist veterans in making claims for benefits and monitor medical care at local VA medical facilities. PVA's national service officers assist claimants through every stage of the VA claims process and also offer representation to veterans who have claims pending before the Social Security Administration.

PVA's advocacy does not stop at the Board of Veterans' Appeals. It has one of the most active presences at the U.S. Court of Appeals for Veterans

Claims and the U.S. Court of Appeals for the Federal Circuit, arguing cases that have set precedents that have helped thousands, if not millions, of veterans and their families.

Other key PVA programs include its Architecture Program, which plays an important role in the lives of severely disabled veterans with quality design and construction of affordable and accessible housing; its Health Analysis Program, which keeps a constant eye on the performance of the VA health care system as well as other health care systems in the public and private sector; and its Sports and Recreation Program which is dedicated to promoting a range of activities for its members and other people with disabilities, with special emphasis on activities that enhance lifetime health and fitness, including through co-sponsorship of the National Veterans Wheelchair Games with the Department of Veterans Affairs.

For 16 years, PVA has co-authored an important, highly respected policy guide for the Congress, The Independent Budget: A Comprehensive Policy Document Created by Veterans for Veterans, with the Disabled American Veterans, AMVETS, and the Veterans of Foreign Wars which addresses the needs of veterans on issues ranging from health care to benefits and the resources required to meet these needs in the VA budget every year.

PVA's Government Relations staff is well-known here on Capitol Hill. It's Advocacy Program is a leading voice for civil rights and opportunities that maximize independence of individuals who have experienced spinal cord injury or disease, or other severe disabilities. PVA played an important role in the passage of the Americans with Disabilities Act. It continues its advocacy as an active member of the Consortium for Citizens With Disabilities. Its Legislation Program staff is directly involved in every budget, legislative, and policy initiative affecting veterans under consideration in the Congress every year.

Over the years, I have relied heavily on PVA members in my State of West Virginia to keep me informed about the issues so critical to veterans with spinal cord injuries. I am particularly grateful for the wisdom and counsel of my friend Randy Pleva, President of WV PVA and one of PVA's National vice presidents. I do not know a more dedicated and compassionate advocate for paralyzed veterans.

Those of us who work with PVA every day recognize the dedication and expertise that this organization brings to Capitol Hill. The organization is one of the top national veterans' service organizations in terms of expertise and dedication. We must acknowledge the extreme sacrifices that the members of their organization have made in service to this country and honor the fact that PVA members continue that service on behalf of veterans and all Americans with disabilities.

At a time when this country has soldiers deployed to far-off lands in defense of freedom, it is important that we recognize these men and women who have served this country in the past and continue to serve our nations' veterans today. I look forward to a continuing partnership with PVA to provide for the needs of veterans, past, present, and future.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 18, 1994 in Indianola, OH. Four lesbians women were attacked by a female teen who, encouraged by a crowd of onlookers, yelled anti-gay epithets. The assailant, Shanika Campbell, 18, was charged with four counts of assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

KOREAN WAR COMMEMORATION

Mr. BUNNING. Madam President, today I rise to respectfully ask my fellow colleagues join me in honoring the men and women who so bravely and fiercely fought for freedom and democracy during the Korean War and those who fight for these same freedoms today.

This week at Camp Lejeune in North Carolina, the often "forgotten war" will take center stage as an expected crowd of more than 10,000 will gather today at the Marine Corps Base to partake in various commemorative activities. The commemoration will begin with a full honors ceremony and address by Navy Secretary Gordon R. England and will include flyovers by vintage aircraft, modern attack helicopters, F/A—18 Hornets, AV—8B Harriers and A—10 Thunderbolts as well as a parachute jump by the Army's Golden Knights. The events, set to end next year, are part of the military's three-year commemoration of the 1950–1953 War.

On June 25, 1950, eight divisions and an armored brigade of 90,000 soldiers from the North Korean People's Army attacked in three columns across the 38th parallel and invaded the Republic of Korea. The following day, President Harry S Truman sanctioned the use of American air and naval forces below the 38th parallel. 37 long months later on July 27, 1953, an Armistice was signed and the fighting ended. In all, America lost 33,686 of its best and brightest. However, these men lost their lives safeguarding something bigger than any of us in this room, democracy.

Today, many veterans of the Korean War feel as if their sacrifice is forgotten. They believe that their place in history has been nearly erased. I urge my fellow colleagues and my fellow Americans to remember and embrace what these men and women were fighting to defend fifty years ago in North and South Korea. They were protecting the notions of freedom and democracy our forefathers so bravely brought to this great land nearly 226 years ago. In many ways, our soldiers at home and abroad are fighting to protect these same ideals today. In 1950, communists in North Korea, China, and Russia threatened to take away people's innate right to sleep under a blanket of freedom. Today, terrorists from around the globe are attempting to do the same. We must never forget those who have fought and died to ensure that our way of life continues. I applaud the efforts of the Department of Defense and the nearly 5000 partners around the world for conducting this three-year commemoration ceremony. History and the people who played such a vital part in it should never be forgotten for what they accomplished and what they sacrificed. As Winston Churchill stated, "Out of the depths of sorrow and sacrifice will be born again the glory of mankind."

Finally, I would like to pay a special tribute to the more than 57,000 Kentuckians who served in the military during the Korean War era, many who undoubtedly fought on the front lines. I am extremely proud to know that so many Kentuckians were willing to fight for all that this great country stands for. God Bless America.

RECOGNITION OF DR. KATHY HUDSON'S SERVICE TO NIH

Mr. KENNEDY. Madam President, I would like to take a moment to recognize the exemplary work of Dr. Kathy Hudson, who after 10 years is leaving government service. For the last 7 years Dr. Hudson has served with distinction as the Director of the Office of Policy, Planning and Communications and the Assistant Director of the National Human Genome Research Institute at the National Institutes of Health. While at the Institute, she has been responsible for communications, government relations, program planning, and education activities.

Dr. Hudson has provided focus and leadership in numerous areas for the Institute. She has played a particularly important leadership role in public policy and public affairs for the Human Genome Project, the international effort to decipher the human genetic code and apply the results to improving human health.

She has led efforts to identify barriers such as genetic discrimination that could impede the fair and equitable application of genetic information to public health and has led development of policies to protect privacy and prevent genetic discrimination. In this regard, she was instrumental in the development of an Executive Order signed in February 2000 that banned discrimination in Federal employment based on genetic information. She has also provided exceptional technical advice to my staff and many others in drafting legislation on genetic nondiscrimination. I look forward to seeing that important legislation enacted soon.

Dr. Hudson received her B.A. in biology at Carleton College in Minnesota; her Masters in microbiology from the University of Chicago; and the Ph.D. in molecular biology from the University of California, Berkeley. Before joining the NIH, Dr. Hudson was a senior policy analyst in the office of the Assistant Secretary for Health at the Department of Health and Human Services. She advised the assistant secretary on national health and science policy issues involving NIH. Prior to that, Dr. Hudson worked in the Congressional Office of Technology Assessment as a congressional science fellow.

Through her signal contributions to social policy and to the Nation's health, Dr. Hudson's work has exemplified the best of government service and the difference in our Nation's well being that a dedicated scientist can make. I wish Dr. Hudson all the best in her new venture as the Director of the Genetics and Public Policy Center at the Johns Hopkins University, and on behalf of the Congress and the country, thank her for her outstanding government service.

ADDITIONAL STATEMENTS

IN RECOGNITION OF FRESNO COUNTY SUPERVISOR, JUAN ARAMBULA, RECIPIENT OF THE 2002 ROSE ANN VUICH LEADERSHIP AWARD

• Mrs. BOXER. Madam President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Juan Arambula, Supervisor in Fresno County, CA.

Supervisor Juan Arambula, now serving his second term as supervisor, is to receive the Rose Ann Vuich Leadership Award for his outstanding leadership and service. Supervisor Arambula is most deserving of this special recognition and the outpouring of admiration from all throughout the community.

In his many years of public service as Past President of Fresno Unified School District Board of Trustees, former member of the California School Boards Association Board of Directors and now as Supervisor for Fresno County, he has maintained a sense of honor, purpose and teamwork that not only resonated on the Fresno County Board of Supervisors, but throughout surrounding communities.

Supervisor Arambula serves Fresno County and his constituents with great distinction. I am honored to congratulate and pay tribute to him and I encourage my colleagues to join me in wishing Supervisor Arambula much continued success in his public service career.●

IN RECOGNITION OF THE NATIONAL POLICE DEFENSE FOUNDATION

• Mr. TORRICELLI. Mr. President, I rise today to extend my support and thanks to the members of the National Police Defense Foundation (NPDF). The NPDF is dedicating this year's Annual Awards Dinner to the many heroes of September 11.

The events of September 11 represent one of the most tragic events in American history. However, in the horror of the moment, many of our bravest set aside all of their conflicting emotions and rose to the occasion. Many risked and sacrificed their lives to save others, and we are grateful for all they achieved.

I would like to extend my congratulations to former NYC Police Commissioner Bernard Kerik for being honored as "Man of the Year" and Dr. Deborah Mandell as "Woman of the Year." Both have given a great deal of themselves and provided invaluable leadership during this time of crisis. Commissioner Kerik is to be commended for his leadership and the support he provided to many in the aftermath of this tragedy. Dr. Mandell should also be commended for spearheading the NPDF's emergency response team that provided critical grief counseling and support services to many of the survivors, family members, and rescue workers.

I would also like to extend my congratulations to:

Chief Robert Caron for receiving the Special Achievement Award

Sgt. John McLaughlin and P.O. William Jimeno for receiving the Profile in Courage Award

P.O. Joseph Zarrelli and Stephanie Matoursek for receiving the Operation Kids Special Achievement Award

All of the men and women of the NYPD, NY/NJ Port Authority Police, U.S. Customs, U.S. Secret Service and the FBI for receiving the Special Unit Citation Award for their efforts on the Great Kills Landfill Task Force.

I am proud to join the NPDF in honoring these individuals and the tireless efforts of all of the men and women who on September 11 and its aftermath have worked to help their fellow Americans. They represent all that is truly great about our nation.●

CELEBRATING THE 125TH ANNIVERSARY OF THE FIRST BAPTIST CHURCH IN STRATFORD, CONNECTICUT

• Mr. DODD. Madam President, today I congratulate the First Baptist Church of Stratford, CT, on its 125th anniversary as a Christian congregation. Reaching this commendable benchmark is testimony to the deep level of faith and social commitment shared by this community throughout its long history.

From its humble origins in 1877 as a small Sunday School for Stratford's growing African American population, the First Baptist Church has evolved into a vibrant spiritual congregation dedicated to Christian Fellowship and engaged in active social ministry. Since the middle of the 20th century, the congregants of First Baptist have willingly contributed to the advancement and well-being of their surrounding community by building and running a parsonage, establishing a Food Pantry ministry, and creating the First Baptist Church Federal Credit Union. First Baptist has also addressed the need of adequate and affordable housing through the First Baptist Church Development Corporation. Just recently, the Corporation completed construction and sale of its first affordable housing unit.

I am impressed by First Baptist's commitment to Christian discipleship. Under the leadership of Reverend William B. Sutton, III, and former Pastor, Doctor William O. Johnson, it has provided growth and development to both congregants and the surrounding community. In these difficult times, I believe the services rendered by First Baptist serve as a positive example to all religious congregations.

Once again, I congratulate the First Baptist Church of Stratford on its 125th anniversary. I hope that the congregation will keep up its important work and continue to make lasting contributions to the community of Stratford for many generations to come.●

IN RECOGNITION OF NANCY RICHARDSON, RECIPIENT OF THE EXCELLENCE IN PUBLIC SERVICE AWARD

• Mrs. BOXER. Madam President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Nancy Richardson, a resident of Fresno, CA.

Nancy Richardson has worked her whole adult life as a community activist and dedicated advocate for children. It is because of her superb work and commitment to the community that she is being honored with the Excellence in Public Service Award.

Nancy has a long list of achievements in the community. She was a member of the Fresno Unified School District Board of Trustees, served as a coordinator of the Interagency Council, served on the Fresno County Mental Health Board and was the first sworn Court Appointed Special Advocate, CASA, volunteer and now works on the Foster Care Oversight Committee. She is known for her integrity in all matters she undertakes. Her work is endless, and is devoted to helping children.

Nancy Richardson is most deserving of this award and the outpouring of admiration that greets her each day. I am honored to pay tribute to her, and I encourage my colleagues to join me in wishing Nancy Richardson much continued success as she continues her dedicated service.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building."

H.R. 3925. An act to establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes.

The message also announced that pursuant to section 703 of the Social Security Act (42 U.S.C. 903), as amended by section 103 of Public Law 103–296, the Speaker appoints the following member on the part of the House of Representatives to the Social Security Advisory Board to fill the existing vacancy thereon: Mrs. Dorcas R. Hardy of Spotsylvania, Virginia.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3925. An act to establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6440. A communication from the Deputy Director, Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 2002; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Appropriations; the Budget; Agriculture, Nutrition, and Forestry; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Health, Education, Labor, and Pensions; the Judiciary; Rules and Administration; Small Business and Entrepreneurship; and Veterans' Affairs.

EC–6441. A communication from the Deputy Director, Congressional Budget Office, transmitting, pursuant to law, the Sequestration Preview Report for Fiscal Year 2003; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on the Budget; and Governmental Affairs.

EC–6442. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Veterans' Employment and Training, received on March 21, 2002; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Health, Education, Labor, and Pensions; and Veterans' Affairs.

EC–6443. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation to establish the crime of attempted international parental kidnapping, and for other purposes; to the Committee on the Judiciary.

EC–6444. A communication from Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Requiring Change of Status from B to F–1 or M–1 Nonimmigrant Prior to Pursuing a Course of Study" ((RIN1115–AG60)(INS No. 2195–02)) received on April 9, 2002; to the Committee on the Judiciary.

EC–6445. A communication from Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the texts of ILO Convention No. 184 and Recommendation No. 192 concerning Safety and Health in Agriculture; to the Committee on Foreign Relations.

EC–6446. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to enhance a number of veterans' programs and the ability to manage them; to the Committee on Veterans' Affairs.

EC–6447. A communication from the Attorney General, Department of Justice, transmitting, a draft of proposed legislation entitled "Settlement of Litigation and Prompt Utilization of Wireless Spectrum"; to the Committee on Commerce, Science, and Transportation.

EC–6448. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to increase the borrowing authority of the Bonneville Power Administration, and to authorize Federal power marketing administrations to fund directly Army Corps of Engineers operation and maintenance activities, and for other purposes; to the Committee on Energy and Natural Resources.

EC–6449. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of spent high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

EC–6450. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "Repeal of Various Reports Required of the Department of Defense"; to the Committee on Armed Services.

EC–6451. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–6452. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–6453. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, a draft of proposed legislation entitled "Continuation of Health Benefits Coverage for Individuals Enrolled in a Plan Administered by the Overseas Private Investment Corporation"; to the Committee on Governmental Affairs.

EC–6454. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's Accountability Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6455. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–312, "Sidewalk and Curbing Assessment Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–6456. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–317, "Emergency Management Assistance Compact Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–6457. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-318, "Interim Disability Assistance Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6458. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-319, "Education and Examination Exemption for Respiratory Care Practitioners Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6459. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-316, "Tax Increment Financing Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6460. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-315, "Rehabilitation Services Program Establishment Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-6461. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-311, "Misdemeanor Jury Trial Act of 2002"; to the Committee on Governmental Affairs.

EC-6462. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-313, "Department of Transportation Establishment Act of 2002"; to the Committee on Governmental Affairs.

EC-6463. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-321, "Tax Increment Financing Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6464. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Federal Managers' Financial Integrity Act Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-6465. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Appropriateness of Establishing Minimum Staffing Ratios in Nursing Homes"; to the Committee on Finance.

EC-6466. A communication from the General Counsel for the Department of the Treasury, transmitting, a draft of proposed legislation entitled "Rural Electrification Act Amendments of 2001"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6467. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations to Limit the Volume of Small Red Seedless Grapefruit" (Doc. No. FV01-905-2 IFR) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6468. A communication from the Administrator, Agricultural Marketing Service, Cotton Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Final Rule; 2001 Final Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment of Imports" (CN-01-001) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6469. A communication from the Administrator, Livestock and Seed Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments" (Doc. No. LS-01-02) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6470. A communication from the Administrator, Agricultural Market Service, Poultry Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading" (Doc. No. PY-01-005) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6471. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches" (Doc. No. FV02-916-1 IFR) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6472. A communication from the Principal Deputy Associate Administrator for the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lysophospha tidelethanolamine (LPE); Exemption from the Requirement of Tolerance" (FRL6821-4) received on April 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6473. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Report on the Assets for Independence Demonstration (IDA) Program for Fiscal Year 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-6474. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Final Report of the White House Commission on Complementary and Alternative Medicine Policy; to the Committee on Health, Education, Labor, and Pensions.

EC-6475. A communication from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Final Rules Relating to Use of Electronic Communication and Recordkeeping Technologies by Employee Pension and Welfare Benefit Plans" (RIN1210-AA71) received on April 9, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-6476. A communication from the Administrator, General Service Administration, transmitting, a draft of proposed legislation to amend the Public Buildings Act of 1959, as amended, to raise certain prospectus submission thresholds, and for other purposes; to the Committee on Environment and Public Works.

EC-6477. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL7159-9) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6478. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL7170-6) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6479. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declarations" (FRL7170-1) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6480. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Lake County Air Quality Management District" (FRL7165-4) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6481. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Uses of Certain Chemical Substances" (FRL6805-1) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6482. A communication from the Executive Vice President, Communications and Government Relations, Tennessee Valley Authority, transmitting, pursuant to law, the Authority's Statistical Summary for Fiscal Year 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CONRAD, from the Committee on the Budget:

Report to accompany S. Con. Res. 100, An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2003 and setting forth the appropriate budgetary levels for each of the fiscal years 2004 through 2012. (Rept. No. 107-141).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 924: A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Terrence L. O'Brian, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Lance M. Africk, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Legrome D. Davis, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Patrick E. McDonald, of Idaho, to be United States Marshal for the District of Idaho for the term of four years.

Warren Douglas Anderson, of South Dakota, to be United States Marshal for the District of South Dakota for the term of four years.

James Joseph Parmley, of New York, to be United States Marshal for the Northern District of New York for the term of four years.

J. Robert Flores, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Scott M. Burns, of Utah, to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

John B. Brown, III, of Texas, to be Deputy Administrator of Drug Enforcement.

Michael Taylor Shelby, of Texas, to be United States Attorney for the Southern District of Texas for the term of four years.

Jane J. Boyle, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

Matthew D. Orwig, of Texas, to be United States Attorney for the Eastern District of Texas for the term of four years.

James B. Comey, of New York, to be United States Attorney for the Southern District of New York for the term of four years.

Thomas A. Marino, of Pennsylvania, to be United States Attorney for the Middle District of Pennsylvania for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. TORRICELLI:

S. 2089. A bill to combat criminal misuse of explosives; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2090. A bill to eliminate any limitation on indictment for sexual offenses and make awards to States to reduce their DNA casework backlogs; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2091. A bill to amend title 18, United States Code, to prohibit gunrunning, and provide mandatory minimum penalties for crimes related to gunrunning; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2092. A bill to extend temporarily suspension of duty on 4.4'difluorobenzophenone; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 2093. A bill to suspend temporarily the duty on Ezetimibe; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2094. A bill to suspend temporarily the duty on artichokes that are prepared or preserved with vinegar of acetic acid; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2095. A bill to suspend temporarily the duty on benzenepropanal, 4(1,1-Dimethylethy)-Alpha-Methyl; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2096. A bill to suspend temporarily the duty on certain light absorbing photo dyes; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2097. A bill to extend temporarily suspension of duty on certain imaging chemicals; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2098. A bill to suspend temporarily the duty on artichokes that are prepared or preserved without vinegar or acetic acid; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2099. A bill to suspend temporarily the duty on bags for certain toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2100. A bill to suspend temporarily the duty on cases for certain toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2101. A bill to suspend temporarily the duty on cases for certain children's products; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2102. A bill to suspend temporarily the duty on certain children's products; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2103. A bill to suspend temporarily the duty on certain children's products; to the Committee on Finance.

By Mrs. BOXER:

S. 2104. A bill to establish election day in Presidential election years as a legal public holiday; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 2105. A bill to amend the Trade Act of 1974 to extend the Generalized System of Preferences; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 2106. A bill to suspend temporarily the duty on certain acrylic fiber tow; to the Committee on Finance.

By Mr. ROBERTS:

S. 2107. A bill to require the conveyance of the Sunflower Army Ammunition Plant, Kansas; to the Committee on Armed Services.

By Ms. STABENOW (for herself, Mr. DOMENICI, and Mr. LEVIN):

S. 2108. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 2109. A bill to suspend temporarily the duty on chondroitin sulfate; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. NELSON of Nebraska):

S. 2110. A bill to temporarily increase the Federal medicare assistance percentage for the medicaid program; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2111. A bill to suspend temporarily the duty on saccharose used for nonfood, nonnutritional purposes, as a seed kernel and in additional layers in an industrial granulation process for biocatalyst production; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2112. A bill to suspend temporarily the duty on certain filter media; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, and Mr. SPECTER):

S. 2113. A bill to reduce temporarily the duty on N-Cyclohexylthiophthalimide; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2114. A bill to authorize the Attorney General to carry out a racial profiling educating and awareness program within the Department of Justice and to assist state and local law enforcement agencies in implementing such programs; to the Committee on the Judiciary.

By Mr. CLELAND:

S. 2115. A bill to amend the Public Health Act to create a Center for Bioterrorism Preparedness within the Centers for Disease Control and Prevention; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 2116. A bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. DEWINE, Mr. BREAUX, Mr. REED, Mr. ROCKEFELLER and Ms. COLLINS):

S. 2117. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS:

S. 2118. A bill to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2119. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DAYTON (for himself and Mr. WELLSTONE):

S. Res. 236. A resolution commending the University of Minnesota-Duluth Bulldogs for winning the 2002 National Collegiate Athletic Association Division I Women's Ice Hockey National Championship; considered and agreed to.

By Mr. DAYTON (for himself and Mr. WELLSTONE):

S. Res. 237. A resolution commending the University of Minnesota Golden Gophers for winning the 2002 National Collegiate Athletic Association Division I Men's Hockey National Championship; considered and agreed to.

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. Res. 238. A resolution commending the University of Minnesota Golden Gophers for winning the 2002 NCAA Division I Wrestling National Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 166

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 166, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 267

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr.

FITZGERALD) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 349

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 349, a bill to provide funds to the National Center for Rural Law Enforcement, and for other purposes.

S. 414

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 414, a bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes.

S. 627

At the request of Mr. GRASSLEY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 694

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1310

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1310, a bill to provide for the sale of certain real property in the Newlands Project, Nevada, to the city of Fallon, Nevada.

S. 1346

At the request of Mr. SESSIONS, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1346, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1662

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1662, a bill to amend the Internal Revenue Code of 1986 to allow Coverdell educational savings accounts to be used for homeschooling expenses.

S. 1686

At the request of Mr. KENNEDY, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 1777, supra.

S. 1967

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1967, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 2009

At the request of Mr. DURBIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2009, a bill to amend the Public Health Service Act to provide services for the prevention of family violence.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. CONRAD), the Senator from Hawaii (Mr. AKAKA), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2057

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2057, a bill to amend title XVII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program.

S. 2075

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2075, a bill to facilitate the availability of electromagnetic spectrum for the deployment of wireless based services in rural areas, and for other purposes.

AMENDMENT NO. 3030

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of amendment No. 3030 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3094

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 3094 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 2090. A bill to eliminate any limitation on indictment for sexual offenses and make awards to States to reduce their DNA casework backlogs; to the Committee on the Judiciary.

Mr. TORRICELLI. Madam President, I rise today to introduce the Sexual Assault Prosecution Act. This legislation will ensure that no rapist will evade prosecution when there is reliable evidence of their guilt.

As Federal law is written today, a rapist can walk away scot-free if they are not charged within five years of committing their crime. This is true even if overwhelming evidence of the offender's guilt, such as a DNA match with evidence taken from the crime scene, is later discovered. Some States, including my home State of New Jersey, have recognized the injustice presented by this situation and have already abolished their statutes of limitations on sexual assault crimes, and many other States are considering similar measures. Given the power and precision of DNA evidence, it is now time that the Federal Government abolish the current statute of limitations on Federal sexual assault crimes.

The precision with which DNA evidence can identify a criminal assailant has increased dramatically over the past couple decades. Because of its exactness, DNA evidence is now routinely collected by law enforcement personnel in the course of investigating many crimes, including sexual assault crimes. The DNA profile of evidence collected at a sexual assault crime scene can be compared to the DNA profiles of convicted criminals, or the profile of a particular suspect, in order to determine who committed the crime. Moreover, because of the longevity of DNA evidence, it can be used to positively identify a rapist many years after the actual sexual assault.

The enormous advancements in DNA science have greatly expanded law enforcement's ability to investigate and prosecute sexual assault crimes. Unfortunately, the law has not kept pace with science. Given the precise accuracy and reliability of DNA testing, however, the legal and moral justifications for continuing to impose a statute of limitations on sexual assault crimes are extremely weak. To that end, I am introducing the "Sexual Assault Prosecution Act" which will eliminate the statue of limitations for sexual assault crimes. This legislation will not affect the burdens of proof and the government will still have to prove guilt beyond a reasonable doubt before any person could be convicted of a crime.

Currently, the statute of limitations for arson and financial institution crimes is 10 years and is 20 years for crimes involving the theft of major artwork. If it made sense to extend the traditional five-year limitations period for these offenses, surely it makes sense to do so for sexual assault crimes, particularly when DNA technology makes it possible to identify an offender many years after the commission of the crime. By eliminating this ticking clock, we can see to it that no victim of sexual assault is denied justice simply because the clock ran out. I look forward to working with each and every one of you in order to get this legislation enacted into law.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sexual Assault Prosecution Act of 2002".

SEC. 2. SEXUAL OFFENSE LIMITATION.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended—

(1) in section 3283, by striking "sexual or"; and

(2) by adding at the end the following:

"§ 3296. Sexual offenses

"An indictment for any offense committed in violation of chapter 109A of this title may be found at any time without limitation.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3296. Sexual offenses.".

SEC. 3. AWARDS TO STATES TO REDUCE DNA CASEWORK BACKLOG.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice, and after consultation with representatives of States and private forensic laboratories, shall develop a plan to grant voluntary awards to States to facilitate DNA analysis of all casework evidence of unsolved crimes.

(2) OBJECTIVE.—The objective of the plan developed under paragraph (1) shall be to—

(A) effectively expedite the analysis of all casework evidence of unsolved crimes in an efficient and effective manner; and

(B) provide for the entry of DNA profiles into the combined DNA Indexing System ("CODIS").

(b) AWARD CRITERIA.—The Federal Bureau of Investigation, in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice, shall develop criteria for the granting of awards under this section including—

(1) the number of unsolved crimes awaiting DNA analysis in the State that is applying for an award under this section; and

(2) the development of a comprehensive plan to collect and analyze DNA evidence by the State that is applying for an award under this section.

(c) GRANTING OF AWARDS.—The Federal Bureau of Investigation, in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice, shall—

(1) develop applications for awards to be granted to States under this section;

(2) consider all applications submitted by States; and

(3) disburse all awards under this section.

(d) AWARD CONDITIONS.—States receiving awards under this section shall—

(1) require that each laboratory performing DNA analysis satisfies quality assurance standards and utilizes state-of-the-art DNA testing methods, as set forth by the Federal Bureau of Investigation in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice;

(2) ensure that each DNA sample collected and analyzed be made available only—

(A) to criminal justice agencies for law enforcement purposes;

(B) in judicial proceedings if otherwise admissible;

(C) for criminal defense purposes, to a criminal defendant who shall have access to samples and analyses performed in connection with any case in which such defendant is charged; or

(D) if personally identifiable information is removed, for—

(i) a population statistics database;

(ii) identification research and protocol development purposes; or

(iii) quality control purposes; and

(3) match the award by spending 15 percent of the amount of the award in State funds to facilitate DNA analysis of all casework evidence of unsolved crimes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice $15,000,000 for each of fiscal years 2003 through 2006, for awards to be granted under this section.

By Mr. TORRICELLI:

S. 2091. A bill to amend title 18, United States Code to prohibit gunrunning, and provide mandatory minimum penalties for crimes related to gunrunning; to the Committee on the Judiciary.

Mr. TORRICELLI. Madam President, I rise today to introduce the Gun Kingpin Penalty Act. In introducing this bill, I hope that my colleagues will soon join me in sending a clear and strong signal to gunrunners, your actions will no longer be tolerated.

Data gathered by the Bureau of Alcohol, Tobacco and Firearms clearly demonstrates what many of us already know all too well, several of our Nation's highways have become pipelines for merchants of death who deal in illegal firearms.

My own State of New Jersey is proud to have some of the toughest gun control laws in the Nation. But for far too long, the courageous efforts of New Jersey citizens in enacting these tough laws have been weakened by out of State gunrunners who treat our State like their own personal retail outlet.

ATF data shows that in 1996 New Jersey exported fewer guns used in crimes, per capita, than any other State, less than one gun per 100,000 residents, or 75 total guns. Meanwhile, an incredible number of guns used to commit crimes in New Jersey came from out of State, 944 guns were imported, a net import of 869 illegal guns used to commit crimes against the people of New Jersey.

This represents a one way street, guns come from, States with lax gun laws straight to States, like New Jersey, with strong laws. It is clear that New Jersey's strong gun control laws offer criminals little choice but to import their guns from States with weak laws. We must act on a Federal level to send a clear message that this cannot continue and will not be tolerated.

The Gun Kingpin Penalty Act would create a new Federal gunrunning offense for any person who, within a twelve-month period, transports more than 5 guns to another State with the intent of transferring all of the weapons to another person. The Act would establish mandatory minimum penalties for gunrunning as follows: a mandatory 3 year minimum sentence for a first offense involving 5–50 guns; a mandatory 5 year minimum sentence for second offense involving 5–50 guns; and a mandatory 15 year minimum sentence for any offense involving more than 50 guns.

We can never rest when it comes to gun violence. This problem will not just go away, and we cannot standby and watch as innocent men, women and children die at the hands of criminals armed with these guns. I urge my colleagues to support this bill, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gun Kingpin Penalty Act".

SEC. 2. GUN KINGPIN PENALTIES.

(a) PROHIBITION AGAINST GUNRUNNING.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(z) It shall be unlawful for a person not licensed under section 923 to ship or transport, or conspire to ship or transport, 5 or more firearms from a State into another State during any period of 12 consecutive months, with the intent to transfer all of such firearms to another person who is not so licensed.".

(b) MANDATORY MINIMUM PENALTIES FOR CRIMES RELATED TO GUNRUNNING.—Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1)(A)(i) Except as otherwise provided in this subsection, whoever violates section 922(z) shall be imprisoned not less than 3 years, and may be fined under this title.

"(ii) Except as otherwise provided in this subsection, in the case of a person's second or subsequent violation of section 922(a), the term of imprisonment shall be not less than 5 years.

"(B) If a firearm which is shipped or transported in violation of section 922(z) is used subsequently by the person to whom the firearm was shipped or transported, or by any person within 3 years after the shipment or transportation, in an offense in which a person is killed or suffers serious bodily injury, the term of imprisonment for the violation shall be not less than 10 years.

"(C) If more than 50 firearms are the subject of a violation of section 922(z), the term of imprisonment for the violation shall be not less than 15 years.

"(D) If more than 50 firearms are the subject of a violation of section 922(z) and 1 of the firearms is used subsequently by the person to whom the firearm was shipped or transported, or by any person within 3 years after the shipment or transportation, in an offense in which a person is killed or suffers serious bodily injury, the term of imprisonment for the violation shall be not less than 25 years.

"(2) Notwithstanding any other provision of law, the court shall not impose a probationary sentence or suspend the sentence of a person convicted of a violation of section 922(z), nor shall any term of imprisonment imposed on a person under this subsection run concurrently with any other term of imprisonment imposed on the person by a court of the United States.".

(c) CRIMES RELATED TO GUNRUNNING MADE PREDICATE OFFENSES UNDER RICO.—Section 1961(1)(B) of title 18, United States Code, is amended by inserting before "section 1028" the following: "section 922(a)(1)(A) (relating to unlicensed importation, manufacture, or dealing in firearms), section 922(a)(3) (relating to interstate transportation or receipt of firearm), section 922(a)(5) (relating to transfer of firearm to person from another State), section 922(a)(6) (relating to false statements made in acquisition of firearm or ammunition from licensee), section 922(d) (relating to disposition of firearm or ammunition to a prohibited person), section 922(g) (relating to receipt of firearm or ammunition by a prohibited person), section 922(h) (relating to possession of firearm or ammunition on behalf of a prohibited person), section 922(i) (relating to transportation of stolen firearm or ammunition), section 922(j) (relating to receipt of stolen firearm or ammunition), section 922(k) (relating to transportation or receipt of firearm with altered serial number), section 922(z) (relating to gunrunning), section 924(b) (relating to shipment or receipt of firearm for use in a crime),".

(d) ENFORCEMENT.—Notwithstanding any limitations imposed by or under the Federal Workforce Restructuring Act (108 Stat. 111), the Secretary of the Treasury may hire and employ 200 personnel, in addition to any personnel hired and employed by the Department of the Treasury under other law, to enforce the amendments made by this section.

By Ms. STABENOW (for herself, Mr. DOMENICI, and Mr. LEVIN):

S. 2108. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. STABENOW. Madam President, I rise today to introduce the Senior Nutrition Act that will help prevent our seniors from having to make the choice between food and medicine as they try to balance their budgets.

That, is the most horrible of choices.

The problem, is this:

The average senior citizen pays over $1,000 per year on prescription drugs. Many of these seniors, the majority of whom are widows, depend entirely on Social Security for their income and cannot afford to buy their prescription drugs without cutting back on their food.

At the same time, many food banks and other nutrition programs are reporting an increase in participation by seniors.

These same food banks also say they are frustrated that many seniors they would like to help are not eligible because under the United States Department of Agriculture's, USDA, important nutrition program, the Commodity Supplemental Food Program, CSFP, seniors are not able to deduct the cost of their medications when seeking eligibility for food assistance.

While clearly in need of help, and clearly deserving of help, these seniors have to be turned away.

Michigan has the greatest number of CSFP participants in the country, last year over 80,000 people benefited from this important program in my State and 66,123 were seniors. I have a letter from the Director of the largest program in our State asking for help. I would like to insert his letter for the record because he raises some very important points. Most importantly, he points out that if something is not done to fix this program, many seniors will be turned away. These are seniors just barely getting along, who rely on the modest food package provided by the CSFP.

The Senior Nutrition Act helps resolve this problem and helps the neediest seniors by amending the eligibility criteria for nutrition assistance provided through the CSFP. Most importantly, the bill acknowledges the extraordinarily high out-of-pocket medical expenses that senior citizens have and helps these seniors by making many of them eligible for the food available through the CSFP. The Senior Nutrition Act means the fewer seniors will be forced to make the tough choice between medication or food.

Nationally, 28 States and the District of Columbia participate in the CSFP, which works to improve the health of both women with children and seniors by supplementing their diets with nutritious USDA commodity foods. An average of more than 388,000 people each month participated in the CSFP during fiscal year 2000. Of those, 293,000 were elderly and that number is on the rise. This program is important for anyone who cares about making sure seniors have enough to eat.

The bill I am introducing today, the Senior Nutrition Act, makes the following important changes: one: In those areas where CSFP operates, categorical eligibility is granted for seniors for the CSFP if the individual participates or is eligible to participate in the Food Stamp Program. No further verification of income would be necessary in such cases. The Food Stamp Program provides a medical expense deduction, which seniors may use to account for their high prescription drug costs.

Two: This bill says that the same income standard that is currently used to determine eligibility for women, infants and children in the CSFP, 185 percent of the Poverty Income Guidelines, would be applied to seniors as well. The current income eligibility standard for seniors has been capped by regulation at just 130 percent. Under the current standards a single senior must earn no more than $11,518 per year to qualify. By raising the standard to 185 percent of poverty, the same senior can earn as much as $16,391 to qualify for food. This will make a major difference in the lives of so many seniors who are struggling with the high cost of prescription drugs.

Finally, this bill establishes an authorization for the CSFP that will double the current appropriation levels to $200 million over five years to accommodate any expansion that may occur in the program due to the changes in eligibility standards.

This bill has been endorsed by the National CSFP Association. I would like to submit a copy of their letter for the RECORD.

The golden years should be bright and active years for our seniors. They should not be lived in a grey dusk of indifference as we sit by and watch them make literal life and death decisions between food and medicine.

I would like to thank my colleagues who have joined me as original cosponsors of this bill, Senators LEVIN and DOMENICI. Together, I know we can make a difference for seniors.

I ask unanimous consent that the text of this bill and that the letters from Mr. Frank Kubik and Ms. Barb Packett be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Nutrition Act of 2002".

SEC. 2. FINDINGS.

Congress finds that—

(1) senior citizens in the United States have significant out-of-pocket costs for medical expenses, especially for prescription drugs;

(2) 3 in 5 Medicare beneficiaries do not have dependable, affordable, prescription drug coverage;

(3) as medical costs continue to rise, many senior citizens are forced to make the difficult choice between purchasing prescription drugs and purchasing food;

(4) the commodity supplemental food program provides supplemental nutritious foods to senior citizens in a number of States and localities;

(5) under the commodity supplemental food program—

(A) women, infants, and children with household incomes up to 185 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services may be eligible for supplemental foods; but

(B) senior citizens are ineligible for supplemental foods if their household incomes are greater than 130 percent of the Federal Poverty Income Guidelines;

(6) during fiscal year 2000—

(A) an average of more than 388,000 people each month participated in the commodity supplemental food program; and

(B) the majority of those participants, 293,000, were senior citizens; and

(7) in order to serve the neediest senior citizens, taking into account their high out-of-pocket medical (including prescription drug) expenses, the eligibility requirements for the commodity supplemental food program should be modified to make more senior citizens eligible for the supplemental foods provided under the program.

SEC. 3. ELIGIBILITY OF ELDERLY PERSONS UNDER THE COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) IN GENERAL.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended—

(1) in the first sentence of subsection (d)(2)—

(A) by striking "provide not less" and inserting "provide, to the Secretary of Agriculture, not less";

(B) by inserting ", or such greater quantities of cheese and nonfat dry milk as the Secretary determines are necessary," after "nonfat dry milk"; and

(C) by striking "in each of the fiscal years 1991 through 2002 to the Secretary of Agriculture" and inserting "in each fiscal year";

(2) in subsection (i)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately; and

(B) by striking "(i) Each" and inserting the following:

"(i) PROGRAMS SERVING ELDERLY PERSONS.—

"(1) ELIGIBILITY.—An elderly person shall be eligible to participate in a commodity supplemental food program serving elderly persons if the elderly person is at least 60 years of age and—

"(A) is eligible for food stamp benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(B) has a household income that is less than or equal to 185 percent of the most recent Federal Poverty Income Guidelines published by the Department of Health and Human Services.

"(2) PROVISION OF INFORMATION.—Each"; and

(3) by adding at the end the following:

"(m) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out the commodity supplemental food program—

"(A) $120,000,000 for fiscal year 2003;

"(B) $140,000,000 for fiscal year 2004;

"(C) $160,000,000 for fiscal year 2005;

"(D) $180,000,000 for fiscal year 2006;

"(E) $200,000,000 for fiscal year 2007; and

"(F) such sums as are necessary for fiscal year 2008 and each fiscal year thereafter.

"(2) LIMITATION ON USE OF FUNDS.—None of the funds made available under paragraph (1) shall be available to reimburse the Commodity Credit Corporation for commodities donated to the commodity supplemental food program.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended by striking "Secretary (1) may" and all that follows through "(2) shall" and inserting "Secretary shall".

(2) Section 5(g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended by striking "(as defined by the Secretary)" and inserting "described in subsection (i)(1)".

February 21, 2002.

Hon. DEBBIE STABENOW,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR STABENOW: I am writing this letter to ask for your continued support for the Commodity Supplemental Food Program. We are facing some potential problems in the upcoming months that I would like to bring to your attention.

For FY02 we may be seeing program participation threaten to exceed our assigned caseload of 42,700 here at Focus: HOPE as well as other programs nationally that are at or above their assigned caseloads due to the downturn in the economy. November saw us serve 43,553 and 42,902 participated in January. These are traditionally slow months for us and my concern is that if we continue to serve over one hundred per cent of our caseload and additional resources are not found, we may be faced with the prospect of removing senior citizens from our program. The Department of Agriculture has done an outstanding job in assigning caseload nationally to maximize its usage but if this participation trend continues they may not have the ability to meet the demand. Seniors depend heavily on the nutritious commodities provided by CSFP. In many cases this is a lifeline for them by not only giving them access to the food but also the additional services many CSFP's are able to bring to the seniors by the strong use of volunteers and other community programs.

My hope is that we will not get to the point of removing seniors from the program and that additional caseload, if needed, can be found.

Another point I would like to bring up is the plight of senior citizens who are over the income guideline limits of one hundred and thirty per cent of the poverty level and are ineligible for CSFP. We routinely have to turn away seniors who's income is over the guidelines yet have major expenses in the way of prescriptions and other medical care that leaves very little to live on for the rest of the month. The average income of a senior on our program is around $520 a month. Even though the maximum amount for participation is $931 a month we find many who don't qualify due to the reasons I've mentioned. A possible solution is to increase the senior income guidelines to the same amount as mothers and children who are participating in CSFP of one hundred and eighty five per cent of the poverty level. Originally when the senior program was piloted in 1983, the income guidelines were the same. They were reduced after the seniors were permanently added to the program. Increasing the income guidelines would address the needs of a growing senior population while still maintaining priority to mothers and children in the program as required by regulations.

I know that this is a time of tightening budgets but I am hopeful that a way will be found to continue to support this much needed program that has made a difference in so many of our most vulnerable citzens.

I am most appreciative of all of your support for Focus: HOPE and the Commodity Supplemental Food Program.

Sincerely,

FRANK KUBIK,
CSFP Manager.

NATIONAL CSFP ASSOCIATION,
March 18, 2002.

Hon. DEBBIE STABENOW,
U.S. Senate, Hart Senate Bldg., Washington, DC.

DEAR SENATOR STABENOW: The National Commodity Supplemental Food Program

(CSFP) Association strongly supports your efforts to introduce and pass The Stabenow/Domenici Senior Nutrition Act in the upcoming weeks.

CSFP enables us to reach the most vulnerable seniors along with mothers and children every month with a food package designed to supplement protein, calcium, iron and vitamin A & C. The Hunger in America 2001 study done by America's Second Harvest reports that of the people seeking emergency food assistance, 30 percent had to choose between paying for food and paying for medicine or medical care. By amending the eligibility criteria for the seniors served by CSFP, this Act will assist the neediest of seniors in receiving nutrition assistance they so desperately need to remain in better health.

On behalf of the Association, let me thank you again for all your efforts on behalf of the CSFP and the participants we serve. We are committed to supporting The Stabenow/Domenici Senior Nutrition Action.

Sincerely,

BARB PACKETT,
Legislative Affairs Chair.

Mr. LEVIN. Madam President, today I am proud to be an original cosponsor of the Senior Nutrition Act. This legislation which is cosponsored by my friend and colleague from my home state of Michigan, Senator STABENOW as well as my good friend Senator DOMENICI seeks to address in inequity in the Commodity Supplemental Food Program, CSFP, that I have long sought to address.

CSFP is an important U.S. Department of Agriculture commodity food program that serves nearly four hundred thousand individuals every month, many of whom live in my home state of Michigan. The vast majority of these individuals are senior citizens. In fact, CSFP is the primary senior commodity program of the USDA. The average senior citizen pays $1000 dollars per year to purchase prescription drugs, and many senior citizens living on fixed incomes, are forced to choose between prescription drugs and food.

Given the dire choices facing many seniors, reforming the Commodity Supplemental Food Program so that it can serve more seniors is a matter of great importance. This legislation seeks to increase the ability of seniors to get the food that they need by granting categorical eligibility for seniors if they can participate in the Food Stamp Program. Additional verification is not needed in this case. The Food Stamp Program provides a medical expense deduction which seniors may use to account for their high prescription drug costs. This legislation will also raise the CSFP eligibility level for seniors to 185 percent of the poverty level. Raising the eligibility level to 185 percent of the poverty level, from the current level of 130 percent, would make eligibility levels consistent for women with children and senior citizens. In addition this bill will raise the authorized level for CSFP to $200 million of funding over 5 years. This will ensure that all eligible to receive food under CSFP will do so while allowing for the expansion of the program beyond the 28 States and the District of Columbia which currently participate in the program.

I am proud to be an original cosponsor of this legislation, and would like to thank Senators STABENOW and DOMENICI for their hard work in crafting this legislation. I hope that my Senate colleagues will join us in supporting and assign this legislation.

By Ms. COLLINS (for herself and Mr. NELSON of Nebraska):

S. 2110. A bill to temporarily increase the Federal Medicare assistance percentage for the Medicaid Program; to the Committee on Finance.

Ms. COLLINS. Madam President, I am pleased today to rise, with my good friend Senator BEN NELSON, to introduce a bill that would assist States through a period when many are experiencing a fiscal crisis. Stated simply, for the remainder of this year and next, the bill would increase the Federal Government's share of each State's Medicaid costs by 1.5 percent and hold the Federal matching rate for each State harmless in order to provide approximately $7 billion in fiscal relief to States and allow them to expand, not contract, their Medicaid programs.

Last month, I was pleased to join with an overwhelming number of our colleagues in passing an economic recovery bill that extended benefits for unemployed workers and provide depreciation incentives for businesses to invest in new facilities and equipment. In short, the bill provided welcome relief to our unemployed workers and to our economy. But it also posed a difficult choice to State governments.

In all but a handful of States, corporate and individual income taxes are calculated based on the Federal tax code's definition of income. Thus, when we change how taxable income is calculated under the Federal code, the changes automatically affect the amount of tax collected by States. It has been estimated, for example, that the tax changes made by the economic recovery package will reduce State revenues by $14 billion. States can avoid the revenue loss by "decoupling" their tax policies from Federal law, but they do so at a price. Decoupling increases the complexity of paying taxes and forces businesses to devote more resources to compliance. At the most basic level, they would have to calculate taxes two different ways and would have to factor the dueling tax consequences into their business decisions.

States that automatically or affirmatively decide to conform to the tax law changes in the economic recovery package are faced with finding ways to cover the loss in expected revenue. This could mean making painful cuts in important areas such as health care, transportation, and education. My home State of Maine was faced with a $27 million revenue loss over the next two years if it chose to conform to the Federal tax law changes, and this on top of a much larger structural budget shortfall. The resulting bleak picture forced the State legislature to contemplate some extremely problematic alternatives, including cuts in the State Medicaid program.

Today, Medicaid is the fastest growing component of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased 11 percent. Maine is only one of a number of States that has been forced to consider cuts in their Medicaid programs to make up for their budget shortfalls.

Earlier this year, Maine was facing a $248 million revenue shortfall. Faced with nothing but tough choices, our Governor proposed $58 million in Medicaid cuts, including reductions in payments to hospitals, nursing homes, group homes, and physicians. He was also forced to propose a delay in the enactment of legislation passed by the State Legislature last year to expand Medicaid to provide health coverage to an estimated 16,000 low-income uninsured Mainers.

While subsequent revisions in the State's revenue forecasts enabled the Governor to restore most of these Medicaid cuts, the loss of revenue due to the tax law changes in the economic recovery package could very well put them back on the table, particularly because the Maine legislature has decided to defer a decision on whether to fully conform in 2002 to the bonus depreciation provisions of the economic recovery package until its next legislative session.

The legislation I am introducing today will help to bridge Maine's funding gap by bringing an additional $40 million to my State's Medicaid program over the next two years. This should not only forestall the need for any further cuts, but will also provide additional funds to Maine to proceed with its plans to expand its Medicaid program to provide health care coverage for more of our low-income uninsured.

I do not want Maine or other States to have to choose between helping our economy recover from recession and helping people in need. Our States need more Federal assistance in providing health care services through Medicaid, not less, which is why I am introducing this bill today. By increasing the Federal medical assistance percentage for all States this year and next, we can relieve the pressure put on States to cut spending on important programs while increasing their capacity to provide services through Medicaid. I urge our colleagues to join Senator NELSON and me in this effort.

Mr. NELSON of Nebraska. Madam President, I come to the floor to talk about a bill I plan on introducing later on today with my good friend Senator SUSAN COLLINS. I am pleased to say that our legislation could be considered the next step in economic stimulus. A little more than a month ago, this body passed and the President signed a bill to stimulate the economy and help workers. It was not a perfect bill, but few are. But the economy was hurting and it was time to act.

One of the unintended consequences of the stimulus bill was a revenue loss for many states. The final package included a provision that will stimulate business development through tax incentives. Unfortunately, because the majority of states "couple" their tax rates to the federal tax rates, this benefit for businesses will mean an estimated $14 billion loss in state revenues. States can avoid the revenue loss by decoupling from the federal law, but this approach is not without its own traps and pitfalls. Decoupling makes the tax codes of states just that much more confusing.

Many states have explored ways to decouple, or in simpler terms, they have searched for ways to hold their state harmless from the experienced revenue loss. In fact, the state Legislature in Nebraska is considering such a measure today, as it attempts to find a way out of it's expected $119 million budget shortfall.

We must now take steps to alleviate the unintended impact of the tax reductions on state budgets. In previously debated stimulus packages, a provision was included that would have helped state governments by increasing the federal contribution of the Federal Medicaid Assistance Percentage, FMAP, by 1.5 percent. This provision enjoyed wide support. Unfortunately, and over the objections of the crafters of the Centrist stimulus plan, it was not included in the final package signed by President Bush.

Even before the passage of the stimulus bill, Medicaid costs were rising at the same time state tax revenues were decreasing. States are now faced with the choice of either cutting Medicaid services or diverting funding from other essential programs to fund Medicaid. This "choice" is no choice at all either cut health care service to Medicaid recipients or cut funding for schools, roads, police and firefighters. In a time of economic turmoil this "choice" can stall the economic recovery the stimulus bill was meant to jump-start.

Our bill would revive the FMAP provision this body earlier considered. It would provide a direct response to the false "choice" faced by states. This bill will alleviate state's Medicaid liabilities by increasing the federal government's contribution to the Medicaid program by 1.5 percent for this year and next. This would mean an additional $7 billion for states. In Nebraska, the savings would amount to an estimated $42.7 million. This more than offsets the $34 million that Nebraska is expected to lose if they comply with the business tax incentives in the stimulus bill and would in fact provide $8.7 million on top of what was lost.

A month ago, we took steps to help the economy recover and to help workers. Today, we need to take an additional step to help states struggling with fiscal calamity. With this increase in federal Medicaid assistance throughout this year and next, states will be given some breathing room to deal with the difficult choices they face in balancing their budgets. I urge my colleagues to join Senator COLLINS and I in this effort and show the states that Congress is not indifferent to their budget problems and that we will step in and provide meaningful assistance at a time when governors need it most.

Mrs. CLINTON. Madam President, I commend my colleague from Nebraska for recognizing the extraordinary burdens that are being placed on our States both because of the economic slowdown and the increase in health costs, as well as the effects of the 9–11 attacks in our State particularly, but also because of the unintended consequences of some of the efforts that were undertaken in the stimulus bill to stimulate investment which have the direct effect of further cutting State revenues.

As a former Governor, I know our colleague from Nebraska understands this intimately. I very much appreciate his leadership on this issue and look forward to working with him.

Mr. NELSON of Nebraska. I thank the Senator.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, and Mr. SPECTER):

S. 2113. A bill to reduce temporarily the duty on N-Cyclohexylthiophthalimide; to the Committee on Finance.

Mr. ROCKEFELLER. Madam President, I am pleased to introduce this bill today with Senators SPECTER and BYRD to temporarily suspend a portion of the tariff applicable to a specific chemical product, N-(Cyclohexylthio)-phthalimide, which is usually referred to as "PVI," and thereby provide for greater economic growth.

Import duties are intimately related to the tax and trade policies of the United States. Just as Congress expressly imposes duties on imported goods to protect specific domestic industries and at the same time raise revenue, Congress abolishes, reduces, or suspends duties to encourage domestic business enterprise and export activity, particularly if a specific domestic industry will not be harmed. This is the situation applicable to PVI.

PVI stands for "Pre-Vulcanization Inhibitor," which means that PVI retards the onset of the vulcanization when rubber is being processed. In other words, PVI functions as a safeguard when rubber articles are being manufactured. There is no direct substitute product for PVI.

As you might expect, there is a reasonable demand for this product in the U.S. rubber industry, particularly in the tire industry. To meet this demand, various companies around the world now manufacture PVI and export it to the United States; however, PVI is not manufactured in the United States.

Therefore, the U.S. economy is paying a duty for the use of PVI, but no domestic industry is being protected. Therefore, this tariff should be suspended to the maximum extent possible. This legislation would suspend the tariff above the 2 percent level, which will provide for greater economic growth for the United States.

I encourage my colleagues to support this initiative. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. N-CYCLOHEXYLTHIOPHTHALIMIDE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

" 9902.29.82	N-Cyclohexylthiophthalimide (CAS No. 17796–82–6) (provided for in subheading 2930.90.24)	3%	No change	No change	On or before 12/31/2005	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2114. A bill to authorize the Attorney General to carry out a racial profiling educating and awareness program within the Department of Justice and to assist state and local law enforcement agencies in implementing such programs; to the Committee on the Judiciary.

Mr. VOINOVICH. Madam President, we've heard all too often of situations in cities and towns across the country in which concerns over racial profiling are creating serious divisions between communities and law enforcement agencies. Despite the shared interest each have in fighting crime and making neighborhoods safer, mistrust and wariness stands in the way of cooperation.

Today I introduced a bill entitled the "Racial Profiling Education and Awareness Act of 2002" that I believe will put us on the road to preventing problems caused by racial profiling and help begin reconciliation in communities torn apart by racial unrest connected to police-community relations.

Rooted in the belief that education and dialogue are the most effective tools for bridging racial divides, my bill establishes a program within the Department of Justice to educate city leaders, police chiefs, and law enforcement personnel on the problems of racial profiling and the value of community outreach, as well as to recognize and disseminate information on "best practice" procedures for addressing police-community racial issues.

My experience as mayor of Cleveland and governor of Ohio has taught me that reaching the hearts and minds of people is the most effective means of dealing with intolerance and the problems that result.

As mayor of Cleveland I established the city's first urban coalition, the Cleveland Roundtable, to bring together representatives of the city's various racial, religious and economic groups to create a common agenda. I also established a one-week sensitivity training course for all Cleveland police officers and created six police district community relations committees to open lines of communication between police officers and community members.

As governor, I launched efforts to increase community outreach by law enforcement in order to foster a cooperative, rather than adversarial, relationship between citizens and law enforcement. Through my "Governor's Challenge," I worked to bring members of local communities together with law enforcement officials and members of the business community in order to educate and break down barriers that lead to intolerance. Outstanding communities were recognized for their efforts.

On Friday, April 12, 2002, Attorney General Ashcroft is scheduled to travel to Cincinnati, Ohio to endorse a settlement agreement between the Cincinnati Police Department and the Department of Justice. The settlement is in reference to a Federal lawsuit, filed last March that alleges a 30-year pattern of racial profiling by the department. Just one month after the suit was filed, riots broke out in the city of Cincinnati after a white officer shot and killed an unarmed black teenager in a foot chase. The riots prompted Mayor Luken of Cincinnati to invite the Justice Department to review the practices and procedures of the Cincinnati Police Department and make recommendations for improvement.

What results is a settlement, endorsed by all parties, including the local Fraternal Order of Police chapter and the local ACLU chapter, which sets forth several recommendations for the department, including revising procedures governing the use of deadly force, choke holds and irritant spray; increasing training requirements; and keeping a database of all citizen-reported positive interactions with police. Most importantly in my eyes, however, is the requirement that the department works to improve relations between communities and the police.

I firmly believe that Cincinnati can become a model for turning around a difficult situation and building good community-police relations. And I believe that if other cities and towns throughout the country can open the lines of communication between their communities and law enforcement as Cincinnati is doing, they can prevent problems from ever happening.

The overwhelming majority of State and local law enforcement agents throughout the Nation discharge their duties professionally and justly. I salute them for their committed efforts in what is one of America's toughest jobs. It is unfortunate that the misdeeds of a minute few have such a corrosive effect on the police-community relationship. Through education and dialogue we can help turn situations around so that groups who once thought they had little in common can realize how much they actually have to gain by working together to make our communities safer places to live.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Racial Profiling Education and Awareness Act of 2002."

SEC. 2. FINDINGS.

Whereas, the overwhelming majority of state and local law enforcement agents throughout the nation discharge their duties professionally and without bias.

Whereas, a large majority of individuals subjected to stops and other enforcement activities based on race, ethnicity, or national origin are found to be law-abiding and therefore racial profiling is not an effective means to uncover criminal activity.

Whereas, racial profiling should not be confused with criminal profiling, which is a legitimate tool in fighting crime.

Whereas, racial profiling violates the Equal Protection Clause of the Constitution. Using race, ethnicity, or national origin as a proxy for criminal suspicion violates the constitutional requirement that police and other government officials accord to all citizens the equal protection of the law. *Arlington Heights* v. *Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977).

SEC. 3. AUTHORIZATION OF PROGRAM.

(a) In General.—The Attorney General, in consultation with law enforcement agencies and civil rights organizations, shall establish an education and awareness program on racial profiling and the negative effects of racial profiling on individuals and law enforcement.

(b) Purposes of Program.—The purposes of this new educational program are to (1) encourage state and local law enforcement agencies to cease existing practices that may promote racial profiling, (2) encourage involvement with the community to address the problem of racial profiling, (3) assist state and local law enforcement agencies in developing and maintaining adequate policies and procedures to prevent racial profiling, and (4) assist state and local law enforcement agencies in developing and implementing internal training programs to combat racial profiling and to foster enhanced community relations.

(c) Program for Local Law Enforcement Agencies.—The education and awareness program and materials developed pursuant to subsections (a) and (b) shall be offered to state and local law enforcement agencies.

(d) Regional Programs.—The education and awareness program developed pursuant to subsections (a) and (b) shall be offered at various regional centers across the country to ensure that all law enforcement agencies have reasonable access to the program.

SEC. 4. EVALUATION OF BEST PRACTICES.

(a) Performance Measures.—The Department of Justice shall develop measures to evaluate the performance of programs implemented under Section 3(b)(4).

(b) Evaluation According To Performance Measures.—Applying the performance measures developed under subsection (a), the Department of Justice shall evaluate programs implemented under section 3(b)(4)—

(1) to judge their performance and effectiveness;

(2) to identify which of the programs represents the best practices to combat racial profiling; and

(3) to identify which of the programs may be replicated and used to provide assistance to other law enforcement agencies.

(c) Applying the performance measures developed under subsection (a), the Department of Justice shall work with those state and local law enforcement agencies that would most benefit from the education program and materials developed under section three in order to assist them in implementing a plan for the prevention of racial profiling within their agency.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. CLELAND:

S. 2115. A bill to amend the Public Health Act to create a Center for Bioterrorism Preparedness within the Centers for Disease Control and Prevention; to the Committee on Health, Education, Labor, and Pensions.

Mr. CLELAND. Madam President, I rise today to introduce legislation to create a National Center for Bioterrorism Preparedness and Response within the Centers for Disease Control and Prevention. This center will be the first in the Federal Government to be dedicated solely to protecting the Nation against the public health threats posed by biological, chemical, and radiological weapons attacks.

The monumental importance of this task, compounded by the potentially devastating consequences of a failure to give it the national commitment it deserves, makes the creation of a single center that will focus all its energies and resources on encountering the public health threat of bioterrorism imperative and of the greatest urgency.

The events of last fall made it painfully clear that we as a nation are not as prepared as we need to be to deal with a bioterrorist attack.

The Federal response to the anthrax crisis has been variously characterized as fragmented, slow, confused, ineffectual—in a word, inadequate. This is in no way a reflection on the dedication or abilities of the men and women who performed so exceptionally well in their roles at the Federal, State, and local level in response to a threat none of us had encountered before. They did not let us down. If anything, we, the Congress of the United States, let them down through years of neglect of the public health sector and by failing to give adequate recognition sooner to the threat posed to us by bioterrorism.

It was not until 1999 that the Department of Health and Human Services launched its bioterrorism initiative. The military had understood and taken steps to counter the threat of biological warfare against our troops decades earlier. But it took the civilian sector until 3 years ago even to begin to take seriously the threat of domestic terrorism.

Today not one of us could possibly fail to understand how serious the threat posed by bioterrorism truly is. Some among us were the intended targets of last fall's bioterrorist attack. All of us keenly felt the threat.

Between 1999 and 2001, we spent in this Nation a total of $730 million on HHS's bioterrorism initiative, the lion's share of which was used by the CDC to bolster bioterrorism preparedness and response capacity of State and local health departments.

This initiative was a good start, but it is now clear that between 1999 and September 11, 2001, we continued to grossly underestimate the national commitment that would be required to counter the threat of bioterrorism.

Finally, late last year, as we finished allocating funds for fiscal year 2002 in the wake of September 11 and the anthrax attacks, we boosted HHS bioterrorism spending to $3 billion, roughly a tenfold increase.

Congress is often accused of being reactive instead of proactive, and I think that criticism is, I am sad to say, valid in this case. Certainly a dramatic ratcheting up to our commitment to bioterrorism defense was the right reaction to the events of last fall. But now we are presented with the opportunity, and I think the obligation, to take proactive steps to anticipate future threats and needs based on our recent experiences.

My proposal today is just such a step, and I exhort my colleagues in this body and in the House to support the immediate authorization of a National Center for Bioterrorism Preparedness and Response.

The CDC is on the public health front in the war against domestic terrorism, the tip of the spear. It is not the only weapon in our arsenal. The CDC joins the National Institutes of Health, the Food and Drug Administration, and Health Resources and Services Administration, the many State and local health departments, and many others on the front line. But the CDC is the one with the greatest responsibility in the event of a bioterrorist attack.

Despite the critical nature of these responsibilities, we must remember how new they are to the CDC, especially relative to the CDC's 56 years of experience addressing public health threats of a fundamentally different nature.

The threat posed by bioterrorism bears a surface resemblance to that posed by more conventional disease outputs. But closer inspection reveals real substantive differences, and a recognition of these differences can make the difference between an effective and ineffective emergency response.

The scientists and other experts at the National Center for Infectious Diseases and the National Center for Environmental Health are highly skilled in controlling and preventing disease outbreaks of a natural origin, but when it comes to bioterrorism, they are treading new ground without a compass.

CDC's rapid response personnel, in the absence of the specialized and focused bioterrorism training that a national center could provide, will inevitably bring to bear epidemiological models and methods that, while exceptionally effective in approaching naturally occurring disease outbreaks, are poorly suited to manmade outbreaks.

As my friend and former Senator Sam Nunn so wonderfully noted in testimony to Congress just months before September 11 of last year:

> A biological weapons attack cuts across categories and mocks old strategies.

We need a new approach. Under the present structure, CDC's bioterrorism preparedness and response efforts exist alongside and are dispersed among its more traditional programs. This is the prevailing state of affairs because HHS's bioterrorism initiative is still relatively new, not because it is the ideal method of organizing CDC's response to bioterrorism, but the time has come to give the CDC's bioterrorism defense efforts the focus they deserve.

Counterbioterrorism activities at the CDC jumped from zero percent of the CDC's overall budget in 1998 to 4 percent in 2001 and 34 percent in 2002.

Each of the CDC's other major programs, none of which now even approaches the bioterrorism program in terms of size, has been given a national center with its own director, its own budget authority, and own accountability to Congress.

The CDC's Bioterrorism Preparedness and Emergency Response Program, by contrast, is not even funded through the CDC. Its resources come from the external public health and social service emergency fund.

In the Children's Health Act of 2000, we authorized a National Center on Birth Defects and Developmental Disabilities, not because the CDC had no prior programs relating to birth defects and developmental disabilities, but rather because only in their own dedicated center could these programs receive the focus and priority they deserve.

There is a National Center for Health Statistics, but there is right now no National Center for Bioterrorism Preparedness and Response. It seems to me that if a dedicated center is called for by the need for accurate health statistics, the urgent need for a comprehensive, effective, and focused defense against bioterrorism certainly demands one as well.

Under my legislation, the National Center for Bioterrorism Preparedness and Response would be charged with the following responsibilities: training, preparing, and equipping bioterrorism emergency response teams, who will become the special forces of the Public Health Service, for the unique purpose of immediate emergency response to a man-made assault on the public health; overseeing, expanding, and improving the laboratory response network; and that is a mission; developing response plans for all conceivable contingencies involving terrorist attacks with weapons of mass destruction, that is much needed and developing protocols of coordination and communication between Federal, State, and local actors, as well as between different Federal actors, in collaboration with these entities, for each of those contingencies, which is highly needed; maintaining, managing, and deploying the National Pharmaceutical Stockpile, what an important challenge that is; regulating and tracking the possession, use, and transfer of dangerous biological, chemical, and radiological agents that the Secretary of HHS determines pose a threat to the public health; developing and implementing disease surveillance systems, including a nationwide secure electronic network linking doctors, hospitals, public health departments, and the CDC, for the early detection, identification, collection, and monitoring of terrorist attacks involving weapons of mass destruction; administering grants to state and local public health departments for building core capacities, such as the Health Alert Network; and organizing and carrying out simulation exercises with respect to terrorist attacks involving biological, chemical, or radiological weapons in close coordination with other relevant federal, state, and local actors.

This Center is designed specifically to complement HHS's existing structure for the coordination of its multi-agency counter-bioterrorism initiative. At present, the Director of the Office of Public Health Preparedness is responsible for coordinating the bioterrorism functions of the CDC with those of the NIH, with those of the FDA and so forth. The housing of all the CDC's bioterrorism functions in one dedicated center will facilitate the Director's coordination task by providing a single point of contact within the CDC for its bioterrorism defense efforts. When the National Center for Bioterrorism Preparedness and Response goes online, the CDC will benefit from a much more focused and prioritized bioterrorism mandate; the Office of Public Health Preparedness will benefit from a streamlining of its coordination duties; and the American people will benefit from a firmer, sounder, stronger defense against bioterrorism.

Let me be clear that what I am proposing is not an added layer of bureaucracy. Most of the responsibilities that would be assigned to the National Center for Bioterrorism Preparedness and Response already accrue to the CDC in Atlanta. My legislation would gather these existing bioterrorism functions from their various locations throughout the CDC, which has 21 different buildings, I might add, and bring them all under one roof, one center—an elimination of bureaucratic layers, not an addition of a new one. There are a few new responsibilities that my legislation would charge to the Center that do not currently reside with the CDC, but I challenge anyone to claim that they constitute merely an added layer of bureaucracy. Where there are new responsibilities—for instance, the tracking and regulation not merely of the transfer but of the possession and use of deadly biological toxins—it is only in instances of national security imperatives of the highest order.

In 1947, President Truman advocated and presided over the creation of the National Military Establishment, a new department bringing the Departments of War and Navy under one aegis. In 1949, the National Military Establishment was renamed the Department of Defense. President Truman recognized in the waning days of World War II that the Nation's military as it was then structured would be incapable of meeting future threats. That is important. The Department of Defense, with its unified command structure and cohesive focus on national defense, was his solution to the problem. Today, we all know how well the Department of Defense has served us. In the 1980s, President Reagan appointed the first drug czar to lend focus to what had previously been a loosely dispersed and consequently ineffectual war on drugs. More recently, President Bush created the Office of Homeland Security because he recognized that we need one office and one director whose sole responsibility is to ensure the security of our homeland. In this same tradition, I propose a National Center for Bioterrorism Preparedness and Response. When a threat—be it our inability to win future wars, rampant drug use, or terrorist designs on our homeland—reaches critical proportions, our Nation has historically responded by creating a focal point whose sole mandate is addressing that threat. Today, I can say without fear of contradiction that the threat of bioterrorism has surpassed the critical threshold. In my view, we are therefore called upon by history and by our obligation to future generations to create a dedicated National Center for Bioterrorism Preparedness and Response.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL CENTER FOR BIOTERRORISM PREPAREDNESS AND RESPONSE.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART R—NATIONAL CENTER FOR BIOTERRORISM PREPAREDNESS AND RESPONSE

"SEC. 399Z–1. NATIONAL CENTER FOR BIOTERRORISM PREPAREDNESS AND RESPONSE.

"(a) IN GENERAL.—There is established within the Centers for Disease Control and Prevention a center to be known as the National Center for Bioterrorism Preparedness and Response (referred to in this section as the 'Center') that shall be headed by a director appointed by the Director of the Centers for Disease Control and Prevention.

"(b) DUTIES.—The Director of the Center shall—

"(1) administer grants to State and local public health entities, such as health departments, academic institutions, and other public health partners to upgrade public health core capacities, including—

"(A) improving surveillance and epidemiology;

"(B) increasing the speed of laboratory diagnosis;

"(C) ensuring a well-trained public health workforce; and

"(D) providing timely, secure communications and information systems (such as the Health Alert Network);

"(2) maintain, manage, and in a public health emergency deploy, the National Pharmaceutical Stockpile administered by the Centers for Disease Control;

"(3) ensure that all States have functional plans in place for effective management and use of the National Pharmaceutical Stockpile should it be deployed;

"(4) establish, in consultation with the Department of Justice, the Department of Energy, and the Department of Defense, a list of biological, chemical, and radiological agents and toxins that could pose a severe threat to public health and safety;

"(5) at least every 6 months review, and if necessary revise, in consultation with the Department of Justice, the Department of Energy, and the Department of Defense, the list established in paragraph (4);

"(6) regulate and track the agents and toxins listed pursuant to paragraph (4) by—

"(A) in consultation and coordination with the Department of Justice, the Department of Energy, and the Department of Defense—

"(i) establishing procedures for access to listed agents and toxins, including a screening protocol to ensure that individual access to listed agents and toxins is limited; and

"(ii) establishing safety standards and procedures for the possession, use, and transfer of listed agents and toxins, including reasonable security requirements for persons possessing, using, or transferring listed agents, so as to protect public health and safety; and

"(B) requiring registration for the possession, use, and transfer of listed agents and toxins and maintaining a national database of the location of such agents and toxins; and

"(7) train, prepare, and equip bioterrorism emergency response teams, composed of members of the Epidemic Intelligence Service, who will be dispatched immediately in the event of a suspected terrorist attack involving biological, chemical, or radiological weapons;

"(8) expand and improve the Laboratory Response Network;

"(9) organize and carry out simulation exercises with respect to terrorist attacks involving biological, chemical, or radiological weapons, in coordination with State and local governments for the purpose of assessing preparedness;

"(10) develop and implement disease surveillance measures, including a nationwide electronic network linking doctors, hospitals, public health departments, and the Centers for Disease Control and Prevention, for the early detection, identification, collection, and monitoring of terrorist attacks involving biological, chemical, or radiological weapons;

"(11) develop response plans for all conceivable contingencies involving terrorist attacks with biological, chemical, or radiological weapons, that specify protocols of communication and coordination between Federal, State, and local actors, as well as between different Federal actors, and ensure that resources required to carry out the plans are obtained and put into place; and

"(12) perform any other relevant responsibilities the Secretary deems appropriate.

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, on the date described in paragraph (4), each program and function described in paragraph (3) shall be transferred to, and administered by the Center.

"(2) RELATED TRANSFERS.—Personnel employed in connection with the programs and functions described in paragraph (3), and amounts available for carrying out such programs and functions shall be transferred to the Center. Such transfer of amounts does not affect the availability of the amounts with respect to the purposes for which the amounts may be expended.

"(3) PROGRAMS AND FUNCTIONS DESCRIBED.—The programs and functions described in this paragraph are all programs and functions that—

"(A) relate to bioterrorism preparedness and response; and

"(B) were previously dispersed among the various centers that comprise the Centers for Disease Control and Prevention.

"(4) DATE DESCRIBED.—The date described in this paragraph is the date that is 180 days after the date of enactment of this section.".

By Mr. KERRY:

S. 2116. A bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased today to introduce the Welfare Reform and Housing Act. This bill contains measures to improve access to adequate and affordable housing for families eligible for Temporary Assistance for Needy Families, TANF, benefits.

It is essential that low-income families struggling to make the transition from welfare to work have access to affordable, quality housing options. Families with housing affordability problems are often forced to move frequently, which disrupts work schedules and jeopardizes employment. Many of the affordable housing options are located in areas that have limited employment opportunities and are located a long distance from centers of job growth. Furthermore, high housing costs can rob low-wage workers of a majority of their income, leaving insufficient funds for child care, food, transportation, and other basic necessities.

Maintaining stable and affordable housing is critically important to holding down a job, yet an alarming number of low-income families do not have access to affordable housing. The data from Massachusetts is shocking: in order to afford a two-bedroom unit at the fair market rent established by the Department of Housing and Urban Development, HUD, a minimum-wage worker would have to work 105 hours per week; in 1995, 2,900 poor families used private homeless shelters, while in 2000 the number grew to 4,300, with a majority of these families being low-wage workers who had once been on welfare. Lack of affordable housing is not a problem exclusive to Massachusetts. The Brookings Institution found that nearly three-fifths of poor renting families nationwide pay more than half of their income for rent or live in seriously substandard housing. Nationwide there are only 39 affordable housing units available for rent for every 100 low-income families needing housing. And for the fourth year in a row, rents have increased faster than inflation. We must address the issue of affordable housing during reauthorization of the welfare law because many low-income families hit this formidable roadblock on their path to employment.

Though access to affordable housing is often left out of the discussion of welfare reform, it is crucial that we address this issue during our reauthorization of the welfare reform law this year. The welfare reform legislation will not allocate considerable new funds to increase affordable housing opportunities, however, modifications to the TANF statute can be made to address the problem by other means. That is why today I am introducing the Welfare Reform and Housing Act. This legislation will address the housing issue in the context of welfare reform in six major ways:

First, the measure will make it simpler for states to use TANF funds to provide ongoing housing assistance. TANF-funded housing subsidies provided for more than four months would be considered "non-assistance" instead of "assistance". By considering these subsidies as "non-assistance," states that want to implement housing assistance programs using TANF funds will not have to work within the constraints of current Health and Human Services rules surrounding "assistance" subsidies.

Second, the bill would encourage states to consider housing needs as a factor in TANF planning and implementation. My legislation would direct the Department of Health and Human Services to work with the Department of Housing and Urban Development to gather increased and improved data on the housing status of families receiving TANF and the location of places of employment in relation to families' housing. States will be required to consider the housing status of TANF recipients and former recipients in TANF planning.

Third, the legislation would allow states to determine what constitutes "minor rehabilitation costs" payable with TANF funds. It is now permissible to use TANF funds for "minor rehabilitation" but there is no guidance from HHS on what types or cost of repairs are allowable, making it difficult for states to determine the extent to which using TANF funds in this area is permissible. By allowing states to define what constitutes "minor rehabilitation," more states with similar needs will follow suit. A recent study of the health of current and former welfare recipients found that non-working TANF recipients were nearly 50 percent more likely than working former recipients to have two or more problems with their housing conditions. Research has shown that poor housing conditions often can cause or exacerbate health problems.

Fourth, my bill would encourage cooperation among welfare agencies and agencies that administer federal housing subsidies. By improving the dialogue between public housing agencies and state welfare agencies, the two groups will be able to enter into agreements on how to promote the economic stability of public housing residents who are receiving or have received TANF benefits.

Fifth, the legislation would authorize HHS and HUD to conduct a joint demonstration to explore the effectiveness of a variety of service-enriched and supportive housing models for TANF families with multiple barriers to work, including homeless families.

Finally, my bill would clarify that legal immigrant victims of domestic violence eligible for TANF and other welfare-related benefits are also eligible for housing benefits. The proposal would ensure that abused immigrant women seeking protection under the 1994 Violence Against Women Act that are also eligible for other federal benefit programs have access to federal housing programs under section 214 of the Housing and Community Development Act.

Recent proposals made by the Administration and some members of Congress aim to increase work requirements for families receiving TANF funds. Therefore it is important that we are committed to ensuring that low-income families have a fair chance at employment. We have made progress addressing many barriers to work for low-income families such as child care, job training, and transportation. But in order to fully support families make the transition to work we must address the shortage of adequate and affordable housing. The Welfare Reform and Housing Act brings housing into the welfare reform dialogue and aims to help ameliorate the housing problem so that low-income families leaving welfare have a chance to succeed in the work force.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. DEWINE, Mr. BREAUX, Mr. REED, Mr. ROCKEFELLER, and Ms. COLLINS):

S. 2117. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Madam President, I am pleased to join with my colleagues Senators SNOWE, JEFFORDS, DEWINE, BREAUX, REED, ROCKEFELLER, and COLLINS. By joining together on this legislation, we are indicating a strong bipartisan consensus to invest in both improving the quality of child care and expanding assistance to low income working families.

It is significant that we are joining together today not only in a bipartisan manner, but also as members of the HELP and Finance Committees in recognition of the support and neccessity of child care assistance.

Today we are introducing legislation to reauthorize the Child Care and Development Block Grant. We are calling this legislation the "Access to High Quality Child Care Act", because it's about time that we put the focus on "Development" back into the Child Care and Development Block Grant. Children are 20 percent of our population, but 100 percent of our future.

Today, 78 percent of mothers with school-age children are working. 65 percent of mothers with children under 6 are working. And, more than half of mothers with infants are working.

Most parents are simply not home full-time anymore. Many would like to be. For those who are, I introduced legislation in the Senate to provide a tax credit for stay-at-home parents. Because they, too, deserve support in their efforts to raise their children.

But most families don't have a choice. If the kids are going to eat, go to school, and have a roof over their heads, both parents must work. I don't know of any working parents who think that balancing work and family is easy. It's not.

Since 1996, the number of families receiving child care assistance has grown dramatically to about 2 million children today. But, for as many children who receive assistance, available child care funds reach only one out of seven eligible children.

Child care in too many communities is not affordable. And in too many more, it's not available, or, even worse, of dubious quality.

About 14 million children under the age of 6 are in some type of child care arrangement every day. This includes about 6 million infants. The cost of care averages between $4,000 and $10,000 a year, more than the cost of tuition at any state university.

Far too many of America's parents are left with far too little choice.

Nearly 20 States currently have waiting lists for child care assistance. Every State has difficulty meeting child care needs. No state serves every eligible child.

Now, I know that there are some who say that we don't need more money for child care, that during the last few years we have pumped billions more into child care. But, I think we have a responsibility to look at what has happened over the last few years as well.

The welfare caseload dropped by 1.8 million families from 1996 to 1999. The majority of welfare leavers are now employed in low wage jobs.

The share of TANF families working or participating in work-related activities while receiving TANF has soared to nearly 900,000 in fiscal year 99.

Between 1996 and 1999, the number of employed single mothers grew from 1.8 million to 2.7 million.

According to the Congressional Research Service, there has been a marked increase in single mothers working, from 63.5 percent in 1996 to 73 percent in 2001.

But, let's face it. Most welfare leavers are leaving for low wage jobs. On average, they are making $7 or $8 an hour. They are working, but they are still struggling to get by. Many low wage parents move from one low wage job to another, but rarely to a high wage job. Therefore, even over time, these parents still need child care assistance to stay employed.

I am very concerned that the Administration's welfare reauthorization plan, with no additional funds for child care, will result in States shifting assistance from the working poor to those on welfare. House Republicans joined with Secretary Thompson on Wednesday to announce the introduction of the President's welfare plan in the House. One change they made to address child care needs was to allow states additional flexibility to transfer 50 percent of TANF funds to child care instead of 30 percent under current law.

Since States are already spending all of their TANF money and the Administration's welfare plan adds significant additional work requirements for TANF recipients, I just don't see what giving the States additional flexibility buys them in child care dollars. At best, it's robbing Peter to pay Paul, taking cash assistance payments away from welfare parents to pay for child care for working TANF parents. That makes no sense. So, instead of robbing assistance from the working poor to pay for child care assistance for welfare recipients, states would rob welfare assistance directly from the worst off who are not working to pay for child care for those on welfare who are working? What's the logic? How does this help anyone?

We held two hearings on child care in March. At one hearing, a woman from Maine testified who earns about $18,000 a year, pays half her income in child care every week, but remains on a waiting list to receive assistance. In the meantime, she and her two year old sleep on her grandmother's couch because she can't afford a place of her own.

At another hearing, a woman from Florida with $13,000 in earnings a year recently lost her child care assistance because in Florida families working their way off TANF have only 2 years of transitional child care. After that, they must join the waiting list of some 48,000 children. Because she lost her child care assistance and the state waiting list is so long, this woman may have to return to welfare.

I've heard some say the answer is flexibility, that if we give the States more flexibility, then they will step up to the plate. A more realistic prediction would be that if we give states the resources, they will step up to the plate.

Let me tell you what flexibility without sufficient resources leads to: low eligibility levels, no outreach, low provider reimbursement rates, high copays, and waiting lists. Sound familiar? That's right. With the cost of child care today, even with additional resources provided over the last several years, too many of the states are forced to restrict access to low income working parents. Assistance that is provided often limits parents' choices.

We can do better than this. Too often I hear about low income families stringing together whatever care they can find so that they can hold their jobs. For many this means Grandma one day, an aunt the next day, an uncle the following day, and then maybe the aunt's boyfriend.

It's no wonder that 46 percent of kindergarten teachers report that half or more of their students are not ready for kindergarten.

We need to look at these issues in an integrated manner. The education bill that the President recently signed will require schools to test every child every year from 3rd through 8th grade, and the results of those tests will be used to hold schools accountable.

But, if we expect children to be on par by third grade, we need to look at how they start school. The learning gap doesn't begin in kindergarten, it is first noticed in kindergarten.

If we are serious about education reform, we need to look at the child care settings children are in and figure out how to strengthen them. Seventy-five percent of children under 5 in working families are in some type of child care arrangement. Too often it is of poor quality.

The bill we are introducing today is geared toward improving the quality of care to promote school readiness while expanding child care assistance to more working poor families.

The Child Care and Development Block Grant is designed to give parents maximum choice among child care providers. In our bill, we retain parental choice, but provide States with a number of ways to help child care providers improve the quality of care that they provide.

We set aside 5 percent of child care funds to promote workforce development, helping States to improve child care provider compensation and benefits, offer scholarships for training in early childhood development, initiate or maintain career ladders for childhood care professional development, foster partnerships with colleges and "resource & referral", R&Rs, organizations to promote teacher training in the social, emotional, physical, and cognitive development of children, including preliteracy and oral language so necessary for school readiness.

We set aside 5 percent of child care funds to help States increase the reimbursement rate for child care providers to ensure that parents have real choices among quality providers. Under current law, child care payment rates are supposed to be sufficient "to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance". But, low State reimbursement rates do not offer parents comparable care.

The children of working parents need quality child care if they are to enter school ready to learn. Yet, 30 States require no training in early childhood development before a teacher walks into a child care classroom. Forty-two States require no training in early childhood development before a family day care provider opens her home to unrelated children.

Our bill would require States to set training standards, just as they are required to do now for health and safety under current law. Such training would go beyond CPR and first aid to include training in the social, emotional, physical, and cognitive development of children.

Relatives would be exempt, but through the quality funding in CCDBG, States could partner with colleges and R&Rs to provide training to relatives and informal caregivers on a voluntary basis. Initial evaluations in Connecticut of such efforts show that relatives and informal caregivers are voluntarily participating and are feeling better about themselves and their interactions with the children have improved.

Leading studies have found that early investments in children can reduce the likelihood of being held back in school, reduce the need for special education, reduce the dropout rate of high school students, and reduce juvenile crime arrest rates.

If we don't improve both the quality of child care that our children now spend so much time in and expand access to child care assistance to more of the working poor, we will be in danger of missing the boat on a whole generation of children.

I think I speak for all of the cosponsors of this legislation that we hope to mark up child care in conjunction with the Finance Committee consideration of welfare reform.

Ms. SNOWE. Madam President, I rise today to join my good friend and colleague Senator DODD, in introducing the "Access to High Quality Child Care Act of 2002." This legislation seeks to build upon Congress' efforts in 1996 to reform the Nation's welfare system and with it, overhaul the Nation's largest child care assistance program, the Child Care Development Block Grant.

One of the most important tasks before Congress this session is the reauthorization of two critical public assistance laws, the landmark 1996 welfare reform law, and the Child Care Development Block Grant. Together, these two programs, which are inextricably linked, comprise the backbone for our Nation's support infrastructure for working families.

The 1996 welfare law reformed the entire nature of the welfare system, ending welfare as a way of life and making it instead a temporary program, providing a hand up instead of a hand out to families making the transition from welfare to work. The Child Care Development Block Grant, working with the welfare law, provides more than $4.8 billion for child care in 2002, giving assistance to those families that are in transition as well as those who have already successfully made it out of the welfare system, and helping them stay out of the welfare system by helping them meet the high cost of child care. The result is that since 1996, with more parents working, more children than ever before are receiving child care subsidy assistance.

The key to the successful welfare reform, as witnessed by the 52 percent decline in welfare caseloads since 1996, is the system of work supports that provides assistance to working parents to help them make ends meet while in low paying jobs, and sustain the family's successful transition from welfare to self sufficiency. And perhaps the most critical of all work supports is child care. Without access to quality child care, a parent is left with two choices, to leave their child in a unsafe, and often unsupervised situation, or to not work at all. Frankly, neither option is acceptable.

This is the underlying philosophy behind the legislation we introduce today: to ensure that working parents have access to affordable, high quality child care.

From the onset, our goal has been to reauthorize the Child Care Development Block Grant to ensure the working parents of America can continue their jobs with the peace of mind that their children are in a safe and quality child care situation, whether it is at a child care center, a relative's home, or in their own home.

We do so by increasing the amount of funding set aside to raise the quality of care, giving states the ability to improve strengthen their child care workforce. States will have the option to choose how they will do so, but options include partnering with community colleges and Resource and Referral agencies to provide training in early childhood development to the workforce, or by simply increasing child care worker's wages. Astonishingly, the national average salary for a child care worker is between $15,000 and $16,000, and usually with few benefits. This legislation would give states even greater flexibility to decide how to improve quality using even greater resources.

Additionally, our legislation simplifies and streamlines the use of federal welfare dollars for child care, whether it be spent directly on child care or whether it is transferred to the Child Care Development Block Grant, while holding these expenditures to the same health and safety standards as those under the CCDBG. As a member of the Senate Finance Committee, which has the jurisdiction over the welfare reauthorization, fixing what's wrong with the rules regarding the use of federal welfare funding for child care is a high priority of mine as welfare works its way through Committee consideration.

Approximately 14 million children under the age of six are regularly in child care, corresponding with the fact that 65 percent of mothers with children under age six are in the workforce. Considering that the goal of welfare reform is to move people off the welfare rolls and onto payrolls, offering help with the cost of child care is one sure way to ensure that parents can work. Child care is expensive and often difficult to find. In some states, child care costs as much as four years in a public college. And that's even before considering the additional cost of caring for infants, or for odd hour care for those working nights or weekends, or care for children with special needs.

And the fact is, we know child care pays off in encouraging more parents on welfare to find and keep a job. States have devoted significant funding to child care assistance, and have redirected the bulk of unspent federal welfare dollars under the Temporary Assistance for Needy Families block grant, TANF, and state Maintenance of Effort, MOE, dollars to child care assistance. In 2000 alone, states transferred $2.4 billion in TANF dollars to the Child Care and Development Block Grant, and spent an additional $1.5 billion in direct TANF dollars for child care. Why? Because they realize that child care assistance keeps parents working and that is the key to self sufficiency.

However, since parents who are making the transition from welfare to work typically hold minimum wage jobs, those workers' ability to place their children in quality child care often stretches their families' budget to the limit. And while these families may no longer be in need of, or eligible for, cash assistance, without child care assistance, they may be forced back on the welfare rolls.

The fact of the matter is, quality affordable child care remains difficult to afford for families nationwide. This reality was made clear last month, when a young woman from Maine, Sheila Merkinson, testified before Senator DODD's Health, Education, Labor and Pensions Subcommittee, that the cost of her son's child care absorbs 48 percent of her weekly income, leaving her to provide for her family with only half of her $18,000 a year earnings. Sadly, Sheila's situation is not unique.

Our legislation will help Sheila, and thousands like her, by improving the current child care delivery system, and increases the funding for the Child Care Development Fund to meet the needs established by the welfare work requirements. This link not only makes sense, it also is critical, responsible and essential for the future of our nation's children and families.

Mr. JEFFORDS. Madam President, I would like to thank Senators DODD, SNOWE, DEWINE, BREAUX, REED, ROCKEFELLER, and COLLINS for their hard work and dedication to helping provide working families with access to high-quality child care, and I am proud to be an original co-sponsor of this important legislation. Senator DODD and I have been working together on this and other critical issues affecting children for over twenty years now. And, I look forward to continue working with him and my esteemed colleagues as we move forward in helping children and families across the country.

A recent Administration report reveals that as many as 75 percent of children under the age of five in this country are in some form of child care arrangement. And, as more mothers of young children enter the workforce, working families need even greater access to higher quality child care. In my State of Vermont, approximately 87 percent of Vermont children under the age of six live with two working parents, and only 56 percent of the estimated need for child care in Vermont is met through regulated care.

The evidence overwhelmingly demonstrates that the quality of early child care and education has a significant effect on children's health and development and their readiness for school. According to a recent study, children participating in quality, comprehensive early care and education programs had a 29 percent higher rate of high school completion, a 41 percent reduction in special education placement, a 40 percent reduction in the rate of grade retention, a 33 percent lower rate of juvenile arrest, and a 42 percent reduction in arrest for a violent offense.

All other industrialized nations acknowledge the great value of early care and education, and make the care and education of toddlers and pre-schoolers a mandatory part of their public education system, and pay for it. Unfortunately, the United States does not.

Quality child care is available in the United States to young parents, but in many cases, it costs more than ten thousand dollars per year. This is almost twice the cost of going to many public colleges.

Earlier last week, the President proposed an initiative to strengthen early learning. He stated that he wants every child to enter school ready to learn. I am pleased that the President is making the care and education of our youngest children a priority. However, if we really want to help all children enter school ready to learn, then we need to actually provide the resources to do so. The costs of quality child care exceed what most working families can afford. Yet, unbelievably, the President has proposed NO additional funding to help families gain access to quality child care. This just doesn't make any sense.

Many States across the country are working hard to improve the quality and accessibility of child care, but they simply do not have the resources to provide sufficient access and quality. For example, the State of Vermont spends approximately $33 million to provide working families with access to child care and to improve the quality of child care around the State. For a small State like Vermont, this is a lot of money, but is hardly sufficient to provide the type of access and quality necessary to make sure all kids enter school ready to learn. The State would need an additional $40 to $50 million to effectuate real change.

And further, due to the recent economic downturn, a majority of the States has reported revenues well below expected levels. Accordingly, while the States want to do more to further the quality and accessibility of child care, many States will actually have less money to spend on helping families with quality care and education. Again, the President has proposed no additional funding to help States provide families with quality child care. On the contrary, we must significantly increase funding for child care to help States and local communities provide this vital support to working families and their children.

I am proud to be an original co-sponsor of the new Access to High Quality Child Care Act of 2002.

The 2002 ACCESS Act not only helps provide families with greater access to child care, but also significantly raises the bar on the quality of child care in this country. The 2002 ACCESS Act provides States with real resources to help them improve the quality of child care for working families. It allows for great flexibility, yet holds States accountable for making real quality improvements.

Research shows that qualified and well-trained providers are critical to supporting and enhancing the cognitive and social development of children in child care. The 2002 ACCESS Act helps States strengthen the quality of the child care workforce by setting aside a dedicated portion of funds to support State initiatives that improve both the qualifications and the compensation of child care providers.

The ACCESS Act also helps States increase child care provider reimbursement rates to more accurately reflect the true cost of care. It helps States provide training and technical assistance to informal and family child care providers as well as center-based providers. It helps States develop and expand resource and referral services. It helps families gain access to quality child care for infants and toddlers, and children with special needs. It provides oversight to child care centers situated on Federal property. And, the ACCESS Act also helps States leverage funding to provide technical assistance, and share in the cost of construction and improvement of child care facilities and equipment.

I believe that we all recognize that the foundation for learning begins in the earliest years of life. However, a failure to nurture development in these early years is a lost opportunity forever. The 2002 ACCESS Act provides States and local communities with a real opportunity to nurture that development and improve the quality of care for our youngest children in this country so that all of our children enter school ready to learn. I urge my colleagues to support this bold, yet critical initiative, so that indeed, every child truly has an opportunity to learn.

Mr. DEWINE. Madam President, I rise today to join my colleagues, Senators SNOWE and DODD, in introducing the Access to High Quality Child Care Act, ACCESS. This legislation would reauthorize the Child Care and Development Block Grant through 2007 and rename it the ACCESS Act.

We all know that our children are the most vulnerable members of our population and our most valuable resources. Today, 75 percent of children less than five years of age are in some kind of regular childcare arrangement. Parents need to feel confident that the people caring for their children are giving the love and support that children deserve. The bill we are introducing today would help give parents that kind of piece of mind.

There are two pieces of the ACCESS Act that I would like to focus on because they are vital to improving the accessibility of high quality care. Last year, Senator DODD and I introduced the Child Care Facilities Financing Act, which uses small investments to help leverage existing community resources. In my home State of Ohio, and throughout the country, resources for the development or enhancement of space are extremely scarce for childcare facilities. This leveraging approach has been successful in helping expand childcare capacity. Let me give you an example.

Wonder World in Akron, OH, is an urban childcare center located in an old church. This facility was in dire need of repairs. The upstairs space was poorly lit and not well ventilated, and the downstairs was a damp basement. The childcare rooms had no windows and no direct access to bathrooms or a kitchen. There was no outdoor play space. This environment, itself, had a negative effect on the children, no matter how dedicated the caregivers. In spite of these dismal conditions, the center had a waiting list. There were no other choices for affordable childcare facilities within the community!

Fortunately, in Ohio, we have the Ohio Community Development Finance Fund, OCDFF, which is a statewide nonprofit organization that works with local organizations in low-income communities. This fund was able to coordinate public and private monies to build a new eight-room childcare facility, a facility that serves approximately 200 children! It is programs like OCDFF that are possible under the Child Care Facilities Fund. The ACCESS Act includes the language from the Child Care Facilities Fund bill that Senator DODD and I introduced, which authorizes $50 million dollars for the Child Care Facilities Fund.

The second most important part of our ACCESS Act is a section that contains vital language to help provide emergency childcare services. This section would allow parents to access quality care when their childcare provider is sick or has a family emergency. The need for this type of care was made clear by a tragic incident that happened in Ohio, when little two-year-old Charles Knight's mother had to go to work and had no one available to care for Charles and his siblings.

The boy's father was supposed to baby-sit, but he failed to show up that day. Charles' mother tried to find a neighbor or family member to care for her children, but no one was available. Tragically, she made the poor decision to leave her sleeping children unattended, so she could work her 12-hour shift. She thought her boys' father would eventually show up and baby-sit while she worked.

The father never arrived. Charles was able to climb up on the balcony. This young, unsupervised child fell nine stories off the apartment balcony to his death. His mother was charged with manslaughter, and his father was charged with child neglect.

This sad incident just might have been prevented with emergency childcare centers. With access to such a center, Charles' mother could have gone to work knowing her children were safe and secure.

Just last month, Summit County, OH, started a program called ChildCare NOW in response to an alarming spike in child death and injuries. ChildCare NOW is being offered at 17 centers in the Akron-Canton area of Ohio. These childcare centers are opening their doors to many parents whose baby-sitter cancels at the last minute. This program is not meant as a permanent childcare replacement but when an "emergency" arises, these are safe alternatives to parental care.

The language I have included in this bill, emphasizes that local and State childcare agencies may use funds on emergency childcare programs, programs like ChildCare NOW. More importantly, the next time a mother must chose between going to work and leaving her children all alone or staying at home and losing a day's pay, she will have a third option, to leave her children in an emergency child care center. I think that is an important option that we must give to working mothers. It is my hope that this language will prevent future tragedies like the death of two-year-old Charles Knight.

Once again, I want to thank Senator SNOWE and Senator DODD for their work on the ACCESS Act. This bill is necessary for parents who work, especially parents who have worked hard to get off welfare. They should be confident that their children are receiving quality care.

Mr. BREAUX. Madam President. I am pleased to be a cosponsor of the 2002 ACCESS Act. It is imperative that the Congress continue its commitment to low-income families by presenting the President with a bipartisan bill reauthorizing the Child Care and Development Block Grant.

I share the Administration's goal to "Leave No Child Behind." Children should not be the victims of welfare reform, left behind with inconsistent child care accommodations that do not adequately prepare them for the challenges to come. It is precisely this cycle of dependency and poverty that welfare reform was intended to end.

In 1996, we fundamentally changed the mentality of welfare from dependence to independence by creating the Temporary Assistance to Needy Families TANF, block grant. At the same time, we made a commitment to poor families that were sent into the work force at low wages that they would be supported with access to quality child care.

Reliable child care is directly related to job retention. A parent cannot be in two places at once, and an employer is not likely to retain an employee that is unreliable at work due to a lack of consistent care for their child. It is not just about getting a job, this is about helping families keep their jobs and move up the career ladder.

In Louisiana, I hear over and over again about access to safe and affordable child care. The legislation being introduced today will ensure that child care provided to these families is not only affordable, but that it meets certain safety and quality standards to ensure children are placed in an environment where they can grow and learn.

Access to child care is often limited by states to families with the lowest incomes. National studies show only 12–15 percent of children eligible for federally subsidized child care get it. And in many rural areas, there are no child care providers at all. So as Congress debates increasing work requirements for people on welfare, the increasing need for working families to have quality child care must also be taken into consideration.

I commend Senators DODD and SNOWE for their efforts to increase access to child care for low income families, while improving the quality of child care services.

By Mr. JEFFORDS:

S. 2118. A bill to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Madam President, I rise today to introduce the POPs Implementation Act of 2002.

POPs, or persistent organic pollutants, are chemicals that are persistent, bioaccumulate in human and animal tissue, biomagnify through the food chain, and are toxic to humans. These substances travel across international boundaries, creating a circle of pollution requiring a global solution.

In April 2001, one year ago, President Bush announced his support for the Stockholm Convention on Persistent Organic Pollutants, POPs, and in May 2001, the U.S. signed the Convention. I share the President's enthusiasm for this sound and workable treaty that targets chemicals detrimental to human health and the environment.

The Stockholm Convention seeks the elimination or restriction of production and use of all intentionally produced POPs. The POPs that are to be initially eliminated include the pesticides aldrin, chlordane, dieldrin, endrin, heptachlor, mirex, and toxaphene, and the industrial chemicals hexachlorobenzene and polychlorinated biphenyls, PCBs. Use of the pesticide DDT is limited to disease control until safe, effective, and affordable alternatives are identified. The Convention also seeks the continuing minimization and, where feasible, ultimate elimination of releases of unintentionally produced POPs such as dioxins and furans.

Today, I am introducing a bill to amend the Toxic Substances Control Act, TSCA, and the Federal Insecticide, Fungicide, and Rodenticide Act, FIFRA, to implement the Stockholm Convention on POPs and the Protocol on POPs to the Convention on Long-Range Transboundary Air Pollution. These are the first amendments to TSCA since its enactment in October 1976.

Currently in the U.S., the registrations for nine of the twelve POPs covered by the Stockholm Convention have been canceled, the manufacture of PCBs has been banned, and stringent controls have been placed on the release of the other covered chemicals. The POPs Implementation Act of 2002 provides EPA with the authority, which it currently does not have, to prohibit the manufacture for export of the twelve POPs and POPs that are identified in the future. In addition, this legislation provides a science-based process consistent with the Stockholm Convention for listing additional chemicals exhibiting POPs characteristics, thereby attempting to avoid the further production and use of POPs. To assist in this goal, the National Academy of Sciences is directed to develop new strategies to screen candidate POPs and new sampling methodologies to identify future POPs.

Although a previous EPA draft included a mechanism for adding new chemicals, the Administration's current POPs implementation package does not. The Stockholm Convention was not intended to be a static agreement, as it explicitly provides for the addition of new chemicals. If we are to be most effective in globally reducing these dangerous chemicals, we must fully commit to this treaty.

By Mr. GRASSLEY (for himself and Mr. Baucus):

S. 2119. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Madam President, I rise today to offer a bill on behalf of Senator Baucus and myself, to address the growing problem of corporate inversions. Our legislation, the "Reversing the Expatriation of Profits Offshore," REPO Act, will stem the rising tide of corporate inversions.

It's tax season. Citizens across America are filing their taxes this week. They're paying their taxes. A lot of taxes. But some corporate citizens are relaxing this tax season. They've moved their mailing address out of the country. They've set up a filing cabinet and a mail box overseas. This way, they escape from millions of dollars of Federal taxes.

These corporate expatriations aren't illegal. But they're sure immoral. During a war on terrorism, coming out of a recession, everyone ought to be pulling together. But instead, these companies are using recession and terrorism to get out of the United States. If companies don't have their hearts in America, they ought to get out.

Adding insult to injury, some of these companies have fat contracts with the government. So they'll take other people's tax dollars to make a profit, but they won't pay their share of taxes to keep America strong.

The bill Chairman Baucus and I are introducing today will place corporate inversions on the endangered species list. Our bill requires the IRS to look at where a company has its heart and soul, not where it has a filing cabinet and a mail box. If a company remains controlled in the United States, our bill requires the company to pay its fair share of taxes, plain and simple.

When I am firmly committed to halting corporate inversions, I also recognize that the rising tide of corporate expatriations demonstrates that our international tax rules are deeply flawed. In many cases, those flaws seriously undermine an American company's ability to compete in the global marketplace. This competitive disadvantage is often cited by companies that engage in inversion transactions.

I believe that we need to bring our international tax system in line with our open market trade policies, and wish to affirm for the record that reform of our international tax laws is necessary for our U.S. businesses to remain competitive in the global marketplace. Moreover, those U.S. companies that rejected doing a corporate inversion are left to struggle with the complexity and competitive impediments of our international tax rules. This is an unjust result for companies that chose to remain in the United States of America. I am committed to remedying this inequity.

Mr. President, I ask unanimous consent that the text of the bill and a technical explanation be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reversing the Expatriation of Profits Offshore Act".

SEC. 2. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) In General.—Subchapter C of chapter 80 of the Internal Revenue Code of 1986 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) Inverted Corporations Treated as Domestic Corporations.—

"(1) In general.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) Inverted domestic corporation.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

"(b) Preservation of Domestic Tax Base In Certain Inversion Transactions To Which Subsection (a) Does Not Apply.—

"(1) In general.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) Acquired entity.—For purposes of this section—

"(A) In general.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) Aggregation rules.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) Applicable period.—For purposes of this section—

"(A) In general.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) Special rule for inversions occurring before March 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2002.

"(c) Tax on Inversion Gains May Not Be Offset.—If subsection (b) applies—

"(1) In general.—The taxable income of an acquired entity for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) Credits not allowed against tax on inversion gain.—Credits shall be allowed against the tax imposed by chapter 1 on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of taxable income described in paragraph (1) for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) Special rules for partnerships.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) Inversion gain.—For purposes of this section, the term 'inversion gain' means the gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

"(5) Coordination with section 172 and minimum tax.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this subsection.

"(d) Special Rules Applicable to Related Party Transactions.—

"(1) Annual preapproval required.—

"(A) In general.—An acquired entity to which subsection (b) applies shall enter into an annual preapproval agreement under subparagraph (C) with the Secretary for each taxable year which includes a portion of the applicable period.

"(B) Failures to enter agreements.—If an acquired entity fails to meet the requirements of subparagraph (A) for any taxable year, then for such taxable year—

"(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

"(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

"(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

"(C) Preapproval agreement.—For purposes of subparagraph (A), the term 'preapproval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which—

"(i) is entered into at such time as may be specified by the Secretary, and

"(ii) contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

"(2) Modifications of limitation on interest deduction.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Rules for application of subsection (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) Certain stock disregarded.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (a)(2)(A).

"(B) Plan deemed in certain cases.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met, such actions shall be treated as pursuant to a plan.

"(C) Certain transfers disregarded.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) Special rule for related partnerships.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(2) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) Foreign incorporated entity.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) Foreign related person.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(f) Regulations.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) Treatment of Agreements.—

(1) Confidentiality.—

(A) Treatment as return information.—Section 6103(b)(2) of the Internal Revenue Code of 1986 (relating to return information) is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any preapproval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,".

(B) Exception from public inspection as written determination.—Section 6110(b)(1)(B) of such Code is amended by striking "or (D)" and inserting ", (D), or (E)".

(2) Reporting.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding preapproval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) Conforming Amendments.—The table of sections for subchapter C of chapter 80 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities."

SEC. 3. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) In General.—Section 845(a) of the Internal Revenue Code of 1986 (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) Effective Date.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Reversing the Expatriation of Profits Offshore, REPO, Act—Technical Explanation of the Staff of the Committee on Finance

Senate Finance Committee Ranking Member Chuck Grassley, R–IA, and Chairman Max Baucus, D–MT, today are offering their legislative response to the growing problem of corporate inversions, the "Reversing the Expatriation of Profits Offshore", REPO, Act. Following is a brief summary of the REPO Act.

In general, this legislation would curtail the tax benefits sought by U.S. companies undertaking inversion transactions. The legislation would apply to two types of inversion transactions, which would be subject to different regimes under the proposal.

The first type would be a "pure" or nearly pure inversion, in which: 1. a U.S. corporation becomes a subsidiary of a foreign corporation or otherwise transfers substantially all of its properties to a foreign corporation; 2. the former shareholders of the U.S. corporation end up with 80 percent or more (by vote or value) of the stock of the foreign corporation after the transaction; and 3. the foreign corporation, including its subsidiaries, does not have substantial business activities in its country of incorporation. The legislation would deny the intended tax benefits of this type of inversion by deeming the top-tier foreign corporation to be a domestic corporation for all purposes of the Internal Revenue Code. This proposal would be effective as to inversion transactions occurring on or after March 21, 2002.

For purposes of this proposal, corporations with no significant operating assets, few or no permanent employees, or no significant real property in the foreign country of incorporation would not be treated as meeting the substantial business activities test. In addition, companies would not be considered to be conducting substantial business activities in the country of incorporation by merely holding board meetings in the foreign country or by relocating a limited number of executives to the foreign jurisdiction.

The second type of inversion covered by the legislation would be a transaction similar to the "pure" inversion defined above, except that the 80 percent ownership threshold is not met. In such a case, if a greater-than-50 percent but less than 80 percent ownership threshold is met, then a second set of rules would apply to these "limited" inversions.

Under these rules, the inversion transaction would be respected, i.e., the foreign corporation would be respected as foreign, but: 1. the corporate-level "toll charge" for establishing the inverted structure would be strengthened, and 2. restrictions would be placed on the company's ability to reduce U.S. tax on U.S.-source income going forward. These measures generally would apply for a 10-year period following the inversion. This prong of the proposal would be effective as to inversion transactions in this second category occurring on or after March 21, 2002. It would also be effective as to all structures arising from pure inversions or limited inversions that are grandfathered under the legislation, but it would be applied to those structures prospectively.

Under the legislation, the corporate-level "toll charge" imposed under sections 304, 311(b), 367, 1001, 1248, or any other provision of the Internal Revenue Code with respect to the transfer of controlled foreign corporation stock or other assets from a U.S. corporation to a foreign corporation would be taxable, without offset by any other tax attributes, e.g., net operating losses or foreign tax credits. No similar "walling-off" of toll charges would apply to shareholder-level toll charges imposed under section 367(a).

In addition, no deductions or additions to basis or cost of goods sold for transactions with foreign related parties would be permitted unless the taxpayer concludes an annual pre-filing agreement, advance pricing agreement, or other agreement with the IRS, a "preapproval agreement", to ensure that all related-party transactions comply with all relevant provisions of the Code, including sections 482, 845, 163(j), and 267(a)(3). Similarly, the transfer or license of intangible property from a U.S. corporation to a related foreign corporation would be disregarded, and cost-sharing arrangements would not be respected unless approved under such an agreement.

The confidentiality and disclosure rules normally applicable to advance pricing agreements would apply to all preapproval agreements entered into pursuant to this legislation, and the parameters for the IRS's statutorily required annual APA report would be amended to require a summary section for inversion transactions.

The second set of measures also includes modifications to the "earnings stripping" rules of section 163(j) (which deny or defer deductions for certain interest paid to foreign related parties), as applied to inverted corporations. The legislation would eliminate the debt-equity threshold generally applicable under that provision and reduce the 50 percent threshold for "excess interest expense" to 25 percent.

The provisions of both prongs of this legislation also would apply to certain partnership transactions similar to corporate inversion transactions.

The legislation also strengthens the present-law rules of section 845(a) in a manner intended to address reinsurance transactions with foreign related parties that have the effect of stripping out earnings of a U.S. corporation, regardless of whether an inversion transaction has occurred. The legislation modifies the present-law provision permitting the Treasury Department to allocate or recharacterize items of investment income, premiums, deductions, assets, reserves, credits or other items, or to make other adjustments, under a reinsurance agreement between related parties, if necessary to reflect the proper source and character of income. The legislation permits such an allocation, recharacterization or adjustment if necessary to reflect the proper amount, source or character of income. This provision would be effective for any risk reinsured after April 11, 2002.

Mr. BAUCUS. Madam President, I am pleased to be a co-sponsor, with Senator GRASSLEY, of this important piece of legislation. Our legislation, Reversing the Expatriation of Profits Offshore, (REPO), Act, is designed to put the brakes on the potential rush to move U.S. corporate headquarters to tax havens, through increasingly popular transactions known as corporate inversions. Prominent U.S. companies are literally re-incorporating in offshore tax havens in order to avoid U.S. taxes. They are, in effect, renouncing their U.S. citizenship to cut their tax bill.

Tax avoidance costs honest taxpayers tens of billions of dollars each year. When one taxpayer, whether a corporation or an individual, doesn't pay their fair share of taxes, we all pay. The REPO Act cracks down on corporations that avoid taxes at the expense of honest, hardworking American taxpayers.

The local hardware store in Butte, MT, isn't re-incorporating in Bermuda or one of these tax haven countries. He is keeping his company an American company. The companies reincorporating in tax haven countries, and their executives, are still physically located in the United States. Their executives and employees enjoy all the privileges afforded to honest U.S. taxpayers.

I understand that the corporate inversion issue is complex. I also understand that, over the long term, we may need to consider whether the structure of the U.S. international tax rules creates an incentive for U.S. corporations to shift their operations abroad in order to remain competitive. For now, we are putting a stop to the erosion of the U.S. tax base through these tax avoidance schemes.

Our legislation distinguishes between two types of inversions, pure inversions and limited inversions. A pure inversion is when a U.S. company becomes a subsidiary of a foreign company or shifts substantially all of its properties to a foreign corporation and 80 percent of more of the shareholders in the original U.S. company are now shareholders in the new foreign company. The foreign company has no substantial business activity in the foreign tax haven country. Companies that hold board meetings in the tax haven country or send a few employees or executives to work in the tax haven country will not meet the substantial business activity standard. Under our legislation, the parent company will be treated as a U.S. company.

A limited inversion transaction is when more than 50 percent and fewer than 80 percent of the shareholders are the same. The new foreign company is recognized as a foreign company for tax purposes but there is a tax cost. The company won't be able to use tax attributes, such as net operating losses and foreign tax credits, to offset the gain incurred upon inverting. Finally, the company won't be able to strip earnings out of the U.S. to avoid U.S. taxes.

This week is the last week leading up to the April 15 tax filing deadline. Families in Montana and across the nation are sitting down at their kitchen tables, or at their home computers, and figuring out their taxes. The calculations may be complex, the tax bite may seem high, but by and large, with quiet patriotism, average Americans will step up and pay the tax they owe. They're counting on us to make sure that sophisticated corporations pay their fair share, as well.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 236—COMMENDING THE UNIVERSITY OF MINNESOTA-DULUTH BULLDOGS FOR WINNING THE 2002 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S ICE HOCKEY NATIONAL CHAMPIONSHIP

Mr. DAYTON (for himself and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 236

Whereas on March 24, 2002, the defending NCAA Women's Ice Hockey National Champion, the University of Minnesota-Duluth

Bulldogs, won the National Championship for the second straight year;

Whereas Minnesota-Duluth defeated Brown University in the championship game by the score of 3-2, having previously defeated Niagara University in the semi-final by the same score;

Whereas sophomore Tricia Guest scored the unassisted game-winning goal in the third period, and assisted in the Bulldogs' opening goal in the first period;

Whereas during the 2001-2002 season, the Bulldogs won 24 games, while losing only 6, and tying 4;

Whereas forward Joanne Eustace and defensewoman Larissa Luther were both selected to the 2002 All-Tournament team;

Whereas forward and team captain Maria Rooth led the Bulldogs in scoring the last 2 years, and was named to the Jofa Women's University Division Ice Hockey All-American first team, the only first team repeat from 2001;

Whereas Minnesota-Duluth Head Coach, Shannon Miller, after winning the National Championship in 2 consecutive years, was named a finalist for the 2002 NCAA Division I Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota-Duluth Women's Ice Hockey Team for winning the 2002 NCAA Division I Collegiate Ice Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota-Duluth Women's Ice Hockey Team; and

(B) invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota-Duluth for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Women's Ice Hockey National Championship Team.

SENATE RESOLUTION 237—COMMENDING THE UNIVERSITY OF MINNESOTA GOLDEN GOPHERS FOR WINNING THE 2002 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S HOCKEY NATIONAL CHAMPIONSHIP

Mr. DAYTON (for himself and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 237

Whereas on April 6, 2002, the University of Minnesota Men's Hockey Team won the National Championship for the first time in 23 years;

Whereas Minnesota defeated the University of Maine in overtime in the championship game by the score of 4-3, having previously defeated the University of Michigan in the semifinal by the score of 3-2;

Whereas Grant Potulny, from North Dakota, the team's only non-Minnesotan, scored the winning goal in overtime and was named the tournament's Most Outstanding Player;

Whereas during the 2001-2002 season, the Golden Gophers won 32 games, while losing only 8, and tying 4;

Whereas senior defenseman Jordan Leopold was named the winner of the Hobey Baker Memorial Award, given annually to the college hockey Player of the Year, and was also named an All-American for the second consecutive year;

Whereas senior forward Johnny Pohl was also named to the All-American team, and led the NCAA Division I in scoring;

Whereas senior goalie Adam Hauser was named to the "Frozen Four" All-Tournament team, became the all-time Western Collegiate Hockey Association leader in victories, and established Minnesota records for most wins, shutouts, and saves;

Whereas Minnesota Head Coach Don Lucia, after winning the National Championship in just his third season at Minnesota, was named a finalist for the 2002 Spencer Penrose Award, which is presented to the NCAA Division I National Hockey Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Men's Hockey Team for winning the 2002 NCAA Division I Collegiate Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota Men's Hockey Team; and

(B) invite the team to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Men's Hockey National Championship Team.

SENATE RESOLUTION 238—COMMENDING THE UNIVERSITY OF MINNESOTA GOLDEN GOPHERS FOR WINNING THE 2002 NCAA DIVISION I WRESTLING NATIONAL CHAMPIONSHIP

Mr. WELLSTONE (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 238

Whereas the University of Minnesota wrestling team successfully defended its 2001 national title by winning the 2002 National Collegiate Athletic Association championship on March 23, 2002, in Albany, New York;

Whereas the victory was the first back-to-back national championship in an intercollegiate athletic competition in University of Minnesota history since the Golden Gophers captured 2 consecutive national championship football titles in 1940 and 1941;

Whereas the University of Minnesota won the national crown with 126.5 points, over Iowa State (103 points), Oklahoma (101.5 points), Iowa (89 points) and Oklahoma State (82.5 points);

Whereas the University of Minnesota became the first Division I wrestling team since the 1995–96 season to go undefeated in dual meets and win the National Duals, conference and NCAA team titles in a single season and the first team to win these titles in consecutive seasons since the 1994–95 and 1995–96 seasons;

Whereas the Golden Gophers wrestling team has finished in the top 3 in the Nation in the last 6 years: placing third in 1997, being the runner up in 1998 and 1999; placing third in 2000; and winning the national title in 2001 and 2002;

Whereas the University of Minnesota wrestling team has now placed in the top 10 at the NCAA Championships 25 times in the history of the program;

Whereas Coach J. Robinson, as head coach of the University of Minnesota wrestling team, now has finished in the top 10 at the NCAA Championships 10 times during his 16-year tenure;

Whereas two members of the Minnesota wrestling team, Jared Lawrence and Luke Becker, each earned an individual national crown, marking the first time in school history that two Minnesota athletes were individual champions in a single NCAA sport in the same year;

Whereas Lawrence, at 149 pounds, and Becker, at 157 pounds, captured the 13th and 14th NCAA individual titles in school history, respectively;

Whereas Ryan Lewis, at 133 pounds, was the runner-up, Owen Elzen, at 197 pounds, finished in fourth place, Damion Hahn, at 184 pounds, finished in fifth place, Garret Lowney, at heavyweight, finished in fifth place, and Chad Erikson, at 141 pounds, finished in seventh place;

Whereas seven University of Minnesota wrestlers, Chad Erikson, Jared Lawrence, Luke Becker, Damion Hahn, Owen Elzen, Ryan Lewis, and Garrett Lowney, earned All-American honors; and

Whereas the Golden Gophers have now had 68 wrestlers earn 111 All-American citations in the history of the varsity wrestling program at the University of Minnesota: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Golden Gophers of the University of Minnesota for winning the 2002 National Collegiate Athletic Association Division I Wrestling National Championship;

(2) recognizes the achievements of all the team's members, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President recognize the achievements of the University of Minnesota wrestling team and invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the President of the University of Minnesota.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3114. Mrs. FEINSTEIN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 3115. Mrs. FEINSTEIN (for herself and Mrs. Boxer) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

SA 3116. Mr. VOINOVICH (for himself and Ms. Landrieu) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3117. Mr. DODD (for himself and Mr. McConnell) proposed an amendment to the bill S. 565, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes.

SA 3118. Mr. DODD (for himself and Mr. McConnell) proposed an amendment to the bill H.R. 3295, supra.

SA 3119. Mr. BINGAMAN (for Mr. Rockefeller) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 3120. Mr. BINGAMAN (for Mr. Levin (for himself, Mr. DeWine, and Ms. Stabenow)) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

SA 3121. Mr. BINGAMAN (for Mr. Schumer) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

SA 3122. Mr. BINGAMAN (for Mr. Smith, of Oregon) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

SA 3123. Mr. BINGAMAN (for Mr. Durbin (for himself and Ms. Collins)) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

TEXT OF AMENDMENTS

SA 3114. Mrs. FEINSTEIN proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

"(B) Petitions for waivers.—

"(i) In general.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received by the Administrator.

"(ii) Failure to act.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

SA 3115. Mrs. FEINSTEIN (for herself and Mrs. Boxer) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 189, line 3, strike "2004" and insert "2005".

On page 189, line 5, strike "2004" and insert "2005".

On page 189, line 8, strike "2004" and insert "2005".

On page 189, in the table between lines 10 and 11, strike the item relating to calendar year 2004.

On page 193, line 10, strike "2004" and insert "2005".

On page 194, line 21, strike "2004" and insert "2005".

On page 196, line 17, strike "2004" and insert "2005".

On page 197, line 4, strike "2004" and insert "2005".

On page 199, line 4, strike "2004" and insert "2005".

On page 199, line 17, strike "2004" and insert "2005".

SA 3116. Mr. VOINOVICH (for himself and Ms. Landrieu) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION H—MISCELLANEOUS

TITLE —INTEGRATED REVIEW OF ENERGY DELIVERY SYSTEMS

SEC. 01. SHORT TITLE.

This title may be cited as the "Integrated Review of Energy Delivery Systems Act of 2002".

SEC. 02. AUTHORIZATION AND ENVIRONMENTAL REVIEW OF ENERGY DELIVERY SYSTEMS UNDER FEDERAL LAW.

(a) Definitions.—In this section:

(1) Applicant.—The term "applicant" means a person that applies for, or submits notice of intent to apply for, an authorization required under Federal law for an energy delivery system.

(2) Authorization.—The term "authorization" means a license, permit, exemption, or other form of authorization or reauthorization, for a construction, operation, or maintenance activity.

(3) Electricity transmission facility.—

(A) In general.—The term "electricity transmission facility" means a facility used in the transmission of electricity in interstate or foreign commerce.

(B) Inclusions.—The term "electricity transmission facility" includes a transmission line, substation, or other facility necessary to the delivery of electricity.

(C) Exclusion.—The term "electricity transmission facility" does not include a generation facility.

(4) Energy delivery system.—The term "energy delivery system" means an oil and gas pipeline or pipeline system, or an electricity transmission facility, for which an authorization issued by 1 or more Federal agencies is required under Federal law.

(5) Integrated review process.—The term "integrated review process" means the coordinated environmental review and authorization process described in subsection (c)(2)(B) for construction, operation, or maintenance of an energy delivery system.

(6) Lead agency.—The term "lead agency" means the Federal agency designated under subsection (c)(1) to conduct any environmental review, prepare any environmental review document, and carry out any other activity that—

(A) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) relates to construction, operation, or maintenance of an energy delivery system.

(7) Oil and gas pipeline or pipeline system.—

(A) In general.—The term "oil and gas pipeline or pipeline system" means each part of a physical facility through which crude oil, petroleum product, or natural gas moves in transportation in interstate or foreign commerce.

(B) Inclusions.—The term "oil and gas pipeline or pipeline system" includes—

(i) a pipe, valve, or other appurtenance attached to a pipe;

(ii) a compressor unit;

(iii) a metering station;

(iv) a regulator station;

(v) a delivery station;

(vi) a holder; and

(vii) a fabricated assembly.

(C) Exclusions.—The term "oil and gas pipeline or pipeline system" does not include a production or refining facility.

(8) Participating agency.—The term "participating agency" means a Federal or State agency that has authority to issue an authorization, or impose a condition on an authorization, for an energy delivery system under Federal law, or to participate in an environmental review relating to construction, operation, or maintenance of the energy delivery system, but that is not the lead agency with respect to construction, operation, or maintenance of the energy delivery system.

(b) Purpose.—The purpose of this section is to promote the timely completion of authorizations and environmental reviews under Federal law relating to construction, operation, or maintenance of energy delivery systems consistent with the public safety, energy efficiency, and socioeconomic values of—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) other Federal laws that further the purposes of that Act.

(c) Integrated Review Process.—

(1) Designation of lead agency.—

(A) Primarily responsible federal agency.—In any case in which a single Federal agency has primary authority to issue an overall authorization for an energy delivery system under Federal law (such as the Federal Energy Regulatory Commission with respect to interstate natural gas pipelines), that Federal agency shall be the lead agency in conducting any environmental review, preparing any environmental review document, and carrying out any other activity that—

(i) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) relates to construction, operation, or maintenance of an energy delivery system.

(B) MULTIPLE RESPONSIBLE FEDERAL AGENCIES.—In any case in which no single Federal agency has primary authority to issue an overall authorization for an energy delivery system under Federal law, but more than 1 Federal or State agency has authority to issue an authorization for the energy delivery system under Federal law—

(i) the applicant may request that the Federal agencies with that authority designate a lead agency to conduct any environmental review, prepare any environmental review document, and carry out any other activity that—

(I) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) relates to construction, operation, or maintenance of an energy delivery system; and

(ii)(I) the Federal agencies shall jointly designate 1 of the Federal agencies as the lead agency, taking into account—

(aa) the extent of the involvement of each Federal agency in issuing the authorization for the energy delivery system; and

(bb) the expertise of each Federal agency concerning the energy delivery system; or

(II) if the Federal agencies do not make a joint designation under subclause (I) by the date that is 30 days after the date of the request by the applicant under clause (i), the Council on Environmental Quality established by title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4341 et seq.) shall designate, not later than 45 days after the date of the request by the applicant under clause (i), 1 of the Federal agencies as the lead agency.

(2) FEDERAL AGENCY RESPONSIBILITIES.—

(A) SINGLE ENVIRONMENTAL REVIEW.—

(i) DUTIES OF LEAD AGENCY.—The lead agency shall—

(I) conduct any environmental review and prepare any environmental review document that—

(aa) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other Federal law; and

(bb) relates to construction, operation, or maintenance of an energy delivery system;

(II) in any case in which an activity described in subclause (I) is carried out by the applicant or a third-party contractor, evaluate, and approve or complete, the activity; and

(III) communicate with other agencies, establish deadlines, and carry out any other activity required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(ii) DUTIES OF PARTICIPATING AGENCIES.—Each participating agency with respect to the energy delivery system shall—

(I)(aa) provide to the lead agency input that relates to the environmental review and other activities described in clause (i) and focuses on direct project impacts; and

(bb) submit data based on sound science necessary to substantiate that input; and

(II) in issuing the authorization for which the participating agency has authority, rely on the activities described in clause (i) carried out, approved, or completed by the lead agency for the energy delivery system.

(B) INTEGRATION OF FEDERAL ENVIRONMENTAL REVIEW AND AUTHORIZATION PROCESS.—

(i) IN GENERAL.—In consultation with each participating agency, the lead agency shall—

(I) develop and implement a single coordinated and timely process that provides such environmental review as is required under Federal law for construction, operation, or maintenance of an energy delivery system; and

(II) ensure, to the maximum extent practicable, the integration with that environmental review process of all relevant Federal, State, and local environmental protection requirements applicable to the energy delivery system.

(ii) ACTIVITIES TO BE INTEGRATED.—The integrated review process shall integrate—

(I) the preparation of an environmental impact statement, or, at the discretion of the lead agency, the preparation of an environmental assessment, if such a statement or assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) the conduct of any other review, analysis, opinion, or determination, and the issuance of any authorization, required under Federal law.

(iii) CONSIDERATION OF ALTERNATIVES.—

(I) PROPOSAL.—The lead agency shall ensure that the applicant has the opportunity to propose an alternative to a condition that a Federal agency seeks to impose on an authorization.

(II) CONSIDERATION.—The lead agency shall give special consideration to an alternative that would—

(aa) cost less to implement; or

(bb) result in improved energy values from the energy delivery system.

(C) DEADLINES.—

(i) ESTABLISHMENT BY LEAD AGENCY.—The lead agency shall establish deadlines for—

(I) completion of environmental reviews, environmental review documents, and other activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for construction, operation, or maintenance of an energy delivery system; and

(II) issuance of all authorizations required under Federal law for the energy delivery system.

(ii) COMPLIANCE BY PARTICIPATING AGENCIES.—

(I) IN GENERAL.—Each participating agency with respect to the energy delivery system shall comply with each deadline established under clause (i).

(II) EFFECT OF FAILURE TO COMPLY.—If a participating agency fails to comply with a deadline established under clause (i), the input of the participating agency with respect to the energy delivery system under subparagraph (A)(ii)—

(aa) shall be advisory; and

(bb) shall be taken into account at the discretion of the lead agency and only to the extent that taking the input into account does not delay issuance of an authorization for the energy delivery system.

(iii) MINIMIZATION OF DUPLICATION AND DELAYS.—The integrated review process shall seek to minimize—

(I) duplication of activities carried out by the lead agency and the participating agencies; and

(II) delays in decisionmaking by those agencies.

(D) COMMUNICATION BETWEEN AGENCIES.—

(i) DUTIES OF LEAD AGENCY.—

(I) IN GENERAL.—With respect to an application for an authorization for an energy delivery system, the lead agency shall—

(aa) identify each participating agency;

(bb) notify each participating agency of the development of the application and of the role of the lead agency;

(cc) request input by each participating agency concerning the application; and

(dd) enter into a memorandum of understanding with all participating agencies concerning the issues to be considered by the lead agency and the participating agencies in conducting the integrated review process with respect to the application.

(II) DEADLINE.—The lead agency shall carry out subclause (I) not later than—

(aa) if the lead agency is designated under paragraph (1)(A), 45 days after the earlier of the date on which the applicant requests that the lead agency carry out the activities described in subclause (I) or the date on which the applicant submits the application to the lead agency; or

(bb) if the lead agency is designated under paragraph (1)(B), 45 days after the date of the designation.

(ii) DUTIES OF PARTICIPATING AGENCIES.—Unless otherwise required by law, each participating agency shall—

(I) communicate with the lead agency at the earliest practicable time concerning any potential issues relating to, or impediment to, the issuance of the authorization to the applicant;

(II) commit to early and continuous involvement and concurrence at key decision points as determined by the lead agency; and

(III) refrain from raising any additional issues with respect to an application after the date of execution of the memorandum of understanding concerning the application under clause (i)(I)(dd).

(3) PUBLIC PARTICIPATION.—

(A) IN GENERAL.—The lead agency, in conjunction with each State affected by an application for an authorization for an energy delivery system—

(i) shall provide for early environmental screening to identify and address any environmental concerns associated with the authorization for the energy delivery system; and

(ii) to the extent practicable, shall ensure public participation early in the integrated review process.

(B) PRESENTATION OF INFORMATION.—Under subparagraph (A)(ii), the lead agency shall ensure that the presentation of environmental information to the public is informative and understandable.

(4) DISPUTE RESOLUTION.—If the lead agency finds that an environmental concern relating to an authorization for an energy delivery system over which a participating agency has jurisdiction under Federal law has not been resolved, the lead agency, in consultation with the Council on Environmental Quality and the head of the participating agency, shall resolve the matter not later than 30 days after the date of the finding.

(d) DELEGATION FROM PARTICIPATING AGENCY TO LEAD AGENCY.—Notwithstanding any other provision of law, with the agreement of the lead agency, the head of any participating agency may delegate to the lead agency the authority to issue any authorization for an energy delivery system or a class of energy delivery systems.

(e) PARTICIPATION OF STATE AGENCIES.—A State agency that has jurisdiction under State law (which jurisdiction has not been preempted by Federal law) over siting, construction, or operation of energy delivery systems may elect to participate in an integrated review process under the terms and conditions established by the lead agency for all Federal agencies that participate in the integrated review process.

(f) FEDERAL DELEGATION TO STATES.—

(1) IN GENERAL.—At the request of a Governor of a State, and with the concurrence of an applicant, the lead agency may delegate to an appropriate State agency the authority

to prepare an environmental impact statement or an environmental assessment relating to construction, operation, or maintenance of an energy delivery system if—

(A) such an environmental impact statement or environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B)(i) the energy delivery system is located entirely within the State; and

(ii) the State agency has sufficient expertise concerning energy delivery systems to prepare the environmental impact statement or environmental assessment;

(C) the responsible Federal official of the lead agency provides guidance and participates in the preparation of the environmental impact statement or environmental assessment by the State agency;

(D) the responsible Federal official independently evaluates any environmental impact statement or environmental assessment prepared by the State agency before the statement or assessment is approved; and

(E) the responsible Federal official—

(i) provides early notification to and solicits the views of any other affected State or any affected Federal land management entity of any action or alternative to the action that may have a significant impact on the State or the Federal land management entity; and

(ii) if the State agency disagrees with the assessment of the responsible Federal official with respect to an impact described in clause (i), prepares a written assessment of the impact for incorporation into the environmental impact statement or environmental assessment prepared by the State agency.

(2) EFFECT ON OTHER RESPONSIBILITIES AND STATEMENTS.—Nothing in paragraph (1)—

(A) relieves the responsible Federal official referred to in that paragraph of—

(i) any responsibility of the official for the scope, objectivity, or content of the environmental impact statement referred to in that paragraph; or

(ii) any other responsibility of the official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) affects the legal sufficiency of any environmental impact statement prepared by a State agency with less than statewide jurisdiction.

(g) FINANCIAL ASSISTANCE.—To ensure that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other laws that further the purposes of that Act are most effectively implemented, the lead agency may make funds available to the Governor of a State that assumes responsibility for environmental review that would otherwise be conducted by the lead agency.

(h) PREEMPTION.—Nothing in this section preempts any Federal or State law relating to siting, construction, or operation of energy delivery systems.

SA 3117. Mr. DODD (for himself and Mr. MCCONNELL) proposed an amendment to the bill S. 565, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes; as follows:

Amend the title to read as follows: "A bill to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes.".

SA 3118. Mr. DODD (for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 3295, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes; as follows:

Amend the title to read as follows: "A bill to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes.".

SA 3119. Mr. BINGAMAN (for Mr. ROCKEFELLER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 564, after line 2, insert the following:

"SEC. 1506. FEDERAL MINE INSPECTORS.

"In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled mine inspectors (particularly inspectors with practical experience as a practical mining engineer) as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.".

SA 3120. Mr. BINGAMAN (for Mr. LEVIN (for himself, Mr. DEWINE, and Ms. STABENOW)) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of title XVII, insert the following:

SEC. 17 . STUDY OF NATURAL GAS AND OTHER ENERGY TRANSMISSION INFRASTRUCTURE ACROSS THE GREAT LAKES.

(a) DEFINITIONS.—In this section:

(1) GREAT LAKE.—The term "Great Lake" means Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Ontario (including the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude), and Lake Superior.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with representatives of appropriate Federal and State agencies, shall—

(A) conduct a study of—

(i) the location and extent of anticipated growth of natural gas and other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(ii) the environmental impacts of any natural gas or other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure on the Great Lakes ecosystem.

(2) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).

SA 3121. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 408, line 8, strike "technologies." and insert "technologies; and

(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, or power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems."

SA 3122. Mr. BINGAMAN (for Mr. SMITH of Oregon) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 301, after line 22, insert the following:

"SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.

"The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress."

SA 3123. Mr. BINGAMAN (for Mr. DURBIN for himself and Ms. COLLINS, proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 213, between lines 10 and 11, insert the following:

SEC. 8 . CONSERVE BY BICYCLING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By Bicycling pilot program that shall provide for up to 10 geographically dispersed projects to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit a report to Congress on the results of the pilot program.

(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than two years after enactment of this Act, on the findings of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation $5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this sections.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 11, 2002, at 2:30 p.m. to conduct an oversight hearing on "Proposals To Improve the Housing Voucher Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 11, 2002 at 10:00 a.m. to hear testimony on Schemes, Scams and Cons, Part II: The IRS Strikes Back.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Government Affairs be authorized to meet on Thursday, April 11, 2002 at 9:00 a.m. to discuss legislation to establish a Department of National Homeland Security and a White House Office to combat terrorism.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 11, 2002 at 3:00 p.m. to consider the nomination of Paul A. Quander, Jr. to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NELSON of Nebraska. Mr. President I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Capacity to Care: In a World Living with Aids during the session of the Senate on Thursday, April 11, 2002 at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 11, 2002, at 10 a.m., in SD226.

Tentative Agenda

I. Nominations

Terrence L. O'Brien to the United States Court of Appeals for the Tenth Circuit;

Lance Africk to the United States District Court for the Eastern District of Louisiana;

Legrome Davis to the United States District Court for the Eastern District of Pennsylvania;

Mary Ann Solberg to be Deputy Director of the Office of National Drug Control Policy;

Scott Burns to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy;

Barry Crane to be Deputy Director for Supply Reduction, Office of National Drug Control Policy;

John Robert Flores to be the Administrator of the Office of Juvenile Justice and Delinquency Prevention, Department of Justice; and

John Brown III to be Deputy Administrator of the Drug Enforcement Agency.

To be United States Attorney:

Jane J. Boyle for the Northern District of Texas;

James B. Comey for the Southern District of New York;

Thomas A. Marino for the Middle District of Pennsylvania;

Matthew D. Orwig for the Eastern District of Texas; and

Michael Taylor Shelby for the Southern District of Texas.

To be United States Marshal:

Warren Douglas Anderson for the District of South Dakota;

Patrick E. McDonald for the District of Idaho; and

James Joseph Parmley for the Northern District of New York.

II. Bills

S. 924, Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods (PROTECTION) Act of 2001. [Biden/Specter];

S. 864, Anti-Atrocity Alien Deportation Act of 2001 [Leahy/Lieberman/Levin];

S. 2031, Intellectual Property Protection Restoration Act of 2002 [Leahy/Brownback]; and

S. 2010, Corporate and Criminal Fraud Accountability Act of 2002 [Leahy/Daschle/Durbin].

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Thursday, April 11, 2002 at 2:30 p.m. in Dirksen Room 226.

Panel I: The Honorable ARLEN SPECTER, United States Senator [R–PA]; the Honorable BOB SMITH, United States Senator [R–NH]; the Honorable PAUL WELLSTONE, United States Senator [D–MN]; the Honorable DIANNE FEINSTEIN, United States Senator [D–CA]; the Honorable BARBARA BOXER, United States Senator [D–CA]; the Honorable JUDD GREGG, United States Senator [R–NH]; the Honorable RUSSELL F. FEINGOLD, United States Senator [D–WI]; the Honorable MARK DAYTON, United States Senator [D–MN]; the Honorable JIM RAMSTAD, United States Representative [R–MN, 3rd Congressional District]; the Honorable THOMAS M. BARRETT, United States Representative [D–WI, 5th Congressional District]; and the Honorable MARK GREEN, United States Representative [R–WI, 8th Congressional District].

PANEL II: Jeffrey Howard for the United States Court of Appeals for the First Circuit; Percy Anderson for the United States District Court for the Central District of California; Michael M. Baylson for the United States District Court for the Eastern District of Pennsylvania; William C. Griesbach for the United States District Court for the Eastern District of Wisconsin; Joan

E. Lancaster for the United States District Court for the District of Minnesota; Cynthia M. Rufe for the United States District Court for the Eastern District of Pennsylvania; and John F. Walter for the United States District Court for the Central District of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE, AND TOURISM

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 11, 2002, at 9:30 a.m. on examining Enron: Electricity Market Manipulation and the Effect on the Western States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 11, 2002, at 9:30 a.m. in open session to receive testimony on military personnel benefits in review of the Defense Authorization Request for Fiscal Year 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 11, 2002, at 2:30 p.m., in open and closed session to receive testimony on the intelligence, surveillance, and reconnaissance programs of the Department of the Defense in review of the Defense Authorization Request for Fiscal Year 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ACTION—S. 565

Mr. REID. Madam President, I ask consent that the passage of S. 565 be vitiated and the measure be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask consent that the Senate proceed to Executive session to consider Calendar No. 758; that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, any statements be printed in the RECORD, and the Senate return to legislative session without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Robert Watson Cobb, of Maryland, to be Inspector General, National Aeronautics and Space Administration.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

COMMENDING UNIVERSITY OF MINNESOTA-DULUTH BULLDOGS

Mr. REID. Madam President, I ask consent that the Senate proceed to the consideration of S. Res. 236, submitted earlier today by Senators DAYTON and WELLSTONE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 236) commending the University of Minnesota-Duluth Bulldogs for winning the 2002 NCAA Division I Women's Ice Hockey National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 236) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 236), with its preamble, reads as follows:

S. RES. 236

Whereas on March 24, 2002, the defending NCAA Women's Ice Hockey National Champion, the University of Minnesota-Duluth Bulldogs, won the National Championship for the second straight year;

Whereas Minnesota-Duluth defeated Brown University in the championship game by the score of 3-2, having previously defeated Niagara University in the semi-final by the same score;

Whereas sophomore Tricia Guest scored the unassisted game-winning goal in the third period, and assisted in the Bulldogs' opening goal in the first period;

Whereas during the 2001-2002 season, the Bulldogs won 24 games, while losing only 6, and tying 4;

Whereas forward Joanne Eustace and defensewoman Larissa Luther were both selected to the 2002 All-Tournament team;

Whereas forward and team captain Maria Rooth led the Bulldogs in scoring the last 2 years, and was named to the Jofa Women's University Division Ice Hockey All-American first team, the only first team repeat from 2001;

Whereas Minnesota-Duluth Head Coach, Shannon Miller, after winning the National Championship in 2 consecutive years, was named a finalist for the 2002 NCAA Division I Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota-Duluth Women's Ice Hockey Team for winning the 2002 NCAA Division I Collegiate Ice Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota-Duluth Women's Ice Hockey Team; and

(B) invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota-Duluth for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Women's Ice Hockey National Championship Team.

COMMENDING UNIVERSITY OF MINNESOTA GOLDEN GOPHERS DIVISION I MEN'S HOCKEY NATIONAL CHAMPIONSHIP

Mr. REID. I ask unanimous consent the Senate turn to the consideration of S. Res. 237, submitted earlier today by Senators DAYTON and WELLSTONE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 237) commending the University of Minnesota Golden Gophers for winning the 2002 National Collegial Athletic Association Division I Men's Hockey National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 237) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 237

Whereas on April 6, 2002, the University of Minnesota Men's Hockey Team won the National Championship for the first time in 23 years;

Whereas Minnesota defeated the University of Maine in overtime in the championship game by the score of 4-3, having previously defeated the University of Michigan in the semifinal by the score of 3-2;

Whereas Grant Potulny, from North Dakota, the team's only non-Minnesotan, scored the winning goal in overtime and was named the tournament's Most Outstanding Player;

Whereas during the 2001–2002 season, the Golden Gophers won 32 games, while losing only 8, and tying 4;

Whereas senior defenseman Jordan Leopold was named the winner of the Hobey Baker Memorial Award, given annually to the college hockey Player of the Year, and was also named an All-American for the second consecutive year;

Whereas senior forward Johnny Pohl was also named to the All-American team, and led the NCAA Division I in scoring;

Whereas senior goalie Adam Hauser was named to the "Frozen Four" All-Tournament team, became the all-time Western Collegiate Hockey Association leader in victories, and established Minnesota records for most wins, shutouts, and saves;

Whereas Minnesota Head Coach Don Lucia, after winning the National Championship in just his third season at Minnesota, was named a finalist for the 2002 Spencer Penrose Award, which is presented to the NCAA Division I National Hockey Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Men's Hockey Team for winning the 2002 NCAA Division I Collegiate Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota Men's Hockey Team; and

(B) invite the team to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Men's Hockey National Championship Team.

COMMENDING UNIVERSITY OF MINNESOTA GOLDEN GOPHERS DIVISION I WRESTLING NATIONAL CHAMPIONSHIP

Mr. REID. I ask consent that the Senate proceed to the consideration of S. Res. 238, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 238) commending the University of Minnesota Golden Gophers for winning the 2002 NCAA Division I Wrestling National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 238) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 238

Whereas the University of Minnesota wrestling team successfully defended its 2001 national title by winning the 2002 National Collegiate Athletic Association championship on March 23, 2002, in Albany, New York;

Whereas the victory was the first back-to-back national championship in an intercollegiate athletic competition in University of Minnesota history since the Golden Gophers captured 2 consecutive national championship football titles in 1940 and 1941;

Whereas the University of Minnesota won the national crown with 126.5 points, over Iowa State (103 points), Oklahoma (101.5 points), Iowa (89 points) and Oklahoma State (82.5 points);

Whereas the University of Minnesota became the first Division I wrestling team since the 1995–96 season to go undefeated in dual meets and win the National Duals, conference and NCAA team titles in a single season and the first team to win these titles in consecutive seasons since the 1994–95 and 1995–96 seasons;

Whereas the Golden Gophers wrestling team has finished in the top 3 in the Nation in the last 6 years: placing third in 1997, being the runner up in 1998 and 1999; placing third in 2000; and winning the national title in 2001 and 2002;

Whereas the University of Minnesota wrestling team has now placed in the top 10 at the NCAA Championships 25 times in the history of the program;

Whereas Coach J. Robinson, as head coach of the University of Minnesota wrestling team, now has finished in the top 10 at the NCAA Championships 10 times during his 16-year tenure;

Whereas two members of the Minnesota wrestling team, Jared Lawrence and Luke Becker, each earned an individual national crown, marking the first time in school history that two Minnesota athletes were individual champions in a single NCAA sport in the same year;

Whereas Lawrence, at 149 pounds, and Becker, at 157 pounds, captured the 13th and 14th NCAA individual titles in school history, respectively;

Whereas Ryan Lewis, at 133 pounds, was the runner-up, Owen Elzen, at 197 pounds, finished in fourth place, Damion Hahn, at 184 pounds, finished in fifth place, Garret Lowney, at heavyweight, finished in fifth place, and Chad Erikson, at 141 pounds, finished in seventh place;

Whereas seven University of Minnesota wrestlers, Chad Erikson, Jared Lawrence, Luke Becker, Damion Hahn, Owen Elzen, Ryan Lewis, and Garrett Lowney, earned All-American honors; and

Whereas the Golden Gophers have now had 68 wrestlers earn 111 All-American citations in the history of the varsity wrestling program at the University of Minnesota: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Golden Gophers of the University of Minnesota for winning the 2002 National Collegiate Athletic Association Division I Wrestling National Championship;

(2) recognizes the achievements of all the team's members, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President recognize the achievements of the University of Minnesota wrestling team and invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the President of the University of Minnesota.

Mr. REID. I would say, Madam President, those Minnesotans know how to play hockey and wrestle.

ORDERS FOR FRIDAY, APRIL 12, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m. tomorrow, April 12; that following the prayer and the pledge, the Journal of proceedings be deemed approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; and there be a period of morning business until 11:30, with Senators permitted to speak for up to 10 minutes each, with time equally divided between the two leaders or their designees.

Madam President, I also ask unanimous consent that Senator LANDRIEU be recognized for up to 30 minutes during that 1 hour of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, at 11:30 a.m. tomorrow, the Senate will begin consideration of the border security bill. There will be no rollcall votes on Friday.

ORDER FOR ADJOURNMENT

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator MCCONNELL and Senator VOINOVICH, and the RECORD remain open today until 6:40 p.m. for the introduction of legislation by Senator GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, are we in morning business?

The PRESIDING OFFICER. We are.

PACE OF JUDICIAL CONFIRMATIONS: A HISTORICAL COMPARISON

Mr. MCCONNELL. Madam President, my friends on the other side of the aisle have defended the slow pace of the judicial confirmation process by saying their treatment of President Bush's nominees compares favorably with precedents. I had the Congressional Research Service look into this, and their research showed this is clearly not the case. This Congress's treatment of President Bush's judicial nominees compares quite poorly, at all stages of the confirmation process, with the treatment that prior Congresses afforded the judicial nominees of President Bush's four predecessors during their first Congress.

It has done a poor job with respect to confirming both district and appellate court nominees, but it has been particularly bad with regard to circuit court nominees, which is what I am going to talk about tonight.

From Jimmy Carter through Bill Clinton, over 90 percent of the circuit court nominees received a Judiciary Committee hearing during the President's first Congress. This is illustrated by this chart. During President Carter's term, 100 percent of his circuit court nominees received a hearing during his first Congress. Under President Reagan, 95 percent—19 out of 20 circuit court nominees—received a hearing during his first Congress. Under the first President Bush, 95.7 percent of his nominees for the circuit courts—22 out of 23—received a hearing during the first Bush's Presidency. During President Clinton's first Congress, 91 percent, or 20 of 22 circuit court nominees received a hearing during the first Congress.

Now we are in the second session of the first Congress under President George W. Bush, and only 10 of 29 circuit court nominees have even received a hearing, for a percentage of 34.5 percent.

What is going on here in the Senate with regard to even giving a hearing to circuit court judicial nominees is simply without precedent.

No President has been treated so poorly in recent memory—not even a hearing. Nineteen of the 29 circuit court nominees of President George W. Bush have not even received a hearing. Thus, only about one-third of President Bush's circuit court nominees have received a hearing.

With respect to receiving a Judiciary Committee vote, looking at it a different way, from Jimmy Carter through Bill Clinton at least 86 percent of circuit court nominees received a Judiciary Committee vote.

During President Carter's first Congress, 100 percent of his nominees for the circuit court received a vote in committee.

During President Reagan's first Congress, 95 percent of his circuit court nominees—19 out of 20—received a vote of the committee.

During the first President Bush's first Congress, 22 of 23 received a committee vote. That is 95.7 percent.

During President Bill Clinton's first Congress, 86.4 percent of his circuit court nominees—19 out of 22—received a Judiciary Committee vote during his first 2 years. Of course, those were years during which his party also controlled the Senate.

During the first 2 years of President George W. Bush, only 27.6 percent—or 8 out of 29—of the nominees for circuit courts received a Judiciary Committee vote—very shabby treatment and certainly unprecedented in recent times.

With respect to Senate floor votes, at least 86 percent of circuit court nominees from the administration of President Jimmy Carter through President Bill Clinton got a full Senate vote.

Looking at President Carter's first 2 years, 100 percent of his nominees for the circuit court received a Senate vote.

Looking at President Reagan's first 2 years, 95 percent of his nominees received a Senate vote.

Looking at the first President Bush circuit court nominees during the first 2 years, 95.7—or 22 out of 23—got a full Senate vote. Of course, that was when the Senate was controlled by the opposition party under the first President Bush.

President Clinton in his first 2 years in office, 86.4 percent—or 19 out of 22—of the circuit court nominees got a full Senate vote. Of course that was during a period where President Clinton's own party controlled the Senate.

Looking at the first 2 years of President George W. Bush, to this point, only 24.1 percent of the nominees to the circuit courts have received a full Senate vote—only 7 of 29.

This is really unprecedented, shabby treatment of President Bush's circuit court nominees.

The final chart shows comprehensively how poorly we are doing right now at all stages of the process in moving circuit court nominees.

Looking at it in terms of hearings, committee votes, or full Senate votes, during a President's first 2 years in office, the picture tells the story.

Under President Carter, 100 percent received both a hearing, a committee vote, and a full Senate vote during his first 2 years.

During President Reagan, 95 percent of his nominees received a hearing, a committee vote, and a full Senate vote.

The first President Bush, 95.7 percent of his nominees got all three—a hearing, a committee vote, and a full Senate vote.

President Clinton: 91 percent of his nominees in his first 2 years—again, remembering that President Clinton's party controlled the Senate his first 2 years—91 percent received a hearing in committee, and 86.4 percent received a vote both in committee and in the full Senate.

Then, looking at President George W. Bush, only 34.5 percent of his nominees for circuit court—a mere 10 out of 29—have even been given a hearing in committee, only 27.6 percent have been given votes in committee, and only 24 percent—a mere 7 out of 29—have been given votes in the full Senate.

This is a very poor record that I think begins to become a national issue. At the rate this is going, I think it will be discussed all across our country in the course of the Senate elections this fall.

It is pretty clear that we are not doing a very good job of filling vacancies, particularly the 19 percent of vacancies that exist at the circuit court level, and 50 percent of the vacancies that exist in my home circuit, the Sixth Circuit.

We did have a markup for a lone circuit court nominee this morning, and we had a confirmation hearing this afternoon for another lone circuit court nominee. I suppose that is a step in the right direction. Some progress is certainly, of course, better than none. But if we are going to address the major vacancy problem on the appellate courts, we must have more than one circuit court nominee per confirmation hearing, and we must have more than one circuit court nominee at a markup.

Furthermore, we are going to have to have regular hearings and regular markups for circuit court nominees. Before today, for example, it had been 4 weeks since we had a markup. Thus, in the 2 weeks prior to recess, we had only one markup with only one circuit court nominee on the agenda. And that nominee was, in fact, defeated on a party-line vote. When Senator HATCH was chairman, 10 times he held hearings with more than one circuit court nominee on the agenda. With the circuit court vacancy rate approaching 20 percent, this is something we should be doing now as well.

In sum, we need to do a better job in the confirmation process, particularly with respect to circuit court nominees.

These historical precedents give us a reasonable goal to which to aspire, and we need to redouble our efforts to meet past practices.

I might say in closing that we have a particular crisis in the Sixth Judicial Circuit, which includes the States of Michigan, Ohio, Kentucky, and Tennessee. The Sixth Circuit is 50-percent vacant. Eight out of 16 seats are not filled—not because there haven't been nominations. Seven of the eight nominations are before the Senate Judiciary Committee. A couple of them have been there for almost a year. No hearings have been held. We have a judicial emergency in the Sixth Circuit.

I think this needs to be talked about. Regretfully, our record is quite sorry. We have some months left to be in session. Hopefully, this will improve as the weeks roll along.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Madam President, I ask unanimous consent the order for the quorum call be rescinded and that I be recognized to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PIPELINE AND TRANSMISSION STREAMLINING

Mr. VOINOVICH. Madam President, I would like to spend a few minutes today talking about an amendment that I filed on the energy bill, amendment No. 3116. It is titled the "Integrated Review of Energy Delivery Systems Act of 2002."

This amendment, which Senator LANDRIEU has cosponsored, will streamline the siting process for energy pipelines and transmission lines.

As my colleagues know, one of the biggest challenges we face in ensuring that we have a consistent energy policy is ensuring we get energy to where it is needed. One of the problems we have had in previous winters has been the inability of energy supply to meet the demand solely because of bottlenecks in the distribution system.

Unless we address the situation, each winter places such as the northeastern part of the United States will continue to face high spikes in prices because their electric power grid and their pipeline system are both severely overtaxed. Removing this bottleneck will help stem huge potential problems down the road.

The Presiding Officer knows that one of the concerns we had last year was whether or not we would be able to get electricity into New York, into the Presiding Officer's part of the country, because of the issue of transmission lines. We were fortunate last summer was not that hot and the demand was not up, so there were not any brownouts or blackouts. But it is very important we move forward with siting these transmission lines so we can get power into the areas that need them.

The amendment Senator LANDRIEU and I have written would require all Federal agencies to coordinate the environmental reviews of energy pipelines and transmission lines so that the reviews take place simultaneously and a decision can be reached quickly on whether to move forward with the projects.

This amendment does not change underlying environmental statutes, nor does it change the environmental standards used for approving these projects. All current and future environmental laws are not changed by the amendment. Let me repeat that: Current and future environmental laws are not changed.

This amendment is based on a bill I introduced last year, S. 1580, the Environmental Streamlining of Energy Facilities Act of 2001, which would have applied to all energy facilities.

The idea for this amendment is from the environmental streamlining provisions of the highway bill, TEA-21. In that legislation, an amendment offered by Senators WYDEN, GRAHAM, and BOB SMITH required the Transportation Department to coordinate all environmental reviews for highway projects so that the reviews would take place at the same time, saving years on major highway projects.

What we are trying to do today is apply this same concept to the building of pipelines and transmission lines. Today we are facing a shortage of pipelines, and it is becoming more difficult every day to site transmission lines. While this amendment would not change the laws of eminent domain or the environmental standards, what it will do is help expedite the review process.

I would like to briefly outline the provisions of my amendment.

First, we designate one lead agency to coordinate the review process. To eliminate the duplication efforts by agencies with oversight for the construction, operation, and maintenance of pipelines and transmission lines, a single Federal agency would be identified to coordinate all required paperwork and research for the environmental review of a proposed pipeline or transmission system.

The agencies involved in this process would include the Environmental Protection Agency, the Department of Energy, FERC, the Army Corps of Engineers, and the Department of Transportation's Office of Pipeline Safety.

Agencies with partial oversight for a project would provide information from their area of expertise, while the lead agency would be responsible for establishing the deadlines, facilitating communication between the agencies, and defining the role of participating agencies during the environmental review process.

The lead agency, along with the Governor of the State where the application for the facility has been made, would work together to provide early notification to the public in order to identify and address any environmental concerns associated with the proposed system.

If there appears to be an environmental concern related to the permitting, the Council on Environmental Quality, in conjunction with the heads of the lead agency and participating agencies, would work together to resolve the matter within 30 days.

The problem is, when differences of opinion arise, it can take forever for these differences to be resolved. What we are suggesting in this legislation is that they would be brought to the Council on Environmental Quality, and they would sit down with the lead agency and participating agencies, and they would work together to get a resolution within 30 days.

The amendment directs coordination between the Federal, State, and local governments on particular projects. After a lead agency is appointed, it would be required to coordinate the environmental review process with input from Federal, State, and local governments. This includes the preparation of environmental impact statements, review analysis, opinions, determinations, or authorizations required under Federal law.

The amendment also allows for Federal delegation to the States. At the request of a Governor, and with the agreement of the applicant, a State agency may assume the role of lead agency. The Federal agency would delegate to the State agency the authority to prepare the Federal environmental impact statement or other environmental assessment following the procedures for a Federal lead agency.

Where there is a delegation of authority to the State, the lead agency continues to provide guidance and participation in preparing the final version of the environmental impact statement or environmental assessment. The lead Federal agency must also provide an independent evaluation of the statement or assessment prior to its approval.

Finally, the standard of review under State and Federal laws relating to the siting or construction or operation of a pipeline or transmission line would not be preempted, and the lead Federal agency is authorized to provide funding to the State when they assume the Federal responsibility.

It is vital that we act on the problem of expediting the siting of pipelines and transmission lines. This is a problem that plagues the entire country, including my home State of Ohio. However, in my view, the region which probably needs this provision the most is the Northeast.

According to a study by ISO New England Corporation, the nonprofit operator of New England's power grid has said that New England is increasing its natural gas demand from 16 percent in 1999, to a projected 45-percent demand in 2005. Unfortunately, they lack the local pipelines to distribute that gas to their markets.

The study says that there is no worry about any blackouts, unless nothing has changed one year from now. Three of the changes they need are: New gas-fired plants should be allowed to develop the ability to burn oil as a backup. The second is the regional pipeline system has to be expanded. And third, new compressors need to be added to existing pipelines to increase delivery capacity. So there is a genuine need there to move forward with providing pipelines so they can get gas into the Northeast, s ISO stated in its report issued in January of last year.

The chairman of the ISO New England, Mr. William Berry, said:

> The long and complicated federal permitting process for building new interstate pipelines is a greater obstacle than the technical construction work.

The amendment Senator LANDRIEU and I introduced will help speed up, as Mr. Berry calls it, "the long and complicated federal permitting process," and it will do so without jeopardizing any environmental protections and without changing any of our current environmental laws.

This amendment is supported by the American Gas Association, the American Chemistry Council, the Edison Electric Institute, the Interstate Natural Gas Association of America, the Association of Oil Pipelines, and the National Association of Manufacturers.

This is a commonsense approach to requiring our Federal agencies to work together to get the permitting decisions considered at the same time. According to the Interstate Natural Gas Association of America, the United States will need 49,500 miles of new natural gas transmission lines between now and 2015. That is just to keep up with the large projected increase in demand for natural gas. It is also projected that our demand for natural gas will increase by 50 percent by the year 2020.

We need to act today to ensure that our energy can be delivered to American homes tomorrow. I hope this amendment will be accepted and we can move forward with providing both industry and American consumers the confidence that the Federal Government will not be an obstacle to the delivery of energy and that this can be done without changing or undermining our environmental laws.

I yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 a.m. on Friday, April 12, 2002.

Thereupon, the Senate, at 6:32 p.m., adjourned until Friday, April 12, 2002, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 11, 2002:

POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 14, 2004, VICE EDWARD JAY GLEIMAN, RESIGNED.

DEPARTMENT OF JUSTICE

STEVEN M. BISKUPIC, OF WISCONSIN, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF WISCONSIN FOR THE TERM OF FOUR YEARS, VICE THOMAS PAUL SCHNEIDER, RESIGNED.

JAN PAUL MILLER, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS, VICE FRANCES CUTHBERT HULIN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. LEON J. LAPORTE, 0933

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARY H. HUGHEY, 9286

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL J. BISSONNETTE, 1967
MARK A. CLESTER, 9448
DANIEL J. MCLEAN, 7229

CONFIRMATION

Executive nomination confirmed by the Senate April 11, 2002:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ROBERT WATSON COBB, OF MARYLAND, TO BE INSPECTOR GENERAL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

CONGRATULATIONS, TED AND LOIS WELLINGTON, ON 65TH WEDDING ANNIVERSARY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SCHIFF Mr. Speaker, I rise today to honor two outstanding citizens of California's 27th Congressional District. Ted and Lois Wellington, life long residents of Burbank, California, celebrated their 65th Wedding Anniversary on March 27, 2002. Over their lifetime, both Lois and Ted have devoted themselves to the well being of the greater Burbank community.

Ted and Lois both attended Burbank public schools while growing up and met each other while attending Burbank High School. But it wasn't until Ted became the accountant in Lois's father's mechanic shop that they began dating. They were married on March 27, 1937 and remained in Burbank to raise their family. They raised two children in Burbank—Barbara "Dee" Erman of Placentia and Frederick "Rick" Wellington of San Gabriel. They are extremely proud of their two children and are also blessed to have four grandchildren: Michael, Lawrence, Edward, and Patrick, and two great grandchildren: Sean and Haley.

Over the years Ted has worked for Fox Studios, Lockheed, and he concluded his accounting career in the Los Angeles County Tax Assessor's office. Lois, while working for the City of Burbank Department of Water and Power, is one of the original founders of the Burbank Public Employees Association.

Lois's involvement in the community is not only limited to Burbank, she has served as the President of the Retired Public Employees Association, as the President of the Congress of California Seniors, as an officer for the International Seniors Council Association and as the Chair of the President's Council of the National Council of Senior Citizens. She is currently a Senator of the Silver Haired Congress.

Not to be outdone, Ted has been active in local, county, state, and national politics throughout his life. Locally he has been persistent in his attempts to attract young people to politics. And when Ted isn't reading, he is tending to his vegetable garden, which some say produces the best tomatoes in Burbank.

I would like all Members of the United States House of Representatives to join me in congratulating Ted and Lois Wellington on their 65th Wedding Anniversary. They have truly shown devotion not only to each other but to their family and community as well.

BEAR RIVER MIGRATORY BIRD REFUGE SETTLEMENT ACT OF 2002

SPEECH OF

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. MATHESON. Mr. Speaker, rise today to give my whole-hearted endorsement and support for H.R. 3958, the Bear River Migratory Bird Refuge Settlement Act.

This bill provides more than just a mere settlement between the federal government and the State of Utah, it is a model of how state and federal interests can work together in order to protect our shared environment.

The Bear River Refuge is an ecological treasure. Surrounded by a desert and a brackish marsh, the Bear River is truly an oasis for thousands of birds. In 1843, explorer John C. Freemont visited the site and said that the sounds of waterfowl were like "a thunder, and the whole scene was animated with waterfowl."

The refuge, however, is threatened. In 1983 the Great Salt Lake breached its banks and flooded the fragile ecosystem of the refuge. The pristine waters became contaminated; microbes, plants, and animals were all put at risk.

The refuge is now on its way to recovery. There has been a concerted effort by the federal government and the state to remediate the damage caused and return the refuge to its prior condition.

That job has been complicated, not by the forces of nature but by the anachronistic ambiguities of lines of ownership between federal and state holdings. The lack of a meander line survey of the land has led to uncertainty of ownership within the refuge.

State and federal agencies are unsure of their jurisdiction, and that uncertainty has stymied the important environmental work that needs to be completed.

This $15 million agreement would invest much needed resources into the continued protection of the refuge-$10 million would be provided into a wetlands protection account. The remaining $5 million will be used for development, improvement, and expansion of a trail system throughout the refuge.

This is a good deal for the United States, a great agreement for Utah, and important step in preserving a fragile ecosystem.

IMPORTANCE OF ORGAN DONATION

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BILIRAKIS. Mr. Speaker, after September 11th, Americans proved once again that they are the most compassionate and generous people in the world through their financial generosity to the victims of the tragedy. Unfortunately, organ donors—Americans who sacrifice for others—are often overlooked. Organ transplantation is a unique medical procedure, since it relies on the kindness and compassion of others—often strangers—to save lives. Despite the generosity of thousands of donors, however, the supply of organs still falls short of the need.

Currently, there is a nationwide shortage of available and suitable organs for patients needing a transplant. Nearly 75,000 people are currently waiting to receive a transplant, and every 14 minutes another name is added to the list. In the last decade alone, the waiting list has grown by over 300 percent. Because of low donor rates, thousands of people die each year for lack of suitable organs.

Through his tragic death, the grandson of one of my constituents was able to give life and hope to many others. Corey had been involved with motorcycles since he was a small boy. He was riding at a motorcycle track, like he had done many times before, practicing with his new motorcycle. The cycle over-throttled and crashed into his best friend, who was riding a motorcycle in the opposite direction. Corey suffered immediate brain swelling and never recovered. But fortunately for others, Corey's parents chose to donate his organs and give others the gift of life. I would like to personally thank them for their gift and commend their great sacrifice in their own time of mourning.

Through a gracious letter from the donor services organization, Corey's family was able to learn how his gift was able to touch the lives of so many others. His heart went to a young 14-year-old in Alabama, who required a transplant due to a heart defect from birth. Corey's liver went to a 67-year-old mother from Virginia, and his pancreas to a 49-year-old mother of two from Tennessee.

Donation of a person's organs is a profoundly selfless act that should be respected and acknowledged. Out of Corey's donation, many lives were touched and many people now have hope that they might not have had otherwise. I would encourage all Americans to follow Corey's example and register to donate their organs so that others may live.

HONORING ACHIEVEMENTS AND BIRTHDAY OF CESAR CHAVEZ

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to honor the achievements and birthday this March 31st of the late Cesar Chavez, a true pioneer for workers and communities who rose to become one of our nation's—and world's—greatest advocates of nonviolent social change.

Cesar Chavez is best remembered for founding and leading the first successful farm workers' union and becoming the president of the United Farm Workers of America. His tremendous efforts—and those who worked with him—improved the lives of tens of thousands of workers and families, and inspired millions of people from all walks of life around our nation and world.

Born on a small Arizona farm on March 31, 1927, Cesar Chavez began his life as a farm worker in the field at age 10. He served in the United States Navy during World War II.

With the strength of family and the unity of fellow farm workers, Cesar Chavez became an organizer with the Community Service Organization, a civic group of Mexican-Americans, in the early 1950s. Soon thereafter, he moved with his wife, Helen, and eight children to California's Central Valley where he founded the National Farm Workers Association. With his young children by his side, Cesar would visit California farm communities to bring public light to the substandard working conditions and lack of sufficient pay and benefits of thousands of Latino migrant workers who worked long hours on farms. Chavez led peaceful boycotts to bring national attention to the fight for equality and justice for migrant farm workers. His passionate leadership brought together a remarkable alliance of students, unions, minorities, churches and others to fight for their fellow men, women, and children working in the agricultural sector.

I was proud to be a member of the California State Senate in 2000 and vote to have the State of California recognize Cesar Chavez's birthday as a day to remember his good work and to re-ignite our personal and social passion for continually improving the conditions of workers and communities across our nation and world.

So, Mr. Speaker, today I ask all Members of the United States House of Representatives to pause and honor a great man, Cesar Chavez, and the great cause he helped lead of advancing fairness, justice, and the improvement of the living and working conditions of our fellow human beings.

H.R. 3848, WASHINGTON COUNTY, UTAH RECREATIONAL AND VISITOR FACILITIES

SPEECH OF

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. MATHESON.

Mr. Speaker, I rise today to lend my voice in support of this important legislation.

Washington County, Utah is one of the fastest growing counties not only in Utah, but in the United States. Within the last ten years the population of Washington County has grown by more than 80 percent. The City of St. George is fast becoming one of America's premier retirement and vacation gateway communities in the country.

With this growth come two very basic needs. First, all cities, regardless of size, geography, lay out, structure, or economy, need water. Nowhere is this need felt more than in the red rock desert of southwestern Utah.

Secondly, vibrant cities need a place for people to recreate. They need areas where families can gather, where picnics can be held, where activities can be organized, and communities can come together.

This legislation will help to do both. The bill authorizes $2.5 million for the construction and maintenance of the Sand Hallow Recreational Area. This will help provide the needed resources to allow for the continued water and recreational resources of Washington County.

As a child, I spent many days in the area around Sand Hollow. It is a magnificent area, and a place that will only be enhanced by this authorization.

GREATEST WINTER OLYMPICS EVER

SPEECH OF

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. MATHESON. Mr. Speaker, it is with great pleasure that I rise today to congratulate the people of Salt Lake City and the State of Utah, as well as athletes from around the world for a successful 19th Winter Olympics. I express my appreciation for the hard work by the thousands of volunteers of what has been described as the world's greatest Winter Olympics ever.

The Games showed how as Americans, we have not given up, but have rallied around our national— and international—banners. Over 27,000 people served as volunteers during the games. Volunteers made up almost the entire cast of the opening and closing ceremony performances. Doctors, nurses, businessmen, housewives, and even teenagers worked for 17 straight days to make sure this event was one that no one would ever forget.

Mr. Speaker, I hope that as Members of this body watched the Games on television that they too saw what I saw: People from throughout the world coming together to celebrate the spirit of fair competition and sport. I appreciate the work of the Congress and the President to ensure that the games ran smoothly and securely. It is my hope that the Salt Lake Olympic Games will be an example for the world of how to host a large, safe, secure, and successful international event.

RECOGNIZING THE IMPORTANCE OF THE ELLIS ISLAND MEDAL OF HONOR

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MALONEY of New York. Mr. Speaker, I rise today in support of H. Res. 377 and to acknowledge the importance of the Ellis Island Medal of Honor, an award established by the National Ethnic Coalition of Organizations to applaud individuals of various ethnic groups for their contributions to the United States.

The Ellis Island Medal of Honor organization is a member of the National Ethnic Coalition of Organizations, the largest organization of its kind in the United States, representing over 5 million family members and serving as a uniting force for 275 organizations in the fields of ethnic heritage, culture, and religion. The commitments of this organization include the preservation of cultural diversity, the promotion of equality, the battle for justice, and the peacekeeper among all peoples.

The Ellis Island Medal of Honor serves to acknowledge individuals whom have accomplished personal achievements while promoting their particular heritage. The award is named in honor of the persistence of 12,000,000 immigrants as they entered a new world to pursue freedom and economic opportunity. This award honors the commitments of peoples seeking to preserve their heritage in a diverse nation.

The Ellis Island Medal of Honor is important in that it acknowledges the contributors of our great nation.

Since the Ellis Island Medal of Honor was established in 1986, over 1,500 individuals from many different ethnic groups have received the award, including over 5,000 individuals whom are nominated each year. I was honored to receive the Ellis Island Medal of Honor and I greatly respect the achievements of the other recipients of this award.

At the 2002 Ellis Island Medal of Honor ceremony, contributors to the relief and recovery efforts of September 11 will be honored. These honorees and other contributors to the United States will rightly be recognized under the Ellis Island Medal of Honor for their achievements and dedication to their country.

TOM JOYNER MORNING SHOW

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. HILLIARD. Mr. Speaker, I rise to pay tribute to the award winning syndicated radio talk show, "The Tom Joyner Morning Show," and Congresswoman CARRIE MEEK for a job well done in making sure that everyone was included in the 2000 Census count.

More than one million people in the African American community were counted who would not have been counted, but for the efforts of this radio program. I also wish to thank Mr. Joyner, his team, and Kweisi Mfume for their efforts in turning out the vote in the November 2000 Election. Their numerous presentations during this critical time on a continuing basis were outstanding!

Each morning the program was informative, motivational and highly successful in achieving its goal. Because of this program, the percentage of African-American votes was greater than that of Whites and other groups of the voting age population in the state of Florida and in most Southern states.

The group's impact was so tremendous that it served as a catalyst for motivating African-

Americans across this country to register to vote and participate in the Census count. This newfound sense of empowerment increased African-American interest in social and political affairs; increased their social, financial and political wealth; and resulted in their becoming better citizens.

Mr. Joyner has been a creative trailblazer and by taking the show on the road he has inspired, motivated, educated and informed America. In addition, he has brought his family into millions of households in America. By actively participating in the work of "The Tom Joyner Foundation" which is an instrument to give back to the community, he has given scholarships to help needy students at Historically Black Colleges and Universities (HBCU's) and strengthened the African-American concept of parents and children cooperating together to build a greater society.

This is just one of the many programs which has involved his talented and creative efforts. His weekly Thursday Morning Moms highlights the struggles of African-American women rising to the highest level of family. His weekly tribute to Real Fathers Real Men; his feature of Little Known Black History Facts; his feature of Christmas Wish List; and his feature of Celebrity Interviews continue to inspire, enlighten and motivate African-Americans to be proud of the past, achieve in the present and prepare for the future.

Mr. Joyner's leadership on issues which affect African-Americans on a daily basis is superb and outstanding. His "fly jocking" across America to various cities and states not only increased the awareness of issues of interests to the African-American community, but motivated them to take action. He earned this "fly jocking" title through his dedication to serve radio audiences in Dallas, Texas and Chicago, Illinois. Both markets recognized his impressive talent and wanted him at the same time. Before expanding his presence into 120 markets across the country, Tom flew from Dallas to Chicago every day for seven years.

Tom's actions are commendable and very much appreciated. The other super stars, i.e., J. Anthony Brown, Sybil Wilkes, Miss Dupree, Myra J., Tavis Smiley, and Donna Richardson also inform and motivate the public. The Tom Joyner Morning Show is truly inspirational.

Mr. Joyner and his morning crew have received many awards, which reflect their skills, talents and contributions specifically to African-Americans, and generally to all Americans.

Lastly and most importantly, I would like to share a piece of Tom Joyner's personal history.

Born to Frances and Hercules Lionel Joyner of Tuskegee, Alabama, Tom attended elementary school at the Chambliss Children's House, which was a laboratory school located on the grounds of Tuskegee Institute. He went on to enroll at Tuskegee Institute High School where he received his educational training under the direction of Mrs. Alberta Ritchie, the mother of famous singer and songwriter Lionel Ritchie.

During his matriculation at Tuskegee Institute, Tom played records in the college cafeteria after basketball and football games. He further expressed his love for music and entertainment as a member of a local singing group, The Commodores. After performing with the group for two years, Tom asked his parents' permission to leave school and tour with The Commodores. His parents refused to allow him to drop out of College and follow the group, but instead, they strongly encouraged him to finish his education at Tuskegee Institute.

Upon graduation in 1971, Tom decided to pursue his dream as a radio announcer. His mission was to change the face of Black radio into an advocacy medium, with particular interests in broadening the awareness of HBCU's and increasing voter registration.

Tom is married to fitness expert and trainer Donna Richardson. He is the father of two sons—Thomas Joyner, Jr., the CEO of The Tom Joyner Foundation and Oscar Joyner, Director of Marketing for the foundation.

Tom's efforts and awards cannot go unnoticed and must be recorded in history. Therefore, this insertion in the CONGRESSIONAL RECORD is made so that Tom Joyner's efforts and all of his positive actions and "solid gold programming" will be engrossed and embedded in the history of this country.

A TRIBUTE TO ALFRED E. MANN

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SCHIFF. Mr. Speaker, it is an honor to rise today and honor Alfred E. Mann, a great philanthropist in the Southern California community and famed national bio-medical researcher. He has dedicated his life to his family, his church, and to the search for cures to the world's most devastating diseases and afflictions.

Alfred Mann was born in Portland, Oregon in 1925 and has been a resident of Los Angeles, California since 1946. He attended the University of California, Los Angeles and has received honorary doctorate degrees from the University of Southern California and The John Hopkins University.

He has earned his reputation as a biomedical pioneer because of his outstanding accomplishments throughout his professional life. As the Chairman and co-CEO of Advanced Bionics Corporation, he manufactured a developed advanced cochlear implants for the restoration of hearing and is currently developing a number of neurostimulation systems which may prove to be beneficial in treating those who face paralysis and any number of neurological disorders. He is also responsible for the manufacturing of continuous glucose monitoring systems primarily used for the treatment of diabetes and for the manufacture of hospital intravenous pumps.

Mr. Mann has made a lifelong commitment to philanthropy. His countless number of charitable donations has made a lasting impact on our nation. In fact, each year, his name can be found on the list of the ten most philanthropic minded individuals. Two of his largest donations, 100 million to the University of Southern California and the promise of 100 million to the University of California, Los Angeles, will help shape the face of current and future research at both of these institutions.

Also, as the founder of two medical research foundations—the Alfred Mann Foundation and the Alfred Mann Institute at the University of Southern California—Alfred Mann has ensured that the biomedical community will be able to engage in the lasting study of the diseases and ailments that affect so many Americans.

Alfred Mann's dedication to the biomedical community has and will continue to produce lasting and important discoveries as our nation faces the challenge of curing the world's most devastating illnesses. His commitment to helping others through research and philanthropy has and will continue to have a positive affect for all of us. I ask all Members of Congress to join me in honoring a man who has given a lifetime to making a difference in our Nation.

CELEBRATING 20TH ANNIVERSARY OF TAIWAN RELATIONS ACT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. ROS-LEHTINEN. Mr. Speaker, on April 10th, we celebrated the 20th anniversary of the Taiwan Relations Act being signed into law. Since the time of its enactment, it has only served to strengthen the position of the Republic of China on Taiwan, internationally, as both an economic power and champion of democracy in Asia.

The Taiwan Relations Act set the premise for the United States long standing friendship with the Formosa Island. Throughout the years, that commitment of friendship has been met with our continual support of their security needs, as well as a strong trade partnership.

In closing, I want to commend the wonderful work of Ambassador C.J. Chen and his staff in representing the needs and concerns of the ROC and always extending the friendship of the Taiwanese to those of us here in Washington, DC. Through their efforts, I am certain that the relationship between the United States and Taiwan, anchored in the Taiwan Relations Act, will continue to strengthen in the years ahead.

IN RECOGNITION OF THE DEAN OF THE FLORIDA LEGISLATURE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SHAW. Mr. Speaker, I rise today to honor the 24-year legislative career of my friend, and constituent, Ron Silver. Ron Silver exemplifies the essence of what it means to be a public servant. Throughout his legislative career Ron has served Florida and the people of Miami-Dade county with dignity and honor. His peers fondly named him Dean of the Florida Legislature.

A native of Cambridge, Massachusetts, Ron and his family moved to Florida in 1958 where young Ron began laying the groundwork for a legislative career that would span over two decades, include five U.S. presidents and six Florida governors. In 1978, Ron took his ideas and vision to Tallahassee as a member of the Florida House of Representatives. There, Ron worked tirelessly on issues such as health care, aging and long term care, and criminal justice. His leadership was rewarded when his colleagues elected him to two terms as House Majority Whip and Majority Leader. In these leadership roles, Ron had the enviable task of building consensus among of his Democratic colleagues. Not an easy task, but one that Ron relished.

In 1992, Ron, with the support of his beloved wife, Irene, was elected to the Florida Senate. In the Senate, he was again elected to a leadership role as Majority Leader. As a member of that distinguished body, Ron stands out as a champion of disadvantaged Floridians. Ron shares my commitment to reducing Florida's welfare rolls by promoting personal responsibility and giving a hand up as opposed to a hand out. Our partnership grew as a result of the historic 1996 welfare reform act and it continues today as we fund the critical program known as Temporary Assistance for Needy Families (TANF).

Although 2002 brings an end to Ron Silver's legislative service, Mr. Speaker, I am certain Ron will continue serving his community and the great state of Florida for many years to come.

Mr. Speaker, as Chairman of Florida's Congressional delegation, I salute Ron Silver, on his twenty-four great years of honorable service in the Florida legislature and wish him and his family the very best in the years to come. I'm proud to call Ronald Alden Silver my friend.

IN SECULAR INDIA, HINDU LIVES WORTH TWICE AS MUCH AS MUSLIM LIVES

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. MCKINNEY. Mr. Speaker, the government of India is compensating the families of those who lost their lives in the recent riots in Gujarat. While no amount of money makes up for the loss, this is a decent thing to do and I salute India for it.

However, Mr. Speaker, I was disturbed to find out that apparently in the world's largest secular democracy, a Hindu life is worth twice as much as a Muslim life. According to News India-Times, the Indian government is paying out 200,000 Rupees each to the families of Hindus who were killed, but just 100,000 Rupees to the family of each Muslim killed.

Mr. Speaker, I think it is offensive that a country that claims it is democratic thinks that the life of one person or group is twice as valuable as that of another person or group. What if our government declared white lives twice as valuable as black ones, or vice versa? Would that be tolerated?

The article also notes that during the riots, "Muslim establishments were targeted in an organized manner—even when they masqueraded under Hindu names and were run in Hindu majority areas." This seems to indicate the government's hand in the planning of the riots, an impression that is reinforced by the fact that the police stood by and let the carnage happen.

This is simply part of an ongoing Hindu nationalist campaign to wipe out religious minorities. It is unacceptable, Mr. Speaker, and America must help to put a stop to it. We should stop all aid to India until all people enjoy equal rights and we should demand a free and fair plebiscite in Kashmir, Khalistan, Nagaland, and the other nations seeking to get out from under India's brutal occupation. These steps will help bring real freedom, stability, and prosperity to the South Asian region.

Mr. Speaker, I would like to place the News India-Times article into the RECORD.

[From the News India-Times March 29, 2002]

MUSLIMS SUFFER BIAS EVEN AFTER THE RIOTS

AHMEDABAD—The state government has been booking those responsible for the Godhra carnage under draconian Prevention of Terrorism Ordinance (POTO), while those who targeted Muslims and their business establishments in an organized manner in the state are being booked under the milder Criminal Procedure Code. POTO allows a person to be held without bail for 30 days.

Rights activists here contended that this was yet another example of the state government's bias against the Muslim community, and called for the scrapping of POTO.

Earlier, Chief Minister Narendra Modi's government had announced compensation of Rs. 200,000 ($4,166) for the victims of the Godhra tragedy, while the amount for those who died in the widespread retaliatory riots was fixed at half that amount, Rs. 100,000 ($2,083).

Rights activists as well as journalists covering the riots have noted how Muslim establishments were targeted in an organized manner—even when they masqueraded under Hindu names and were run in Hindu majority areas.

THE INTERNATIONAL CRIMINAL COURT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. LANTOS. Mr. Speaker, today a number of countries will ratify the Rome Statute of the International Criminal Court, surpassing the 60 countries needed to bring the Rome Statute into force. Ratification of this treaty is a notable achievement for the new foreign policy of the European Union, which adopted a common position in support of ratification. Indeed many of our European allies and our other friends, such as Belgium, Canada, Finland, France, Germany, Hungary, Italy, the Netherlands, New Zealand, Sweden, Switzerland and the United Kingdom, have all ratified this landmark international instrument.

Everyone agrees that those who perpetrate genocide, crimes against humanity and war crimes must face justice, either before international tribunals or before the national courts of their own countries. And as we recently heard in the testimony before the Committee on International Relations, there may be situations, such as post-conflict societies, where it is simply impossible for national institutions to pursue prosecutions of such crimes. For example, the International Criminal Tribunals on the former Yugoslavia and Rwanda have done excellent work in those specific instances of gross violations of recognized international human rights norms.

While many Members of this House have expressed reservations regarding the exact form of this Court, we all must now recognize that it is a reality. Over 60 countries from every continent have determined that it may be appropriate at times for an international court, rather than their own national courts, to prosecute and try perpetrators of genocide, crimes against humanity, and war crimes committed on their territory. Given the concerns that have been expressed regarding the possibility of overzealous prosecutions coming from the Court, I believe that it is imperative that we now all work together to ensure that the Court is a responsible international actor that advances the cause of human rights and international accountability, and fulfills its promise as a worthy legacy of the Nuremberg Tribunal.

In order to achieve this end, I believe that the United States must remain engaged in the creation of the Court and its institutions. In the Preparatory Commission meetings establishing the mechanics and operations of the Court, U.S. diplomats and other officials have played a key role in shaping this institution. While I have no illusions that the United States will ratify the Rome Statute anytime soon, it would be shortsighted for us to take steps to neutralize our ability to assist in this process. In particular, I call on the Administration not to "unsign" the Rome Statute. As a signatory and in our observer capacity, we can continue influencing the form of the Court over the course of the next year into an institution that can have the effect of supporting U.S. national security goals, not damaging them. That is what we should focus on, not actions that would isolate us further from our friends and allies.

Let us move forward constructively with respect to the International Criminal Court. If we do so, we may well be able to help advance the cause of human rights and international justice.

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in recognition of National Organ and Tissue Donor Awareness Week which begins April 21–27, 2002. As a nurse, I saw firsthand how transplants and the generosity of donors save lives. As a Congresswoman, I have been proud to help my constituents work through the process of transplant surgery, and bring awareness to the importance of donors.

A few years ago my office was fortunate enough to help a constituent, John Pellegrino of Floral Park, New York, navigate through the insurance maze. I'm pleased to note John celebrates his two-year liver transplant anniversary on April 13. However, John's anniversary is bittersweet, especially for his donor's parents, now also his good friends, Harold and Melinda Yarbrough of Louisiana. In the midst of facing the agony of losing their precious daughter Breann, the Yarbroughs gave life to John and six other people.

It is fitting to honor John and the Yarbroughs—as well as the thousands of transplant recipients and donors. According to the U.S. Department of Health and Human Services, Congress first designated the third full week in April as National Organ and Tissue Donor Awareness Week in 1983 (Public Law 98–99) to raise awareness of the critical need for organ and tissue donation and to encourage all Americans to share their decision concerning donation with their families. Bone grafts enable individuals to walk again while skin grafts save the lives of critically burned patients, and donated corneas prevent or correct blindness. Heart valves help repair critical cardiac defects. Today, more than 79,000 men, women and children wait for an organ transplant, without an increase in donation, that number will continue to escalate, Currently, 16 people die each day because there are not enough organs available for transplant. Every day 114 individuals are added to the national waiting list for organs.

I commend Breann's parents for making a decision that allowed John to live. I am grateful to Breann for her gift to John. We need more heroes like Breann. With awareness about organ and tissue donation, more organ transplants can save and enhance lives.

Join me in bringing awareness to National Organ and Tissue Donor Awareness Week, April 21–27, 2002.

IN OPPOSITION TO PROPOSED CUTS BY THE BUSH ADMINISTRATION IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S (CDC) CHRONIC DISEASE PROGRAMS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. REYES. Mr. Speaker, I rise today to urge the House to increase funding for the Centers for Disease Control and Prevention's (CDC) chronic disease programs including the CDC's diabetes control program. The diabetes control program has been successfully implemented in 16 states and we must continue to build on this success by assuring its implementation in all 50 states. Mr. Speaker, it is important to note that by 2010, it is estimated that over 10 percent of the population will have diabetes. In addition, current data suggest that diabetes is the seventh leading cause of death for Americans living along the U.S.-Mexico border and the third leading cause of death for Mexicans living on the other side of the border. It is estimated that nearly 30 percent of residents along the U.S.-Mexico border have diabetes and that one third don't even know they have the disease. Prevention of diabetes and its deadly complications are keys to fighting this horrible disease.

Chronic diseases like diabetes, heart disease, cancer, and arthritis are the leading cause of death in the United States, killing seven out of ten Americans. The costs of chronic diseases are staggering, with more than 70 percent of health care expenditures in the United States going to combat or treat chronic diseases. By 2020, it is estimated that $1 trillion, or 80 percent of health expenditures, will be spent on chronic diseases.

Unfortunately, President Bush's budget calls for a $175 million cut in the CDC's chronic disease budget. With cuts of these magnitudes, the CDC will not have the resources it needs to combat the pending diabetes epidemic. I urge my colleagues to support a $350 million increase in the CDC's chronic disease budget and to send a clear message that combating diseases such as diabetes must remain a national priority.

HONORING JOE SESTO

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to an outstanding citizen, Mr. Joe Sesto, upon the celebration of his 90th birthday. Mr. Sesto has been an extraordinary asset to the City of Santa Maria, California, as well as to Vandenberg Air Force Base, since he arrived on the Central Coast in 1950.

Even at the age of 90, it is difficult to find anyone who is as active in the community as Mr. Sesto. He continues to serve on several community boards, and at a recent Santa Maria Chamber of Commerce annual meeting, was dubbed "Mr. Santa Maria." Mr. Sesto received the Golden Medallion Award for being the Chairman of the Local American Heart Association, and was the President of the Santa Maria Chamber of Commerce in 1954. He has also been the Chairman for the Ways and Means Committee for the Construction of the Marian Medical Center, which is the primary hospital in Santa Maria. Mr. Sesto has served on the County Grand Jury, the County Arts Commission, the County Health Commission, and the City of Santa Maria Planning Commission. He was the Chairman for the Development of the Cultural Facilities, Chairman for the Bond Drive to Build Hancock College Performing Arts Theater and past President of the Robert Goddard Chapter of the Air Force Association.

Mr. Sesto is also the Chairman of the Military Affairs Committee and has served as liaison to Vandenberg Air Force Base since its inception in 1957. He has received national, state and local awards for his Air Force Association activities, including the highest civilian award given by the Air Force, "The Exceptional Service Award." In 1990, Mr. Sesto was named the Honorary Missileer at the Missile Competition, and the base auditorium was named The Sesto Auditorium in 1986.

Joe Sesto has shared his glorious sense of humor and generous heart with his fellow central coast neighbors for many, many years. He and his wife Philomene, who have been married for 67 years, can only be described as true pillars of the Santa Maria Valley. I am blessed to know this wonderful individual, and urge my colleagues to join me in wishing him birthday greetings on this joyous occasion.

TRIBUTE TO THE MEMORY OF PHILLIP AMBRIS SUSTAITA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BACA. Mr. Speaker, today I would like to pay tribute to the memory of Phillip Ambris Sustaita, the loving father of my friend, Luisa Sustaita. It is with much sadness that I inform my colleagues of the passing of a great individual, a man who filled our world and the lives of those around him with love, compassion and family values.

Luisa's father, Phillip, was born on May 10, 1921 in Denver, Colorado, and passed away on March 17, 2002 at the age of 80. Phillip Sustaita bravely served his country during World War II as a member of the United States Navy. Afterwards, Mr. Sustaita began a 40-year career as a Stationary Engineer with National Ice and Cold Storage. He lived in Sacramento, California for 60 years.

Phillip Ambris Sustaita was a hardworking man and pioneer who raised his family with love especially his daughter Luisa who was very special to him. Luisa and her father shared a very close relationship. Throughout Luisa's life her father was a constant source of love and support. He was a father, mentor and best friend to her. Luisa will long remember the wonderful things he brought to her family and to the lives that he touched. Philip was and remains a tremendous figure in the thoughts and memories of his loved ones. His loss will be felt most deeply.

They say a man is measured by the lives he touches. Through the Grace of God he Phillip Ambris Sustaita touched many lives. Philip was widely admired by family, friends and colleagues. He was hard working, dedicated, committed, disciplined, loving and supporting. He was everything one would want in a father, husband, and grandfather. He demonstrated his commitment to marriage and his family he provided love and ongoing support to his children, grandchildren and played an active role in raising them. He was a strong person, the backbone to his family. He possessed honesty, strength, leadership and courage. He was considered a true friend in every sense of the word. Luisa's mother, brothers and sisters and numerous nieces and nephews, join her in mourning the loss of their father.

And so Mr. Speaker, I submit this loving memorial and join with all of those whom he loved in extending my prayers along with Barbara to Luisa and hope that she may find peace and comfort during this time of sorrow. Phillip Ambris Sustaita leaves his legacy in the heart of his beloved daughter, Luisa Sustaita, and all those who knew him.

IN HONOR OF MR. THOMAS A. CRAIGG, JR., SERGEANT, USMC RETIRED

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. JONES of North Carolina. Mr. Speaker, it is my honor to stand before you and my colleagues today as I talk to you about a man who, in accordance with his great service to our nation, will receive two honors that have been years in coming.

In 1940, Mr. Thomas Craigg enlisted in the Marine Corps. When War broke out in 1941, Private First Class Thomas Craigg was on the Philippine Island of Luzon and Marines were under Army command distributed along the Bataan Peninsula.

On the morning of February 24, 1942, "the Commanding Officer of Charlie Battery, mounted a patrol of 75 Marines and Sailors to investigate an enemy Japanese force. The patrol encountered an enemy, which was far superior in number and well equipped troops with heavy machine guns and supporting mortars. The Commanding Officer dispatched a runner to the nearest antiaircraft battery for reinforcements with instructions for the gun captain to report to the commanding officer's position on the bluff overlooking Lapiay Point. Private First Class Craigg arrived with his 13-man squad and engaged two enemy gun emplacements, which had the main body pinned down and were dropping mortar and howitzer rounds among the patrol. With complete disregard for his personal safety, Private First Class Craigg repeatedly exposed himself to enemy fire providing clear and concise guidance to his squad and effectively eliminated one gun position. He laid down covering fire, which enabled the patrol to disengage from the main enemy force and withdraw to another position."

Following Private First Class Craigg's heroic actions, his Commanding Officer informed him that he was going to officially recommend him for the Silver Star Medal. Unfortunately, Mr. Craigg's Commanding Officer was killed in action before this recommendation could be made. Thankfully, Mr. Speaker, while Mr. Craigg's Commanding Officer could no longer retell the story of his courageous actions that Day in 1942, others never forgot what he did, and as a result, I am proud to say that on March 30th, Mr. Craigg will be awarded the Silver Star Medal for "extraordinary heroism in the face of extreme danger."

Amazingly enough Mr. Speaker, Mr. Craigg's story does not end here. Shortly after this battle, Private First Class Craigg would be captured by Japanese forces on the Bataan Peninsula only to escape a short time later and make his way via boat to the island of Corregidor where he would engage the enemy in battle once again.

After 28 days of further fighting however, the Marines and Sailors on Corregidor were ordered to surrender and they were taken back to Bataan where Private First Class Craigg would survive the infamous Bataan death march. Mr. Craigg was eventually sent on a brutal trip to Japan where he would spend more than two years working in coal mines while enduring severe starvation and beatings. As a result of the beatings he received, Mr. Craigg will also be receiving his third award of the Purple Heart on March 30th.

Despite his traumatic experience as a prisoner of war, Mr. Craigg returned to the ranks and participated in the historic American invasion at Inchon, Korea with the 7th Marine Regiment. In October of 1963, Mr. Craigg retired from the United States Marines Corps with the rank of Gunnery Sergeant.

After his retirement, Mr. Craigg's passion for the armed service did not wane. He became very involved in his local chapter of the Disabled American Veterans and from 1981–1983 served as State Commander.

Though born in Arkansas, Mr. Craigg made the wise decision of marrying a North Carolinian, the late Anne Toler. The Craigg family also includes 5 children: Beverly, Joan, David, Carroll Wayne and Thomas III. Mr. Craigg now resides in Jacksonville, which is also fittingly the home of Marine Corps Base Camp Lejeune.

There are few words to aptly praise the courage, sacrifice, and heart it takes to serve his country the way Mr. Craigg did during his twenty-two years in the United States Marine Corps. As an American, I am deeply grateful for the sacrifices made all those years ago. As a man, I am awed by Mr. Craigg's dedication to his community, his country, and, of course, his family. And as a United States Congressman, I am humbled by the privilege of being allowed the opportunity to share the accomplishments of Gunnery Sergeant Thomas A. Craigg, Jr.

We salute you, Mr. Craigg. Your most recent awards have been a long time in coming, but it is well deserved. God Bless you!

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2002

SPEECH OF

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mrs. McCARTHY of New York. Mr. Speaker, I rise to express my concern with H.R. 3991, the Taxpayer Protection and IRS Accountability Act, because of the "527" provision hidden inside of it. This provision is a feeble attempt by the GOP leadership to gut campaign finance reform by attaching a controversial provision to a popular and passable taxpayer protection bill.

The "527" provision would have opened a loophole in the recently passed campaign finance bill by permitting thousands of dollars of campaign contributions to escape public disclosure. The problem lies in the bill's provisions to exempt state and local 527s from Federal reporting as long as they are required to report "substantially similar" information at the state level. My problem with that is who would be the judge of what "substantially similar" means? The bill makes it easier for federal candidates and party officials to solicit funds and coordinate campaigns with 527s. The bottom line is that this provision would make it extremely difficult to track these groups and their activities.

I want a real solution that would ease the federal filing requirements while closing all loopholes. I cannot allow all of our progress made from passing the campaign finance bill to be underscored by voting for a bill with a poison pill inserted into it. The amount of hard work and support put into the campaign finance reform bill cannot be allowed to be undone by passing H.R. 3991.

A TOWN MEETING FOR YOUNG PEOPLE

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SANDERS. Mr. Speaker, I want to take this opportunity to inform you about a very important and exciting Town Meeting for Young People that I held at the University of Vermont on Monday, April 8, 2002. This meeting brought young people together from all over the state of Vermont to discuss some of the most pressing issues facing our country. Fifteen high schools and youth organizations and about 100 students attended this all day event and provided some excellent and well-researched testimony that I intend, at a later date, to enter into the CONGRESSIONAL RECORD. I want to thank UVM President Edward Colodny for welcoming the students to UVM, and I want to thank the University for their hospitality. I also want to thank Professor Huck Gutman for spending the entire day with the students and me and doing an excellent job in flushing out their ideas.

Let me at this time mention to you who was at the event and some of the topics that they addressed. Let me also suggest that other Members might be interested in putting on similar events in their congressional districts. The young people of this country have a lot to say, and I think that it's important for members of Congress to listen to them.

Following are the names of the students who participated in the Town Meeting and their schools or youth organizations: Jessica Walters and Falinda Hough from the Lund Family Center discussed problems relating to Teenage Drinking; Dan Hill from YouthBuild Burlington discussed Affordable Housing issues; Becca Van Hrn, Eli Brannon and Sam Parker from Proctor High School talked about "Free Trade not being Fair Trade"; Lee Goldsmith, Greg Howard and Robby Short from Mt. Anthony High School spoke about Student ID cards; Ruth Blake from Straight Talk Vermont talked about the Teen Expressions Dance Company; Troy Ault, Reid Garrow, Stefanie Gray, Danielle Harvey and Andrea Shahan from Straight Talk Vermont discussed the Problem of Child Labor, Erica Hollner, Katie Kervorkian, Kerry McIntosh and Bethany Wallace from Mt. Anthony High School talked about being pen pals with students in Pakistan; Matt Alden from the Craftsbury School spoke about Underage Drinking; Candace Crosby, Kim Dickenson, Katie Lanigan and Gladys Wong from Spaulding High School discussed the issue of Inadequate Financial Aid for College; Steph Bernath, Nicolette Baron, Alan Blackman and Halie Paradee from Lamoille High School talked about the rights of Abenaki Indians in Vermont; Marcia Lo Monoco, Sarah Kunz, Delia Kipp and Colin Robinson from Brattleboro High School talked about CLEA-Child Labor Education Action and their trip to Guatemala; Joseph Ferris from Rutland High School talked about the importance of Amtrak; Sean Fontaine, James Nichols and Krystal Turnbaugh from YouthBuild Burlington discussed issues related to Juvenile Justice; Katie Blanchard, Cady Merrill, Jesse Butler and Stephanie Horvath from Rutland High School talked about the issue of Abortion and parental involvement; Kelly Green from Craftsbury School talked about the Cost of College and the Burden of Debt; Peter Hicks, Kristy Lamb, Brittany Hickman, Evan Worth and Nick Smith from Lamoille High School discussed Education Reform; Travis Buck from Mt. Abraham High School talked about Genetically Modified Foods; Elizabeth Echeverria and Damon Rooney from Craftsbury School spoke about Labor Exploitation; Jessica Predom and Autumn Rozon from the Boys & Girls Club of Vergennes discussed Teen Image issues; Daniel A. May from Rutland High School talked about Student Representation on School Boards; Amy Canton, Shana Griffin, Ashley St. John and Jamie Walbridge from Spaulding High School discussed Graduated License issues; Megan Sullivan, Matt O'Brien, Rebecca Emmons, Alex McKenzie and Carson Gazely from Harwood High School talked about educational funding and Other Peoples Children-National Act 60;

Heidi Neil and Martha Mack from Mt. Abraham High School addressed the issue of Teen Smoking; Keith Blow, Jessica Davis, Jessica Oakes, Shirlaine Miller and Ruhin Yuridulla from Spaulding High School talked about their concern regarding Income Taxes for Student Workers; Chastity Norris and Kim Lunna from Mt. Abraham High School gave their views on the need for a National Civil Unions; Amy Downs and Anissa Coward from YouthBuild Burlington talked about Affordable Childcare; Lindy Stetson from Mt. Abraham High School talked about Drug Testing for Students; Thomas Lamson, Vanessa Hinton and Monica Brooks from Spaulding High School spoke about the Attack on Individual Rights; Jack Fleisher and Elden Kelly from Mt. Mansfield High School talked about Alternative Energy Vehicles; Jonathan Edmondson from Rice Memorial High School spoke about Arafat: Leader of Freedom Fighters or Terrorist Leader; Tim Fitzgerald from Rice Memorial High School spoke about US Aid to Third World Countries; Elizabeth Christolini from Rice Memorial High School talked about Bettering Education; Rebecca Lee Marquis from Rice Memorial High School talked about a Multinational Impact; Timothy Plante from Rice Memorial High School addressed the issue of Israel and Palestine: Change of Leadership For Progress; Hailey Davis from Rice Memorial High School discussed Is NATO Necessary?; and Pierson Booher also of Rice Memorial High School discussed the issue of The Arab-Israel Conflict and America's Position.

I am extremely proud of all of the students who attended this Town Meeting. I was deeply impressed by their testimony and applaud their initiative in seeking to make their communities a better place in which to live. Too often, in my view, the media focuses on the problems facing young people. As a nation we do not pay enough attention to the hard and constructive work being done by millions of students and their teachers all across our nation. Let me conclude by thanking all of the young people and their teachers for their participation.

U.S. MARSHALS SERVICE

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. CANNON. Mr. Speaker, today I rise to speak about a little-known but tremendously important part of the Department of Justice: the United States Marshals Service. The Marshals play a critical role in areas we take for granted, such as court security and prisoner transportation. And for that, the Marshals should be applauded.

However, I recently learned of the efforts of an elite part of the Marshals Service—the Special Operations Group (SOG). Lead by Commander Scott Flood and Executive Officer Walter "Keith" Ernie, the Special Operations Group is based in Camp Beauregard, Louisiana. This all-volunteer team of more than 90 professionals is to be commended for their willingness to take on any assignment, no matter how dangerous, in pursuit of Justice and the safety and stability of our country.

Just last weekend, members of the Special Operations Group flew to Puerto Rico to deal with protesters on Vieques Island, while others came to Virginia to provide special protection for those being prosecuted in America's war on terrorism. During the September 11th crisis, the Special Operations Group helped secure airports around the country, preserve evidence at the Pentagon and World Trade Center crash sites, and protect federal judges and courthouses from other threats.

While much of this is all in a day's work, I am amazed that this group of men and women actually volunteer to take on the extra challenges and greater dangers of being a SOG member. Those in the Special Operations Group receive no extra pay. Yet, the training and the missions are incredibly demanding. And the demands are not just on the members themselves, but on their families—being a member of SOG requires extensive travel away from wives, husbands, and children.

Nevertheless, Commander Flood and his team work quietly outside of the spotlight to make sure that the tough jobs get done.

Much of what SOG does cannot be discussed on the floor of the House of Representatives. Nevertheless, I believe that the men and women of the United States Marshals Service's Special Operations Group are true heroes. And I, for one, am grateful for their service to our Nation.

SENATE—*Friday, April 12, 2002*

The Senate met at 10:30 a.m. and was called to order by the Honorable THOMAS R. CARPER, a Senator from the State of Delaware.

The PRESIDING OFFICER. Our guest Chaplain today, Father Daniel Coughlin, Chaplain of the U.S. House of Representatives, will lead the Senate in prayer. Father.

PRAYER

The guest Chaplain offered the following prayer:

Lord God of Heaven and Earth, be our shepherd and our guide. Bring light into the darkest corners of our world and the darkest recesses of our hearts. From within, bring forth desires for lasting peace that will be born not only of human compromise but of Your creation in human hearts. Shed wisdom and understanding upon the Senate, all lawmakers, courts of justice, and negotiators. Be assurance to the doubtful, fearful, and depressed. Freed of hatred and malice, bring forth purity of conscience to all and faithfulness to Your word and promises, especially to all those rooted in Abrahamic faith. Grant health to the sick, consolation to the grieving, recovery to the addicted, and safety to the children of the world. In You, O Lord God, we are renewed. In You, Lord God, we place our trust now and forever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable THOMAS R. CARPER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 12, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS R. CARPER, a Senator from the State of Delaware, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARPER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, the Senate is going to proceed momentarily to a period for morning business until 11:30 a.m. At 11:30 a.m., the Senate will begin consideration of the border security bill. There will be no rollcall votes today. As the majority leader had me announce yesterday, there will be a rollcall vote or votes Monday evening.

This past week we worked very hard on legislation. We, of course, did not make the progress we wanted to make, but we did OK. We were able to complete election reform, we were able to get border security, and we were able to work through some very difficult amendments. I hope, as soon as we get off border security, we will be able to go to ANWR. If not, the majority leader is going to go to other issues. We have waited such a long time for ANWR, and as of yesterday, they did not have an amendment ready to offer. We hope we can complete action on the energy bill next week.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. LANDRIEU. I thank the Chair.

ENERGY POLICY

Ms. LANDRIEU. Mr. President, I am happy to have some time this morning to speak about the important issue that is before the Senate and has been for some time. It is very important legislation that will help us set the course of our energy policy for perhaps the next several decades.

While we have spent a great deal of time on this bill, I am glad we have spent this time because this is one of the most, if not the most, important issue we could be addressing at this time. It relates to our national security posture and it relates to the issues that are before our eyes and on our hearts: what is happening in the Mideast and around the world.

Although I understand the leadership wanting to move to other issues, hopefully, we can have the final votes and move on to other issues.

I have come to this Chamber a number of times to relay what people in Louisiana are thinking and hoping for in this bill, and I have tried to express their frustration in some ways over what they and I also perceive as a conflicting policy.

It seems as though our Nation has a test of our will every 20 or so years: Are we willing to take the steps necessary to become more energy independent? The last time we had this test was in the 1970s when oil spiked because of international circumstances. Our gas lines were very long. It put a clamp on our economy, helped to raise interest prices and threw our economy into a tailspin. We failed the test.

Over the last 25 years, we have not become more energy independent. We have become more efficient. Our technologies have improved significantly in terms of environmental impacts, but we have not passed the test for energy independence. It is now 25 years later and we are taking this test again.

It is my hope that as we cast these last important votes on this energy bill that we will this time pass the test and move our country on a steady and sure march toward energy independence.

Instead of reducing our reliance on imported oil over the last 25 or 30 years, we have increased our reliance on foreign oil and energy sources, the exact reverse of what we were hoping to do. And we have not increased renewables in our energy portfolio nearly to the point where they can help us reach that self-reliance.

I do not have to explain to the Presiding Officer, who knows this issue well, or to my colleagues, how important it is for us to pass this test now because it has a direct relation to our national security. It has a direct relation to our ability to fight clearly, and without compromise, our war on terrorism. It helps us to broker a peace and a compromise in the Mideast based on our values of freedom and democracy.

I have a chart which I hope will help people understand how important this is. As I said, 25 years ago we failed the test of trying to help our country march towards energy independence. Instead of standing still, we have actually taken a reverse course. In the last 30 years, instead of putting more places on the map for production of oil, gas, coal, and other traditional fuels, as well as nuclear power, hydro and alternatives, we have actually taken places off the map.

So in 2002, we have this great, mighty, and very wealthy United States of America that consumes more energy per capita than any nation on Earth and any nation in the history of man, and yet we refuse to produce it. We want to consume it. We do not want to produce it.

We have been misled to believe that we cannot produce oil and gas without great environmental damage. This is simply not true.

What is true is when we began producing oil and gas in the 1930s, the 1940s, and the 1950s, prior to rules and regulations, before the science was clear and before we were able to understand some of the great negative consequences, we did make a lot of environmental mistakes.

We have now minimized the risk financially, economically, as well as environmentally in our drilling, whether it is onshore or offshore. Are there still problems? Yes. Are there some environmental risks associated with drilling? Yes.

I do not know any exercise in life that is without risk. The question is: what is the measure and the weight of the risk? I say unequivocally, coming from a State that has done a lot of oil and gas drilling, the benefits of drilling outweigh the environmental risks if rules are followed and polluters are prosecuted.

When we are free of Mideast-set oil prices it helps our Nation be secure internationally. Every time violence escalates in the Mideast, it drives prices higher causing our economy to tailspin.

When our economy takes a tailspin, as I have tried to explain, it is not only charts and graphs where the lines start moving. Dreams are shattered. Houses are lost. Businesses are lost. People lose their jobs. Kids do not go to school. Families fall into despair. These are serious issues. These economic trends affect real people, in my State, and all over our country. Let us take a step now for more domestic drilling.

We have no amendments to open these places shown here where moratoria exist. But we must consider opening drilling both on and off of our shores because there are rich, significant reserves of meaningful proportion. Let me give one example.

In the Gulf of Mexico, where we see this blue area where we have been drilling for many years, the red dots indicate all current and active leases. Where it says "gas, 105.52 trillion cubic feet," that is the estimated reserves of the gas that is located in this part of the gulf. Notice this is only the central and the western part of the gulf, not the eastern part, off of the Florida coastline.

One hundred and five trillion cubic feet of gas is a lot of gas. In the whole Nation, we use 22 trillion cubic feet a year. So in this one small part of the gulf, if we drilled it in its entirety and were committed to a good drilling program, we could supply enough gas for the entire United States, according to my math, for between 4 and 5 years.

I have to assume that the geology does not stop at this line. Just because the political boundaries divide Louisiana, Mississippi, Alabama, and Florida does not mean the geographic or geological formations stop. So there are tremendous gas and oil reserves in this part of the gulf. There are probably tremendous reserves all along our Nation's shorelines. Does that mean we have to drill within sight of the coast? No. It used to be that way 20 years ago, where drilling would have to be in shallow water. But one of the great advances that has occurred because of wise tax credits, encouragement, research, and development is that we now can drill safely in deeper water.

What does that mean? That means we can have great beaches, wonderful coastlines, a tremendous tourism industry, and never see an oil rig.

The technology is there to drill, and drill safely, and move gas and oil throughout this country. We would not have to rely on Iraq or Saudi Arabia and be held hostage to world oil prices.

We need more oil and more gas. It is simply hogwash when people say it will not help. That is not true. It will help, and we can do it.

Regarding the ANWR situation, people might not be clear. It was not to me until I visited Alaska and began to understand how huge Alaska is. I asked my staff to place Alaska on the map of the continental United States so we could appreciate how big the State is. We are lucky to have purchased this land, this wonderful State with so many resources. It is a great asset for the United States of America.

When we purchased Alaska, people thought it was a folly. We have the last laugh. It has given us great natural resources, an abundance of wildlife, timber, and oil and gas.

We cannot turn all of Alaska into a national park. We cannot afford to do it. We have set aside some areas of Alaska. One area the size of the State of South Carolina is a refuge. It is the Arctic National Wildlife Refuge.

Are we suggesting to drill in the whole refuge? No, the debate over ANWR is regarding 1.5 million out of 19 million. That is what the fear is about. A huge number of people say we absolutely, positively, cannot drill in this little dot because a major catastrophe will befall our environment or Nation.

Other nations hear this and say: What is the United States thinking? They have so much land, so much more than we do, so many more resources than we do. What is keeping them from drilling in a place far removed from any urban population? If they will not drill here, the question is, where will these people in America drill? That is my question.

While some of the Democratic leadership is getting blamed for this position, neither party has been instrumental in opening up lands for drilling. This motto of not in my backyard, not in anyone's backyard, not now, not ever, is going to bring this country to its knees.

I don't mean to sound pessimistic, but we cannot maintain the great military strength we have, and the great economic strength we have, if we refuse to produce the energy we consume. We have to produce more. We have the land. We have the skill. We have the technology. We have people who want jobs, good jobs. I have thousands of workers out of a job. They want a job that can pay $20, $25, $30, $35, $40 an hour; scientists who can make a fabulous living exploring new ways for drilling; engineers, geologists, truckers, suppliers, small business owners.

More domestic production in little areas like this or in places in the gulf or in some parts of California and some parts of the east coast would be very helpful. I hope we can do it.

In addition, we must diversify our fuel source. We need more oil and gas. If anyone says we don't, they are leading you astray. We also need more nuclear power. There is also a byproduct of hydrogen that will help America move to hydrogen fuel cells in our transportation sector. That is very exciting.

The Presiding Officer and Members from agricultural States know we can help develop fuels from excess agricultural byproducts and help to produce the kind of fuels for our automobiles, from corn, wheat and sugarcane. This is a careful way to produce our food: consume what we need, and use the excess to produce energy to run the new vehicles of the next decade—this is truly exciting—and wean ourselves off of the oil and gas that is so necessary today and will be for the next several years.

The second important area is improving the transmission grid. I compare it to the National Highway System. If you came to Louisiana or Mississippi before we had a National Highway System, you would reach the State line and the highway might end because we in Louisiana decided to build the road in a different way. Imagine not being able to get to Texas because we had our highway going north when we needed it going west.

That is what would have happened. But we came together a number of years ago and said: We are going to have a National Highway System so we can move goods from the East to the West. To do that, the Federal Government is going to have some say about how this highway system is built.

We need to do the same thing with transmission. Let me show the problem with transmission. Even if we drilled more, we don't have adequate infrastructure to move electricity. Even if we increase our production, we have to be able to move it from the source to the user.

What this chart shows is the increase in system demand. There is an increase in demand. Why? Because we are using more electricity. This country is moving aggressively to using more power, not less.

So, this is our demand curve. Here, though, is the net transmission investment, which is going down, not up. This is what causes blackouts and brownouts, this separation. The reason for this is 50 States are doing their own thing.

Senator BINGAMAN he has some wonderful language in this bill to help us build, if you will, an interstate, national transmission system to move electricity to the places that need it.

I would like to improve upon this language, so I am going to be offering an amendment next week that will produce more transmission capacity through participant funding.

The current electricity pricing system is a tremendous obstacle to enhanced transmission capacity. This system dictates that new transmission capacity be rolled in, or socialized across the system, but when power moves from one system to another, customers who receive no benefit, like those in my State, still shoulder the burden of the cost of building more transmission. This situation leads to state utility commissioners and consumer groups to oppose badly needed expansions of the transmission grid.

Prior to recess, I introduced an amendment, along with Senator KYL, to establish an option of participant funding, whereby the utility customers who give rise to, and benefit from the expansion of transmission, pay the associated costs.

Now let me clear about one thing: this amendment does not mandate anything. Rolled-in pricing would continue to be the rule while participant funding would become an option.

Unfortunately, there has been a persistent tendency to misread or misinterpret this amendment to the contrary. In order to clarify this issue, I have made a series of changes to the amendment which make absolutely clear, beyond any doubt, that the amendment is not a mandate.

We are building support for this amendment. Again, besides increasing production, we have to build a national transmission system, similar to our highway system, and we have to do it in this bill right now or all the discussions about energy reliability are going to be for naught.

Mr. President, I ask unanimous consent for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I want to show another part of the problem: the need for some reinvestment in our energy infrastructure.

Let me put up the chart that shows drilling in the gulf. All of these red dots represent wells that are being drilled out in the gulf. It is really a sight to see. There are thousands of people working out in the gulf on these rigs. But they do not just get there from heaven. They have to come from some shore, usually from Texas, Louisiana, or Mississippi where the pipes, the supplies, and helicopters are located. We serve as the platform that allows this activity to go on. We are happy to do that.

But we have been doing it now for 50 years and getting no compensation whatsoever. In other words, all the taxes paid in this area do not come back to Louisiana. We do not see a penny of the royalties that are paid, and it is a lot of money. It is $120 billion, since 1955; $120 billion since 1955 has been paid to the Federal Government from the drilling. Some of it is off the shore of Florida, but most of it is off Alabama, Mississippi, Louisiana, and Texas.

Since 1955, these wells and energy have produced, for Washington, $120 billion. Yet for the parishes, the States, and the communities that support that drilling, we get zero. It has to change. It is just not fair, it is not right, and it makes no sense.

This is what happens. This is Highway 1, the highway that goes down the boot of Louisiana to the gulf. This is what the highway looks like because we cannot get one penny, under the current law, to broaden or improve this highway. This is what happens when there is an accident on this narrow two-lane highway. These are all workers in these trucks. This is what we cause our citizens to have to deal with because we refuse to design a system, for coastal States, that interior States have.

Interior States, when they drill for resources, get to keep 50 percent of their money. That goes to help them fund their highways, their schools, to counter any negative environmental impacts, to invest in those local communities. Coastal States, for some reason, have not been able to share in that way.

My amendment, which is in this bill, establishes an authorization for that. I am going to ask this body to take a further step and make a direct appropriation—if we are going to drill in the gulf—for Alabama, for Mississippi, for Louisiana, and for Texas. We certainly deserve to keep a portion of those revenues so we can invest back in our communities and make this situation more tenable for the workers and for the community of people who produce energy for this Nation. We think it is our patriotic duty, but we cannot continue without just compensation.

That is a picture of what Highway 1 looks like on a bad day when there has been an accident. Frankly, on a good day when there has not been an accident, it looks a lot like that. There can be 1,000 trucks a day trying to get down to the gulf to produce oil.

First, we need to drill more in this Nation in places where we can. We can have protected waters so the beaches of Florida or the coast of Louisiana or places in Alaska can be protected and preserved. But we can drill in places where we can become more energy independent and self-sufficient.

Second, we should double our efforts to diversify our sources of energy and concentrate on developing renewables.

Third, we should create a transmission grid much like our national highway system so that wherever the power is created, we can move it to wherever the Nation needs it, efficiently and at low cost.

It will be fabulous for our consumers and for our businesses.

Finally, we need to make sure we compensate the States such as Louisiana that are producing and give them a fair share of these revenues so we can invest in our economic future, fix highways such as Highway 1, and restore the damage to our coastal wetlands.

I thank the Presiding Officer for the attention and the time to speak on this important issue.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Nebraska.

Mr. HAGEL. Mr. President, I ask unanimous consent that I be given up to 15 minutes to address the Senate as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Thank you, Mr. President.

THE MIDDLE EAST

Mr. HAGEL. Mr. President, I come to the floor this morning to speak on the Middle East. I begin my comments this morning with a statement of support for Senator DASCHLE's comments yesterday concerning his call for restraint by our colleagues while Secretary of State Powell is in the Middle East. Senator DASCHLE's statement was wise. It is important we all listen carefully to what Senator DASCHLE said. And, more importantly, in my opinion, it is important that we follow his suggestion.

President Bush was correct in his assessment that he presented to the American public and the world last Thursday in his speech when he informed the world he was going to be engaged in the Middle East by sending Secretary Powell to the Middle East. It was a correct decision.

Secretary Powell is now engaged in a very difficult, dangerous, and delicate mission. Yes, there are great risks for the President's prestige, our Nation's risk to that prestige, and to America's prestige. There are risks all around.

We must not misunderstand the reality of with what we are dealing. We are not dealing with some abstraction or some theory. We are dealing with the cold, brutal reality of what is taking place in the Middle East. There are no good options. There are no risk-free options for America, for Israel, for the Palestinians, for the Arab world, and for, indeed, the entire world.

There are far greater risks if the United States of America does not engage and provide leadership where there has been a vacuum of leadership, which, in my opinion, has produced much of this danger, chaos, and turmoil, and which I believe borders on the brink of a raging inferno if this is not brought under control. We have no option but to lead. Terrorists win if we don't engage—if we allow ourselves to be held captive to terrorist actions.

As we follow this through, do we believe things will get better? Things won't get better. Things will get worse and more dangerous and will draw more and more of the world into this conflict. So we have no option.

The President is right. If this situation continues to spiral out of control, it serves no one's interest or purpose except the fringes, the radicals, and the terrorists.

It is not in Israel's interest, nor the Palestinians' interest, nor the world's interest to allow this problem to continue. Of course, our hearts go out to the Israeli people today, and to the victims and families of the latest terrorist bombing in Jerusalem. We can never justify nor condone acts of terrorism.

Unfortunately, I am not surprised that on the day Secretary Powell is in Israel meeting with leaders to attempt to bring some sanity to this situation that the terrorists have struck. That is what they always do. They try to drive us back. They try to fragment us. They try to get us to argue amongst ourselves as to strategy and policy. But we must not fall prey to terrorist actions and allow ourselves to become paralyzed by what they are doing.

No Nation and no people should have to live under the conditions the Israelis are presently living under and the Palestinian people are enduring.

That is why Secretary Powell is there. Let us not forget why he is there. Let us cut through the fog. He is there to try to bring some stability and peace and pull apart the warring factions so that we can get on with a settlement, get on with lives, and hopefully on into a future for all peoples of that region. That is why he is there.

President Bush has been very clear in his condemnation of terrorism and his unprecedented commitment to ending it. We understand Israel's right to defend itself. We are committed to that right. We have helped Israel defend that right. We will continue to do so. But it should not be at the expense of the Palestinian people—innocent Palestinian people and innocent Israelis who are paying a high price. Both Israelis and Palestinians are trapped in a war not of their making.

We must step back from this great tragedy and recognize one constant: That the more the violence escalates, the more the terrorists win, and that further violence will embolden the terrorist bombers in Israel and elsewhere, and it will spread and spread.

We cannot allow a vacuum of leadership to develop in the Middle East. That, too, is why Secretary Powell is there. Secretary Powell is on a critical mission to help end this cycle of violence and eventually help both sides see a future where there can be peace. Look over the horizon. Is it imperfect? Absolutely. Is it full of problems and holes and gaps, imperfections and flaws? Absolutely. But if we do not anchor ourselves to some hope, some plan, some leadership—all, yes, full of risk—then what is there, what will there be?

We must be reminded that this cannot, and will not, be accomplished in one trip. This will take time. We must have patience. We must stay focused, disciplined, and prepared for setbacks. And there will be setbacks. But allowing this to spiral out of control is not an option.

The military solution alone is not an option. That is part of it. We will get to a time—I have confidence we will—where we will be asking, How do we guarantee this peace? Will America be called upon, NATO forces be called upon to help guarantee this peace? Maybe. But we should now put all our creative, new, wider-lens thinking on this issue, and all our foreign policy in this new world in which we live, on the table. It will require some new thinking.

Who guarantees this peace? If, in fact, we expect Israel to pull back to their pre-1967 borders, who guarantees that peace? Those will be difficult decisions for this body to be part of making, as well as the President having to make those difficult decisions. I do not tremble with any fear or quake with fear that we are not up to that. We will get to that. We must be prepared to think through that—and long term.

The Secretary's mission is all about the war on terrorism. Let's not get disconnected to the broader purpose Its purpose is to end the violence and terror. The Middle East is connected to our policies in Afghanistan and Iraq. We are paralyzed now in some of these areas because we are totally consumed with the Middle East, and appropriately so. We have few options anywhere until this Middle East issue is on some track of resolution.

The situation in Afghanistan, as the Presiding Officer knows, is still very fragile and very dangerous. There is a long way to go. We must not allow Afghanistan to unwind. The investment, the progress, the good, the justice, the dignity—all that has been brought to that land as a result of American leadership, which we must preserve—we cannot allow to erode and for us to go back to a time when we were losing there.

Deadly terrorism stalks the world. It is the great challenge of our time. It is the reality of our time. We need the help of all our allies, all our friends all over the world, all the Moslem nations, to continue to root out terrorism and stabilize and secure the world.

This is not an American interest alone. And we cannot do it alone. We are the greatest power the world has ever known. We stand astride the globe as no power in the history of man. But we have limits, too. These coalitions for peace, coalitions for change, will be our future, the world's future. And we must lead that coalition. We cannot press forward on a regime change in Iraq with the fires burning in Israel or we will stand alone, without our allies. We will risk finding ourselves isolated, Israel isolated. It is not in the interest of Israel to find America and Israel isolated in the world.

America's and the world's vital interests are connected to the Israeli-Palestinian conflict—completely, directly, daily. We must give Secretary Powell and the President the time to work through these unprecedented challenges, this unprecedented violence and danger. They need the latitude, the flexibility to work through to a solution, in consultation with the Congress, of course. In this body and in the House of Representatives reside great expertise, ability, common sense, and wisdom on which the President will and is calling.

We need an Arab coalition for peace, building upon the Saudi initiative of Crown Prince Abdullah, incorporating the Tenet plan and the Mitchell plan. We need to support the President's policies to help bring to this region peace which has worldwide consequences. All of the world will be affected by the outcome. There are consequences playing out today, and they will continue to play out, and they are uncontrollable consequences.

In conclusion, I offer a comment that Henry Kissinger made in a statement recently on U.S. policy in the post-cold-war world reality. Dr. Kissinger said this: "history . . . will not excuse failure by the magnitude of the task." It applies very appropriately, clearly, and with deadly accuracy today in the Middle East. The President has shown his courage and the determination that a nation as great and worthy as America is—and can be, and has been—to go forward with the kind of leadership the world expects from us, and, yes, at great risk. But that risk is for peace, and that risk is worth taking. It will be long and difficult, but it can be done. We are dealing with a manmade problem. We will find a manmade resolution.

So I return to the opening of my comments this morning in once again suggesting that Senator DASCHLE had it right yesterday in calling for all of us on Capitol Hill to work together to support the President, to find solutions and resolutions. Criticism is easy. It is very easy to criticize. But we do not have an option to criticize. We have a responsibility to find a solution. And we will. We must support our President and Secretary Powell in his mission for peace.

Mr. President, I thank you for your attention. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 3525, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3525) to enhance the border security of the United States, and for other purposes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is time to enact the Enhanced Border Security and Visa Entry Reform Act.

I thank my colleagues, Senators BROWNBACK and KYL, on the Judiciary Committee, the Republican leaders on the Judiciary Committee and on this issue, and also acknowledge the very strong leadership of my colleague and friend from California, Senator FEINSTEIN. We have worked very closely together. We all had different legislation in different forms and shapes, but all on a similar subject matter. We have worked closely to make a unified recommendation to the Senate which reflects our best judgment.

It also reflects the best judgment of those who have had the opportunity to study the issues that we have included, and we have benefited from a number of recommendations. I am very grateful to all of our colleagues for all of the good work they have done. We present this as a unified team.

This legislation would strengthen the security of our borders, improve our ability to screen foreign nationals, and enhance our ability to deter potential terrorists. This legislation addresses the significant national security challenges we face today.

The House passed the Border Security Act in December. The Senate action is long overdue.

I believe there are five dimensions to our security challenge today. First is the military. The Armed Forces are performing superbly, and they are well led. Secondly, we have a new intelligence challenge that deals primarily with the control of nuclear and biological materials in the former Soviet Union, and the gaps in what we know about terrorist groups. A third involves a cracking-down on money laundering and improving our ability to follow the financial trail of terrorist groups through the international monetary system, and we have seen important legislation on that subject successfully completed in this body.

Fourth is the area of bioterrorism. Senator FRIST and I have worked closely together to enact the Public Health Threats and Emergencies Act signed by the President in the year 2000. We are in conference now with the Bioterrorism Preparedness Act. We have very good bipartisan support for this legislation—Congressman TAUZIN, House Members—and we are very close to making recommendations with a conference report sometime next week or very shortly thereafter. We have worked very closely in a bipartisan, bicameral way to meet this particular challenge.

Finally, there is the security of our borders, which remains the challenge that needs attention.

As the recent mistakes of the INS demonstrate, the need is urgent to close the loopholes in our immigration system. Border security is the shared responsibility of the INS, the State Department, intelligence agencies, and the Customs Service, and requires improved technology, enhanced intelligence capacity, and dynamic information sharing, updated training for border officials and Foreign Service offices, and expanded monitoring of foreign nationals already in the United States.

Additional restructuring within agencies to streamline the implementation of this multi-faceted goal may be necessary over time, but are not a precondition to the passage of this legislation.

The pressing need for enhanced border security must proceed without further delay.

As I mentioned, the reorganization, restructuring of the INS is important.

I and others have introduced that restructuring in the 105th and 107th Congresses. Basically, that incorporated the recommendations of what we call the Barbara Jordan Commission. The Commission itself spent over a year evaluating and examining the series of recommendations about how to make the whole INS more effective and efficient and respond to both its enforcement as well as its service needs. It is a solid base from which we should move ahead.

But it does seem to all of us that it is important we get about this business now in terms of border security first and not wait for the more general kinds of debates on the restructuring and reorganizing, because whatever is going to be done with that, these provisions that we will be accepting and endorsing today will be well incorporated into that system.

In strengthening our security at our borders, we must also safeguard the unobstructed entry of the more than 31 million persons who enter the United States legally each year as visitors, students, and temporary workers. Many others cross our borders from Canada and Mexico to conduct daily business or visit close family members. We are talking about 550 million people who come and go from the United States every year—with the possibility of some visitors who might pose some danger to our country and society in the form of terrorism. It is really like finding a needle in the haystack.

We have to use technology to the greatest effect we can—with well-trained people and good technology at the entry level. With this new technology, we will be able to track when individuals acquire a visa and follow that individual while they are in the United States to know when they are leaving or when they should leave the United States. This technology will keep alive the knowledge and the whereabouts of individuals who are visiting our country. That capability does not exist today. It is key in terms of trying to deal with the challenges of border security. And now that we have recognized that the terrorists were visitors to this country who acquired visas, we understand the importance of trying to deal with this issue and deal with it effectively.

We believe the legislation we are supporting is not going to answer all of the problems, but it is going to move us into the modern technology age and will take advantage of all the new technology to help provide security for our country.

We also must live up to our history and heritage as a nation of immigrants. We can go to a more restrictive kind of border security. It probably would not be responsive to the nature of the terrorists, and it would have important implications in terms of families and in terms of commercial relationships. We want to provide a recommendation consistent with our historical and economic interests, but also use the best of technology in terms of identifying it and seeking out those who mean to do harm to our society.

Continued immigration is a part of our national well-being, our identity as a nation, and our strength in today's world. In defending America, we are also defending the fundamental constitutional principles that made us strong in the past and will make us even stronger in the future. Our action must strike a careful balance between protecting civil liberties and providing the means for law enforcement to identify, apprehend, and detain potential terrorists. It makes no sense to enact reforms to severely limit immigration into the United States. "Fortress America," even if it could be achieved, is an inadequate and ineffective response to the terrorist threat. This legislation strikes the balance. Immigrants are not the danger; terrorists are. We have to keep that in mind.

Our legislation creates increased and improved layers of security by providing multiple opportunities for our government to turn away or apprehend potentially dangerous visitors and travelers.

Our first layer of security is the intelligence information provided to consular offices, the INS, and border guards. Our efforts to improve border security must therefore include targeted intelligence gathering and analysis to identify potential terrorists, and coordinated information-sharing within and between the Department of State, the Immigration and Naturalization Service, and the law enforcement and intelligence agencies.

This legislation will require the President to submit and implement a plan to improve the access to critical security information. It will create an electronic data system to give those responsible for screening visa applicants and persons entering the United States the information they need in real time and the tools they need to make informed decisions. It also provides for a temporary system until the President's plan is fully implemented.

Now, most foreign nationals who travel here must apply for visas at American consulates overseas. We must improve the ability of the Foreign Service officers to detect and intercept potential terrorists before they arrive in the United States. Traditionally, consular offices interviewing visa applicants have focused on trying to determine whether the applicant is likely to violate his or her visa status.

Although this review is important, consular offices must also be trained specifically to screen for security threats, not just potential visa violators.

We are basically talking about two concepts. One is in terms of the technology and the shared information and the other is the training. Too often we find that the intelligence agencies refuse to provide information in terms of the dangers of individuals who may pose a threat to the United States and share that with the consular offices that are making decisions and judgments with regard to whether they ought to give that person a visa. And it has been a bureaucratic snafu that continues too often, even today.

The intelligence community believes that if they provide that information, they are somehow potentially sacrificing their sources in a given country because there are foreign nationals in the consular offices and they will be able to get wind of what is happening and endanger their sources of information with regard to those who pose us a threat. So in many instances they will not make those individuals and the dangers of those individuals available to the consular offices. Clearly, if the consular offices, no matter how well-trained, don't have that information, then they are unable to make a judgment about the kinds of threats that individual poses for the United States. That has to stop.

There is no question, with the level of technology that is available at this time and the whole processing that can be utilized, we can meet the responsibilities of the intelligence community, as well as ensuring that well-trained consular offices are going to have the kinds of information they are going to need in order to make a solid judgment in terms of the individual. That is a key element. We need to have the training of the consular offices so they are not just looking at the usual judgments, whether individuals may overstay, based upon family relationships; but they need the additional kind of training in order to be able to detect and determine, to the extent that the training can, whether individuals pose us a threat. Those two factors are included in this legislation and strongly supported. It is extremely important, right at the very beginning, to make sure you are going to have the best information that is going to be available to that visa officer, and that the visa officer is going to have the best possible training to not only understand their responsibility on individuals who want to get a touring visa, but also they are going to be carefully trained in order to use their skills to be able to root out those who may potentially be a threat. Those are very important parts of this legislation.

Terrorist lookout committees will be established in every U.S. consular mission abroad in order to focus the attention of our consular officers on specific threats and provide essential critical national security information to those responsible for issuing visas and updating the database. So if the other intelligence agencies are going to be able to pick up information, as we have seen happen at different times, that a particular area is a potential threatened area, that information can be made available as well to the consular offices to put them on a higher alert. That too often does not exist today. That has to be altered and changed. This legislation does that.

This legislation will close gaps on restrictions on visas for foreign nationals from countries that the Department of State has determined are sponsors of terrorism. It prohibits issuing visas to individuals coming from countries that sponsor terrorism, unless the Secretary of State has determined on a case-by-case basis that the individual is not a security threat.

The current visa waiver program, which allows individuals from participating countries to enter the United States for a limited period of time without visas, strengthens relations between the United States and those countries and encourages economic growth around the world. Given its importance, we must safeguard its continued use, while also ensuring the country's designation as a participant in the program does not undermine the U.S. law enforcement and security. This legislation will only allow a country to be designated as a visa waiver participant—or continue to be designated—if the Attorney General and Secretary of State determine that the country reports instances of passport theft to the U.S. Government in a timely manner.

There is a criterion for selecting those countries. Those countries are eligible for a visa waiver if they demonstrate that 97 percent of those who are granted visas return. That has been reviewed and studied over a period of time. Rather than using the personnel when we know individuals will be returning, part of all of this effort is to use the resources we have, which are not infinite, to target the areas where there is the greatest need.

We have 22 million visitors who come from these visa waiver countries. There is not a careful monitoring of those individuals when they are here or when they are returning. That has to change.

This legislation ensures the INS will know when those individuals come here, their whereabouts, and when they are going to leave. That is enormously important.

Another provision is the student waiver program. We have 22,000—listen, 22,000—educational institutions that can grant an educational visa. We do not now know when the individual comes in, once they get by the port of entry, whether they ever go to the college, whether they ever attend for any period of time, or, quite frankly, whether they graduate, which is an enormous loophole. That has to change.

There are provisions in this legislation that do that. We have accomplished this with the cooperation of the universities and the educational centers. They cooperated. They helped us. We will have a chance to go through this in greater detail to the extent Members want to, but that is included in this legislation as well.

We must require also that all airlines electronically transmit passenger lists to destination airports in the United States, so that once the planes have landed, law enforcement officers can intercept passengers on the lookout list. United States airlines already do this, but some foreign airlines do not do it. Our legislation requires airlines to electronically transmit passenger manifest information prior to arrival in the United States. That information is going to be put into the computers so we know when the visa is granted and that it is based on the most current information. We will know when that individual purchased a ticket. That information will be shared. We will know by the tracking of that ticket when the person enters. When the border security person sees that individual at the port of entry, they are going to have up-to-date information and ultimately will have biometric technology to make sure the person standing before them is the same person who was granted the visa. That does not exist today, and it creates enormous opportunities for abuse. We make that commitment in this legislation.

We do not minimize the complexity in achieving all of this, but we believe it represents our best effort in how we can improve our current system.

Enforcement personnel at our ports of entry are a key part of the battle against terrorism, and we must provide them greater resources, training, and technology. These men and women have a significant role in the battle against terrorism. This legislation will ensure that enforcement personnel receive adequate pay, can hire necessary personnel, are well trained to identify individuals who pose a security threat, have access to important intelligence information, and have the technologies they need to enhance border security and facilitate cross-border commerce.

The Immigration and Naturalization Service must be able to retain highly skilled immigration inspectors. Our legislation provides incentives to immigration inspectors by providing them with the same benefits as other law enforcement personnel. They do not have that today. Our bill does.

Expanding the use of biometric technology is critical to prevent terrorists from traveling under false identities. This legislation is needed to bring our ports of entry into the digital and biometric age and equip them with biometric data readers and scanners. These secure travel document scanners will verify that a person entering the country is the same person who was issued the passport and the visa.

We must expand the use of biometric border crossing cards. The time frame previously allowed for individuals to obtain these cards was not sufficient. This legislation extends the deadline for individuals crossing the border to acquire the biometric cards. There are some instances where individuals, particularly in Mexico, have the cards and we have not put the investment into the technology that is necessary to read these cards.

The USA PATRIOT Act addressed the need for machine-readable passports but did not focus on the need for machine-readable visas issued by the United States. This legislation enables the Department of State to raise fees through the use of machine-readable visas and use the funds collected from these fees to improve technology at our ports of entry. The fee raising has been enormously successful. It has funded these programs. It makes a great deal of sense.

We must also strengthen our ability to monitor foreign nationals within the United States. In 1996, Congress enacted legislation mandating the development of an automated entry/exit control system to record the entry of every non-citizen arriving in the United States and to match it with the record of departure. Although the technology is available for such a system, it has not been put in place because of the high costs involved. Our legislation builds on the antiterrorism bill and provides greater direction to the INS for implementing the entry/exit system.

Also, we include in the legislation a very interesting proposal, and that is to first look north and then south at perimeter security. We are not only looking at our border with Canada, but we are also working with Canada to find out who is coming into Canada as a first line of defense. That is shared information, with the idea that we can set up systems that are going to be cooperative and interchangeable with the exchange of information and intelligence on individuals.

The Canadian Government is responding very positively. Our Ambassador to Canada, the former Governor of Massachusetts, Paul Cellucci, testified before our committee about the steps that are being taken. That will take time to work through. Then we can obviously think about doing the same job on the southern perimeter. Most of those who worked on the whole security issue believe that can be enormously important and very worthwhile.

It is time for the Senate to support this bill. The security concerns addressed by this legislation cannot be ignored, action cannot be postponed, and the cost is reasonable. The estimated cost of the legislation is $1.2 billion in 1 year, $3.2 billion for full implementation. It is a small price to pay for the security this bill will provide the American public.

Some have urged Congress to delay the passage until we have had, as I mentioned, the opportunity to restructure the INS. But the many important goals of this bill, including developing an interoperable data system to give immigration and consular officers access to relevant law enforcement and intelligence information, requiring biometric identifiers be included in travel documents, and strengthening the training of consular officers and immigration inspectors are important reforms that need to be enacted regardless of how our agencies are organized.

These reforms cannot wait for a bureaucratic arrangement to be resolved, as we have seen the risks are too great. While reorganization of the INS is a top priority, which Congress plans to quickly address, we cannot afford to wait until that task is implemented to undertake the necessary changes advanced in the border security bill.

The Enhanced Border Security and Visa Entry Reform Act has the broad bipartisan support of 60 Senators and the support of numerous coalitions such as the National Border Patrol Council, the U.S. Chamber of Commerce, Americans for Better Borders, International Biometric Industry Association, the American Immigration Lawyers Association, the Association of International Educators, the Leadership Council for Civil Rights, National Council of La Raza, National Immigration Forum, the American Federation of Government Employees, and the AFL–CIO.

The USA PATRIOT Act was an important part of the effort to improve immigration security, but further action is needed. This legislation is a needed bipartisan effort to strengthen the security of our borders and enhance our ability to prevent future terrorist attacks while also reaffirming our tradition as a nation of immigrants.

I see my colleague and friend Senator FEINSTEIN is in the Chamber. At this time, I state for the record the very strong support from the National Border Patrol, which represents 9,000 nonsupervisory Border Patrol employees, talking about the very important aspects of this legislation, and rest assured we can count on the support of the National Border Patrol Council to secure the passage of this legislation. Americans for Better Borders, similarly they have indicated their strong support and state that given the importance of this legislation, they urge swift passage in the Senate. Also included are the groups I have indicated in this chart, which are as broad a range of groups in support of this legislation as one could hope for in this body.

One of the most important groups that support this—and I intend to yield in a moment—are the Families of September 11. We heard marvelous eloquence today from MaryEllen Salamone, who is the director of the Families of September 11. These families testify about the importance of this legislation. They are attempting not only to try and bring their lives together, but also in areas of public policy they are expressing their views in ways of ensuring, to the extent that we can, that we will not have a similar kind of tragedy as September 11.

We heard testimony so powerful today in support of legislation from that group. I will include those letters of support, as well as from the International Biometric Industry, as to why they believe this legislation is so important. I have letters from the Alliance, which is the International Education and Cultural Exchange, and the Association of International Educators. There is strong support from those who would be impacted by this legislation.

This is good legislation. It is necessary, and I hope the Senate will support it. I am so glad to see my colleague and friend from California, who I have indicated has been a driving force in this area as in so many other areas, and she has been an essential partner. We always enjoy the opportunity to work closely with her, and we always learn from that experience.

I ask unanimous consent that the letters I referred to be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
Washington, DC, April 11, 2002.

Hon. EDWARD KENNEDY,
Chairman, Subcommittee on Immigration, Senate Committee on Judiciary, Washington, DC.

DEAR CHAIRMAN KENNEDY: On behalf of the American Federation of Government Employees, I would like to express our strong support for S. 1749, the Enhanced Border Security and Visa Entry Reform Act of 2002. In our view, the combination of improved technology, better training and higher pay will do much to improve our border response capability.

We are particularly gratified that this legislation includes a long overdue increase in the journeyman pay grade for immigration inspectors and border patrol agents. Currently, the journeyman pay grade for these two groups of employees is GS-9, among the lowest for all federal law enforcement personnel. This, coupled with the lack of law enforcement retirement benefits for immigration inspectors, has created an attrition crisis at the Immigration and Naturalization Service.

According to statistics provided by the I&NS, the current attrition rate for border patrol agents is 14 percent and is expected to rise to a staggering 20 percent by the end of the fiscal year. For immigration inspectors, the current rate is 10.1 percent and it is expected to reach 15 percent by the end of the year. We have been told that over 50 percent of our nation's border patrol agents have applied for air marshal positions. The tremendous loss of experienced personnel to other law enforcement agencies has a devastating effect on agency effectiveness and employee morale.

We applaud you for your leadership on this issue and look forward to working with you to secure full funding for this important measure.

Sincerely,

BETH MOTEN,
Legislative Director.

NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
April 11, 2002.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National Immigration & Naturalization Service Council and its 6,800 members, I would like to express our appreciation for your efforts to increase the journeyman pay grade for INS inspectors from GS-9 to GS-11. We believe this is a long overdue step that will help stem the double digit attrition rate currently experienced within the ranks of INS inspectors. It will also begin to close the gap between their pay rates and that of most other federal law enforcement agencies.

For this reason, we want to lend our strong support to S. 1749/H.R. 3525, the Enhanced Border Security and Visa Entry Reform Bill of 2002. We look forward to working with you to secure the necessary appropriation to implement the pay grade increase.

We also look forward to working with you in the future on legislation that would grant immigration inspectors their right as federal law enforcement officers to receive law enforcement retirement benefits. It is a gross injustice that these individuals, who make countless arrests, are required to carry firearms and place themselves in danger on a regular basis and are denied such retirement benefits.

If there is anything we can do to assist you in your efforts to enact this bill, please let us know.

Sincerely,

CHARLES J. MURPHY,
President.

FAMILIES OF SEPTEMBER 11,
Great Falls, VA.

DEAR SENATOR: On September 11, 2001, terrorists attacked America. They hijacked four planes and crashed into the World Trade Centers and the Pentagon. They took over 2800 lives, they left 15,000 children without one or both parents, and they ruined thousands and thousands of families. They left America in fear.

Senate Bill 1749, The Enhanced Border Security and VISA Entry Reform Act addresses immigration security issues. The events of September 11 illustrated most clearly the weaknesses of our immigration monitoring systems and Congress responded with this well thought out and carefully written legislation. It passed in December, without delay, in the House.

It is disturbing to learn that this legislation is presently blocked from a vote on the Floor of the Senate. In honor of our loved ones lost, our organization, the Families of September 11, Inc., is committed to promoting legislation and policies which will prevent the recurrence of such a horrific tragedy. We implore you, as an elected official of this country, not just of your state, to do the same. All legislation necessary to improved homeland security must be passed without delay. There is no justification to compromise the safety of the United States of America. Senate Bill 1749 needs to be passed, and it needs to be law.

This is not a time for politics in our country, it is a time for action. The families affected by the events of September 11 have already paid the ultimate price for freedom. We have a reasonable expectation that neither we, nor anyone, should have to pay such a great price as ours for the liberty of this country again. And we have a reasonable expectation that it should be your obligation to ensure this. Please exert any effort necessary to effect a vote on S1749 on the Floor of the Senate. And please vote in its favor, homeland security needs to be of the utmost priority in these dangerous times.

Thank you for your attention and dedication to the resolution of this issue.

Sincerely,

MARYELLEN SALAMONE,
Director.
CARIE LEMACK,
President.

INTERNATIONAL BIOMETRIC
INDUSTRY ASSOCIATION,
Washington, DC, April 10, 2002.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the International Biometric Industry Association (IBIA), I am writing to express warm support for swift enactment of the Enhanced Border Security and Visa Reform Act of 2001.

The IBIA and other industry stakeholders understand the critical importance of this legislation to help counter vulnerabilities in national infrastructure security that were so tragically demonstrated on 9/11. Incorporating biometric identification technology into the new security program called for by the bill will vitally strengthen border security.

The IBIA and its partner organizations in research and education in biometrics believe that biometrics must be deployed in ways that both advance security and protect privacy and civil liberties. This legislation is consistent with that goal while making great strides toward removing the cloak of anonymity used by those who have no regard for such personal freedoms and the safety of our citizens.

IBIA is a tax-exempt, nonprofit trade association founded in 1998 to advance the collective interests of the biometric industry. IBIA impartially serves all biometric technologies in all applications. IBIA's membership includes leading manufacturers of hand recognition, iris, facial fingerprint, voice and signature biometrics, and leading integrators of layered biometrics.

Thank you for your farsighted leadership.

Sincerely,

JOHN E. SIEDLARZ,
Chairman.

FEDERATION FOR AMERICAN
IMMIGRATION REFORM,
Washington, DC, April 11, 2002.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: It is my distinct pleasure to offer the full support of the Federation for American Immigration Reform (FAIR) for S. 1749, the Enhanced Border Security and Visa Entry Reform Act of 2001. As you know, FAIR has worked tirelessly with you and with other members of both the House and Senate to develop and advance this critically important homeland security legislation. Senate consideration of this measure separately from other controversial legislation to extend Section 245(i) is the only supportable means for handling this landmark legislation.

Absent the important provisions of this legislation, the United States will remain perilously vulnerable to attack by terrorists because the nation presently lacks any federal capacity to monitor or track foreign nationals who violate the terms of their visas. Without this important legislation, the United States will continue to lack knowledge of who has entered and departed the country. Similarly the nation will continue to lack knowledge of whom and how many have failed to depart and remain illegally in the country.

As we have seen since the attacks of September 11, our federal investigative agencies are fragmented, uncoordinated and lack the ability to share important information needed to identify terrorists either attempting to enter our country or who are already here. S. 1749 will mandate interoperability of investigative databases, making it at least possible to detect, intercept and quickly apprehend terrorist suspects before their deadly plans are consummated. The mandates to implement an exit-entry system, inter-agency information sharing and the use of verifiable biometric identifiers on visas and passports make enforcement of laws against all forms of illegal immigration far more feasible.

Senator Feinstein, we applaud the steadfast determination you have shown in ending the logjam holding up Senate consideration of this bill since last December. The nation is in your debt.

Sincerely,

DAN STEIN,
Executive Director.

NATIONAL BORDER PATROL COUNCIL
OF THE AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
Campo, FL, April 12, 2002.

Hon. EDWARD M. KENNEDY,
Chairman, Immigration Subcommittee, Judiciary Committee, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The National Border Patrol Council, representing over 9,000 non-supervisory Border Patrol employees, appreciates your leadership on immigration issues and support of the dedicated men and women who protect our nation's borders. Your recent efforts to provide enhanced technology, more training, and higher pay through the pending Enhanced Border Security and Visa Entry Reform Act of 2002 (S. 1749/H.R. 3525) are greatly appreciated. As you are aware attrition within the ranks of the Border Patrol is at an all-time high, and continues to climb at an alarming rate. Increasing the journeyman pay level of these employees is an important step in addressing this severe problem. Rest assured that you can count on the support of the National Border Patrol Council to secure the passage of this legislation. After it is enacted, your continued assistance in the effort to fully fund the pay increase authorization will prove invaluable.

Sincerely,

T.J. BONNER,
President.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I want to begin by thanking the Senator from Massachusetts for his leadership on this issue. It is very clear to me we would not be where we are today had it not been for his leadership, both as a former chairman of the Judiciary Committee and as the chairman of the Immigration Subcommittee, and as a 40-year member of this great body.

I am very pleased to join with Senators KENNEDY, BROWNBACK, and KYL in sponsoring the Enhanced Border Security and Visa Entry Reform Act of 2001. This legislation, I think it is fair to say, represents a consensus. It draws upon the strength of both the Visa Entry Reform Act of 2001, which I introduced with my colleague from Arizona, Senator KYL, and the Enhanced Border Security Act of 2001, which Senators KENNEDY and BROWNBACK introduced.

How did this happen? Senator KYL and I, in the Technology and Terrorism Subcommittee, held hearings and came upon many of the same things I think Senators KENNEDY and BROWNBACK did in the full Subcommittee on Immigration. In any event, the final result, as Senator KENNEDY has said, garnered widespread support from both sides of the aisle. We now have a total of 61 cosponsors, and I think that is pretty much unprecedented for an immigration bill, particularly one of this magnitude.

September 11 clearly pointed out the shortcomings of our immigration and naturalization system. For example, all 19 terrorists entered the United States legally. They had valid visas. Three of the hijackers had remained in the United States after their visas had expired. One entered on a foreign student visa. Another, Mohamed Atta, had filed an application to change status to M–1, which was granted in July. However, Mr. Atta sought permission and was admitted to the United States based on his then current B–1 visitor visa.

On March 11, 6 months from the date of the attacks, 6 months after Mohamed Atta and Marwan al-Shehhi flew planes into the World Trade Center, the Immigration and Naturalization Service notified a Venice, FL, flight school that the two men had been approved for student visas.

I think the sheer volume of travelers to our country each year illustrates the need for an efficiently run and technologically advanced immigration system. This is extraordinarily difficult if we just look at some of the numbers. I want the record to reflect some of these numbers.

We have in our country between 8 and 9 million people who are residents without any legal status. They either entered illegally or they overstayed a temporary visa. Actually, 40 percent of the total were visa overstays. We had 30.1 million nonimmigrants entering the United States during the year 1998. That is the most recent year for which INS has statistics.

As Senator KENNEDY pointed out, 23 million of them entered as tourists on the visa waiver program. Nobody knows really whether they ever went home again. Six million of them were issued nonimmigrant visas as students, tourists, temporary workers, and other temporary visitors; 660,000 were foreign students who had entered in the fall of 2001. If that is not enough, we have about 500 million border crossings back and forth each year, combining Americans who cross the border with non-Americans who cross the border, and 350 million of the 500 million are non-Americans crossing the border.

So if one talks about securing borders, our country is a giant sieve. This sieve is virtually our strength in times of peace, and at times of war it is our greatest insecurity.

Of these 666,000 foreign nationals who held student visas in 2001, more than 10,000 enrolled in flight training, in trade schools, in other nonacademic programs, and more than 16,000 came from terrorist-supporting countries.

Senator KENNEDY pointed out—my numbers are 2,000 different from his—that we have some 74,000 U.S. schools that are allowed to admit foreign students, but checks of the schools on the current INS list found that some had closed. Yet students still come in. Others have never existed; therefore, they were fraudulent schools set up clearly to bring in people on student visas.

Exactly 6 months after the 9–11 attacks, as I pointed out, Huffman Aviation received student visa approval forms for Mohamed Atta and Marwan al-Shehhi.

There is a big problem out there, and I think the sheer volume of travelers to our country each year points out eloquently the problems we face.

This is one of the reasons why we have to change a paper-driven agency into a much more active agency, with better management, with more technologically modern tools, and I think knowing what we now know to secure our borders. It is visa entries, change the processes, and improve the border. This bill aims to do that.

I will talk for a moment about the visa waiver program. I mentioned visa waivers: Some 23 million people, from 29 different countries. I mentioned nobody knows where they go in the United States or whether they leave once their visas expire. The INS estimates over 100,000 blank passports have been stolen from government offices in participating countries in recent years. Why would 100,000 passports be stolen? The answer is, to use them fraudulently. Abuse of the visa waiver program poses threats to U.S. national security. It also increases illegal immigration.

For example, one of the co-conspirators in the World Trade Center bombing of 1993 deliberately chose to use a fraudulent Swedish passport to attempt entry into the United States because of Sweden's participation in the visa waiver program. That clearly says we have to change the program. What we do in this bill is mandate all these passports must be machine readable, so they can be read when the individual enters the country, they can be read when the individual leaves the country, and also the information can be provided to know what these people are going to do while they are in the country.

Let me talk about the foreign student visa program. I mentioned that more than 500,000 foreign nationals enter each year. Within the last 10 years, 16,000 came from such terrorist-supporting States as Iran, Iraq, Sudan, Libya, and Syria. The foreign student visa system is one of the most under-regulated systems we have today. We have seen bribes, bureaucracy, and other problems with this system that leave it wide open to abuse by terrorists and other criminals.

For example, in the early 1990s, 5 officials at 4 California colleges were convicted in Federal court of taking bribes, providing counterfeit education documents, and fraudulently applying for more than 100 foreign student visas. It is unclear what steps the INS took to find and deport the foreign nationals involved in this scheme, even after these five officials were convicted.

Each year, we have 300 million border crossings. For the most part, these individuals are legitimate visitors in our country, but we have no way of tracking all of these visitors. Mohamed Atta, the suspected ring leader in the attack, was admitted as a nonimmigrant visitor in July 2001. He traveled frequently to and from the United States during the past 2 years. According to the INS, he was in legal status the day of the attack. Other hijackers also traveled with ease throughout the country.

It has become all too clear that without an adequate tracking system, our country becomes the sieve that it is today. That creates ample opportunities for terrorists to enter and establish their operations without detection.

I sit as chair of the Judiciary Committee's Subcommittee on Technology, Terrorism, and Government Information. Last October, the subcommittee held a hearing to explore the need for new technologies to assist our Government agencies in keeping terrorists out of the United States. The testimony at that hearing was very illuminating. We were given a picture of an immigration system in chaos and a border control system rife with vulnerabilities. Agency officials don't communicate with each other, computers are incompatible, and even in instances where technological leaps have been made, as in the issuance of 4.5 million smart border crossing cards with biometric data, the technology is not even used because the laser readers have never been purchased and installed.

It is astonishing that a person can apply for a visa and be granted a visa by the State Department and there is no mechanism by which the FBI or the CIA can raise a red flag with regard to the individual if he or she is known to have links to a terrorist group or otherwise pose a threat to national security.

In the aftermath of September 11, it is unconscionable that a terrorist might be permitted to enter the United States simply because our Government agencies don't share information. We heard testimony from the head person of the State Department in the consular division. She testified that they feel terrible because they granted these visas. They granted them from abroad. But they had no information on the individuals, no reason at the time to deny the visas.

We have discovered since then the perpetrators of these attacks clearly had a certain confidence that our immigration laws could be circumvented either because the law itself was not adequate to protect us or the enforcement of existing law is too lax. It almost seemed effortless the way the terrorists got into this country. They did not have to slip into the country as stowaways on sea vessels or sneak through the borders evading Federal authorities. Most, if not all, appeared to have come in with temporary visas, which are routinely granted to tourists, to students, and to other short-term visitors to our country.

This brings me to why the provisions we have cosponsored are so important and should be enacted without further delay. Right now, our Government agencies use different systems with different information and different formats. They often refuse to share that information with other agencies within our Government. This clearly, in view of September 11, is no longer acceptable. When a tourist presents himself or herself at a consular office asking for a visa or at a border crossing with a passport, we need to make sure his or her name and identifying information are checked against an accurate, up to date and comprehensive database.

Under the pending legislation, the administration would be required to develop and implement an interoperable law enforcement and intelligence data system which would provide the INS and the State Department immediate access to relevant law enforcement and intelligence information. The database would be accessible to foreign service officers issuing visas, to Federal agents determining the admissibility of aliens to the United States, and law enforcement officers investigating and identifying aliens.

In addition, the interoperable data system would include sophisticated, linguistically based, name-matching algorithms so that the computers can recognize that, for example, Muhamad Usam Abdel Raqeeb and Haj Mohd Othman Abdul Rejeeb are transliterations of the same name. In other words, this provision would require agencies to ensure that names can be matched even when they are stored in different sets of fields in different databases.

Incidentally, this legislation also contains strict privacy provisions limiting access to this database to authorized Federal officials only. The bill contains severe penalties for wrongful access or misuse of information contained in the databases.

I wish to address one other problem. Some people say if you give the date that is in the legislation, it is too soon, they cannot approve it. I don't believe that. We have been after them for years to do things like this, and I believe, after talking with several people from the private sector, that the private sector can come in and provide the software very quickly for the kinds of databases we are discussing.

They have assured me this is possible. I think one of the problems we have is we don't employ the experts in the private sector we have—the technologically hypersensitive people who know the most modern technology and how to apply software, how to get the system up and running, how to get the data entered, and then stay with the system.

I remember when I was mayor of San Francisco when we did the first latent fingerprint database in the United States. NEC did it for us. NEC sent their people to San Francisco to install the system and to establish the software. They remained for 5 years to see that the programming was done adequately. This was done on a request for proposal of bid from the private sector.

I believe very strongly, if we are going to ever get this section of the bill properly instituted, that not only does the private sector have to come in, but they have to stay for substantial periods of time—at least 5 years—to supervise the data entry as that data is put in, as the databases are checked, as they are revised. I think that is critical to a system.

I mentioned briefly the Visa Waiver Program. With 123 million people and 29 different countries, we would require tamper-resistant, machine-readable biometric passports. Each country participating in the visa waiver program would issue tamper-resistant, machine-readable biometric passports to its nationals by 2003. This must happen. No excuse should be tolerated. If they cannot meet it, they should be dropped out of the program.

Prior to admitting a foreign visitor from a visa waiver country, the INS inspector must first determine that the individual does not appear in any lookout database. As a condition of a country's continued participation in the visa waiver program, the Attorney General and the Secretary of State must consider whether that country keeps the United States apprised of the theft of blank passports. One-hundred thousand of them have been stolen. Again, why? Fraud.

This is important because terrorist organizations have made use of stolen or counterfeit passports from countries participating in the visa waiver program. The INS would be required to enter stolen or lost passport numbers into the interpretable visa data system within 72 hours of notification of loss or theft. Until that system is established, the INS must enter that information into an existing data system. So when they come through on the visa waiver program with a stolen passport, that number is hot. That number pops up. Whoever is waving them through knows it.

We know the September attacks were connected with al-Qaeda, which has links in some 60 to 70 countries around the world. It has, in fact, established bases in visa waiver countries such as Albania, Belgium, Bosnia, Croatia, Denmark, France, Germany, Luxemburg, the Netherlands, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

Al-Qaeda cells exist in these countries. Stolen passports become available. They come in, and no one knows what happened after that time. Clearly, we cannot allow this program to become a passageway for terrorists into our country.

We also have new requirements for passenger manifests. All commercial flights and vessels coming to the United States from international ports must provide manifest information about each passenger, crew member, and other occupants prior to the arrival of that flight or that vessel. That is critical to closing some of these loopholes. The manifest has to get to the INS prior to the arrival of the ship or the plane.

I have checked with airlines as to whether this can be done and whether it is practical. The answer is yes.

In addition, each vessel or aircraft departing from the United States for any destination outside of the United States must provide manifest information before departure. By 2003, the manifest must be transmitted electronically.

The Attorney General would be authorized to extend manifest requirements to any public or private carrier transporting persons to or from the United States.

The Attorney General may impose a fine on carriers that fail to provide manifest information or those who provide inaccurate, incomplete, or false information.

This section of the bill also eliminates the 45-minute deadline to clear arriving passengers which now exist in law.

This legislation also includes other concrete steps to restore integrity to the immigration and visa process, including the following new travel document requirements.

The bill would require all visa, passports, and other travel documents to be fraud and tamper resistant and contain biometric data by October 26, 2003.

The legislation would also require all foreign nationals to be fingerprinted, and when appropriate submit other biometric data to the State Department when applying for a visa.

That is reasonable. It has to be done. This provision should help to eliminate fraud as well as identify potential threats to the country before they gain access.

There is a provision on nonimmigrants from certain countries. The bill would prohibit the issuance of nonimmigrant visas to nationals from countries designated as state-sponsored international terrorism, unless the Secretary of State, after consulting with the Attorney General and the heads of other appropriate agencies, determines that the individual poses no safety or security threat to the United States.

Student visa reforms: We worked closely with the university community in crafting new strict requirements for the student visa program to crack down on fraud—to make sure that students really are attending classes, and to give the Government the ability to track any foreign national who arrives on a student visa but fails to enroll in school.

Prior to 9–11, I think it is fair to say that the American academic community didn't really want to have this responsibility. After 9–11, to some extent, they still didn't.

That is when I came forward with perhaps a moratorium on the student visa program. Then they came in and agreed to assume additional responsibility.

I am very grateful to the university associations for their leadership in this matter. I know it is additional work for schools. But I also think if the schools receive the tuition, and if the schools receive the individuals, there has to be a private sector sharing of this responsibility as well. That is just, and that it is appropriate. I believe the university community now agrees with this.

I am very grateful to them for their cooperation. The legislation also reforms the student visa process by doing the following: It would require the Attorney General to notify schools of the student's date of entry and require the schools to notify—this is important—the INS if a student has not reported to school within 30 days of the beginning of an academic term.

The monitoring program does not preselect such information as the student's date of entry, the port of entry, the date of school enrollment, the date the student leaves the school, graduates, or quits the degree program or field of study. That, and other significant information, will now be collected.

I think it is important. I do not believe the people of my State or the people of America want us to give advanced nuclear training to those who would conduct a nuclear program and use that program against us. We know we have trained the head of the Iraqi nuclear program. We know we have given a higher education to the head of the Islamic Jihad. I do not think our people want us to do that. I, as one Member of this Senate, really rebel against that kind of thing. I don't want to train people who will create enormous danger to all of our citizens.

I think we can't entirely avoid it, but we can have those systems in place that guard against it. We at present do not.

We would also require the INS, in consultation with the State Department, to monitor the various steps involved in admitting foreign students and to notify the school of the student's entry. This does not presently happen.

It would also require the school to notify INS if a student has not reported for school no more than 30 days after the deadline for registering for classes. So if you are supposed to register and you do not register for 30 days, right now the INS doesn't know that. You can be long gone. They do not know it. This would be the school's responsibility. The schools are prepared to accept that responsibility.

We would also mandate the INS to conduct a periodic review of educational institutions to monitor their compliance with recordkeeping and reporting requirements. If an institution or program fails to comply, their authorization to accept foreign students may be revoked. While the INS currently reviews educational institutions, reviews have not been done consistently in recent years, and some schools are not diligent in their recordkeeping and reporting responsibilities.

As to more border personnel, this section authorizes an increase of at least 1,000 INS inspectors. If you were there—and I believe you were, Madam President, this morning at our hearing—you heard the immigration specialist say how very important the INS inspector is; how overburdened—and underpaid, I would add—they are. This bill would change both of those. It would add 1,000 INS investigative personnel, 1,000 Customs Service inspectors, and additional associated support staff in each of fiscal years 2002 through 2006, to be employed at either the northern or southern border.

As to better INS pay and staffing, to help INS retain Border Patrol officers and inspectors, this section would raise their pay grade and permit the hiring of additional support staff.

As to enhanced Border Patrol and Customs training to enhance our ability to identify and intercept would-be terrorists at the border, funds are provided for the regular training of Border Patrol, Customs agents, and INS inspectors. In addition, funds are provided to agencies staffing U.S. ports of entry for continuing cross-training, to fully train inspectors in using lookout databases and monitoring passenger traffic patterns, and to expand the carrier consultant program.

As to better State Department information and training, this section authorizes funding to improve the security features of the Department of State screening of visa applicants. Improved security features include better coordination of international intelligence information, additional staff, and continuous ongoing training of consular officers.

The bill contains a number of other related provisions as well, but the gist of this legislation is this: Where we can provide law enforcement more information about potentially dangerous foreign nationals, we do so. Where we can reform our border crossing system to weed out and deter terrorists and others who would do us harm, we do so. And where we can update technology to meet the demands of modern war against terror, we do that as well.

As we prepare to modify our immigration system, we must be sure to enact changes that are realistic and feasible. We must also provide the necessary tools to implement them, and the money to pay for it all. I think Senator BYRD was eloquent this morning in expressing that.

We have a lot to do, but I am confident that we will move swiftly to address these important issues. The legislation Senators KENNEDY, BROWNBACK, KYL, and I crafted is an important and strong first step but this is only the beginning of a long and difficult process because our entire intent, our body language, our laws, our philosophy, has been to have a very liberal, open border. Now we cannot afford to do that.

Madam President, I would like to respond to any concern anyone might have that this bill is anti-immigrant. We are a nation of immigrants. The United States takes more immigrants legally each year than all of the other industrialized nations on Earth put together. So we are a nation of immigrants. We recognize it; we respect it. It is what the Statue of Liberty stands for. And we have followed it.

The overwhelming percentage of people who come to live in this country do so to enjoy the blessings of liberty, equality, and opportunity. The overwhelming percentage of the people who visit this country mean us no harm, but there are several thousand innocent people, including foreign nationals, who were killed on September 11—in part because a network of fanatics determined to wreak death, destruction, and terror. They exploited the weaknesses of our immigration system to come here, to stay here, to study here, and to kill here.

We learned at Oklahoma City that not all terrorists are foreign nationals. But the world is a dangerous place and the world is peopled with regimes that would destroy us if they had a chance.

We are all casualties of September 11. Our society has necessarily changed as our perception of the threats we face has changed. The blinders have fallen from our eyes. Clearly, we need to address the vulnerabilities in our immigration system that September 11 painfully revealed.

O, that we had done it after the 1993 bombing of the World Trade Center.

When one of the bombers was being moved after 9–11, he said to the FBI agent moving him: If I only had the money and explosives, I could have done what was done on September 11, in 1993.

The changes we need to make in our system will inconvenience people. Let there be no doubt. Once implemented, however, those changes will make it easier for law-abiding foreign visitors either to visit or to study here, and for law-abiding immigrants who want to live here to do so. More importantly, once they are here, their safety—and our safety—will be greatly enhanced.

We must do everything we can to deter the terrorists, here and abroad, who would do us harm. From the Pentagon to downtown Manhattan, we have learned just how high the stakes are. It would dishonor the innocent victims of September 11 and the brave men and women in our Armed Forces who are defending our liberty at this very instant if we failed in this effort.

So it is extraordinarily important that we enact the Enhanced Border Security and Visa Entry Reform Act. I urge the bipartisan leadership of the Senate to join with us in gaining final passage of this important legislation.

Thank you, Madam President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I would also like the RECORD to reflect the following:

In fiscal year 1999, the Department of State identified 291 potential nonimmigrants as inadmissible for security or terrorist concerns. Of that number, 101 aliens seeking nonimmigrant visas were specifically identified for terrorist activities, but 35 of them were able to overcome the ineligibility.

Including the 19 September 11 hijackers, 47 foreign-born individuals have been charged, pled guilty, or been convicted of involvement in terrorism on U.S. soil in the last 10 years. Of the 47 terrorists, at least 13 had overstayed a temporary visa at some point prior to taking part in terrorist activity, including September 11 ring leader Mohamed Atta. Therefore, tracking visa overstays is a very important part of what we are trying to do.

One other fact: Some reports indicate that Khalid Al Midhar, who probably flew American Airlines flight 77 into the Pentagon, was identified as a terrorist by the CIA in January 2001, but his name was not given to the watch list until August 2001. Unfortunately, he had already reentered the United States in July 2001.

I should point out that there is some debate about exactly when the CIA identified him as a terrorist. But if it really did take the CIA several months to put his name on the list, as PBS's "Frontline" has reported, then that is a serious problem because we might have stopped him from entering the country had they shared this information sooner. This, of course, speaks to the issue of sharing information between Federal agencies.

Let me just add some information on absconders and detainees.

In December 2001, INS estimated that 314,000 foreigners who have been ordered deported are at large. More recent estimates, released in March 2002, suggest there may be at least 425,000 such absconders. At least 6,000 were identified as coming from countries considered al-Qaeda strongholds.

In a report released in February 2002, the U.S. General Accounting Office said that antifraud efforts at the INS are "fragmented and unfocused" and that enforcement of immigration law remains a low priority—that enforcement of immigration law remains a low priority.

The report found that the agency had only 40 jobs for detecting fraud in 4 million applications for immigrant benefits in the year 2000. I think that is a clear indication that the additional personnel provided for in this bill are truly necessary.

Since there is no one else on the floor at the present time, I would like to also put in the RECORD some border agency statistics.

There are 1,800 inspectors at ports of entry along the U.S. borders.

The Customs Service has 3,000 inspectors to check the 1.4 million people and 360,000 vehicles that cross the border daily—1.4 million people and 360,000 vehicles daily.

The 2,000-mile-long Mexican border has 33 ports of entry and 9,106 Border Patrol agents to guard them.

In October 2001, there were 334 Border Patrol agents assigned to the nearly 4,000-mile-long northern border between the United States and Canada. This number of agents clearly cannot cover all shifts 24 hours a day, 7 days a week, leaving some sections of the border open without coverage.

The Office of the Inspector General found that one northern border sector had identified 65 smuggling corridors along the 300 miles of border within its area of responsibility.

INS intelligence officers have admitted that criminals along the northern border monitor the Border Patrol's radio communications and observe their actions. This enables them to know the times when the fewest agents are on duty and to plan illegal actions accordingly.

The primary tool available to INS inspectors during the inspections process is the Interagency Border Inspection System, known as IBIS, which allows INS inspectors to search a variety of databases containing records and lookouts of individuals of particular concern to the United States.

A 1999 Office of the Inspector General report found, however, that INS inspectors at U.S. ports of entry were not consistently checking passport numbers with IBIS. INS officers also failed to enter lost or stolen passports from visa waiver countries into IBIS in a timely, accurate, or consistent manner. One senior INS official from Miami International Airport told the OIG that he was not even aware of any INS policy that required the entry of stolen passport numbers.

I thank the Chair and yield the floor.

I suggest the absence of a quorum, Madam President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I know Senators BROWNBACK, KYL, and DORGAN will come to the Chamber shortly to speak. In the interim before they appear, I wanted to just make a couple of budget points, at least as I understand them.

The committee, I believe the Appropriations Committee as well, has the INS-anticipated budget numbers—Senator KENNEDY referred to them—that the total cost to implement the bill, according to the INS, is $3,132,307,000. The amount of the first year's cost is $1.187 billion. There is $743 million additional in the President's budget, which leaves a net deficit of $187,959,000.

Of the $40 billion we appropriated after the 9–11 attacks, $20 billion to New York City and $20 billion for discretionary funding, it is my understanding the administration has allocated all but $327 million of that $10 billion. I don't know whether that money is available to be put into this program. We certainly will look and determine that.

I agree with those in the Senate who believe homeland defense is extraordinarily important; that this asymmetrical warfare we are engaged in is going to last a substantial period of time, perhaps a decade or more; and that when we took this oath of office, we ought not only uphold the Constitution but also protect and defend our people. Therefore, if we are really to carry this out, this becomes a very high priority item.

I am hopeful the money will be appropriated. I believe it will. There is now a commitment on both sides of the aisle to do so. It is going to take much more money than we even recognize at the present time, but I believe the American people want us to do that. Therefore, we certainly should.

I don't see any of the other Senators in the Chamber at this time. I ask unanimous consent to print in the RECORD a letter by Bruce Josten on behalf of the U.S. Chamber of Commerce supporting the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 1, 2002.

Hon. TOM DASCHLE,
Majority Leader, U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: On behalf of the U.S. Chamber of Commerce, I would like to urge you to bring to the floor as soon as possible the Enhanced Border Security and Visa Entry Reform Act of 2001 (H.R. 3525/S. 1749). As you know, the Chamber and its members have been long concerned about the security and efficiency of our borders for commerce and travel. We believe this legislation goes a long way toward achieving those goals and is particularly necessary following the tragic events of September 11. The legislation has broad bipartisan support, and already passed the U.S. House of Representatives by voice vote on December 19, 2001.

This legislation takes a careful and reasoned approach to the issue of border security, and we strongly support the provisions to increase resources for technology and personnel for our Immigration and Customs Services, enhance data sharing capabilities expand pre-clearance and pre-inspection programs, and direct Federal agencies to work with our NAFTA partners to ensure our joint security while enhancing the flow of legitimate commerce and travel across shared borders. These changes are long overdue.

While we understand that Congress must provide adequate funding if the ambitious deadlines set forth in the legislation are to be met, further delay in this legislation will only postpone the needed reforms that can provide both security and efficiency to our inspections processes. Such changes will allow business to look to the future of cross-border travel and trade with some sense of stability.

We look forward to working with you to secure passage of this legislation, and working with the Congress and the Administration on its implementation.

Sincerely,

R. BRUCE JOSTEN.

Mrs. FEINSTEIN. I ask unanimous consent to have printed in the RECORD letters from a number of other organizations: the American Council on International Personnel; the Alliance for International Education and Cultural Exchange; Americans for Better Borders; and the host of agencies that are reflected by the Family of September 11, Victims; and by the Association of International Educators; and the University of California as well.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NAFSA: ASSOCIATION OF
INTERNATIONAL EDUCATION,
Washington, DC, April 11, 2002.

Hon. DIANNE FEINSTEIN,
Chair, Subcommittee on Technology, Terrorism and Government Information, U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I write on behalf of the Nation's largest association of international education professionals—with more than 8,000 members nationwide, including 992 in California—to express our strong support for S. 1749, the Enhanced Border Security and Visa Entry Reform Act.

We have a particular interest in those parts of the bill that pertain to international students and scholars. We have worked closely with your offices to ensure that the bill includes any necessary provisions with respect to visa screening and student tracking, while at the same time maintaining the openness to international students and scholars that is itself important to our Nation's security. In our judgment, the bill strikes that crucial balance, and we congratulate you for your work.

We look forward to early enactment of this legislation, and we pledge our ongoing cooperation to ensure its successful implementation.

Sincerely,

MARLENE M. JOHNSON,
Executive Director and CEO.

AMERICANS FOR BETTER BORDERS,
Washington, DC, March 8, 2002.

To Members of the U.S. Senate:

We urge you to help bring S. 1749 to the floor, the Enhanced Border Security and Visa Entry Reform Act of 2002 sponsored by Senators Kennedy, Brownback, Feinstein, and Kyl. In December, the House passed H.R. 3525, the companion measure, by voice vote. The Senate should quickly follow suit.

Almost six months have passed since the September 11 terrorist attacks. Since that time we, like the rest of the nation, have focused on how to enhance our Nation's security through constructive changes to our immigration policies. This legislation takes a significant step in ensuring that our Nation's immigration policies are in line with our common goal of effectively deterring terrorism. It includes many long-overdue reforms that will deter terrorism by developing layers of protection both outside and within the U.S., and help our country increase its intelligence capacity. It provides authorization for increased funding to support additional personnel and technology at our border agencies, mandates better cooperation among border agencies, and encourages further cooperation on a North American Security Perimeter with Canada and Mexico. The bill requires new and advance information sharing between the private sector and government agencies, and enhances the use of biometrics in our visas and passports.

While we support all of these efforts, we are aware that this bill also poses significant challenges to the agencies and Congress to implement new technologies and processes in very short deadlines. Congress must allocate adequate, ongoing resources to ensure that these deadlines are met and new systems are property maintained and updated into the future. Reliance on user fees will not be adequate for this national security priority. Furthermore, if it proves impossible to meet the deadlines in this legislation, Congress must be willing to revisit them to ensure that the legitimate cross-border flow of people, commerce and goods can continue, or our economic security may be jeopardized.

Given the importance of this measure, we urge its swift passage in the Senate and signature by the President. For our part, we in the private sector pledge to work closely with Congress and the agencies to ensure swift and effective implementation of these needed reforms.

Sincerely,

American Council on International Personnel.
American Hotel & Lodging Association.
American Immigration Lawyers Association.
American Trucking Associations.
Bellingham (WA) City Council.
Bellingham/Whatcom Chamber of Commerce & Industry.
Bellingham Whatcom Economic Development Council.
Border Trade Alliance.
Canadian/American Border Trade Alliance.
Detroit Regional Chamber.
Eastman Kodak Company.
Fresh Produce Association of the Americas.
Greater El Paso Chamber of Commerce.
Greater Houston Partnership.
International Mass Retail Association.
International Trade Alliance of Spokane, WA.
National Alliance of Gateway Communities.
National Association of RV Parks & Campgrounds.
National Customs Brokers and Forwarders Association of America.
National Retail Federation.
National Tour Association.
Pacific Corridor Enterprise Council (PACE).
Plattsburgh-North Country Chamber of Commerce.
Quebec-New York Corridor Coalition.
Southeast Tourism Society.
The National Industrial Transportation League.
Travel Industry Association of America.
U.S. Chamber of Commerce.
Western States Tourism Policy Council.

ALLIANCE FOR INTERNATIONAL EDUCATION AND CULTURAL EXCHANGE,
Washington, DC, April 11, 2002.

Hon. DIANNE FEINSTEIN,
Chair, Subcommittee on Technology, Terrorism and Government Information, Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I write on behalf of the Alliance for International Educational and Cultural Exchange, an association of 65 American nongovernmental organizations that conduct exchange programs of all types. We wish to congratulate you and express our strong support for S. 1749, the Enhanced Border Security and Visa Entry Reform Act.

We have worked with your staffs as the legislation has developed, and have had opportunities for input to help ensure that the bill strikes the right balance between our strong national interests in increased security and in continued openness to exchange visitors, students, and scholars from around the world. We believe you have succeeded in accomplishing that important goal.

We look forward to the passage of this legislation, and to continuing to work with you to ensure that the United States remains fully, and safely, engaged with the world.

Sincerely,

MICHAEL MCCARRY,
Executive Director.

MARCH 8, 2002.

DEAR SENATOR: We write to urge you to cosponsor and help enact S. 1749/H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2001, and to commend Senators Feinstein, Kyl, Brownback and Kennedy for their leadership in developing this important measure. We support their compromise version.

This legislation includes constructive changes to our immigration policies that can help strengthen our nation's security. These changes fill current gaps in our immigration system and will increase our nation's intelligence capacity as well as develop layers of protection both outside and within the U.S. Among other provisions, this bill:

Provides consular and border personnel with the training, facilities and data needed to prevent the entry of people who intend to do this country harm.

Calls for vital improvements in technology to provide more timely information.

Authorizes increased funding for the Department of State and the Immigration and Naturalization Service so that they, along with other federal agencies, can coordinate and share information needed to identify and intercept terrorists.

Calls for a study to determine the feasibility of an North American Perimeter Safety Zone. This study includes a review of the feasibility of expanding and developing preclearance and pre-inspections programs with protections for persons fleeing persecution.

Includes provisions for a workable entry-exit control system.

Provides for a one-year extension of the deadline for individuals crossing the border to acquire biometric border crossing cards.

S. 1749/H.R. 3525 is a bipartisan effort that merits your cosponsorship and swift passage. The House passed this measure in December. We urge the Senate to immediately take up and pass this measure as well.

Sincerely,

American Immigration Lawyers Association.
Church World Service.
Episcopal Migration Ministries.
Hebrew Immigrant Aid Society.
Immigration and Refugee Services of America.
Institute of International Law and Economic Development.
Leadership Conference for Civil Rights.
Lutheran Immigration and Refugee Services.
National Association of Latino Elected and Appointed Officials.
National Council of La Raza.
National Immigration Forum.

AMERICAN COUNCIL ON INTERNATIONAL PERSONNEL, INC.,
New York/Washington, DC, December 11, 2001.

Hon. DIANNE FEINSTEIN,
Washington, DC.

DEAR SENATOR FEINSTEIN: The American Council on International Personnel (ACIP) would like to thank you for your leadership in enhancing our Nation's security. ACIP believes the Enhanced Border Security and Visa Entry Reform Act of 2001 (S. 1749) takes appropriate measures to better screen and track foreign visitors without imposing unreasonable burdens on the mobility of international personnel so vital to our Nation's economy.

ACIP is not-for-profit organization of 300 corporate and institutional members with an interest in the global mobility of personnel. Each of our members employs at least 500 employees worldwide; and in total our members employ millions of U.S. citizens and foreign nationals in all industries throughout the United States. ACIP sponsors seminars and producers publications aimed at educating human resource professionals on compliance with immigration laws, and works with Congress and the Executive Branch to facilitate the movement of international personnel.

ACIP has long supported the enhanced use of electronic communications and information technology to process immigration petitions and visas, assess risks, identify fraud, and speed legitimate foreign visitors across the borders. ACIP members are heavy users of the INSPASS and Visa Waiver programs. We believe that in the long run, machine-readable documents and biometric technology will make these programs even more successful. We fully support the expansion of preclearance, the integration of agency databases and the electronic transmission of visa files and passenger manifests and hope this will eventually be used to facilitate legitimate travelers as well as to apprehend those who pose a threat. Efforts to standardize our laws with neighboring countries is also a welcome step that should facilitate commerce. In addition, ACIP is authorized to maintain an Umbrella J Visa program for international trainees employed by our member companies. While it is unclear whether the Foreign Student Monitoring Program will eventually be extended to programs such as ours, ACIP would be pleased to participate in any pilot programs.

We appreciate that S. 1749 provides authorizations to implement and maintain these important programs. We look forward to your leadership in ensuring that adequate funds are appropriated to enable the agencies to carry out these missions within the ambitious timeframes. ACIP looks forward to assisting you in this important work.

Sincerely,

LYNN FRENDT SHOTWELL,
Legal Counsel and Director of Government Relations.

UNIVERSITY OF CALIFORNIA
Oakland, CA, December 3, 2001.
Hon. DIANNE FEINSTEIN,
*U.S. Senate, Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR FEINSTEIN: On behalf of the University of California, I am pleased to express our support for the provisions regarding student visas in The Enhanced Border Security and Visa Entry Reform Act of 2001. This legislation reflects a well-crafted balance between the nation's need to enhance security with the benefits of international education.

The University of California has more than 9,000 undergraduate and graduate foreign students and approximately 23,000 foreign students in our Extension programs. We value the contributions these students, and all of our students, are making to education and research. Like you, we recognize the tremendous benefits that UC students provide to California and to our nation. International education is one of our nation's best tools for sharing democratic ideas around the world; we believe the instruction and research opportunities UC provides are helping to better shape our nation and democracy abroard.

The legislation you have introduced with Senator Kyl, Senator Kennedy, and Senator Brownback will strengthen and accelerate implementation of the foreign student tracking system (SEVIS), and will provide interim measures until that system is operational. On October 12, I wrote President Bush asking him to support your request of $36.8 million for SEVIS. It is my hope that Congress and the administration recognize the need to fund fully this tracking system. You may be interested to know that our campuses are already working with the Immigration and Naturalization Service (INS) to ensure the effective deployment of this system.

My colleagues and I appreciate your effort to work with us in developing language that is agreeable to the University and addresses your concerns about strengthening the student visa system. As we have stated, the University of California is ready to work with the INS and other relevant agencies in implementing this legislation. Furthermore, we hope that cooperative discussions will continue regarding the collection of the fee associated with the tracking system.

Thank you for your leadership on national security issues and your interest in working with the University of California.

Sincerely,
RICAHRD C. ATKINSON,
President.

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I note the distinguished Senator from Arizona has come to the Chamber. He is the ranking member of the Subcommittee on Technology and Terrorism and has been the driving force behind this legislation. I thank him for all his help. It has been a long road, but we are almost there, we hope. I know he wants to make some remarks at this time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, Senator FEINSTEIN, and I have been working on issues relating to terrorism from the time I first came to the Senate. We have been either chairman or ranking member, respectively, of the committee ever since that time. I can think of few issues that have galvanized our attention and effort—I can't think of any that have accomplished that—as much as this legislation.

Of course, the reason is it is in response to what we found in the aftermath of September 11—specifically, how the 19 terrorists who came into the country and performed their evil deeds actually got here. What we found, through testimony before the committee, was that they had all gotten here legally with visas. When we talked to the people who granted those visas and worked in the system, many of them expressed great sorrow and disappointment that they had granted the visas. But one in particular testified that, of course, she had no choice because she had no information that would have told her she should deny the visa.

That one little story is a metaphor for what is in this legislation. If we had provided information to the people who grant visas, that would have raised a red flag, at least with respect to some of these terrorists, that would have caused the consular offices to say, wait a minute, maybe we should not grant this visa.

I remember the testimony of one official saying, it is like the driver of the car who is going through the school zone at 15 miles per hour and a child runs out from between parked cars. You hit the child and injure that child. You feel horrible about it, but you say: There is nothing I could do about it; I was driving 15 miles an hour through the school zone, doing what I was supposed to do, and the child ran out in front of me. I could sense the degree of angst when she testified saying: Yes, we granted this visa to Mohamed Atta, but we didn't know. They could not know because we didn't have the system in place to tell them that some of these people should have been denied visas.

We also had people coming in on student visas and then they stopped going to class. This legislation that Senator FEINSTEIN has talked about closes loopholes in the existing law that permit people who mean to do us harm to come into this country and stay here without being detected. There is no question that, even if we passed this legislation, it would still be possible for a terrorist to sneak into this country and do something wrong. But if we pass this law and get it effective immediately, we can reduce substantially the probability that terrorists, such as those who came here prior to September 11, will ever be able to do that again.

That is the essence of the bill. I am not going to take the time this afternoon to go through the bill piece by piece. I will just mention a couple of features of it in very general terms to make my point.

Due to Senator FEINSTEIN's work, we found that prior to September 11, schools in the United States actively recruited foreign students because they paid a pretty high tuition to come to the schools, and the schools need money. We know that all of our schools, from the prestigious universities down to trade schools, can use extra money. So they advertise for foreign students, who come here by the hundreds of thousands. We welcome them with open arms. But Senator FEINSTEIN at one point said: Do you think we should be a little more careful about who actually gets visas? The school said: Oh, no, we need the money. That may not be exactly what they said, but that was the reason for being skeptical of any limitations that might be placed on their recruitment of these students.

So what Senator FEINSTEIN said—and I joined her in this effort—was let's craft a series of procedures that accompany the application for the student visa, the accounting for that visa to the INS and Customs and the State Department, and the confirmation back to the school that the individual should be arriving because the student visa has been granted, and a confirmation back to the U.S. Government that the student is in fact enrolled in school, and so on—a series of procedures that make it much more likely that the students these schools recruit actually will come to the school, attend classes, and won't be involved in terrorism.

The multiple forms they used to have that INS used—the so-called I–20 form—will no longer be filled out by lots of different schools that each accept the student for attendance. All of those forms, in the past, have been either sold or shopped around in one way or another for people to come into the United States ostensibly with a proper I–20 form from a school by which they have been accepted. But, of course, it was a fraud because the student only went to 1 of the 10 schools by which he was accepted. He shopped around the other forms to friends who used them to come into the United States.

That is one of the many ways we have tightened up the law. We found that people were coming into the country from nations that are on our terrorist list, such as Syria, a state sponsor of terrorism. Even after September 11, it was into the teens—I think something like 19 students wanted to come and learn how to fly big airplanes in the United States from a country that is a state sponsor of terrorism, so designated by the State Department. Our legislation makes it much more difficult for that to happen. In fact, it puts the burden on the students to prove they are not going to be engaged in terrorism. They can still come, but they have a burden of proof there.

One of the most important things we do is coordinate information that we gather on people abroad who want to come here, whether it is the CIA, FBI, INS, State Department, or even international agencies such as Interpol, or anyone else who may have information that would cast doubt on whether an individual should be granted a visa.

All of that information will be available. It will not be put together in one database, but it is going to be accessible to the people who make the decision whether to grant a visa. The consular officer will be able to scroll down the list, and when he finds the name of the person involved, he will see whether or not there is a red flag there. It may say don't grant a visa because he is wanted for a felony. That is fairly easy. It may say there is information pertaining to this individual that can only be shared with a very limited number of people, but it has a bearing on potential terrorism, and therefore you need to back this up to your supervisor who can have access to the classified information. One way or the other, though, any information that should be available to the people who make the decisions will be made available. That is probably the central feature of this legislation. It is going to cost money.

Senator BYRD spoke before the Immigration Subcommittee this morning, and he said: I sure hope that if we pass this bill, you will all support the appropriations necessary to fund it. We all made the commitment that we indeed would do that—that, clearly, we are going to have to have the support of the INS and the appropriators in Congress and the rest of us to ensure that once we authorize this closing of loopholes, the programs we put into place to do that will be funded properly and will be administered by the INS.

Senator BYRD raised the question about whether or not we should reform INS first. I don't think there is one of us here who doesn't think they need to reform INS. But, clearly, we cannot wait. We cannot allow terrorists to come into this country while we are trying to figure out how to reform INS. We have to ask the people at INS who work hard and try hard to begin to put into place the protections that are embodied in this legislation.

While we are also going about figuring out how to reform the INS, we cannot afford to not proceed with this bill, which would begin to close those loopholes. So I hope our colleagues will come to the floor and debate.

One of the questions was: Should we do this by unanimous consent or should we have debate on the floor? We agreed to have debate. So anybody who wants that opportunity for debate now has it. I think that after today, and perhaps Monday, if they have not come to the floor, we can conclude that in fact there is no more debate necessary on the bill and we can move to its adoption. I hope we can do that very quickly.

I encourage my colleagues who want to speak to come here and do so. If they have amendments, fine, we will consider those. We think it is pretty good without amendments. We are taking up the House-passed bill, and it would be much easier to be able to pass that bill. If there are amendments, let's see what they are. I hope we can quickly get this bill to the President. He said he wants to be able to sign it. I have personally spoken with Governor Tom Ridge, who is anxious to move forward as quickly as possible to get this done.

I think we can at least say we have done what we can do. We cannot do everything to prevent terrorism, but we know we can do some things in the Senate. I have felt pretty bad for the last several months that we have not put this into place. I have asked, have I done everything I can do to get this bill on the floor and get it started on closing the loopholes. The Senate can do something to fight this war on terrorism, and that needs to be done now. I will feel a whole lot better when we have passed this bill and sent it on to the President and he has signed it into law. I will at least know I have done everything I can do, at least with respect to these issues, to make sure we are not again struck by people we should not have allowed into this country.

TRIBUTE TO TOM ALEXANDER

Mr. KYL. Mr. President, I wish to take 2 minutes of my colleagues' time on an extraneous matter, if my colleagues will permit me. We would not be able to do the work we do—I see Senator FEINSTEIN's staff and my colleagues can see my staff sitting here. LaVita and Elizabeth are people who have made it possible for us to get this legislation before the Senate.

Our staff means a great deal to those of us who work with them closely. We know to a significant extent the successes we have are due to their efforts.

Today one of my staff members is leaving my employment to go to the Department of Labor. It is our loss and Secretary Chao's gain. He has worked with me since 1994. Most staff members do not stay around that long. His name is Tom Alexander. There is not a staff member who has ever been employed by me who has worked harder, has been more dedicated, more loyal, and has been more effective on the issues that he has handled than Tom Alexander.

I have told the rest of my staff that if they want an example of who to emulate, how to act, they should think of Tom. He is the kind of person who sets the example, I said, with one caveat: Do not stay around in the evening as long as Tom does. I have told him to go home at 8 or 9 o'clock at night, and that is staying too long. Other than working too hard, Tom has been that exemplary employee who, again, makes us look good.

I will give a couple of notes about him so my colleagues have an idea of the kind of person he is.

He is a former Missouri tax prosecutor and worked in the Reagan White House and served in the first Bush administration Labor Department.

He also previously served on the legislative staff of Representative JIM MCCRERY. I talked with Representative MCCRERY before I offered Tom the job in my office. JIM recommended him highly and, as a result, I was able to hire him.

He is married to Patricia. They have a son born last year, Shane. Tom also has a 14-year-old son, of whom I know he is very proud, a sophomore in high school.

As I said, he has served on my staff since 1994 primarily—that, by the way, is January 1994—primarily working on health care matters. He has also served as my legislative director for the last year or so. He has worked on issues dealing with emergency medical treatment, EMTALA, Medicare private contracting, Patients' Bill of Rights, IHS off-reservation reimbursement issues for Native Americans, antitrust, antigag rule, HMOs, and the teacher tax credit—a variety of issues that are important to the people of Arizona and have resulted in good policies for all of the people of the United States.

It is very rare I come to this Chamber to speak about an employee, but Tom Alexander is special, and I hope by doing so, it will allow folks who are not necessarily familiar with the staff of Senators to get just a little bit of an appreciation as to how much these people mean to us, how important they are in representing all Americans. They are what allow us to make the policies and do the work we do.

From the bottom of my heart, I thank Tom Alexander for his service on behalf of the people of Arizona and the United States and service in my office. Thank you, Tom.

Mr. President, I yield to Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank Senator KYL for those remarks. One of the great treats of my tenure in the Senate, I guess now 9½ years, has been to work with him. I do not think we have ever had a cross word between us. It has been a wonderful working relationship. I am very grateful for it. When we can work across the aisle the way we have worked, we can be much more productive. So I thank the Senator from Arizona for his work. He is a great ranking member. He was a great chairman of the committee. I have enjoyed it thoroughly. I thank him for his work on this bill. I also thank his staff.

I wish to comment about my staff also. She is LaVita Strickland sitting to my right. She is a Judiciary counsel. She is very mild mannered, but she has been very tenacious in the pursuit of the consideration of this bill and has become very forceful. LaVita is enormously talented. I am very proud of her. I thank her for many hours of hard work. I think we have a good product. Thank you very much, LaVita.

I see the Senator from Kansas, the ranking member of the Immigration Subcommittee, has come to the Chamber. I wish to turn this over to him and also thank him for his cooperation. Senator KYL and I sat down with Senators KENNEDY and BROWNBACK and had some good discussions and were able to put this together. Our respective staffs followed up.

I am very grateful to him for his cooperation and leadership as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, might I acknowledge Senator FEINSTEIN. She has talked about our cooperation and working together. I share the pleasure she has had in that relationship. There is nobody I have worked closer with in the Senate, Republican or Democrat, than Senator FEINSTEIN. It has not only been a good experience but has produced good results, such as this legislation.

Since she mentioned LaVita Strickland, I will mention Elizabeth Maier of my staff. Elizabeth is one of the experts on immigration in the Senate. Working with Senator BROWNBACK's staff and Senator KENNEDY's staff, those four staff people, working together in a bipartisan manner, might suggest to Senators how we can work together in the future. I appreciate the work all of them did. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kansas, Mr. BROWNBACK, is recognized.

Mr. BROWNBACK. I thank the Chair. Mr. President, I thank my colleagues for putting this bill forward. I particularly thank Senators KENNEDY, FEINSTEIN, and KYL for their great work and leadership on this legislation.

I am delighted that we have this broad bipartisan bill to deal with a serious security issue in this country. I am hopeful we will pass this in short order so we can provide better border security for our Nation. It is a delight to be with them in the Chamber and with my staff, David Neal, who has worked so hard on getting this legislation to the point where we can consider it and hopefully pass it.

The House has acted. The President wants it. We can act in short order and provide greater security at our borders. I thank my colleagues for their leadership and all they have done on this particular bill.

Mr. President, this really is a time of trial for our Nation. Those were horrific acts on September 11 of last fall. We were shocked, and this Nation went into a situation of prosecuting the war on terrorism and building up our defenses at home at the same time. This bill is a key component of building those defenses at home.

Senators FEINSTEIN, KENNEDY, KYL, and myself have worked on the bill. We have to make sure we are secure at home. We have to make sure the people who come into the United States seek to not do us harm but to do us good.

We have millions of border crossings each year. The number I have seen is about 250 million total legal border crossings into the United States each year of people who are not U.S. citizens.

Out of that, we are looking for a handful that seek to do us harm. We have to be able to be very smart about this and very targeted about this in stopping them. We literally are looking for a needle in a hayfield.

I talked previously about it being a needle in a haystack. This literally is a needle in a hayfield.

On September 11, we fell victim to evil of such incomprehensible barbarism we did not see it coming. Confronted with the unthinkable, we find our Nation now being tested. Do we have the ingenuity to defend ourselves from this evil? What protections will we take to safeguard our people and our way of life? Can we thwart terrorism without compromising the freedoms and values that make us strong?

That is the balance Senators KENNEDY, FEINSTEIN, KYL, and myself really sought to try to achieve in this legislation, that balance of protection and safeguarding the freedoms that are America.

I have no doubt we are up to this task. President Bush and the dedicated men and women of the Armed Forces, of law enforcement, and of public service diligently fight the good and noble fight. To all of these people we are very grateful.

I commend the administration for everything it has done and is doing to safeguard our great Nation. However, September 11 has shaken the public's confidence in the laws and institutions that guard our borders. There are nagging concerns about whether our Government is fully prepared to intercept and prevent terrorists as they seek to cross our borders. That is why last fall my distinguished colleagues, Senators KENNEDY, KYL, FEINSTEIN, and I, combined our efforts to craft legislation that would close the security gaps in our immigration system and make needed reform to our visa practices.

We assembled the legislation before us, the Enhanced Border Security and Visa Entry Reform Act of 2002, to address several critical weaknesses in our border security. Let me underscore this point: Our legislation does not make desirable changes to our law and practices; It makes essential changes. It makes essential changes that we need not now do; we needed them yesterday.

The importance of doing such now is critical. We should have done it yesterday, but now is the time we can finally do it. These are not desirable; they are essential. We do not need them today. We needed them yesterday. We have to get this done.

The provisions in this legislation are not created out of hurried or rash deliberation. Far from it. The border security bill was carefully vetted with our colleagues in the Senate before its introduction last November, and it was carefully manipulated and worked in bicameral negotiations before its passage by the House last December. There were lots of negotiations, discussions, and people from whom we solicited input on what we should be doing.

This legislation has widespread support in the Senate, including the majority leader, the minority leader, the chairman and ranking member of the Judiciary Committee, the chairman and ranking member of the Immigration Subcommittee, and the chairman and ranking member of the Technology and Terrorism Subcommittee.

This legislation has ringing endorsements from a wide array of interests in the public, including family groups, business groups, law enforcement and academic institutions. We have extensively consulted experts from both within the executive branch and outside it. In short, we have utilized the insights of the affected agencies and the affected public. Even though the legislation may contain some tough provisions, the people and entities affected by this legislation see the wisdom in it.

This bill has broad bipartisan support for it carefully balances all the competing interests in the immigration equation. Our Nation receives millions of foreign nationals each year, persons who come to the United States to visit family, to do business, to tour our sites, to study and to learn. Most of these people enter lawfully. They are our relatives, our friends, and our business partners. They are good for our economy and a witness to our democracy and our way of life. They become our ambassadors of goodwill to their own countries.

We do not want terrorists to shut our doors to the people we want to visit. At the same time, we must take intelligent measures to keep out the small fraction of people who mean us harm. This legislation requires such measures and makes them possible.

The terrorists of September 11 exploited our lack of information and governmental coordination. The border security bill recognizes that the war on terrorism is, in large part, a war of information. To be successful, we must improve our ability to collect, compile, and utilize information critical to our safety and our national security. This bill, therefore, requires that the agencies tasked with screening visa applications and applicants for admission to the United States, namely the Department of State and the Immigration and Naturalization Service, be provided with law enforcement and intelligence information necessary for them to identify terrorists.

By directing better coordination and access, this legislation will bring together the agencies that have the information and others that need it, making prompt and effective information sharing between those agencies a reality.

Of course, to the degree we can realistically do so, we should seek to intercept terrorists well before they reach our borders. We must, therefore, consider security measures to be placed not only at domestic ports of entry but also at foreign ports of departure. To that end, this legislation directs the State Department and the Service to examine, expand, and enhance screening procedures to take place outside the United States, such as preinspection and preclearance. It also requires international air carriers to transmit passenger manifests for prearrival review by the Service.

Further, it eliminates the 45-minute statutory limit on airport inspections which compromises the Service's ability to screen arriving flights properly.

Finally, this bill requires these agencies to work with Canada and Mexico to create a collaborative North American security perimeter, and this is a point that I want to emphasize, as some of my colleagues have already. We need to extend the perimeters of our borders in this country to include Canada and Mexico.

I was with the Attorney General last spring, in March of last year, before September 11, at the El Paso INS detention facility. At that detention facility were people who had tried to come across our borders illegally. There were people there from 59 different countries, many of whom had come in through Central America, some places in South America, had taken land transportation up through Central America, through Mexico, to our borders. We need to extend that perimeter to include Canada and Mexico and work closely and cooperatively with them to be able to stop these people when they are in the process of trying to enter illegally into the United States.

While this legislation mandates certain technological improvements, it does not ignore the human element in the security equation. This bill requires that terrorist lookout committees be instituted at every consular post and the consular offices be given special training for identifying would-be terrorists. It also provides special training to Border Patrol agents, inspectors, and Foreign Service officers to better identify terrorists and security threats to the United States.

This legislation considers certain classes of aliens that raise security concerns for our country, nationals from states that sponsor terrorism and foreign students from those countries. This bill expressly prohibits the State Department from issuing a nonimmigration visa to any alien from a country that sponsors terrorism until it has been determined that the alien does not pose a security threat to the safety or national security of the United States.

As for students, this legislation fills data and reporting gaps in our foreign student programs by requiring the Service to electronically monitor every stage in the student visa process. It also requires the school to report a foreign student's failure to enroll, and the Service to monitor a school's compliance with this reporting requirement.

We certainly should be careful not to compromise our values or our economy in this border security measure. However, we must take intelligent steps to enhance the security of our borders, and we must do so now.

This legislation, which was already urgently needed when it was introduced and put forward last fall, does just what I have articulated and does so without compromising our values or our economy. I certainly will urge the swift passage of this critical legislation.

I inform Members we held a hearing this morning on this piece of legislation. We had an expert from the American Immigration Lawyers Association, Miss Kathleen Cambell Walker, who went through the various provisions of the bill and her strong support for it. She noted a couple of key things I will pass on to Members. She felt it was critical to put the increased funding for inspectors into the Immigration and Naturalization Service. It is good what we are doing. She supports the legislation and thinks it is the right thing to do, but we need more inspectors to enforce it, not just Border Patrol but inspectors to make sure the laws are followed.

Senator BYRD appeared before our committee after her and testified about his desire to adequately fund this task, his desire to do it last fall, and the need to be able to do that now. Within the President's budget is $742 million to help fund the enhanced border security measure.

The committee, in our deliberations, from the information we received from the Department of Justice, said this would take about $3.1 billion for total implementation, about $1.13 billion this year for the initial first year implementation, to give Members some idea of the cost we are talking about. Over half, two-thirds, of the cost for this year's implementation is already built into the Bush budget. That is an important step we are taking to get the money needed to help enhance this legislation and get it passed.

We have to have this information sharing. We have talked about it, but the key point I make is currently we collect information from a number of different sources. INS has information, CIA has information, DIA, the FBI has information. They are mostly in stovepipes. We have to get the information shared when we are looking for the needle in the haystack, this bad person who seeks to come into our country and do harm, among the millions who seek to come to our country and do good. We need to know this of somebody desiring ill toward the United States so we will be able to get at them. That information sharing is critical.

We need to have resources in the system to make sure if we put in biometric cards we have biometric readers at the borders, equipment that can read that. That funding will be critical to this legislation.

Down the road, we are going to have to consider reorganization of the INS. Bills are pending in the House to do that. We are working on one now in the Senate. We should not wait on that reorganization before we do the border security enhancement. It is important we do this border security enhancement now. The reorganization of the INS will take some time. We needed this legislation yesterday, last year. We should not wait on that to hold up this piece of legislation.

I discussed the preinspection and the passenger manifest list, the student program. We get a number of foreign students in the United States. It is important we have them. We have to have better tracking of the foreign students. It is reported in the committee that two involved in September 11 were here on student visas. They did not report to their student sites. We need better monitoring of foreign students. We can head some of this off in the future if we monitor foreign students.

We have other provisions but those are the most important. We need to pass this bill. We should not take more than, I hope, a day or two to get it debated and consider any amendments, to get this passed and to the President. The House has acted. It has passed this measure. We need to act and get it to the President to secure our borders.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise today in strong support of the Enhanced Border Security and Visa Entry Reform Act of 2001, of which I am an original cosponsor. I am relieved that the Senate is finally considering this bill, which the House has passed not once, but twice, and has the strong support of President Bush.

With the passage of the USA Patriot Act, Congress resolved some of the ambiguities in the Immigration and Nationality Act as it related to the admission and deportation of terrorists. We also provided the Attorney General the power to detain suspected terrorists before they could do further harm. The changes to the law were very necessary, but more must be done.

The Enhanced Border Security and Visa Entry Reform Act of 2001 closes additional loopholes in our immigration law, procedure, and practice that have in the past provided terrorists access to our country. First, it strengthens our initial line of defense—the borders and our embassies abroad—by providing additional staff and training. Moreover, it breaks down some of the barriers that have prevented a comprehensive data sharing operation between intelligence agencies, law enforcement, the State Department, and the Immigration and Naturalization Service and compels the use of biometric technology to enhance our ability to confirm the identity of those seeking admission into our country.

Second, it restricts the issuance of nonimmigrant visas to nationals of countries that sponsor terrorism by requiring that our government first conclude that the admission of that person poses no safety or national security threat to the United States. And it repeals that provision of the law compelling a 45-minute clearance time for arriving aliens at our ports of entry, which has, to date, handcuffed the INS's ability to properly screen all incoming travelers.

Finally, it solves some of the problems with our foreign student program. The bill provides for increased data collection from students so we can know more precisely who they are and where they will reside while in the United States. Also, under this bill, the State Department must now confirm that the student has been admitted to a qualified educational institution before it can issue any student visa, and the schools themselves will be placed under the affirmative obligation of reporting, every single term, those who fail to attend. Finally, the bill requires the INS to periodically review the educational institutions and other entities authorized to enroll or sponsor foreign students to determine whether they are complying with prescribed reporting requirements.

This bill deserves our support. The House of Representatives moved quickly on its passage last December and, again, last month. They recognized the need for its provisions. Likewise we should move, and move quickly, to send this bill to the President for his signature. We can delay no longer. The principal parties, and I commend them, Senators BROWNBACK, KYL, KENNEDY, and FEINSTEIN and their staffs deserve a tremendous amount of credit for the many hours of discussion, meetings, and negotiations which have led to the end result. This bill has the support of our government, the State and Justice Departments, and represents a very common-sense approach to further immigration reform. Thankfully, many of you agree, as evidenced by the nearly 60 cosponsors to the original bill. I am confident, then, that the Senate will pass this profoundly significant legislation and I look forward to that result.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we have had a good presentation from our colleagues on the issue of border security that has had several hours. I am enormously grateful for the presentation of my friend and colleague, Senator FEINSTEIN, and also Senator BROWNBACK, Senator KYL, and the thoroughness of their presentations. During the course of the day, since we have been considering this bill, we have been responding to a number of questions that have been brought up.

For all intents and purposes, I don't know another of our colleagues wanting to speak. I don't intend to foreclose that possibility, but I think we were prepared to consider amendments this afternoon. We understood, as the majority leader indicated, there would not be any votes, but we were hopeful at least that we would be able to consider some amendments and set those aside and at least have the opportunity to review them this afternoon and put them in the RECORD so our colleagues could examine them on Monday next. But we will look forward, when we resume this discussion on Monday, to considering other amendments. We invite colleagues, if they have them and if they would be good enough, to share those amendments with myself or the other principal sponsors. We will do the best we can to respond to them, and those who are related we may be willing to accept. We will consider them and indicate to Members if they are acceptable and, if not, why they are not.

We are thankful to the leaders for their cooperation in arranging for us to be able to bring this matter before the Senate. I will not repeat at this time why there is a sense of urgency about it. I think that case has been well made.

Earlier today, we had a good hearing on this subject matter and we received additional support for this measure, for which we are very grateful. So I think it represents our best judgment on a matter that we consider to be important to the security of our country. I hope we will be able to dispose of this legislation in the early part of next week.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska.

Mr. STEVENS. Mr. President, is there an order for business following the consideration of the pending legislation?

The PRESIDING OFFICER. There is not. We are on the border security bill.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARCTIC NATIONAL WILDLIFE REFUGE

Mr. STEVENS. Mr. President, I am once again before the Senate because of the situation regarding the ANWR amendment which will be presented to the Senate next week. We are not on the energy bill now. I have spoken briefly twice this week on energy and its relationship to the possible development of the 1.5 million acres on the Arctic Plain. We call it the 1002 area. Some people call it ANWR.

ANWR is the Arctic National Wildlife Refuge. During the period I was in the Interior Department in the sixties, the Arctic National Wildlife Range was created. That range was 9 million acres. It specifically provided that oil and gas leasing under stipulations to protect the fish and wildlife could proceed in that 9 million acres.

The area that is now within the 1002 area was a portion of that 9 million acres. I have a chart to show that. It is a very interesting history. In the original area of the 9 million acres, there is the coastal plain of the 1002 area which is an area set aside by an amendment offered by Senators Jackson and Tsongas. I will talk about that later. It is 1.5 million acres. The remainder of that original Arctic wildlife range is now totally wilderness.

In 1980, there was an addition to the wildlife area in the Arctic. It is refuge, but it is not wilderness. So there are now, because of the act of 1980, the Alaska National Interest Lands Conservation Act, 19 million acres in this Arctic area. It is, in fact, the Arctic wildlife refuge. The part that is not refuge yet is the 1002 area which is specifically, because of the Jackson-Tsongas amendment, available for oil and gas leasing following that basic act.

I have to confess to the Senate and to anyone who might be interested in watching this presentation, I have not been sleeping well lately. I have spent almost 34 years in the Senate, and I remember only one other night that I did not sleep, and that was with regard to the time recently when a very great and dear friend of mine passed away, and I was chiding myself because I had not seen enough of him and found I did not sleep.

Since I have been back from the trip to the Asian regions of the Pacific with my great friend, Senator INOUYE, during the last recess, I have been trying to concentrate on the subject of the possible oil and gas development in Alaska, not only the oil potential of the 1002 area but also the Alaska natural gas pipeline.

At the time that oil was discovered in 1968 in the great Prudhoe Bay area, which is on State lands and did not require Federal permission to start oil was discovered there in enormous quantities. At the time of the discovery, the wells came in somewhere around 500,000 to 1 million barrels a day.

The great environmental organizations—I call them the radical environmental organizations—opposed the building of the Alaska oil pipeline. As a matter of fact, that pipeline was delayed for over 4 years by litigation brought by these radical groups trying to prove everything from we were going to kill the caribou to we were going to destroy the area. They have alleged since that time that this area which we call the 1002 area is wilderness.

Wilderness is a word of art in our State because we have more wilderness in our State than all the rest of the United States put together. This area that was set up in the fifties by the Secretary of the Interior and then approved by President Eisenhower was originally set up at the request of the Fairbanks Women's Garden Club. Fairbanks was my first home in Alaska, and that area was set aside in response to their request that there be some area designated in which the interests of the fish and wildlife of the Arctic area would be protected, but they specifically—specifically—excepted from that protection the concept of oil and gas leasing subject to consideration of stipulations that would, in fact, be required to protect fish and wildlife should there be oil and gas development.

Prudhoe Bay is in the area of State lands, and this is Federal land. As the President realized at the time we obtained statehood, we obtained the right to select lands. All other States of the Union had the right on public lands to take sections 16 and 36 out of every township. They selected those lands as they were surveyed.

With an area such as Alaska, which is one-fifth the size of all the United States, 20 percent of all the lands of the United States and half of the Federal lands are in the State of Alaska. We determined we could not wait for surveying and asked Congress, and did receive, the right to select lands which were then to be surveyed out—not the whole State to be surveyed but our selection to be surveyed out.

Subsequently, our native people received in 1971 the right to, again, select lands to satisfy their settlement of the Alaska Native land claims in the Settlement Act of 1971 of some 40 million acres outright, and additional areas were represented by their traditional burial grounds and traditional lands. So it adds up to about 45 million acres that the Alaska Natives selected.

We are in the process now of trying to relate all of this to the American public so they will ask their Senators to support what we want to do, and that is to open this 1002 area now—as it was committed to us in 1980 would be done—to oil and gas exploration and development.

To get this all into context, this chart shows our State of Alaska imposed upon the United States using the same scale. Normally, when one looks at the State of Alaska at the top of the North American maps, they see Alaska just a little place up at the top where people think that has to be a small place.

Actually, it goes from the east coast to almost the west coast and almost from Duluth down into the middle of Texas. It is a concept of space that most people do not realize, almost three times the size of Texas. My old friend, Senator Tower from Texas, used to say he was afraid we might iron the place out and it would be as big as the whole country because there are a lot of mountains up there.

This is a route of the Trans-Alaska Pipeline which was the subject of action by the Senate in 1968. This is the ANWR outline with the 1002 area in green, and the area we seek to develop is right up there. Two thousand acres out of the 1.5 million acres will be developed according to the bill passed by the House authorizing us to proceed with oil and gas exploration in ANWR.

The problem I have been talking about all week is we face a different circumstance than we did in 1973 when we sought to get the oil and gas pipeline completed. It had been, as I said, subject to litigation for a series of years and we determined we had to get legislative authorization to proceed. My great and good friend and mentor, Senator Jackson of Washington, was the chairman of the Senate Interior and Indian Affairs Committee, and he was the author of the Right of Way Act to amend the rights of way provisions to cross Federal lands for utilities and pipelines. We encouraged him to include a provision to authorize the construction of the oil and gas pipeline, and to permit its immediate initiation. During that period of time, as a matter of fact, Senator Jackson sent out a letter—and I will have that put on everyone's desk on Monday. It was signed by himself and Senator Hatfield—urging that the views expressed by these extreme radical environmentalists be ignored because of the great necessity to have that oil because it was a matter of national security.

This is a poster of General Eisenhower back during World War II where he called attention to the Petroleum Industry War Council. There were some people leaving their work in the oilfields and enlisting in the Army, and General Eisenhower, to his great credit, sent this message:

> Your work is vital to victory . . . Our ships . . . Our planes . . . Our tanks must have oil.

He was then the supreme commander of our expeditionary force and he said, "Stick to your job. Oil is ammunition."

We are at war again, and the same radical environmentalists are now opposing us moving out into another area of Alaska to explore for oil and gas. It is within this 1002 area.

In 1980, I had long and serious discussions with two great Senators. This is the photo taken of Senator Jackson, Senator Tsongas, and myself, standing outside in the hall, discussing the amendment that had been agreed to, that I agreed to support, that my colleague opposed, in order to settle the dispute over the Alaskan National Interest Conservation Lands Act. That 1002 provision was authored by these two Senators.

As I said last week, God would that they would still be alive. We would not be having these arguments because they were men of their word. They gave us their commitment. My State, my colleague and I, had opposed the Alaskan National Interest Conservation Lands Act because of the original provisions in the House bill that would have prohibited oil and gas development in the 1002 area. They crafted the amendment that gave us the chance to proceed to develop oil and gas in that area, provided there was an environmental impact statement filed, approved by the Secretary of Interior and the President which then had to be approved by Congress, which then had the job of authorizing proceeding with oil and gas development in that area.

It was 1980 that we received that commitment. At the time of that commitment, we thought this would proceed in a year or two. As a matter of fact, the first environmental impact statement was made during the first Reagan administration. President Reagan asked Congress to approve it. Congress did not act. Then they ordered another environmental impact statement, and the President asked

Congress to approve it. It did not. Subsequently, during the Clinton administration, Congress initiated two acts, primarily at my request, to approve an environmental impact statement and direct the administration to commence oil and gas leasing activity in this area. President Clinton vetoed those bills.

So we are now, 21 or 22 years later, based on the act of 1980, still trying to see that the commitment made to Alaska, as part of the condition for withdrawing almost 100 million acres of Alaska—which, incidentally, came ahead of the State selections, ahead of the Native selections. The only concession we could get out of the whole situation that made any sense was the 1002 area, which we knew was our future.

I was just home to Alaska twice in the last 2 weeks, and I have to report that my State is in dire trouble. Our timber mills have been closed down. Our pulp mills are closed down. All our major mines are closed down. There is no wildcat oil and gas activity in our State at all. Even the number of cruise ships that come to Alaska has been limited now by action of the Federal Government.

Our future is still in resources. Half of the coal of the United States is in Alaska. None of it can be reached because of an act of Congress. That act of Congress provided that in order to have the right to develop the coal of Alaska, an operator would have to restore the natural contour. Well, that coal is found in areas of ice lenses and extreme cover of ice and water. Obviously, when coal is strip-mined, there is a hole. The original contour cannot be restored.

That provision was added to a bill one day, over my great objection, and has prevented the development of any new coal mines in Alaska since that time.

Our oil is in the Arctic. It is not only in our State. We have the one in Canada, too. If we look at the map of the Arctic of the world, that is where most of the oil is, up near the Arctic Circle and above the Arctic Circle. We have the vast areas where oil in tremendous quantities has been found.

We believe within the area covered by 1002—I did not mention that was a 7-year fight; from 1973 to 1980 we fought to try to preserve the right to develop this area. But this is a historic oil and gas activity in the Canadian area.

This is adjacent to us. Our wells are in the Prudhoe Bay area, very few of them. These are the Canadian oil wells all over in this area, including the area of the Porcupine caribou herd. The Porcupine caribou herd is a Canadian herd. It is not an Alaskan herd. It comes into Alaska once a year, most of the time, and comes up during the calving period. It is not during the mating period but the calving period. The calves have been dropped up in this area, not in the 1002 area but in the area along the plain. There have been sometimes when they have gone into the 1002 area and there have also been times in recent years they have not come at all. One of the reasons for that is the path the caribou wanders through Canada. In Canada, caribou is not a game animal; it is a domestic animal. They can harvest as many as they want. These caribou can be harvested in Canada. The numbers are going down, no question, but not because of interference on our slope.

To the contrary, the central caribou herd—around the land of the pipeline—has increased in size and is almost four to five times in number as before. The western caribou herd is not migrating anymore and is out toward Wainwright, AK. This map shows the withdrawal areas I mentioned. The areas are in the withdrawal land before the State of Alaska was granted statehood and before the Natives got their land. These lands were set aside in 1980 by an act of Congress. One of the conditions in our favor was that we can explore that little area up there in the 1002 area.

The western herd of caribou is out here. They could not migrate anymore. The central caribou herd has increased enormously, so has the western. It is the Porcupine herd that is reduced in numbers, but there is no oil and gas activity now that has caused that. We keep hearing we caused that, but there is no oil and gas activity there. That is caused by hunting and by predators. We now do not have any control over the wolves. Those caribou travel thousands of miles to go to the Arctic area to drop their calves. They are, most of them, pregnant female caribou and are easily killed by wolves. The same people who are trying to prohibit us from oil and gas activity bring on the problems of trying to find some way to reduce the predators that are killing the Porcupine herd.

In my time in the Senate, I have taken literally 100 Senators to the North Slope to show them this area. Those are the caribou that do come to the oil and gas area. This is the central caribou herd. I don't care if it is winter or summer, you will find them there. In fact, when we finished the oil pipeline, the university developed a new type of cover for the tundra, and it happens to be a very great favorite of the caribou. We have the oil industry replant that whole area with the new vegetation. It is tremendous food for them.

In passing, it is not just caribou that like the pipeline. The pipeline is like a paved highway. Did you know oil coming from the ground in Alaska is hot? If you go near the pipeline, you are walking on a nice, warm sidewalk. The bears like it. We have great fondness for our wildlife. Alaskans go out of their way to make sure industrial activity does not harm our fish and wildlife.

Returning to the 1980 act, if you want my history lesson for the day, when I was assistant leader, I sat here night after night and listened to the history lessons, as I call them, of the distinguished President pro tempore, Senator BYRD, chairman of our committee. I wish God had given me the prodigious memory he has. I don't have that kind of memory, but I like history lessons and I am trying to give one now.

In 1978, a year I was up for reelection, we had this act before us, the Alaska National and Lands Conservation Act. In 1978, just before the election, that bill had been brought out of conference and I had agreed to support it. My colleague was opposed to it. At the very last minute, Senator Gravel objected to that bill proceeding until the bill itself was read. An adjournment resolution had already been entered so, in effect, that request killed the bill.

Following that, I might add, I went back home to try to start getting ready again for consideration of this bill, and riding with my wife and five other people in a chartered jet we crashed going into Anchorage. My wife Ann was killed and all the passengers, other than myself and one other passenger, were killed. Those people killed were the head of what we called the Citizens for Management of Alaska Land. We were trying to raise funds to, once again, present our position to the Congress in the period of 1979 and 1980.

By 1980 we had developed this bill after long arguments and meetings with my great friends, Senator Jackson and Senator Tsongas. Senator Jackson was chairman at the time. Section 1002, the Jackson-Tsongas amendment started with:

> The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

Those conditions were met. Two environmental impacts were followed. There was a period of seismic activity that went on in the 1980s. We all know the largest reservoir that could contain oil or gas on the North American continent is beneath the 1002 area. There is no question about that. That is a scientific fact.

When we get to the period of time when we try to look at this development, we are often told you can proceed without this. This is, again, now moving over to the Prudhoe Bay oilfields, not just one but several now. This is Kuparuk, further to the west, Prudhoe Bay, and the Sourdough Oil field, a small field adjacent to ANWR. We have within the 1002 area the village of Kaktovik. They have lands that belong to the Natives, but by order of the administration at the time they got the title to those lands, they were prohibited from drilling on the lands. They said they had to wait until the Congress authorized drilling on the Coastal Plain. So if we pass this bill, they, too, will have the right to proceed to determine their own rights.

The oil pipeline goes now from Valdez to Prudhoe Bay. This is the Wainwright area, which is the area of the caribou of the western herd. This is the size of ANWR. It is equal, the refuge itself, to South Carolina. We are not talking about a small piece of land. But the proposed development area in this 1002 area, 1.5 million acres, of 2,000 acres is 3.13 square miles from a State that has 565,000 square miles.

We are at wit's end. That is why this Senator is losing some sleep. That 2,000 acres is roughly the size of Dulles Airport. That is what this bill limits us to use. We cannot use more than 2,000 acres of the 1.5 million acres set aside in the Oil and Gas Exploration Act. It is not wilderness.

I will discuss later the newspapers that keep talking about the wilderness area of ANWR. They are talking about the wilderness area of ANWR where there is no oil and gas activity proposed at all. None at all. I believe one of the great problems we have is to try to deal with the subject without a full explanation. The difficulty that I have right now is in trying to orient myself to the bill. We will file an amendment next week—there has been a lot of gossip about this so I might as well get down to talking about it on the record.

Yes, this Senator has been talking to people involved in the steel business, to the steelworkers, to other labor unions, and I have been talking to a great community of this Nation, the Jewish community. All have an interest in the development of this area.

I have also been talking to people who are concerned about the Alaskan natural gas line. I will be talking about that soon, too.

I thank the Chair for his courtesy on this Friday afternoon. If I don't get this out of me, I won't sleep tonight either.

One of the great problems we have been facing is the battles with the press, so let's start with that. Let's start with our own Washington paper. In the past, in 1987 and 1989, this newspaper argued in favor of proceeding with exploration on the Arctic coast. It said:

> . . . But that part of the Arctic coast is one of the bleakest, most remote places on this continent, and there is hardly any other place where drilling would have less impact on the surrounding life. . . .
>
> . . . That oil could help ease the country's transition to lower oil supplies and . . . reduce its dependence on uncertain imports. Congress would be right to go ahead and, with all the conditions and environmental precautions that apply to Prudhoe Bay, see what's under the refuge's tundra. . . .

In 1989 it said:

> . . . But if less is to be produced here in the United States, more will have to come from other countries. The effect will be to move oil spills to other shores. As a policy to protect the global environment, that's not very helpful. . . .
>
> . . . The lesson that conventional wisdom seems to be drawing—that the country should produce less and turn to even greater imports—is exactly wrong.

What do we see now? December 25, 2001—nice Christmas present for somebody:

> Gov. Bush has promised to make energy policy an early priority of his administration. If he wants to push ahead with opening the plain as part of that, he'll have to show that he values conservation as well as finding new sources of supply. He'll also have to make the case that in the long run, the oil to be gained is worth the potential damage to this unique, wild and biologically vital ecosystem. That strikes us as a hard case to make.

They made the case in 1987. They made the case in 1989. They are saying George Bush should make it now. Where is the consistency of the Washington Post? What has changed in the Washington Post? The management? They haven't changed any science. They haven't produced any science.

Now, in February they said:

> Is there an energy crisis, and if so, what kind? What part of the problem can the market take care of, and what must Government do? What's the right goal when it comes to dependence on overseas sources?
>
> America cannot drill its way out of ties to the world oil market. There may be an emotional appeal to the notion of American energy for the American consumer and a national security argument for reducing the share that imports hold. But the most generous estimates of potential production from the Alaska refuge amount to only a fraction of current imports.

That is wrong. They belie the fact that Iraq is currently threatening to withhold exports to us—or really to the international food program that we buy from. In fact, our oil will produce as much as a 30 years' supply from Iraq.

Today Iraq sends to every suicide bomber's family $25,000 in cash. If we can believe the reports we got yesterday, even the Saudis have a fund now to pay the costs of education and maintenance for the children of suicide bombers. From where is that money coming? It is coming from the United States.

Had Congress listened to President Reagan, had President Clinton not vetoed the bill, we would be producing oil from that area now.

At the height of the Persian Gulf war, 2.1 million barrels of oil a day came down from the Alaska oil pipeline. When I was home last week, it was 950,000 barrels. Meanwhile, we are now importing over 1 million barrels a day from Iraq—at least we were until he shut it off.

There is no consistency in these national newspapers when they do this. Why should one generation act on the recommendation in 1987 and 1989 and another one be told now that is all wrong? There ought to be some kind of integrity in the Washington Post.

The New York Times—an interesting thing, if you follow this. I am not going to do it, follow the transition. When one of these papers changes its mind, the other one changes its mind. This is the New York Times. Then in 1987, 1988, 1989, the same thing.

> Alaska's Arctic National Wildlife Refuge . . . the most promising untapped source of oil in North America.
>
> . . . A decade ago, precautions in the design and construction of the 1,000-mile-long Alaska pipeline saved the land from serious damage. If oil companies, government agencies and environmentalists approach the development of the refuge with comparable care, disaster should be avoidable.

In 1988 they say the same thing:

> . . . the total acreage affected by development represents only a fraction of 1 percent of the North Slope wilderness.

Again, they call it wilderness. It is not wilderness.

> . . . But it is hard to see why absolutely pristine preservation of this remote wilderness should take precedence over the nation's energy needs.

That is the issue today. Should a small group of radical environmentalists block the United States from obtaining another source of oil to lead us toward total dependence on foreign sources? At the time of the oil embargo in the 1973 area, we imported about 35 percent of our oil. Today we are approaching 60 percent. Now they turn around on us, from having supported us through the whole series—1987, 1988, 1989.

New York Times, 1989:

> . . . Alaskan oil is too valuable to leave in the ground.
>
> . . . The single most promising source of oil in America lies on the north coast of Alaska, a few hundred miles east of the big fields at Prudhoe Bay.
>
> . . . Washington can't afford . . . to treat the accident as a reason for fencing off what may be the last great oilfield in the nation.

Now they attack my colleague, saying he is wrong in his estimates. They are also saying:

> The country needs a rational energy strategy . . . but the first step in that strategy should not be to start punching holes in the Arctic Refuge.

What happened to the New York Times? Change of management? Yes, another change of management. Maybe they hired one of the radical environmentalists, for all I know. But that is not a national newspaper that deserves any credibility. As far as I am concerned, I have written them off. How can you believe them one year and have them turn around and not tell you what they said before, in 1987, 1988, 1989, is wrong? They didn't even recognize in their own editorials that they had taken those positions so the new young people, reading their paper, don't know about that unless some of us call them to task.

Where was the editorial board that was involved in 1987, 1988, and 1989, when this editorial board of the New York Times took a diametrically opposite position? That is not a national paper anymore, as far as I am concerned. It is unworthy of credibility. Beyond that, I might have some long statements about them next week.

Mr. President, I don't want to keep you too long, but I do want the world to know that, starting next week, we are going to be on this bill for a long time. When that bill goes in, I am told the leadership perseveres with their attitude—which was not Senator Mike Mansfield's attitude, it was not Senator Jackson's attitude.

In 1973, there we had the oil pipeline amendment up—conscious of what President Eisenhower had said, conscious of the approach that all of us had taken up to that time, that oil and the availability of oil to this country is a matter of national security as well as economic security. The leadership now says we must have 60 votes—or we should not even bring up the amendment.

I want leadership to know that I don't know that I have 60 votes, and neither does Senator MURKOWSKI. We are going to bring up the amendment and we are going to debate it until we have 60 votes—until we have 60 votes or unless they can get the votes to table our amendment. There is a possibility that could happen.

But I want you to know that every steelworker in the country is going to know who denied them their legacy fund. Every coal worker who is going to fall short of the money on their funds under the act of 1992 will know who did that to them.

Every member of the Jewish community who now supports the development of ANWR is going to know who denied them what they need. Part of this law extends the right of Israel to receive a portion of the output of the Alaska oil pipeline in the event it is denied oil by its neighbors. Most people do not know that. Years ago that was enacted. It must be renewed now. Our amendment renews that.

We support entirely the freedom of Israel. Our State insisted on sharing with Israel our oil as it came out of the pipeline if their oil was shut off. So did the people who buy our oil.

The Senate ought to look to the groups who support an energy policy for America. We have American veterans, the American Legion, Veterans of Foreign Wars, AMVETS, Vietnam Veterans Institute.

Catholic War Veterans, organized labor, the Seafarers International Union, the International Brotherhood of Teamsters, the Maritime Laborers Union, the Operating Engineers Union, the Plumbers and Pipefitters Union, and the Carpenters, Joiners and Builders Trade, the Hispanic Union, the Latin American Latino Coalition, the United States-Mexico Chamber of Commerce, Seniors Coalition, United Seniors Association, every major American Jewish organization, scientist organizations of America, Americans for a Safe Israel, American business communities, National Black Chamber of Commerce, U.S. Chamber of Commerce, National Association of Manufacturers, and Alliance for Energy and Economic Growth. I could go on and on with this list of who supports this.

(Mr. INOUYE assumed the chair.)

I welcome the occupant of the chair, my great and long-time friend. As I said last night, we will not keep you long.

We will have to put in orders, if ANWR produces oil, for 17 new double-hulled tankers. As a result of *Exxon Valdez*, we decreed in Congress—and the State industries agreed—that all new tankers to serve Alaska must be double-hulled. When this great area starts producing oil, 17 new double-hulled tankers will be built to carry the oil coming out of the Alaska pipeline.

The current occupant of the chair didn't see this chart. I want to present it again for his benefit because the two of us served under that great general. This is what he said during World War II to our oil field workers: "Stick to your job. Oil is ammunition."

If the leadership followed the precedent set by Mike Mansfield, who opposed the Alaska oil pipeline amendment when there was a tie vote—they supported the one provision which accelerated the litigation and required immediate construction of the pipeline. Senator Mansfield would not permit a filibuster on the matter involving national security. Senator Jackson was chairman of the committee. And both of them voted against that oil pipeline amendment when it was a tie vote. They did not try to filibuster against that amendment. Had they done so, we undoubtedly would not have the oil pipeline today.

If those two great leaders had opposed the one amendment that accelerated the construction of the pipeline, we would never have had an oil pipeline.

I believe the situation today is an odd one. I am sad that leadership now perseveres in its statement to us that we must have 60 votes.

I close out by saying Alaska Senators are going to try to persevere too. We are going to stay here and the Senate is going to stay here until we get 60 votes next week.

I thank the President for his courtesy.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. STEVENS assumed the Chair.)

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I wasn't prepared to present a lengthy argument in favor of or against it, but I must tell you that I support you fully, sir. I support your proposal on ANWR. I did so when the pipeline was proposed many years ago. I still recall that at that time the opponents of the pipeline predicted the caribou herd in Alaska would be decimated. I am a lover of animals. I was concerned. But today I am happy to tell you that instead of being decimated, the herd has increased tenfold. There are more caribou than we ever had in our lifetimes.

The opposition to the use of ANWR at this time comes from many sources. These sources are my friends. As you may know, Mr. President, I have the privilege of serving at this moment as chairman of the Committee on Indian Affairs. I am concerned about the plight of the Native Americans. Yes, it is true that there is a tribe—a nation—in Alaska opposed to the use of ANWR for drilling of oil—one tribe. I am pleased to advise you, Mr. President, that the Federation of Alaskan Natives, representing all the other tribes, favors your measure. As chairman of the Committee on Indian Affairs, I feel almost compelled to support you if only on that basis.

But there are other reasons for my support. The next reason was given to me just a few days ago when the dictator of Iraq stated: Why don't we use the oil weapon against the United States?

As long as the present condition continues, we will be hostage to oil, we will be captives to oil. We may find ourselves, once again, going out into the desert to fight for oil, risking and sacrificing American lives. And as chairman of the Defense Appropriations Committee, I am not in favor of that, sir.

So when the time comes, I will be answering "aye" on your measure.

I yield the floor.

The PRESIDING OFFICER. The distinguished majority whip.

A SENATE FRIENDSHIP

Mr. REID. Mr. President, while I disagree with the distinguished senior Senator from Hawaii and the senior Senator from Alaska on this issue, I am forever amazed at the great relationship of the senior Senator from Alaska and the senior Senator from Hawaii.

We develop friendships in the Senate, and I have no question that my friendship with Senator INOUYE is one that will last me a lifetime. He is such a wonderful man. And I also have such warmth and feelings for the senior Senator from Alaska. But with the example that is set by the Senator from Alaska and the Senator from Hawaii, in friendship and in working together on issues, I am, each year, as a member of the Appropriations Committee, stunned by the ability of these two gentlemen to move through the Defense appropriations bill the way they do. This should take weeks of our debate time in the committee and on the Senate floor, but as a result of their working relationship, it is always held to just a short period of time.

So when the history books are written about the Senate, these two men, who now stand before me and with me in the Senate—Senator STEVENS and Senator INOUYE—will be known for many things, for doing so many good things for our country and for their respective States, but the thing I am going to remember is the example of friendship that I see between the Senator from Alaska and the Senator from Hawaii. And I do not mean in any way to demean the Senator from Hawaii because I know he believes in his position not because of friendship but because he believes in the merits of the case, as it has, I am sure, something to do with the friendship they have. But the relationship of the two Senators is, as far as I am concerned, encyclopedic as to how we should work with each other in the Senate.

So on behalf of the Senate, I applaud and congratulate these two Senators for the example they set for the rest of us on how civilly the Senate should be run—a Democrat from Hawaii, thought of as a liberal State in some people's minds, and a Republican from the conservative State of Alaska. What we have coming from those two States is two people to show us that with different ideologies we can still work together for the good of the country.

So I say to both Senators, thank you very much.

TRADE PROMOTION AUTHORITY

Mr. HATCH. Mr. President, I want to speak on a subject that is very important to the American public—the importance of free trade and how free markets can help the United States and the worldwide economy.

By working together to create and foster a free market atmosphere, we can help all nations that actively promote and participate in international trade to improve the economic futures of their citizens. This is good economic policy and good international relations.

As the ranking Republican member on the International Trade Subcommittee and as a member of the Intelligence Committee, I can tell you that international trade has long been one of the most important foreign policy tools of the United States.

Trade was a key component of our post-World War II international political and economic strategy. For more than 50 years, international trade contributed to stability and economic growth throughout the world. It helped lift the nations of Europe and Asia out of the ruins of World War II. And it helped millions of Americans experience unprecedented prosperity here at home.

A large part of the reason that the Berlin Wall fell was the difference in economic performance and promise between a centralized command and central economy and free markets. International trade can play a similar role at the beginning of the 21st century. But, the United States must lead the way.

I am pleased that the administration, led by President Bush, Commerce Secretary Don Evans, and our United States Trade Representative Bob Zoellick, has helped launch a new round of international trade talks. We all have an interest in making the next World Trade Organization ministerial succeed. I believe that success can only be enhanced if the Congress passes legislation on Trade Promotion Authority.

In my view, the prospects of favorable progress in the next ministerial will increase if the United States signals to the world that—even while we undertake an unprecedented military mission against terrorism—we will continue to give our trade agenda a very high priority.

Although there are some members of Congress who might think otherwise, I believe that the new round of trade negotiation is clearly in our national interest.

Trade creates jobs—both at home and abroad. Trade can also help promote political stability in many regions of the world. It is in our national interest to foster free trade.

Let's look at the facts. Ninety-six percent of the world's consumers live outside our borders. Based on that fact alone, the United States would be foolish not to pursue a vigorous trade agenda. But let me go on. Exports accounted for about 30 percent of U.S. economic growth over the last decade, representing one of the fastest growing sectors in our economy. Almost 97 percent of exporters are small or medium-sized companies and, as my colleagues are aware, small businessmen are the engine of job growth.

In fact, almost 10 percent of all U.S. jobs—an estimated 12 million workers—now depend on America's ability to export to the rest of the world. Export-related jobs typically pay 13 percent to 18 percent more than the average U.S. wage.

There are many reasons to believe that the best is yet to come in this dynamic sector. Economists predict that there could be a 33 percent reduction in worldwide tariffs on agricultural and industrial products in the next WTO trade round. This action alone could inject an additional $177.3 billion into the American economy in the next 10 years.

I strongly support congressional passage for Trade Promotion Authority legislation this year. TPA will provide a measure of certainty to our trading partners that any agreement reached with USTR will receive timely congressional consideration and will not die a slow death by amendment.

As part of granting this fast track authority, Congress naturally will expect extensive consultation and notification procedures.

Success in passing TPA will require a close partnership between the executive and legislative branches of our government. The Constitution grants Congress the authority to promote international commerce. However, the Constitution also gives the President the responsibility to conduct foreign policy. Thus, the very nature of our Constitution requires a partnership between the executive and legislative branches of Government in matters of international trade negotiations. That is what the trade promotion authority bill is all about—a partnership between the executive and legislative branches of government to enable U.S. consumers, workers and firms to be effectively represented at the negotiating table. And, I might add, farmers as well.

In my opinion, TPA is an essential tool for sound trade expansion policy, a tool we have been without since its expiration in 1994. For over a decade, the United States has too often sat on the sidelines while other nations around the world continued to form trade partnerships and lucrative market alliances. The lack of fast track has put the United States at a disadvantage during trade negotiations.

As we come out of the economic slowdown, U.S. efforts to expand trade alliances around the world can help accelerate the economic recovery we are all hoping for. TPA can help put wind back into the sails of U.S. trade policy.

Without Trade Promotion Authority, the United States is not the only loser. Since trade agreements must be mutually advantageous, workers in countries that were not able to complete agreements with the United States are also injured. Global economic growth is a tide that will lift many boats.

Trade can be a win-win situation. There will always be criticisms that one side bested the other in any negotiation. Sometimes you come out a little ahead. Sometimes not. One thing is clear: If there is no trade agreement—both sides will lose out on opportunities for their citizens.

Last year, the United States exported more than $780 billion in goods and services to more than 200 foreign markets. In fact, exports provided more than one-quarter of all economic growth in America. Jobs can be created in agriculture, high technology, manufacturing, financial services and other industries. We know this to be true.

Free trade is not just a matter of economics. It is a fundamental aspect of American foreign policy. Through trade our values are reflected abroad and citizens of developing nations have the opportunity to teach us about their culture and we can all discuss shared values.

As President Bush stated in his address on trade issues on April 4:

> Fearful people build walls around America. Confident people make sure there are no walls.
>
> . . . I am confident. I'm confident in America products, I'm confident in American entrepreneurs, I'm confident in the American worker, I'm confident in the American knowhow, I'm confident in America's farmers, I'm confident in America's ranchers. We need to be a trading nation.

I could not agree more with the President. Market-opening trade pacts with developing nations not only present an opportunity for the United States to increase American sales of U.S. goods and services abroad, they also can serve as a catalyst to bring stability and prosperity to economically stagnant nations of the world.

America's engagement in world affairs and trade can project to our strengths and values. Vigorous efforts to forge free trade alliances between the United States and developing countries will help to foster respect for the rule of law, competition and free-market principles in the developing world.

As Majority Leader DASCHLE noted in a floor speech on March 21 in support of Trade Promotion Authority legislation:

> Expanding trade also offers national security and foreign policy benefits because trade opens more than new markets. When it is done correctly, it opens the way for democratic reforms. It also increases understanding and interdependence among nations, and raises the cost of conflict.

I think that Senator DASCHLE makes a compelling point. We need to keep up strong, international economic leadership and help more nations become prosperous. Trade can help us create new jobs, both at home and abroad, and help change the conditions that breed poverty and instability overseas.

TPA is also good for Utah. The fact is that TPA can help bring new jobs into Salt Lake City and across my State. Here are the facts: trade has benefitted my home State of Utah. For example Utah's manufacturers produced and exported $2.52 billion worth of manufactured items to 164 countries around the world. In fact, an estimated 61,400 Utah jobs are trade dependent and one in every six manufacturing jobs in Utah—approximately 20,300 jobs—are tied to exports. Furthermore, the bulk of international trade and export in Utah benefits small and medium sized companies. About 80 percent of Utah's 1,894 companies that export are small and medium sized businesses. Our record is good, but we can do even better.

TPA is good for America. The passage of TPA improves the quality of life for American consumers by providing a greater choice of goods at better prices. Past agreements have benefitted the typical family of four an estimated $1,300 to $2,000 a year. Future agreements stand to save Americans thousands more every year. TPA also builds on previous market-opening successes such as the North American Free Trade Agreement that generates $1.2 million a minute in trade for American exporters.

While we have important foreign policy goals that can be advanced through a rigorous program with respect to international trade, let us not forget Tip O'Neill's famous observation: "All politics is local."

So, for both economic *and* foreign affairs considerations, I am hopeful that before our work is completed this fall, we will have taken up the bill that the Finance Committee approved—by the overwhelming margin of 18–3 I might add—and send it forward to the President for his signature.

The Finance Committee has done its work. I want to commend Chairman BAUCUS and ranking Republican member GRASSLEY for leading the way for this bipartisan achievement. I also want to recognize the efforts of Senators BOB GRAHAM and FRANK MURKOWSKI for their important contribution to achieving this consensus.

I urge the majority leader and Republican leader to act in a way that will advance American interests abroad by bringing the TPA bill up for debate and action.

I recognize that the reality is that the Senate will in all likelihood also act favorably on Trade Adjustment Assistance legislation—TAA—or the TPA bill will stall. So be it. I am for both TPA and TAA in any order, tied or untied. But let me be clear, I am not for a loaded up TAA bill with health care provisions.

Let's get the job done for the American people. My constituents from firms like Geneva Steel need assistance to cushion their loss of jobs lost through trade. But in addition to TAA, we need TPA to open new markets for the workers of Utah and others throughout the United States.

Now is the time for the Senate to take up and pass Trade Promotion Authority. Now is the time.

The longer we wait to come together on fast track authority—authority that will undoubtedly provide billions of dollars to our economy through increased trade—means the longer that American families will have to endure a less than optimal economy. As the President noted "Every day we go by without the authority is another day we are missing opportunities to help our economy, to help our workers, to help our country, to relate to our friends around the world." President Bush is right on target.

In closing, I urge passage of the Trade Promotion Authority legislation. It is my hope that the majority leader will give us a date certain when the Senate will have the opportunity to act on this important legislation. I hope that we pass TPA before Memorial Day.

CLONING

Mr. KENNEDY. Mr. President, in the next few weeks, the Senate will debate the important issue of cloning. Using cloning to reproduce a child is improper and immoral—and it ought to be illegal. I think that every member of the Senate would agree on this point.

But some want to use our opposition to human cloning to advance a more sweeping agenda. In the name of banning cloning, they would place unwarranted restrictions on medical research that could improve and extend countless lives. In a letter to the Congress this week, 40 Nobel Laureates wrote that these restrictions would "impede progress against some of the most debilitating diseases known to man." I am saddened that the President has endorsed these restrictions to the detriment of patients across America.

Senator ARLEN SPECTER, Senator DIANE FEINSTEIN, and I have developed legislation that bans human cloning, but allows medical research to go forward with strict ethical oversight. I am confident that our colleagues on both sides of the aisle will support this balanced and responsible bipartisan approach—rather than voting to ban an area of medical research that holds such great promise.

We must not let the misplaced fears of today deny patients the cures of tomorrow.

The recent announcement that rogue doctors may have initiated a pregnancy through cloning shows how urgently our legislation is needed. Such actions should be a crime, and our legislation will make human cloning punishable by fines and imprisonment.

But we must not confuse human cloning with medical research using the remarkable new technique of nuclear transfer. One creates a person and should be banned. The other saves lives by helping doctors find cures for diseases that deprive people of their dignity, their careers or even their very lives. We owe it to our fellow citizens to do everything we can to encourage this extraordinary research that brings such great hope to so many Americans. Medical research using nuclear transfer does not reproduce a child or create carbon copies of ourselves.

But this debate isn't about abstract ideas or complex medical terms—it's about real people who could be helped by this research. Dr. Douglas Melton is one of the nation's foremost researchers on diabetes. For Dr. Melton, the stakes involved in this research could not be higher. His young son, Sam, has juvenile diabetes, and Dr. Melton works tirelessly to find a cure for his son's condition.

One of the most promising areas of research on diabetes involves using stem cells to provide the insulin that Sam—and thousands of children like him—need to live healthy, active lives.

But a shadow looms over this research. A patient's body may reject the very cells intended to provide a cure. To unlock the potential of stem cell research, doctors are trying to reprogram stem cells with a patient's own genetic material. Using the breakthrough technique of nuclear transfer, each one of us could receive transplants or new cells perfectly matched to our own bodies. Can we really tell Sam Melton, and the millions of Americans suffering from diabetes, or Parkinson's disease or spinal injuries that we won't pursue every opportunity to find a cure for their disorders?

Some have said that this research will put women at risk by subjecting them to undue pressures to donate eggs. Our legislation addresses this concern by applying to all nuclear transfer research—whether publicly or privately funded—the same strict ethical standards used in research funded by the NIH. These protections guarantee ethical review, informed consent, and respect for the privacy of donors.

Congress has rejected calls to place undue restrictions on medical research many times in the past. In the 1970s we debated whether to ban the basic techniques of biotechnology. Some of the very same arguments that are raised against nuclear transfer research today were raised against biotechnology back then. Some said that the medical promise of biotechnology was uncertain, and that it would lead to ecological catastrophe or genetic monsters.

Because Congress rejected those arguments then, patients across America today can benefit from breakthrough new biotechnology products that help dissolve clots in the arteries of stroke victims, fight leukemia, and help those with crippling arthritis lead productive lives.

When in vitro fertilization was first developed in the 1980s, it too, was bitterly denounced. And once again, there were calls to make this medical breakthrough illegal. Because Congress rejected those arguments then, thousands of Americans today can experience the joys of parenthood through the very techniques that were once so strongly opposed.

Congress was right to place patients over ideology in the past, and we should do the same again today.

ADDITIONAL STATEMENTS

JESSE SEROYER

• Mr. SESSIONS. Mr. President, the people of the great state of Alabama are going to benefit from the wisdom of President George W. Bush in appointing Jesse Seroyer as their United States Marshal. I came to know Jesse well when I was elected Attorney General of Alabama in 1994. My respect for him grew continuously. Jesse had one primary motivation—to do the right thing. He was proud of his work and wanted the Alabama Attorney General's office to be the best it could be. His focus was always on the right goal—investigating cases thoroughly, clearing the innocent and prosecuting the guilty. Jesse leads by example. He works hard, does the right thing and expects others to do the same. While he is cooperative and a team player, he will not participate in or condone wrongdoing.

Jesse's career began with the Opelika police department in 1976. He worked vice and narcotics and worked with many different law enforcement agencies making cases all over Alabama. In 1987 he joined the Attorney General's office as chief investigator. During his time with the Attorney General's office Jesse has been invaluable in a host of important cases and activities. He has investigated white collar crime, corruption, voter fraud, and violent crime cases. In addition, he trained other investigators in his unit, conducted investigations of judges for the Alabama Judicial Inquiry Commission, provided security and protection for the Attorney General and others, conducted all investigations under the Alabama Sports Agent Act, and assisted countless state, federal and local investigators in important investigations. In addition, he has helped develop and plan the investigative priorities of the Attorney General's office. Jesse also served as a certified instructor for Peace Officer Standard and Training program for Alabama.

I, and Senator RICHARD SHELBY, were pleased to recommend him to President Bush and I am certain that these qualities will make him a great Marshal.

When I became Attorney General, the office faced a serious budget crisis. Indeed, it was a disaster. The office was forced to reduce its size by one-third and to completely reorganize to meet our challenges with less personnel. That is when I saw Jesse Seroyer rise to the challenge. He took on many challenges and extra duties. Most importantly, as the investigator with the most institutional knowledge, he was invaluable to me and others in the office. It was a difficult time and he was a tower of strength. Without his leadership and cooperation we could not have been successful.

More than just a respected law officer, Jesse Seroyer is a man of faith and family. He married a very special lady, Novelette K. Ward, in 1973 not long after graduating from Opelika High School. Their marriage has produced two children, Steve and Jessica.

His faith is central to his life. He and his wife are active members of Greater Peace Baptist Church where he serves as a Deacon. He also serves as a Director for Boy Scout Troop 373, Opelika, Ala., and is a member of the National Organization of Black Law Enforcement Executives.

Novelette is extremely talented in her own right. She is also a state employee with the State Department of Education. She is a woman of rich Christian faith. At Jesse's investiture, she blessed the large crowd beautifully singing "America." It was a special way indeed for Jesse to start his new work.

Jesse Seroyer loves his God, his family and his country. He is trained and ready for this new step in his career. I extend my special appreciation to President Bush for this nomination and to the Senate for its unanimous confirmation. He will serve superbly.•

THE DEATH PENALTY AND THE INNOCENT

• Mr. CORZINE. Mr. President, Monday, a man named Ray Krone was released from prison. Ray Krone had been convicted of murder. He had already served 10 years behind bars. And he had been sentenced to die.

But Ray Krone is and always has been an innocent man. New DNA evidence proved that conclusively. He was convicted for a crime he did not commit. And prosecutors now acknowledge that. As the local county attorney put it, "He deserves an apology from us, that's for sure."

To put it mildly, that is an understatement.

How would any of us feel if we were charged, tried and convicted by a jury of our peers for a crime we did not commit? And then, to top it off, sentenced to die?

Ray Krone knows what that feels like. And, unfortunately, he is not alone. In fact, he was the 100th person to be released from death row with proof of his innocence.

These 100 innocent people have experienced nothing short of a living hell. And the outrageous injustice of their convictions and their sentences should be a wake up call for all of us.

I take second place to nobody in my determination to fight the scourge of crime. As part of that effort, I believe we need to be very tough on violent criminals, including imposing long sentences with little or no opportunity for parole.

But while we get tough on crime, we also need to recognize that our criminal justice system makes mistakes. Sometimes very serious mistakes.

Until recently, it was virtually impossible to know when innocent people were wrongfully convicted. But with the advent of DNA technology, at least some of these cases finally are coming to light.

Why are innocent people convicted and sentenced to death? To a large extent, it is because our criminal justice system has serious systemic flaws.

Capital defendants often have lawyers who do a terrible job. Sometimes, their failure is simply a result of carelessness and lack of preparation. They fail to find or interview key witnesses. They fail to thoroughly read the case law. They fail to object to unreliable evidence. They make a variety of mistakes.

I don't say this to criticize all defense attorneys. Most try to do a good job. But too many are inexperienced, overworked and underpaid. Even if they worked 24 hours a day, 7 days a week, they're just too overwhelmed to provide effective representation.

But ineffective assistance of counsel is just one reason why innocent people find themselves on death row. Sometimes eyewitnesses make honest mistakes. Sometimes, witnesses give false testimony, such as jailhouse informants seeking reduced sentences. Sometimes, prosecutors engage in misconduct by, for example, withholding evidence that could help a defendant's case.

Any of these factors can lead to a wrongful conviction. And we now have 100 examples to prove it.

A system that sends 100 innocent people to death row can be called a lot of things. But fair, equitable and just are not among them.

In fact, our criminal justice system is badly broken. And before we send any more innocent people to death row, we need to fix it.

That is why I am joining with Senator FEINGOLD in cosponsoring legislation to establish a moratorium on all Federal executions until a commission can be established to review the death penalty system and propose meaningful reforms.

This wouldn't lead to the release of any convicted criminals, or threaten public safety in any way. It would simply help ensure that innocent people are not put to death.

I urge my colleagues to support this legislation. And I want to express my sincere appreciation to Senator FEINGOLD for his leadership on this critically important matter.•

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in January 1996 in Houston, TX. A gay man was brutally murdered. The assailant, self-proclaimed white supremacist Daniel Christopher Bean, 19, was sentenced to life in prison for the murder.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

RECOGNITION OF LOILA HUNKING, CHILDCARE SERVICES COORDINATOR FOR THE STATE OF SOUTH DAKOTA

• Mr. JOHNSON. Mr. President, I rise today to honor a very special South Dakotan who has made a real difference in the lives of women, children, and families across my home State. Today is Loila Hunking's last day as Childcare Services Coordinator for the State of South Dakota. While I'm sure this is not the last we have seen of Loila, I wanted to use the occasion of her retirement to honor her tireless work in many capacities for the people of the State of South Dakota.

After some time as a reporter and editor for our State's largest newspaper, the Sioux Falls Argus Leader, Loila turned to a career as a high school English and Journalism teacher in Brandon, SD. During this time, Loila was an active member in the South Dakota Education Association, and also served in the South Dakota House of Representatives. Her time in the South Dakota Legislature is marked by her strong support for equal rights for women, enactment of a spousal rape law, credit regulation, and human rights issues. After leaving the legislature, Loila continued her work as an advocate in many capacities, truly leading the charge for issues important to women.

In 1976, Loila developed the first tool to measure community child care needs in South Dakota. Together with the Augustana Research Institute, Loila worked to put together a survey questionnaire and process of statistical computation that would assess child care needs and the causation of those needs in communities across South Dakota. Because of this survey, communities were able to explore the availability and scope of services and suggested relationships between women's career mobility, educational advancement, and child care opportunities.

As Chair of the South Dakota Commission on the Status of Women, Loila worked on a landmark publication that brought the serious issue of domestic violence into the light of day in South Dakota. The report published in 1979, and titled "A Conspiracy of Silence: A Report on Spouse Abuse in South Dakota" exposed the high occurrence of domestic violence in our State for the first time. State officials and the general population were stunned by the dramatic statistics the report revealed. The report offered important data and information to lawmakers who soon realized that this was not an issue that could be ignored.

Over the next two decades, Loila served as a member of the Sioux Falls School Board, the Sioux Falls City Commission, and as Chair of the South Dakota Democratic Party. Her tenure in all these positions was always marked by her devotion to the needs of children and families in South Dakota communities. In 1996, Governor Janklow appointed Loila as Childcare Services Coordinator for the state of South Dakota. He made an excellent choice. Throughout her years in that office, Loila has been dedicated to expanding, developing and improving childcare services in our state. She will be greatly missed.

Over the years, I have known that I can always count on Loila to give me the story, straight. I have always appreciated her no-nonsense approach to policy, government, and politics. It's my hope that Loila will find time in her retirement to continue to serve women, children, and all of South Dakota. She has always been a strong voice for those who were in need of one. She truly has made South Dakota a better place to live. I offer her my whole-hearted congratulations and thanks upon her retirement, and wish her all the best in her future endeavors.•

TAIWAN RELATIONS ACT

• Mr. SMITH of New Hampshire. Mr. President, April 10 marked the 23d anniversary of the Taiwan Relations Act, signed into law by President Jimmy Carter in 1979. The Taiwan Relations Act has enabled Taiwan to build successfully a democratically governed society and an economy by which the Taiwanese people prosper.

However, for Taiwan to continue its economic and political development under the ominous threats posed by Communist China, the United States must remain committed to the Taiwan Relations Act. The United States must ensure Taiwan possesses a capable military deterrent until a peaceful settlement of cross-straits relations with the People's Republic of China is realized.

The United States cannot allow the People's Republic of China to bully Taiwan, as it did during the 1995 Taiwan legislative elections and in the 1996 and 2000 Presidential elections. I am quite pleased to see the Bush administration's strong support for Taiwan. In particular, I was delighted to hear that the Bush administration would do "whatever it takes" to defend Taiwan.

Taiwan has proven itself a worthy friend. Its dedication to democratic freedoms, processes and institutions, attention to human rights, and adherence to rule of law, as well as its words and deeds after the events of September 11, 2001, have helped it gain strong political support in the United States. We must continue to assist such a worthy friend by honoring the Taiwan Relations Act in its totality and making sure that mainland China does not misunderstand our intention of maintaining peace and stability in the Taiwan Strait.•

VOTE EXPLANATION

•Mr. BAUCUS. Mr. President, I submit this statement to explain my absence on Wednesday, April 10 on the rollcall votes regarding the amendments offered by the distinguished Senator from California, Senator FEINSTEIN, and the distinguished Senator from Idaho, Senator CRAIG. Unfortunately, I was absent for medical reasons and was unable to vote.

I wanted to express my support for Senator FEINSTEIN's amendment and had I been here, my intention was to vote "yes" on the motion to invoke cloture on her energy derivatives amendment. I understand that this body specifically exempted over-the-counter trading in energy derivatives from anti-fraud, anti-manipulation and other oversight regulation by the Commodities Futures Trading Commission back in 2000. However, I believe the Enron collapse, and the dramatic energy price spikes we saw last year in California and the Northwest, including in my State of Montana, tell us that we should take a closer look at energy markets and make sure we are catching market manipulators. I was disappointed that cloture was not invoked on this amendment.

I also wanted to express my support for Senator CRAIG's amendment, and had I been here, my intention was to vote for the Craig amendment to strike title II of S. 517. With so much uncertainty in today's energy markets, I was not convinced that the modified electricity restructuring provisions in S. 517 did enough to protect the best interests of consumers. This is a complicated area of Federal law, and I think the Senate needs more time to get it right. For that reason, I would have supported Senator CRAIG's amendment.•

BILL TAYLOR

• Mr. SESSIONS. Mr. President, the office of United States Marshal is one of the great and historic law enforcement positions in America. This honor carries with it the responsibility of protecting the Federal judiciary, tracking down fugitives from justice, delivering defendants to trial, ensuring safety of witnesses, leading and coordinating with local law enforcement and, in general, helping the entire federal legal system work together harmoniously and effectively to fight crime. Because Marshals often come from State and local law enforcement to their federal position, their experience helps further communication among all criminal justice agencies. This is critical today in fighting crime.

I was therefore extremely pleased William S. Taylor and that President Bush has chose him to be the U.S. Marshal for the Southern District of Alabama. He has all the qualities necessary to be a great success. First and foremost he is a good man. He loves his God, his family and his country. He has served each with distinction and fidelity. Bill is known for his honesty. He is always a gentleman, always courteous, always cooperative with the public and his superiors, but you may be sure he will not do things that he does not believe is right. On that point, he is rock solid.

I came to know Bill and his superior reputation when he served as Police Chief of Jackson, AL, while I served as U.S. Attorney for the Southern District of Alabama. During that time, we got to know each other well, working together on important criminal cases and even fishing together periodically. My mother, originally from Choctaw County, AL, later told me about his fine parents. Bill's father was a fine carpenter and brick mason respected throughout that area of the State. In 1994, I was elected to the office of Attorney General for Alabama and I prevailed upon Bill to join me as Alabama's Law Enforcement Coordinator. Bill was superb in that position and won the respect of law enforcement personnel all over the state. He understood their needs and problems and worked to help them. Law enforcement officers trusted him. In addition, I would call on him periodically to help us investigate difficult cases. He was a great asset as an investigator also. For more than a year, the chief of staff of my Senate office who was then the administrative officer of the Attorney General's office, Armand DeKeyser, State Trooper Mike Barnett, Bill and I roomed together in Montgomery while our families remained at home. I came to like and respect Bill even more during that time. His fidelity to the mission of the Attorney General's office and his high ideals were extraordinary.

Indeed, Bill has a history of exceptional service. He was drafted into the Army right after his graduation from Choctaw County High School in Butler. After undergoing rigorous training he was sent directly to Vietnam where he served with distinction for one year. Bill was promoted quickly and ended his Army career with the rank of E–6. His unit was involved in extensive combat taking heavy casualties and Bill completed his tour of Vietnam having promoted to acting Platoon Sergeant.

His superior performance in Vietnam was rewarded by a host of awards including the Bronze Star, the National Defense Service Medal with one bronze star, and the Republic of Vietnam Gallantry Cross Unit Citation Badge. When his country called, Bill Taylor went without complaint and served with courage and distinction.

After leaving active duty he joined the Army National Guard and continues to serve in the Army Guard with distinction, now having attained his rank of Chief Warrant Officer Two. Indeed, Vietnam turned out not to be his only war. As a Guardsman, he was called again to combat for 6 months service in Desert Shield/Desert Storm. A superb military record indeed.

After Vietnam, Bill returned to his hometown of Butler and in 1969 was hired as a police officer. At that point, a fellow Choctaw Countian, Larry Linder, then a lieutenant with the Jackson, AL, Police Department lured him to the Jackson Police Department. There Bill found his calling. He served 2 years as a patrolman, two years as a lieutenant, 2 years as Assistant Chief and in 1975, commenced a sterling 20-year career as a police chief. Though very young, Bill did a superb job as chief, creating a highly respected police department in Jackson. He was selected for the prestigious national FBI Academy and undertook many educational programs. In fact, such was the excellence of his career, that in 1979 Chief William S. Taylor was named Citizen of the Year in Jackson and in 1980 he was selected as the Law Enforcement Officer of the Year for the state of Alabama. All this when he was hardly 30 years of age.

Has any of this turned his head—made him "too big for his britches"? The answer is no. He is the same today as when he first answered the call of his country to serve in Vietnam. He will lead the Marshal's office with fairness, professionalism, skill and integrity. President Bush is to be commended for this excellent nomination. One of his most valuable attributes is his knowledge of and respect for local law enforcement. This is a critical quality for a modern marshal. Working every day to enhance cooperation and coordination among all state and local law enforcement agencies, as well as the federal agencies is one of the most important duties of the office. His experience and the respect with which he is held will make him quite valuable in this regard.

Bill is married to an exceptional lady in her own right, Catherine. They have been married for 32 years and have three sons Patrick, Bobby and Jonathan. The Senate acted wisely when it unanimously confirmed President Bush's nomination of William S. Taylor. The people of the United States will continue to benefit from his leadership.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1009. An act to repeal the prohibition on the payment of interest on demand deposits.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself and Ms. LANDRIEU):

S. 2120. A bill to amend section 313 of the Tariff Act of 1930 to modify the provisions relating to drawback claims, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself and Ms. LANDRIEU):

S. 2121. A bill to amend section 313 of the Tariff Act of 1930 to simplify and clarify certain drawback provisions; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN:

S. Res. 239. A resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. *Henry Bacon*, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 969

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 1104

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. 1104, a bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1787

At the request of Mr. DASCHLE, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1787, a bill to promote rural safety and improve rural law enforcement.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 1868

At the request of Mr. BIDEN, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1868, a bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

S. 1991

At the request of Mr. HOLLINGS, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Connecticut (Mr. DODD), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2057

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2057, a bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program.

S. 2076

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2076, a bill to prohibit the cloning of humans.

S. RES. 230

At the request of Mr. CORZINE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Res. 230, a resolution expressing the sense of the Senate that Congress should reject reductions in guaranteed Social Security benefits proposed by the President's Commission to Strengthen Social Security.

AMENDMENT NO. 3103

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 3103 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 239—RECOGNIZING THE LACK OF HISTORICAL RECOGNITION OF THE GALLANT EXPLOITS OF THE OFFICERS AND CREW OF THE S.S. "HENRY BACON" A LIBERTY SHIP THAT WAS SUNK FEBRUARY 23, 1945, IN THE WANING DAYS OF WORLD WAR II

Mr. ALLEN submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 239

Whereas during World War II the S.S. Henry Bacon was assigned the task of conveying war materials and supplies to the beleaguered Russian nation via the dangerous Murmansk Run, and faithfully fulfilled its mission;

Whereas in 1945 the S.S. Henry Bacon saved 19 refugees from Nazi-controlled Norway and accepted these Norwegian refugees from the British for passage to Murmansk;

Whereas the S.S. Henry Bacon, with a full crew and refugees aboard, set sail for Scotland amid the worst storms ever registered in the Arctic Ocean and suffered damage from the force of the storms and from internal mechanical problems;

Whereas the S.S. Henry Bacon, while suffering from a loss of steering capacity, lost its place in Convoy RA 64 and became a stray, unable to communicate with the convoy and required to maintain radio silence;

Whereas the S.S. Henry Bacon was left to its own devices: engine room workers used a sledgehammer and wedge to physically turn the ship;

Whereas the S.S. Henry Bacon, alone in that freezing sea, came under attack by 23 Junker JU–88s of the German Luftwaffe;

Whereas armed with only several small guns, the United States Navy Armed Guard and the ship's Merchant mariners fought gallantly against the oncoming torpedo bombers;

Whereas mortally wounded after 1 German pilot was successful in delivering a payload to the ship, the S.S. Henry Bacon fought back, shooting down 9 enemy planes;

Whereas when the S.S. Henry Bacon began to sink, her captain ensured that all 19 Norwegian refugees would receive a place in a lifeboat;

Whereas when the lifeboat supply was exhausted, crewmen made rough rafts from the railroad ties that had been used to secure locomotives delivered to Russia;

Whereas the S.S. Henry Bacon went down with 28 casualties, including Captain Alfred Carini, Chief Engineer Donald Haviland, Bosun Holcomb Lammon Jr., and the commanding officer of the United States Navy Armed Guard, Lt. John Sippola, but in its sinking kept the German planes from looking further and locating the main body of the convoy;

Whereas the 19 Norwegian refugees were saved and ultimately returned to Norway; and

Whereas the actions of the officers and crew of the S.S. Henry Bacon, in the finest tradition of the United States Merchant Marines and the United States Navy, have been recognized by the people of Norway and Russia but, until now, have not been acknowledged by our grateful Nation: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the valiant efforts of the crew of the S.S. Henry Bacon; and

(2) requests that the President issue a proclamation, calling to memory the deeds, exploits, and sacrifices of the officers and crew of the S.S. Henry Bacon.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3124. Mr. FITZGERALD (for himself, Mr. CORZINE, Mr. JEFFORDS, and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3125. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3124. Mr. FITZGERALD (for himself, Mr. CORZINE, Mr. JEFFORDS, and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 2 and 3, insert the following:

SEC. 2 . DEFINITIONS OF BIOMASS AND RENEWABLE ENERGY FOR THE PURPOSES OF THE FEDERAL PURCHASE REQUIREMENT AND THE FEDERAL RENEWABLE PORTFOLIO STANDARD.

(a) FEDERAL PURCHASE REQUIREMENT.—

(1) BIOMASS.—In section 263, the term "biomass" does not include municipal solid waste.

(2) RENEWABLE ENERGY.—Notwithstanding anything to the contrary in subsection (a)(2) of section 263, for purposes of that section, the term "renewable energy" does not include municipal solid waste.

(b) FEDERAL RENEWABLE PORTFOLIO STANDARD.—

(1) BIOMASS.—Notwithstanding anything to the contrary in subsection (l)(1) of section 606 of the Public Utility Regulatory Policies Act of 1978 (as added by section 265), for the purposes of that section, the term "biomass" does not include municipal solid waste.

(2) RENEWABLE ENERGY RESOURCE.—Notwithstanding anything to the contrary in subsection (l)(10) of section 606 of the Public Utility Regulatory Policies Act of 1978 (as added by section 265), for the purposes of that section, the term "renewable energy resource" does not incluce municipal solid waste.

SA 3125. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . ENHANCED DOMESTIC PRODUCTION OF OIL AND GAS THROUGH EXCHANGE OF NONPRODUCING LEASES.

(a) DEFINITIONS.—For purpose of this section:

(1) the term "Badger-Two Medicine Area" means federal lands, owned by the United States Forest Service, located in: T 31 N, R 12–13 W; T 30 N, R 11–13 W; T 29 N, R 10–16 W; and, T 28 N, R 10–14 W.

(2) the term "Blackleaf Area" means federal lands, owned by the United States Forest Service lands and Bureau of Land Management, located in: T 27 N, R 9 W; T 26 N, R 9–10 W, T 25 N, R 8–10 W, T 24 N, R 8–9 W.

(3) the term "nonproducing leases" means authorized Federal oil and gas leases that are in existence and in good standing as of the date of enactment of this Act and are located in the Badger-Two Medicine Area or the Blackleaf Area.

(4) the term "Secretary" means the Secretary of the Interior.

(b) EVALUATION.—The Secretary is directed to undertake an evaluation of opportunities to enhance domestic production through the exchange of the nonproducing leases in the Badger-Two Medicine Area and the Blackleaf Area. In undertaking the evaluation, the Secretary shall consult with the Governor of Montana, the lessees holding the nonproducing leases, and interested members of the public. The evaluation shall include—

(1) A discussion of opportunities to enhance domestic production of oil and gas through an exchange of the nonproducing leases for oil and gas lease tracts of comparable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(2) A discussion of opportunities to enhance domestic production of oil and gas through the issuance of bidding, royalty, or rental credits for use on federal onshore oil and gas leases in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf in exchange for the cancellation of the nonproducing leases;

(3) A discussion of any other appropriate opportunities to exchange the nonproducing leases or provide compensation for their cancellation with the consent of the lessee.

(4) Views of interested parties, including the written views of the State of Montana;

(5) A discussion of the level of interest of the holders of the nonproducing lessees in the exchange of such interest;

(6) Recommendations regarding the advisability of pursuing such exchanges; and

(7) Recommendations regarding changes in law and regulation needed to enable the Secretary to undertake such an exchange.

The Secretary shall transmit the evaluation to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives within two years after the date of enactment of this Act.

(c) VALUATION OF NONPRODUCING LEASES.—For purposes of the evaluation, the value of each nonproducing lease shall be an amount equal to—

(1) consideration paid by the current lessee for each nonproducing lease; plus

(2) all direct expenditures made by the current lessee prior to the date of enactment of this Act in connection with the exploration or development, or both, of such lease (plus interest on such consideration and such expenditures from the date of payment to date of issuance of the credits); minus

(3) the sum of the revenues from the nonproducing lease.

(d) SUSPENSION OF LEASES.—In order to allow for the evaluation under this section and review by the Congress, nonrproducing leases in the Badger-Two Medicine Area shall be suspended for a period of three years commencing from the date of enactment of this Act.

(e) LIMITATION ON SUSPENSION OF LEASES.—The suspension referred to in subsection (d) shall not apply to nonproducing leases located in the Blackleaf Area.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a joint hearing has been scheduled before the Committee on Energy and Natural Resources and the committee on Indian Affairs.

The hearing will take place on Wednesday, April 24, 2002 at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2018, to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes.

Because of the limited time available for the hearing witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Mike Connor or Kira Finkler of the committee staff at (202-224-4103).

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON IMMIGRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary subcommittee on Immigration be authorized to meet to conduct a hearing on "The Enhanced border Security and Visa Entry Reform Act" on Friday, April 12, 2002, at 9 a.m., in Dirksen 226.

Witness List

Panel I: Ms. MaryEllen Salamone, Director, Families of September 11, North Caldwell NJ, and Ms. Kathleen Campbell Walker, American Immigration Lawyers Association and Senior Shareholder and Chair of the Immigration Department, Kemp Smith, PC, El Paso, TX.

Panel II: The Honorable Robert C. Byrd.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Melanne Civic, a detailee on my Judiciary Committee staff, be granted the privilege of the floor for the duration of the debate on border security.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Madam President, I ask unanimous consent to grant the privilege of the floor to Dustin Pead, who is a detailee on the Judiciary Committee, for the duration of the consideration of H.R. 3525.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 762 through 772; that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, any statements thereon be printed in the RECORD, and that the Senate return to legislative session, without any intervening action or debate.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Patrick E. McDonald, of Idaho, to be United States Marshal for the District of Idaho for the term of four years.

Warren Douglas Anderson, of South Dakota, to be United States Marshal for the District of South Dakota for the term of four years.

James Joseph Parmley, of New York, to be United States Marshal for the Northern District of New York for the term of four years.

J. Robert Flores, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

EXECUTIVE OFFICE OF THE PRESIDENT

Scott M. Burns, of Utah, to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

DEPARTMENT OF JUSTICE

John B. Brown, III, of Texas, to be Deputy Administrator of Drug Enforcement.

Michael Taylor Shelby, of Texas, to be United States Attorney for the Southern District of Texas for the term of four years.

Jane J. Boyle, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

Matthew D. Orwig, Of Texas, to be United States Attorney for the Eastern District of Texas for the term of four years.

James B. Comey, of New York, to be United States Attorney for the Southern District of New York for the term of four years.

Thomas A. Marino, of Pennsylvania, to be United States Attorney for the Middle District of Pennsylvania for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE READ THE FIRST TIME—H.R. 1009

Mr. REID. Mr. President, it is my understanding that H.R. 1009 has been received from the House and is now at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1009) to repeal the prohibition on the payment of interest on demand deposits.

Mr. REID. Mr. President, I ask for its second reading but object to my own request on behalf of other Members.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR MONDAY, APRIL 15, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Monday afternoon, April 15, at 1 p.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the exception that the time from 1 to 1:30 be under the control of Senator DORGAN, and the time from 1:30 to 2 p.m. be under the control of Senator LOTT or his designee; and, further, that at 2 p.m. the Senate resume consideration of the Border Security Act.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

PROGRAM

Mr. REID. For the information of all Senators, the next rollcall vote is expected on Monday evening at approximately 5:30 in relation to an amendment to the Border Security Act or on final passage of that act or on an Executive Calendar nomination.

Mr. STEVENS. Will the Senator yield for one moment?

Mr. REID. I am happy to yield to my friend from Alaska.

HAWAII AND ALASKA POLITICS

Mr. STEVENS. Mr. President, seeing my good friend, the Presiding Officer, and the distinguished whip having made the statement he made, I would like the RECORD to show that at the time the Senator from Hawaii was fighting for statehood for Hawaii, Hawaii was Republican. At the time I was fighting for statehood for Alaska, Alaska was Democratic. It has changed since the two of us have been here.

ADJOURNMENT UNTIL MONDAY, APRIL 15, 2002 AT 1 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:26 p.m., adjourned until Monday, April 15, 2002, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate April 12, 2002:

DEPARTMENT OF JUSTICE

JEREMY H.G. IBRAHIM, OF PENNSYLVANIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2002, VICE RICHARD THOMAS WHITE, TERM EXPIRED.

JEREMY H.G. IBRAHIM, OF PENNSYLVANIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2005. (REAPPOINTMENT)

DAVID B. RIVKIN, JR., OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF

THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2004, VICE LARAMIE FAITH MCNAMARA.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 12, 2002:

DEPARTMENT OF JUSTICE

PATRICK E. MCDONALD, OF IDAHO, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF IDAHO FOR THE TERM OF FOUR YEARS.

WARREN DOUGLAS ANDERSON, OF SOUTH DAKOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF FOUR YEARS.

JAMES JOSEPH PARMLEY, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

J. ROBERT FLORES, OF VIRGINIA, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

EXECUTIVE OFFICE OF THE PRESIDENT

SCOTT M. BURNS, OF UTAH, TO BE DEPUTY DIRECTOR FOR STATE AND LOCAL AFFAIRS, OFFICE OF NATIONAL DRUG CONTROL POLICY.

DEPARTMENT OF JUSTICE

JOHN B. BROWN, III, OF TEXAS, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT.

MICHAEL TAYLOR SHELBY, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JANE J. BOYLE, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

MATTHEW D. ORWIG, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JAMES B. COMEY, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

THOMAS A. MARINO, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

TAIWAN RELATIONS ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MORELLA. Mr. Speaker, the Taiwan Relations Act (TRA) became U.S. law on April 10, 1979 and for the last twenty-three years, has served both the U.S. and the Republic of China on Taiwan well. By deterring aggression by the mainland, the United States has protected Taiwan from being forced into negotiations with China under the threat of armed attack or other forms of coercion. The TRA maintains the stable and secure environment within which Taiwan has become one of the world's leading free-market democracies. Today, Taiwan is prosperous and democratic, a nation well recognized for its achievements worldwide.

Taiwan is the seventh largest trading partner of the United States and has imported more from the United States each year, over the past 15 years, than the whole of mainland China. Furthermore, Taiwan and the United States share similar principles of freedom, democracy, human rights, peace and prosperity. Within the guidelines of the Taiwan Relations Act, Taiwan has completed various economic reforms and become a fully democratic country.

The legal and policy framework created by the TRA has allowed the U.S. Government and the American people to enjoy substantive relations with the governments and people on both sides of the Taiwan Strait. None of this would have been possible, as Ronald Reagan noted in 1980, had it not been for "the timely action of the Congress, reflecting the strong support of the American people for Taiwan."

On the eve of the 23rd anniversary of the Taiwan Relations Act, I am confident that our relations with Taiwan will grow even stronger and that the TRA will continue to serve as the foundation for a strong partnership between our two nations.

HONORING 50 YEARS OF THE VIENNA LITTLE LEAGUE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to congratulate the Vienna Little League of Vienna, Virginia as it celebrates 50 years of providing outstanding community service to the boys and girls of Vienna. In 1952, young ball players in Vienna were advised they could no longer play in the neighboring town's Little League. With a dedicated group of parents and the backing of the Lions Clubs of Vienna, the Vienna Little League was formed. One hundred and seventy-five players participated that first year. Over the years, the League has grown rapidly, with over 1,200 children now participating in Tee-ball, Rookie, Minors, Majors and Challenger programs.

I am proud to point out that the Vienna Little League facilities and programs are among the finest in the country. The League earned a trip to the Little League World Series in 1972 and won the Virginia State Championship last season.

Mr. Speaker, in closing, what we are ultimately saluting today are the educational opportunities the League provides to thousands of boys and girls in terms of teamwork and sportsmanship. I know my colleagues join me in commending Vienna Little League on their first 50 years and look forward to it celebrating many more.

TRIBUTE TO ONONDAGA HIGH SCHOOL FOOTBALL TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. WALSH. Mr. Speaker, I rise today to congratulate the Onondaga High School Boys Varsity Football Team for winning the Class D New York State Football Championship on December 1, 2001. This was the first team in Onondaga High School's history to win a Class D State football championship.

Four years ago Onondaga High School did not have a football team; therefore, within just a few years this team quickly took the game to new levels, surpassing all others in the state. Ending the season 13–0, this stellar team attained their goals and set league records. The Tigers set the bar high and focused upon winning their league title, sectional title, and state title. Their strategy was a success because they were the first team out of the 41-school Onondaga High School League to win the state title. They stayed focused and never let their determination fade.

This team came together, and against all odds, rose to the top. As a result of their unfettered fortitude, the Tigers, led by coach Bill Spicer, established themselves as a unified team and showed others how hard work, courage, and passion for the game can enable any team to conquer their goals.

On behalf of the people of the 25th District of New York, it is my honor to congratulate the Onondaga High School football team and their coaching staff on their Class D State Football Championship. With these remarks, I would like to recognize the following players and staff. Hodges Sneed, Chad Amidon, Ryan Hotaling, Justin Graham, Ricky Bova, Kyle Bome, Adam Legg, Donald Cummings, Brandon VanSlyke, Carl Runge, John Manley, Matt Scriber, Mac Cushing, Andrew Flynn, Mike Hart, Tom Brownell, Kyle Martin, Joe DelVecchio, Marty Brunner, Shane Zehr, Jon Whipple, Dan Willis, Pete Majewski, Jacob Cummings, Cory Dill, Mike McAuliffe, James Sanford, Robert Bailey, Caleb Golembiewski, Chris Mayotte, Travis Burton, Pat Neuman, Kurt Wasilewski, Aaron Johnson, Paul Runge, Travis Hass, Adam Goodman, Jesse Schneider, Head Coach Bill Spicer, Building Principal William Rasbeek, Athletic Director Michael Rizzi, Assistant Coaches, Paul Taylor, Jeff Pierce, Rick Bailey, and Victor Zampetti, and Volunteer Coaches Dave Pierce and Sean Colfer.

IMPROVING THE MEDICARE SYSTEM

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to introduce legislation that will improve equity in the Medicare system and help to alleviate the growing problem of physician retention and recruitment in many areas.

The current physician fee schedule for Medicare has several components, one of which is a geographic index supposedly to adjust for cost differences in different areas. While this makes sense for a physician's expenses for office rent and other costs to vary by region, the time spent evaluating and treating a patient should not depend on where a senior lives.

My bill equalizes the physician work component of the Medicare physician fee schedule. The physician work component measures the physician time, skill and intensity in providing a service. Two additional components account for practice expense and malpractice expense. While practice and malpractice reimbursement should reflect differences in geographic costs, significant differences in physician fees in a national market for health care providers directly creates shortages in some communities like New Mexico, and excesses in other communities because they pay more.

This bill would eliminate the impact of the adjuster on physician pay by making it equal across the country. The physician work geographic practice cost index (GPCI) for New Mexico is 0.973. Bringing New Mexico to a 1.00 geographic adjuster whether through a floor or making all physician fees equal would translate into about a $2,592,203 annual increase in Medicare payments to New Mexico physicians.

More and more seniors are learning that their physician has moved to a neighboring state because salaries are dramatically higher. New Mexicans don't pay into Medicare based on where we live, and we should not be denied access to health care because of where

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

we live. Seniors in rural areas or "low cost areas" have seen increasing numbers of doctors leave for higher paying areas. Keeping doctors in rural states is extremely difficult because of the pay gap driven by discriminatory Medicare reimbursement. The disparities are very large. In 2000, average Medicare payments per beneficiary in New Mexico were $3,726, while in Texas average payments were $6,539—70 percent more.

I urge my colleagues, especially those in rural states to consider this bill and its intent to bring equity and access to the outdated Medicare system.

A BILL TO PERMIT THE DISTRICT OF COLUMBIA TO HONOR ITS CITIZENS WITH STATUES IN STATUARY HALL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. NORTON. Mr. Speaker, I rise today to introduce a bill to permit statues honoring citizens of the District of Columbia in the same manner as statues honoring citizens of the States are placed in Statuary Hall in the Capitol. This legislation would amend two acts of Congress governing the submission and placement of statues in Statuary Hall to allow the District of Columbia to offer two statues to the Congress on behalf of D.C. residents. The District of Columbia was born with the nation itself after the War for Independence. The city has more than two centuries of its very own rich and uniquely American history. It goes without saying that the almost 600,000 American citizens who live in the nation's capital deserve the honor of having two of its history makers represented in the halls of the nation's Capitol just as citizens who live in the 50 states have long enjoyed.

This bill would allow the Mayor and the Council of the District of Columbia to devise the method for determining the identity of the honorees. Mayor Anthony Williams has already agreed to find funds in the District's budget for these statues upon the passage of this legislation. While D.C. residents have not yet obtained full political equality with the states, they have all the responsibilities of the states, including paying all federal taxes and serving in all wars. D.C. residents are second per capita in federal income taxes. They have served in every war since the Revolutionary War. In World War I, the district suffered more casualties than three states, in World War II, more casualties than four states, in Korea, more casualties than eight states, and in Vietnam, more casualties than in 10 states. These responsibilities and sacrifices speak best to some of the important reasons for this bill.

After more than 200 years, this bill offers District residents the opportunity to enjoy the same pride that all other citizens experience when they come to their Capitol—the opportunity to view memorials that commemorate the efforts of deceased local residents who have made significant contributions to American history. I ask for prompt passage of this mark of simple dignity and respect to the residents of the District of Columbia.

COMMENDING THE GIRL SCOUTS OF AMERICA ON THEIR 90TH ANNIVERSARY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to join my colleagues in commending the service of the Girl Scouts of America on their 90th Anniversary. I salute them for their dedicated service to the young women of this Nation.

Girl Scouting began in March of 1912, when founder Juliette Gordon Low assembled 18 girls from Savannah, Georgia, for a local Scouting meeting. Ms. Low strongly believed that all girls should be given opportunities to develop physically, mentally, and spiritually. These ideals continue in the organization today as girls acquire self-confidence, take on responsibility, and are encouraged to think creatively while acting with integrity.

As many of us know, the mission of the Girl Scouts is to help all girls grow strong. The organization works hard to empower our nation's young women to develop to their full potential as leaders and to set a foundation of values for sound decision-making. The Girl Scouts have continued to expand programs to address contemporary issues while still maintaining their core values.

Membership in the Girl Scouts has reached 2.7 million, making it the largest organization for girls in the world. Well over 30,000 girls are involved in the Girl Scouts in South Florida alone. The numbers continue to grow as more girls across the nation are exposed to the incredible experiences that the Girl Scouts provide.

Mr. Speaker, I would like to thank and commend the Girl Scouts for their efforts over the past 90 years in providing invaluable opportunities for girls' growth and development as citizen leaders.

INTRODUCTION OF THE UNITED STATES LIFE-SAVING SERVICE HERITAGE ACT, H.R. 4115

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. PALLONE. Mr. Speaker, today I introduce the United States Life-Saving Service Heritage Act, legislation to celebrate one of the most inspiring periods in America's maritime history. This legislation would establish a comprehensive program to inventory, evaluate, document, and assist efforts to restore and preserve surviving historic lifesaving stations. I am pleased that my Jersey Shore colleague Representative Frank LoBiondo has joined me in this effort.

The history of lifesaving in the United States dates back to 1785, when the Massachusetts Humane Society began building huts along the Massachusetts coast to aid shipwreck victims. These huts were later fitted with surfboats, beach-carts, and other lifesaving equipment. Beginning in 1847, the Federal government recognized the importance and necessity of lifesaving efforts when Congress provided a series of appropriations to establish lifesaving stations equipped to render assistance to shipwrecked mariners and their passengers. These stations were first established along the Atlantic coast with the assistance of Representative William Newell, who during the 31st and 39th Congresses represented some of the same areas of New Jersey that I represent today. Representative Newell's efforts contributed to the establishment of a network of lifesaving stations along the Jersey Shore from Sandy Hook to Cape May. In 1871, Congress approved the first appropriation for the Federal government to employ crews of lifesavers. On June 18, 1878, the "Act to Organize the Life-Saving Service" was enacted. In 1915 the Life-Saving Service merged with the Revenue Cutter Service to form the Coast Guard. At that time, there were over 275 lifesaving stations to aid shipwreck victims on the Atlantic, Pacific, Gulf, and Great Lakes coasts.

The volunteer and professional lifesaving personnel who staffed these stations risked their lives to prevent shipwreck casualties. Winslow Homer immortalized these great heroes of the American coast in his painting The Life Line. Walt Whitman celebrated their inspiring actions in the following excerpt of his poem Patrolling Barnegat:

> Through cutting swirl and spray watchful and firm advancing,
> (That in the distance! Is that a wreck? Is the red signal flaring?)
> Slush and sand of the beach tireless till daylight wending,
> Steadily, slowly, through hoarse roar never remitting,
> Along the midnight edge by those milk-white combs careening,
> A group of dim, weird forms, struggling, the night confronting,
> That savage trinity warily watching.

An outstanding example of this period survives today in my district. The historic Monmouth Beach lifesaving station, established in 1895, is a Duluth style station designed by the architect George Tolman. On one occasion, every member of the station's crew was awarded a gold lifesaving medal for rescuing victims of two shipwrecks on the same evening. Recently, this historic structure was slated for demolition to make way for a new parking lot for beachgoers. Fortunately, the entire community came together to save this important structure. However, much work needs to be done to preserve the station's history and the inspiring stories of those who served there.

It is not certain exactly how many stations like the one in Monmouth Beach remain. Many surviving historic lifesaving stations are of rare architectural significance, but harsh coastal environments threaten them, rapid economic development in the coastal zone, neglect, and lack of resources for their preservation. The heroic actions of America's lifesavers deserve greater recognition, and their contributions to America's maritime and architectural history should be celebrated.

That is why I have proposed the United States Life-Saving Service Heritage Act. This legislation would provide the resources necessary to inventory, document, and evaluate surviving lifesaving stations. It would also provide grant funding to assist efforts to protect and preserve these maritime treasures.

The United States Life-Saving Service Heritage Act would authorize the National Park Service, through its National Maritime Initiative, to inventory, document, and evaluate surviving historic lifesaving stations. These activities would be conducted in cooperation with the U.S. Life-Saving Service Heritage Association, a Massachusetts based non-profit educational organization that works to protect and preserve America's lifesaving heritage. This inventory, documentation, and evaluation would be similar in nature to a study completed by the Park Service in 1994, on historic lighthouses. Under this legislation, the Park Service would serve as a clearinghouse of information on lifesaving station preservation efforts, which would greatly assist public and private efforts to protect these historic structures and the maritime heritage that they embody.

Mr. Speaker, I urge my colleagues to support this legislation to celebrate one of the most heroic and inspiring periods in America's maritime history.

IN RECOGNITION OF THE 90TH ANNIVERSARY OF THE GIRL SCOUTS OF AMERICA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. STARK. Mr. Speaker, I rise today to honor the Girl Scouts of America on their 90th anniversary helping women of all ages "discover the fun, friendship, and power of girls together."

There are a myriad of GSA programs that have benefited kids in my community. LEAD (Leadership, Education and Development), Write On!, Si yo Puedo (yes I can), the Girl Scout Connection, and many others have helped girls in my district meet the challenges of the future.

Particularly in the San Francisco Bay Area of California, the Girl Scouting in the School Day program (GSSD) has helped over 3,100 at risk girls develop self-confidence by encouraging creativity and promoting life skills and values. Often these children are at high risk of dropping out of school, joining gangs, or using drugs and alcohol. GSSD has sponsored regular sessions, special events, and field trips to provide girls from over 51 Bay Area schools the experience of true camaraderie and friendship.

Another program, Teen Power-From the Heart, is committed to helping pregnant teens and teen mothers develop high self-esteem in addition to career and parenting skills. Last year, over 200 girls participated in this program.

I stress the importance of environmental education, and with the Program Adventure on Wheels for Girl Scouts (PAWS) over 3,000 girls in my district attended field trips to learn about protecting the environment.

A program entitled "Science is Super!" has provided science and math enrichment for girls living in low income housing in the Bay Area. This program is helping combat the common misbelief that women are not as competent as men in math and science. "Science is Super" is a wonderful program to help girls take their interests in science and math further.

It is unfortunate that many young women living in the United States cannot afford to join the Girl Scouts and take advantage of the countless experiences they have to offer. To tackle this problem, GSA created an Opportunity Fund to provide financial support for low income families whose children would like to join the Girl Scouts of America. This fund has provided grants to over 4,425 girls to participate in GSA programs. It is important that any young woman who wishes to be a Girl Scout have the opportunity to do so. One grandmother, who was able to send her three granddaughters to camp because of assistance by the Opportunity Fund, said camp meant: "Six days with no gunfire, of not watching out for drug dealers. Six days of children's experiences that most of us take for granted: peace and play without looking over their shoulders. Six days that will last a lifetime!"

I ask my colleagues to join with me today in commending the Girl Scouts of America for their 90 years of commitment to helping our women leaders of tomorrow.

TRIBUTE TO MAYOR ERIC HOLMES

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. THOMPSON of Mississippi. Mr. Speaker, I stand today to pay tribute to Mayor Eric "Red" Holmes Shelby, Mississippi. After a long battle with illness, Mayor Holmes died on March 11, 2002.

Although he was only in his second term, Mayor Holmes will be dearly missed by the citizens of Shelby. He is quoted as saying that his secret to success was that he worked to serve the citizens if Shelby instead of himself. This was indeed the case. While in office, Eric's main priority was to improve the future of children in Shelby. He served as an official with high school football and with the Delta Softball League. He was also instrumental in securing grants to construct the Shelby City Park in order to give children a decent place to play on weekends and after school. On the day the park opened, it should be of note, that he was there cooking hotdogs and playing with the kids as well. Mayor Holmes should be commended because he is truly a modem day "role model", displaying the characteristics of integrity and commitment for all to admire.

Today, I express my sincerest condolences to the family of Mayor Eric Holmes. Not only has his family experienced a great loss, but the town of Shelby and Mississippi Delta has lost a dedicated public servant as well.

CONGRATULATIONS BEATRICE GLADWELL

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. CAPITO. Mr. Speaker, I rise today to commend and congratulate Beatrice Gladwell for her outstanding service and contribution to her country, state, and community. Ms. Gladwell has been recognized by the United States Department of Agriculture (USDA) for her exemplary service and leadership through the Pocahontas County, West Virginia 4–H program. The USDA has presented Ms. Gladwell of Buckeye, West Virginia, with the 2001–2002 National 4–H Alumni Award.

The countless hours of service and leadership dedicated to strengthening the communities and the youth of West Virginia more than adequately qualifies her for this award. In her many years as a teacher, and as a leader in 4–H, Ms. Gladwell has fully demonstrated her enthusiasm and love for her community and her fellow West Virginians. Ms. Gladwell was presented with The National 4–H Alumni Award here in Washington, D.C. April 10, 2002 at the USDA's 4–H Centennial Celebration. The National 4–H Alumni Award is given to former members, who, through their career accomplishments, serve as role models for 4–H'ers across the nation in promoting the 4–H motto of "To Make the Best Better." The four "H's" in the national organization's title stand for: (1) Head, which entails thinking critically to solve problems, (2) Heart, which means respecting self, others, and the environment; (3) Hands, which requires preparing for a career serving others, and, (4) Health, which asks that members choose a healthy lifestyle and learn to manage change and embrace life's challenges. Only the most exemplary models of citizenship, leadership and service towards others are recognized with this award.

It is noteworthy that Ms. Gladwell has been involved in 4–H for the past 73 years of her life. She joined the organization at the age of 10 and is currently the leader of the Buckeye Winners 4–H Club. Not only is Ms. Gladwell an inspiration to all of us as a 4–H'ers, but she has been a well-respected teacher in Pocahontas County for the past 65 years as well. Ms. Gladwell, congratulations and thank you for working to foster a spirit of service, leadership and citizenship by helping so many in your community and contributing so much in producing strong and proud future generations of West Virginians.

I encourage all of my colleagues to join me in congratulating Ms. Beatrice Gladwell on this most-inspiring award and recognition.

CONGRATULATIONS TO VILLAGE OF RIDGEWOOD ON "FAMILY NIGHT"

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. ROUKEMA. Mr. Speaker, I rise today in recognition of an extraordinary night that took place in my hometown of Ridgewood, New Jersey. On March 26, 2002, the residents of Ridgewood had a "Family Night," an evening when everyone was encouraged to set aside after school programs and sports, evening meetings, and even homework, in order to spend time with their families.

Families made dinner together, played board games, and watched family home videos. Others read books together or did something that most families don't do during the busy work week-relax. The evening, called "Ridgewood Family Night-Ready, Set, Relax" was the result of thorough planning by 15 residents of Ridgewood. Working with school officials, town sports councils, clergy, and community leaders, these 15 individuals created an evening where it was possible for families to sit down and simply spend time with one another.

This doesn't sound like a radical idea, however seven months of preparation were required to clear families' schedules—guilt-free. Ridgewood is an active community, with outstanding youth programs and sports and an involved adult community. However, in our eagerness to expose our children to these programs, we all can be accused of over-scheduling our children, and ourselves. I think this is not only true for Ridgewood, but for cities and towns all over the United States. Ridgewood's family evening struck a nerve in America, as this town event made the news in The Washington Post, the New York Times, and USA Today, to name a few. Good Morning America spent time with families on that day and CNN featured the event on their show Crossfire. Ridgewood's plan to bring families together for just one evening resulted in people across the country stopping for a moment and reflecting on their own families' activities and commitments.

Perhaps not every town will be able to create such a successful evening as Ridgewood did, however families can create their own "Ready, Set, Relax" nights. I don't believe the Ridgewood community could have anticipated the tremendous positive response their evening received. I commend the planners of the family night, particularly Marcia Marra, Jenny Breining, Carol Williams, Tracy Autera, Doug Fromm, Anne Zusy, Wendy Schwehm, Denise Smith, Jenny Given, Donna Olsen, Beth BaRoss, Patti Roche, Cynthia Busbee, Adele Hoffmeyer, and Frank Sonnenberg. Additionally, I commend the families and members of the Ridgewood community for their participation. Their vision has made Americans look again at their hectic schedules of baseball games, band practice, club meetings, youth groups and music lessons. And hopefully, more families will spend an evening together occasionally, or even schedule a new event of their weekly calendar—family time.

Mr. Speaker, I urge my colleagues to join me in congratulating the Village of Ridgewood for the example they have set for America by taking time out for family. This is a lesson from which we can all benefit, in our districts, and in our own families. Thank you Ridgewood.

RECOGNITION FOR THE PENN LAKES GIRL SCOUTS

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. ENGLISH. Mr. Speaker, I would like to take a moment to honor the 90th anniversary of Girl Scouting, the world's largest organization for girls. Juliette Gordon Low founded the organization on March 12, 1912 in Savannah, Georgia. Through Girl Scouting, girls acquire self-confidence and expertise, take on responsibility, and are encouraged to think creatively and act with integrity—qualities that are essential in good citizens and great leaders. In my district in northwestern Pennsylvania, the Penn Lakes Girl Scout Council is made up of about 11,000 girls and volunteers. One in five girls in the five-county area served by the Penn Lakes County participates in girl scouting where they are encouraged to develop to their fullest potential.

Girl Scouts can be found in schools, public housing, churches, community centers, battered women's shelters, Head Start facilities, in-school programs, juvenile homes and international centers. The Penn Lakes Council is dedicated to meeting the individual needs of young women in all communities. The council's outreach initiative is designed to serve girls in underprivileged areas. Individual Girl Scouts are mentored in situations where a troop format is not available.

In the Penn Lakes Girl Scout Council, girls learn by doing, and they are encouraged to make contributions to the world around them through community service. Since the Sept. 11 tragedy, Girl Scouts have made patriotic ribbons, written letters to firefighters and volunteers, given their own money to America's Fund for Afghan Children, and collected more than 20,000 lollipops for New York City children. All in an effort to let the world know that Girl Scouts care.

The quality programming provided to Girl Scouts in northwestern Pennsylvania would not be possible without a dedicated network of adult volunteers. These dedicated women and men give their time and energy to ensure continued service to the increasing number of girls who want to become Girl Scouts.

Mr. Speaker, I ask my colleagues to join me in congratulating the Girl Scouts of America for 90 years of ensuring that girls have a quality foundation for becoming successful women. May girl scouting enjoy another 90 years where girls can continue to grow strong.

SIXTIETH ANNIVERSARY OF THE BATAAN DEATH MARCH

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SMITH of New Jersey. Mr. Speaker, this week marks the 60th anniversary of the infamous Bataan Death March, in which thousands of American and Filipino soldiers lost their lives in one of the most brutal episodes of World War II.

On December 22, 1941, the Japanese Army landed in northern Luzon in the Philippines and began to push southward toward Manila. At first, General Douglas MacArthur was inclined to confront the Japanese on the beaches, but without air support the U.S. Navy's small Asiatic fleet was in no position to challenge Japan at sea. While the U.S. regulars and Philippine Scouts were excellent troops, they were severely outnumbered and would have had no air support.

Giving up his initial strategy of defeating the enemy on the beaches, General MacArthur instead decided to withdraw to the Bataan Peninsula and pursue a strategy of defense and delay, by shortening his lines and using the mountainous, jungle-covered terrain to his advantage. He hoped they could hold out long enough for a relief force to be mounted from the United States.

By March 1942, however, it was clear that help from the United States would not arrive in time. Lacking sufficient food and ammunition, and wracked by dysentery and malaria, nevertheless the American-Filipino force bravely continued to fight.

In March, President Roosevelt ordered General MacArthur to leave the Philippines and escape to Australia, handing over his command to Lt. Gen. Jonathan Wainwright and to Maj. Gen. Edward King.

On April 9, 1942, with food, supplies and ammunition virtually gone, after four months of gallant resistance, the exhausted and starving U.S. troops in Bataan were forced to surrender.

Mr. Speaker, unfortunately the courageous defense of Bataan had a shockingly tragic end. Marching their prisoners toward camps in northern Luzon, the Japanese denied food and water to the sick and starving American and Filipino soldiers for more than a week. When the weakest prisoners began to straggle, Japanese guards shot or bayoneted them and threw their bodies to the side of the road. Even those soldiers who were healthy when the March started became ill with dysentery and malaria along this long road.

It is estimated by some historians that Japanese guards may have killed more than 600 Americans and 10,000 Filipino prisoners during this long and brutal March, and that more than 1,500 American and 25,000 Filipino soldiers may have lost their lives after reaching their destination.

Meanwhile, General Wainwright and his troops on the small, fortified island of Corregidor in Manila Bay had been able to continue resisting for another month, despite being under constant Japanese artillery and air bombardment. But on May 6, 1942, after Japanese troops stormed ashore on the island, General Wainwright agreed to surrender Corregidor and all other U.S. troops on the Philippine islands. And by May 9, 1942, the battle for the Philippines had ended, though there remained some Americans and Filipinos who escaped to the mountains and continued to wage a guerrilla war against the Japanese.

Mr. Speaker, this week, on the 60th Anniversary of the Bataan Death March, there remain thousands of surviving American and Filipino veterans who continue to bear the scars, both physical and emotional, of that war crime.

All of the courageous soldiers who fought, persevered or perished on the Island of Philippines at Bataan and Corregidor played a distinctive and vital role in World War II. Their stories, and the full history of the Bataan Death March must never be forgotten.

Inscribed on a monument in Corregidor, there is a poem by an unknown poet that pays homage to these brave soldiers: "Sleep my sons, your duty done. For Freedom's light has come. Sleep in the Silent Depths of the sea or in your bed of hallowed sod. Until you hear at dawn the low clear reveille of God."

Mr. Speaker, I call on all Americans who cherish liberty and freedom to join us this week in respectful recognition of the brave United States and Filipino soldiers who served in the Philippines during this fateful event.

TRIBUTE TO MAJOR GENERAL PAUL J. GLAZAR

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SAXTON. Mr. Speaker, I rise today to add to the many phrases of praise already accorded our departing New Jersey State National Guard Adjutant General, Major Paul J. Glazar. General Glazar departs this post after eight years of superb service. He has set the mark high for all others who follow in his footsteps.

General Glazar assumed the duties as The State Adjutant General for the New Jersey Army National Guard on February 24, 1994. As the Adjutant General he was responsible for the expansion of the Guard's command and control high technology training centers. His foresight in standing up these training centers for the education of staffs enabled the New Jersey National Guard to act as the focal point for command and control services on September 11, 2001. Fort Dix's ability to act in this key function can be traced back to outstanding leadership of General Glazar. Additionally, General Glazar demonstrated outstanding leadership in modernizing and expanding important Veteran projects for the state to include the Brigadier General William C. Doyle Veterans Cemetery and the New Jersey Veterans Memorial Home in Menlo Park.

Thankfully, we will not be losing General Glazar's leadership, since he will remain inside the New Jersey National Guard structure.

It is with tremendous pride and honor that I pay tribute to a great General who served New Jersey so honorably.

INTRODUCTION OF THE PRESIDENTIAL RECORDS ACT AMENDMENTS OF 2002

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. HORN. Mr. Speaker, today I am introducing the Presidential Records Act Amendments of 2002. Prompt enactment of this bill will fix a serious, but in my view readily solvable, problem that has developed in the implementation of the Presidential Records Act of 1978. I am pleased that a number of my colleagues from both sides of the aisle have joined me as co-sponsors of the bill.

The Presidential Records Act of 1978 was a landmark law. It declared for the first time that the official records of a former President belong to the American people. It gave custody of a former President's records to the Archivist of the United States and imposed upon the Archivist "an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act."

The Act built in safeguards over the disclosure of presidential records. It allowed former Presidents to restrict disclosure of certain confidential records for up to 12 years after they leave office. The authors of the Act considered this 12-year embargo sufficient to prevent a "chilling effect" on a President's ability to get candid and confidential advice. In this regard, they were mindful of the Supreme Court's observation in Nixon v. Administrator of General Services, 433 U.S. 425 (1977), that the expectation of confidentiality in presidential communications "has always been limited and subject to erosion over time after an administration leaves office." The Act also permanently shielded from public release records containing military and diplomatic secrets or other categories of information whose disclosure would not be in the national interest.

The Act first applied to the records of former President Ronald Reagan. Therefore, records that former President Reagan restricted for 12 years should have become publicly available in February 2001. Unfortunately, it took one full year after the release date envisioned by the Act for just a relatively small portion of those records to be made public. One reason for this is that the records have undergone lengthy reviews to determine whether the former or incumbent President should attempt to prevent their release by claiming "executive privilege."

For much of last year, release of the Reagan records was delayed while the current Administration repeatedly extended the deadline for making executive privilege decisions under an Executive Order that President Reagan had issued before he left office. On November 1, 2001, President Bush issued a new, and much more restrictive, Executive Order to govern the review of a former President's records for possible executive privilege claims.

The new Executive Order No. 13233 starts with a "background" section that asserts an extremely expansive view of the scope of executive privilege. It requires the Archivist to notify both the former and incumbent Presidents of requests for access to presidential records. It then prohibits the Archivist from releasing the records "unless and until" both the former President and incumbent President agree to authorize access, or unless the Archivist is directed to release the records by a final and non-appealable court order. The Executive Order makes any claim of executive privilege by either the former or incumbent President binding on the Archivist. Indeed, the Archivist must comply with a privilege claim by a former President even if the incumbent President does not believe the claim is well founded. The Order sets a target date of 90 days for the review of records. However, under the terms of the Order, the review periods available to the former and incumbent Presidents are essentially open-ended. A former or incumbent President can indefinitely postpone public disclosure of records simply by withholding approval for their release, without ever needing to claim executive privilege.

Last November, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, which I chair, held a hearing on implementation of the Presidential Records Act. At that hearing, lawyers, historians, and other experts criticized the Executive Order on legal and policy grounds. Members of Congress from both sides of the aisle voiced similar criticisms. Following the hearing, a host of archivists, historians and others contacted me to express their concerns over the Executive Order. Finally, several groups have filed a lawsuit to overturn the Executive Order.

I agree that the Executive Order violates the letter and spirit of the Presidential Records Act. However, I do not think we should wait perhaps years for the lawsuit to run its course. We need to act now in order to get implementation of the Act back on track. I believe we can solve the problem in a way that protects the constitutional prerogatives of former and incumbent Presidents while preserving the Act's intent of publicly disclosing presidential records as promptly and completely as possible. That is what my bill seeks to do.

Like the Executive Order, my bill establishes a process for the consideration of executive privilege claims. Like the Executive Order, it requires advance notice to the former and incumbent Presidents before presidential records are released. This permits them to review the records in order to decide whether to claim privilege. Also like the Executive Order, my bill requires the Archivist to withhold records (or parts of records) for which the *incumbent* President claims privilege. In this event, a requester would have the burden of challenging a privilege claim in court.

However, my bill differs from the Executive Order in several ways. The bill does not attempt to define the scope of executive privilege. It leaves this to the courts. The bill limits the amount of time the former and incumbent President can take to review records and claim privilege. The basic review period is 20 working days, which is the same limit imposed on agencies under the Freedom of Information Act. This period may be extended for not more than another 20 working days if the Archivist determines that an extension is necessary to permit adequate review. If there is no claim of privilege within the applicable review period, the Archivist must release the records.

The other key difference between my bill and the Executive Order concerns what happens if a former President claims privilege. As noted previously, the Executive Order forces the Archivist to withhold records any time a former President claims privilege. The requester then has the burden of going to court to challenge the privilege claim. This is the feature of the Executive Order most clearly at odds with the Presidential Records Act. The bill reverses this burden. If a former President claims privilege, the Archivist will withhold the records for an additional 20 days in order to give the former President time to file suit to enforce his privilege claim. However, the Archivist will then release the records absent a court order to the contrary.

I believe this is a reasonable approach, and one that is consistent with the intent of the Presidential Records Act. The Act already provides for lawsuits by a former President to vindicate his rights and privileges. Furthermore, the Act already protects from disclosure those categories of information that would ordinarily be subject to executive privilege claims. Thus, any privilege claim a former President might assert probably would be based on novel and untested legal grounds that should be initially considered by a court.

The bill also includes several provisions that are not in the Executive Order. Most of these provisions are intended to ensure more transparency and public accountability with respect to possible executive privilege claims. For example, a claim of privilege would be in a written public document signed by the incumbent or former President, as the case may be. This is consistent with the settled principle that the right to claim executive privilege is personal to the incumbent or former President and cannot be delegated to their assistants, relatives, or descendants.

Mr. Speaker, I request that a summary of the Presidential Records Act Amendments of 2002 be placed in the CONGRESSIONAL RECORD.

THE PRESIDENTIAL RECORDS ACT AMENDMENTS OF 2002 SUMMARY

The Presidential Records Act Amendments of 2002 establishes statutory procedures to govern the assertion of executive privilege claims by a former or incumbent President over records covered by the Presidential Records Act. It preserves the constitutional right of a former or incumbent President to assert privilege claims, but does so in a way that complies with the framework and intent of the Presidential Records Act. It supersedes the procedures established in Executive Order 13233.

The bill requires the Archivist to provide advance notice of 20 working days to the former and incumbent Presidents before releasing presidential records in accordance with the provisions of the Act. The Archivist would release the records upon the expiration of this 20-day period, except any records (or parts of records) for which the former or incumbent President asserts a claim of privilege.

The Archivist could extend the 20-day period for an additional 20 days if the former or incumbent President demonstrated a need for additional time to review the records. Additional time should rarely be needed. The former and incumbent Presidents have access to the records and could conduct their reviews well before the time the records are ready for public release. The Archivist also would have thoroughly categorized and screened the records before a notice is issued, which should greatly facilitate reviews by the former and incumbent Presidents.

The bill requires that any claim of privilege be in writing and signed by the former or incumbent President, specify the records to which it applies, and state the nature and grounds of the privilege claim. Notices of the proposed release of records, as well as any privilege claims, would be made public.

If the former President submitted a privilege claim, the Archivist would withhold the records covered by that claim for another 20 working days. This would permit the former President to seek judicial enforcement of his privilege claim, as already provided for in the Presidential Records Act. After expiration of this 20-day period, the Archivist would release the records unless a court ordered their continued withholding. This approach places the burden of establishing a privilege claim on the former President. Privilege claims should be extremely rare, given the protections already built into the Act and the age of the records.

If the incumbent President submitted a privilege claim, the Archivist would withhold the records unless and until the incumbent President withdrew the claim or there was a final, non-appealable court order directing the Archivist to release the records. This approach recognizes the legal and practical reality that the Archivist must honor a privilege claim by an incumbent President.

The bill would apply similar procedures to requests for access to records by Congress and the courts. The time periods, however, would be modified to ensure compliance with deadlines imposed by subpoenas or other legal process. Also, the bill does not specify an outcome if the incumbent President claimed privilege in response to a congressional or judicial access request. Disputes between the incumbent president and either the Congress or the courts would be left for resolution on a case-by-case-basis.

The bill makes several conforming changes to existing provisions of the Presidential Records Act. It recognizes that authority to claim executive privilege is personal to a former or incumbent President and cannot be delegated to their representatives. This is consistent with current legal theory and practice concerning executive privilege. It also recognizes that a former or incumbent Vice President cannot claim presidential privileges.

Finally, the bill provides that Executive Order 13233 shall have no force or effect.

AMERICAN SERVICEMEMBER AND CIVILIAN PROTECTION ACT OF 2002

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. PAUL. Mr. Speaker, I rise today to introduce the "American Servicemember and Civilian Protection Act of 2002."

This bill expresses the sense of the Congress that President Bush should formally rescind the signature approving the International Criminal Court made on behalf of the United States, and should take necessary steps to prevent the establishment of that Court. It also prohibits funds made available by the United States Government from being used for the establishment or operation of the Court.

Perhaps the most significant part of the bill makes clear that any action taken by or on behalf of the Court against members of the United States Armed Forces shall be considered an act of aggression against the United States; and that any action taken by or on behalf of the Court against a United States citizen or national shall be considered an offense against the law of nations.

Mr. Speaker, today in New York and Rome celebrations are underway to mark the formal establishment of this International Criminal Court. Though the United States has not ratified the treaty establishing the Court, as required by the U.S. Constitution, this body will claim jurisdiction over every American citizen—military personnel and civilian alike.

The Court itself, however, is an illegitimate body even by the United Nations' own standards. The Statute of the International Criminal Court was enacted by a Conference of Diplomats convened by the United Nations General Assembly, whereas according to the UN Charter, the authority to create such a body lies only in the UN Security Council.

The International Criminal Court was established contrary to the American Declaration of Independence and the Constitution of the United States. It puts United States citizens in jeopardy of unlawful and unconstitutional criminal prosecution.

The International Criminal Court does not provide many of the Constitutional protections guaranteed every American citizen, including the right to trial by jury, the right to face your accuser, and the presumption of innocence, and the protection against double jeopardy.

Members of the United States Armed Forces are particularly at risk for politically motivated arrests, prosecutions, fines, and imprisonment for acts engaged in for the protection of the United States. These are the same brave men and women who place their lives on the line to protect and defend our Constitution. Do they not deserve the full protections of that same Constitution?

Mr. Speaker, I hope all members of this body will join me in opposing this illegitimate and illegal court by co-sponsoring the "American Servicemember and Civilian Protection Act of 2002."

ARMAC

HON. JOHNNY ISAKSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. ISAKSON. Mr. Speaker, it is my distinct pleasure to recognize the Atlanta Regional Military Affairs Council (ARMAC) on the occasion of their 50th year of serving the people of Georgia.

The Atlanta Regional Military Affairs Council was created to foster partnerships, education and a strong working relationship between the business and military communities in the Atlanta area. ARMAC was founded 50 years ago and works closely with each of the military branches. The Atlanta area is rich with military history and structure with its bases: NAS-Atlanta, Dobbins ARB, Fort McPherson and Fort Gillem. Additionally, the Atlanta area hosts reserve units of the Coast Guard and National Guard. The ARMAC executive committee consists of representatives from every major command in the Atlanta area.

ARMAC was founded as a partnership with the Atlanta Chamber of Commerce. In 1999, largely due to the Cobb County Chamber of Commerces' extraordinary support of the Military, ARMAC found a new home with the Cobb County Chamber of Commerce.

Mr. Speaker, as the Atlanta Regional Military Affairs Council begins its 50th year of service to the military and business communities in Atlanta, it is highly appropriate to recognize their efforts over the past 50 years, and wish them well as they begin their next 50 years of service to the people of Georgia.

HONORING SERGEANT DAVID WURTZ

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. CROWLEY. Mr. Speaker, I rise today to pay tribute to Army Sergeant David Wurtz, a brave man who is not just a hometown hero to his neighbors in College Point, minutes from Ground Zero in New York City, he is also a true American hero. Our nation owes Sergeant Wurtz a debt of gratitude for being among the first fearless U.S. soldiers on the ground fighting Al-Qaeda forces in Afghanistan. That patriotic duty came at a price, and Sergeant Wurtz was awarded the Purple Heart after returning from battle injured.

David Wurtz was born to Clem and Joan Wurtz in College Point 25 years ago, and is a proud hometown boy. He attended Flushing High School and Bleeker Junior High. His mother Joan describes young David as shy, but always a good student. He gave his parents a scare when one day, at age 17, he missed dinner, something he never did. After much worrying by his parents, he later returned safe and sound—and enlisted in the U.S. Army's delayed entry program. At age 18, Mr. Wurtz was assigned in Hawaii. He quickly moved up the ranks and moved to the 10th Mountain Division at Fort Drum in upstate New York. Then came September 11, 2001.

After watching the horror of the terrorist attacks unfold on his television from Fort Drum, he had no idea that a short time later, he would be fighting terrorists in Afghanistan to protect his hometown and all of America from future terrorist attacks.

Between late September and March 1st, Sgt. Wurtz found himself in various staging and combat situations, leading up to his involvement in Operation Anaconda. The 10th Mountain Division was positioned on a mountain in Afghanistan in the morning hours of March 2nd and immediately became engaged in a 16-hour fire fight with enemy forces.

Shortly into the battle, Sgt. Wurtz was struck by a mortar shell, injuring his right foot. Minutes after the initial hit, the wounded Wurtz was hurt again, a mortar shell hitting his right kneecap. As he was being carried off the battlefield by medics, a photographer took his picture—a photo that appeared on front page of the March 8th New York Daily News. While he received medical attention in the field, because of the fierce fighting, Sgt. Wurtz and about 40 other injured soldiers were forced to endure the danger of intense fighting and freezing temperatures, because helicopters were unable to airlift them until nightfall.

After a series of operations and hospital stays oversees, Sgt. Wurtz arrived at Walter Reed Hospital in Washington, DC on March 9th to very grateful family members: his parents Clem and Joan, brothers Chris and Daniel, aunt and uncle Judy and Lenny Crawford, cousins Peggy Crawford and Brianne Pawson, and sister-in-law Danielle Auletta. While in Washington, he was presented with the Purple Heart and visits from U.S. Generals and visits from Members of Congress.

On March 18th, Sgt. Wurtz returned to New York City and his College Point neighborhood where he has been greeted and thanked by many appreciative friends, neighbors and local leaders. Despite his injuries, he is eager to report back to Fort Drum and is willing to return to Afghanistan if he is so ordered.

Although Sgt. Wurtz would disagree with the label, Mr. Speaker, please join me in honoring him as the hero he is. Sgt. David Wurtz's courageous service on behalf of this country is the reason our Armed Forces ensure that we remain the land of the free and the home of the brave.

A TRIBUTE TO KVPT VALLEY PUBLIC TELEVISION ON ITS SILVER ANNIVERSARY

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. DOOLEY of California. Mr. Speaker, I rise today to celebrate the twenty-fifth anniversary of KVPT Valley Public Television, which has made a significant contribution to the educational advancement of many people in my district. KVPT provides the Central San Joaquin Valley with quality PBS programs including Antiques Roadshow, Masterpiece Theater, and Sesame Street. Beyond that, Valley Public Television produces local programming such as Valley Press and Jobs, which broadcasts valuable local news and information about agriculture, employment, cultural events, and politics.

Throughout the past 25 years, community support has been an integral part of Valley Public Television. Through financial support, volunteering, and technical advice, Central Valley residents have maintained the station's quality alternative programming. Without the assistance and generosity of local residents, KVPT could not have sustained the inspirational and educational programming that has contributed so much to the people of my district.

Valley Public Television plays an important role in expanding educational opportunities for the Valley. It offers GED courses and has formed partnerships with local community colleges. These partnerships have resulted in the formation of on-air college courses that viewers can take for credit. KVPT also offers "Ready to Learn" workshops, which teaches parents, caregivers and teachers in a seven county region how to utilize KVPT's children's programming as an educational tool to help children get ready to learn before they enter the school system.

Under the leadership of its General Manager, Colin Dougherty, Valley Public Television has been a leader in Central Valley broadcasting for a quarter of a century. Mr. Dougherty has been with KVPT since its inception in 1977. His work has been an important part of Valley Public Television's success. I commend Mr. Dougherty on his work over the years.

Mr. Speaker, I ask my colleagues to join me today in congratulating Valley Public Television on their twenty-five years serving the residents of the Central Valley.

CONGRATULATIONS TO REVEREND CRAIG D. McDANIEL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in offering our warmest congratulations to an outstanding community leader, Reverend Craig D. McDaniel, who is being honored for his faithfulness and dedication to the Smith Memorial Church of God in Christ as well as to the 10th District of New Jersey. On Friday May 10, 2002, there will be "A Night of Celebration" in Newark mark his achievements.

Craig Douglass McDaniel was born on February 25, 1960 to the Reverend Melvin McDaniel and the late Sallie Prather McDaniel in Newark, NJ. He is the eldest of five siblings born to this union. Craig was reared in Newark, NJ and attended the Newark Public Schools, graduating from Weequahic High School in 1979. He furthered his education at William Paterson College in Paterson, NJ.

Craig attended church with his family until he joined Holy Temple (Smith Memorial) Church of God in Christ in 1984 under the leadership of the late Bishop Howard Smith. In 1986, Craig was ordained a minister under the current Pastor, Dr. C.H. Evans and a few years later was ordained an Elder in the Church of God in Christ. In the early 90's, Elder McDaniel became assistant Pastor. He has traveled throughout the United States in revivals as an avid supporter of the Church of God in Christ.

One of Reverend McDaniel's greatest joys in life is serving people. In church, he is the Youth President and the Advisor of the Youth Department, Committee member for the Pastor's Anniversary Committee, former Vice President of the Young Adult Choir and many other auxiliaries. Reverend McDaniel serves in our jurisdiction as Vice President of the Youth Department and is also a National Adjutant in the Church of God in Christ.

In the community, he has participated on the advisory board for AIDS Benefits, Outreach Street Ministry, Essex County Prison Ministry, Annual Youth Retreats and Summits and the Beth Israel Medical Center Cultural Awareness Board. Reverend McDaniel was on the committee that enabled the Smith Memorial Church street to be renamed, from Stratford Place to Bishop Howard Smith Plaza (named after our founder, the late Bishop Howard Smith). In addition, Reverend McDaniel continues to better himself by continuing his education at Kean University in Union, NJ where he is currently majoring in Education.

Mr. Speaker, I know my colleagues will join me in wishing Reverend McDaniel all the best as he continues his outstanding service to his church and the 10th District of New Jersey.

HONORING NORTHSIDE HOSPITAL-CANTON

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BARR of Georgia. Mr. Speaker, on July 6, 1962, Northside Hospital-Canton opened its doors to the surrounding community. From the very beginning, the hospital has strived to be an institution dedicated to the health and wellness of those that it serves. The hospital opened with only 250 beds, a 24-hour emergency department, and 80 physicians. As Cherokee County began to flourish and grow, the hospital did as well. Now, with more than 1,470 physicians serving over 300,000 patients annually, the hospital has proven itself to be a top quality facility that is clearly able to cope with the demands of a vibrant and growing part of one of the major metropolitan areas in the Southeastern United States. As the hospital reaches a milestone of 40 years of service, it is easy to see the vital role it plays in the community.

Much of the hospital's success can be attributed to its outstanding staff and its top-notch doctors; and employees stay with the hospital for a long time. One nurse, Ginnie Poor, has worked at the hospital for over 37 years. She is an example of the dedication and commitment the workers have made in order to guarantee health care of the highest quality.

Currently the hospital is expanding its emergency, radiology, and women's services, as well as offering more specialized services. Under the leadership of CEO Doug Parker, the hospital expects to continue to grow with the increasing demands of the county. As the hospital continues its innovative and compassionate approach to the care of the patients, it dedicates itself to maintaining a leadership position in the health industry; not only in the quality provided, but also in the manner in which it educates, informs, and contributes to the community.

FAMILY FARM AND RANCH INNOVATION ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. UDALL of Colorado. Mr. Speaker, today, I am introducing legislation to help ensure our nation's family farms and ranches continue to produce the agricultural products that have made us the breadbasket for the world.

Small family farms and ranches helped build the foundation of America. Thomas Jefferson once wrote in a letter to George Washington, "Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness." Today many small farms and ranches have disappeared. This is in part because the smaller farms and ranches have not been able to change to more profitable means of production. To continue as a viable business in agriculture farmers and ranchers need to be able to use modern techniques that increase profitability, and do it in a manner that is environmentally sound.

As a friend of mine, W.R. Stealey, reminded me when I was first elected to the Colorado Legislature, "If you eat, you are in agriculture."

The Family Farm and Ranch Innovation Act (FFRIA) would provide necessary tools for small agriculture businesses to modernize and become more competitive in today's market, access to credit and a plan to turn the credit into increased revenue.

The U.S. Department of Agriculture's National Commission on Small Farms report titled "A Time to Act" found, "The underlying trend toward small farm decline reflects fundamental technological and market changes. Simply put, conventional agriculture adds less and less value to food and fiber on the farm and more and more in the input and post-harvest sectors. We spend more on capital and inputs to enable fewer people to produce the Nation's food and look primarily to off-farm processing to produce higher value products. Sustainable agriculture strives to change this trend by developing knowledge and strategies by which farmers can capture a large share of the agricultural dollar by using management skills to cut input costs—so a large share of the prices they receive for their products remain in their own pockets—and by producing products of higher value right from the farm." (In context of the report farms include ranches.)

The innovation plans in FFRIA, to be developed with the USDA's Natural Resources Conservation Service, would provide the blueprints to increase the value of farm and ranch Outputs.

The report also found, "Agricultural operations require high levels of committed capital to achieve success. The capital—intensive nature of agricultural production makes access to financial capital, usually, in the form of credit, a critical requirement. Small farms are no different from larger farms in this regard, but testimony and USDA reports received by this Commission indicate a general under-capitalization of small farms, and increased difficulty in accessing sources of credit." If small farms and ranches are going use improved technologies laid out in innovation plans they will need capital. The Small Business Administration's 7(a) loan program has a long history of helping small businesses and would be a great tool for small farmers and ranchers to implement their plans.

America's small farms and ranches need a hand up to remain viable in our rapidly changing marketplace. Often today's small agriculture businesses are family owned and have only a very small profit margin. The combination of low market prices for raw agricultural commodities and the rising cost of land means that many of these businesses cannot afford to carry on. And that causes more urbanization of valuable farm and ranch land.

This legislation recognizing the importance of our small farming and ranching businesses. They provide diversity in the market place, local production of food, less pollution, and jobs, all of which strengthen our economy. And, farms and ranches that are part of our community remind us that food and other agricultural products don't just come from stores, and remind us of our connection to the land.

Mr. Speaker, small farms and ranches have provided the livelihood for many families since the beginning of our country. This bill will help ensure small farms and ranches do not become a thing of the past by providing the technical expertise and capital to allow them to meet the challenges of the 21st Century.

JOBLESS RATE IS AT 18-YEAR HIGH IN DISTRICT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. SLAUGHTER. Mr. Speaker, I am concerned. I am concerned that my district lost 12,400 jobs in the past year including 300 from Global Crossing. I am concerned that this jobless rate is an 18-year high. I am concerned that in the last decade, 41 percent of Rochester, New York citizens between the ages of 20 to 34 have left town.

While my area has survived the wave after wave of layoffs over the last 20 years by the giant employers such as Kodak, the bankruptcy filing of Global Crossing in January was a shock. Global Crossing was seen as the wave of the future. Two outstanding labor leaders in the Rochester community summarized the thoughts of many workers in an essay which appeared in the Rochester Democrat & Chronicle on March 19, 2002. I have attached for the record a copy of this guest essay for my colleagues' consideration.

HOLD ALL CORPORATIONS ACCOUNTABLE, OR OUR ECONOMY WILL NOT IMPROVE

(By James Bertolone and Gary Bonadonna—Guest Essayists)

Recently, it's been reported that Monroe County has experienced a loss of 12,400 jobs during the last year. Unemployment also has risen to a 10-year high of 6.4 percent (story, March 6). We have also learned that over the last decade, 30,000 young people have left this area looking for better opportunities.

These statistics may come as a surprise to people in Monroe County, especially those who have been following the predictions of a hopeful economic future from the Chamber of Commerce, the Industrial Management Council and the Center for Governmental Research the past few years.

In a trend that started in the 1980s, Monroe County has endured an astonishing deindustrialization of its work force. Due to one-sided free trade deals, the rate of this deindustrialization has accelerated rapidly. Eastman Kodak Co., Bausch & Lomb Inc., Xerox Corp., Valeo Electric Systems Inc. and others have announced wave after wave of layoffs. Small manufacturing concerns, many of which sprung up to fill the gap as large corporations shed workers, are suffering also.

The job loss at large manufacturing companies was, despite our instincts to the contrary, supposed to be good news. We were told by pro-corporate cheerleaders of the new economy that despite these layoffs, our local economy would still continue to grow jobs. We were merely an economy in transition, and the wonder of free trade and the dawning of a new Internet-based economy were supposed to lead these workers to a more modern workplace.

So what exactly has this new economy brought us?

Based on statistics, apparently a whole lot less than we bargained for. In this new world, we are supposed to get rich through investment in an ever-expanding stock market, not by punching a time clock. The old economy wouldn't be missed, although it served our community and generations before us so well. But the truth is unmistakable—12,400 jobs lost; 30,000 of our best and brightest seeking greener pastures elsewhere and the so-called experts at a loss to explain how this happened.

Working people can no longer stand idle while the corporate elite strip away our future and while regulations that had been designed to protect us from corporate greed are being dismantled by highly paid, pro-corporate lobbyists. According to that wild-eyed radical Alan Greenspan, two-thirds of economic activity in the United States is based on consumer spending. If workers don't have decent paying jobs, they don't have money, and there goes two-thirds of the economy.

It's time to recognize that our economy cannot improve without corporate accountability. Big business must be held accountable to their workers, to communities in which they operate and their investors.

We must regulate and protect the right of workers to organize and bargain collectively because, like it or not, organized labor is the only protection we have against the unfettered power of corporate management.

Organized labor's struggle to change labor standards, health and safety regulations and general social policy has become the greatest anti-poverty program in the history of the industrialized world.

BACK-TO-SCHOOL DAY IN AFGHANISTAN

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. SCHAKOWSKY. Mr. Speaker, I applaud the children, families, and teachers of Afghanistan for celebrating their first back-to-school day to welcome both girls and boys since the fall of the Taliban regime. I would especially like to honor the female teachers and students of Afghanistan who were not allowed to teach or go to school for the past five years, and the many who continued to do so despite the risk to their own lives.

In our mission to eradicate terrorism, the U.S. has recognized the importance of supporting education in Afghanistan. In addition to $2 million pledged to UNICEF for their Back-to-School campaign, $6.5 million of the $296 million we designated for reconstruction has gone to printing textbooks.

I commend the UNICEF-sponsored Back-to-School campaign for working hard on the ground to get over 1.5 million children into a learning environment by March 21, the first day of school across the country. Their logistical efforts included delivering kits of over 50 separate teaching and learning tools to schools, teachers, and students; providing 40,000 stationery kits, 10,000 School-in-a-Box kits, 7.8 million textbooks, and 18,000 chalkboards to schools across the country; having all Afghan children vaccinated for the measles; combating malnutrition among Afghan children; and communicating the positive message of the campaign to all parents in the country.

I praise the Afghan Interim Government for playing a critical role in this campaign and making education a priority. It has been heartbreaking to hear about so many girls having to take tremendous risks to sneak to school while their country was under Taliban rule and the horrific punishments they endured if caught. I was in awe of the courage of so many female teachers who ran underground schools because of their commitment to educating children. It has been so inspiring to hear stories of Afghan girls so eager to learn that they weathered harsh conditions to return to school as soon as the Taliban left town, well before the official first day of school.

As the children and teachers in Afghanistan embrace this renewed opportunity for education, we must realize that this is just the beginning and view our continued support as critical. I urge this body and this government to continue to enhance our efforts to ensure that each year all children in Afghanistan can celebrate back-to-school day with joy and anticipation, without fear.

INTRODUCTION OF LEGISLATION TO TEMPORARILY SUSPEND THE U.S. IMPORT DUTY ON CERTAIN EPOXY MOLDING COMPOUNDS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. MANZULLO. Mr. Speaker, I rise today to offer legislation that would suspend temporarily, through December 31, 2005, the rate of duty applicable to imports into the United States of certain epoxy molding compounds. These materials are used for encapsulating, or coating, integrated circuits that feed into various electronics applications.

While it is possible that there are U.S. companies that make some kinds of epoxy molding compounds in the United States, my understanding is that there are no domestic sources of the exact compounds intended to be addressed through my legislation. I further understand that the only qualified manufacturers of the required materials are outside the United States.

Because there is no substitute domestically manufactured product currently benefiting from the present 6.1 percent duty rate on these products, no adverse impact on a domestic producer or industry is anticipated should my legislation be enacted. At the same time, I know its enactment would be beneficial to some hard working folks in the 16th District of Illinois. It makes no sense to impose an import duty on a product where there is no domestic manufacturer. I therefore urge my colleagues to support inclusion of this legislation into the Miscellaneous Tariff Correction bill to be moved later this year.

IN RECOGNITION OF HOLOCAUST REMEMBRANCE DAY

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SHAW. Mr. Speaker, I rise today in recognition of Yom Ha Shoah, Holocaust Remembrance Day. We recall now not only the more than six million Jews who lost their lives, but the human potential that was also extinguished during the dark days of World War II. We remember not just the mothers and fathers, the sons and daughters, the brothers and sisters, but also their descendents who never got to make their contributions to mankind. And we remember the heroes who gave their lives in the greatest fight for freedom and democracy the modern world has ever known.

By pausing today, we join in a solemn bond with the victims of the Holocaust to ensure that the world will never suffer such a horrific tragedy again. It is through our reflection that we acknowledge our loss and through our actions that we build a world free of such hatred and despair. Our greatest tribute to the millions who suffered at the hands of the Nazis will be to ensure that their memory will never be extinguished. By recognizing Holocaust Remembrance Day, we do just that by educating today's and future generations.

Yet the fires of hate, which burned so brightly in Europe from 1939 through 1945, never really burned out. They were smoldering in the hearts of the terrorists who flew their planes into the Twin Towers, the Pentagon and into the ground of rural Pennsylvania on September 11th. And those same fires are ablaze even today, in actions of the suicide bombers on the West Bank and in Gaza. We pray, Mr. Speaker, for a soothing rain to extinguish forever the fires of hatred.

With these examples fresh in our minds, we marvel at the strength and character of the Jewish people. Their steadfast determination to rebuild their lives following the Holocaust has given the world a remarkable model of resolve. Through their example, we can glimpse the extraordinary human spirit that rises above the fruitlessness of anger and resentment. With this day and with our deeds we honor that spirit. Mr. Speaker, we observe Yom Ha Shoah to always remember and never forget. I am proud to recognize Yom Ha Shoah and I urge my colleagues, and all Americans, to do the same.

CONGRATULATIONS TO THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY SCHOOL OF NURSING ON 10 YEARS OF SUCCESS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. PAYNE. Mr. Speaker, I rise today to recognize the 10th anniversary of the University of Medicine and Dentistry of New Jersey—School of Nursing. This anniversary will be celebrated with a gala to be held this Friday, April 12 at The Newark Club in Newark, New Jersey.

The University of Medicine and Dentistry of New Jersey (UMDNJ) is a national leader in health professions education, research, clinical practice, and community service. One of eight schools within the University, the School of Nursing (SN) has become recognized as a driving force in implementing premier academic programs, advancing clinical practice, conducting urban health research, and offering needed community health services in inner cities. A dynamic institution, the School champions continuous program review and refinement as it prepares students to meet the healthcare delivery challenges of this century.

Established as an academic program in 1990, the School of Nursing was reorganized as UMDNJ's seventh school in 1992. The School offers a comprehensive program of research, education and educational mobility. Nursing degree programs at the Associate's (A.S.), Baccalaureate (B.S.N.), Master's (M.S.N.) and Post-Master's Certificate (P.M.C.) levels as well as Ph.D. program in Urban Systems provide an articulated educational ladder for advanced education.

Student enrollment has risen dramatically since the establishment of nursing programs at UMDNJ, increasing from 55 students in 1990 to 600 currently. The School's success in offering a statewide system of fully articulated undergraduate and graduate education programs has been made possible through the establishment of strong partnerships with both institutions of higher education and leading healthcare institutions. In addition to the nursing education programs offered on the University's Newark and Stratford campuses, UMDNJ–SN has established joint educational programs with its partner institutions (Middlesex County College, Ramapo College of New Jersey, New Jersey Institute of Technology, Englewood Hospital and Medical Center, Our Lady of Lourdes Medical Center, and Planned Parenthood Federation of America). These partnerships have increased statewide access to nursing education programs and have enabled SN students to enjoy a rich exposure to a diverse, interdisciplinary faculty and a wealth of clinical experiences. Educational excellence at the School of Nursing is evident by the high distinction received by the Middlesex County College/UMDNJ Joint Nursing Program for receiving the highest ranking in the United States for its 100 percent pass rate on the national board examination in 2001.

Leading the School's development has been its founding Dean, Dr. Frances Ward (formerly known as Frances W. Quinless). Dr. Ward's leadership has inspired the School's faculty and students through a decade of growth. In June, Dr. Ward will be returning to teaching and research as a faculty member of the School of Nursing's M.S.N. Program and its Joint Ph.D. Program in Urban Systems. This program is focused on preparing graduates to address critically important issues involving urban health, health delivery, policy and planning.

Mr. Speaker, let me conclude by congratulating Dean Ward on her successful stewardship of the UMDNJ-School of Nursing and for her achievements in advancing nursing education in the State of New Jersey. I salute the School of Nursing for its decade of growth and excellence and look forward to its continuing good works in preparing the state's nursing profession to meet the demands of this new century.

HONORING JESSE LONG, FOUNDER, GREATER ATLANTA CHRISTIAN SCHOOL

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BARR of Georgia. Mr. Speaker, there are many qualities possessed by a true leader: determination, organization, and commitment. Many people possess these characteristics, but a successful leader must also be compassionate, caring, and humble. A true leader must be able to understand there is a greater cause far beyond that of recognition and praise, and that the goal is set for the betterment of others.

My fellow members of Congress, I would like to inform you of the great accomplishments of Jesse Long, founder of Greater Atlanta Christian School. Just recently, Jesse Long gathered with community leaders, to celebrate the successes and achievements of the school he established. Mr. Long dedicated much of his life to establishing an institution that would not only prepare students academically, but also provide them with a firm foundation of values and morals based on Christian teachings.

Jesse Long, a native of Tennessee, attended Dasher Bible School in Valdosta, Georgia. After graduating, he served as pastor in various churches throughout the state. Now 69 years old, happily married, and with five children and 12 grandchildren of his own, Long now serves as the Chancellor of Greater Atlanta Christian School. Outside the school, Mr. Long continues to serve his community as an elder of The Campus Church and through his involvement in Atlanta Inner-city Ministries.

For 30 years, Jesse served as President of the school, constantly pushing it to higher levels of achievement and growth. The school was his dream; kept close to his heart. He began to put his dream into motion in the early 1960's when he purchased a piece of farmland in Gwinnett County, northeast of Atlanta. Although it was doubtful a credible school could be established and operated in what was then rural countryside northeast of Atlanta, Long persevered doing what God desired for him. In 1968 his vision was fulfilled; the school opened with 150 students enrolled and a staff of six. At that time, it was difficult to imagine only 40 years later the school would be located on a four-lane highway, with over 1,600 students, and the third largest private school in the state.

Jesse not only provided a Christian environment for his students, but also offered a quality education. The school has been locally and nationally recognized; and the students consistently rank academically above the averages of a majority of state and private schools.

The school has been a labor of love for Jesse. He built the facility from the ground up through hard work and an unshakeable faith in God. The impact he has made on the community and generations of young people is immeasurable, and will be remembered for generations into the future.

Jesse Long is one man God used to do great things. Through Jesse Long's resolve and hard work, and with God's constant guidance, Greater Atlanta Christian School is consistently recognized as one of the best schools in the southeast. I not only want to recognize Jesse for the education he has given thousands, but distinguish him from many other educators, for his selflessness and incredible humility. He demonstrates, on a daily basis, a life of virtue that is an example for all. Please join me in congratulating Jesse Long for the amazing things he and our Lord have accomplished for our young people.

REMEMBERING PEGGY WAYBURN

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. UDALL of Colorado. Mr. Speaker, during the recent District Work period, we learned of the death of Peggy Wayburn. An accomplished author and photographer, her work taught us about some of the most special parts of our country and the importance of saving them for future generations.

She was a New Yorker by birth but a Westerner at heart, drawn to wild country. And she played an important role in the efforts to protect it.

In the late 1950s, she joined her husband, Dr. Edgar Wayburn, in working for establishment of a Redwoods National Park. In 1961, 1963, and 1965 she was the organizer of the biennial national wilderness conferences sponsored by the Sierra Club. At the 1961 conference, she sat next to Interior Secretary Stuart Udall and first broached the subject of a new national park to him. While he didn't come out to the proposed park site, as a follow up to her suggestion he did send his assistant, who toured the area with the Wayburns and Martin Litton. This was one of the key developments that ultimately led to the establishment of the park.

And, like her husband, she had a special love for the Alaska. Her writings about that "Great Land" were influential in the debates that led to the enactment of the Alaska National Interest Lands Conservation Act, signed into law by President Carter in December, 1980. Her role in passing that monumental act was recently recognized by our colleague, Representative NANCY PELOSI who said, "Dr. Wayburn and his wife Peggy were captivated by the unique beauty of the Alaska landscape on their first visit almost thirty years ago . . . Today, 104 million acres remain wild largely because of that first visit made to Alaska by the Wayburns."

She also was involved in working for establishment of the Point Reyes National Seashore, Redwoods National Park, and the Golden Gate National Recreation Area.

In addition to serving as Honorary Vice President and Trustee of the Sierra Club Foundation, Peggy Wayburn co-founded People for Open Space, directed the Point Reyes Seashore Foundation, and served on the Board of Audubon Canyon Ranch. Her efforts earned numerous awards including the Sierra Club's Special Achievement Award, the California Conservation Council Award, and the Sierra Club of California's Special Service Award. In 2001, both of the Wayburns were honored with the Wilderness Society's Robert Marshall Award, their highest honor presented to private citizens who have devoted lifetime service to, and have had notable influence upon, conservation and the fostering of an American land ethic.

Mr. Speaker, America and the conservation movement are diminished by Peggy Wayburn's departure. For the information of our colleagues, I am attaching reports from two newspapers concerning her life and accomplishments.

[From the Los Angeles Times, Mar. 30, 2002]

When Peggy Wayburn sat down to write her second book about Alaska, she chose to begin with a simple statistic: Anyone wishing to explore the entire state would have to visit about one million acres per day—for a year.

It was a simple, elegant number meant to impress upon readers the enormity of a place that Wayburn argued should be left as is.

A prolific nature writer and environmentalist who was instrumental in preserving millions of acres in Alaska and creating some of Northern California's most cherished parks, Peggy Wayburn died March 21 in San Francisco after a long illness. She was 84.

Known primarily for five books she wrote on the outdoors, Wayburn also was published in a variety of magazines and was an accomplished photographer whose images graced many calendars. She was involved in a number of conservation organizations, including the San Francisco-based Sierra Club.

A native of New York City who was a member of Phi Beta Kappa at Barnard College, she moved to San Francisco in 1945 and quickly fell in love both with the area's beauty and with doctor and outdoorsman Edgar Wayburn. Their first date was spent hiking on Mt. Tamalpais, just north of the city. They were married in 1947.

Edgar Wayburn was a rising figure in the Sierra Club, and by default—at least initially—Peggy Wayburn was thrust into some of the state's most contentious environmental battles.

In California, the club was battling to protect small but important places previously overlooked by the state and federal governments. The Wayburns were part of the push that would eventually lead to the creation of Point Reyes National Seashore in 1962 and, later, Redwoods National Park and Golden Gate National Recreation Area.

But in 1967, the Wayburns took their first trip to Alaska—a voyage they would take dozens more times over the next 30 years.

"What Peggy and Ed found in Alaska were vast, intact, pristine ecosystems," said Deborah Williams, executive director of the Alaska Conservation Foundation.

"Peggy felt that human beings have a profound obligation to be good stewards to the land," Williams said, "and she saw in Alaska both an opportunity and responsibility to do that."

Upon returning to California, the Wayburns began pushing the Sierra Club to pay more attention to Alaska. It was a critical time for the newly created state, with tremendous pressures to divvy up tens of millions of acres of federally owned land between the fledgling state government and the many tribes native to the area.

It also was a time when there was a growing awareness that intact ecosystems in the United States were rare. Environmentalists began pointing out how the West—even with its expansive national parks and forests—was missing vital members of its natural communities. Not only did Alaska still have all its native species, but it had them in almost unimaginably large numbers.

Inspired, Wayburn wrote two books on the state. The first, "Alaska, the Great Land" was co-written by Mike Miller and published in 1974. Along with John McPhee's "Coming Into the Country," it was influential because it expressed how different—and how wild—Alaska still was to an audience that mostly never had seen the state, nor ever would. The book also became a staple on Capitol Hill in the 1970s as the debate over federal land in Alaska heated up in Congress.

The second book, "Adventuring in Alaska," was the first Sierra Club adventure guide and remains in print. It was one of the first comprehensive guidebooks for the state, offering readers practical travel tips and a myriad of facts on Alaska's natural wonders.

In December 1980, just weeks before leaving office, President Carter signed the Alaska Lands Act, which set aside 104 million acres in the state as either national parks, national wildlife refuges or national forests. Carter has since called it one of the most important accomplishments of his presidency.

In 1999, President Clinton awarded Edgar Wayburn a Presidential Medal of Freedom, citing his and Peggy's work in Alaska during a White House ceremony.

"I think what captivated my parents about Alaska was that it was California 500 years ago and there were such great pressures [to develop it]," said Cynthia Wayburn of Seattle, one of the couple's four children.

"What Mom was able to convey in her books was that there should be places where life can go on as it has gone on for thousands and thousands of years."

In addition to her husband and daughter Cynthia, Peggy Wayburn is survived by two other daughters, Diana Wayburn of New York and Laurie Wayburn of Boonville, Calif.; a son, William of Seattle; and three grandchildren.

A memorial service is planned April 7 at the Presidio in San Francisco. Donations in her name can be made to the Sierra Club Foundation, Alaska Conservation Foundation or Earthjustice.

[From the San Francisco Chronicle]

Peggy Cornelia Elliot Wayburn, a nature author and conservationist who worked to protect millions of acres of park and wilderness lands, died last Thursday at her home in San Francisco. She was 84.

Mrs. Wayburn published five books through the Sierra Club, including two adventuring books that focused on Alaska and the Bay Area. Her book "Alaska: the Great Land" is credited with helping persuade Congress to pass the Alaska National Interest Lands Conservation Act in 1980. That law protected 104 million acres of wilderness. She also wrote "The Edge of Life," an in-depth look at Bolinas Lagoon in Marin County. The lagoon has since been designated as a National Natural Landmark.

Working alongside her husband, former Sierra Club President Edgar Wayburn, she helped establish some of Northern California's most treasured wildlife areas. The pair helped establish the 58,000-acre Redwood National Park, the Golden Gate National Recreation Area and the Point Reyes National Seashore. They also helped expand the Mount Tamalpais State Park from about 870 to 6,300 acres.

Mrs. Wayburn served as a trustee on the Sierra Club Foundation for six years and was named an honorary vice president of the Sierra Club board in 1999. She was also former director of the Point Reyes Seashore Foundation.

Born in New York City in 1917, Mrs. Wayburn graduated from Columbia University's Barnard College in 1942. In 1945, she moved to San Francisco, where she met and married her husband.

During their years in the Bay Area, the pair lived almost entirely in San Francisco and spent their last year together at a retirement home on Post Street. Mrs. Wayburn died after struggling with diverticulitis for more than three years.

In addition to her husband, Mrs. Wayburn is survived by three daughters, Diana Wayburn of New York, Laurie Wayburn of Boonville (Mendocino County) and Cynthia Wayburn of Seattle; a son, William Wayburn of Seattle; and three grandchildren.

CELEBRATING THE LIFE OF MILA V. NOLAN

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. SCHAKOWSKY. Mr. Speaker, I rise in remembrance and celebration of the life of Mrs. Mila V. Nolan. Although friends, family, and the City of Chicago grieve in the sadness of her departure, we can celebrate because we know that hers was a life lived in full.

Mrs. Nolan began her legacy of public service shortly after she earned her bachelor and master's degrees from Depaul University, preparing to be a music teacher. She volunteered as a "gray lady" for the American Red Cross during WW II. Much of her activism was shared with her husband Brian J. Nolan, with whom she spent 35 happy years, before his death.

Education was always a priority for Mila, she worked tirelessly to nurture her students, to find ways to encourage success, in and outside the classroom. Mrs. Nolan began her teaching career at CVS (Chicago Vocational) High School in the late 1940s and moved to the city's Northwest Side in 1959, where she started teaching at Taft High School. Mrs. Nolan taught music at Taft from 1959 until she retired in 1985. At Taft, she directed the award-winning Girls Chorus.

Upon retiring, Mrs. Nolan was asked to write a column for the Edgebrook-Sauganash Times Review newspaper, to bridge the various parts of the Northwest Side's Edgebrook area. She continued to write "Bridging Edgebrook" until the week of her death on March 20, 2002. She became actively involved in many community groups, and dedicated the rest of her life to community service.

Mrs. Nolan served more than three years on the Wildwood School Local School Council as a community representative. She was a past president of the Edgebrook Woman's Club, also a member of the Portage Park Woman's Club, and was completing her year as president of District 7 of the Illinois Division of the General Federation of Woman's Clubs. She was one of the first women members of the Logan Square Lions Club and a member of the Jefferson Park Lions Club. She was a long-time volunteer for the American Cancer Society and went on to head the Edgebrook-Sauganash Unit, and later on the board of the Northwest Unit for several years. She also was active at St. Mary of the Woods Catholic Church, she participated in almost everything, including service as a fill-in musician for morning services and funerals.

Additionally, Mila also participated on the boards of the Northwest Action Council, the 41st Ward Democratic Women's Organization and the North Edgebrook Civic Association. She also served as an election judge for her precinct through her retirement years, missing only the final election, March 19, when she was too ill to work.

Mrs. Nolan's life was full of devotion, full of compassion, and full of service to her community. As a public servant, I look to those I serve for inspiration. The life of Mrs. Nolan serves not only as an inspiration for me, but as a model of how best to use the blessings of life as a resource for others. Mrs. Mila Nolan leaves behind a sister, a son, grandchildren, nieces and nephews. To them and her community, she is irreplaceable—they grieve now and will no doubt miss her presence in their lives. Nonetheless, they will always find comfort in knowing that Mila now lives through her works and deeds. The family can find comfort in the fact that she left a legacy of contributing her time, her energy, and her talent to the progress of her community. On behalf of the United States Congress, I thank Mrs. Mila V. Noland, for a lifetime of service and dedication.

INTRODUCTION OF LEGISLATION TO TEMPORARILY SUSPEND THE U.S. IMPORT DUTY ON CERTAIN CUSTOM-MADE AUTOMOTIVE MAGNETS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. MANZULLO. Mr. Speaker, I rise today to offer legislation that would suspend temporarily, through December 31, 2005, the rate of duty applicable to imports into the United States of certain custom-made automotive magnets. These components are incorporated into sensors used in the automotive industry. A company in the district I am proud to represent manufactures these sensors in Freeport, Illinois.

These automotive magnets possess unique formulations to meet the exacting design and performance requirements of my constituent company. Because these parts are custom designed, and given the fact that my constituent company paid for the tooling and development costs associated with customizing these products, we know that the only qualified manufacturers of these parts are outside the United States.

Because there is no substitute domestically manufactured product currently benefiting from the present 2.1 percent duty rate on these components, no adverse impact on a domestic producer or industry is anticipated should my legislation be enacted. At the same time, I know its enactment would be beneficial to some good, hard working people in my district. It makes no sense to impose an import duty on a product where there is no domestic manufacturer. I therefore urge my colleagues to support inclusion of this legislation into the Miscellaneous Tariff Correction bill to be moved later this year.

CONGRATULATIONS TO JOHN M. BETTIS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. PAYNE. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in honoring the Most Worshipful John M. Bettis, Grand Master of the Most Worshipful Prince Hall Grand Lodge F & AM of New Jersey. On Saturday evening, April 13, 2002, Mr. Bettis will be honored at "An Appreciation Evening" to pay tribute to his untiring efforts and contributions.

John M. Bettis was born and raised in Pleasantville, New Jersey, where he received his elementary and secondary education, graduating from Pleasantville High School in 1963. He has earned an Associate Degree in Police Science from Atlantic Community College in 1971, a Bachelor of Arts Degree in Criminal Justice from Stockton State College and graduate credits in Public Administration from Ryder College and the University of Houston. John is a veteran of the United States Air Force, having served as a Security Policeman from 1963 to 1967 and the New Jersey Air National Guard from 1979 to 1983.

Currently, John is a member of the Board of Directors of Atlantic County Chapter of the National Conference (formerly the National Conference of Christians and Jews), a member of the African American Male Conference, the Atlantic County Veterans Advisory Board, the Board of Directors of the Atlantic County Chamber of Commerce, the Board of Directors for the Jersey Shore Council, Boy Scouts of America, the Board of Directors for the United Way of Atlantic County and the Board of Trustees for Atlantic Cape Community College.

John is a proud Prince Hall Mason of the 33rd Degree and Shriner, holding membership and rank in all of its affiliated bodies; most significantly, Past Master of Hiram Abiff Lodge No. 16, F & AM, and Past Patron of Ivy Leaf Chapter No. 18, OES, Pleasantville, New Jersey. He is a Past Grand Worthy Patron of Oziel Grand Chapter, Order of Eastern Star, NJ 1988–1990 and is currently serving as the Most Worshipful Grand Master of the Most Worshipful Prince Hall Grand Lodge, Free and Accepted Masons, State of New Jersey. John resides in Pleasantville, New Jersey with his wife Doni. They have three daughters and four grandchildren.

Mr. Speaker, let us offer our congratulations to Mr. Bettis for his many contributions to the community as well as our very best wishes to him for the future.

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2002

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. DINGELL. Mr. Speaker, on April 10, 2002, the House of Representatives voted to reject H.R. 3991, the Taxpayer Protection and IRS Accountability Act, by a vote of 205–219. Although the underlying bill was noncontroversial, the Republican leadership refused to permit reformers' attempts to strip an amendment from the bill that would have rolled back important campaign finance laws, including the 2000 Section 527 disclosure requirements and the Shays-Meehan reforms which became law two weeks ago yesterday. I am a staunch advocate for campaign finance reform and supported the legislation requiring Section 527 groups to disclose their contributors as well as the Shays-Meehan law. Had I been able to vote yesterday, I would have joined my colleagues who support campaign finance reform and voted against H.R. 3991.

TRIBUTE TO REVEREND EDWARD L. ECKENROD

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to recognize Reverend Edward L. Eckenrod, a resident of Blair County, Pennsylvania. Reverend Eckenrod was recently awarded the John Riley Human Relations Service Award for 2002 by the Pennsylvania Human Relations Commission on March 20, 2002. The commission recognizes Reverend Eckenrod for helping to further their goals of eliminating discrimination and providing equal opportunities to all individuals.

Reverend Eckenrod has served the communities of Central Pennsylvania for more than

20 years. After earning his Masters in Theology from St. Francis and being ordained as a Roman Catholic Priest, he served as an Associate Pastor at St. John's in Lakemont (1978–1985) and at St. Mark's in Altoona (1985–1990), he then served as Pastor in St. Joseph (1990–1995) and as the Chaplain at Altoona Hospital (1983–1990 and 1995–Present). In addition to being a dedicated and caring spiritual leader, he has also been a great friend and has served the community in a wide variety of ways. Reverend Eckenrod serves on many different boards and has always been very generous with his time.

Mr. Speaker, I am sure you will join me in thanking Reverend Eckenrod for his service and congratulating him on receiving this award. He has enriched the lives of those who know him with all of his efforts and I am proud that he has been recognized for all his achievements. I wish him well in all his future endeavors.

A TRIBUTE TO THE BRAVE FIREFIGHTERS OF BROWARD COUNTY, FLORIDA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SHAW. Mr. Speaker, I rise today in recognition of some local heroes. It is a pleasure to recognize the dedicated, hard working men and women of Broward County's Fire Emergency Rescue units. Each day, these men and women place their personal safety on the line in order to protect the 1.2 million residents of Broward County.

Following the tragic terrorist attacks on September 11th, a number of Broward County Firefighters voluntarily decided to offer much needed assistance to their broken New York City bretheren. Undaunted and determined, they trecked north to lend a hand in dealing with the horrific aftermath of that infamous September day. Mr. Speaker, having visited Ground Zero myself, I witnessed firsthand the arduous task our firefighters faced, and continue facing almost seven months later.

Mr. Speaker, I want to recognize those brave individuals from Broward County who served in New York. From USAR South Florida Task Force 2: Division Chief Stephen McInerny II, Battalion Chief Robert Hoecherl, Battalion Chief John Molenda, Lt. Douglas LeValley, Lt. Richard Seabrook, and Driver-Engineer Charles Frank. Mr. Speaker, I also want to recognize those who voluntarily traveled to Now York: Lt. David Carter, Driver-Engineer Jacob Snowhite, Driver-Engineer Milton Selimos, Firefighter Troy Cool, Firefighter Yuri Grijalva, Firefighter Robert Soto, Firefighter Michael Salzano, Firefighter John McLoughlin, and Firefighter Michael Reimer. These men worked around the clock, despite overwhelming carnage, in helping New York begin the slow process of recovery—an experience they will carry with them for the remainder of their lives.

Mr. Speaker, based on their courageous actions these heroic firefighters make Broward County residents proud. As a resident of Broward County, I am proud of their service to our community.

CONGRATULATIONS TO SAINT ADALBERT ROMAN CATHOLIC CHURCH IN WHITING, INDIANA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to congratulate Saint Adalbert Roman Catholic Church in Whiting, Indiana, as it commemorates its 100th anniversary as a congregation on April 14, 2002. This parish has been celebrating its centennial for the past year with monthly festivities, and each event has strengthened the sense of community among the church members, united through their Baptismal bonds. The culmination of this revelry will be the jubilee Mass celebrated by Bishop Dale J. Melczek and will include Father Michael Blastic, who will deliver the invocation, and Father Steven Gross, who will serve as toastmaster.

During the late 19th and early 20th centuries, the United States became home to more than 20 million European immigrants who brought with them the rich cultural heritage of their homelands. Northwest Indiana pulsed with the influx of Slavic immigrants who settled along the shores of Lake Michigan, eager to make their impact on the region. Throughout the region, the imprint of the Slovak and Polish cultures remain yet today, and are evident in the names these Hoosiers bear and in the traditions passed down from each generation. The most significant contribution to the area, however, has been the establishment of parish churches.

Early Polish Catholics had to travel to neighboring communities throughout Indiana and Illinois in order to worship. In 1902, with the bishop's approval, Whiting's Poles purchased land and constructed a wooden church on Indianapolis Boulevard. First known as St. Peter, the church was later renamed St. Adalbert to honor the congregation's Polish heritage. This simple structure born out of the devotion to their culture and to their faith became the foundation for new generations of Polish Catholics to discover the bonds that bind them together as a spiritual family.

Over the past 100 years, St. Adalbert has been served by many able leaders who have ensured the congregation's spiritual growth and cultural heritage were not compromised as it evolved structurally with each passing decade. Father Peter Budnik was St. Adalbert's first pastor, who established the parish school. St. Adalbert experienced significant growth under Father John Skrzypinski. As the acting pastor from 1911 to 1922, he expanded the service of St. Adalbert's to include a convent for the sisters of Nazareth, which housed the sisters for sixty years, an addition to the school, and the construction of a new rectory. Later, in 1950, Father Walter Pawlicki supervised the construction of the present church, which was completed in 1953.

The church and its members have remained steadfast in its promise to assist those friends less fortunate than they. The St. Hedwig's Society, a society for women, was founded in 1904. Among their philanthropic causes, they donated their time and energy to the church and the school, as well as to homes for the aged, and assisting relief funds for Polish orphans. In 1942, the Holy Name Society was established and was instrumental in providing morale to members overseas fighting on the battlegrounds in World War II. During the 1930's, the St. Adalbert Choir became associated with the Polish Singers Alliance of America. This choir, which was dedicated to the enrichment of Polish musical culture, was recognized as one of the most active singing groups in the alliance.

Father John Zemelko, the current pastor, has imparted this philosophical mustering to his congregation: "We live in a world that is coming together as a human family. There's no doubt that, if the world exists another 100 years, the human family will become more united than it is today. This of course, will be a reality if, and only if, the Church and other world religions continue to foster a respect and dignity of the culture of life." It is this respect and dignity of the culture of life that has sustained St. Adalbert for the past 100 years. As we ourselves advance into this brave new world heralded by the dawn of the twenty-first century, perhaps we might all reflect upon the unity of the human family for whom Father Zemelko is so optimistic, and find opportunities to foster respect and dignity for all in our own lives.

Mr. Speaker, I ask you and my other distinguished colleagues to join me today in commending the parish family of St. Adalbert as they prepare to celebrate the 100th anniversary of their founding. All past and present parishioners and pastors should be proud of the numerous contributions they have made out of their love and their devotion for their church.

TRIBUTE TO INTERNATIONAL WOMEN'S DAY

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. McCOLLUM. Mr. Speaker, on Wednesday March 6, 2002 I had the pleasure of spending my day with Patricia Buckley in celebration of International Women's Day on Friday March 8th. International Women's Day is a time to acknowledge achievements of women around the world and come together to appreciate our similarities and differences.

The Community Advocate Mentor Program (CAMP) is a program within the International Women's Democracy Center (IWDC) that was developed in partnership with the Ulster People's College in Belfast, Northern Ireland. It was designed to strengthen the public policy, advocacy and lobbying skills of community-based leaders from Northern Ireland. Over a 5-year period, IWDC and UPC will train 100 women leaders from Northern Ireland how to effectively lobby their government and strengthen civil society.

Ms. Buckley is the mother of three daughters and a volunteer. She is the Vice Chair of the South Armagh (Northern Ireland) Rural Women's Network. The Network was formed to support women's community-based groups in South Armagh. Patricia traveled to the United States for the first time with a group of women from Northern Ireland. Her interest of helping women in rural areas with community development and adult education led to her involvement in the IWDC and CAMP, which sponsored the trip to the United States.

Patricia spent the entire day with my staff and me; traveling from meetings in the morning, committee hearings in the afternoon and receptions in the evening. She was able to get a sense of what a "typical" day is for a Member of Congress and experience the legislative process. Not only did she learn about my daily life, but I was able to take a step into hers as well. The amazing thing I learned from her is that women's issues—as broad as they are—are not unique to any area of the world. Women face the same problems in every community.

It was such an honor and a pleasure to host Patricia Buckley for a day. I am encouraged by her efforts and the efforts of the International Women's Democracy Center. Person to person, woman to woman, I an committed to working towards stronger communities. It is an inspiration when women on all continents, often divided by national boundaries and by ethnic, linguistic, cultural, and economic differences, are able to come together to celebrate and learn from one another.

AFGHANISTAN'S BACK-TO-SCHOOL PROGRAM

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to extend my congratulations to the Afghan Interim Administration for its steadfast work in officially reopening the schools in Afghanistan. On March 23, 2002, nearly 3,000 schools throughout Afghanistan opened their doors. The reopening of the schools began with the delivery of stationery for over 20,000 primary school aged children in addition to teacher kits, blackboards, and textbooks. The materials are essential tools in order to make the learning experience of the children a success. Because of the reopening, more than 1.5 million girls and boys were given hope and the opportunity to pursue their dreams and make a better lives for themselves and their families. This is the first time Afghan girls have legally been allowed to attend school since the Taliban came to power four years ago.

Today, the adult literacy in Afghanistan is forty-six percent for males and a dismal 16 percent for females. Enrollment in primary school is even more disturbing: fifty-three percent for males and just three percent for females. This remarkable event of reopening schools across the nation demonstrates the high priority the Afghan Interim leaders assign to the education of the Afghani people, to reversing these trends, and to the long-term commitment to improving the quality of life for the nation. The dedication to programs which focus on the education and development of Afghan children is essential if the nation is going to move forward and allow its people to make a better life for themselves.

Finally, let me commend UNICEF and the many other organizations providing critical support for the Back-to-School Campaign. Their commitment to working hand in hand with the Afghan Interim Administration has played a pivotal role in the success achieved thus far and will go a long way in ensuring that the children continue to benefit.

TRIBUTE TO THE CITY OF STOVER, MISSOURI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate and pay tribute to the city of Stover, Missouri, which will celebrate its 100th Birthday on November 13, 2003.

Stover, Missouri, was incorporated on November 13, 1903, as Newstover, after being settled by pioneer citizens, including those of the Lutheran, Methodist and Baptist faiths. These settlers came to the area, now known as Stover, because of the establishment of a railroad.

After Stover was established, numerous businesses were started and many have thrived. Fajen Lumber Company was established in 1905, Farmers Bank in the same year, the Morgan County Press began in 1911 and the Stover Milling Company started in 1917. All of these business are still in operation and many are being run by the same family that founded them. Today there are 63 businesses licensed in the city of Stover.

The city government and citizens are planning various activities to commemorate this milestone. The Centennial Fair will be held June 19–21, 2003, the city is publishing a commemorative centennial book to highlight the city's history, and on November 13, 2003, the United States Postal Service will celebrate with a special cancellation at the Stover Post Office.

Mr. Speaker, I wish to extend my congratulations to the citizens of Stover, Missouri, for this outstanding accomplishment. I know all Members of Congress will join me in paying tribute to a great American city.

PROMOTING SELF-RELIANCE FOR THE WORLD'S POOREST PEOPLE ACT OF 2002

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. ROEMER. Mr. Speaker, I rise today to introduce, along with the distinguished gentleman from New York, AMO HOUGHTON, the "Promoting Self-Reliance for the World's Poorest People Act of 2002." This important legislation directs our limited foreign aid dollars to a proven and effective form of international development—microenterprise.

Microenterprise, the lending of very small loans to the world's poorest people that serve to start and expand small business, typically in amounts as low as $100, is founded upon the principle of promoting opportunity and free enterprise for individuals who are subjected to abject poverty and harsh economic conditions. Furthermore, microenterprise is a foreign aid issue that garners wide bipartisan support. Over thirty Members already support this legislation. This is truly an issue where Republicans and Democrats can agree.

In a recent address at the United Nations' Financing for Development Conference in Monterrey, Mexico, President Bush called for a renewed commitment to promoting opportunity and free enterprise as tools necessary to alleviate global poverty. The President stated, "Nations' most vital natural resources are found in the minds and skills and enterprise of their citizens. The greatness of a society is achieved by unleashing the greatness of its people. The poor of the world need resources to meet their needs, and like all people, they deserve institutions that encourage their dreams."

Now more than ever, Congress must rigorously support U.S. foreign aid programs that foster hope and opportunity to counter the fear and desperation that is exploited by terrorists among the masses of unemployed and impoverished people around the world. Because the war on terrorism will not be won by satellites and soldiers alone, our arsenal must also include humanitarian assistance that promotes freedom and opportunity for the world's poorest people. Microenterprise programs undeniably fulfill this role in the developing world.

Mr. Speaker, take for example the story of Violet Mutoto of Uganda. Violet, a mother of four young children, lives and works out of her small house in the tiny hamlet of Mooni. Her mud dwelling contains no plumbing, yet she pays roughly eighteen dollars a month in rent. Out of the front of her home, Violet operates a rudimentary store. Since receiving her first loan of $43 from the international development organization, Freedom from Hunger, Violet has been able to pay her rent and expand her stock of supplies in her store. Now she sells cooking oils, cheese, salt, sugar, malaria pills, and other items. The diversified stock of supplies has increased her business and has afforded her the opportunity to send her older children to school. After repaying her first loan, Violet was able to take out second and third loans to begin accumulating a savings account.

The Roemer/Houghton bipartisan legislation modestly increases funding for Microenterprise programs from $155 million to $200 million annually in the Foreign Operations budget. This four-year funding level would also ensure that our investment to the world's small business owners is well spent. Specifically, our bill calls for targeting at least half of all microenterprise resources to the world's poorest people. Our legislation defines the world's poorest people as those people in the poorest fifty percent of a country in relation to that country's official national poverty line and/or as those people who are living on the equivalent of less than one United States' dollar per day.

The Roemer/Houghton bipartisan legislation also calls for greater accountability measures that will ensure effective poverty-targeting assistance. With the implementation of poverty assessment measurements, Congress and microenterprise donors can be sure that poverty targeted funding is meeting its intended goal of reaching the world's poorest people.

Mr. Speaker, in conclusion, I strongly encourage my colleagues to review and cosponsor the "Promoting Self-Reliance for the World's Poorest People Act of 2002." Congress must develop and support foreign aid programs that equip the world's poorest people with the tools to empower themselves. Microenterprise programs such as Freedom from Hunger provide these vital empowerment tools in the form of tiny microcredit loans. As the story of Violet Mutoto demonstrates, by devoting greater resources to effective humanitarian programs like micro enterprise, U.S. foreign aid can provide hope and empowerment to the world's poorest people and demonstrate that the United States is committed to spreading the rewards that can grow in a free-enterprise system.

30TH ANNIVERSARY OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. DICKS. Mr. Speaker, I rise today to congratulate the National Committee for Employer Support of the Guard and Reserve (ESGR)—its 4,200 volunteers and Department of Defense (DOD) staff—in celebrating 30 years of service to this Nation.

The National Committee for Employer Support of the Guard and Reserve (ESGR) was established in 1972, the year the United States ended the Selective Service System and established an all-volunteer military force. DOD realized that support from employers and communities would be instrumental in maintaining Reserve component membership. ESGR was created to obtain employer and community support for the National Guard and Reserve and to promote the role of Reserve forces in the national defense.

ESGR has lived up to the task and accomplished much more. Since 1972, with the help of the Advertising Council, Inc., ESGR has benefited from nearly $1 billion in pro bono advertising reaching the six million employers with one or more employees in the United States.

Employers have, in turn, signed ESGR Statements of Support, publicly committing to support the National Guard and Reserve. The former Chairman of the Board and CEO of General Motors, Mr. James H. Roche signed the first Statement of Support in the Office of the Secretary of Defense on December 13, 1972. The next day, President Richard Nixon signed a Statement of Support covering all Federal civilian employees. Since the inception of this program, Presidents Ford, Carter, Reagan, Bush, Clinton and President George W. Bush have all signed Statements of Support, along with hundreds of thousands of employers, including Dell Computer Corporation, Xerox, the Society for Human Resource Management and the U.S. Chamber of Commerce. To date, over 300,000 employers have signed statements of support. Additionally, the strategic alliance formed in 1998 between ESGR and the U.S. Chamber of Commerce resulted in more than 1,200 chambers of commerce nationwide signing a Statement of Support for the Guard and Reserve.

ESGR offers Ombudsman services designed to provide information to employers and Reservists regarding their rights and responsibilities under the law, and to resolve conflicts through informal mediation. These services operate in cooperation with the Department of Labor. ESGR volunteers in 54 U.S. states and territories contribute thousands of hours of effort representing millions of dollars of volunteer service in support of ESGR programs, its services, and the men and women of our nation's Reserve forces.

Mr. Speaker, the National Committee for Employer Support of the Guard and Reserve is smart government in action. The small ESGR staff in Arlington, VA, under the direction of the Assistant Secretary of Defense for Reserve Affairs, provides guidance and support to a network of 4,200 volunteer business, civic, and community leaders.

ESGR educates employers on their rights and obligations under the law and recognize employers who actively support employee participation in the Guard and Reserve. ESGR also educates members of the National Guard and Reserve in regards to their rights and responsibilities to the value of their employers support. Committees can be found in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

With the end of the cold war, the Reserve components have been called with increasing frequency. During the Gulf War in 1990–1991, more than 250,000 Reserve component members were called to active duty to support military operations in the Persian Gulf. Since the start of Operation Noble Eagle and Enduring Freedom, more than 80,000 National Guard and Reserve troops have been activated and are playing a critical role.

Mr. Speaker, thousands of employers, local and state government officials, Active and Reserve component leaders, and military members from across the nation and around the world request ESGR's employer support expertise on a daily basis. When Guardsmen and Reservists return home following mobilization, ESGR committee members are there to provide information and support services to those in need.

The U.S. Congress passed the Uniformed Services Employment and Reemployment Rights Act, (USERRA) of 1994, and updated it in 1996. This law completely revised the Veterans Reemployment Rights Act of 1940. USERRA articulates the rights and responsibilities of Guard and Reserve members with regard to job protection and explains employer rights under federal law. ESGR helps employers and Reservists understand this law and helps them informally resolve any employment conflicts that may arise.

Mr. Speaker, again, I want to congratulate ESGR and its 54 ESGR committees on their 30 years of service and commend this network of over 4,200 volunteer patriots for their time and talent. They are serving their country and maintaining the much needed support of our employers and communities for the Guard and Reserve. Through the efforts of agencies like ESGR, we can call on our Reserve forces to answer our nation's call without the fear of job loss.

WHERE HAVE ALL THE FLOWERS GONE

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. ISSA. Mr. Speaker, I rise today to honor Mr. Paul Ecke, Jr.

For more than 50 years, Paul Ecke, Jr., has sent poinsettias and other exotic and beautiful flowers throughout the world. His company, Paul Ecke Ranch, has been the world leader in the development and distribution of poinsettias of every color and description.

Paul has given generously of his time and talent to his country, the State of California, and the people of San Diego County. On a more personal note, Paul has been a friend and mentor to me before and after I became a member of Congress. Often, when he disagrees with me and offers constructive criticism, I appreciate him most.

This Monday, the people of San Diego County will honor Paul Ecke, Jr., for his lifetime achievements and his contributions to the community. I know that Congress will join the people of San Diego in celebrating this great man and his ongoing achievements.

IN HONOR OF JANE CAMPBELL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. KUCINICH. Mr. Speaker, I rise today to recognize Jane L. Campbell, Mayor of the City of Cleveland, who is being honored at the Cuyahoga County Democratic Annual Dinner on April 14th, 2002.

Mayor Campbell began her service to community on the grassroots, neighborhood level, first as the founding Executive Director of WomenSpace, and later as the Executive Director of the Friends of Shaker Square.

During her six term, twelve-year tenure as State Representative, Mayor Campbell was elected Majority Whip and Minority Assistant Leader by her colleagues, and was elected President of the National Conference of State Legislators. This Conference represented all legislators from across the nation. Mayor Campbell focused her efforts on protecting the rights and well-being of children, families and seniors. She also provided critical support and guidance for the passage of the Adult Care Licensing Bill, legislation that ensures that our most vulnerable citizenry—our elderly, blind, and disabled citizens, are protected, and will receive quality services.

Additionally, Mayor Campbell was instrumental in the passage of legislation focused on the protection of children, including the requirement of genetic testing to establish paternity, and the expansion of health care coverage for children. Also, Mayor Campbell worked to publicize serious flaws within the child support process, which led to stricter enforcement of child support laws.

As one of three Cuyahoga County Commissioners, Mayor Campbell represented 1.5 million constituents in the Greater Cleveland area. Also during this time, she served as the Chair of Welfare Reform with the National Association of Counties, and represented the County as a member of the Executive Committee of the Large Urban County Caucus. Additionally, Mayor Campbell was elected to the Vice Chair of the National Democratic County Officials, and she was also elected as the Vice President of Communications for the National Conference of Democratic Mayors. Moreover, Mayor Campbell, as Commissioner, underscored her continued commitment to issues facing women, children and families, by chairing the Violence Against Women Act Committee, and the Children Who Witness Violence Committee.

Mayor Campbell's extensive public service accomplishments, leadership, and social advocacy on all levels, from grassroots neighborhood organizations that exist to serve women, children, families and seniors in need, to the esteemed position of Mayor of the City of Cleveland, lend promise to the vision of a hopeful tomorrow for all citizens of the City of Cleveland, and for the Greater Cleveland community as well.

My fellow colleagues, please join with me in paying tribute to Mayor Jane L. Campbell, for her diligent effort, outstanding leadership, and significant achievements within the public service arena, and also for her record of dedication to individuals and to community.

RECOGNIZING THE 25TH ANNUAL PRIDE YOUTH WORLD ANTI-DRUG CONFERENCE

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the over 4,500 youth and adult participants of the 2002 PRIDE (Parents Resource Institute for Drug Education) World Drug Prevention Conference currently being held in Cincinnati, Ohio. The PRIDE conference is the world's largest youth conference focusing on drug and violence prevention and one of the few that provides a forum where youth and adults meet to find solutions.

PRIDE was started in 1977 with the primary goal of educating, promoting and supporting drug free youth who care for the safety and health of self, peers, family and community. Today, as PRIDE celebrates its 25th anniversary as an organization dedicated to youth, it enjoys one of its most successful conferences to date. This year's participants represent 40 countries, many ethnic groups, as well as urban, suburban and rural communities. I am pleased to serve as PRIDE statewide co-chair along with Hope Taft, First Lady of Ohio, and Luceille Fleming, Director of the Ohio Department of Drug and Alcohol Prevention. The Coalition for a Drug-Free Greater Cincinnati, an organization I and other community leaders founded in 1996, has acted as a local partner.

The 2002 conference has drawn an impressive host of nationally recognized speakers including John Walters, Director of the Office of National Drug Control Policy; Hope Taft, First Lady of Ohio; Ruth Sanchez-Way, Director of the Center for Substance Abuse Prevention; Charles Currie, Director of Substance Abuse and Mental Health Services Administration; Major General Arthur Dean, Chairman/CEO Community Anti-Drug Coalitions of America.

The conference offers numerous workshops that help youth learn how to be leaders in their schools and communities, and teaches techniques that can be used to encourage peers to maintain a healthy and substance-free lifestyle. Importantly, the conference also demonstrates that, although there is still a great deal of work to do in the struggle to keep our youth off drugs and away from alcohol and tobacco, the majority of our teens are making responsible decisions regarding substance abuse and deserve to be commended for their efforts.

Teen alcohol and drug abuse has a devastating effect on families and communities nationwide. Youth PRIDE participants, as well as the parents, coaches and other mentors who help guide them, deserve accolades for their willingness to act as leaders with regard to this often difficult decision to stand up and be recognized as a model for healthy, substance free living.

The 25th annual PRIDE conference has also provided a unique partnership between the Cincinnati Police Department, the Hamilton County Prosecutor's Office, and Cincinnati CAN that has raised over $40,000 to provide scholarships for 200 Cincinnati youth to attend the conference. This has been a remarkable opportunity for the youth who, without this generous assistance, would have been unable to attend the conference. We congratulate these organizations for their community partnerships that help to reduce demand for drugs and alcohol.

All of us in Greater Cincinnati are pleased to welcome such an important conference to our area and thank all of the youths and adults who have worked to make the 2002 PRIDE conference a success.

CELEBRATING THE 30TH ANNIVERSARY OF THE SENIOR MEALS PROGRAM AND THE ESTABLISHMENT OF THE 1ST ANNUAL MARCH FOR MEALS CAMPAIGN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. McGOVERN. Mr. Speaker, I rise today to join the community of Worcester, Massachusetts in celebrating the 30th anniversary of the senior meals program and the establishment of the 1st annual March For Meals Campaign.

The senior meal program serves approximately 1800 Meals on Wheels and lunch site clients per day under the Older American's Act. Worcester's Age Center Meals on Wheels is the second largest in the state. Last year the agency delivered 339,131 meals. Meals are delivered five days a week in Worcester and surrounding towns to elders who are frail, unable to leave their home without assistance, and unable to prepare a meal on their own. The average age of Meals on Wheels recipients in Worcester is 82 and for some, the driver is the only contact with another person they have during the day. Elders themselves make up almost all the volunteers who package and deliver Meals on Wheels. Throughout its 30 year history, Meals on Wheels has adapted to meet the needs of elders and also the volunteers who serve them. The collaborations developed by the Age Center with 14 Councils on Aging and health care professionals continue to be the basis for future efforts. The Age Center continues to meet important nutritional and social needs of a growing population of elders.

March For Meals is a nationwide public awareness campaign designed to bring attention to local senior meals programs throughout the United States. It will highlight the continuing importance of meal programs and the growing need for resources as the elderly population increases and more Americans need community-based nutrition services. Because March 2002 marks the 30th anniversary of the federal government's support of senior nutrition programs, in Worcester County, Friday, March 22, 2002 has been designated as local March For Meals Day.

Mr. Speaker, on March 22 Worcester County will begin the annual March For Meals event that will continue to support and focus attention on the importance of senior nutrition programs. I will join in a birthday party celebration at the Zion Lutheran Church to celebrate the 30th anniversary of the creation of Meals on Wheels. I know that you and my colleagues join me in recognizing this valuable program.

THE FAILURE OF ARAB LEADERSHIP

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. BERKLEY. Mr. Speaker, it is time to stop pretending that the Palestinian Leadership desires, or is even capable of, achieving peace. Yasser Arafat and the current Palestinian Leadership are terrorists, just as surely as Mullah Omar and the Taliban, or Osama Bin-Laden and Al-Qaida. The United States cannot adopt a policy of negotiating with terrorists. Since the inception of this country we have embraced a foreign policy founded on the principles of fairness and right. We do not bow to expediency or terror. We stand for something greater. America's principled foreign policy is the foundation of our strength and credibility; it is, in large part, what makes this country great. To negotiate with terrorists would be to undermine this fundamental principle of our American strength. We cannot—

we must not— negotiate with terrorists. If we are to remain strong and fair, we must sever our ties with Arafat, with Fatah, and with the PLO.

Some have been overly cautious not to call Yasser Arafat a terrorist. This is driven in large part by a cringing reluctance to recognize his obvious association with terrorist groups, and the current lack of any alternatives. But that very lack of leadership is the result of our reliance on Arafat and the Fatah terrorists. By removing America's diplomatic and financial support from these terrorist groups, the Palestinian people may finally be empowered to choose a leader—not the current leaders of war and martyrdom and self-aggrandizement—but a leader devoted to peace and the Palestinian self-interest.

The United States must not shirk from calling terrorists what they really are, and it is a grave mistake for the United States to call upon Israel to end its mission against terror in the West Bank. America must allow Israel to take its place beside us in the war against terror. How can we as a nation justify ridding the world of the Taliban and Al-Qaida if we continue to criticize Israel for ridding the world of Jihad, Hamas, or the Al-Aqsa Martyrs' Brigade. And what more evidence do we need of Arafat's direct involvement in these tactics of terror than his own handwritten notes authorizing payments to terrorists and their families? Arafat still pays the terrorists, provides the weapons, and offers political cover for their activities.

The current Israeli mission is intended to dismantle the growing terrorist network operating freely throughout Palestinian areas. Israel has already uncovered thousands of illegal weapons including Kassam missiles, car bombs, and explosive belts used for suicide missions. Cities of the West Bank, like Jenin, have become safe havens for terrorists, in the same way that murderers took refuge among the Taliban in Afghanistan. These are not the cities of peace in a nascent homeland. These are markets of death, waging a war against Israel, America, Jews and Christians, and all of the ideals of the free and civilized world.

Arab leaders throughout the Middle East must publicly embrace peace as a concept and condemn the tactics of terror. It is unacceptable for the leaders of Morocco, Saudi Arabia, and Egypt to refuse to speak out against suicide bombers. These countries must renounce terrorism unconditionally whenever and wherever it occurs. The Secretary of State should not be going to the Middle East to pressure the Israelis to end their anti-terror operations. He should be in the Middle East to say loud and clear that if you are an ally of terrorists and terrorism, you are not an ally of the United States of America, and you will never receive one penny of American foreign aid.

It is time for the Arab world to know the United States is serious about rooting out terror—wherever it dwells. The Arab world must stop the hateful rhetoric against the people of Israel and the West; its leaders must make clear to the Palestinians that their terrorist actions only prolong and jeopardize their historic quest for a homeland, and sow the seeds of despair and hate that will take lifetimes to undo. The Arab world must know that America and Israel stand together, partners in the war against terror.

PAYING TRIBUTE TO JERRY VOGELSANG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual who has dedicated his life to serve and protect the citizens of this nation. Jerry Vogelsang has faithfully served his fellow countrymen for over fifty years; thirty years in law enforcement and 21 years in intelligence for the federal government. After a long and successful career as one of our nation's finest law enforcement officers, Jerry now resides in Craig, Colorado and I would like to acknowledge his contributions to this country.

Jerry began his service to this nation in the armed forces by joining the Navy in 1947. Years later he would go on to work for RCA as a field engineer, later joining the federal government in 1966, and began a long career in the field of intelligence. In 1968 Jerry began to work for the San Diego Sheriff's Department as a reserve officer, where he served for years as a gang unit detective. This position is an assessment to Jerry's excellence as a law enforcement officer; no other reserve officer has ever been assigned to a unit much less one as dangerous and important as a gang unit. Jerry retired from both the federal government and the sheriff's department in the late eighties.

Upon retirement, Jerry moved to Colorado but soon found that he was not suited for retirement. Driven by a duty to give back to his community, Jerry has volunteered at the Craig Police Department and the Moffat County Sheriff's department for over ten years. He has offered his experience, expertise and support to these departments and I am confident the force is grateful for his contributions. In addition to his status on the force, Jerry is regarded as a respected pillar of his community, is known as a devout husband, and a proud father of three.

Mr. Speaker, as a former law enforcement officer, I am well aware of the dangers and hazards our peace officers face today. These individuals work long hours, weekends, and holidays to guarantee their fellow citizen's rights and protection. They work tirelessly and with great sacrifice to their personal and family lives to ensure our freedoms remain strong in our homes and communities. Their service and dedication deserve the recognition and thanks of this body of Congress, and this is why I bring the name of Jerry Vogelsang to light today. Thank you for all your hard work, Jerry, I wish you all the best in your future endeavors.

IN RECOGNITION OF THE UNIFORMED FIRE OFFICERS ASSOCIATION OF THE CITY OF NEW YORK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MALONEY of New York. Mr. Speaker, I rise to pay tribute to the Uniformed Fire Officers Association in New York City (UFOA), which represents 2,500 lieutenants, captains, battalion chiefs, deputy chiefs, supervising fire marshals and medical officers of the New York City Fire Department. The fine officers represented by UFOA risk their lives daily to protect our community.

On September 11, 2001 the New York City Fire Department lost a total of 343 members in the attacks on the World Trade Center. Among the lost were 254 firefighters, 89 superior officers, 45 lieutenants, 20 captains, 17 battalion chiefs, 3 deputy chiefs and 2 staff chiefs. New York's Bravest also lost two of their most senior leaders, the Chief of the Department as well as the First Deputy Commissioner. Further adding to their devastation, the Catholic Champlain, the much-loved Reverend Mychal Judge, also perished.

The men and women who comprise the New York City Fire Department, as well as the Uniformed Fire Officers Association, work so closely together, that they often think of and refer to one another as family. For many, the brave men who perished were more than colleagues: They were 343 members of their extended family.

Since the disaster, the members of the UFOA have worked together to continue a long held tradition among fire personnel, by joining together to ensure that the immediate families of those who perished—spouses and children—are cared for. They are also working to ensure that the brave legacy of the firefighters lost that day endures, and that the heroes of September 11th are never forgotten.

UFOA is also working to ensure that veteran officers receive the support they need to rebuild their devastated agency. While the events of September 11th are unique, fires continue to threaten our community. The NYFD has done an outstanding job of pulling together to carry on with fighting some devastating fires that have broken out since September 11th. Their continued dedication and hard work deserves our strongest commendation.

For the bravery exhibited by the members of the Uniformed Fire Officers Association on September 11, 2001, and for the bravery they exhibit every day they show up to work to protect the rest of us, I ask my colleagues to pay tribute to the members of the Uniformed Fire Officers Association and the invaluable contributions of the UFOA.

PAYING TRIBUTE TO GEORGE THURSTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. MCINNIS. Mr. Speaker, it is with profound sadness that I rise today to recognize the life and contributions of George Thurston of Glenwood Springs, Colorado. George peacefully left us on a Monday, January 11, 2002 at the age of ninety-five. George was a popular member of the community and was often sought by many in the community for his listening ear, advice, and warm smile. He was known as a man of many interests and his foresight into the future needs of his fellow Coloradans is enjoyed throughout the State today. George was a remarkable man and I am honored to bring forth his good deeds and accomplishments before this body of Congress and this nation.

Born in Carbondale in 1906, George moved and eventually settled a few miles away Glenwood Springs, Colorado, where he quickly became a great contributor in the Western Slope community. George held many careers throughout his life including work for the Bureau of Land Management, the Forest Service, and work on Public Works projects to supply the state with our most valuable commodity, water. In 1940, George was named general manager of Holy Cross Electric Association, a local energy co-op that serves several surrounding communities. Because of his dedication and commitment to his fellow residents, George saw the company grow through the difficult years of World War II, and provide power to areas not served by the larger power companies. Among his greatest visions was the decision to provide several early ski slopes and resorts, including Aspen, with power. His good sense paid off and today the resorts in Vail and Snowmass owe part of their initial gambles to his trust and dedication to advancing his community.

Throughout his life, George was well known throughout his community as a leader and dedicated patriarch of his family. Later in his life, George could be found in his favorite place, the Colorado outdoors, enjoying his time at his mountain cabin with family. He is survived by a loving and dedicated wife of almost forty years, Dollie, daughter Karen, stepson Larry, and four grandchildren and two great-grandchildren.

Mr. Speaker, it is my privilege to pay tribute to George Thurston for the great strides he took in establishing himself as a valuable leader and visionary in the Glenwood Springs community. His dedication to family, friends, work, and the community certainly deserves the recognition of this body of Congress and a grateful nation. Although George has left us, his good-natured spirit lives on through the lives of those he touched. I would like to extend my regrets and deepest sympathies to George's family and friends during their time of bereavement and remembrance. George Thurston was a remarkable man and he will be greatly missed.

HOUSE OF REPRESENTATIVES—*Monday, April 15, 2002*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 15, 2002.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of heaven and earth, we bless You and praise You for our brothers and sisters in the Middle East, especially the Israeli and Palestinian people. Grant them peace.

When frightened by situations which seem impossible, we who share the faith of our father Abraham often turn to the psalmist to find voice.

The psalmist seems desperate yet single-minded as he prays:

"It is You, my king, my God who granted victories to Jacob.
Through You we beat down our foes;
In your name we trampled our aggressors.
For it is not in my bow that I trusted nor was I saved by my sword;
It was You who saved us from our foes;
It was You who put our foes to shame.
All day long our boast was in God and we praised Your name without ceasing."

In the end the psalmist seems to pray with an urgency that comes from a people who after a long time are accustomed to oppression and suffering:

"Awake, O Lord. Why do You sleep?
Arise. Do not reject us forever.
Why do You hide Your face from us and forget our oppression and misery?
For we are brought down low to the dust; our body lies prostrate on the earth.
Stand up and come to our help.
Redeem us because of Your love."

Amen. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The Speaker pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 16, 2002, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6163. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Acetamiprid; Pesticide Tolerance [OPP–301225; FRL–6829–3] (RIN: 2070–AB78) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6164. A letter from the Director, Office of Management and Budget, transmitting notification of the intention to modify the November 9, 2001 release of funds from the Emergency Response Fund; (H. Doc. No. 107–199); to the Committee on Appropriations and ordered to be printed.

6165. A communication from the President of the United States, transmitting notification of the intention to reallocate funds previously transferred from the Emergency Response Fund; (H. Doc. No. 107–200); to the Committee on Appropriations and ordered to be printed.

6166. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Department's final rule—Benefits payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits—received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6167. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Partial Final Rule for Combination Drug Products Containing a Bronchodilator [Docket No. 76N–052G] (RIN: 0910–AA01) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6168. A letter from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting the Department's final rule—Foreign Establishment Registration and Listing [Docket No. 98N–1215] (RIN: 0910–AB21) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6169. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production; Good Cause Final Rule [FRL–7162–7] (RIN: 2060–AJ34) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6170. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production [FRL–7162–5] (RIN: 2060–AJ34) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6171. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [Mo 114–1114b, FRL–7162–9] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6172. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Government of Austria (Transmittal No. 02–02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

6173. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 10–02 which informs the intent to sign a Project Arrangement between the United States and the United Kingdom concerning Waterside Security System (Sonar) under the Research and Development Projects (RDP) Memorandum of Understanding, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6174. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 11–02 which informs the intent to sign a Project Arrangement between the United States and Sweden concerning Environmental Fate and Ecotoxicology of Chemical Warfare Agents under the Technology Research and Development Projects (TRDP) Memorandum of Understanding, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6175. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 09–02 which informs of the intention to sign a Memorandum of Understanding (MOU)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

between the United States, the United Kingdom, Canada, Denmark and Norway concerning the Cooperative Framework for the System Development and Demonstration (SDD) Phase of the Joint Strike Fighter (JSF) Program and the Danish and Norwegian Supplements, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6176. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to India [Transmittal No. DTC 01–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6177. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to India [Transmittal No. DTC 171–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6178. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Germany and Russia [Transmittal No. DTC 124–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6179. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Egypt [Transmittal No. DTC 46–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6180. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Turkey [Transmittal No. DTC 172–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6181. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Saudi Arabia [Transmittal No. DTC 132–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6182. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 16–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6183. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the Republic of Korea [Transmittal No. DTC 024–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6184. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the Germany and Saudi Arabia [Transmittal No. DTC 033–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6185. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6186. A letter from the Acting Director, Office of Substainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 010112013–1013; I.D. 112301F] received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6187. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model HP.137 Jetstream MK.1, Jetstream Series 200, and Jetstream Series 3101 Airplanes [Docket No. 2000–CE–58–AD; Amendment 39–12643; AD 20002–03–02] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHLERT: Committee on Science. H.R. 3389. A bill to reauthorize the National Sea Grant College Program Act, and for other purposes; with the amendment (Rept. 107–369 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3347. A bill to provide economic relief to general aviation entities that have suffered substantial economic injury as a result of the terrorist attacks perpetrated against the United States on September 11, 2001; with an amendment (Rept. 107–406 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. House Resolution 261. Resolution recognizing the historical significance of the Aquia sandstone quarries of Government Island in Stafford County, Virginia, for their contributions to the construction of the Capital of the United States (Rept. 107–407). Referred to the House Calendar.

Mr. HANSEN: Committee on Resources. H.R. 2114. A bill to amend the Antiquities Act regarding the establishment by the President of certain national monuments and to provide for public participation in the proclamation of national monuments; with an amendment (Rept. 107–408). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Financial Services and the Budget discharged from further consideration. H.R. 3347 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3347. Referral to the Committee on Financial Services and the Budget extended for a period ending not later than April 15, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BALLENGER:

H.R. 4216. A bill to suspend through December 31, 2005, the duty on certain textile machinery; to the Committee on Ways and Means.

By Mr. LYNCH:

H.R. 4217. A bill to suspend temporarily the duty on certain filament yarns; to the Committee on Ways and Means.

By Mr. LYNCH:

H.R. 4218. A bill to suspend temporarily the duty on certain filament yarns; to the Committee on Ways and Means.

By Mr. BALLENGER:

H.R. 4219. A bill to reduce through December 31, 2005, the duty on certain textile machinery; to the Committee on Ways and Means.

By Mr. BALLENGER:

H.R. 4220. A bill to suspend through December 31, 2005, the duty on certain textile machinery; to the Committee on Ways and Means.

By Mr. BALLENGER:

H.R. 4221. A bill to suspend through December 31, 2005, the duty on certain textile machinery; to the Committee on Ways and Means.

By Mr. BORSKI:

H.R. 4222. A bill to provide for the elimination of duty on TOPSIN; to the Committee on Ways and Means.

By Mr. BORSKI:

H.R. 4223. A bill to provide for the elimination of duty on Thiophanate-Methyl; to the Committee on Ways and Means.

By Mr. CUNNINGHAM:

H.R. 4224. A bill to suspend temporarily the duty on night vision monoculars; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 4225. A bill to suspend temporarily the duty on D-Mannose; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 4226. A bill to suspend temporarily the duty on Bio-Set Injection RCC; to the Committee on Ways and Means.

By Mr. MORAN of Kansas:

H.R. 4227. A bill to codify and extend the current Department of Agriculture program to promote the use of agricultural commodities by bioenergy producers, particularly small-scale producers, to produce ethanol and biodiesel fuels; to the Committee on Agriculture.

By Mr. PORTMAN:

H.R. 4228. A bill to suspend until December 31, 2005, the duty on Penta Amino Aceto Nitrate Cobalt III (CoFlake 2); to the Committee on Ways and Means.

By Mr. SANDLIN:

H.R. 4229. A bill to amend the Internal Revenue Code of 1986 to repeal estate, gift, and generation-skipping transfer taxes; to the Committee on Ways and Means.

By Mr. LYNCH:

H. Con. Res. 376. Concurrent resolution recognizing ironworkers for their service in the rescue and recovery efforts in the aftermath of the terrorist attacks against the United States on September 11, 2001; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

Mr. LYNCH:

H.R. 4230. A bill to provide for the liquidation or reliquidation of certain entries of tomato sauce preparation; which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 77: Mr. SHIMKUS.

H.R. 854: Mr. REYES, Mr. DEMINT, Mr. NEY, Mr. HINOJOSA, Mr. JONES of North Carolina, Ms. WATSON, Mr. PASTOR, Mr. SHERMAN, Mr. MORAN of Virginia, Mr. GALLEGLY, Mr. MASCARA, Mr. NORWOOD, Mr. SESSIONS, Mr. BONILLA, and Mr. GANSKE.

H.R. 1294: Mr. CARSON of Oklahoma.

H.R. 1323: Mr. BONIOR.

H.R. 1360: Mr. BERMAN, Mr. LIPINSKI, Mrs. MCCARTHY of New York, Mr. STARK, Mr. BACA, and Ms. RIVERS.

H.R. 1433: Mr. BONIOR.

H.R. 1784: Mr. DINGELL.

H.R. 2073: Mr. LINDER.

H.R. 2802: Mr. NORWOOD.

H.R. 3236: Mr. CUMMINGS, Ms. DELAURO, Ms. WATSON, Mr. HILLIARD, and Mr. GUTIERREZ.

H.R. 3337: Mr. TERRY, Mr. BROWN of South Carolina, and Mr. HEFLEY.

H.R. 3459: Ms. NORTON and Mr. WATT of North Carolina.

H.R. 3521: Mr. ISRAEL.

H.R. 3657: Mr. DEFAZIO.

H.R. 3710: Mr. HEFLEY and Mr. CUMMINGS.

H.R. 3732: Mr. LARSON of Connecticut.

H.R. 3827: Mr. ROSS.

H.R. 3836: Mr. GREEN of Wisconsin and Ms. MILLENDER-MCDONALD.

H.R. 3906: Mr. WAXMAN.

H.R. 3915: Ms. SOLIS.

H.R. 3916: Mr. CAPUANO, Mr. DAVIS of Illinois, Ms. ROYBAL-ALLARD, and Ms. SOLIS.

H.R. 4021: Ms. NORTON, Mr. OWENS, Mr. PAYNE, and Mr. DAVIS of Illinois.

H.R. 4034: Ms. SANCHEZ and Mr. TOWNS.

H.R. 4046: Mr. WAXMAN.

H.R. 4114: Mr. BLUMENAUER, Mr. MORAN of Virginia, Mr. LYNCH, Mr. WEXLER, Mr. MCGOVERN, and Mr. FRANK.

H.R. 4156: Mr. WILSON of South Carolina, Mr. MCINNIS, Mr. JONES of North Carolina, Mr. MORAN of Kansas, and Mr. FORBES.

H.J. Res. 12: Mr. PICKERING.

H. Con. Res. 99: Mr. WATT of North Carolina, Mr. ROTHMAN, and Mr. STUPAK.

H. Con. Res. 181: Mr. NUSSLE.

H. Res. 105: Mrs. CAPPS and Mr. OWENS.

SENATE—*Monday, April 15, 2002*

The Senate met at 1 p.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

This week, as we celebrate Jewish Heritage Week, we pray for the Jewish people and for the crisis in the Middle East. My prayer is taken from the Jewish Book of Service, Daily Prayers. Let us pray.

We gratefully acknowledge that You are the Eternal One, our God, and the God of our fathers evermore; the Rock of our life and the Shield of our salvation. You are He who exists to all ages. We will therefore render thanks unto You and declare Your praise for our lives, which are delivered into Your hand and for our souls, which are confided in Your care; for Your goodness, which is displayed to us daily; for Your wonders and Your bounty, which are at all times given to us. You are the most gracious, for Your mercies never fail. Evermore we hope in You, O Lord our God. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed beyond the hour of 2 p.m. with Senators permitted to speak for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, as the Chair has announced, there will be a period of morning business until 2 p.m. Senator DORGAN, by virtue of a previous order, is going to use 30 minutes of that time. At 2 p.m., the Senate will resume consideration of the Border Security Act. There will be a rollcall vote this afternoon at 5:30 in relation to the Border Security Act or an Executive Calendar nomination.

MEASURE PLACED ON CALENDAR—H.R. 1009

Mr. REID. Mr. President, I understand H.R. 1009 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask that H.R. 1009 be read for a second time, and then I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 1009) to repeal the prohibition on the payment of interest on demand deposits.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, last week a number of pharmaceutical companies announced a new program by which some Medicare enrollees, particularly those at the lower income levels, will be able to access prescription drugs at a lower price. Let me compliment them for that. These companies are certainly moving in the right direction by recognizing that price is a very serious problem for a lot of Americans with respect to prescription drugs. The companies that founded Together Rx are Abbott Laboratories, AstraZeneca, Aventis Pharmaceuticals, Bristol-Myers Squibb Company, GlaxoSmithKline, Johnson & Johnson, and Novartis Pharmaceuticals Corporation. Pfizer and Eli Lilly have separate programs that they have already announced. I think it is a step forward, and I compliment these companies.

We have much more to do, but having been very critical of the prescription drug manufacturers for price increases, let me say thanks for these programs because they will benefit a good number of lower income senior citizens.

However, let me describe one of the problems that still exists. This chart is of a Washington Post article, from within the last month, "Prescription Drug Spending Rises 17 Percent in the Last Year." There have been double-digit increases year after year after year after year for prescription drugs. Taking a prescription drug is not a luxury. It is a necessity. Prescription drugs can only save lives if you can afford to access them.

We talk a great deal about senior citizens and the need to help them by adding a prescription drug benefit to the Medicare Program. We do that because senior citizens are about 12 percent of America's population, but they take one-third of all the prescription drugs. Many senior citizens are taking five, eight, and ten different kinds of prescription drugs. The price increases that have been occurring have been devastating, not just to senior citizens but to all Americans trying to access the supply of prescription drugs they need.

It is useful to understand that the debate about access to prescription medicines is not just a theoretical one. From time to time, I have described to my colleagues the experience I have had holding town meetings and hearings across North Dakota and the country on prescription drug prices. The issue of the pricing of prescription drugs is a very serious one for real people every day.

The U.S. consumer is charged the highest prices for exactly the same prescription drugs than anyone else in the world. The same pill made by the same company put in the same bottle costs much more in the United States than in other countries.

Tamoxifen, to treat breast cancer, is 10 times more expensive in the United States than in Canada, as an example. I ask unanimous consent to demonstrate the point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. I am holding here empty prescription drug bottles from the United States and Canada. It is useful to compare the prices of these drugs. This is a drug called Zoloft which is used to treat depression. There are two bottles here; the same tablet made by the same company put in different bottles. But if you buy it in the United States, it is $2.34 per tablet. The same tablet purchased in Canada is $1.28. So the same company makes the same pill and puts it into two different bottles. The difference is, when an American consumer buys it, they pay $2.34. If you buy it in Canada, $1.28.

To give another example, Norvasc is a drug used to treat high blood pressure. You buy it in Canada—same tablet, put in the same bottle, made by the same company, shipped to two different places, the United States and Canada—and it costs 90 cents and in the United States it costs $1.20.

Cipro is a drug commonly used to treat infections. This bottle holds a hundred 500 milligram tablets and costs $171 in Canada and $399 in the United States—the same tablet, the same bottle, and manufactured by the same company. Often drugs are produced in a U.S. manufacturing plant to be sent to Canada and sold at a much lower price. And you have the same thing happening in Italy, France, Germany, England, Sweden.

Now, why is that happening and what should we do about it? It is happening because we are the only country in which there is not some kind of governmental regulatory system to limit what is charged for prescription drugs. Actually, we do have price controls on prescription drugs here in the United States. It is just that the pharmaceutical manufacturers are the ones in charge of controlling the price. They ratchet up the price as high as they possibly can, and the result is an industry that is the financially healthiest in the United States.

But these high prices for drugs ultimately affect the relationship between a doctor and his patient. A doctor from Dickinson treats a woman with breast cancer. The woman, who is on Medicare, comes back to the doctor after having a mastectomy, and the doctor says: "Here is what we have to do given the type and grade of your breast cancer. You have to be on some prescription drugs that will substantially lessen the recurrence of breast cancer for you." She says: "What would this cost?" When told what the cost of the drugs would be, she says, "Well, doctor, I don't have the money to pay for that. There isn't any possible way I can take those prescription drugs. What I will have to do is just take my chances with the breast cancer."

That is repeated in doctor's office after doctor's office around the country. I have senior citizens telling me they cannot possibly afford their drugs, so they cut them in half and take only half a dose so it will last twice as long. In the small community of Michigan, North Dakota with perhaps 300 or 400 people, after a farm meeting one evening—a woman in her late 70s grabbed my arm at the end of the meeting and said: "Mr. Senator, can you help me?" She began to tear up. Her eyes got full of tears and her chin began to quiver, and she said: "I am supposed to take these prescription drugs in order to stay alive, but I can't afford them. The doctor says that I must take them. Can you help me?"

This is repeated all over the country. I am talking about senior citizens. But you could be talking about anybody who needs prescription drugs and finds that the prices are simply out of reach. There was a 17 percent increase last year in the cost of prescription drugs.

Reimportation of drugs from Canada will save our citizens a lot of money. Dr. Alan Sager from Boston University was a witness at a hearing I held at which he described a study that showed that Americans would save $38 billion a year if we paid Canadian prices for prescription drugs. North Dakotans alone would pay $81 million less in a year.

Some would say that by allowing the reimportation of prescription drugs, we are trying to import price controls. But what we are trying to do is force a repricing of prescription drugs in this country—a fairer price for the United States consumer. Why should we pay a dollar for the same market basket of drugs for which the Canadians pay 60 cents? Why should we pay a dollar, when virtually every other consumer in the world is paying a fraction of that for the same drugs? We should not and it is not fair.

There is a law on the books that prevents the reimportation of drugs from other countries, except by the manufacturer. If this is a global economy, we say let's allow the reimportation of drugs as long as there is a clear chain of custody and we can do it safely. I will offer, along with my colleagues, a proposal that would allow licensed pharmacists and distributors to access that lower-priced, identical prescription drug from a Canadian supplier and pass the savings along to the U.S. consumer.

I understand why the pharmaceutical manufacturers would not like that. But the point is, if this is a global economy, why should it only be good for the big interests? How about for other interests as well? Why should we not allow the reimportation of prescription drugs? The same drug put in the same bottle, manufactured in a FDA-approved plant. Why should we not allow that to be reimported to the U.S. as long as there is no safety concern?

All we need is to import a less expensive drug that is identical and made in an approved facility, to be able to provide a substantial benefit to the American consumer. So we are going to be proposing another amendment on that in the coming months. I know that the manufacturers will resist us aggressively. I started by complimenting them on the programs they are developing, but, frankly, we can't continue to see these cost increases in prescription drugs every year.

The miracle of medicine means nothing if you can't afford it. There has been a 12, 15, 16, or 17 percent increase year after year, and it is breaking the back of the American consumer and the back of health plans. The fact is, it cannot continue. The prescription drug manufacturers, pharmaceutical manufacturers, simply have to understand that.

They say that if you do anything that restrict our ability to charge these prices, there will be less research for the new miracle cures. But we have doubled funding to the National Institutes of Health. We are providing substantial amounts of public funding for research, from which the pharmaceutical industry often is a major beneficiary.

I might also say, with respect to the pharmaceutical industry, they spend as much or more on advertising, marketing, and promotion as they do on research. That is a fact.

So I think there is a lot to be done here. I pointed out that the industry has announced some positive steps, but there is much more to do, and we must take the right steps here in the Senate to address this issue.

That is why a group of us will, once again, offer an amendment that deals with the reimportation of prescription drugs—this time, only from Canada, where there can be no safety issue.

FAST-TRACK TRADE AUTHORITY

Mr. DORGAN. Mr. President, Senator DASCHLE, the majority leader, has now promised that before the Memorial Day recess, the Senate will be considering the administration's request for trade promotion authority; that is a euphemism for fast track. Fast-track authority allows an administration to negotiate a trade agreement somewhere and bring it back to the Congress, and Congress is told: "You are not able to change a decimal point, a period, or a punctuation mark. You must vote up or down on an expedited basis on that agreement. No changes, no amendments. No opportunity to make any alterations at all." That is called fast track.

Well, let me talk just a bit about this fast track. First of all, it is a fundamentally undemocratic proposition. We have negotiated most agreements that we have had without fast-track authority. We negotiate and have negotiated nuclear arms control agreements. There has been no fast-track authority for that. Most trade agreements that have been negotiated have not had fast-track authority.

Let me make a couple of comments about trade. First of all, the Constitution says—article I, section 8—the Congress shall have the power to regulate commerce with foreign nations. That is the Congress that said that. The Constitution says that the Congress has that power, not the President.

Fast track itself, in three decades, has been used five times: GATT, U.S.-Israel, U.S.-Canada, NAFTA, and WTO. Look at what happened with respect to the trade agreements. Pre-NAFTA, using that as a good agreement, it has been one of the worst trade agreements we have ever negotiated. Pre-NAFTA, we had a slight surplus with Mexico and a small deficit with Canada. After NAFTA was fully phased in, we have a big deficit with Mexico, and getting bigger, and a big deficit with Canada. We have people who think this is successful. I have no idea where they studied if they think this is a successful trade relationship.

Let's take a look at what is happening in some of these areas of trade. Let me talk, as I have previously, about automobiles and Korea. Why do I do this? Only to point out that the appetite for going off to negotiate a new trade agreement ought to be replaced by an appetite to solve some of the problems that currently exist. But nobody wants to solve problems. All they want to do is negotiate a new agreement.

Now, we have automobile trade with Korea. Let me use that as an example. In the last year that was just reported, the Koreans shipped us 618,000 automobiles. We were able to ship to Korea 2,800. So for every 217 cars coming in from Korea, we were able to send them 1.

Try sending a Ford Mustang to Korea. The Koreans will put up so many non-tariff trade barriers that you would be lucky to sell a single one. What we have is one-way trade. Korea ships Hyundais and Daewoos to this country by the boatload, and we cannot get American cars into Korea. Yet our negotiators seem to move along blissfully happy to talk about how we are going to negotiate the next agreement.

How about saying to Korea on cars: Look, you either open your market to American automobiles or you ship your cars to Kinshasa, Zaire. Our market is open to you only if your market is open to us. That ought to be our message.

We have a number of problems in our trade with Europe. Here is a colorful example. We cannot get American eggs into Europe for the retail market. You cannot buy eggs in Europe if they come from the United States. Do you want to know why? Because we wash eggs in this country, and you cannot sell washed eggs in Europe. The Europeans put up a rule that says that eggs can only be sold at the retail level if they are not washed, because apparently their producers cannot be trusted to wash their eggs properly.

This is a picture of washed versus unwashed eggs, in case anybody wants to see the difference. Maybe our Trade Ambassador can take a look at this absurd trade barrier.

How about selling breakfast cereal in Chile? The Chileans restrict the importation of U.S. breakfast cereals that are vitamin-enriched, as many of our cereals are. They contend consumers already receive enough vitamins in their daily diet and there is a health risk from the consumption of too many vitamins. So you cannot sell Total in Chile. Just absurd.

How about this one? Our cattle operations sometimes give growth hormones to their cattle. There is no scientific evidence that the hormones do any harm, but the Europeans put up a rule that says that beef from cattle that got hormones cannot get into the EU. I have been to Europe and have read the press over there. They depict American cattle as having two heads, suggesting that these growth hormones produce grotesque animals like the one pictured here. Our negotiators actually tried to do something about this, and took the EU to the WTO. The WTO agreed with the United States, and authorized our country to retaliate against the WTO.

So what form of retaliation did our negotiators settle on? We took action against the Europeans by restricting the movement of Roquefort cheese, goose liver, and truffles to the United States. Now that will scare the dickens out of another country, won't it? We are going to slap you around on goose liver issues.

I do not understand this at all. Our country seems totally unwilling to stand up for our trade interests.

Try to sell wheat flour to Europe. We produce a lot of wheat in Nebraska and North Dakota. Try to sell wheat flour in Europe. There is a 78-percent duty to sell wheat flour in Europe.

Will Rogers said—I have quoted him many times—that the United States of America has never lost a war and never won a conference. He surely must have been talking about our trade negotiators. It doesn't matter whether it is United States-Canada, United States-Mexico, GATT, or NAFTA, this country gets the short end of the stick.

The reason I am going to oppose fast track is not that I am opposed to expanded trade. I believe expanded trade is good for our country and good for the world. But I believe trade ought to be fair trade, and I believe our country ought to stand up for its economic interests. When other countries are engaging in unfair trade, our trade officials have a responsibility to stand up and use all available trade remedies on behalf of American workers and American businesses, and say that we will not put up with unfair trade practices.

I must say that Mr. Zoellick, our current Trade Representative, has recently taken some heat for action against imported steel. The Administration also took some heat for its action against unfair imports of lumber. In both cases, I thought the actions were appropriate. But the Administration has been widely criticized. This weekend, George Will had an op-ed that was very critical.

But I hope that nobody is getting the impression that U.S. producers are being adequately defended from unfair imports. Nothing could be further from the truth. Take the example of Canadian wheat. The Canadians use a monopoly agency called the Canadian Wheat Board to subsidize their grain and undersell us all over the world. In February, the U.S. Trade Representative ruled that the Canadians had been using their monopoly power to undermine the international trading system. But to date, the USTR has done nothing about it. Our wheat growers had asked for tariff rate quotas to be imposed. USTR found the Canadians guilty, but has yet to impose tariff rate quotas. Instead, USTR proposes to take the matter to the WTO. By the time the WTO issues a ruling, our great grandchildren will still be dealing with the problem.

I expect a number of my colleagues who will join me in saying to those who want to bring fast track to the floor: Fix some of the problems that exist in the current trade agreements before you decide you want new trade agreements. Fix some of the problems—just a few. Fix the problem of grain with Canada. Fix the problem of wheat flour with Europe. Fix the problem of automobiles from Korea.

How about fixing a couple of the problems dealing with Japan? Almost fourteen years after our beef agreement with Japan, there is a 38.5-percent tariff on every pound of beef that still goes into Japan. Japan has a $60 billion to $70 billion trade surplus with us, and they are still hanging huge tariffs on every pound of American beef we ship to Japan. How about more T-bones in Tokyo?

I am describing a few of a litany of problems in international trade that our country refuses to address. Why? Because we have trade negotiators all suited up. They have their Armani shoes and their wonderfully cut suits, and they are ready to negotiate. They will lose in the first half hour at the table if history is any guidance.

I am saying we ought not grant fast-track authority until our negotiators demonstrate they can fix a few trade problems. I did not believe Bill Clinton should have fast-track authority when he was President, and I do not believe George Bush should have fast-track authority. Not until the Administration is willing to demonstrate that it is willing to solve a few of the trade problems I have described.

Fast track is going to be on the slow track in the Senate. There will be many amendments proposed. I, for one, will offer a good number of amendments dealing with the issues described. I will also offer an amendment that says that NAFTA tribunals should not operate in secret. We should not be a party to any deal that determines international trade outcomes behind closed doors. The public should be able to see what NAFTA tribunals are up to.

This country will have done a service to its citizens if we say no to fast track.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DORGAN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

PRESIDENTIAL WITHDRAWAL FROM ABM TREATY

Mr. KYL. Mr. President, Secretary Powell at this very moment in the Middle East is striving mightily to effect a cease fire and develop more support for our war on terror, especially to the extent we may have to take military action against the country of Iraq.

It is in that context that I discuss today another way the administration has prepared to deal specifically with the threat from Iraq and other countries similarly situated in the Middle East.

On December 13, following a period of high-level negotiations, President Bush notified Russia of his intent to withdraw the United States from the 1972 Anti-Ballistic Missile Treaty. Since then, I have addressed the Senate on the military justification for the President's decision and the question of how much a national ballistic missile defense system will cost. Today, I would like to discuss the President's constitutional authority to unilaterally exercise the right of withdrawal without the consent of the Senate or Congress as a whole.

The President withdrew the United States from the treaty pursuant to Article XV, which allows either party to withdraw upon 6 months' notice if it determines that "extraordinary events . . . have jeopardized its supreme interests." I believe his action is a proper exercise of the authority of the chief executive to terminate a formal treaty to which the Senate had given its consent pursuant to Article II, Section 2, of the Constitution.

The question of Presidential authority is illustrated by the following assertion in a New York Times editorial by Bruce Ackerman, a professor of constitutional law at Yale:

> Presidents don't have the power to enter into treaties unilaterally . . . and once a treaty enters into force, the Constitution makes it part of the "supreme law of the land" just like a statute. Presidents can't terminate statutes they don't like. They must persuade both houses of Congress to join in a repeal.

While the Constitution is silent with respect to treaty withdrawal, the preponderance of writings and opinions on this subject strongly suggests that the Framers intended for the authority to be vested in the President. Article II, Section 1 of the Constitution declares that the "executive power shall be vested in the President." And Article II, Section 2 makes clear that the President "shall be Commander-in-Chief," that he shall appoint, with the advice and consent of the Senate, and receive ambassadors, and that he "shall have power, by and with the advice and consent of the Senate, to make treaties."

The Constitution approaches differently the duties of Congress, giving the legislative branch—in Article I's Vesting Clause—only the powers "herein granted." The difference in language indicates that Congress' legislative powers are limited to the list enumerated in Article I, Section 8, while the President's powers include inherent executive authorities that are unenumerated in the Constitution. Thus, any ambiguities in the allocation of a power that is executive in nature—particularly in foreign affairs—should be resolved in favor of the executive branch. As James Madison once wrote in a letter to a friend, "the Executive power being in general terms vested in the President, all power of an Executive nature not particularly taken away must belong to that department . . ."

The treaty clause's location in Article II clearly implies that treaty power is an executive one. The Senate's role in making treaties is merely a check on the President's otherwise plenary power—hence the absence of any mention of treaty-making power in Article I, Section 8. Treaty withdrawal remains an unenumerated power—one that must logically fall within the President's general executive power.

A careful reading of the writings of the Framers strongly also confirms that they viewed treaties differently than domestic law, and that, while they desired to put more authority over domestic affairs in the hands of the elected legislative representatives, they believed that the conduct of foreign affairs lay primarily with the President. As Secretary of State Thomas Jefferson observed during the first Washington Administration, "The constitution has divided the powers of government into three branches [and] has declared that 'the executive powers shall be vested in the president,' submitting only special articles of it to a negative by the Senate." Due to this structure, Jefferson continued, "The transaction of business with foreign nations is executive altogether; it belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the Senate. Exceptions are to be construed strictly."

In the same vein is the history of Supreme Court rulings on the subject of presidential powers. The Court has concluded that the President has the leading constitutional role in managing the nation's foreign relations. As one commentator, David Scheffer, noted in the Harvard International Law Journal, "Constitutional history confirms time and again that in testing [the limits of presidential plenary powers], the courts have deferred to the President's foreign relations powers when the constitution fails to enumerate specific powers to Congress."

In Harlow v. Fitzgerald, the Supreme Court observed that responsibility for the conduct of foreign affairs and for protecting the national security are "'central' Presidential domains." Similarly, in the Department of Navy v. Egan, the Supreme Court "'recognized the generally accepted view that foreign policy [is] the province and responsibility of the Executive.'"

The case most frequently cited as confirming that the President is the supreme authority in the Nation's conduct of foreign affairs is the Supreme Court's 1936 decision in the United States v. Curtiss-Wright Corp. In that case, the Court reversed the decision of the district court, and affirmed the constitutionality of President Franklin Roosevelt's declaration of an arms embargo against both sides in the conflict between Peru and Bolivia over the Chaco region. As stated in the opinion issued by Justice Sutherland, the power to conduct foreign affairs is "the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require for its exercise an act of Congress."

Treaties represent a central tool for the successful conduct of foreign policy. Such international agreements typically reflect the circumstances of particular security or economic conditions which may, of course, change over time. As such, in the course of protecting national security, recognizing foreign governments, or pursuing diplomatic objectives, a President may determine that it is necessary to terminate specific United States' treaty obligations.

That is precisely the subject we are facing with respect to the President's withdrawal from the 1972 ABM treaty.

As the D.C. Circuit stated in Goldwater v. Carter, "The determination of the conduct of the United States in regard to treaties is an instance of what has broadly been called 'the foreign affairs power' of the President. . . . That status is not confined to the service of the President as a channel of communication . . . but embraces an active policy determination as to the conduct of the United States in regard to a treaty in response to numerous problems and circumstances as they arise."

For these reasons, other unenumerated treaty powers have been understood to rest within the plenary presidential authority. For example, the President alone decides whether to negotiate an international agreement, and also controls the subject, course, and scope of negotiations. Additionally, the President has the sole discretion whether to sign a treaty and whether to submit a treaty to the Senate for advice and consent. The President may even choose not to ratify a treaty after the Senate has approved it. Vesting the power to terminate a treaty in the President is consistent with the accepted view that other such unenumerated powers are the responsibility of the President.

Furthermore, the executive branch has long maintained that it has the power to terminate treaties unilaterally. The Justice Department has argued that, "Just as the Senate or Congress cannot bind the United States to a treaty without the President's active participation and approval, they cannot continue a treaty commitment that the President has determined is contrary to the security or diplomatic interests of the United States and is terminable under international law." The State Department, in a 1978 memorandum advising that the President had the authority under the Constitution to terminate the Mutual Defense Treaty without Congressional or Senate action, opined that, "The President's constitutional power to give notice of termination provided for by the terms of a treaty derives from the President's authority and responsibility as chief executive to conduct the nation's foreign affairs and execute the laws."

One of the most well-known instances of treaty termination in recent history is former President Carter's decision to withdraw the United States from the Mutual Defense Treaty of 1954 between the U.S. and Taiwan in order to normalize relations with the People's Republic of China. That decision resulted in an extensive debate in the Senate and among scholars as to the President's constitutional authority to withdraw the United States from a treaty without the approval of the Senate or Congress. Several members of Congress, including former Arizona Senator Barry Goldwater, filed suit against President Carter, and the full Senate addressed treaty termination in a series of legislation that was debated by a number of my distinguished colleagues who remain in this body today.

Senator KENNEDY wrote a persuasive article for Policy Review in 1979 strongly supporting the notion that treaty termination is an executive power not requiring legislative consent. In that article, he argued:

> Article 10 of the treaty in question [the Mutual Defense Treaty] provided for its termination. In giving notice of an intent to terminate the treaty pursuant to that provision, the President was not violating the treaty but acting according to its terms—terms that were approved by the Senate when it consented to the treaty.
>
> As Charles C. Hyde, former Legal Advisor to the Department of State, put it in his leading treatise: "The President is not believed . . . to lack authority to denounce, in pursuance of its terms, a treaty to which the United States is a party, without legislative approval. In taking such action, he is merely exercising in behalf of the nation a privilege already conferred upon it by the agreement" . . .
>
> At the time that each treaty is made and submitted [for the advice and consent of the Senate, Senators] should seek to condition Senate approval upon acceptance of the Senate's participation in its termination. The Senate might have done so when it consented to the 1954 defense treaty with the Republic of China, but it did not. Any attempt, at this point, to invalidate the President's notice of intention to terminate that treaty is not only unwise . . . but also without legal foundation.

As with the 1954 treaty, the ABM Treaty contains a withdrawal clause—article XV(2)—for extraordinary events. That clause states:

> Each party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty.

That, of course, is precisely what President Bush did.

The President was fully justified in using that withdrawal clause unilaterally. Just as the Senate did not condition its approval of the Mutual Defense Treaty with Taiwan upon its participation in termination of that treaty, the Senate also did not place such a condition upon its approval of the ABM Treaty.

Senator Goldwater's suit over the President's termination of the Mutual Defense Treaty with Taiwan led to conflicting decisions by the trial and appellate courts and an eventual non-decision by the Supreme Court. The D.C. Circuit had reversed the trial court's decision, and upheld President Carter's authority to terminate the Mutual Defense Treaty, rejecting the arguments that (1) the advice and consent role of the Senate in making treaties implies a similar role in termination, and (2) that, because a treaty is part of the law of the land, a minimum of a statute is required to terminate it.

The Circuit Court pointed out that the President is responsible for determining whether a treaty has been breached by another party, whether a treaty is no longer viable because of changed circumstances, and even whether to ratify a treaty after the Senate has given its advice and consent. The court said that, "In contrast to the lawmaking power, the constitutional initiative in the treaty-making field is in the President, not Congress." Moreover, the court stated that, to require Senate or Congressional consent to terminate a treaty would lock the United States into "all of its international obligations, even if the President and two-thirds of the Senate minus one firmly believed that the proper course for the United States was to terminate a treaty." It would, therefore, deny the President the authority and flexibility "necessary to conduct our foreign policy in a rational and effective manner."

Finally, the court determined that "of central significance" was that the Mutual Defense Treaty—as my colleague Senator KENNEDY had also pointed out in his article—contains a termination clause that "is without conditions," and spells out no role for either the Senate or Congress. As a consequence, the court concluded, the power to act under that clause "devolves upon the President." The facts are the same with the 1972 ABM Treaty, and, therefore, the law must also be consistent.

I should note that President Carter did not stand alone in exercising his power to unilaterally terminate a treaty. According to David Gray Adler's The Constitution and the Termination of Treaties, unilateral executive termination has been practiced since the Lincoln Administration, and seems to be the most commonly used method of terminating treaties. And as the D.C. Circuit stated in Goldwater v. Carter,

> It is not without significance that out of all of the historical precedents brought to our attention, in no situation has a treaty been continued over the opposition of the President.

It is interesting to me members of the Senate have also raised the issue of the President's authority to withdraw from a particular treaty without legislative consent in the context of debating the resolution of ratification of a treaty. During the Senate's consideration of the Comprehensive Test Ban Treaty, CTBT, proponents of the CTBT argued that Safeguard F of that treaty meant that the President alone could exercise the right of withdrawal from the treaty. Safeguard F states:

> If the President of the United States is informed by the Secretary of Defense and the Secretary of Energy—advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories and the Commander of the U.S. Strategic Command—that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard "supreme national interests" clause in order to conduct whatever testing might be required.

As Senator BIDEN stated on the Senate floor on October 12, 1999:

> They have to assume, then, that the President, knowing that this stockpile is no

> longer reliable, would look at the U.S. Congress and say: I, President whomever, next President, certify that we can rely on our stockpile. They either have to assume that or they have to assume their concern about our stockpile is not a problem because the moment the President is told that, he has to call us and tell us and withdraw from the treaty . . .

Senator BOXER likewise argued that withdrawal from the treaty would be exclusively the responsibility of the President during her remarks on the Senate floor on October 13, 1999, stating,

> If our stockpile is not safe and reliable, the President will withdraw from the treaty. There doesn't have to be a Senate vote. It's not going to get bogged down in the rules of the Senate. If there is a supreme national interest in withdrawing from the treaty, we will withdraw.

Indeed, even some Senators openly opposed to the President's decision to withdraw the United States from the ABM Treaty have recognized his constitutional authority to make the decision without the consent of the Senate or Congress. In December 2001, Inside Missile Defense quoted Senator DASCHLE on the subject:

> It's my understanding that the President has the unilateral authority to make this decision. But we are researching just what specific legal options the Congress has, and we'll have to say more about that later . . . at this point, we're very limited in what options we have legislatively.

Similarly, according to a July 2001 article in the New York Times, Senator LEVIN stated,

> The president alone has the right to withdraw from a treaty, but Congress has the heavy responsibility of determining whether or not to appropriate the funds for activities that conflict with a treaty.

My own view is that while it would be anomalous for Congress to withhold funding for a national missile defense system, Senator LEVIN is correct on both counts: withdrawal is the President's decision and any funding for anything must be through Congressional appropriation.

In conclusion, I believe history will judge President Bush's notice of withdrawal from the 1972 ABM Treaty as equal in importance to his historic decision to commit the United States to the war on terrorism. With the withdrawal decision, he has paved the way for the United States to work aggressively toward deployment of defenses to protect the American people against the growing threat of a ballistic missile attack.

In announcing his intent to withdraw the United States from the treaty, President Bush acted in accordance with changed international circumstances and our national interests—reestablishing the important doctrine of "peace through strength" as the basis for U.S. security policy. And he acted within the authority granted by the Constitution to the Chief Executive.

I commend the President for arriving at a very difficult decision. As we all know, the role of Congress has not ended with our withdrawal from the treaty—the annual budget process can be used to either undermine or support the President's decision, a matter I will address in a future presentation. But for now, an essential first step in moving forward to protect the United States against a serious threat has finally been taken, and the President should be commended for his action.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM

Mr. KYL. In the remaining time I have I would like to address a matter that will be before the Senate as the pending business as soon as we conclude morning business; that is, the Enhanced Border Security and Visa Entry Reform Act, H.R. 3525. The sponsors of this legislation all spoke to the reasons for this legislation on Friday when the matter was brought to the floor at 11:30 by unanimous consent request of the majority leader. I thank Majority Leader DASCHLE for bringing this matter to the Senate floor so we can dispose of it.

A little bit of history is in order. The sponsors of the legislation—Senators KENNEDY, BROWNBACK, FEINSTEIN, and myself—had worked hard to develop this legislation in the aftermath of September 11 because we held hearings in two different subcommittees of the Judiciary Committee that revealed loopholes in our immigration laws, loopholes through which some of the terrorists who came here and carried out their horrible attack on September 11 were able to gain entry into the United States. They came on legal visas, visas that in some cases should never have been granted. They were here under student visas, even though they no longer attended the classes they had signed up to attend. In the case of some of them, they were out of status by the time of September 11.

We set about to identify loopholes in our immigration and visa laws that we could close to make it much more difficult for terrorists to gain entry into the United States. That legislation was developed before the end of last year's congressional session and was actually adopted by the House of Representatives just before we adjourned for the year. We attempted to have it adopted by the Senate, but Senator BYRD objected on the grounds that it required Senate debate, and he didn't want to simply adopt it as a matter of unanimous consent.

At the beginning of this year, we sought to find ways to bring the bill to the Senate floor for that debate and amendment, if need be, and had not been successful until the end of last week when, as I said, the majority leader successfully propounded a unanimous consent request that the Senate take the bill up. There is no limitation on time nor on amendments, but there has been such a strong outpouring of support for the bill—indeed, I think there are some 61 cosponsors, and that probably reflects the fact we have not gotten around to all the Members of the Senate, that it is clear the bill can pass very quickly as soon as we are ready to call for the final vote. But out of deference to those who believed it did need debate, that opportunity has been made available.

The only people I am aware of who spoke on the legislation on Friday were the four cosponsors: Senators KENNEDY, BROWNBACK, FEINSTEIN, and myself. We all laid out the case, to one degree or another, for the legislation and urged our colleagues who may have something to say about it to come to the floor and express themselves. Indeed, if there were amendments, we would be happy to entertain those amendments.

We are obviously hopeful there will not be, so we can simply adopt the legislation approved by the House and we can send it to the President for his signature. Why is this our goal? Each week that goes by without this legislation being in place represents an opportunity for a terrorist to gain entry into the United States. We have to close the loopholes. Most of the actions the legislation calls for are going to take time to implement, so it is not as if we can slam the door shut the minute the President signs the bill. We have to put into place procedures, for example, whereby the FBI, CIA, international organizations, and others can all make available, to the people who grant visas, information that bears upon the qualifications of the people seeking entry to the United States, people who apply for the visas—information that might suggest, for example, that there is a connection with a terrorist group and therefore the visa ought to be denied.

That is going to take time to implement, as will other provisions of the legislation. So time is wasting. We know there is no—I was going to state it in the negative. I was going to say there is no evidence the terrorists have given up the ghost here. I think there is a lot of evidence that they will try to strike us when they believe they can, and when they see us as having a point of vulnerability. That is why we have to begin to close these windows of vulnerability as soon as possible.

The head of the INS has indicated he thinks some of the timeframes for achievement of results under this legislation may even be pretty difficult for INS to meet, which is to say it is all the more important to begin now to close these loopholes because it is going to take a while to get everything in place, to effectuate all of the pieces of this legislation.

That goes back to my point that we have to get this signed as soon as possible. If there are amendments to the legislation here on the Senate floor, then it will have to go to a conference committee. That is all right, assuming we can get the conference to act quickly and bring the bill back to both the House and the Senate. But it is important we do that so the President can sign the legislation.

I appeal to my colleagues who have something to say about this, especially those who believed we should not consider it without debate on the floor, to come to the Chamber and explain their views on it, and to offer any amendments if they have amendments, so we can deal with those amendments and get on with our business.

I know the majority leader was reluctant to do this before without an agreement to have a specific time limit on debate because he wanted to complete work on the energy bill by the end of this week—as do, I think, almost all of us. I am sure all of us would like to be done with the energy bill. But we are not going to be able to finish that if we cannot quickly finish the Enhanced Border Security and Visa Entry Reform Act.

Again, I call upon my colleagues to come over. Let's finish the job and get this done.

I would like to say one other thing because there is a little element of confusion about something in section 245(i). Section 245(i) is a provision of the immigration law that allows for people who want to gain permanent status in the United States under two specific provisions to do so. Its provisions had terminated with respect to a large group of people, maybe 200,000 or 300,000 people, who wanted to gain permanent residence but whose legal status in the United States terminated and therefore they would have had to go back to their country of origin and apply for that status.

What some people wanted to do, including the administration, was to extend the period of time that they could make their application and complete that process so they could be allowed to stay in the United States permanently. Some of this involves reunification of families, for example.

In an effort to support the administration and to accommodate the interests of those who wanted to do that, there was an agreement between Senator KENNEDY and myself—and others—about exactly how that should be done. We both committed ourselves to trying to achieve the ratification of the temporary extension of section 245(i). The House of Representatives actually passed a second version of the Enhanced Border Security and Visa Entry Reform Act, a version which included section 245(i) with it. They did that earlier this year. That bill is pending at the desk.

It has not been called up for consideration, but I want my colleagues to know that is where this debate about section 245(i) comes into effect. There are some who believe section 245(i) represents a grant of amnesty to people. Perhaps one could argue that is, to a limited extent, true.

They are concerned that it represents the first step in a broader grant of amnesty. I hope that is not the case. But they have some concerns they have expressed about it. I hope we do not confuse the issue of 245(i) with H.R. 3525, the bill pending at the desk that we will be taking up again in just a few minutes—we can quickly pass H.R. 3525, get it to the President for signature, and then deal with section 245(i)—because I believe we need to deal with it, but I believe it will be easier to deal with outside the context of H.R. 3525.

Here is the reason I say that. I urge my colleagues who may be thinking about combining the two just to think about this for a moment. I believe we have an excellent chance of getting both of these things passed. But I think we may have an excellent chance of getting neither of them passed if they are combined. The reason is, I am concerned the Members of the House of Representatives may not be as inclined to vote for section 245(i) again as they were before. As a result, if we put this into conference and the question were put to the Members of the House, I am not certain they would vote for it. Nor am I sure that those who are opposed to section 245(i) in this body would permit it to come to a vote if it had to be brought back to this body as part of the Border Security and Visa Entry Reform Act.

So I urge my colleagues who support this to bear with us and understand we can have both of these things if we treat them separately. Those who oppose 245(i) will have a full opportunity to debate it and amend it if necessary, and to have a vote on it. But I hope that in an effort to kill section 245(i), they will not also be willing to kill H.R. 3525. I just tell my colleagues, if you try to combine 245(i) with H.R. 3525, you may be signing the death warrant for both, and I do not think that is the intent, of some people, anyway, who have talked about the possibility of filing an amendment relating to section 245(i) on H.R. 3525.

So I call on my colleagues to come to the floor and debate this legislation. If they have amendments, let's offer the amendments and try to dispose of them.

I see Senator KENNEDY is here, with whom I worked closely on this legislation. Frankly, we would not be where we are without all the work he has put into it. I am sure he will join me in asking those who have anything at all to say about it to come to the floor and say it so we can get on with it, take our vote, and then get back on the energy bill which obviously we want to conclude by the end of this week.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3525, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3525) to enhance the border security of the United States, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I spoke at some length on Friday, and I will only take a few moments now. If there are Members who desire to seek recognition to offer an amendment, I will yield the floor.

I just want to, as we come back to the discussion at the start of this week, once again underline the importance of the legislation; but, secondly, I want to mention the various groups that are in strong support of it.

Again, I am enormously grateful to my friend and colleague, Senator FEINSTEIN, who spends a great deal of time on immigration issues, as do Senators KYL and BROWNBACK. I commend all of them for their wonderful work in helping develop this legislation. They all have spoken very effectively on this legislation and have made a very strong case for it.

I will mention again the various groups that are in strong support of the legislation. It is always a fair indication of the breadth of support.

First of all, we have the principal student organizations that deal with international education. This is extraordinarily important because one of the most complicated and difficult issues is trying to know, when educational visas are given, whether the student comes to the United States; and when they come and gain entrance, whether they actually attend the college, whether they attend the classes, whether they graduate. They can have those visas for a long period of time, and it is very easy to lose complete track of them.

We have worked out a very effective and detailed way of making sure the Immigration Service is going to know the whereabouts of those students.

The Alliance for International Education and Culture Exchange says:

> We have worked with your staffs as the legislation developed and had opportunities for input to help ensure the bill strikes the right balance between our strong national interests and increased security and continued openness and exchange of visitors, students and scholars from around the world. We believe this legislation accomplishes this goal.

The National Association for International Educators has a similar endorsement:

> We have worked closely with your offices. While at the same time maintaining openness to international students and scholars, we also understand the national security issues.

That is enormously important. We are grateful for their strong support. The Chamber of Commerce has indicated its strong support for the legislation. The important reliance on biometrics, we had good hearings on how we can benefit from the various breakthroughs taking place in that area of science and research. We have worked very closely with the biometric industry, and the International Biometric Industry Association is strongly in support of the legislation.

Another group of supporters includes the broad group of organizations that understand immigration law. The American Immigration Lawyers Association, an organization which spends a great deal of time on immigration and immigration law, has been a strong supporter, as well as the various church groups, church world services, and civil rights groups. Supporters include the Leadership Conference on Civil Rights, the Council of La Raza, and the National Immigration Forum. So the basic overall groups we rely on that work on the settlement of refugees, work with immigrants and this settlement, work with various families, all reviewed these various provisions. They understand what we are attempting to do, and that is to maintain our historic role in terms of the reunification of families.

We have important national security issues as well in trying to work out that balance. These groups have been very supportive of what we have done, which is, again, reassuring.

Finally, the most important compelling letter from the Families of September 11. We had wonderful testimony from MaryEllen Salamone, who is director of the Families of September 11, in support of this legislation, very moving testimony. I commend those who have lost loved ones who are channeling their grief into useful and productive and constructive action, in this case, to try to make our country more secure in terms of the dangers of terrorists. Her very strong testimony and the support of the Families of September 11th is enormously important.

I am sure there are ways that we could have done this more effectively. We have the National Border Patrol Council that is strongly supportive of the program as well.

We have tried to balance the various interests we have talked about: One, making sure we are going to collect and have the appropriate sharing of information about foreign terrorists—and we set up a very important and up-to-date technology to be able to get to do that—getting the intelligence about potential terrorists into the hands of the Nation's gatekeepers in real time; it creates the layers of security with multiple opportunities to stop someone intent on doing us harm; it eliminates opportunities for terrorists to hide behind fraudulent travel documents, which is so important; and it determines how our Government might best work with the Governments of Canada and Mexico to deter terrorists arriving in North America in the first place and to manage our land borders in ways that deter the dangerous passage of people and cargo while facilitating the lawful and orderly passage of commerce and people who benefit our country.

This is what we have attempted to do. As I say, we welcome the opportunity to consider the amendments or to go into greater discussion of the particular provisions as the afternoon goes on. We invite our colleagues who have amendments to offer them. We were ready on Friday last to consider them. We spent some time in the afternoon in the presentation. Those Members who had the opportunity to read through the record will understand both the substance of this legislation and the very broad and wide support. We are hopeful we can make progress through the course of the afternoon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I see the Senator from West Virginia in the Chamber. I know he would like to speak. Any time he stands up, I will end my remarks and allow the Chair to recognize him.

I did want to add to the comments Senator KENNEDY has made. I am very pleased that Senators KENNEDY, BROWNBACK, KYL, and I have joined in authorizing this legislation. I am very proud that more than 60 of our colleagues have joined in cosponsoring it. I had a chance on Friday, along with the other Senators, to describe the legislation. I would like to make a few comments now.

I sincerely believe, in the wake of September 11, this is the most important bill this Senate can pass in terms of being able to begin to fix what is a very broken system and also to begin to change our priorities.

Our immigration policies have been in the past largely driven by our humanitarian and economic interests. That has changed today because we now realize that security of our borders is extraordinarily important and that our visa system, as a product of many errors and many instances in which it doesn't produce the dividends that it was expected to produce for a lot of reasons, needs changing.

Before September 11, just over 300 U.S. Border Patrol agents were assigned to the job of detecting and intercepting illegal border crossers along our vast 4,000-mile United States-Canadian border. Nine hundred State Department consular officers were assigned to conduct background checks and issue visas to 6 million foreign nationals seeking to enter the United States in a whole host of capacities—as students, tourists, temporary workers, and as temporary visitors.

The State Department's policy was that consular officers did not have to perform extensive background checks for students coming from such terrorist-supporting states as Syria or Sudan. Only an intermediate background check was required for Iranian students. More extensive checks were required for students from Iraq and Libya.

Frontline agencies, such as the INS, were chronically understaffed, used obsolete data management systems, and had substantial management problems. We all knew that. Today, the INS does not have a reliable tracking system to determine how many of our visitors legitimately enter the United States and how many leave the country after their visas expire.

It almost seems effortless, the way the terrorists got into this country. They didn't have to slip into the country as stowaways on sea vessels or sneak through the borders evading Federal authorities. Most, if not all, appeared to have come in with temporary visas, which are routinely granted to tourists, students, and other short-term visitors to the United States.

Clearly, our guard was down. September 11 clearly pointed out other shortcomings of the immigration and visa system. Just the sheer volume of travelers to our country each year illustrates the need for an efficiently run and technologically advanced immigration system. Most people don't really realize how many people come into our country, how little we know about them, and whether they leave when they are required to leave.

Each year, we have over 300 million border crossings of individuals from other countries. For the most part, these individuals are legitimate visitors to our country. We currently have no way of tracking all of them. We had 30.4 million nonimmigrants entering the United States during one year, 1999. That is the most recent year for which INS has statistics. Now, 23 million of them entered as tourists on the visa waiver program—23 million from 28 different countries. No visas, little scrutiny, no knowledge where they go in the United States or whether they leave once their visas expire.

Another startling fact is that the INS estimates that over 100,000 blank passports have been stolen from government offices in participating countries in the visa waiver program in recent years. Now, why is that significant? Right now, countries that participate are not required to report information on missing passports. That will change under this bill. The number of passports reported stolen or lost by visa waiver countries is not always entered into the lookout database or entered in a timely manner. That, too, will change when this legislation is enacted.

Abuse of the visa waiver program poses threats to U.S. security and increases illegal immigration. These visas are often sold on the black market for as much as $7,500 per visa. Passports from visa waiver countries are often the document of choice for terrorists.

Consider this: Ahmed Ressam, the Algerian convicted of plotting to blow up the Los Angeles International Airport in 1999, trafficked in a number of these false passports, at least one of which was linked to a theft from a townhall in Belgium, a visa waiver country. In addition, two members of an al-Qaida cell who assassinated the Northern Alliance leader Ahmed Shah Massoud just before September 11 traveled from Brussels to London to Karachi on stolen Belgian passports. Mr. Robert Reid—the shoe bomber—had a visa from the United Kingdom, another visa waiver country. These are some of the problems our bill seeks to stop in the visa waiver program.

Each year, more than a half million foreign nationals enter with student visas. Most recently, 660,000 foreign students entered in the fall of 2001. That is just last fall. Within the last 10 years, 16,000 have come from such terrorist-supporting States as Iran, Iraq, Sudan, Libya, and Syria.

The foreign student visa system is one of the most underregulated systems we have today. We have seen bribes, bureaucracy, and many problems with this system that leave it wide open to abuse by terrorists and other criminals. For example, in the early and mid 1990s, in my own State of California, in the San Diego area, 5 officials at 4 California colleges were convicted of taking bribes, providing counterfeit education documents, and fraudulently applying for more than 100 foreign student visas. These are university officials in that area who practiced fraud and said students were there when they were not, and they falsified grades. They were convicted for doing so.

However, it is unclear what steps the Immigration and Naturalization Service took to find and deport the foreign nationals involved in that scheme. It has been all too clear to those of us on the committee—Senators KENNEDY and BROWNBACK on Immigration, and Senator KYL and I on the Technology and Terrorist Subcommittee—that without an adequate tracking system, our country becomes a sieve, which is what it is today, creating ample opportunities for terrorists to enter and establish their operations without detection.

Consider these facts:

On May 28, 2001—last May—11 months ago, a criminal warrant was issued for Mohamed Atta's arrest in Broward County, FL, after he failed to appear in court for a traffic violation. On July 5, Atta was pulled over for speeding in Palm Beach, FL. At that time, the officer conducted a criminal search on Atta and found no outstanding warrants. After a trip to Spain, in which he allegedly met with coconspirators, Atta entered the United States for the final time—that was on July 19—despite past illegal incidents and the fact that his name was on a terrorist watch list. Instead, Atta was allowed into the United States as a nonimmigrant visitor after informing an INS officer that he had applied for a student visa.

One of the hijackers entered on a student visa and, though he never showed up for classes, was never reported because the INS stopped taking such reports in 1988. In other words, the INS doesn't even take reports if you don't show up for class when you come in on a foreign student visa.

In December 1999, Ahmed Ressam, otherwise known as the "millennium bomber," crossed the northern border into the United States with the intent to bomb Los Angeles International Airport. He presented a legitimate Canadian passport under the name Benny Norris, and a computer check of Norris showed no reason to detain him.

However, had they checked the name Ahmed Ressam, they would have found that Ressam had been arrested four times in Canada, had a pending warrant for deportation, and was being investigated by the French and Canadian Governments for being a terrorist. It was only because a U.S. Customs agent in Port Angeles, WA, voiced suspicions about his demeanor, causing Ressam to flee on foot, that Ressam was then arrested.

This man had an extensive criminal record and terrorist ties. Yet there was no data system to supply the Border Patrol with such crucial information.

Clearly, existing technologies that employed biometric identifiers could have been used to uncover Ressam's criminal background even though he had used a false name. We do this in our bill.

We must make it more difficult for foreign visitors to enter our country using false identification and take sufficient steps to combat and prevent identification and visa fraud.

The world might well be in an electronic age, but agencies such as the INS are still struggling with the paper-bound, bureaucratic system. Even in instances where technological leaps have been made, like the issuance of more than 4.5 million smart border crossing cards with biometric data, the technology is still not being used. In other words, we appropriated the money, 4.5 million of these technologically superior cards were issued, but INS never put in the laser reading systems.

According to the Department of Justice inspector general, INS has approximately 100 different automated information systems for each function of the agency. Few of these systems talk to each other. This is a stark reminder of how much work needs to be done to fix our broken immigration system.

By now, we are all aware of the various proposals that have emerged to restructure or dismantle the INS. While restructuring the INS is certainly an idea worth examining, the most immediate need today is for Congress to enact this legislation because restructuring it is not going to cure any of the problems we address in this legislation. Restructuring it does not provide additional inspectors, does not provide additional border patrol, does not provide for an interoperable database system, does not provide for visa waiver reform, does not provide for student visa oversight monitoring and tracking.

Our bill would do just these things. It attempts to transform agencies, such as the INS, from a paper-driven bureaucracy to one that better manages its mission by upgraded information management and sharing systems. It would enable the INS and consular offices to access vital intelligence information in real time before they issue visas and permit entry to the United States.

The INS has often argued that it did not have sufficient intelligence to prevent the terrorists from entering the United States. However, this failure of intelligence information does not explain why the INS would admit at least three terrorists who clearly were inadmissible at the time they were permitted to enter the country.

Last year, in the subcommittee that I chair and on which Senator KYL is the ranking member, we heard the testimony of Assistant Secretary of State for Consular Affairs, Mary Ryan. She testified that the consular staff felt terrible because they had granted visas to some of the 19 terrorists. At least three of the hijackers, including Mohamed Atta, the alleged ringleader, had stayed in the United States longer than authorized on their previous visits, making their visas invalid. Because the consular officers had no information on these individuals, they had no reason at the time to deny the visas.

If the INS had a system in place to identify visa overstayers, this might have enabled both the State Department to further investigate the backgrounds of the terrorists and the INS inspectors to enforce the law by stopping these terrorists before they entered the country.

The INS should have had the information at their disposal. They either did not collect the information or they did not have the means for the INS inspectors on the front lines to access it.

In the wake of September 11, we know the chances of another terrorist attack are great, and we know it is unconscionable for our systems to allow entry of another terrorist into the United States. Unless we move on this bill, we cannot possibly remedy the faults in our system.

The legislation would require the Attorney General and the Secretary of State to issue machine readable, tamper resistant visas that use standardized biometric identifiers. This in itself is a big improvement. I myself have visited streets where in a half hour, one can buy a green card that certainly no layperson can tell the difference between a forged green card produced on this street in Los Angeles and a real green card.

Our bill allows INS inspectors at ports of entry to determine whether a visa properly identifies a visa holder and, thus, combats identity fraud.

Second, it will make visas harder to counterfeit.

Third, in conjunction with the installation of scanners at all ports of entries to read the visas, the INS can track the arrival and departure of aliens and more reliably identify aliens who overstay their visas.

The bill also provides that aliens from countries that sponsor international terrorism cannot receive nonimmigrant visas unless the Attorney General and the Secretary of State determine that they do not pose a threat to the safety of Americans or the national security of our country.

American embassies and consulates abroad will be required to establish terrorist lookout committees that meet monthly to ensure that the names of known terrorists are routinely and consistently brought to the attention of consular officials, our Nation's first line of defense.

The bill contains a number of other related provisions as well, but the gist of the legislation is this: Where we can provide law enforcement, more information about potentially dangerous foreign nationals, we do so. Where we can reform our border crossing system to weed out or deter terrorists and others who would do us harm, we do so. And where we can update technology to meet the demands of the modern war against terror, we do that as well.

As we prepare to modify our immigration system, we must be sure to enact changes that are realistic and feasible. We must also provide the necessary tools to implement them.

The legislation Senators KENNEDY, BROWNBACK, KYL, and I have crafted is an important and strong first step, but this is only the beginning of a long, difficult process.

As the Senator from West Virginia has pointed out, this legislation is only as good as the appropriations that follow forthwith. The annual cost is about $1.1 billion. The 3-year cost is about $3.5 billion. This leaves for this year about $753 million that we will have to come up with to meet the cost of the first year. My understanding is that this money is available in unallocated dollars, but that, of course, has to be checked out, or we should take it from another source.

I guess the biggest assurance I can give, as a lowly appropriator, to the distinguished powerful chairman of the Appropriations Committee, is I will do my level best to lobby my colleagues to produce the money and, with whatever influence I probably do not have with the administration, try to influence the administration, as well, because I truly believe if we are to protect our people, this bill is a prerequisite. Unless we tighten up our loopholes and provide the funding for the technology we need, we are going to be nowhere. That is not to say that a terrorist still cannot come in, but it is to say we can make it very much more difficult for them.

So I conclude by saying that for some time many of us have been calling for reforms of our visa and border security system. We should have acted in 1993. We did not, and that left us vulnerable to the events of September 11. We are now in a position where we are reacting to this latest tragedy, and I think it is really important we act now to get this legislation on the books. Then it is up to each and every one of us to do everything we possibly can to see that it is funded promptly and, more importantly, for the Immigration Subcommittee to really exercise oversight over the INS and oversight over the Consular Affairs Division of the State Department to see that the necessary reforms do get put in place with respect to the visa system.

There is not much else I can say, but I ask unanimous consent to have printed in the RECORD, without going through it again because I went through it on Friday, a summary of the bill and also some critical statistics on the number of people coming into our country, and particularly the specific status under which they come and the loopholes that exist.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001—FACTS AND STATISTICS

FOREIGN-BORN IN THE UNITED STATES

An estimated 30 million foreign-born residents lived in the U.S. in 2000.

Between 8 and 9 million are residents without legal status (i.e., either they entered illegally or overstayed a temporary visa)—40 percent of that total were visa overstays.

30.4 million nonimmigrants entered the U.S. during 1999 (the most recent year for which the INS has statistics)—23 million of them entered as tourists on the Visa Waiver Program (according to State Department statistics); 6 million of them were issued nonimmigrant visas as students, tourists, temporary workers and other temporary visitors (only 900 State Department consular officers, mostly junior staff, are assigned to issue these visas and conduct background checks); and 660,000 were foreign students who had entered in Fall 2001.

Foreign students

660,000 foreign nationals held student visas in Fall 2001—more than 10,000 enrolled in flight training, trade schools and other non-academic programs; and more than 16,000 came from terrorist,supporting countries.

Some 74,000 U.S. schools are allowed to admit foreign students, but checks of the schools on the current INS list found that some had closed; others had never existed.

Exactly six months after the 9/11 attacks, Huffman Aviation in Venice, Fla. received student visa approval forms for Mohamed Atta and Marwan Al-Shehhi. The men were aboard separate hijacked planes that struck the World Trade Center towers, killing thousands.

VISA WAIVER PROGRAM

23 million foreign visitors enter the U.S. each year under the Visa Waiver Program.

There are now 28 countries that are included in the program.

Earlier this year, Argentina was dropped from the program because of the country's political and economic instability.

Current Inspections System

Because visitors traveling to the U.S. under the Visa Waiver Program do not need a visa to enter the U.S., INS inspectors at U.S. ports of entry are the principle means of preventing unlawful entry of individuals from one of the 28 countries.

The primary tool available to INS inspectors during the inspections process is the Interagency Border Inspection System, known as IBIS, which allows INS inspectors to search a variety of databases containing records and lookouts of individuals of particular concern to the U.S.

A 1999 Office of the Inspector General (OIG) report found, however, that INS inspectors at U.S. ports of entry were not consistently checking passport numbers in IBIS.

INS officers also failed to enter lost or stolen passports from visa waiver countries into IBIS in a timely, accurate or consistent manner.

One senior INS official from Miami International Airport told the OIG that he was not even aware of any INS policy that required the entry of stolen passport numbers.

Anti-fraud enforcement

In a report released in February 2002, the U.S. General Accounting Office said that anti-fraud efforts at the INS are "fragmented and unfocused" and that enforcement of immigration laws remains a low priority.

The report found that the agency had only 40 jobs for detecting fraud in 4 million applications for immigrant benefits in the year 2000.

NATIONAL SECURITY

In FY 1999, the Department of State identified 291 potential nonimmigrants as inadmissible for security or terrorist concerns.

Of that number, 101 aliens seeking nonimmigrant visas were specifically identified for terrorists activities, but 35 of them were able to overcome the ineligibility.

47 foreign-born individuals—including the 19 September 11th hijackers—have been charged, pled guilty or convicted of involvement in terrorism on U.S. soil in the last 10 years.

41 of the 47 had been approved for a visa by an American consulate overseas at some point. Thus, how we process visas is critically important.

Only 3 entered without inspection (illegally) into the United States and thereby avoided contact with an immigration inspector at a point of entry.

This means that 44 of the 47 had contact with an inspector at a point of entry.

Of the 47 terrorists, at least 13 had overstayed a temporary visa at some point prior to taking part in terrorist activity, including September 11th ring leader Mohamed. Therefore, tracking visa overstays is a very important part of terrorism prevention.

The terrorists who entered on student visas took part in the first attack on the Trade Center in 1993, the bombing of U.S. embassy in Africa in 1998, and the attacks of September 11th. Therefore, how we process and track foreign students is clearly important.

Some reports indicate that Khalid Al Midhar, who probably flew American Airlines flight 77 into the Pentagon, was identified as a terrorist by the CIA in January 2001, but his name was not given to the watch list until August 2001.

Unfortunately, he had already reentered the United States in July 2001. (I should point out that there is some debate about exactly when the CIA identified him as a terrorist.)

But, if it really did take the CIA several months to put his name on the list as PBS' Frontline has reported, then that is a serious problem because we might have stopped him from entering the country had they shared this information sooner. This speaks to the issue of sharing information between federal agencies.

Absconders/detainees

In December 2001, INS estimated that 314,000 foreigners who have been ordered deported are at large.

More recent estimates released in March 2002 suggest that there may be at least 425,000 such absconders.

At least 6,000 were identified as coming from countries considered Al Qaeda strongholds.

BORDER AGENCY STATISTICS

There are 1,800 inspectors at ports of entry along U.S. borders.

The Customs Service has 3,000 inspectors to check the 1.4 million people and 360,000 vehicles that cross the border daily.

The 2,000-mile long Mexican border has 33 ports of entry and 9,106 Border Patrol agents to guard them all.

In October 2001, there were 334 Border Patrol agents assigned to the nearly 4,000-mile long northern border between the U.S. and Canada. This number of agents cannot cover all shifts 24 hours a day, 7 days a week, leaving some sections of the border open without coverage: The Office of the Inspector General found that one northern border sector had identified 65 smuggling corridors along the 300 miles of border within its area of responsibility; and INS intelligence officers have admitted that criminals along the northern border monitor the Border Patrol's radio communications and observe their actions and this enables them to know the times when the fewest agents are on duty and plan illegal actions accordingly.

350 million foreign nationals enter the U.S. each year.

The INS estimates that approximately 40 to 50 percent of the illegal alien population entered the U.S. legally as temporary visitors but simply failed to depart when required.

An estimated 40 percent of nonimmigrants overstay their visas each year. 9 million illegal and 4 million visa overstayers.

The Enhanced Border Security and Visa Entry Reform Act—Summary

The legislation would:

Create an interoperable data system.—The Administration would be required to develop and implement an interoperable law enforcement and intelligence data system by October 26, 2003 to provide the INS and State Department immediate access to relevant law enforcement and intelligence information.

The database would be accessible to foreign service officers issuing visas, federal agents determining the admissibility of aliens to the U.S. and law enforcement officers investigating and identifying aliens. The bill also prevents and protects against the misuse of such data.

Reform the visa waiver program.—The bill would require that each country participating in the visa waiver program issue tamper-resistant, machine-readable biometric passports to its nationals by 2003.

Require the reporting of lost or stolen passports.—The INS would be required to enter stolen or lost passport numbers into the interoperable data system within 72 hours of notification of loss or theft. And until that system is established, the INS must enter that information into an existing data system.

Require new requirements for passenger manifests.—All commercial flights and vessels coming to the U.S. from international ports must provide manifest information about each passenger, crew member, and other occupant prior to arrival. This section of the bill also eliminates the 45-minute deadline to clear arriving passengers.

Require new travel document measures.—Requires all visas, passports, and other travel documents to be fraud and tamper-resistant and contain biometric data by October 26, 2003.

Increase scrutiny of nonimmigrants from certain countries.—Prohibits the issuance of nonimmigrant visas to nationals from countries designated as state sponsors of international terrorism, unless the Secretary of State, after consulting with the Attorney General and the heads of other appropriate agencies, determines that the individuals pose no safety or security threat to the United States.

Institute student visa reforms.—Reforms the student visa process by:

Requiring the Attorney General to notify schools of the students entry and requiring the schools to notify the INS if a student has not reported to school within 30 days at the beginning of an academic term. The monitoring program does not, at present, collect such critical information as the student's date of entry, port of entry, date of school enrollment, date the student leaves school (e.g., graduates, quits), and the degree program or field of study. That and other significant information will not be collected.

Requiring the INS, in consultation with the State Department, to monitor the various steps involved in admitting foreign students and to notify the school of the student's entry. It also requires the school to notify INS if a student has not reported for school no more than 30 days after the deadline for registering for classes.

Requiring the INS to conduct a periodic review of educational institutions to monitor their compliance with record-keeping and reporting requirements. If an institution or programs fails to comply, their authorization to accept foreign students may be revoked.

While the INS is currently responsible for reviewing the compliance of educational institutions, such reviews have not been done consistently in recent years and some schools are not diligent in their record-keeping and reporting responsibilities.

Increase more border personnel. This section authorizes an increase of at least 1,000 INS inspectors, 1,000 INS investigative personnel, 1,000 Customs Service inspectors, and additional associated support staff in each of the fiscal years 2002 through 2006 to be employed at either the northern or southern border.

Increase INS pay and staffing. To help INS retain border patrol officers and inspectors, this section would raise their pay grade and permit the hiring of additional support staff.

Enhance Border Patrol and Customs training. To enhance our ability to identify and intercept would-be terrorists at the border, funds are provided for the regular training of Border Patrol, Customs agents, and INS inspectors. In addition, funds are provided to agencies staffing U.S. ports of entry for continuing cross-training, to fully train inspectors in using lookout databases and monitoring passenger traffic patterns, and to expand the Carrier Consultant Program.

Improve State Department information and training. This section authorized funding to improve the security features of the Department of State's screening of visa applicants. Improved security features include: better coordination of international intelligence information; additional staff; and continuous training of consular officers.

WHY IS THIS IMMIGRATION REFORM NECESSARY?

Six months to the day after Mohamed Atta and Marwan Al-Shehhi flew planes into the World Trade Center, the Immigration and Naturalization Service notified a Venice, Florida, flight school that the two men had been approved for student visas.

One week later, the INS discovered that four Pakistani crewmen, four Pakistani nationals were reported missing after an INS inspector had inappropriately allowed them to take shore leave after a ship docked in the Norfork, Virginia harbor.

On November 30, Senators Feinstein, Kennedy, Brownback and Kyl introduced this bill to make sure these missteps do not happen again. This bill would help prevent terrorists from entering the United States by exploiting the loopholes in our immigration system.

The House passed this bill by voice vote on December 19, 2001 and again on March 12, 2002. It is now time for the Senate to act.

Facts to consider

As many as 3.5 to 4 million tourists, students and others legally entered the U.S. with visas, but later became illegal immigrants by remaining in the country long after their visas expired. The INS has acknowledged that the agency has no idea where they are.

Each year, we have 350 million border crossings. For the most part, these individuals are legitimate visitors to our country. We currently have no way of tracking all of these visitors.

47 foreign-born individuals—including the 19 September 11th hijackers—have been charged, pled guilty or convicted of involvement in terrorism on U.S. soil in the last 10 years.

41 of the 47 had been approved for a visa by an American consulate overseas at some point. Thus, how we process visas is critically important.

Other serious problems that have come to light

Foreign Students

Each year, more than 500,000 foreign nationals enter the U.S. with foreign student visas.

Within the last ten years, 16,000 came from such terrorist supporting states as Iran, Iraq, Sudan, Libya and Syria.

The foreign student visa program is severely under-regulated. During the 2000–2001 academic year, 3,761 foreign nationals from terrorist supporting countries were admitted into the U.S. on student visas.

Before September 11th, the State Department did not perform extensive background checks for students coming from Syria or Sudan. An intermediate background check is required for Iranian students and more extensive checks are required for students from Iraq and Libya.

Last year, the National Commission on Terrorism warned, "Of the large number of foreign students who come to this country to study, there is a risk that a small minority may exploit their student status to support terrorist activity."

The problem is that the INS has no idea whether the students are registered at the schools that sponsored them or how many are in the United States today with expired visas.

Nor can the INS provide information on the number or the type of institutions who are eligible to accept foreign students into their academic programs. This type of information is essential to INS and the Congress' ability to exercise effective oversight over the visa program.

Foreign Student Visa Fraud

In the early 1990s for example, five officials at four California colleges, were convicted of taking bribes, providing counterfeit education documents and fraudulently applying for more than 100 foreign student visas.

When asked what steps the INS took to ensure that the college would comply with the terms of the program in the future, INS staff said no steps were taken. When asked about the fate of the 100 foreign nationals who fraudulently obtained foreign student visas, the INS had no idea.

Visa Waiver

The Visa Waiver Program was designed to enable citizens from 29 participating countries to travel to the U.S. without having to first obtain visas for entry. Earlier this year, Argentina was dropped from the program, so now there are 28 participating countries.

An estimated 23 million visitors enter the U.S. under this program. This program has been subject to abuse and has, at times, facilitated illegal entry because it eliminates the need for visitors to obtain U.S. visas and allows them to avoid the pre-screening that consular officers normally perform on visa applicants.

As a result, checks by INS inspectors at U.S. ports of entry become the chief and sometimes only means of preventing illegal entry; INS inspectors have, on average, less than one minute to check and decide on each visitor.

The INS has also estimated that over 100,000 blank passports have been stolen from government offices in participating countries in recent years.

Abuse of the Visa Waiver Program poses threats to U.S. national security and increases illegal immigration. For example, one of the co-conspirators in the World Trade Center bombing of 1993 deliberately chose to use a fraudulent Swedish passport to attempt entry into the U.S. because of Sweden's participation in the Visa Waiver Program.

Information Sharing Among Federal Agencies

In a Judiciary Subcommittee hearing I held in September, Mary Ryan, the Assistant Secretary of State for Consular Affairs, said that the lack of information sharing is a "colossal intelligence failure" and that the State Department "had no information on the terrorists from law enforcement."

Right now, our government agencies use different systems, with different information and different formats, and they often refuse to share that information with other agencies within our government. This clearly, in view of September 11th, is no longer acceptable.

I am amazed that a person can apply for a visa and there is no mechanism by which the FBI or CIA can enter a code into the system to raise a red flag on individuals known to have links to terrorist groups and pose a national threat.

In the wake of September 11th, it is hard for me to fathom how a terrorist might be permitted to enter the U.S. because our government agencies aren't sharing information.

I am also concerned about the current structure of information technology. An assessment made of the INS management and investment of information technology by the Department of Justice Inspector General revealed the INS cannot ensure that the money it spends each year on information technology will be able to support the service and enforcement functions of the agency.

Nor is the agency's information adequately protected from unauthorized access or service disruption. Moreover, the INS currently uses too many different data bases, many of which do not communicate with each other.

All these problems point to the dramatic need for change.

WHAT THE "ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT" DOES

This bill protects our nation's openness to newcomers while at the same time adds some prudent steps to our immigration policy to ensure that Americans are safe at home.

The bill's major provisions would:

Require the administration to create a computerized database system giving INS and the State Department, which issues visas, immediate access to law enforcement and intelligence service information. One of the 19 hijackers, Khalid Almidhar, may have appeared on a CIA watch list—well before he entered the country—that information was not shared with the INS.

Require U.S. universities and other educational institutions to notify the INS if a foreign student has not reported to school within 30 days of the start of the academic term. Two of the 19 highjackers came to the United States on student visas yet never showed up for class.

Tighten reporting requirements for the 500,000 people admitted annually on student visas.

Force airlines and shipping companies to provide passenger and crew manifests for every fight and ship originating at international ports before they arrive in the United States.

Require the 28 countries taking part in the Visa Waiver Program, which permits certain of their citizens to travel here for up to 90 days without first obtaining visas, to issue tamper-resistant biometric passports by 2003.

Prohibit the issuance of visas to nationals from countries designated as state sponsors of international terrorism unless they are carefully vetted and determined to pose no security threat to the United States. Such countries currently include Iraq, Iran, Syria. Libya, Cuba, North Korea and Sudan.

Even if we pass this legislation, it is still possible for a terrorist to sneak into this country and inflict serious harm. But, if we pass this important legislation, we can at least reduce substantially the probability that terrorists such as those who came here prior to September 11th will ever be able to launch that type of attack again.

Mr. BYRD. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will yield to the Senator from West Virginia.

Mr. BYRD. That is an important question. It is one of the questions I wanted to raise. Where is the money? Is the President asking for the money in his budget? Did he ask for it in his supplemental request? Where is the money? Is his administration going to support the appropriations for this legislation?

This is one of the areas that I had difficulty with last December when I was importuned by the many Senators on both sides of the aisle to give unanimous consent that we take this bill up without any debate, without any amendments, and pass it.

One of the questions I wanted to ask was, What about the funding?

Mrs. FEINSTEIN. May I respond, as best I can?

Mr. BYRD. If the Senator would allow me to finish my question.

Mrs. FEINSTEIN. All right.

Mr. BYRD. I thank the Senator for yielding.

So it is one thing to advocate the passage of an authorization bill, and I very much want to support this legislation. I am not against this legislation, and I will vote for it, depending upon what it looks like when we get ready to pass it. But as an appropriator, as the chairman of the Appropriations Committee in the Senate, I think I need to ask about the funding. What assurances do we have that this money is going to be forthcoming? Is it budgeted? Is the administration supporting the bill? Is the administration going to support the monies for it? Are all the Senators who are advocating this legislation going to support the request for appropriations? Now if the Senator would answer.

Mrs. FEINSTEIN. I will take a crack at it, if I may.

Mr. BYRD. All right.

Mrs. FEINSTEIN. It is my understanding, certainly Senator KYL, Senator BROWNBACK, and I, along with the Republicans with whom the Senator was concerned at our subcommittee meeting, will support the appropriation. It is my understanding that roughly $743 million of this amount is covered in the administration's fiscal year 2003 budget request. Therefore, the amount not covered is $440 million.

It is also my understanding the administration has allocated all but $327 million of the $10 billion that was previously allocated for homeland security in last year's emergency supplemental. I, for one, would certainly support my chairman on the Appropriations Committee to take whatever is required from the unspecified $10 billion additional fund in the defense budget that was put in by the President. I think as part of defense, homeland defense is the most vital part of it, and this certainly provides for that.

So I hope that is at least a partial answer to the Senator's question.

Mr. BYRD. The distinguished Senator is certainly trying. She is making the effort, but there are many other Senators who have ideas with respect to that $10 billion. People on the Armed Services Committee certainly have ideas as to the $10 billion, and the appropriators, including Senator INOUYE and Senator STEVENS, who are the chairman and ranking member of the Appropriations Subcommittee on Defense, have ideas. So there are all kinds of ideas around as to funding.

The Senator has mentioned some figures. I would like to be shown that the Senator is correct in her figures. I have some serious questions about funding of this bill, and they need to be answered. This is one reason I thought we ought to have a little debate about it.

I thank the Senator for yielding.

Mrs. FEINSTEIN. I thank the chairman of the Appropriations Committee, the distinguished Senator from West Virginia, for his inquiry.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, again I compliment the distinguished Senator from California. Her heart is in the right place. She is trying to do the right thing, and I admire her for all of those things. Money is a problem, even for the best of things.

Recognizing the need for improved border security, I included nearly $1.1 billion for border security in my $15 billion homeland defense amendment last November. Within that total, I included over $725 million that the President did not request for the Immigration and Naturalization Service. That amendment to the Defense bill was defeated in the Senate when we could not get the 60 votes required to meet a 60-vote point of order.

I tried again on the Defense supplemental appropriations bill that the Senate considered in December. I included $335 million above the President's request for the INS for improvements in border security, particularly along the northern border. Once again, the funding was rejected when a 60-vote point of order was raised and we could not get the 60 votes.

Finally, in the conference on the Defense supplemental appropriations bill, we provided $150 million more than the President's request.

Now, as the border security bill pending before us proves, there continues to be a need for significant infusion of resources to staff, to train and to equip the Immigration and Naturalization Service to do its job on our Nation's borders. Sadly, in the $28.6 billion supplemental that the President requested just a few days ago, on March 21, he includes only $35 million for the INS.

I ask the question—perhaps it is a rhetorical question—how much is required of the INS in this bill? How much money does the INS need to meet the requirements of this bill? The President requested a $28.6 billion supplemental just a few day ago, on March 21, and he included only $35 million for the INS. Where is the money coming from to meet the requirements that will be placed on the INS by this bill?

I am not being critical of the bill. I want to know the answer. I want the bill to work. That is why I said I wasn't going to agree to the unanimous consent request last December to take up the bill and pass it in the bat of an eye, without any debate, without any questions asked.

I am here today. I want to improve this bill. I want to vote for it, but what are the answers to these questions? How much money is being appropriated to the INS if it is to meet the requirements of the pending bill? How much is it going to cost the INS? The President requested, again, $28.6 billion in a supplemental, not yet a month ago, March 21; it will be 1 month ago this coming Sunday. He asked for $28.6 billion, but he included only $35 million for the INS.

The request is particularly weak for providing the resources to construct border facilities and to equip border personnel and to provide the technology and the computer system necessary for the INS to effectively work with other Federal agencies.

I ask that question. If one of the authors to the pending bill can answer that question, I would like to know.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, Senator BYRD asked an important question about the payment for these measures. As I understand, following what my friend and colleague from California, Senator FEINSTEIN, has made available, I am happy to reference to the chairman of the Appropriations Committee, but he obviously has this information. It has designated $5 billion; that is what the INS budget is, $5 billion. In that is the entry exit, which is basically what we are talking about, $380 million; computer infrastructure is the downpayment, $83 million; the land border inspectors, $34 million; air/sea inspectors, $51 million; border construction, $145 million; Retention, $743 million. This is not all of what we would like to have in this authorization. Quite frankly, I think this is a higher priority than other measures, both of which will be in our Defense authorization bill, as well as in the supplemental. We will have, hopefully, the opportunity to make that case. I will stand shoulder to shoulder with the Senator from California, Senator BROWNBACK, and Senator KYL to make that presentation to this body and to the appropriators in order to fund this measure.

I agree, we do not want to misrepresent to the American people that we are doing something on student visas, that we are doing something in terms of requiring our intelligence agencies to give information to the INS to try to stop terrorists, or that we have backup systems so we know whether the students are going to their colleges or staying in the colleges. All that is included in here.

I think we have a strong case. As in many different areas of public policy, we are not able to get all the things we would like, but this is a very compelling justification for all of the provisions we have included in this bill, why we have such a broad support from so many of the different groups and individuals who understand the importance and significance of this proposal.

It has been very worthwhile, as the Senator from West Virginia has pointed out, that with the authorization of this legislation it does not mean all resources are going to be there. Within the President's budget, there is a downpayment for the startup of these proposals and we will have the opportunity as these appropriations try to give this the high priority it deserves.

Quite frankly, I think if we are looking over what the nature of the threat is, we know it obviously is military, and that is costing more than $1.5 billion a month. More importantly, it has cost a number of American lives. We know that. We know it is intelligence. We know the very substantial amount runs into the billions and billions of dollars in terms of intelligence, particularly in human intelligence. We know we need additional resources to pursue and track down money laundering. That is costly. Perhaps we are not spending enough in that area.

The good Senator has raised the importance of making sure we will have adequate capability in areas of bioterrorism. I think that is as high a threat as any of the others. Still, as he has pointed out on other occasions, he brought the administration to a more robust investment in bioterrorism, which I still don't think is adequate to construct and begin the early detection and containment as well as the stockpiling of various medicines but we have made an important downpayment.

For me, and I think for others, this area in terms of doing something about the easy access into this country falls right into similar priorities. For this Nation, if we haven't got it today, we ought to have it tomorrow. The American people will certainly support, out of a $2 trillion budget, $1 billion additional for our national security. That is what we are committed to. Of course, we would obviously welcome the Senator from West Virginia, but I don't think the American people can understand with the case that has been made in a bipartisan way, a compelling way, in terms of where the threat is to our borders, this is a matter of key national security. It could be as important as shortening the length of time of an aircraft carrier battle division off the Indian Ocean for a couple of months.

This is national security and important. We ought to be able to make the case. I hope we will be able to fund it. We don't have all the answers or all the resources clearly today. We are strongly committed to making sure this is going to be funded and going to be put into effect. I believe we will be very careful in overseeing and making sure it is effective. But as the good Senator has pointed out, we haven't got the resources on this today. This is an authorization. We have remaining time before we get into the appropriation. This has a high national priority in terms of our national security. As we move down the process, we welcome the chairman's help in making sure the protections that will be guaranteed by this legislation for our people will be achieved.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, there is no difference, when it comes to stating the compelling need for what the bill seeks to do—there is no difference between the Senator from Massachusetts and myself. We stood toe to toe last year. So did the distinguished Senator from California, who is now presiding, Mrs. FEINSTEIN. We stood toe to toe with each other. When I tried to add $15 billion—half was for New York—in the stimulus bill for homeland defense, we were together. I am with you today. We were together then. But a point of order was raised on the other side of the aisle against that money. It was the 60-vote point of order. We could not find the 60 votes.

Then, when the Defense appropriations bill was called up at the end of the year—again, there was $7.5 billion for homeland defense in that bill, $7.5 billion—a point of order again was raised on the other side of the aisle. It was a 60-vote point of order. We did not have the 60 votes on this side of the aisle.

So there is no question about the compelling need for these additional items to protect the borders of this country. But what I am saying today is the President of the United States—we saw it in the papers, I believe it was today or yesterday—threatened to veto any appropriations bill that went beyond what he was requesting. That may not be the exact phrasing, but we are already threatened with a veto.

So where is this money coming from? I am only saying we make a mistake when we pass legislation here that leaves the American people under the impression we have done something to surmount the problem, that we pass legislation to deal with border security that will adequately deal with the problem, will provide the technology, will provide the additional personnel, will provide the money so people can sleep on their pillows after this bill passes and it is signed into law, if it is signed into law, comfortable in the thought that the Congress has taken care of the matter quite adequately; we have passed legislation to do it.

But where is the money? It is one thing to talk about belling the cat, but who is going to bell the cat? That is an old fable.

Saying these things, I do not level criticism at the authors of this bill. As I said, I intend to vote for it, depending on what it looks like when it comes up for passage. But I raise these legitimate questions. I do not believe anybody in this Chamber can answer them. How much is this bill going to cost? How much is it going to cost? How much more is going to be put on the shoulders of the INS?

We make a serious mistake, when we pass legislation to deal with an obvious and compelling problem, when we pass legislation that purports to deal with that problem but does not deal with it or is not enforceable. I question whether or not some of the deadlines in this bill can be met.

Let me read for the Senate what Alexander Hamilton says in the Federalist No. 25, just a single paragraph. Here is what Hamilton says in the Federalist No. 25, and I think we should keep this in mind every day when we pass legislation. I think it is very apropos to the legislation we are going to pass here. We are going to pass it, I have no doubt about that. Here is what Hamilton said:

> Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know—

They know—

> that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breasts of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

That is Alexander Hamilton. That is not ROBERT BYRD. Let me read it again:

> Wise politicians will be cautious about fettering the government with restrictions that cannot be observed, because they know—

In other words, the wise politicians know—

> because they know that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence which ought to be maintained in the breasts of rulers towards the constitution of a country, and forms a precedent for other breaches where the same plea of necessity does not exist at all, or is less urgent and palpable.

So Hamilton is saying that wise politicians ought to be very cautious about fettering the Government with restrictions that cannot be observed. And that is why I am saying about this bill: Can these deadlines be met? Is the technology available now in order to meet them? Is the technology available so that those deadlines can be met? Is the money going to be there? Is the money going to be there for the personnel, for the technology, to meet those deadlines?

Hamilton says that if we pass these requirements and they are not met, then this is a breach of the law, although it may be dictated by necessity—as we readily admit that the necessity is there, to do what this bill does. He speaks to that sacred reverence which ought to be maintained in the breasts of rulers towards the constitution of a country. And he says one breach will lead to other breaches. One breach will be a precedent for other breaches, where the same plea, of necessity, may not even exist.

So I consider it to be a pretty serious matter that when we pass a bill of this kind, we are going to pass a law that can be observed and will be observed, the requirements will be met, the equipment is there, the technology is there, the money is there, and so we can rest assured that whatever the bill purports to require will be done. That is the basis of my concern.

The President's supplemental request for the INS is related to hiring more agents for airports and seaports. Senator HOLLINGS believes we gave them enough money in December for this because they cannot hire people fast enough with the money they have. As I understand it, Senator HOLLINGS believes that where we are short is in INS construction of building facilities to house the staff they are hiring. Therefore, we are seeking more INS construction in the supplemental.

I will be glad to have anyone answer the questions I have asked, if they wish to do so. In the meantime, I will proceed with my statement.

Over the last ten years, a vigorous campaign has been waged in behalf of immigration. The economic benefits of immigration have been touted by businesses, the news media, and politicians. Those who have questioned the benefits of immigration were immediately labeled as being "uninformed" or "outside of the mainstream." The Congress quietly passed legislation, without adequate debate or amendments, to roll back deadlines and weaken mandates for our border defense agencies. As a result, immigrants—illegal and legal—have flowed into this country at a rate of over 1 million immigrants per year.

The attacks that occurred on September 11 brought that campaign to a screeching halt as the American people were made acutely aware of just how porous our border defenses had become. Each of the 19 hijackers was granted visas by a U.S. consulate abroad. Three of the September 11 hijackers had overstayed their visas and were living in the U.S. illegally at the time of the attacks. Seven of the 19 hijackers obtained fraudulent ID cards with the help of illegal aliens.

The American people must have wondered how the terrorists that perpetrated the September 11 attacks could so easily have slipped across our borders and seamlessly blended into society. With all the governmental requirements placed on law-abiding families simply to own a dog or to build a tool shed in the backyard, it seems outrageous that foreign terrorists could be leasing apartments, opening bank accounts, attending school, and invisibly maneuvering through the system while plotting their dastardly schemes.

The American people are clear in what they now ask from the Congress and the Administration—tougher border security and immigration laws, more resources dedicated to our border defenses, and a more vigilant Immigration and Naturalization Service. What they have received so far is enough to make anyone wonder if Washington ever hears the concerns of the people back home.

I devoted a large amount of my time last fall to providing additional border security funds. As some have already indicated, I crafted a $15 billion homeland defense package as part of the economic stimulus bill the Senate considered last November. That homeland defense package provided $1.1 billion for border security initiatives.

Under a presidential veto threat, those funds were removed from the economic stimulus package by a partisan vote on a budgetary point of order. Many of the Senators who will support this authorization bill voted against those actual additional border security funds last fall.

After the $15 billion homeland defense package was removed from the stimulus bill, I offered a $7.5 billion homeland defense package. Of that amount, $591 million was devoted to border security initiatives.

Once again, under the threat of a presidential veto, those funds were removed, this time from the Fiscal Year 2002 Defense Appropriations bill, by a partisan vote on a budgetary point of order requiring 60 votes to overcome. And once again, many of the Senators who will support this authorization bill voted against border security funds last fall.

Had those funds been approved, that money would be in the pipeline right now for hiring and training hundred of additional Border Patrol agents. The Administration, instead, chose to wait, and then asked the Congress for those same border security funds that it threatened to veto just two months earlier. As a result, even if, by the October 1 deadline, those funds are appropriated by the Congress, those funds will not be released until early next year—at the earliest. The Administration effectively delayed hundreds of millions of dollars in border security funds for at least one full year.

As for a more vigilant Immigration and Naturalization Service, the American people must have been shocked—I know that the President said he was shocked—to learn that, six months to the day after the September 11 attacks, the INS was still processing paperwork for two of the terrorists who piloted the planes into the World Trade Center towers.

They were dead, and internationally recognized as the September 11 terrorists. Yet, the INS was still processing the paperwork for them to attend a flight school in Florida.

In March, the American people learned that the INS mistakenly granted special waivers to four Pakistani sailors who were aboard a Russian ship in Norfolk, VA. When the ship sailed for Savannah, GA, 2 days later, the four Pakistani crewmen were missing. An INS inspector entered an improper birth date for one of the four missing Pakistanis. If the birth date had been entered correctly, INS would have found that the man had committed an immigration violation in Chicago several years ago, and, therefore, was not eligible for a visa.

To make matters worse, in the midst of a debate on border security, there are efforts underway to add to this legislation, at the request of the President, an amnesty provision for hundreds of thousands of illegal aliens, including many who have not undergone any background or security check.

The American people have good reason to raise an eyebrow when they hear the Congress and the administration tell them that they are working to tighten our border security.

If we are to restore the trust of the American people in our efforts to secure our nation's borders, we need to have a serious debate about our border defenses and what we can actually do to repair them.

That is part of the reason I objected to passing this bill by unanimous consent without any debate or amendments. I understand there are some amendments that have been agreed upon already which will be in the managers' amendment at the end of the debate when we vote on the bill. There are some amendments that have already been agreed upon apparently by the managers. So the American people, by virtue of at least some debate, can have at least some idea of what is in the bill and whether or not it would be successful in tightening our borders.

We do not know how much money this is going to cost. We do not know how the money will be made available. In a supplemental? By virtue of Presidential request in a budget? The President did not request anything in his supplemental request.

We have tight restrictions on moneys that are appropriated here. They have to come within 302(a) allocations. They have to come within 302(b) allocations. Anything over and above has to be labeled an emergency, and the President has threatened to veto appropriations that are labeled as emergencies unless he or his administration requests that that be done.

So we are in a straitjacket when it comes to appropriations. I know there are Senators who are going to be looking at me, wanting moneys to be appropriated for this bill.

So really proponents of this measure have no way of judging whether they will have the necessary support for the appropriations that will be needed later this year to implement many of the provisions of the bill. How can taxpayers, who ultimately will be responsible for footing the cost of the bill, be expected to support the long-term financial commitment this bill requires if we do not know now, when we are debating the bill, where the money is coming from?

I do not know how enthusiastic or whether the administration will be enthusiastic at all about this bill. I do not know how enthusiastic they will be, if at all. And yet the administration tells us we need to have an amnesty provision. Not in this bill. Fortunately, the distinguished Senator from

Massachusetts, Mr. KENNEDY, and others, are not advocating that in this bill.

But that 245(i) amnesty bill, that is something that is clearly opposed, I believe, by a majority of the American people. Yet the administration says, on the one hand, how careful we have to be, how cautious we must be, how much on our guard we must be. The administration has issued how many alerts? Four already? Three or four already. He says, on the one hand, be alert. On the other hand, he says, let's let the illegals in. Let's let them stay. Those who have violated U.S. law, let them stay. What about those people who have stood in line, who have followed the procedures by which they can be entitled, eventually, to become residents and citizens? How do they feel when as to a group of thousands or hundreds of thousands of others who violate the laws, who make the shortcuts, they see the administration advocating that those who made the shortcuts, those who violated the laws, be given amnesty? Why abide by the laws if you can violate them and achieve your goal even much quicker by violating them? What is the inducement for following the laws?

Now let's take the visa waiver program, for instance. Under this program, roughly 23 million foreign nationals from 28 countries enter the United States as temporary visitors without obtaining a visa from a U.S. consulate abroad. By eliminating the visa requirement, aliens are permitted to bypass the State Department background check—the first step by which foreign visitors are screened for admissibility when seeking to enter the United States.

Proponents of the program are quick to point out that only low-risk countries, mostly Western European, may participate in this program. The Immigration and Naturalization Service has reported that hundreds of thousands of passports from these countries have been stolen—stolen—in recent years. So when you couple these thefts with the fact that, according to the Justice Department's Inspector General, the Immigration and Naturalization Service has roughly a minute to complete an inspection, it is likely that a terrorist with a fraudulent passport will try to slip into the country. That is exactly what happened in 1992, when one of the conspirators in the 1993 World Trade Center bombing tried to get into the country through the visa waiver program with a fake Swedish passport. He was caught, and a search of his luggage revealed bomb-making instructions.

The pending bill addresses this problem, in part, by requiring stolen passport numbers to be entered into a new interoperable database system. But, as I understand it, such a system is years away from being completed. In the meantime, the State Department and the INS are not able to share information on foreign nationals who enter the country under this program. Well, if it is important enough for the INS and the State Department to share information on visa waiver participants, I suggest the visa waiver program will remain a serious hole in our border defenses until that interoperable database system is fully implemented.

And that is just one problem that Senators will find if they take the time to read through this bill, as I have.

Consider section 402, which deals with passenger manifests.

Section 402 of this bill requires commercial air and sea vessels arriving and departing from the United States to provide an appropriate immigration officer with a manifest of who the passengers are who are on board. In subsection (g), Senators will note that the penalty for not providing these manifests is a $300 fine—I suppose some people carry that much money around as lunch money—a $300 fine for each person not mentioned, or incorrectly identified, in the manifest.

This penalty, I suggest, is wholly inadequate. What is more, there is nothing in this bill to prevent a passenger from providing false information to the air or sea carriers. This provision, therefore, just eats around the edges of a significant shortfall in our border defenses. A $300 fine is not much when compared with the safety and security of the Nation. But, of much greater concern is the question of the ability of anyone who must take information from passengers and fill out the manifest to determine the reliability of the information they have been given by the passenger. It is a joke to assume that someone with bad intentions would give accurate information to an employee of the airlines, for example. That is not a criticism of airline or sea carrier employees.

It is, however, a fine example of how many provisions in the bill which on paper sound good but in reality provide only a false sense of increased security.

The same can be said about the October 26, 2003, deadline. That deadline appears five times in different locations throughout the bill. For example, section 303: Not later than October 26, 2003, the Attorney General shall install at all ports of entry in the United States equipment and software to allow biometric comparison of all U.S. visa and travel documents. That sounds wonderful. I don't know why they picked October 26—why it shouldn't have been October 1 or November 1. Why October 26? Five times that date is used: October 26, 2003.

I don't think that is a realistic deadline. Perhaps someone can convince me otherwise. Let me say it again. Not later than October 26, 2003, the Attorney General shall—not may, shall—install at all—not just a few, not just certain ones, all—ports of entry in the United States equipment and software to allow biometric comparison of all U.S. visa and travel documents.

I wonder if that deadline, October 26, 2003, is realistic. We have 62 ports of entry which are closed 8 hours a day with only an orange cone in front. We are years away from being able to provide the sophisticated equipment for checking biometric identifiers at all ports of entry.

Under the regular appropriations process, Congress cannot even get that funding out to the agencies before October 1, 2002, at best. Assuming all 13 bills are completed on time by the end of the fiscal year, it could still take months before funds are released to the agencies for this purpose. I think it is unwise to set deadlines such as that one—so strict—when it is highly questionable as to whether or not those deadlines can be met.

As far as I can tell, that deadline is based solely on the fact that the USA PATRIOT Act was signed into law on that same day, October 26, in 2001. If that is the case, that is certainly no reason to use a deadline. Senators should be aware that these deadlines appear wholly unrealistic, especially the one I have just mentioned.

I appreciate the notion that without deadlines, it is difficult to press the agencies to act expeditiously. But when such deadlines come and go and the promised action has not been taken by the Federal Government, then Hamilton's admonition is called into focus: The public becomes rightfully disillusioned with the ability of the Government to do what it promises to do. We should put greater stock in the trust and confidence of the American people. Without their continued support of this measure, we lose the political will to act in the Congress, and we will lose consensus elsewhere throughout the Government; that consensus rapidly dissipates.

The same could be said about the penalties included in this bill for the more than 15,000 universities, colleges, and vocational schools across the country that accept foreign students. There are more than 500,000 foreign students in the United States who are benefiting from the goodwill of this country and from our investment in education. Many of these are nuclear engineering scholars. Many of them are biochemistry students. Many of them are pilot trainees who have access to dangerous technology, training, and information.

This bill takes some good steps toward setting up a national monitoring system to verify the enrollment status of these students. However, universities are going to have to play a role in helping the Government to verify that these foreign nationals are actually showing up for class. It has been noted that one of the September 11 hijackers entered the United States on a student visa, dropped out of classes, and remained here illegally thereafter. But unless this Congress places some tough penalties on universities to comply with the tougher reporting requirements contained in this bill, these universities are unlikely to take seriously the necessity to comply with these new responsibilities.

The legislation gives the INS and the Secretary of State too much discretion in determining whether or not these educational institutions should be penalized.

Let me read from the bill:

> EFFECT OF FAILURE TO COMPLY.—Failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive non-immigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), may, at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, result in the termination, suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

Now, why do we say "may"? We are talking about the failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants—that failure, as a result of that failure. So if there is a failure to comply with the recordkeeping and reporting requirements, it may—"may" it says—at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, may result in the termination, suspension, or limitation of the institution's approval to receive such students.

Why shouldn't we say "shall" if an institution is going to be that lax and fail to report? We are talking about people's lives here. It should be "shall" the election of the Commissioner of Immigration and Naturalization, or the Secretary of State "shall" result in the termination—that is the end, cut it off—suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

Senators should understand and should insist that tougher penalties are necessary to ensure that this student monitoring system will work; and it won't work if we leave it full of holes like that.

Similarly, this Congress is quick to pass legislation that will place new requirements and deadlines on the INS without giving adequate consideration to whether that agency is equipped to meet those mandates—that agency of all agencies, sad to say.

The inevitable result is that the Congress will later have to weaken the mandate or roll back the deadline when the Immigration and Naturalization Service fails to comply with the law.

Considering the INS's most recent debacles and its apparent inability to handle its current workload, I suggest that before we task that agency with additional responsibilities and meeting additional deadlines, we should first try to reach some sort of a consensus about its organizational structure.

So far, the administration has proposed two seemingly contradictory INS restructuring plans. The first plan would split the INS into an enforcement agency and a separate service agency, and the second would consolidate the INS and the Customs Service within the Justice Department.

The House Judiciary Committee marked up an INS restructuring plan about a week ago. As I understand it, Chairman KENNEDY and Senator BROWNBACK are crafting an INS restructuring plan as well. That is to say nothing of the fact that at least two bills have been introduced in the Congress that consolidate the Border Patrol functions of the INS within the Homeland Defense Department or Agency.

With all of these organizational plans circulating through the Halls of Congress, it makes little sense that we are considering a border security bill that places new mandates on the INS without addressing how that agency should be structured.

The organizational structure of our border defenses should be part of any border security debate. The single most important priority that should be driving these policies is the safety of the American people and the safety of the American institutions within their own borders.

Senators may argue that this issue of coordinating our border defenses was addressed when, in the aftermath of the September 11 attacks, the President created the Office of Homeland Security and appointed Governor Tom Ridge as its Director. The Federal Government needs a focal point to coordinate its homeland security efforts.

Yet the Office of Homeland Security and its Director, in lacking any statutory authority, will find it difficult, I am sure, to fulfill this mandate. Governor Ridge can request, but he cannot order, the agencies charged with protecting our homeland to implement his recommendations. He has to rely on the President to resolve agency disputes, which include opposition to the Director's initiatives.

We have already seen the warning signs of the potential troubles that lie ahead. In early February, Governor Ridge said that our borders remain "disturbingly vulnerable." He cited as a reason that there is no "direct line of accountability."

Last year, he proposed that the various border security agencies be consolidated under a single Federal entity, but the agencies charged with border security have resisted this consolidation. While the White House announced that this week the President would endorse such a consolidation, that effort has been delayed for months because of bureaucratic resistance. The authority of the Office of Homeland Security is only as strong as the President's involvement in that office.

Furthermore, under Executive Order 13228, which established the Office of Homeland Security, the President can unilaterally change the mandate of the OHS and, in large or small part, channel discretionary funds to the OHS through the White House office budget. Well, the Nation's Homeland Security Director has declined to testify before the Congress to justify the Office of Homeland Security's expenditures or to justify his actions in safeguarding the Nation against terrorism. Not only does this make it difficult for the Congress to conduct oversight of appropriated funds and the oversight of our homeland and border security effort, but it limits the Congress from helping the Office of Homeland Security to fulfill its mandate.

Fixing the holes in our border defenses will require more than an interoperable database system and biometric identifiers. While they may prove worthwhile, these border security initiatives are no panacea for border defense.

We need to adopt a different mindset when it comes to the security of our borders. We need to consider the organizational structure of our border defenses. We need to acknowledge that we will have to be committing resources for a long time if we are to close the holes that were exposed by the September 11 attacks.

I thank Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL for authoring this legislation. But I am sure the bill's proponents understand that the legislation is not the final answer to what ails our border defenses. Meeting the deadlines and requirements set out in this bill will require their continued support for large amounts of funding. I don't know how we can assure that this funding is going to be there under the requirements and restraints under which the Appropriations Committee acts. Without those funds and without their continued support, the bill is just an empty promise.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Mr. BROWNBACK. I thank the Chair.

Mr. President, I rise to speak on the border security bill that is before us, and to also note, at the outset, the thousands of people who are gathering just outside the Capitol in a statement of support for Israel.

It is an important gathering, particularly because of where this Nation is at this point in time and the importance of where Israel is right now: The difficulties and confrontations they have had with suicide bombers, which we witnessed on our soil and which we have dealt with in our own land as well.

September 11 brings back very clear memories—vivid, difficult memories for many of us—when suicide bombers took planes in the United States and attacked two buildings in New York, the Twin Towers, the Pentagon, and a fourth plane that was perhaps headed even for this building that went down in a field in Pennsylvania, thanks to the heroic efforts of people onboard.

Israel is trying to defend her land from suicide bombers and has been aggressively doing so. I know some people have questions about the tactics involved but not dealing with the issue.

I certainly would like to state my strong support for Israel, a strong ally of the United States and has been and continues to be a strong ally of the United States, a democracy in a different and difficult region of the world, one that has worked and stood side by side with the United States in our times of need, and we should stand with Israel as well.

I urge Israel to allow humanitarian groups in to make certain that people are cared for as much as possible; that civilian damage is limited as much as possible.

In their dealing with terrorists, I think they should deal and they have dealt clearly aggressively with terrorism. Terrorism must be renounced. Chairman Arafat must renounce terrorism on behalf of the Palestinian people and say: No more terrorism. That should be a minimum statement.

I hope Chairman Arafat will lead his people toward peace, but I have real doubt whether or not he wants to lead the Palestinian people toward peace. There was an incredible offer on the table from Prime Minister Barak—it was less than 2 years ago—and he walked away from that. I question whether or not he is willing to work toward peace. We need somebody within the Palestinian leadership who wants peace.

I want to address some of the comments being put forward on the border security bill by our distinguished colleague from West Virginia, Senator BYRD, who is an outstanding Member of the body. I want to address the specific concerns he brought forward on this legislation.

I believe we will pass the Enhanced Border Security and Visa Entry Reform Act of 2001. The House passed it last year. The President wants the bill. It is up to this body to act. I believe we will act, and I believe we will have a large vote.

I am hopeful we can do this within a minimum time period because there is so much other important pending business in front of this body. This is important legislation, but so is the energy bill that has been before the Senate; so is a bill I have to prevent human cloning, to stop human cloning. We need to get a budget through. We need to start through the appropriations process.

It is not as if there are not a lot of issues stacked up. This is one of the major issues. I think it is time for us to pass this bill. There was actually very little opposition to it in the House. I think most people are very comfortable with the main provisions of this bill, and I am hopeful we can work through other provisions without much difficulty.

I will note some of the major provisions of this bill for my colleagues who are following this debate: Restrictions on nonimmigration visas for aliens coming from countries that sponsor terrorism; reform of the visa waiver program; requirement of passenger manifest information for commercial flights and vessels; repeal of the 45-minute time limit on INS inspections of arriving passengers.

That may cause inconvenience for some people. I want to note that, too, for my colleagues who are watching. The lines could be a bit longer, but we are talking about security in the United States, and it may be necessary for the time to be slightly longer to ensure people coming into our country mean us no harm.

In this bill, there is the enhanced foreign student monitoring program. Several of the people who terrorized us, bombed us on September 11 were students. We need to get that procedure under control and know where these students are and if they are going to reputable schools in the United States.

The magnitude of the problem we are dealing with is enormous. Immigration, the travel of people, non-U.S. citizens, in the United States is a key issue for our economy, it is a key issue for our culture, and it is a key issue for our society in the future. We are a land of immigrants. Outside of Native Americans, we all came here from somewhere else. This is a key part of who we are and who we will be in the future.

To give some scale of magnitude of the issue with which we are dealing, 2 years ago, there were nearly 330 million—330 million—legal crossings over our borders by non-U.S. citizens. That has nothing to do with illegal crossings. There were 330 million legal crossings by non-U.S. citizens over our borders. This is a huge bit of commerce. There is a great deal of interaction that takes place and is very important.

Out of that 330 million crossings universe, we are looking for a very small portion of those who want to do us harm. I talked on Friday about this being the equivalent of looking for a needle in a hay field—not a haystack, a hay field. We have to be intelligent about this and use the means at our disposal to find the people who are here trying to do us harm.

One of the key elements is to make sure we have information sharing between various agencies—between INS, the Department of State, CIA, DIA, FBI, and I would like to think, as well, foreign information from foreign intelligence agencies that can point out: These are the people we are watching.

If we are looking at 330 million people in a universe and are trying to hone this down to several hundred, we need a lot of information.

Currently, all this information is in stovepipes, it is stacked up, and there is not the cross-communication we need to have. That is one of the things that is required in this bill. It takes time to get computers talking to one another. It is sometimes difficult getting people to talk to one another. Computers have to be wired.

We can do that, and we need to do that. That is a key provision of a portion of this bill. We are trying to extend the perimeter of the United States to include both Canada and Mexico.

I was at the El Paso INS detention facility about a year ago, and in that detention facility were people from 59 different countries who had come in through Central America, South America, had taken land transportation up and through Mexico, and then crossed over into our borders. We need to have that perimeter extended.

Within this bill is a push to get that perimeter extended to include Canada and Mexico so we get more cooperation and help from them in dealing with our perimeter. That is important for us to be able to do.

Now there were some questions raised about how will these be paid for? Those are certainly legitimate questions. This is an authorization bill. Some of these are authorizing features, not appropriations features, but much of this is going to require resources. It is put forward by the Department of Justice that the first-year implementation of this bill would cost about $1.186 billion. Of that, $743 million is in the current Bush budget. That is already put forward in the budget. So we are quite a ways along the way already with what is built into the current Bush budget.

Plus, as I understand it, there are still some resources left from the $40 billion supplemental that was put forward last year to deal with the crisis and the current situation. I am supportive and will be supportive of additional resources to make sure we do fully fund this at the $1.186 billion level for this first year. Total implementation costs we have at $3.13 billion over the full lifetime of the program. That is the universe of the numbers we are talking about. We are well on the way to funding this.

There has been concern raised about why was this not funded last year? There were people who put forward bills. The chairman of the Appropriations Committee put forward an additional $15 billion supplemental saying, let us fund it now. The President at that time said: No, I want to try to digest the $40 billion that has already been allocated and authorized before we step into another tranche of funds.

I thought that was a wise and prudent course. That is why I did not at that time support the additional $15 billion; whereas now we have had some months to be able to think this through, to see where the gaps and the holes are. The President has built a portion of it into his budget, and we have about another $600 million that we are looking at to fully fund this program. That is what we are talking about. I think that is a prudent and wise approach for us. I thought it was at that time. We need time to be able to digest these sorts of changes and resources, and I think this is the right way for us to go.

We are not getting the cart ahead of the horse. We are doing the authorization, which we are to do before we do the appropriation. So we authorize for what we in the Congress think we should do, and then we appropriate to follow on with that. I am committed to seeking those resources to get this fully appropriated. I think it is important we do that. Frankly, I like that we are doing this one right because typically or frequently we will do it backwards and not get that done. I do believe that with the nature of this priority, the nature of border security, the importance of that for our future and the security of our people, this will be able to secure the adequate resources it needs throughout the competition within the appropriations process. We should be able to put these forward and meet the higher priorities for the security needs of the country. The lead requirement for us is to provide for the common defense and, to me, in this day and age, it is to provide protection against terrorists.

We are prosecuting our war overseas now. We are prosecuting it in Afghanistan. We have troops in Georgia. We are helping train troops in the former Soviet Union country of Georgia. We have troops in the Philippines as trainers to deal with terrorist groups. There may be troops in some other countries as we go to where the terrorists are to dig them out before they come this way, and then we enhance our border security so we can deal with the terrorists who try to get on our soil.

I think the prosecution of the war is going well at this point in time. It would be my hope, as one of the cosponsors of this legislation, that we could move this through. If people have amendments, we ask for them to bring the amendments forward so we can see if we can get them handled appropriately. I would hope we could do this without too many amendments so we could get this to the House and get it passed. The House has passed this bill twice. We need to get it passed.

I hope if people do have amendments that they want to bring they would bring them up now so we can deal with the legislation, deal with the amendments, and get the legislation passed and implemented into law because it has broad support throughout this body.

I may make comments at a later time on this legislation, but at this time I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3128

Mr. BYRD. Mr. President, I have an amendment which I will shortly send to the desk, but let me say a few things in regard thereto first.

There is an urgent and pressing need for the United States to improve the enforcement of our laws that prohibit the importation of goods that are made using forced labor. Countries throughout the world are using forced, prison, or indentured labor to cut costs to the bone, increase the export of cheap goods, and drive American manufacturers under. We have to take stronger action to see that U.S. laws that prohibit this repugnant practice are enforced.

Since 1930, the United States has had a law on our books that prohibits the entry of prison-made goods and requires the U.S. Customs Service to seize goods destined for our markets that are made utilizing forced labor. There are common sense reasons for the Tariff Act of 1930. The importation of prison-made goods is not consistent with either the principles of free trade or human rights. American consumers should not unwittingly be supporting repression in other countries simply by shopping at the local mall.

Admittedly it is difficult to enforce laws prohibiting goods made using forced labor. Overall, U.S. Customs officials inspect less than 3 percent of all imports, and often those inspections are superficial. There are the problems of sheer volume of imports, the commercial requirements of rapid movement of goods, and other realities of today's commerce but we must endeavor to do a better job. With respect to forced labor-made goods, there are issues of fraudulent mis-labeling, lack of cooperation of foreign governments, and the existence of a sophisticated network of middlemen engaged in transshipment of goods destined for America. For instance, goods made in the vast forced labor manufacturing network in China may arrive in the U.S. from Nigeria. Such is the nature of global commerce today.

A number of countries make common use of forced labor—China is but one of them. One estimate places the number of forced labor facilities in China at an astounding 1,114, employing as many as 1.7 million people. Mr. President, that bears repeating. China, a country that exports nearly $100 billion in merchandise to the United States, has up to 1.7 million forced laborers in 1,114 facilities. Some of these people were sentenced to prison time at hard labor for crimes that they actually committed.

Others are forced into prison labor camps without so much as a trial, because of political or religious beliefs, and are subject to torture and beatings. In China, if one visits a non-state-sanctioned church, for instance, such an "offender" could end up making lawn tractors, cordless drills, or soccer balls for U.S. markets.

The forced labor facility network is an integral part of the Chinese economy. But, there are no firm numbers on the quantity of forced labor-made goods that eventually find their way from China's extensive forced labor network to our shores, shipped here directly or transshipped through other countries. It is anyone's guess as to how much of the $100 billion in Chinese goods sold in the U.S. each year are made, wholly or in part, by forced labor. But there can be no doubt that with a forced labor population of at least 1.7 million, China is selling a considerable amount of prison-made goods to the United States which is the main purchaser of China's exports.

China is not the only country that produces and exports forced labor-made goods. The 2001 State Department Country Report on Human Rights Practices names Burma, Brazil, and Russia as having serious problems in this area even though it is clearly against our laws for such goods to cross our borders.

To tackle this problem, my amendment takes three actions. First, it requires all importers of goods into the U.S. to certify and the U.S. Customs Service to ensure, based upon verification of these certificates, that the goods being brought into our country have not been made with forced labor. Second, the amendment requires renegotiation of two of our agreements with China that deal with the inspection of forced labor facilities in China. Third, the amendment reauthorizes $2 million for the Customs Service to provide additional personnel to monitor imports and enforce our anti-forced labor import laws.

Regarding the first section of my amendment, the requirement for certification of all goods coming into the

U.S. to be "forced labor-free" is consistent with the practice and intent of other certifications that are required of importers. When agricultural goods are brought into the United States, importers must present certifications that the products have been appropriately inspected and have established origins and producers. The World Trade Organization has its own certification requirements for "green" products, to insure that imported items are made in an environmentally friendly manner. In fact, the WTO recognizes that certification requirements are a legitimate tool in combating deceptive trade practices, such as those engaged in by countries that try to pass off forced labor-made goods to unsuspecting consumers in other countries, by transshipment, mislabeling, or other methods.

As to the second section of my amendment, there is a need to strengthen our existing agreements with China to improve the ability of our Customs investigators to visit suspected forced labor facilities. Right now the site inspection and investigation process is beset by problems of interpretation differences and plain old stonewalling. For example, in one instance it took three and one half years for a U.S. requested inspection of a heavy duty machine factory to be carried out.

There are two agreements with China going back to 1992 and 1994 which govern our U.S. Customs agents' access to suspected forced labor sites. Those agreements are not working. The United States needs to conduct these necessary inspections and investigations in a timely manner. To effectively do so, we need to close the loopholes in the present inspection agreements.

Finally, the third section of my amendment authorizes $2 million for Customs Service personnel to enforce our forced labor import laws. Customs already has 1,100 staff positions that are funded through the payment of fees. By authorizing an additional $2 million for the enforcement of these laws, the Customs service will be able to hire and dedicate more personnel for the specific purpose of discouraging forced labor goods from penetrating U.S. markets.

The American consumer deserves to know what is on the shelves when they go shopping. Nobody can tell just by looking at clothes on a rack which ones were made by legitimate tradesmen and which ones might have been made in some foreign ramshackle prison. But it is clear that some countries utilize prison labor to gain a leg up in global markets. It is a sick and reprehensible practice. It hurts American business and fair-trading foreign businesses. It is an insult to our values. And it is against our law!

I urge my colleagues to vote to help put some teeth in U.S. laws that ban goods made with prison labor.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3128.

Mr. KENNEDY. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that certification of compliance with section 307 of the Tariff Act of 1930 be provided with respect to all goods imported into the United States)

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REGARDING FORCED LABOR.

(a) SHORT TITLE.—This section may be cited as the "Labor Certification Act of 2002".

(b) CERTIFICATION REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall require that any person importing goods into the United States provide a certificate to the United States Customs Service that the goods being imported comply with the provisions of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) and that no part of the goods were made with prison, forced, or indentured labor, or with labor performed in any type of involuntary situation.

(2) DEFINITIONS.—In this section:

(A) GOODS.—For purposes of this section, the term "goods" includes goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country.

(B) INVOLUNTARY SITUATION.—The term "involuntary situation" includes any situation where work is performed on an involuntary basis, whether or not it is performed in a penal institution, a re-education through labor program, a pre-trial detention facility, or any similar situation.

(C) PRISON, FORCED, OR INDENTURED LABOR.—The term "prison, forced, or indentured labor" includes any labor performed for which the worker does not offer himself voluntarily.

(c) INSPECTION OF CERTAIN FACILITIES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall renegotiate and enter into a new agreement with the People's Republic of China, concerning inspection of facilities in the People's Republic of China suspected of using forced labor to make goods destined for export to the United States. The agreement shall supercede the 1992 Memorandum of Understanding and 1994 Statement of Cooperation, and shall provide that within 30 days of making a request to the Government of the People's Republic of China, United States officials be allowed to inspect all types of detention facilities in the People's Republic of China that are suspected of using forced labor to mine, produce, or manufacture goods destined for export to the United States, including prisons, correctional facilities, re-education facilities, and work camps. The agreement shall also provide for concurrent investigations and inspections if more than 1 facility or situation is involved.

(2) FORCED LABOR.—For purposes of this subsection, the term "forced labor" means convict or prison labor, forced labor, indentured labor, or labor performed in any type of involuntary situation.

(d) AUTHORIZATION OF CUSTOMS PERSONNEL.—Section 3701 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 is amended by striking "for fiscal year 1999" and inserting "for each of fiscal years 2002 and 2003".

Mr. KENNEDY. Mr. President, it is now 4:25 on Monday. We were just handed this amendment that is 3½ pages long dealing with the certification regarding forced labor, directed, as I understand, primarily, purposely, towards China and the prison force indentured labor.

No one knows better than the Senator from West Virginia the vast opportunities for amending pieces of legislation. We try to respond to our colleagues by indicating what is currently being considered on the floor so they can make some judgment and informed decision on these amendments. We are not in the position of being able to do so since we were not afforded an opportunity to see the amendment until just a couple of minutes ago.

Mr. BYRD. Will the distinguished Senator yield?

Mr. KENNEDY. I am happy to yield.

Mr. BYRD. I apologize for the amendment not having been shown to the Senator. I was under the impression my staff had discussed this amendment with the Senator. I will be happy to either withdraw the amendment for the time being or ask that it be set aside so the Senator and his staff and others may have an opportunity to look at the amendment.

Mr. KENNEDY. I appreciate that.

Mr. BYRD. This was inadvertent on my part.

Mr. KENNEDY. I have had an opportunity to talk to two of my colleagues. I conferred with them a moment or two ago. They were not familiar with this amendment, either.

AMENDMENT NO. 3128 WITHDRAWN

Mr. BYRD. Mr. President, I will withdraw the amendment now. I again apologize to the Senator. This was an inadvertant oversight on my part. I certainly do not seek to take any unfair advantage of any Senator. I never have. I will withdraw the amendment now and will offer it later after it has been discussed with the distinguished Senator.

The PRESIDING OFFICER. Will the Senator from Massachusetts yield for that purpose?

Mr. KENNEDY. I yield for that purpose.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BYRD. I thank the Senator.

Mr. REID. Mr. President, if I could ask a question of the Senator from Massachusetts, I am wondering if the Senator from Massachusetts will allow me, through the Chair, to ask the distinguished Senator, the President pro tempore of the Senate, does the Senator from West Virginia at this stage know how many more amendments he may offer?

The reason I am making inquiry is we would like to know this evening if we are going to have more amendments offered so we know what is going to take place tonight. We would like to finish the bill in a reasonable period of time because energy is waiting whenever we finish. Does the Senator from West Virginia have an idea how many more amendments he might wish to offer? From the Republican side, we don't have any of which I am aware.

Mr. BYRD. I cannot state the number of amendments I have. They are not a great number, I can say that. I am mainly interested in having a little debate on this bill, and mainly interested in getting some answers from the proponents as to the costs that are involved. I may support this bill. I have no reason to think I won't support it, if we can arrive at some conclusion as to how much the restrictions and requirements are going to cost.

We may pass a bill here that is, on the surface at least, a good bill. Certainly, there is a compelling need to do the things that this bill seeks to do. But as an appropriator, as the chairman of the Appropriations Committee—and not only that, I should think that all Senators would be interested in knowing how much this is going to cost and what assurances we have that we will have the money with which to pay it.

Also, I want to know whether the deadlines—and there are several deadlines in the bill—can be met. If we pass legislation that cannot be enforced because it has deadlines that are not enforceable, then the American people are going to be disappointed—if we pass legislation raising their expectations and then those expectations are not met.

I do not say this with criticism of any particular Senator, but as one who appropriates money here, and as one who sought to get appropriations last December for these very purposes, and as one who saw that those two amendments that I offered—one on one bill and the second one on the final appropriations bill—saw those amendments knocked out by virtue of 60-vote points of order. Certainly the Senator from Massachusetts supported me in those.

I wonder, now, from where the money is going to come? I want to feel that the President is going to support this, support the requests for it, support the moneys for it, and that Senators who voted against my amendments last fall—that were for border security, that were for homeland security, that were to provide defenses against biological, chemical, and radiological weapons—are going to support it this time. I want to know from where the money is going to come, how much it is going to cost. That is all. I am ready to pass it tonight if somebody can show me those things. I do have two or three amendments that deal with the deadlines. I may have a somewhat more major amendment. I may not have.

Mr. REID. I say to the Senator from West Virginia, I have conferred with the manager of the bill, Senator KENNEDY. As I indicated, we have no amendments on the Republican side and none over here. The reason we are focusing on the Senator from West Virginia is we want to be able to get to energy as soon as possible. So I hope, either through a quorum call—maybe with time for Senator KENNEDY to explain to the Senator—I know I listened to Senator KENNEDY and Senator FEINSTEIN speak at some length on this legislation.

If there are other questions to be answered, certainly the Senator from West Virginia is entitled to have answers to those questions before we vote on this important bill. Whatever the two very experienced and distinguished Senators need to do to make sure the Senator from West Virginia has the information he needs, we should do that as quickly as possible.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just to review very quickly, since we have been asked about this once again, for the costs. That $1.2 billion 1-year, $3.2 billion total cost of the implementation—the $743 million is included in the President's 2003 budget. This includes $380 million for entry-exit data systems; $83 million for computer infrastructure; $34 million for land inspectors; $51 million for air and sea port inspectors; $145 million for border construction; $50 million for detention construction. There is $444 million additional appropriations needed but the legislation raises the additional fees. The bill raises machine-readable fees to $65, generating approximately $100 million in additional income.

We believe we can examine the fiscal year 2003 budget, which is, for INS, $6 billion—$6 billion: $2 billion in terms of the fees and $4 billion in terms of appropriations. That is the best we can do.

But I think we have a pretty good downpayment on what we would do. We are prepared, as my colleagues have all said, to make that commitment, to try to ensure, in the remaining debate, that we would be able to get the resources.

On the question of the border security amendments, we welcome the chance to talk with the Senator—or with any other Senator—and review the deadlines and the other damage provisions in the bill to tighten up the restrictions. They include the changes in the passenger manifest provision and student monitoring provisions. I think we ought to be able to reach the agreements.

But we have set some times and some dates. We are talking about, for example, in the biometric implementation, trying to make passports and other documents so they are not subject to fraud. We now have the biometric information, but decisions have to be made as to which one offers the best possibility. We have the technology, then, to develop the machines to put them at the border. That takes some time. If we are talking about a year from this October—if is not the right time, the correct time, we want it to be done as quick as possible.

But what we have included in here represents, at least the best judgment of the Homeland Security Office; the Biometric Institute; and the NIST, the National Institute of Standards and Trade, which is the technology arm of the Commerce Department that makes the judgments, for example, in the small business innovative research, about all the new kinds of technologies. If there is other information that would support a different timeframe, we are prepared to do this, but I think we have reached that date for the reasons I have explained.

I will mention, on the question of the students, how we monitor the students when they come in here, because I think it is very important to understand exactly what we are doing on this. First of all, when the students come in, the State Department receives the first electronic evidence of acceptance from an approved U.S. institution, prior to issuing a student visa. The State Department then must inform the INS that the visa has been approved. The INS must inform the approved institution that the student has been admitted into the country. Then the approved institution notifies the INS when the student has registered and enrolled; and if the student doesn't report for classes, the school must notify the INS not later than 30 days after the deadline for the registration for classes.

You can say that is complicated and difficult. It is. Unless you go to the new technology, it is impossible. But we have been assured, with the new technology, that kind of process is possible.

We have been informed by the universities that they believe it is workable. Maybe there is a different way of doing this. There are different timeframes for notification. But those are the ones we have worked out with the various groups and institutions that are most involved in this.

As I say, we are glad to go down the list of the timeframes. I know my colleagues and I are glad to go down the list to at least give the justification. We have not arrived at these particular dates in a uniform way. There was some difference in terms of the time—whether it can be done in 180 days, or whether it can be done in a shorter period of time. There was some difference on that. I think there was no difference on the desire for all of us to get it done in the quickest possible time and to do it in the quickest possible responsible time. That is uniform. If there can be a change or an alteration in the establishment of the number of days, we are glad to talk about it. There is no magic on the times we set, although they do represent the agreement with our colleagues, and also with the administration I believe that had some difference as well. Those are just some of the responses.

If I could have the attention of my colleague from West Virginia, if we could know what the other amendments are as we are coming into the evening on Monday, we would be able to sort of have a chance to fully evaluate them in order to be able to accept the ones that work consistent with our legislation; we could try to work those out. Then we would be glad to have a good discussion and debate on the floor. But, as the Senator indicated to us, he has several other amendments. He just withdrew one, which we didn't have. We have no idea what the other ones are, either. We are doing the best we can. We were here on Friday afternoon. We had a good hearing on Friday morning with the Senator.

But we are here and we are prepared to try to deal with those. We will have a chance to examine this one on forced labor in China, which we did not know was going to be an amendment. If the Senator has others that he is willing to share with us, perhaps we can move this process along to try to accommodate our other colleagues.

I was here over the weekend. I plan to be here. I know my colleagues were as well. We are just trying to indicate to our colleagues what our situation is.

I yield the floor.

Mr. BYRD. Mr. President, in response to the distinguished Senator, this Senator is willing to share any of these amendments with the Senator. I have already shared with the Senator the amendment which I asked to withdraw. I was under the mistaken impression that my staff had discussed this with his staff. I am not seeking to pull any tricks here. As was said in Julius Caesar, there are no tricks in pure and simple faith. I don't have any tricks. I am not seeking to pull any fast ones on the Senator. I would be glad to show any of my amendments to him. I have but a few amendments. It was an honest mistake, and I was quick to apologize for it when he mentioned it. I hope that settles that. There are no more like that. I would be happy to discuss with the Senator the amendments that I have. That pretty much settles it. I can't say that we can do these tonight. I don't think they can be done tonight.

Mr. KENNEDY. That is fine. We had the chance to look over this first one. If we could have the other ones, if the Senator wants to share those, we would welcome the opportunity to see them. But we have not received any others from the Senator.

Mr. BYRD. Mr. President, I spoke in my speech about the problems that I have. The amendments I have deal with those deadlines. There was one other amendment that I am not sure I am going to offer, but I do need to discuss it with him. It has to do with the Office of Homeland Security. But I am not sure I will offer it on this bill. I may offer it on an appropriations bill, or I may not offer it at all, depending on how the leader feels about it and how Senator LIEBERMAN feels about it. But it can be determined overnight as to whether or not I intend to offer that. The other amendments deal, as I recall, with visa waiver deadlines, student penalties, and so on. I discussed the amendment in my statement earlier. I would be happy to discuss these with the Senator, or through my staff. On tomorrow, we can probably deal with them, if we can't deal with them tonight.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, if it would be helpful to the Senator from West Virginia, I would be happy to address the deadline issue that he discussed. The Senator from West Virginia raises a good question with respect to those deadlines. Frankly, on two of the three, there is no good answer. The Senator is absolutely correct about that.

Mr. BYRD. I didn't understand the Senator.

Mr. KYL. I am sorry. It was my understanding that the Senator from West Virginia raised a question about three of the deadlines in the bill, and on two of the three there is no good answer. I will give the best answer I can.

On the first one, I think there is a good answer. That has to do with the so-called standards for biometrics. On that, there seems to be a pretty good consensus. That can be developed within the year timeframe that we have in the bill. The Biometric Foundation has provided that information to us.

But the Senator is absolutely correct about the readers—the machines—that will have to read the passports or other documents that have this data embedded in them.

As to precisely how long it will take to get those online, there is not a good specific answer, nor is there an answer as to when we can have the interoperable system developed, which is one of the central features of the bill. That is the system that takes data from the FBI, the CIA, and others and makes it available to the consular offices that have to issue the visas.

In fact, I was just speaking with the FBI Director this afternoon about what we can do to make this happen as quickly as possible. As Senator KENNEDY said, everybody wants to make it happen as soon as possible. The question is how to do that. I will share with the Senator from West Virginia some of thinking that went into our putting in those dates. If the Senator has other ideas, we can certainly discuss them. I regret to say that there has been an attitude among some people at the INS that perhaps it has not been—to use the military phrase—as forward leading as some of us would like to see in terms of their willingness to tackle some of these problems. I am trying to say it nicely. There are a lot of people who work at INS who really work hard, and they are trying to do things on time. But I must say that there hasn't necessarily been the so-called can-do attitude that some of us would like to see. When we asked them can you do this, or could you do that, what you get back in response is that may take a long time. That is going to be really hard.

Naturally, we would like to see them take the bull by the horns and say, We will do our best to get that done as quickly as we can. That is the answer we are looking for. We don't necessarily get that.

Frankly, what went into some of our thinking in putting some of these deadlines in—they may be pretty tough deadlines to meet—was let us get those deadlines in there so the people at INS are going to have to work hard to try to meet the deadlines. They know that we mean business and we are trying to get this done as soon as we can. They may not be able to meet the interoperable system deadline or the readers deadline, both of which are October 26, 2003.

Mr. BYRD. Will the Senator yield?

Mr. KYL. Our thinking in putting those deadlines in was to try to give them something to shoot for so we could at least get them going to try to get it done as soon as possible.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. KYL. Yes.

Mr. BYRD. Mr. President, what suggestion does the distinguished Senator have as to how we might deal with this problem that I referenced?

Mr. KYL. Mr. President, the Senator partially answered that question in previous comments he made. The first is to put a deadline in there that they have to shoot for rather than just, in effect, saying, "well, whenever you can," because that will probably result in delay. Second, we have to fund the programs adequately. The Senator from West Virginia made the point at a hearing we had the other day—he made the point earlier, and he made the point again today, and the Senator from West Virginia is absolutely correct—that we have an obligation, as the Senate then, to fund this to the extent that will be necessary.

We think we have the elements of that built in here, but that will be the other half of what has to be done.

Mr. BYRD. Mr. President, if the Senator will yield further?

Mr. KYL. I certainly will continue to yield.

Mr. BYRD. Well, it has been said on the floor, more than once today, that the anticipated cost of the bill, as I understand it, would be about $1.1 billion the first year and $3——

Mr. KYL. About $3.2 billion.

Mr. BYRD. That is $3.2 billion for 3 years.

Mr. KYL. If I could, Mr. President, specifically, $3.132 billion. But almost $3.2 billion, yes.

Mr. BYRD. And it has also been said that the President asked for $743 million, is that it? Is that the figure?

Mr. KYL. Yes, Mr. President, the Senator is exactly correct.

Mr. BYRD. Well, my problem is, if you multiply the $743 million by 3, that is going to be roughly $2.1 billion. And yet the figure that has been used on this floor for the third year is $3.1 billion. So right there we are $1 billion short.

So my question is, How do we bridge these gaps? How do we assure the Senate today that we will be able to appropriate that kind of money? And if we do not appropriate that money, these deadlines are not going to be met, I don't believe.

Mr. KYL. Mr. President, I am happy to yield to the Senator from Kansas.

Mr. BROWNBACK. If I could respond briefly on this, Senator KENNEDY and I have the subcommittee with the primary jurisdiction on this. As to the figures being put forward, one is the first-year cost and the other is the total cost of implementation. Much of the cost involved here is for equipment because we are getting the biometric equipment up. We are getting it in position, in place, and that is why there is the difference in the figure. It is not an even figure over each of the 3 years. That is what is involved in that question that you raise.

If I could also respond on the deadline dates because I think the Senator from West Virginia has put his finger on a very important topic. This was a matter of extensive negotiation between the various people involved because these are very aggressive dates. A number of people in the administration raised the concern saying: This is too aggressive. We don't think we can meet this. Other people within the administration were saying: It may be too aggressive, but we need to meet it, and we are going to push to meet it. There were differences of opinion on that.

We, as the Members who were negotiating and trying to work this out, decided to go with the earlier date because of the importance of the issue. It is just critical we get this interoperable equipment in place, and that we get it done as quickly as possible, and not be left in a calendar position further down the road than it needs to be or just open-ended, saying, "just do it as soon as you can." A number of the Members did not feel comfortable with that "do it as soon as you can" possibility, even though we thought there was a pretty strong commitment from the administration to do it just that way, to do it as soon as you can.

But a lot of our colleagues said: No. We want a hard date, an aggressive date. If we have to come back and work with it again, we will, but we want this thing done; and we want it done now.

That is why the aggressive dates, and that is also why the budgetary figures are different for year 1 than being equal throughout the 3 years.

I yield the floor to my colleague from Arizona.

Mr. KYL. Mr. President, the main point is, on the question of the deadlines, the Senator from West Virginia raises an absolutely valid point. The question is, What should we do with regard to two of the dates? I think we can pretty clearly meet the first one. And we have a choice of setting a later date and, therefore, maybe not spurring them to action within a timeframe that really we need to, or setting a more aggressive date which, of course, we can always extend if we are not able to meet it.

But there is one other point; that is, the Senator is also correct, we are going to have to get another request from the administration in the final year in the administration's budget to adequately support this. Having the earlier date focuses, then, on getting that money in their budget, so the chairman of the Appropriations Committee has the ability to then plan and incorporate that into the overall budget.

So that is part of the rationale. It is nothing more magic than that.

If the Senator agrees with us—and I think he does—that it is important for us to get going as soon as possible, then perhaps he can accept that rationale, at least for this first year, and then we can, of course, see what happens after that.

Mr. BYRD. I certainly can understand what the distinguished Senator is saying and the reasoning behind the decisions that were made. I am only saying, as I said at the very beginning, if we pass legislation that creates unreasonable expectations on the part of the American people, we lose credibility, our Government loses credibility, and the people lose faith in their Government. That is what Hamilton was worrying about in the Federalist Paper No. 25, which I read earlier this afternoon.

But now about this money that I talked about, it has been said here there is $743 million in the President's request. But we are talking about 3 years—3 years; that if it were $743 million a year, that would be something like $2.1 or some such billion. Yet the estimated cost for the third year here, as I am told, as I am hearing here, is $3.1 or $3.2 billion. So it seems to me that is $1 billion short there.

Mr. KYL. If I could respond to the Senator, the $3.2 billion is the estimated total cost over the 3-year period of time. And as Senator BROWNBACK said, the request would not come in three equal tranches. So you would not multiply $743 million times 3. The administration would have to include in its next budget an amount of money to make up the difference.

Now, there is, we are informed, $327 million not yet expended from the $40 billion supplemental, some or all of which might be made available in the first year, which comes close to meeting the $1 billion amount. But the Senator from West Virginia is correct, there will have to be an amount included in the budget in the subsequent year to reach the $3.2 billion. That is correct.

Mr. BYRD. I do not have any assurance that money is going to be included. We do not have any assurance it will be. The President only requested $37 million, I believe it was, in his supplemental, out of $27 billion; $35 million for border security—I mean, for the INS. So there we are.

Mr. KYL. If I could respond to that, to some extent, it is a chicken-and-egg proposition. You have to have an authorization before you can have an appropriation. And the administration merely has the benefit of both. It can put something in the budget which then encourages us to do an authorization or it can respond to an authorization which the Congress passes.

The intent here, since we have been working with the administration, is for the Congress to authorize a program which the administration then is supposed to carry out, and that would include an inclusion in the next budget of an amount of money sufficient to fund the authorization that we provide.

Then the chairman of the Appropriations Committee would have the jurisdiction to determine how much of that to fund in the appropriations request.

But the idea here is to authorize the program, which gives direction to the administration as to what we want it to do. Hopefully, that direction would be then to include that money in the budget. I certainly would be encouraging them to do that.

Mr. BYRD. I am sure the Senator would.

If I may, Mr. President, just take a further minute.

For fiscal year 2003, the President has proposed increasing nondefense programs by only 1 percent. He has threatened to veto appropriations bills that have "excessive spending." For the INS, he has proposed an increase of only $150 million or about a 2-percent increase.

That is not even enough to cover inflation. So if we must do more for the INS, what are we supposed to cut? What are we going to cut if we do more than that for the INS? Veterans programs? Are we going to cut veterans programs? Are we going to cut education programs, highways, programs to promote our energy independence, programs dealing with the environment? What do we cut? If we don't do that, we run afoul of the President's threat to veto appropriations bills.

I thank all Senators for listening. I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Arizona.

Mr. KYL. Mr. President, I inquire of the Senator from West Virginia, is it correct that it was not only defense but homeland security that is above and beyond the 1 percent; and if that is the case, then could not this money be included within the homeland security part of the budget?

I am not certain, but I believe the 1 percent does not include the homeland security requirements.

Mr. BYRD. The Senator is correct, but if we do more for homeland defense, then we are restricted by the President's figures, what he has asked. Then we have to take the money out of something else. So what does it come out of? Veterans programs, education, the environment, energy? That is our dilemma. I thank the Senator.

Mr. BROWNBACK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 5:30 today, the Senate proceed to executive session to consider Executive Calendar No. 579, Terrence L. O'Brien to be a United States Circuit Judge; that the Senate immediately vote to confirm the nomination; that upon confirmation the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action; that the Senate return to legislative session, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that it be in order to request the yeas and nays on this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I do request the yeas and nays on the confirmation of Terrence L. O'Brien.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRO-ISRAEL RALLY

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly about a rally which was held this afternoon on the west side of the Capitol, a pro-Israel rally. Some estimated the gathering at 100,000. I believe the group was substantially larger than 100,000. There were many people of all denominations represented—all colors, creeds, and racial diversity.

The purpose of the rally was to support Israel's right of self-defense. The gathering was attended by many luminaries. I had not seen so many people wait so long to speak so briefly at any time that I could recall.

I stood, as a matter of fact, with Governor Pataki. We waited an hour and a half in the blistering sun to make our presentations.

The spirit of the gathering was very emotional, very strong. The essential issue at hand was Israel's right of self-defense.

In the brief remarks that I made, I emphasized the basic point that the suicide bombers who are plaguing Israel today are identical with the suicide bombers who attacked the United States on September 11. The only difference was that the suicide bombers who attacked the United States were more sophisticated. They hijacked planes and they crashed them into the World Trade Center towers. One of the planes was, I think, headed for this very building, the Capitol, which went down in Somerset County, PA, my home State. It was speculative, to some extent, as to where it was headed, but many indicators say it was headed for the Capitol. The plane which struck the Pentagon, by many indicators, was headed for the White House.

The people of the United States were outraged by that terrorist attack, just as the people of Israel are outraged by the suicide bombers that have attacked civilian populations. The United States responded, as is well-known, by mounting a powerful military offense, which went to Afghanistan and crushed the Taliban and al-Qaida in a matter of a few weeks—an undertaking that the Soviets could not accomplish in 10 years and the Brits could not accomplish many years before. Just as we would not expect anybody to question our right to go after the al-Qaida terrorists who killed thousands of innocent American civilians, that was the theme today in raising Israel's right of self-defense.

President Bush has said that there will not be any daylight between the United States and Israel and he has been a strong supporter of Israel. I applaud his decision to send Secretary of State Colin Powell to the Mideast. It is a very difficult assignment that the Secretary of State now has. It is my hope there may be some moderate Arab leaders who will come forward to be able to have meaningful negotiations. President Mubarak of Egypt has, for over the past two decades, been a tower of strength. Of course, he has been the recipient of approximately $2 billion a year for more than the past two decades, totaling close to $50 billion at this point.

On a recent trip I made to the Mideast, I had the opportunity to visit with King Abdullah of Jordan, a vibrant young man in his late thirties, who is taking over the mantle of his father, King Hussein, and is ready, willing, and able to be a voice of reason in the Mideast. I also met with the King of Morocco, who is also in his late thirties. He also has promise. So there is a new generation of leadership in the Mideast.

When I was in the Mideast on Tuesday, March 26, I had an opportunity to be briefed by General Anthony Zinni, our chief negotiator there, and then had an opportunity to meet with Israel's Prime Minister Ariel Sharon. Late that evening, I traveled to Ramallah to meet with Yasser Arafat. I carried forward the administration's message, and that is for Arafat to make a clear, unequivocal statement in Arabic to stop the suicide bombers. As usual, Chairman Arafat said he would. Of course, again, as usual, nothing has ever been done by him.

Then the next day, Wednesday, March 27, there was the suicide bombing at the Passover seder in Netanya. Hundreds were wounded and 27 people were killed. It had been my hope that the Saudi peace plan would come to some fruition if the Saudis would stand up. I was really chagrined to see Saudi Arabia have a telethon for Palestinians and gather some $92 million. The thought on my mind was: When was Saudi Arabia going to have a telethon to raise money for the families of the thousands of victims who perished on September 11 in a terrorist attack, with 19 terrorists, 15 of whom came from Saudi Arabia?

So in the midst of these very difficult times, this was a large gathering assembled at the west end of the Capitol—a larger group than customarily meets for the inauguration of the American President. Here, the crowd went beyond the statue on horseback. The crowd was on all sides. It was very emotional, and a very enthusiastic showing of support for Israel.

I thought it might be useful, in the absence of any other Senator, to make this brief report for those who may not have captured it on C–SPAN earlier, to get some of the flavor of the passion, emotion, and determination of this cavalry of more than 100,0000 people.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

THE STEEL INDUSTRY

Mr. STEVENS. Mr. President, apparently, there are people who believe that we are cynical in raising the question of the rights of the steelworkers and coal workers to their medical costs, and some attempt to find a cash stream that will help in making the transition for the steel industry as it is consolidated.

I want the Senate to know that the motivation for thinking about steel and the steelworkers came from the provisions in the House bill H.R. 4, that contains ANWR, that allocated a portion of the bid moneys from the opening of ANWR to some conservation objectives. We looked at this problem and decided there were some moneys that could be used and what should be used as far as stimulating the future of our own State.

The Alaska gas pipeline is the real focal point of our future development. ANWR is an addition—that is, the drilling in the 1002 area on the Arctic coast, that million and a half acres there—and is the immediate objective. But the long-term objective is to find a way to transport the natural gas that has been reinjected into the ground since 1968.

As oil was produced in the Arctic, the natural gas was separated and it was reinjected into the ground. We know there is in excess of 50 trillion cubic feet of gas there—maybe 75 trillion cubic feet of gas. But the point is, as one who is interested in national security, I believe there are three major industries in this country of great concern to us in time of national problems of a military nature or security nature. One is agriculture; the second is oil; and then there is steel. When we look at the steel industry, it is the real backbone of our manufacturing infrastructure. But it has huge challenges right now, including dumping from overseas producers, and high internal costs have caused bankruptcies. Over 30 steel companies in this country have entered bankruptcy since the year 2000. That has impacted 60,000 workers. These 30-plus companies represent more than 21 percent of the domestic steel-producing industry.

In 1980, there were more than 500,000 U.S. steelworkers. By 2000, the number of steelworkers fell to 224,000. The Bureau of Labor Statistics estimates that this number will fall to 176,000 by the end of this decade. That would be a 22-percent reduction in steel-related jobs. Domestic steel shipments were down 14 percent in the first quarter of 2001. In the last 3 years alone, 23,000 steel jobs have been lost. Those who remain employed in the industry help pay for a portion of the 6,000 retirees and their benefits. Those benefits represent a promise that was made to previous workers for their contribution to building America's military-civilian infrastructure.

Our steel industry must undergo consolidation now, but it can only take place if the existing cost structures are addressed. That primarily means taking care of the health care costs for retirees. Failure to address that issue will not only impact retirees, it threatens current workers who are faced with the prospect of more mill closings and more lost jobs.

Forty-seven percent of the steelworkers are unemployed in Pennsylvania, Ohio, and Indiana. Forty-five percent of the steel jobs relate directly to production. Consolidation is an absolute must if we are to protect those jobs and failure to address this issue impacts steel States.

Why should I be interested in steel? One is defense, as I said. Steel is required to build tanks, fighters, transport planes, helicopters, ships, missiles, and other military items.

During hearings in the House and Senate last month, Robert Miller, chairman and CEO of Bethlehem Steel, testified on the problems of the steel industry. He told Senators integrated producers provide the highest quality steel for steel applications.

Bethlehem Steel is the only domestic company with the capacity to provide the special steel plate that was required to repair the U.S.S. *Cole*. Unfortunately, Bethlehem Steel is currently in chapter 11, about ready to go into chapter 7 bankruptcy. What are we going to do for sales for our military ships if we lose our own domestic steel production?

Our interest is in the gas pipeline. Alaska's natural gas pipeline will be over 3,000 miles long, almost as long as the Great Wall of China. It will be the most expensive project financed by private capital in the history of man. It will be totally privately financed.

The gas pipeline requires over 3,000 miles of 52-inch pipe that cannot be made in the United States at the present time. It requires an additional 2,000 miles of gathering pipelines and production facilities. It will take 5.2 million tons of steel. It will take $3 billion to $5 billion in steel orders. That cannot be done by the United States steel industry today. They cannot even hope to participate in the building of that pipeline. They will not participate unless the issue of the health care costs for retired employees is settled.

Just this morning I had a notice from a friend of mine who told me this:

> Presently, there are only two steel mills in the world that are capable of delivering the pipe needed for our pipeline as it is presently designed. The design will require one-half of the world's capability to produce pipe during the period of its construction. If the producers start work on the project this year, it would take until 2010 or 2011 for gas to actually reach the U.S. market. There are over 18 months of work required to complete enough of the design and permitting prior to ordering the pipe. For orders placed in 2003, the pipe materials would be delivered in the year 2007.

The PRESIDING OFFICER. The Senator from North Carolina.

VISIT BY THE PRESIDENT OF THE REPUBLIC OF FINLAND, TARJA HALONEN

Mr. HELMS. Mr. President, I have the honor of presenting to the Senate the distinguished President of the Republic of Finland, President Tarja Halonen.

Mr. President, for the time between when Senator STEVENS relinquishes the floor and the time the vote starts, I ask unanimous consent that our guests be granted the privilege of the floor during the vote so they can meet Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask that the unanimous consent request be amended so that I might make a statement on the nominee who will be voted on at 5:30 p.m.

Mr. HELMS. Absolutely.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent I regain the floor after the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

NOMINATION OF TERRENCE L. O'BRIEN

Mr. ENZI. Mr. President, I thank the Senator from North Carolina and the Senator from Alaska for their courtesies. I appreciate this opportunity to speak on behalf of the circuit court judge who we will be voting on at 5:30 p.m.

I am so pleased we are having this vote. I have known Terry O'Brien both personally and professionally for over

22 years. I am proud of my association and friendship with him. It is not often that we get to vote on a close friend in this body.

In a few minutes, I and my colleagues will have the opportunity to vote to confirm Terry O'Brien to serve on the Tenth Circuit. The Senate Judiciary Committee recognized that Terry is highly qualified to serve in this position when it unanimously voted him out of committee. While the committee members had an opportunity to review Terry's accomplishments and get to know him during his hearing, I would like to share some information about Terry with the rest of my colleagues.

After Terry served as a captain in the U.S. Army and worked as an attorney at the Division of Land and Natural Resource in the Department of Justice, he came back to Wyoming to practice law in Buffalo at the law firm of Omohundro & O'Brien. Then in 1980, he was appointed to be a district judge for the Sixth Judicial District in Wyoming located in Gillette, WY. As a result, he moved to Gillette where he remained for 22 years.

Terry continued to be our judge until he retired from that position 2 years ago. As mayor of Gillette, I had an opportunity to observe what the local district judge just down the street from my business was doing in the community. Believe me, those who came before him let me know what they thought, too. What I saw and people observed is that Terry had a no-nonsense, fair approach to the law and to the parties involved. He made his decisions based squarely on the law, the facts, and careful consideration, and he explained his reasons for what he was doing. Even if you were the party or the attorney who lost, you always knew where he stood because he took the time to be certain to explain his reasoning and rationale to you.

My other observation is that Terry ran his court effectively, professionally, and efficiently. He never wasted anyone else's time nor let any of the parties or their attorneys waste each other's time, either.

As to his decisions, they are not full of legal jargon or unnecessary words. Instead, he explains the law so everyone can understand it. To me, this makes him a very good judge and an exceptional writer.

On a personal level, we have known each other over 22 years. We were in the same community for that time and watched each other's children grow up. Terry always cared about our community and made many contributions to it. One notable contribution is the 13 years he served as the president and a member of the board of directors of the Campbell County Health Care Foundation.

But the most important thing I want to stress is the fact that I have gotten to know Terry both professionally and personally. I can give my personal assurance that our country will benefit from his many talents. I am confident he will be a stellar judge for the Tenth Circuit Court, and I am proud to make this recommendation to my colleagues in the Senate.

He began his service to our country as a captain in the U.S. Army, and I hope you will help him to continue his service as a U.S. Tenth Circuit Court judge.

I thank the Chair for this opportunity to talk about my friend, Terry O'Brien.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I know we are close to the voting time. I recommend to all of my friends in the Senate that we approve Judge O'Brien. Certainly, no one has been as qualified, as my colleague pointed out.

In the appointment process, we had a committee sort through the judge prospects in our State, and they came up with Judge O'Brien as the judge they thought would be best qualified. I thank the committee for moving this matter along.

He is one of the few circuit judges who has been approved, and we certainly look forward to his approval by the full Senate.

Again, I recommend him without any question to be a circuit court judge in the Tenth Circuit.

I yield the floor.

Mr. HELMS. Mr. President, I repeat for emphasis that we have the President of Finland in our midst today. She will be here to meet the Senators as they come in to vote.

The PRESIDING OFFICER. The Chair welcomes our guests.

EXECUTIVE SESSION

NOMINATION OF TERRENCE L. O'BRIEN, OF WYOMING, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. The Senate will go into Executive session and proceed to the consideration of the nomination of Terrence L. O'Brien, which the clerk will report.

The legislative clerk read the nomination of Terrence L. O'Brien, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Mr. LEAHY. Mr. President, today, the Senate is voting on the 43rd judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Senate majority changed. With today's vote on Judge Terrence O'Brien to the United States Court of Appeals for the Tenth Circuit, the Senate will confirm its eighth circuit court judge in little more than 9 months, since I became chairman this past summer.

The Senate is making progress on judicial confirmations. Under Democratic leadership, the Senate has confirmed more judges in the last 9 months than were confirmed in 4 out of 6 full years under Republican leadership. The number of judicial confirmations over these past 9 months—43 exceeds the number confirmed during all 12 months of 2000, 1999, 1997 and 1996.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed.

Some like to talk about the 377 judges confirmed during the Clinton administration, but forget to mention that more than one-third were confirmed during the first 2 years of the Clinton administration while the Senate majority was Democratic and Senator BIDEN chaired the Judiciary Committee. The pace of confirmations under a Republican majority was markedly slower, especially in 1996, 1997, 1999, and 2000.

Thus, during the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past 9 months, in spite of all of the challenges facing Congress and the Nation during this period, and all of the obstacles Republicans have placed in our path.

I ask myself how Republicans can justify seeking to hold the Democratic majority in the Senate to a different standard than the one they met themselves during the last 6½ years. There simply is no answer other than partisanship. This double standard is most apparent when Republicans refuse to compare fairly the progress we are making with the period in which they were in the Senate majority with a President of the other party.

They do not want to talk about that because we have exceeded, in just 9 months, the average number of judges they confirmed per year.

They would rather unfairly compare the work of the Senate on confirmations in the past 9 months to 2 years of work of previous Senates and Presidents. They say it is unfair that the Democratic-led Senate has not yet confirmed as many judges in 9 months as were confirmed in 24-month-periods at other times. I would say it is quite unfair to complain that we have not done 24 months of work on judicial vacancies in the 9 months we have had since the Senate reorganized.

These double standards and different standards are just plain wrong and unfair, but that does not seem to matter to Republican's intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

Republicans have been imposing a double standard on circuit court vacancies as well. The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the Courts of Appeals. Well, the Democratic majority in the Senate has more than kept up with attrition and we are seeking to close the vacancies gap on the Courts of Appeals that more than doubled under the Republican majority.

The Republican majority assumed control of judicial confirmation in January 1995 and did not allow the Judiciary Committee to be reorganized after the shift in majority last summer until July 10, 2001. During that period from 1995 through July 2001, vacancies on the Courts of Appeals increased from 16 to 33, more than doubling.

When I became chairman of a committee to which Members were finally assigned on July 10, we began with 33 Court of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, five additional vacancies have arisen on the Courts of Appeals around the country. Prior to today's vote on Judge O'Brien, the 7 circuit judges confirmed had reduced the number of circuit vacancies to 31. With today's confirmation, there will be 30 vacancies.

Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there are now 30 vacancies, that is more than keeping up with the attrition on the circuit courts. Since our Republican critics are so fond of using percentages, I will say that we will have now reduced the vacancies on the Courts of Appeals by almost 10 percent in the last 9 months.

While the Republicans' Senate majority increased vacancies on the Courts of Appeals by over 100 percent, it has taken the Democratic majority 9 months to reverse that trend, keep up with extraordinary turnover and, in addition, reduce circuit court vacancies by almost 10 percent.

Alternatively, Republicans should note that since the shift in majority away from them, the Senate has filled more than 20 percent of the vacancies on the Courts of Appeals in a little over 9 months. This is progress.

Rather than having the circuit court vacancy numbers skyrocketing, as they did overall during the prior 6½ years more than doubling from 16 to 33—the Democratic-led Senate has reversed that trend and the vacancy rate is moving in the right direction, down.

It is not possible to repair the damage caused by longstanding vacancies in several circuits overnight, but we are improving the conditions in the 5th, 10th and 8th Circuit, in particular. Judge O'Brien will be the second judge confirmed to the 10th Circuit in the last 4 months.

With today's vote on Judge O'Brien, in a little more than 9 months since the change in majority, the Senate has confirmed eight judges to the Courts of Appeals and held hearings on three others. In contrast, the Republican-controlled majority averaged only seven confirmations to the Courts of Appeal per year. Seven.

In the last 9 months, the Senate has now confirmed as many Court of Appeals judges as were confirmed in all of 2000 and more than were confirmed in all of 1997 or 1999. It is eight more than the zero confirmed in all of 1996.

We have confirmed eight circuit court judges and there are almost 3 months left until the 1-year anniversary of the reorganization of the Senate and the Judiciary Committee and we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors.

Overall, in little more than 9 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated longstanding vacancies into this year.

Vacancies continue to exist on the Courts of Appeals in part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

Despite the newfound concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate in the 107th Congress last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of circuit and district vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate and held that hearing on the day after the committee was assigned new members.

That initial hearing included a Court of Appeals nominee on whom the Republican majority had refused to hold a hearing the year before. We held unprecedented hearings for judicial nominees during the August recess. Those hearings included a Court of Appeals nominee who had been a Republican staff member of the Senate. We proceeded with a hearing the day after the first anthrax letter arrived at the Senate. That hearing included a Court of Appeals nominee.

In a little more than 9 tumultuous months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations including 11 circuit court nominees and we are hoping to hold another hearing soon for half a dozen more nominees, including another Court of Appeals nominee. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. The Republican majority never held 16 judicial confirmation hearings in 12 months.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny committee consideration of judicial nominees.

We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home state Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees.

I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope and intend to continue to hold hearings and make progress on judicial nominees in order to further the administration of justice. In our efforts to address the number of vacancies on the circuit and district courts we inherited from the Republicans, the committee has focused on consensus nominees for all Senators. In order to respond to what Vice President CHENEY and Senator HATCH now call a vacancy crisis, the committee has focused on consensus nominees.

This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process.

It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, whose decisions would further divide our Nation.

The committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senators GRASSLEY, LOTT, SPECTER, ENZI and SMITH of New Hampshire five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May, 2001.

In contrast to past practices, we are moving expeditiously to consider and confirm Judge O'Brien, who was nominated in September, 2001. The committee did not receive his ABA peer review until the end of October. He participated in a hearing in March, was reported by the committee on April 11th and is today being confirmed.

Judge O'Brien comes to the Senate highly recommended by friends and colleagues. I was pleased to have him participate in a confirmation hearing at the request of Senator ENZI. Judge O'Brien has more than 20 years of experience as a State court judge, has served on his home state's judicial ethics commission, and has a record of community service with organizations such as the United Way and the Rotary Club. I congratulate his family on his confirmation to the Circuit Court.

I am extremely proud of the work this committee has done since the change in the majority. I am proud of the way we have considered nominees fairly and expeditiously and the way we have been able to report to the Senate so many qualified, non-ideological, consensus nominees to the Senate.

Mr. HATCH. Mr. President, I rise today to speak in favor of the Senate's confirmation of Terrence O'Brien to serve on the United States Court of Appeals for the Tenth Circuit.

I am glad that today we have voted on Terrence O'Brien to serve the people of the West in the United States Court of Appeals for the Tenth Circuit. I am proud to say that Judge O'Brien began his career of public service in the United States Army, rising to the rank of Captain.

I might also point out that Judge O'Brien was first appointed to the Wyoming State bench by a Democrat Governor, once again showing that, despite what Senator Democrats and their special interest groups would have the American people think, President Bush is nominating diverse and non-partisan men and women who reflect all the American people, not just some.

I am proud of this nomination. The President has done right by the states that make up the Tenth Circuit, including my state of Utah.

Terrence O'Brien comes to this nomination after a distinguished 20 years of public service as a State district judge in Wyoming. In that capacity, he has heard approximately 13,000 cases and has also managed to find time to serve on task forces and commissions to help develop the practices and laws of Wyoming in areas which are of great interest to me, including the use of drug courts, child support, judicial ethics, and split sentencing.

A majority of the American Bar Association's Standing Committee has rated Judge O'Brien "well qualified." He is a distinguished former State court judge with decades of legal experience. He sat for 20 years on the District Court for the Sixth Judicial District in Campbell County, WY, and on occasion by designation to the Wyoming Supreme Court.

First appointed by merit selection to the State bench in 1980 by Democrat Governor Edward Herschler (D), he was retained by the voters in 1982 and every 6 years thereafter until his retirement in 2000. Judge O'Brien is not just a distinguished jurist. He is the kind of civic leader we like in my part of the country. He has been an active in local civic and philanthropic affairs, having served on the Wyoming Community College Commission, the Campbell County Corrections Board, the Board of Directors of the United Way of Campbell County, and the Board of Directors of the Campbell County Health Care Foundation.

This nominee is just one of the several excellent jurists nominated by President Bush, and I am pleased that we have confirmed him today.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Terrence L. O'Brien, to be United States Circuit Judge for the Tenth Circuit? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Alabama (Mr. SESSIONS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 68 Ex.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—2

Sessions
Torricelli

The nomination was confirmed.

Mr. THOMAS. Mr. President, today is a very proud day for the State of Wyoming and Terrence L. O'Brien. Just a moment ago, the full Senate confirmed Mr. O'Brien for Wyoming's vacant seat on the U.S. Court of Appeals for the Tenth Circuit by a vote of 98–0.

As Wyoming's senior Senator, the responsibility of forwarding judicial nominees to the President is a job that I take very seriously. I am honored to have had the opportunity to assist in the filling of Wyoming's seat on the court. In May of 2001, Wyoming's previous judge on the Tenth Circuit, Wade Brorby, announced his move to senior status.

Following that announcement, I quickly formed a selection committee in my home State to review qualified candidates. After an extensive process, the selection committee presented me with three candidates all with exceptional backgrounds to serve on the Tenth Circuit. Terrence O'Brien was one of the three candidates I forwarded to President Bush.

On August 3, 2001, President Bush formally nominated Terrence O'Brien to the Tenth Circuit and the President's decision reaffirmed what I believed all along—that Judge O'Brien is an outstanding selection to fill Wyoming's seat on the court.

For 20 years, 1980–2000, Mr. O'Brien served with distinction as a State district court judge in Wyoming. During his tenure he earned tremendous respect from those who argued cases before him. I cannot imagine a finer individual who will join other notable Wyoming jurists on the U.S. Court of Appeals for the Tenth Circuit, including; Wade Brorby, James E. Barrett, John Jay Hickey, and John C. Pickett, who by the way, was Wyoming's first judge to sit on the Court.

I also want to thank Senate Judiciary Committee Chairman LEAHY and fellow ranking Republican Senator HATCH for their work in reporting Mr. O'Brien's nomination. While our Federal judiciary currently has 95 vacancies, today's confirmation of Terrence O'Brien is a step in the right direction. I look forward to the Senate's consideration of other article III U.S. Circuit and U.S. District Court judges.

If the mark that Terrence O'Brien left in Wyoming as a district court judge is any indication of his resolve and sharp judgment—our Nation can expect great things from a man who's appreciation and respect for the rule of law are without question. Without reservation, I know that Mr. O'Brien will serve with honor and distinction on the Court of Appeals for the Tenth Circuit.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate shall return to legislative session.

(Ms. STABENOW assumed the chair.)

Under the previous order, the Senator from Alaska is recognized.

THE ALASKA NATURAL GAS PIPELINE

Mr. STEVENS. Madam President, before the distinguished visitor entered the Chamber, and before the vote and the statements were made by the Senators from Wyoming concerning their nominee, I was discussing problems in relation to the Alaska natural gas pipeline.

I think it is something on which the Senate ought to concentrate because we are clearly going to have to have a gas pipeline to bring to market the gas which was reinjected into the ground as Prudhoe Bay oil was produced. To bring that to market—50 to 70 trillion cubic feet of gas—we need a pipeline 3,000 miles long, gathering pipelines up to 1,500 miles long.

We are now in the position where there are only two steel mills in the world that are capable of delivering this steel pipe as it is designed.

Before the vote, I outlined the number of jobs that we have lost in the steel industry and the situation with the American steel industry. For this gas pipeline, we need 5.2 million tons of steel. We need $3 to $5 billion in steel orders. We cannot get that steel unless the U.S. steel industry gets back on its feet.

So for that reason, I started to think about how we could use some of the cashflow from the development of ANWR to start the process of the gas pipeline. As we examined that, we found the problem was not the steel industry as much as it was the rights of those who have been employed by the steel industry to have their medical care maintained. And that promise was a benefit that was agreed to many years ago for the contribution these workers had made to the military and civilian infrastructure of the country. It is, as I understand it, a potential lien against the steel industry as a whole.

We need to find some way to prevent these retirees from losing their health care coverage so that it will not be a lien against the assets of the steel industry as it tries to undergo consolidation now. The consolidation must be done if we are going to have the steel necessary to build the Alaska pipeline to bring our gas down to somewhere in the Midwest.

I was commencing to tell the Senate about two messages that I received today from a great friend whom I think is one of the most capable engineers in the oil and gas industry, particularly with regard to the pipelines and their design.

As I said, he told me there are only two steel mills in the world that are currently capable of delivering this pipe. He further told me that the pipe will require one-half of the world's capability to produce the pipe during the period of this order.

If the producers restart their work on this project this year, it would take until 2010 or 2011 for the gas to actually be delivered to our Midwest—9 years from now.

There is over 18 months of work required to complete the design so that it would be possible to order the pipe. For orders placed in 2003, the last pipe materials would be delivered to the field in 2007. That would enable the gas, if everything else goes well, to start being delivered in 2010, as I said.

Now, we have linked these issues together because of both the funding standpoint and the impact on national security and because of our absolute need for steel to build our gas pipeline.

Opening up the North Slope of Alaska to the drilling in what we call the 1002 area will bring a cash bid in 2003 and 2005. We propose to make some of that money available to initiate the process of rebuilding the industry and taking the first steps to assure that the legacy fund of the steelworkers and the coal workers would be made whole.

Madam President, many people have argued with me about this. The House bill put money into the conservation account. An interesting thing about it is, if the amendment we have is defeated, the oil industry will not proceed, the steel industry will not proceed, the natural gas pipeline will not proceed, but not one of these radical environmentalists will lose their health care coverage. The American steel retirees are going to be the ones who pay the price in the long run.

I received a second message from my friend just before I came back to the Chamber, and that is that 30 percent of the pipeline materials will need to be delivered to the site by 2005, with the remainder to be delivered in 2007, as I said. I did not realize the steel chemistry for pipelines of this size has never been used. It will be what we call an X80-plus steel pipeline.

If the project proceeds in the first year, some of the pipe material needed to be manufactured will need to be tested for weldability and for fracture and burst analysis to assure the material chemistry in the pipe is correct. The timing and cost of all of this is critical to the pipeline project.

In addition to the pipeline pipe, there is a huge amount of normal steel materials required for compressor stations and the largest processing plant ever to be built.

The Alaska natural gas pipeline should be called the "Full Employment Project for 10 Years," maybe 15 years. It will require every person who is capable of working on such an endeavor in the United States and Canada for a period of over 8 years. It will not be built unless we realize the preliminaries must be completed before this pipeline can be built. It will bring down to what we call the South 48 the equivalent of a million barrels of oil a day, but it will be natural gas—high pressure gas pipeline, 52 inches in diameter, 1-inch thick.

I find it very interesting that as I talk about this subject, the commentators in the newspapers and whatnot say this is just a lot of baloney. These people are trying to link two subjects together. These are two subjects that have no individual answer. At the present time, we don't have 60 votes on the amendment to allow the drilling to commence in the 1002 area. We know that.

But the steelworkers and coal miners have no other cashflow either. They can't look for another source of money to meet their needs for at least 30 years. There are over 600,000 of them, and our proposal would start a cashflow from this new oil brought into our market. And it is money that is payable for the bidding process and from royalties on this oil that would help the steelworkers, the coal workers, and the industry to reconstruct itself.

We have been criticized about this all too often. I see my good friend standing here in the Chamber who might take umbrage at this. But during the time I was chairman of the Appropriations Committee, we provided $17 billion for American farmers for emergency purposes because of failures in various parts of the agricultural industry. That was in addition to hundreds of billions of dollars that were spent by the Department of Agriculture in the same period. What do you think that money was used for? It was used to pay for the bills on the John Deere tractors. It was used to pay for the farmers' health insurance. It was used to pay for the cost of the agricultural community to survive during bad times.

These are bad times for the steel industry. There is not one bit of steel in my State. We have half the coal of the United States, but we do not have any steel. We have raised a question of trying to find an answer to the steel problem because of our own interest in the steel industry in the future. If there is no steel industry in the United States, we will not have an Alaska natural gas pipeline for years and years.

I see no reason why we should be afraid to marry two subjects that, if the supporters of each would get together, we would succeed. The radical environmentalists of this country have overwhelmed the Congress.

In 1980, my State faced the problem of a proposal to withdraw 104 million acres of Alaska for Alaska national interest lands. That is what the name of the act was, the Alaska National Interest Lands Conservation Act. In 1978, my former colleague, Senator Gravel, had blocked that bill in the final minutes of that session, that Congress that ended in 1978.

By the end of 1980, we were at the place where there was a bill, but we said we would not support it, could not support it, unless we had the right to explore in the 1002 area, which is known to contain the largest reservoir in the North American Continent. And in a compromise entered into in good faith between those of us who represented Alaska and Senators Jackson and Tsongas, we got a bill passed which authorized the future drilling in this area and provided an environmental impact statement that showed there would be no adverse impact on the area.

Twice the Congress has passed such an amendment and twice President Clinton vetoed it. Now President Bush, knowing the international situation as it is, has said he wants this area opened to oil and gas exploration. We are trying to carry that load of getting the approval requested by the President of the United States. It is in the House bill, but it is not in this bill.

I find it very hard to represent a State such as mine, a new State. I have been in the Senate for all but 9 years that Alaska has been a member of the Union. The one absolute agreement, absolute agreement that we worked on for 7 years was the agreement to assure that this area would be explored for its oil and gas potential.

When I was in the Department of the Interior during the Eisenhower administration, I helped prepare the order to create the Arctic National Wildlife Range. At that time there was no question that range was created, and it was specifically stated that oil and gas exploration could continue in that area, subject to stipulations to protect the fish and wildlife.

When we got to this bill, the so-called ANILCA bill, the Alaska Natural Interest Lands Conservation Act, we had the proposal to withdraw all of this land, and the House of Representatives, in its bill, closed this area to oil and gas exploration. The only basic change that we made in that bill, as it came out of the Senate, the only basic change that was absolutely demanded by the State of Alaska and all of us who were elected to represent the State of Alaska—both the State legislature, the Governor, and the three of us in the congressional delegation—was that area had to be available for exploration.

Senator Jackson, chairman of the committee; Senator Tsongas, author of the substitute; agreed to amend that bill to allow for the exploration and development of the oil and gas potential, and those in the Chamber now who challenge that are leading the fight to break a commitment that was made to a sovereign State. It was made to us as a State that the area would be available for exploration if we did not oppose any further the proposal to withdraw 104 million acres of land for national purposes in our State.

People say, why are you exercised about that? Our whole rights as a State were put aside until that issue was settled. The Alaskan people were entitled to select lands for the public land as part of our statehood act; the Native people were entitled to select lands in settlement of their claims. Over 150 million acres of Alaska to be selected to benefit Alaskans in the future, it all was put aside until those 104 million acres were set aside. The only thing we asked out of the 104 million acres was the right to explore this area, 1.5 million acres on the Arctic coast. That agreement was made.

There are people here in the Senate who voted for it who now tell us they are not going to vote to allow that exploration to take place. It is enough to strain anybody's conscience, and my conscience is strained because of the fact that I agreed to that proposition. I agreed to it. I believed in the system. I believed that once Congress made a commitment in law, signed by the President of the United States, it would be binding even on future Senators. Apparently, it is not.

I warn all Senators, don't trust the Senate. Don't trust a commitment that is made by your colleagues. Don't trust an agreement that you make with the Federal Government. Unless we can get this area opened, there is no way I will trust a future agreement that is made here in the Senate Chamber with regard to future activity. I will insist that anything that benefits my State must be done now, not dependent on future Congresses in order to carry it out.

This is an unfortunate situation as far as I am concerned. I have not said the last.

Let me put this back up so people will see it again.

Madam President, this is the introduction to section 1002, the Jackson-Tsongas amendment, December 2, 1980. It specifically set forth the agreement we had made:

> The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

That is the situation. That is the Coastal Plain, 1.5 million acres, part of the original Arctic Wildlife Range. That has never been wilderness. The balance of the wildlife range is wilderness, but the additions of the wildlife range are not wilderness. This is a concept—I really don't know how to deal with it other than to say this was a basic negotiated compromise between the State of Alaska and the people of the United States. We were assured that the area would be open.

Now, that little red dot there on the chart represents the amount of land we have agreed we would be limited to as we go into production—2,000 acres of a million and a half acres is what we are asking to be able to explore. We know where to drill now. The seismic work was authorized by the 1980 act and has been done. We are ready to drill now.

There is oil production right outside of that ANWR area. This is the Prudhoe Bay area here and this is Kuparuk Field. This is essential to our national security. At the time of the Persian Gulf war, that Trans-Alaska pipeline, going from Prudhoe Bay to Valdez, carried 2.1 billion barrels of oil a day. Now it carries 950,000 a day. We make up the difference by importing the oil from Iraq. As we buy the oil from Iraq, Saddam Hussein sends $25,000 to the families of every one of the suicide bombers. We are paying for the terrorism that comes from Iraq because we continue to import oil that we could produce ourselves. We know there is oil there. The problem is, not only do we know there is oil there, but also in this big field up here, as we produce the oil, there is associated gas.

There is 50 trillion to 70 trillion cubic feet of gas there that we want to bring down to the 48 contiguous States. This chart will show where it will go. There are two routes proposed. This green line is the route. It is traversing a corridor that will come down the Alaska Highway and across into Canada and then to the Chicago area. That is 3,000 miles, and 1,500 miles of gathering pipelines in the area.

There is no question that this gas is absolutely needed for our future. What is the key to that future? I am back where I started. The key is steel. If we don't have steel, we cannot build a pipeline. If the steelworkers don't get that legacy fund fixed, there will not be a consolidation of steel that will make a difference for us. We need the steel industry to come back into its own and for them to be able to deliver their portion of this steel. It will take half of the world's production for a period of 7 to 10 years to build that gas pipeline. That is why we are suggesting that we marry up the needs of the steel industry and our needs, as the State that wants to pursue development of that oil in the 1002 area, the million and a half acres.

I think we should do things in the national interest. I am sad to say that it increasingly looks as if it is not going to happen. We are still going to persevere and try to continue to convince people what would be the right and just thing to do here. But, above all, I hope every Senator will examine their conscience and answer the question of whether or not, if a commitment was made to them concerning their State by the United States in a law enacted by the Congress, suggested by two colleagues in the Senate, what would their attitude be if when the time came to validate that agreement, the Senate refused to do so?

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

TRADE PROMOTION AUTHORITY

Mr. GRASSLEY. Madam President, one of the pieces of legislation I thought would be on the floor of the Senate by this time is trade promotion authority. I know our majority leader has a lot of problems and issues with which he has to deal. I think he has intentions of bringing the bill up sometime, but I am trying to encourage the Senate majority leader to bring it up soon because we have so many issues before us. I want to speak about one of those issues in regard to trade and agriculture.

Trade promotion authority is so important for us to get down trade barriers that stand in the way of the successful and fair trade of our agricultural products with other countries. Without trade, there is not going to be any profitability in farming. The fact is, we produce 40 percent more on our farms than is consumed domestically. So a good trade policy is what is necessary if we are going to have full production and if we are going to have profitability in farming.

We had the pleasure of bringing up a bill that had the support by a vote of 18 to 3 of the Senate Finance Committee. That was about 4 months ago and we still don't have any commitment from the leadership to bring this critical, bipartisan trade legislation to the floor by a date certain, so we can plan on that date and be ready for one of the most important issues to come before Congress this year and eventually vote on it.

We have had several offers: that this bill would come up sometime this spring; one time it was in March; another time, it was soon after the Easter recess; now it is maybe sometime before Memorial Day. There is a great deal of uncertainty. During this period of uncertainty, we lose opportunities for the United States to be a leader in global trade negotiation.

Remember, this is not something new for the United States. This is something that the United States has been doing since 1947 when the General Agreement on Tariffs and Trade was first started. Whatever success we have had until 1994, when the President's authority ran out, has been accomplished under U.S. leadership. We ought to be proud of our leadership and we ought to be looking forward to reestablishing that leadership once again after a period of about 8 years during which the President hasn't had the authority. Then we can continue the good things that happen when trade barriers are reduced.

The good things that happen are the creation of jobs. I don't want people to take my word for that. I want to repeat one of the things President Clinton has constantly said, which I agree with, and that is during his tenure as President, with a rapidly expanding economy—I think in the neighborhood of about 20 million new jobs were created during that term of office—President Clinton would say that one-third of those jobs were created because of trade.

I am not talking about trade as some abstract political theory or economic theory. I am talking about the good that comes from trade—the good of creating jobs in America, the good that it does for our consumers because of the opportunities to get the best buy for consumer goods.

President Clinton's bragging about one-third of the jobs coming from international trade was a direct result of 50 years of America's leadership in the reduction of trade barriers. Two of those major agreements were completed in the first year of President Clinton's Presidency—the North American Free Trade Agreement, as well as the Uruguay Round of the General Agreement on Tariffs and Trade, which established the World Trade Organization as a more permanent forum for the establishment of trade agreements in the future and settlement of trade disputes.

I am talking about having a better opportunity for America's economy, for creation of jobs. Again, this is not something from which just America benefits. We can look at the economies of Korea, Taiwan, and Japan. As we know, after World War II, they were in a terrible state of affairs. They were Third World economies. Look at what those economies have done in the last 50 years through the principle of trading and through the regime that was established under the General Agreement on Tariffs and Trade. They were able to expand their economies to the advanced economies they have today.

By having trade in the 77 countries in the world that are the most poor—Africa and other countries as well—we can help them expand their economies or, as President Kennedy said in his Presidency, trade not aid, meaning that trade was a better way of helping the developing nations to become strong economies rather than the United States just giving something that was not an encouragement for them to advance.

When I talk about trade promotion authority, I am not talking about some abstract delegation of authority to the President of the United States to negotiate certain agreements that Congress is going to control in the final analysis as we have to vote on that product that comes out of those agreements. We are talking about helping countries all over the world because we have an expanding world population, and we have to have an expanding world economic pie. If we do not, we are going to have less for more people. But with an expanding world economic pie, for sure, with an expanding world population, we are going to have more for more people, and we are not only going to be talking about a better life for those people, but we are going to talk about more social stability, more political stability and more peace around the world.

This is a very important issue that we ought to be dealing with in the Senate. Every day we delay in approving bipartisan trade promotion authority for the President is another day that the United States cannot advance the interest of our workers or, in the case of my remarks today, the interests of America's farmers, ranchers, and agricultural producers at the negotiating table as effectively as they should, as effectively as we did in the Uruguay Round starting in 1986 and ending in 1993, which resulted in a very favorable agreement or any time since 1947. It is a reality, not some theoretical point.

While month after month there has been a delay in this issue coming up, our agricultural negotiators are at the table right now in Geneva. They are fighting for better market access for our farmers, but without trade promotion authority, our agricultural negotiators have one hand tied behind their backs. There are timetables, there are goals, and there are deadlines in Geneva that have to be met if these negotiators are going to accomplish what we want them to accomplish for the good of American agriculture.

Without trade promotion authority, it will not be the United States that will shape the negotiating agenda of these talks. It will be the countries that want to shield their markets from competition that will shape the agenda and the timing of these negotiations.

This would be a devastating situation for America's export-dependent farm economy, and it will cost virtually every farming family in America. Without greater access to world markets, America's family farmers and ranchers will pay more in the form of higher tariffs or taxes than will our competitors. As a result, our farmers will have lower prices, lower income, and lost opportunity.

I thought I would bring to the attention of the Senate a letter that is shown on this chart in its entirety. I am not going to read the letter in its entirety. It is from a constituent of mine. He also happens to be a person I know well, not because I socialize with this person, but because he is an outstanding agricultural leader in my State and, in that capacity, I get to know some of these people who are outstanding farmers, outstanding civic leaders.

I received this letter from Glen Keppy and brought it with me so my colleagues can see how a third generation pork producer from Davenport, IA, looks at the issue of trade and the relationship between trade and the profitability in farming and, more importantly, the strength of the institution that we refer to as the family farmer.

If I can explain what I mean by a family farmer because some think that might be 80 acres or 500 acres. I am not talking about the size of the farm. I am talking about an institution where the family controls the capital, they make all the management decisions, and they provide most or all of the labor. That is a family farm. That can be a 30-acre New Jersey truck garden; that can be an apple ranch in the Presiding Officer's State of Michigan; that can be a ranch, with cattle on thousands of acres, in Wyoming where it takes 25 acres of grass to feed one cow and calf unit.

Mr. Keppy wrote to me about the huge foreign tariffs that are on pork, averaging in some instances close to 100 percent. He also wrote about other foreign trade barriers that hamper his and other farmers' ability to export overseas.

According to Glenn, and I am going to read the first sentence that is highlighted:

> The only way our family operation will survive over the long term is if we can convince other nations to lower or remove their barriers to our pork exports.

That comes from some experience. We have learned from some reductions of tariffs going into Mexico since the North American Free Trade Agreement. We are sending more pork into Mexico. As a result of agreements with Japan, more beef is going into Japan. A lot of agreements that were made in the Uruguay Round of the General Agreement on Tariffs and Trade proved that as well.

Mr. Keppy knows that where barriers have gone down, it has created opportunities for the American farmer. What he is talking about is that we need to continue opening markets, and trade promotion authority is the tool that we give to the President to negotiate. We give to the President our constitutional power under certain short periods of time with restrictions so the President can sit down at the table and negotiate because, quite frankly, it is not possible for 535 Members of Congress to negotiate with the 142 different countries that are members of the World Trade Organization.

So we give the President this authority. We have done it in the past. It has been very successful. We control the end products because if we do not like it, we do not vote for it, it does not pass, it does not become law.

We also control the process through consultation that we require of the President of the United States. We limit some areas where he might be able to negotiate or not negotiate. We instruct the President to emphasize some things over other things. So we are not giving away any constitutional power. We are asking the President, as a matter of convenience, to negotiate for Congress in the exercise of our constitutional control over interstate and foreign commerce.

I remember in the Senate at the beginning of this debate on trade promotion authority there were some who said it really was not necessary to pass trade promotion authority right away. These critics were wrong then. They are wrong now.

To show how one of my constituents feels about this, this is what this family farmer who emphasizes and specializes in pork production, Mr. Keppy, says, and I would read another sentence:

> To the American farmer, despite the pressing need to improve export prospects and consequently, the bottom line for American farmers, no timetable for considering TPA legislation on the floor of the Senate has been set.

That is his way of saying that is not a very good environment for agriculture at the negotiating table as we are right now in Geneva.

He also says in another place in these letters:

> To farmers like my two sons and myself, trade is not a luxury. It is a vital ingredient to our success.

"It is the key," Mr. Keppy says, "to our survival."

There are a lot of Glen Keppys whose survival as family farmers depends on trade. So it matters a lot to Mr. Keppy and to all the farmers in America like him when the Senate leadership delays month after month in bringing legislation that is vital to the survival of family farmers to the Senate.

Saying one is for the family farmer and then ignoring or delaying legislation that is vital to the farmers' survival is beyond most farmers' ability to understand. Glen Keppy, his two sons who work with him, and all the family farmers like them whose survival depends on trade hope the Senate Democratic leadership is listening and will schedule this bill for debate. More importantly, the family farmers of America hope we act on this bill.

Again, I know this has been on Senator DASCHLE's list of important things to get done. I know he knows the importance of it because he is one of the 18 who voted to bring this out of our Senate Finance Committee, but it is something we have to get done, even if it takes working extra hours, as we are not tonight. I am not complaining about not working nights because none of us want to work at night, but sometimes we might have to do it to get the job done.

I welcome that opportunity and I thank Senator DASCHLE for his consideration of my request.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT SUBMITTAL

Mr. MURKOWSKI. Madam President, in deference to the majority, it will be my intent to send an amendment to the desk. I ask that the amendment be laid over until the appropriate time. This is an amendment that involves sanctions on Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I do not want to preclude it, but I am not sure as to whether or not it would be necessary to set aside the existing amendment, which is the Iraqi oil import ban. I filed this some time ago.

The PRESIDING OFFICER. On what measure is the Senator proposing to add the amendment?

Mr. MURKOWSKI. It is a specific ban on imports from Iraq.

The PRESIDING OFFICER. To which bill is the Senator proposing to add the amendment?

Mr. MURKOWSKI. It would be an amendment to S. 517.

The PRESIDING OFFICER. That measure is not pending at this time.

Mr. MURKOWSKI. I ask unanimous consent to submit this amendment as if it was in order as a pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. My understanding is tomorrow morning is somewhat open because the majority had indicated they were not going to be taking up the boundary issue, and there was some question of taking something else up. So I simply offer this amendment. Obviously, it is going to be up to the leaders if they want to take it, but it would be my intention to submit it. So my staff has the amendment coming shortly. It has already been filed with the clerk. So let me go into the specifics.

This amendment would basically end our imports of oil from Iraq until certain conditions were met. First would be that the U.N. certifies that Iraq has complied with Security Council Resolution 687 and has dismantled their program to develop and construct weapons of mass destruction. Further, it would end our imports of oil from Iraq until Iraq ceases to smuggle oil in contravention of Security Council Resolution 986; further, that Iraq no longer pays bounties to the families of suicide bombers wreaking havoc in Israel.

Now, I recognize Iraq's oil export program is intended to be used for the benefit of Iraq's suffering people, but my amendment also seeks to ensure the President uses every means available to support the humanitarian needs of the Iraqi people notwithstanding our ban on oil imports.

I consider myself somewhat of an internationalist, and I believe firmly in the importance of engagement with other countries, particularly economic engagement. But I am a strong believer, as well, in free trade and in the work that many of my colleagues have done to reform the economic sanctions policy. However, I draw the line on economic engagement when national security is compromised.

I said it before, and I will say it again, our increasing dependency on unstable overseas sources of oil is compromising our national security. In the last week, this Nation has lost 30 percent of our available imports from both Iraq and Venezuela. Last week, Saddam Hussein urged fellow Arab OPEC members to use oil as a weapon—I repeat that: Oil as a weapon. We saw what happened when aircraft were used as weapons in the World Trade Center disaster.

Saddam Hussein did that by imposing a 30-day embargo to halt oil exports to the United States until the United States forced Israel to cave into the demands of the Palestinian extremists.

In 1973, the Arab League used oil as a weapon during a time of similar crisis in the Mideast. Some may remember that. We had gas lines around the block. People were blaming government. That was during the Yom Kippur War.

At that time, we were 37 percent dependent on imported oil. Still, the Arab oil embargo demonstrated how powerful a weapon oil could be, and the United States was brought to its knees at that time in 1973.

Today, we are 58 percent dependent on imported oil. Clearly, the vulnerability is evident. At that time, the national security implications of energy dependence was obvious to everybody. At that time, there was a decision made to build a TransAlaskan pipeline. It was taken precisely because of our national security implications of overdependency on Middle East sources. That was then and this is now.

I have charts that show the contribution of Prudhoe Bay to decreasing our imports when Prudhoe Bay came online. It was a dramatic reduction in imports. Prudhoe Bay has contributed about 25 percent of the total crude oil produced in this country. Prospects for ANWR are even greater. I suggest there is more oil in ANWR than in the entire State of Texas.

As we look at the changing times, we have to recognize certain things stay the same. Nearly 30 years after the Arab oil embargo, we are faced with the same threat we faced in 1973. The difference is that now we are nearly 58 percent dependent on imported oil. The stakes are higher. The national security implications are more evident. I wonder what we have learned. The day before Saddam Hussein called on his Arab neighbors to use oil as a weapon and begin the 30-day moratorium on exports, the United States was importing over a million barrels a day from Iraq. If you filled up your tank on that day, chances are at least a half gallon of your tank came from Iraq. That is dollars to Saddam Hussein. Think about it. This is the same individual who pays bounties to suicide bombers. It was $10,000; now it is $25,000. He shoots at our sons and daughters who fly missions in the no-fly zone in Iraq; he has used chemical weapons on his own people and has boasted that he has the weapons to scorch half of Israel.

When we innocently fill up a gas tank, we have paid Saddam Hussein nearly a nickel of every dollar spent at the pump that day—paid, in effect, for the suicide bombers; bought the shells targeted at American forces; paid for the chemical and biological weapons being developed in Iraq which are targeted at Israel.

Have we learned our lesson? I ran across an old Life magazine from March 1991. In a profile of the gulf war, they wrote of Saddam Hussein:

> When he finally fought his way to power in 1979, after an apprenticeship of a few years as a torturer, his first order was the execution of some 20 of the highest-ranking government officials, including one of his best friends. He likes to say "he who is closest to me is furthest from when he does wrong." He grew up in dirt to live in splendor. He is cheerless. And he currently possesses Kuwait.

This article should be used as a reminder of the costly mistakes for not dealing with him completely. It is almost a play-by-play review of the gulf war, but new names and a new era from 2002 could just as easily be inserted in that article. These lessons must not be lost. He is our enemy. The world must isolate him, cut him off and coax his regime to an early demise.

We have not learned our lesson, have we? He is still there because we are still buying his oil. Sure, it is masked in an oil-for-food program, but is it really working? He is still there. I know oil for food isn't supposed to work that way. Saddam Hussein is supposed to use the money for oil, for food to feed the Iraqi people, to buy medicine, but he cheats on the program, buying all kinds of dual-use and questionable material and smuggles billions of dollars of oil out of Iraq, which directly funds his armies, his weapons, his programs, and his palaces.

We have had lost lives. A few months ago we had two of our Navy men drown boarding one of his illegal tankers that was going out of Iraq. During the inspection, the ship simply sank.

No matter how you look at it, our purchase of Iraqi oil is absolutely contrary to the national interests of our country. It is indefensible. It must end.

My amendment does just that. It would end the new imports of Iraqi oil until Iraq is proven a responsible member of the international community and complies with the relevant Security Council resolutions.

I begin this statement by affirming my support for economic engagement. I believe deeply in the principles of free trade. I do not believe, however, in economic disarmament. When, as in the case of oil, a commodity is not only important to our economy's health, but it is also important to our military's ability to defend this Nation, self-sufficiency is a critical matter. No country or group of countries should have the ability to ground our aircraft, shut down our tanks, or keep our ships from leaving port. Yet allowing ourselves to become dependent on imports threatens to do just that.

In the case of Saddam Hussein, we are dependent, as I indicated, as a consequence of what has happened with the curtailment of imports and the strikes in Venezuela. Thirty percent of our normal imports have been interrupted, a portion of that by a sworn and defined enemy, Saddam Hussein.

I will show a chart I referred to earlier because I think it addresses and thwarts some of the negative impressions as to how significant any development in ANWR might be.

Looking at history, this particular chart shows, on the blue line, production in Alaska. In 1976 and 1977 it went up dramatically. The red line shows why. We began to build the TransAlaskan pipeline, the TAPPS pipeline, and we see in 1977 at that time imports peaked, and then they dropped dramatically. They dropped in 1980, 1981, 1982, 1983, 1984, 1985, and 1986 because we opened Prudhoe Bay. When critics say opening up ANWR will not make any difference, history proves them wrong. This is the actual reality of what happened to our imports when we opened Prudhoe Bay. The imports dropped in 1980, 1981, 1982, 1983, 1984, 1985, and 1986. Why did they start going up? Obviously, the demand in the United States increased. They kept increasing. If you look at the blue line, Alaska's production begins to decline. It will decline until we face reality and wake up to the fact that we have the capability to develop ANWR just as we did Prudhoe Bay. But there is the reality that the contribution of opening up a field of the magnitude of ANWR will certainly be comparable to that of Prudhoe Bay. I think that comparison is evident in the range estimated for the reserves of ANWR—somewhere between 5.6 billion and 16 billion barrels.

The actual production of Prudhoe Bay has been a little over 10 billion barrels. So if you apply roughly the same scenario, you are going to see a significant drop in imports from overseas as we increase production in Alaska. I think that chart really needs to be understood.

I wish to conclude by a reference to relying on foreign sources of oil. I think we all agree history shows us it is not risk free. We saw what happened in 1973 during the Arab oil embargo. I think it is fair to say we have a bit of an uneasy relationship with our friends in the gulf, and September 11 clearly demonstrated that our enemies—in staunch allies like Saudi Arabia—may outnumber our friends.

Isn't it interesting the Saudis have indicated they are going to make up the supply that was terminated by Saddam Hussein indicating he is going to cease production for 30 days? I wonder at what price. We already have some form of economic sanction on every single member of OPEC.

Think about that. Here we are, relying on a cartel which is illegal in this country to provide us with our oil. Then we have some form of economic sanction on every single member of OPEC, a reflection on the uneasy relationship we have with those countries.

That is risky, relying on countries such as these to provide for our national security. We have long recognized the folly of importing oil from our enemies. There is lots of oil in Iran and Libya, but we have not imported so much as a drop of oil from those countries in 20 years. Does relying on Iraq make more sense than relying on Iran or Libya? I notice many colleagues advocate production in less risky parts of the globe, including in the United States. The trouble is, you have to drill for oil and you have to go where the oil is. The fact is, the ground under which most of the oil is buried is controlled by unstable, unfriendly, or at-risk governments.

Let me turn for a moment to some of the other areas of the world on which we depend. Take Colombia, for example, the oilfields being developed in this pristine rainforest down there. We get more than 350,000 barrels of oil from Colombia. The 480-mile-long Cano Limo pipeline is at the heart of the Colombian oilfields and the trade. It is very frequently attacked by the FARC rebels. They are anti-capitalist, anti-U.S., anti-Colombian Government rebels. The trouble is, half the country these rebels control has the Cano Limo pipeline running through it, a convenient target to cripple the economy, get America's attention, and rally the troops to their cause.

The countless attacks have cost some 24 million barrels in lost crude production last year and untold environmental damage to the rainforest ecosystem.

Last year alone, the rebels bombed the Cano Limo pipeline 170 times, putting it out of commission for 266 days and costing the Colombian Government and the citizens of that country about $500 million in lost revenues.

The Bush administration wants to spend $98 million to train a brigade of 2,000 Colombian soldiers to protect the pipeline and now another rebel faction called the American companies running the pipeline "military targets."

I ask you, is Colombia a stable supply, a stable source of supply?

How about Venezuela? Workers are on strike there. The Government is in turmoil. Production is suspended. Yesterday, labor leaders and Government officials were set to return to the bargaining table. That has broken down today. Instead we have seen riots, 12 to 20 people are dead. Hundreds are injured. We have seen President Chavez resign and then we have seen him come back.

One has to question the absence of Chavez and what does it mean to stability? Does it leave a vacuum? Does it leave more uncertainty?

Between a Venezuelan labor crisis, Colombia's civil war, Iraq's embargo, 30 percent of our oil supply is threatened. What are we doing about it? We are talking about CAFE standards. My colleagues suggest to you if we would only adopt CAFE standards, we would be able to take care of, and relieve our dependence on, imports.

There are two things about CAFE standards. One is the recognition that we can save on oil. But the world moves on oil. The United States moves on oil. Unfortunately, other alternative sources of energy do not move America. They don't move our trains or our boats, our automobiles or trucks. We wish, perhaps, we had another alternative, but we do not. The harsh reality is we are going to be depending on oil and oil imports. The question is, Is it in the national interest of this country to reduce that dependence? The answer is clearly yes.

Are my colleagues truly unfazed about the close connection between oil money and national security? Are we willing to turn our heads while the money we spend at the pump fuels the Mideast crisis? Are we willing to finance the schemes of Saddam Hussein? Are we willing to allow our policy choices in Israel to be dictated by our thirst for imported oil? Are we willing to let oil be used as a weapon against us?

Whatever the outcome of the ANWR debate which we are going to start tomorrow, we should stop relying on Saddam Hussein. It is simply a matter of principle. The United States is a principled nation. We should not allow our national security to be compromised. I have heard time and time again, on the other side, my friends dismissing ANWR as a solution to the national security dilemma of overdependence on foreign oil. But I have not heard of a good, sound alternative solution.

Our military cannot conduct a campaign of conservation. Our aircraft do not fly on biomass. Our tanks do not run on solar. Wind power has not been used by the Navy in 150 years.

I sympathize with the desires to eliminate the use of fossil fuels. I believe we will get there through continued research in new technologies. But, in the meantime, the United States and the world moves on oil. As the developing nations develop their economies, they are going to require more oil. I certainly understand the urge to deny the importance of oil in the national security equation, but all my colleagues, I think it is fair to say, will eventually have to look themselves in the mirror after this debate and ask whether we have sacrificed our national security in order to appeal to the fantasies of extreme but well-funded environmentalists.

Whether or not we do the right thing for this country and open up ANWR to safe, effective exploration, we should not compromise our national security by continuing to rely on our enemies. That is just what we are, evidently, doing at this time.

Finally, let me again point out something that we have been having a hard time communicating; that is, the reality associated with the ANWR issue. The fact is, this is a significant size—roughly 19 million acres, the size of South Carolina. We have already made specific land designations. Congress made these. We have roughly 9 million acres in a refuge, 8.5 million acres in wilderness, and this is the Coastal Plain, 1.5 million acres in green that potentially is at risk. But the House bill only authorized 2,000 acres, that little red spot there. So that is the footprint that would be authorized in the Senate bill.

We have the infrastructure in. We have an 800-mile pipeline that was built in the early 1970s from Prudhoe Bay to Valdez.

Having participated in that discussion, it is rather interesting to reflect that 27 or 28 years later we are still arguing the same environmental premise on whether or not this can be done safely. The argument then was that we were going to build a fence across 800 miles of Alaska; that we were going to separate two parts of the State by building a fence; and the animals were not going to cross it—the polar bears were not going to cross it, and the moose were not going to cross it. That proved to be a fallacious argument.

The other argument was you were going to put a hot pipeline in permafrost which would melt the permafrost, and the pipeline was going to break. All of those naysayer scenarios were false.

The same argument is being made today—that somehow we can't open this area safely.

I will show you a couple of pictures of some of the animal activity up there. I think it warrants consideration. We have already seen the growth in the caribou herd relative to Prudhoe Bay. There were 3,000 to 4,000 animals in 1974–1975. There are about 26,000 today.

The Porcupine herd traverses Canada. There is a large number taken for subsistence in that particular area. It is a different herd. But we are not going to develop this area in the summertime. The development will be in the winter.

Here is a little idea of the caribou. These are not stuffed. These are real. These are caribou traversing the Arctic oilfield of Prudhoe Bay. They are not shot at; they are not run down. You can't take a gun in there. You can't hunt. They are very docile unless they are threatened.

Here is a picture of what happens when the bears want to go for a walk. They walk on the pipeline because it is a lot easier than walking on the snow. I think many of my colleagues would recognize that these are bears which are smarter than the average bear. Let us just leave it at that.

As we get into this debate tomorrow, I hope my colleagues will recognize again the magnitude of this area, the very small footprint, and recognize that this area is known to contain more oil than all of Texas. There is absolutely no question about that. The question is, What are the extremes? Again, it is as big as Prudhoe Bay. It will supply this Nation 25 percent more of its total crude oil consumption, and the infrastructure is already built.

Let me conclude with one other point. As the occupant of the chair is well aware, all of the oil from Alaska is consumed on the west coast of the United States. There hasn't been a drop of oil exported outside of Alaska since June 2 years ago. That was a little which was in excess for the west coast. This oil moves in U.S. tankers down the west coast. A significant portion goes into Puget Sound in the State of Washington where it is refined. Oregon does not have any refineries. A portion of the Washington-refined oil goes into the State of Oregon. The rest of it goes down to San Francisco Bay or Los Angeles where the balance is refined. A small portion goes to the refineries in Hawaii.

That is where Alaskan oil goes. When Alaskan oil begins to decline as a consequence of the decline of the Prudhoe Bay field, where is the West going to get its oil? Is it going to get it from Colombia or it is going to get it from Saudi Arabia or Iran or Iraq or wherever. It is going to come in in foreign ships because the Jones Act requires that the carriage of goods between two American ports be in U.S.-flagged vessels.

We are looking at jobs here. We are looking at jobs in the Pacific Northwest, in California. The significance of maintaining those jobs is very real to the American merchant marine.

Primarily, 80 percent of the tonnage in the American merchant marine today is under the American flag—U.S. tankers. They are in need of replacement. It is estimated that if we open up ANWR, there will be 19 new tankers built in U.S. shipyards employing U.S. crews. If it isn't, you are going to see the oil come into the west coast ports in foreign vessels from foreign ports. Obviously, that will affect our balance of payments and result in sending dollars overseas.

As we begin the debate, I hope my colleagues will recognize that America's environmental community has been pushing very hard on this issue because it has been an issue that has allowed them to raise dollars and generate membership. And they really milk it for all it is worth.

I hope Members will reflect on the debate itself, the merits of the debate, and not be prepositioned by having given certain commitments to one group or another.

This is a big jobs issue. About 250,000 U.S. jobs are associated with opening up the ANWR field, the tankers, and the operation. When we get into the debate, hopefully we will have an opportunity to respond to those who have expressed concerns about safety, those who have expressed concerns about the adequacy of the reserves, and those who have expressed concern over how long it would take to get on line.

With this pipeline here, and the proximity, it is estimated that we could expedite the permits and have oil flowing within 3 years. Those are basically the facts from one who has spent virtually his entire life in the State of Alaska.

I can assure you that the Native people of Kaktovik—300 residents—support the issue. As a matter of fact, they are in Washington right now making calls on various Members.

I hope we will do what is right for America in the coming debate; that is, authorize the opening of ANWR.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam Chairman, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AWARDING OF SOLDIERS MEDAL TO DONALD S. "STEVE" WORKMAN

Mr. HELMS. Madam President, on April 26, U.S. Army Sergeant First Class Donald S. "Steve" Workman will be awarded the Soldiers Medal for his courageous actions at the Pentagon on September 11, 2001. The Soldiers Medal is awarded to members of the U.S. Army who distinguish themselves by heroic acts that do not directly involve actual conflict with the enemy.

When you hear Steve's story, I am confident that you will agree that his selfless actions indeed merit this award.

As all of us vividly remember, a hijacked plane crashed into the Pentagon on the morning of September 11, 2001. Instead of leaving the Pentagon, Steve risked his life by reentering the building to help other survivors. He struggled through intense fires, sparking electrical wires, and pools of jet fuel and eventually came upon Navy Lieutenant Kevin Shaeffer, who had been blown to the floor—by a gigantic fireball—from his desk in the Navy Command Center.

After finding Kevin, Steve guided him through flames and dense smoke to one of the infirmaries inside the Pentagon. When they reached the infirmary, Steve realized Kevin was going into shock so he immediately elevated Kevin's legs using a trash can, loosened his belt, and gave him small drops of water. After helping a nurse administer an IV and painkiller, Steve grabbed a small tank of oxygen and led Kevin outside to wait for an ambulance.

Once ambulances began arriving, Steve helped place Kevin in one of them and they rode together to Walter Reed Army Medical Center. En route, the ambulance's oxygen tank ran empty so the small oxygen tank Steve took from the Pentagon infirmary was a godsend. Kevin recalls that the two men talked during the trip and he remembers giving Steve his wife's name, Bianca—also a Navy Lieutenant—and phone number.

When the ambulance arrived at Walter Reed, Steve turned Kevin over to the medical personnel and helped the hospital staff contact Bianca. He then returned to the Pentagon to help anyone else needing it.

Kevin later learned that he had suffered second and third-degree burns over 41 percent of his body. During his three month stay at Walter Reed, Kevin and Steve, and their families, stayed in close contact with each other and have developed a strong relationship. Kevin and Bianca have stated that they consider Steve to be a member of their family.

SFC Steve Workman is a brave, courageous soldier whose actions helped save the life of a fellow serviceman. He is a true hero.

TAX DAY 2002—PROGRESS AND UNFINISHED BUSINESS

Mr. CRAIG. Madam President, on this April 15, Congress and the President have solid achievements to be proud of. But there is also much work that remains to be done on a tax code that is still too burdensome and complex.

First the good news.

We continue to see the many benefits of the Economic Growth and Tax Relief Reconciliation Act of 2001. This year, hardworking Americans and their families have a little more freedom, and the Federal Government has a little less control over their lives.

Most taxpayers saw the immediate results of this tax relief last summer, when rebate checks arrived in mailboxes across the country. These checks were the first installment in replacing the old 15-percent tax rate bracket with a new 10-percent bracket. Low-and-modest income families were given the highest priority, both in timing and in relation to their income tax burden.

But help for families didn't stop there. The 2001 law has increased and expanded the child tax credit, increased the adoption tax credit to $10,000 per child, and provided relief from the marriage penalty, including the expansion and simplification of the earned income credit for working, low-income couples.

Education benefits for families include deductions for college expenses, improvements to education savings accounts, student loan interest deductions, and the continued allowance of employer-provided educational assistance. There are also tax benefits for governmental bonds for public school construction.

The phase-out of the death tax by 2010 is a major achievement in fairness for family-owned farms and small businesses.

Individuals and families will be able to prepare for a more secure future because of increases to contribution limits on pensions and individual retirement accounts, fairer retirement provisions for women, and overall reductions in individual tax rates.

The first major tax relief legislation in over twenty years has helped lighten the burden on taxpayers this year. President Bush and Congress came together last year for the good of the American taxpayer, in a bipartisan compromise that was only a good start.

There is much more we can and need to accomplish.

First, we need to make permanent the tax relief in last year's law. The House is poised to pass a bill to do just that. I call upon my Senate colleagues to follow suit. Because of the technicalities of budget law, last year's tax relief sunsets after 2010. That kind of sunset doesn't make sense for families, farms, and small businesses that need certainty and consistency for long-term planning.

Second, Americans deserve more relief. Even after last year's tax relief bill, this still remains the most heavily taxed generation in American history.

A typical family pays well over a third of its income in taxes at all levels. That is more than they spend on food, clothing, and housing combined.

Every year, the Tax Foundation computes Tax Freedom Day, the day on which American stop working to pay taxes to government at all levels and start keeping what they earn. This year, Tax Freedom Day comes on April 27, 2 days earlier than 2001 and 4 days earlier than 2000.

This is progress, but it still means Americans work 117 days a year for the government, instead of for their families and their futures. Looked at another way, out of each 8-hour workday, Americans work more than two and one-half hours for the tax man.

Third, Americans need and deserve a fairer, flatter, simpler Tax Code.

In 2002, Americans will spend an estimated 5.8 billion hours and $194 billion to comply with the Internal Revenue Code, or about $700 for each man, woman, and child in America. More than half of taxpayers go to paid tax preparers, many out of the sheer fear of an intimidating Tax Code, because millions of those taxpayers file only the simplest forms. Combined, the Federal Tax Code and its regulations number 7 million words in more than 700 separate sections.

This April 15, Americans are better off than last April 15, because they are keeping more of their own, hard-earned income. But we can and must do better.

When Americans are not strapped down by excessive taxes and red tape, they work, save, spend, and invest according to their needs, and their dreams. This means more secure jobs, better wages, innovative products and services, and a stronger nation.

Helping Americans meet their needs and realize their drams, with tax relief and reform, remains a major challenge before the Senate this year.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 28, 1994 in Smithton, PA. A gay man, Paul Edward Steckman, was beaten to death. The attacker, a minor, said that he beat Mr. Steckman for making unwanted sexual advances.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE INAUGURATION OF SISTER ROSE MARIE KUJAWA AS THE 6TH PRESIDENT OF MADONNA UNIVERSITY

● Mr. LEVIN. Madam President, I ask that the Senate join me today in commemorating the inauguration of Sister Rose Marie Kujawa as the 6th president of Madonna University. For over three decades, Sister Rose Marie has dedicated her time to educating the mind and spirit of youth in southeastern Michigan.

Sister Rose Marie, a 1966 graduate and mathematics major of Madonna College, returned to her alma mater in 1975 after a decade of teaching high school. During her first appointment in the mathematics department, Sister Rose Marie organized and taught the first computer courses at the college. Soon thereafter, she gained additional responsibilities in the planning and development office.

Madonna College underwent dramatic change in the years following Sister Rose Marie's promotion to the position of Academic vice president in 1978. Numerous undergraduate programs were introduced in areas such as applied science, biochemistry, computer science, international studies, Japanese, and psychology. At the same time, a number of departments and programs sought and received professional accreditations. The college also established writing and computer requirements for graduation.

The greatest change for the college, which came in 1991, was largely due to the dedication of Sister Rose Marie. As chairperson of the "University Study" committee, Sister Rose Marie compared the academic quality and support structures of Madonna with 13 other private universities and discovered that Madonna favorably compared with all of them. The college then took her findings to the regional accrediting body and the State of Michigan Department of Education. Both organizations concurred with her conclusions and soon thereafter Madonna College became Madonna University.

In addition to her work at the university, Sister Rose Marie committed a great deal of time to community service and sits on the boards of numerous community organization. She has also traveled to over 20 countries, where she has developed important overseas relationships for the University.

The importance of dedication such as Sister Rose Marie's cannot be overstated. I know that my Senate colleagues will join me in congratulating Sister Rose Marie and Madonna University on this significant occasion.●

CONGRATULATIONS TO THE KENTUCKY FIRE SPRINKLER CONTRACTORS ASSOCIATION FOUNDATION

• Mr. BUNNING. Madam President, I rise today to congratulate and honor the Kentucky Fire Sprinkler Contractors Association, KFSCA, Foundation of Frankfort, KY for winning an American Society of Association Executives', ASAE, 2002 Associations Advance America Award of Excellence. They were one of just 18 organizations nationwide to receive this notable distinction.

The ASAE, based here in Washington, D.C., recognizes associations and industry partners each year that advance American society with innovative programs in areas like education, skills training, standard setting, citizenship and community service. Oftentimes, these associations perform invaluable services for their communities that would typically be the responsibility of local, State, or Federal Government. As a member of the Kentucky State legislature, U.S. Congress, and now the U.S. Senate, I have come to realize how truly important these associations are to the everyday lives of the men and women residing in their communities.

The Kentucky Fire Sprinkler Contractors Association Foundation was selected to receive the AAA Award of Excellence out of 100 entries for its highly successful fundraising efforts for Burn Prevention. The KFSCA Foundation came into existence 7 years ago to provide a charitable base for burn prevention and education activities. In these 7 years, the foundation has donated more than $130,000 to a Pediatric Burn Center and to support a program to provide psychological intervention for juvenile fire starters. Also, the foundation operates and maintains a mobile burn education trailer that is used by fire departments across the commonwealth to educate school children and the public about fire and fire prevention. By winning a AAA Award of Excellence, the KFSCA will be automatically eligible to receive ASAE's highest honor, the Summit Award. In all, eight Summit Award winners will be chosen this summer to be formally honored at ASAE's 2002 Annual Meeting in Denver August 17–20, and at the ASAE Summit Awards Dinner, being held in September at the National Building Museum in Washington, D.C.

I am honored to have such a reputable and committed foundation working in the State I represent. I would like to thank all of those involved with the KFSCA for their hard work and urge them to continue their good deeds. They certainly are making a difference in people's lives.●

RICHARD HAIRE'S CONTRIBUTION TO NEW MEXICO'S FUTURE

• Mr. BINGAMAN. Madam President, after serving as an exemplary elementary school teacher in New Mexico for more than 32 years, Richard Haire is retiring this spring. At that time he will have enriched the lives of his fifth grade students at Corrales Elementary for 23 consecutive years.

Mr. Haire has unfailingly given our children the gifts of knowledge, goodwill, humor and a disciplined attention to detail. He has consistently set the highest standards for performance in the classroom and offered enthusiastic, dedicated support to each child's endeavors.

From the start, Mr. Haire has had a very impressive career. Voted "most likely to succeed" by his senior classmates, he graduated second in a class of 360 in 1965 from Commack High School in upstate New York. Mr. Haire obtained a BA in psychology from the State University of New York (SUNY) at Buffalo in 1969 and graduated cum laude among the top students. He then went on to receive his MS in Education from Syracuse University in 1970.

Mr. Haire dedicated much of his life to teaching. He taught at Adobe Acres Elementary School in Albuquerque from 1971–1978 and continued at John Baker Elementary School from 1978–1979. Mr. Haire joined the teaching staff at Corrales Elementary School in 1979. Scattered across the country, Mr. Haire's students have made remarkable achievements in such fields as education, literary criticism and science.

Good teachers are essential to maintaining New Mexico's unique cultural heritage and fostering the state's economic growth. Mr. Haire has made a very generous commitment to future generations.●

VOTE EXPLANATION

[Reprint of RECORD statement of Friday, April 12, 2002]

• Mr. BAUCUS. Mr. President, I submit this statement to explain my absence on Wednesday, April 10 on the rollcall votes regarding the amendments offered by the distinguished Senator from California, Senator FEINSTEIN, and the distinguished Senator from Idaho, Senator CRAIG. Unfortunately, I was absent for medical reasons and was unable to vote.

I wanted to express my support for Senator FEINSTEIN'S amendment and had I been here, my intention was to vote "yes" on the motion to invoke cloture on her energy derivatives amendment. I understand that this body specifically exempted over-the-counter trading in energy derivatives from anti-fraud, anti-manipulation and other oversight regulation by the Commodities Futures Trading Commission back in 2000. However, I believe the Enron collapse, and the dramatic energy price spikes we saw last year in California and the Northwest, including in my State of Montana, tell us that we should take a closer look at energy markets and make sure we are catching market manipulators. I was disappointed that cloture was not invoked on this amendment.

I also wanted to express my support for Senator CRAIG's amendment, and had I been here, my intention was to vote for the Craig amendment to strike title II of S. 517. With so much uncertainty in today's energy markets, I was not convinced that the modified electricity restructuring provisions in S. 517 did enough to protect the best interests of consumers. This is a complicated area of Federal law, and I think the Senate needs more time to get it right. For that reason, I would have supported Senator CRAIG's amendment.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3762. An act to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3762. An act to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1009. An act to repeal the prohibition on the payment of interest on demand deposits.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-222. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania relative to Ronald Reagan Day; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 411

Whereas, Ronald Wilson Reagan, a man of humble background, worked throughout his life serving freedom and advancing the public good as an entertainer, union leader, corporate spokesperson, Governor of California and President of the United States; and

Whereas, Ronald Reagan served with honor and distinction for two terms as the 40th President of the United States and earned the confidence of three-fifths of the electorate in his reelection carrying 49 of the 50 states in the general election, a record unsurpassed in the history of American presidential elections; and

Whereas, At the time of Ronald Reagan's first inauguration in 1981, our nation confronted sustained inflation and high unemployment; and

Whereas, President Reagan's administration worked in a bipartisan manner to enact his bold agenda of restoring accountability and common sense to Government, leading to unprecedented economic expansion and opportunity for millions of Americans; and

Whereas, President Reagan's commitment to an active social policy agenda for the nation's children reduced crime and drug use in our neighborhoods; and

Whereas, President Reagan's commitment to our armed forces restored national pride and respect for values which were cherished and shared by the free world and readied America's military defenses; and

Whereas, President Reagan's vision of "peace through strength" led to the end of the Cold War and the ultimate demise of the Soviet Union, guaranteeing basic human rights for millions of people; and

Whereas, On February 6, 2002, President Reagan reaches 91 years of age, and we honor our nation's oldest living former president as a great American who restored pride and faith in our country; therefore be it

Resolved, That the House of Representatives designate February 6, 2002, as "Ronald Reagan Day" in this Commonwealth; and be if further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-223. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia relative to the Individuals with Disabilities Education Act; to the Committee on Appropriations.

HOUSE JOINT RESOLUTION NO. 30

Whereas, the Education for All Handicapped Children's Act, commonly known as P.L. 94-142, was enacted on November 29, 1975; and

Whereas, in 1990 the Education for All Handicapped Children's Act was renamed and reauthorized as the Individuals with Disabilities Education Act (IDEA), P.L. 101-476; and

Whereas, this federal law entitles disabled children to a free appropriate public education in the least restrictive environment; and

Whereas, as a result of this law, millions of children with disabilities attend public schools today, and steady progress has been made in their education, enabling many of them to complete high school and college; and

Whereas, special education has, however, historically been underfunded by the federal government since the enactment of the original mandates in 1975; and

Whereas, the law stipulates that the maximum federal grant is 40 percent of the national costs of public elementary and secondary education and Congress established its intention to meet this goal by 1980; and

Whereas, in fact, 34 C.F.R. §300.701(b) provides that the maximum amount of the grant that may be received by the states is the number of children with disabilities aged 3 through 21 in the state who are receiving special education and related services, multiplied by 40 percent of "the average per-pupil expenditure in public elementary and secondary schools in the United States"; and

Whereas, by 1982 federal funding to defray state and local costs of implementing the law was approximately 40 percent of the total national costs of special education programs and services; and

Whereas, in 1997, however, IDEA was significantly revised by Congress to add new federal mandates that substantially increased the costs of special education in Virginia and across the nation; and

Whereas, although the federal government has committed itself to providing 40 percent of the average per pupil expenditure for funding special education programs in public elementary and secondary schools, the current funding provided to Virginia for special education is only approximately 12 percent of the actual costs to the Commonwealth and its localities; and

Whereas, in 1995 the federal government passed the "Unfunded Mandates Reform Act of 1995," P.L. 104-4, providing that "the Federal Government should not shift certain costs to the States, and the States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes"; and

Whereas, because special education programs and services are very expensive, and federal funding has consistently been inadequate, states and localities have been bearing great fiscal burdens for these federally mandated programs; and

Whereas, the federal government should honor its commitment to fund special education and its obligation to avoid shifting the costs for federal mandates to state and local governments; now, therefore, be it

Resolved by the House of Delegates, the Senate Concurring, That the Congress of the United States be urged to honor its commitment to fully fund the federal share of the special education costs required by the Individuals with Disabilities Education Act, P.L. 105-17, as amended, at the 40 percent level; and, be it

Resolved further, That Congress be encouraged to move the Individuals with Disabilities Education Act to the mandatory-spending category; and, be it

Resolved finally, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.

POM-224. A concurrent resolution adopted by the Legislature of the State of South Dakota relative to the Black Hills National Forest; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 1018

Whereas, catastrophic wildfires not only cause environmental damage to forests and other lands but place the lives of firefighters at risk and pose threats to human health, personal property, sustainable ecosystems, wildlife habitat, air quality, and water quality; and

Whereas, the seriousness of the fire risk in the national forests has been well documented by both the General Accounting Office and the United States Forest Service; and

Whereas, research and experience have shown that forest management, including thinning, forest restoration, grazing, measures to control insects and disease, and small-scale prescribed burning, can be an effective long-term strategy for reducing the risk of catastrophic wildfires and insect epidemics, especially in ponderosa pine forests, such as the Black Hills National Forest; and

Whereas, the mountain pine beetle epidemic now occurring in the Black Hills National Forest has already increased the risk of forest fires in the Black Hills, possibly endangering the lives and property of the citizens of South Dakota; and

Whereas, the national forests are the property of all the residents of the United States, but the residents who live the closest to the national forests are the ones who will be the most impacted by decisions about how to manage those national forests; and

Whereas, since the inception of the National Forest System, its supporters have recognized the importance of the support of local residents; and

Whereas, local governments and residents of South Dakota now find themselves extremely frustrated at the failure of the Forest Service to deal proactively with the mountain pine beetle epidemic in the Black Hills, and especially with the Forest Service's inclination to base decisions more on directives and policies from Washington, D.C., than on the management needs of the Black Hills National Forest or the concerns and issues of local communities and governments in South Dakota; and

Whereas, a measure of this frustration has been the overwhelming support for the concepts embodied in House Bill 1236, which was introduced during the 2002 Session of the South Dakota Legislature: Now, therefore, be it

Resolved, by the House of Representatives of the Seventy-seventh Legislature of the State of South Dakota, the Senate concurring therein, that, in the interest of protecting the health and integrity of United States forests, wildlife habitats, watersheds, air quality, human health and safety, and private property, the United States should redefine its working relationship with state and local governments, communities, and residents of South Dakota to ensure that the people who will be the most affected by United States Forest Service decisions will receive the highest level of consideration in those decisions; and be it further

Resolved, That the United States Forest Service should (1) Fully implement the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" to reduce overabundance of forest fuels that place these resources at high risk of catastrophic wildfire; and (2) Utilize an appropriate mix of fire-prevention activities and management practices including forest restoration, thinning of at-risk forest stands, grazing, selective tree removal and other measures to control insects and pathogens, removal of excessive ground fuels, and small-scale prescribed burns; and be it further

Resolved, That South Dakota's Congressional Delegation is requested to help enact legislation that will allow the United States Forest Service to implement on-the-ground steps to reduce the risk of catastrophic wildfire in Beaver Park and other high risk areas in the Black Hills National Forest prior to the 2002 fire season; and be it further

Resolved, That the Black Hills National Forest should be strongly considered for designation as a "Charter Forest," as presented in the President's FY 2003 Budget Request to Congress; and be it further

Resolved, That the Secretary of State is hereby authorized and directed to forward a copy of this Resolution to the Honorable President of the United States, George W. Bush; the Secretary of Agriculture, Ann Venneman; the United States Forest Service Chief, Dale N. Bosworth; the President of the Senate and the Speaker of the House of Representatives of the United States Congress; and the Congressional Delegation representing the State of South Dakota in the Congress of the United States.

POM–225. An engrossed resolution adopted by the General Assembly of the State of Wisconsin relative to Puerto Rico; to the Committee on Energy and Natural Resources.

ENGROSSED RESOLUTION 46

Whereas, in 1898, the United States, aided by a significant number of Puerto Rican citizens, defeated the Spanish in the Spanish-American War; and

Whereas, the Treaty of Paris signed by the United States on December 10, 1898, and ratified by the United States on February 6, 1899, formally ended the Spanish-American War and established Puerto Rico as a territory of the United States; and

Whereas, persons born in Puerto Rico have been and are U.S. citizens since 1917 but do not possess full citizenship rights and the people of Puerto Rico do not enjoy representative democracy as a state of the Union or as an independent republic; and, although U.S. citizens, they are not permitted to vote in U.S. presidential elections and have no voting representation in the U.S. Congress; and

Whereas, despite the fact that over 200,000 Puerto Ricans have fought in all wars participated in by the United States since World War I, including our current war against terrorism, and nearly 2,000 have sacrificed their lives for democratic principles and self-determination, and 4 of them have received the Congressional Medal of Honor, yet they are not allowed to vote for their Commander-in-Chief; and

Whereas, Puerto Ricans pay all federal taxes except income and estate taxes, but they receive lower levels of federal benefits than residents of the States, and are excluded from or have limited participation in certain federal programs; and

Whereas, the current status is not helping the economy of Puerto Rico and federal economic policy has fostered dependence, caused massive capital flight, and a tremendous brain drain; and the subsidizing of the present colonial relationship costs U.S. taxpayers approximately $15 billion per year; and

Whereas, a resolution of the status issue would bring stability and economic development to the island that would sharply reduce or eliminate this burden on our taxpayers; and

Whereas, ever since the transition to commonwealth status in 1952, the majority of the people of Puerto Rico have sought an end to their status as a "territory"; and

Whereas, in over 100 years of U.S. sovereignty, the U.S. government has never formally consulted the American citizens of Puerto Rico on their political status preference, and in 1997 the legislature of Puerto Rico formally petitioned the U.S. Congress to respond to the democratic aspirations of the U.S. citizens of Puerto Rico by means of a federally sanctioned plebiscite to be held no later than 1998, and Congress has not yet responded to this petition; and

Whereas, Puerto Rico has held 2 nonbinding referendums since 1993, and the most recent one indicated that only 0.06% of the population are satisfied with the status quo of being a territorial commonwealth, confirming that there is no longer the consent of the governed for the existing territorial status; and

Whereas, self-determination means presenting the U.S. citizens of Puerto Rico with an informed choice among valid, noncolonial status alternatives outlined in a clear, unambiguous plebiscite consistent with the U.S. Constitution; and

Whereas, the state of Wisconsin has a significant Puerto Rican community and an ever-increasing Hispanic population which has and continues to contribute to the state's economy and well-being; and

Whereas, the experience of the people of Wisconsin in resolving their own territorial status in 1848, after 65 years as a territory, makes them sympathetic to the aspirations of the people of Puerto Rico to resolve their own political status; now, therefore, be it

Resolved by the assembly, That the members of the Wisconsin assembly request that the U.S. Congress and the President of the United States enact legislation that would define the political status options available to the U.S. citizens of Puerto Rico and authorize a plebiscite to provide for Puerto Ricans to make an informed decision regarding the island's future political status; and, be it further

Resolved, That the members of the Wisconsin assembly request the Wisconsin congressional delegation to actively promote and support timely action on this important national issue; and, be it further

Resolved, That the assembly chief clerk shall transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the U.S. House of Representatives, the Majority Leader of the U.S. Senate, the Chairman of the U.S. Senate Energy and Natural Resources Committee, the Chairman of the U.S. House of Representatives Resources Committee, and each senator and representative from Wisconsin in the Congress of the United States.

POM–226. A concurrent resolution adopted by the Senate of the General Assembly of the State of Iowa relative to Upper Mississippi and Illinois River Inland Waterways Transportation System; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION NO. 104

Whereas, over 360 miles of the Upper Mississippi River and 11 navigation locks and dams are contained on the border of or in the state of Iowa; and

Whereas, there are approximately 70 manufacturing facilities, terminals, and docks on the waterways of Iowa, providing thousands of jobs in this state; and

Whereas, the construction of the lock and dam system has spurred economic growth and a higher standard of living in the Mississippi and Illinois river basin, and today supplies more than 300 million tons of the nation's cargo, supporting more than 400,000 jobs, including 90,000 in manufacturing; and

Whereas, more than 60 percent of American agricultural exports including corn, wheat, and soybeans are shipped down the Mississippi and Illinois rivers to foreign markets; and

Whereas, Iowa agricultural producers, industry, and consumers rely on efficient transportation to remain competitive in a global economy, with efficiencies in river transport offsetting higher costs compared to those incurred by foreign competitors; and

Whereas, the Upper Mississippi and Illinois lock and dam system annually saves our nation more than $1.5 billion in higher transportation costs; and

Whereas, approximately 17 million tons of commodities and products including grain, coal, chemicals, and aggregates are annually shipped to, from, and within Iowa by barge, representing $2.7 billion in value; and

Whereas, shippers moving by barge in Iowa realize an annual savings of approximately $170 million compared to other transportation modes; and

Whereas, Iowa docks ship commodities and products by barge to 14 states and receives commodities and products from 18 states; and

Whereas, river transportation is the most environmentally benign form of transporting commodities and products, creating minimal levels of noise pollution, and emitting 35 to 60 percent fewer pollutants than trucks or trains, according to the United States Environmental Protection Agency; and

Whereas, decreasing river transport capacity would add millions of trucks and railcars to our nation's transportation infrastructure, dramatically increasing air pollution, traffic congestion, and highway maintenance costs; and

Whereas, lakes and wildlife refuges created by the lock and dam system provide habitat and breeding grounds for migratory waterfowl and fish; and

Whereas, the lakes and 500 miles of wildlife refuge along the Upper Mississippi and Illinois river basin support a $1 billion-a-year recreational industry, including hunting, fishing, and tourism; and

Whereas, many of Iowa's locks and dams are more than 60 years old and only 600 feet in length, making them unable to accommodate modern barge tows of up to 1,200 feet long, nearly tripling locking times and causing lengthy delays and ultimately increasing shipping costs; and

Whereas, the expansion and modernization of locks has been proven nationwide as the best method of optimizing efficiency, reducing congestion, and providing for additional safety of inland waterway administration; and

Whereas, failing to construct 1,200-foot locks will force agricultural producers and industry to use more expensive alternative modes of transportation, including road and rail systems; and

Whereas, according to the United States Army Corps of Engineers, congestion along the Upper Mississippi and Illinois rivers costs agricultural producers and consumers in the basin $98 million per year in higher transportation costs; and

Whereas, upgrading the system of locks and dams on the Upper Mississippi and Illinois rivers will provide 3,000 construction and related jobs over a 15-year to 20-year period; Now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That the General Assembly recognizes the importance of the Upper Mississippi and Illinois Rivers Inland Transportation System to the economic prosperity and ecological vitality of the state, the region, and the nation, and urges the United States Congress to provide immediate funding to modernize its lock and dam infrastructure. Be it further

Resolved, That the Secretary of the Senate send copies of this concurrent resolution to the President of the United States; the Chief of Engineers and Commander of the United States Corps of Engineers; the President of the United States Senate; the Speaker of the United States House of Representatives; the Chair of the Senate Committee on Commerce, Science, and Transportation; the Chair of the United States Senate Committee on Agriculture, Nutrition and Forestry; the Chair of the House of Representatives Committee on Transportation and Infrastructure; the Chair of the United States House of Representatives Committee on Agriculture; and Iowa's congressional delegation.

POM-227. A petition from the Republic of the Marshall Islands relative to nuclear testing; to the Committee on Energy and Natural Resources.

POM-228. A resolution adopted by the City Commission of the City of Coconut Creek, Florida, relative to September 11, 2001; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 928: A bill to amend the Age Discrimination in Employment Act of 1967 to require, as a condition of receipt or use of Federal financial assistance, that States waive immunity to suit for certain violations of that Act, and to affirm the availability of certain suits for injunctive relief to ensure compliance with that Act. (Rept. No. 107–142).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with amendments:

H.R. 169: A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes. (Rept. No. 107–143).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CARNAHAN (for herself, Ms. Mikulski, and Mr. Jeffords):

S. 2122. A bill to provide for an increase in funding for research on uterine fibroids through the National Institutes of Health, and to provide for a program to provide information and education to the public on such fibroids; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON:

S. 2123. A bill to suspend temporarily the duty on triethyleneglycol-bis-(3-tert-butyl-4-hydroxy-5-methylphneyl) propionate; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2124. A bill to suspend temporarily the duty on hand-held radio scanners; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2125. A bill to suspend temporarily the duty on mobile and base radio scanners that are combined with a clock; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2126. A bill to suspend temporarily the duty on mobile and base radio scanners that are not combined with a clock; to the Committee on Finance.

By Mr. INOUYE:

S. 2127. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself and Mr. Hutchinson):

S. 2128. A bill to designate the United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, as the "Richard S. Arnold United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2129. A bill to amend the Internal Revenue Code of 1986 to clarify that any home-based service worker is an employee of the administrator of home-based service worker program funding; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2130. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2131. A bill to amend the Internal Revenue Code of 1986 to adjust the dollar amounts used to calculate the credit for the elderly and the permanently disabled for inflation since 1985; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. Kyl, Mr. Bayh, Mr. Lott, Mr. Breaux, Mr. Allard, Mr. Cleland, Mr. Bunning, Ms. Landrieu, Mr. Craig, Mrs. Lincoln, Mr. DeWine, Mr. Wyden, Mr. Frist, Mr. Hagel, Mr. Helms, Mr. Hutchinson, Mrs. Hutchison, Mr. Inhofe, Mr. McCain, Mr. Shelby, Mr. Smith of Oregon, and Mr. Warner):

S. J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself and Mr. Nickles):

S. Res. 240. A resolution to authorize representation by the Senate Legal Counsel in Aaron Raiser v. Honorable Tom Daschle, et al; considered and agreed to.

By Mr. ROCKEFELLER (for himself, Mr. Byrd, Mr. Hatch, Mr. Reid, Mr. Daschle, and Mr. Durbin):

S. Res. 241. A concurrent resolution designating April 11, 2002, as "National Alternative Fuel Vehicle Day"; considered and agreed to.

By Mr. CRAIG:

S. Con. Res. 101. A concurrent resolution extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday; considered and agreed to.

ADDITIONAL COSPONSORS

S. 313

At the request of Mr. Grassley, the name of the Senator from Oregon (Mr. Smith) was added as a cosponsor of S. 313, a bill to amend the Internal Revenue Code of 1986 to provide for Farm, Fishing, and Ranch Risk Management Accounts, and for other purposes.

S. 338

At the request of Mr. Ensign, the name of the Senator from Arkansas (Mr. Hutchinson) was added as a cosponsor of S. 338, a bill to protect amateur athletics and combat illegal sports gambling.

S. 710

At the request of Mr. Kennedy, the names of the Senator from Massachusetts (Mr. Kerry), the Senator from Nevada (Mr. Reid), and the Senator from Washington (Ms. Cantwell) were added as cosponsors of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 1226

At the request of Mr. Campbell, the name of the Senator from New Jersey

(Mr. TORRICELLI) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1476

At the request of Mr. CLELAND, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1476, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 1864

At the request of Ms. MIKULSKI, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1864, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 1878

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1878, a bill to establish programs to address the health care needs of residents of the United States-Mexico Border Area, and for other purposes.

S. 1899

At the request of Mr. BROWNBACK, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Texas (Mr. GRAMM) were added as cosponsors of S. 1899, a bill to amend title 18, United States Code, to prohibit human cloning.

S. 1917

At the request of Mr. JEFFORDS, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

S. 1918

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1918, a bill to expand the teacher loan forgiveness programs under the guaranteed and direct student loan programs for highly qualified teachers of mathematics, science, and special education, and for other purposes.

S. 2001

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2001, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

S. 2015

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2015, a bill to exempt certain users of fee demonstration areas from fees imposed under the recreation fee demonstration program.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CARNAHAN (for herself, Ms. MIKULSKI, and Mr. JEFFORDS):

S. 2122. A bill to provide for an increase in funding for research on uterine fibroids through the National Institutes of Health, and to provide for a program to provide information and education to the public on such fibroids; to the Committee on Health, Education, Labor and Pensions.

Mrs. CARNAHAN. Madam President, today I am proud to introduce the Uterine Fibroids Research and Education Act 2002. This bipartisan legislation addresses a serious health problem that affects women during their reproductive years. At least twenty to thirty percent of all women aged 35 and older have symptomatic fibroids that require treatment. This number rises to approximately fifty percent for African-American women.

I am pleased that two of my colleagues, Senator JEFFORDS and Senator MIKULSKI, are joining me in sponsoring this legislation. Both are strong advocates for women's health.

Uterine fibroids are benign tumors that impact the reproductive health of women, particularly minority women. If they go undetected or untreated, uterine fibroids can lead to childbirth complications or infertility, among other things.

For those who do seek treatment, the option prescribed most often is a hysterectomy. Uterine fibroids are the top reason for hysterectomies currently being performed in this country. A hysterectomy is a major operation—the average recovery time is six weeks. This is just the physical impact, the emotional impact lasts much longer.

We need to invest additional resources in research, so that there are more treatment options for women, including options less drastic than a hysterectomy. We also need to increase awareness of uterine fibroids, so that more women will recognize the symptoms and seek treatment.

To accomplish both of these goals we need a sustained Federal commitment to better understanding uterine fibroids. That is why I am introducing this legislation today.

My bill has two components. First, it authorizes $10 million for the National Institutes of Health, (NIH), for each of our years to conduct research on uterine fibroids.

Second, the bill supports a public awareness campaign. It calls on the Secretary of the U.S. Department of Health and Human Services to carry out a program to provide information and education to the public regarding uterine fibroids. The content of the program shall include information on the incidence and prevalence of uterine fibroids and the elevated risk for minority women. The Secretary shall have the authority to carry out the program either directly or through contract.

This legislation will make a meaningful difference in the lives of women and their families across this country. I encourage the entire Senate to support this important legislation.

By Mr. INOUYE:

S. 2127. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Madam President, almost seven years ago, I stood before you to submit a resolution "to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims."

That bill was submitted as Senate Resolution 223, which referred the

Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Earlier this year, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be "fair, just and equitable" to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is "not a gratuity" and that the "settlement was predicated on a credible legal claim." *Pottawatomi Nation in Canada, et al.* v. *United States*, Cong. Ref. 94-1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be "fair, just and equitable" to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups, successors-in-interest, of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th Century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession, many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal, an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands, some five millions acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent two weeks using extraordinarily coercive tactics, including threats of war, in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1993, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the "Wisconsin Band" were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis five million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied "justice would be done. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was "not fit for snakes to live on."

While some Pottawatomis removed westward, many of the Pottawatomis particularly the Wisconsin Band, whose leaders never agreed to the Treaty, refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomi were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band, those still in their traditional territory and those forced to flee to Canada, petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit the annuities by not removing and directed that the share of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band, most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario, petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and estabish a role of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine "the [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the clamant Indians as directed the provision of the Act of June 25, 1864."

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was $477,339 and that the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border, brought suit together in the Indian Claims Commission for recovery of damages. *Hannahville Indian Community* v. *U.S.*, No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. *Hannahville Indian Community* v. *U.S.*, 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. *Hannahville Indian Community* v. *United States*, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has not reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a "fair, just and equitable" resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice, so long delayed, is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations, which includes all recognized tribal entities in Canada, and each and every of the Pottawatomi tribal groups that remain in the United States today.

By Mrs. LINCOLN (for herself and Mr. HUTCHINSON):

S. 2128. A bill to designate the United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, as the "Richard S. Arnold United States Courthouse"; to the Committee on Environmental and Public Works.

Mrs. LINCOLN. Madam President, I am pleased to introduce legislation today with my colleague from Arkansas, Senator HUTCHINSON, to name the Federal courthouse in Little Rock after the Honorable Richard S. Arnold, a beloved Federal judge from our home state. Our legislation has strong support from members of the Federal judiciary in Arkansas and I am honored to help lead this effort in the Senate. Like so many Arkansans who have the good fortune to know Judge Arnold personally, I believe it is appropriate to recognize such a respected scholar and member of the legal community in this manner.

Judge Richard Arnold has served his country and the judiciary with rare distinction first at the District Court level and more recently as Chief Judge for the Eighth Circuit Court of Appeals. Judge Arnold was appointed by President Carter in October 1978 to the District Bench for the Eastern and Western Districts of Arkansas and was elevated to the Court of Appeals in 1980. Judge Arnold took senior status in April, 2001 after he turned 65.

While serving as a member of the Federal judiciary, Judge Arnold has earned a national reputation as a brilliant, fair and effective judge. In 1999, Judge Arnold was the winner of the highly prestigious Edward J. Devitt Distinguished Service to Justice Award. This honor is presented annually to a Federal judge who has achieved an exemplary career and has made significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole.

Judge Arnold has also received the prestigious Meador-Rosenberg Award from the American Bar Association for his work and dialogue with members of Congress about the problems facing the Federal courts during his service as Chairman of the Budget Committee of the Judicial Conference of the United States. The award, which has only been presented three times since its inception in 1994, was presented through the ABA's Standing Committee on Federal Judicial Improvements.

Judge Arnold received a Classical Diploma from Phillips Exeter Academy in 1953. He graduated from Yale with a B.A., summa cum laude, in 1957. Afterwards, Judge Arnold attended the Harvard Law School where he received the Sears Prize for achieving the best grades in the first-year class and the Fay Diploma for being first academically in his graduating class. Judge Arnold concluded his formal education upon receiving his LL.B. from Harvard magna cum laude in 1960.

After law school, Judge Arnold served as a law clerk to Justice William J. Brennan, Jr. Arnold then practiced law in Washington, D.C., and Texarkana, Arkansas. Prior to his appointment to the bench, Judge Arnold worked for the Honorable Dale Bumpers while Bumpers was Governor of Arkansas and a United States Senator.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF RICHARD S. ARNOLD UNITED STATES COURTHOUSE.

The United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, and any addition to the courthouse that may hereafter be constructed, shall be known and designated as the "Richard S. Arnold United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Richard S. Arnold United States Courthouse.

Mr. HUTCHINSON. Madam President, throughout a long career on the Federal bench, Judge Richard Sheppard Arnold has exhibited tremendous integrity and commitment to public service. I am honored to join my colleague from Arkansas in introducing legislation to designate the Federal Courthouse in Little Rock, Arkansas, as the Judge

Richard S. Arnold United States Courthouse.

Finishing toward the top of his class both at Yale College and at Harvard Law School, Judge Arnold began his legal career as a Law Clerk to Justice William J. Brennan, Jr., of the Supreme Court of the United States. In October of 1978, President Carter appointed him to the District Bench for the Eastern and Western Districts of Arkansas, and he was soon elevated to the United States Court of Appeals for the Eighth Circuit in 1980. There he served as Chief Judge from 1992 through 1998. Since April of 2001, Judge Arnold has served as Senior U.S. Circuit Judge for the Eight Circuit.

For the duration of his service on the bench, Judge Arnold has maintained a reputation as a true gentleman who possesses a keen intellect. Perhaps the finest measure of a man, however, is found in his friends. Judge Arnold has many. It was the entire bench of the Eastern District of Arkansas that came up with the proposal to name the courthouse in his honor, and nearly every day my mail includes a letter from a Judge in Arkansas championing this designation. Such unqualified support at the end of a long career is truly remarkable.

Judge Arnold has certainly earned the honor this legislation would bestow. I hope my colleagues will join us in supporting the designation of the Little Rock, Arkansas, Federal Court House as the Judge Richard S. Arnold United States Courthouse.

By Mr. BINGAMAN:

S. 2129. A bill to amend the Internal Revenue Code of 1986 to clarify that any home-based service worker is an employee of the administrator of home-based service worker program funding; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2130. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2131. A bill to amend the Internal Revenue Code of 1986 to adjust the dollar amounts used to calculate the credit for the elderly and the permanently disabled for inflation since 1985; to the Committee on Finance.

Mr. BINGAMAN. Madam President, I rise today to introduce three pieces of legislation that combined are an important step in creating a fairer and simpler Internal Revenue Code. These bills simplify the tax filing process and/or reduce the tax burden for the self employed, home-based service workers, the elderly and the disabled. These proposals are consistent with recommendations contained in the 2001 Taxpayer Advocate's Report and need our attention in Congress this year.

The first piece of legislation will address a problem that negatively impacts many recipients and providers of state supported home-based service programs. Under current law, depending on the manner in which States manage their home-based service programs, these workers are sometimes treated for Federal income tax purposes as independent contractors instead of employees. This improper classification results in these workers being responsible for paying all of the payroll taxes owed on payments received for their services instead of paying only half as would be required if they were properly treated as employees. In other States, the home-based service worker is treated as an employee, but the recipients of the service, generally the disabled and/or elderly, are treated as the employer thereby making them responsible for remitting payroll taxes for the worker. My first proposal would correct these inconsistent treatments and, for tax purposes, deem all home-based service workers to be employees. At the same time, it would deem the State or State-funded organization to be the employer. These changes will significantly reduce inadvertent tax filing errors and make certain that the elderly and disabled are not responsible for payroll taxes for their State supported home-based care. It will also guarantee that home-based care service workers will only pay their share of payroll taxes and not be burdened with paying the employer's share as well.

The second piece of legislation that I am introducing would allow self-employed workers to treat their expenses related to the purchase of health insurance in the same fashion as those workers who receive their health insurance on a pre-tax basis through their employer. Under current law, self-employed workers are required to remit payroll taxes on the amounts they pay for their health insurance coverage. This legislation would remove this inequity and allow the self-employed to reduce their net earnings by the cost of their health insurance for purposes of determining their payroll tax liability for the year. This proposal is another step in an effort to make sure that health insurance is an affordable option for all self-employed workers and their families.

The final piece of legislation that I am introducing would increase the number of taxpayers who would be eligible for the existing tax credit for the elderly and disabled as well as raise the amount that some would receive. This tax credit was created to guarantee that the elderly and disabled are able to support themselves when their Social Security or other non-taxable pensions are insufficient to cover their modest expenses. Since 1983, however, the amounts used to calculate the availability and amount of this credit have not been increased. By not indexing this provision for inflation, the number of taxpayers claiming this credit has dropped substantially. In 1998, the most recent year available from the IRS, 180,473 taxpayers claimed the credit as compared to 339,818 in 1990. This proposal would raise the limits of this credit to the level it would currently be at if the provision had been indexed for inflation starting in 1983 as well index it going forward.

I look forward to working with my colleagues on both sides of the aisle in advancing these pieces of legislation.

I ask unanimous consent that the text of the three bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF EMPLOYEE STATUS OF HOME-BASED SERVICE WORKERS.

(a) IN GENERAL.—Section 3121(d)(3) of the Internal Revenue Code of 1986 (defining employee) is amended by striking "and" at the end of subparagraph (C), by adding "or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any qualified home-based service worker;".

(b) DEFINITION.—Section 3121(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

"For purposes of paragraph (3)(E), the term 'qualified home-based service worker' means an individual providing in-home household or personal care services for disabled and elderly individuals under a program the funding of which is administered by a State, State agency, or an intermediate services organization.".

(c) PROGRAM AGENT TREATED AS EMPLOYER OF QUALIFIED HOME-BASED SERVICE WORKER.—Section 3504 of the Internal Revenue Code of 1986 (relating to acts to be performed by agents) is amended—

(1) by striking "In case a fiduciary" and inserting:

"(a) IN GENERAL.—In case of a fiduciary", and

(2) by adding at the end the following new subsection:

"(b) HOME-BASED SERVICE WORKER PROGRAMS.—For purposes of subsection (a), in the case of any program under which is provided funding for the employment of qualified home-based service workers (as defined in section 3121(d)), the administrator of such funding shall be treated as the agent for any employer of such worker and such employer shall not remain subject to the provisions of law (including penalties) applicable in respect of such an employer.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 2002.

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 161(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INFLATION ADJUSTMENT FOR ELDERLY AND DISABLED CREDIT DOLLAR AMOUNTS.

(a) IN GENERAL.—Section 22 of the Internal Revenue Code of 1986 (relating to credit for the elderly and the permanently disabled) is amended by adding at the end the following new subsection:

"(g) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning after 2002, each of the dollar amounts contained in subsections (c) and (d) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting '1983' for '1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BAYH, Mr. LOTT, Mr. BREAUX, Mr. ALLARD, Mr. CLELAND, Mr. BUNNING, Ms. LANDRIEU, Mr. CRAIG, Mrs. LINCOLN, Mr. DEWINE, Mr. WYDEN, Mr. FRIST, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mr. SHELBY, Mr. SMITH of Oregon, and Mr. WARNER):

S.J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Madam President, National Crime Victims' Rights Week begins on Sunday.

Next week, communities across the country will be holding observances, candlelight vigils, rallies, and other events to honor and support crime victims and their rights.

Also, in just a few days—specifically, April 19—we will mark the 7th anniversary of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

That attack resulted in the deaths of 168 people.

And it was just over seven months ago that, over a period of two hours and three minutes, we suffered the deadliest act of domestic terrorism in our history.

Over 3,000 people died in the attacks on that day—more than died at Pearl Harbor.

Thus, it seems appropriate for all of us in this esteemed body to stop a minute and think about victims' rights.

Last year, the Senate debated a proposed constitutional amendment drafted by Senator KYL and me to protect the rights of victims of violent crime.

The amendment had been reported out of the Senate Judiciary Committee on a strong bipartisan vote of 12 to 5.

After 82 Senators voted to proceed to consideration of the amendment, there was a vigorous debate on the floor of the Senate.

Some Senators raised concerns about the amendment, saying that it was too long or that it read too much like a statute.

Ultimately, in the face of a threatened filibuster, Senator KYL and I decided to withdraw the amendment.

We then hunkered down with constitutional experts such as Professor Larry Tribe of Harvard Law School to see if we could revise the amendment to meet Senators' concerns. We also worked with constitutional experts at the Department of Justice and the White House.

And we have come up with a new and improved draft of the amendment.

This new amendment provides many of the same rights as the old amendment.

Specifically, the amendment would give crime victims the rights to be notified, present, and heard at critical stages throughout their case.

It would ensure that their views are considered and they are treated fairly.

It would ensure that their interest in a speedy resolution of the case, safety, and claims for restitution are not ignored.

And it would do so in a way that would not abridge the rights of defendants or offenders, or otherwise disrupt the delicate balance of our Constitution.

There are many reasons why we need a constitutional amendment.

First, a constitutional amendment will balance the scales of justice.

Currently, while criminal defendants have almost two dozen separate constitutional rights—fifteen of them provided by amendments to the U.S. Constitution—there is not a single word in the Constitution about crime victims.

These rights trump the statutory and state constitutional rights of crime victims because the U.S. Constitution is the supreme law of the land.

To level the playing field, crime victims need rights in the U.S. Constitution.

In the event of a conflict between a victim's and a defendant's rights, the court will be able to balance those rights and determine which party has the most compelling argument.

Second, a constitutional amendment will fix the patchwork of victims' rights laws.

Eighteen states lack state constitutional victims' rights amendments. And the 32 existing state victims' rights amendments differ from each other.

Also, virtually every state has statutory protections for victims, but these vary considerably across the country.

Only a federal constitutional amendment can ensure a uniform national floor for victims' rights.

Third, a constitutional amendment will restore rights that existed when the Constitution was written.

It is a little know fact that at the time the Constitution was drafted, it was standard practice for victims—not public prosecutors—to prosecute criminal cases.

Because victims were parties to most criminal cases, they enjoyed the basic rights to notice, to be present, and be heard.

Hence, it is not surprising that the Constitution does not mention victims.

Now, of course, it is extremely rare for a victim to undertake a criminal prosecution.

Thus, victims have none of the basic procedural rights they used to enjoy.

Victims should receive some of the modest notice and participation rights they enjoyed at the time that the Constitution was drafted.

Fourth, a constitutional amendment is necessary because mere state law is insufficient.

State victims' rights laws lacking the force of federal constitutional law are often given short shrift.

A Justice Department-sponsored study and other studies have found that, even in states with strong legal protections for victims; rights, many victims are denied those rights. The studies have also found that statutes are insufficient to guarantee victims' rights.

Only a federal constitutional amendment can ensure that crime victims receive the rights they are due.

Fifth, a constitutional amendment is necessary because federal statutory law is insufficient.

The leading statutory alternative to the Victims' Rights Amendment would only directly cover certain violent crimes prosecuted in Federal court. Thus, it would slight more than 99 percent of victims of violent crime.

We should acknowledge that Federal statutes have been tried and found wanting. It is time for us to amend the U.S. Constitution.

The Oklahoma City bombing case offers another reason why we need a constitutional amendment.

This case shows how even the strongest Federal statute is too weak to protect victims in the face of a defendant's constitutional rights.

In that case, two Federal victims' statutes were not enough to give victims of the bombing a clear right to watch the trial and still testify at the sentencing—even though one of the statutes was passed with the specific purpose of allowing the victims to do just that.

Let me quote from the first of these statutes: the Victims of Crime Bill of Rights, passed in 1990. That Bill of rights provides in part that:

> A crime victim has the following rights: The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

That statute further states that Federal Government officers and employees "engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the[se] rights."

The law also provides that "[t]his section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the[se] rights."

In spite of the law, the judge in the Oklahoma City bombing case ruled—without any request from Timothy McVeigh's attorneys—that no victim who saw any portion of the case could testify about the bombing's impact at a possible sentencing hearing:

The Justice Department asked the judge to exempt victims who would not be "factual witnesses at trial" but who might testify at a sentencing hearing about the impact of the bombing on their lives.

The judge denied the motion.

The victims were then given until the lunchbreak to decide whether to watch the proceedings or remain eligible to testify at a sentencing hearing.

In the hour that they had, some of the victims opted to watch the proceedings; others decided to leave to remain eligible to testify at the sentencing hearing.

Subsequently, the Justice Department asked the court to reconsider its order in light of the 1990 Victims' Bill of Rights. Bombing victims then filed their own motion to raise their rights under the Victims' Bill of Rights.

The court denied both motions. With regard to the victims' motion, the judge held that the victims lacked standing.

The judge stated that the victims would not be able to separate the "experience of trial" from the "experience of loss from the conduct in question." The judge also alluded to concerns about the defendants' constitutional rights, the common law, and rules of evidence.

The victims and DOJ separately appealed to the Court of Appeals for the Tenth Circuit.

That court ruled that the victims lacked standing under Article III of the Constitution because they had no "legally protected interest" to be present at trial and thus had suffered no "injury in fact" from their exclusion.

The victims and DOJ then asked the entire Tenth Circuit to review that decision.

Forty-nine members of Congress, all six attorneys general in the Tenth Circuit, and many of the leading crime victims' organizations filed briefs in support of the victims. All to no avail.

The Victims' Clarification Act of 1997 was then introduced in Congress.

That act provided that watching a trial does not constitute grounds for denying victims the chance to provide an impact statement. This bill passed the House 414 to 13 and the Senate by unanimous consent.

Two days later, President Clinton signed it into law, explaining that "when someone is a victim, he or she should be at the center of the criminal justice process, not on the outside looking in."

The victims then filed a motion asserting a right to attend the trial under the new law.

However, the judge declined to apply the law as written.

He concluded that "any motions raising constitutional questions about this legislation would be premature and would present questions issues that are not now ripe for decision."

Moreover, he held that it could address issues of possible prejudicial impact from attending the trial by interviewing the witnesses after the trial.

The judge also refused to grant the victims a hearing on the application of the new law, concluding that his ruling rendered their request "moot."

The victims then faced a painful decision: watch the trial or preserve their right to testify at the sentencing hearing.

Many victims gave up their right to watch the trial as a result.

A constitutional amendment would help ensure that victims of a domestic terrorist attack such as the Oklahoma City bombing have standing and that their arguments for a right to be present are not dismissed as "unripe."

A constitutional amendment would give victims of violent crime an unambiguous right to watch a trial and still testify at sentencing.

There is strong and wide support for a constitutional amendment.

I am pleased that President Bush and Attorney General Ashcroft have endorsed the amendment. I greatly appreciate their support.

And I am also pleased that both former President Clinton and former Vice President Gore have all expressed support for a constitutional amendment on victims' rights.

Moreover, in the last Congress, the Victims' Rights Amendment was cosponsored by a bipartisan group of 41 Senators.

I have spoken to many of my colleagues about the amendment we introduce today and I am hopeful that it will receive even more support in this Congress. In addition:

Both the Democratic and Republican Party platforms call for a victims' rights amendment.

Governors in 49 out of 50 states have called for an amendment.

Four former U.S. Attorneys General, including Attorney General Reno, support an amendment. Attorney General Ashcroft supports an amendment.

Forty state attorneys general support an amendment.

Major national victims' rights groups—including Parents of Murdered Children, Mothers Against Drunk Driving, MADD, and the National Organization for Victim Assistance—support the amendment.

Many law enforcement groups, including the Nation Troopers' Coalition, the International Union of Police Associations AFL–CIO, and the Federal Law Enforcement Officers Association, support an amendment.

Constitutional scholars such as Harvard Law School Professor Larry Tribe support an amendment.

The amendment has received strong support around the country. Thirty-two states have passed similar measures—by an average popular vote of almost 80 percent.

I am delighted to join my good friend Senator JON KYL in sponsoring the Victims' Rights Amendment, and I look forward to its adoption by this Congress.

I think it is probably well known in this body that Senator KYL and I have authored what is called the victim's rights constitutional amendment. One of the most perplexing things about the history of this amendment has been that everybody outside of this Chamber supports it. Governors support it. Attorneys general support it. Democratic candidates support it. Republican candidates support it. But when it came down to the fine discussion on this floor, we were told, well, it is too pedantic. Well, there are too many words—well, well.

Senator KYL and I have hunkered down. We have gone back to our constitutional experts on this side of the aisle: Professor Larry Tribe, who has been a very active participant in drafting this, and Steve Twist representing the victims, and many victims' organizations, as well as Paul Cassell, show has worked with us on this amendment.

We have essentially redone the victims' rights constitutional amendment, really based on comments made on the floor. It is now succinct. It has a much more poetic flow to it. We believe it is an improved amendment. We are introducing it at this time because next week communities around the country will be holding observances, candlelight vigils, rallies, and other events to honor and support crime victims and their rights.

In just a few days—specifically April 19—we will mark the seventh anniversary of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. That attack resulted in the deaths of some 168 people.

I would like to very quickly read from a study that was conducted by the Department of Justice, the Office of Justice Programs, on this particular subject because I think their findings are significant.

Let me read one of them. I quote:

> Nevertheless, serious deficiencies remain in the nation's victims' rights laws as well as their implementation.

The Presiding Officer will remember when we passed two statutes to clarify victims' rights as a product of the Oklahoma City bombing. The judge ignored them. Then we passed another one. It went to the appellate court, and the appellate court found that the victims were without standing in the Constitution. Of course, that is what we are trying to remedy here. Thirty-two States have passed victims' rights State amendments. They are all different. Sometimes they are observed and sometimes they are not.

Their report goes on to say:

> The rights of crime victims vary significantly among States and at the Federal level. Frequently, victims' rights are ignored. Even in States that have enacted constitutional rights for victims, implementation is often arbitrary and based on the individual practices and preferences of criminal justice officials. Moreover, many States do not provide comprehensive rights for victims of juvenile offenders.

Let me go on to the recommendation of the Department of Justice. I quote:

> A Federal constitutional amendment for victims' rights is needed for many different reasons, including: One, to establish a consistent floor of rights for crime victims in every State and at the Federal level; two, to ensure the courts engage in a careful and conscientious balancing of the rights of victims and defendants; three, to guarantee crime victims the opportunity to participate in proceedings related to crimes against them; and, four, to enhance the participation of victims in the criminal justice process.
>
> A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the State and Federal level.

I know Senator KYL would like to address himself to this measure. His leadership has been unparalleled. It has been a great delight for me to work with him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I thank Senator FEINSTEIN for her work on this amendment for several years now. She was tremendously helpful in working with the past administration. She and I have both worked with various victims groups. I think they rightly regard her as a champion of victims' rights in this country.

She mentioned that next week is National Crime Victims' Rights Week. It begins Sunday. It is fitting that we could introduce this legislation today because tomorrow, at a ceremony at the Department of Justice, it is my understanding there will be a very important announcement by the President and the Attorney General with respect to this amendment.

Just to be very brief about our support for this amendment at this time, I will simply address the differences between this year's amendment and last year's amendment.

Even though last year's amendment to the Constitution had 40 cosponsors and was bipartisan, and was considered—incidently, I appreciate the efforts of the distinguished Presiding Officer as chairman of the committee, the Judiciary Committee. We had a strong bipartisan vote of 12 to 5 for this amendment out of the Judiciary Committee last year. I appreciate the Presiding Officer's assistance in that, notwithstanding some differences of opinion with respect to the specifics of the amendment.

We withdrew the bill from consideration on the floor when we knew it would be the subject of prolonged discussion—we shall put it that way—and agreed to consider the criticism of some of the opponents at that time that the phrasing of the language was not elegant enough and perhaps too wordy.

Now, the constitutional amendment contains 12 key lines of text with respect to the rights of victims. There are another 10 lines of text that provide for exceptions or caveats to that grant of constitutional protection. I think the language much more closely approximates the other amendments to the U.S. Constitution.

I thank Professor Laurence Tribe for his consideration, expertise, and assistance in developing the language toward that end. I am hopeful my colleagues will give a close look at this new protection. The rights protected are essentially the same, but I think the way in which it is done is more in line with other constitutional amendments. I am hopeful we will have an opportunity to make a substantive case for this amendment and to discuss in detail, with our colleagues, the reasons for our desire that we get a vote on it this year.

I will just conclude by noting—especially because starting Sunday we will be celebrating National Crime Victims' Rights Week—the number of groups that are represented here in Washington to participate in various presentations and celebrations of National Crime Victims' Rights Week and who will also be participating in the meeting tomorrow at the Department of Justice.

Supporters include the National Governors Association, which has voted in favor of an amendment. Both the Republican and Democratic Party platforms of the last Presidential election and their nominees supported such an amendment. It is supported by major national victims' rights groups, including Parents of Murdered Children, Mothers Against Drunk Driving, and the National Organization for Victim Assistance, in addition to the Stephanie Roper Foundation, the Arizona Voice for the Crime Victims, Crime Victims United, and Memory of Victims Everywhere.

And especially, in addition to Senator FEINSTEIN and the Attorney General of the United States, who has been very helpful in helping us formulate the specific wording of the amendment, I thank the National Organization for Victims Assistance, the National Constitutional Amendment Network, Mothers Against Drunk Driving, Parents of Murdered Children, Roberta Roper, and the Stephanie Roper Foundation, and Steve Twist, who has been enormously supportive in working the language and coordinating the efforts with these various victims' rights groups. Steve is a lawyer in Phoenix, AZ, and has been indispensable in my efforts.

Finally, Mr. President, Senator FEINSTEIN has asked that I have printed in the RECORD a letter dated April 15, 2002, from Laurence H. Tribe to Senator FEINSTEIN and myself. I will just read two excerpts from it, conclude my remarks, and submit it for the RECORD.

Professor Tribe says:

> Dear Senators Feinstein and Kyl:
>
> I think that you have done a splendid job at distilling the prior versions of the Victims' Rights Amendment into a form that would be worthy of a constitutional amendment—an amendment to our most fundamental legal charter, which I agree ought never be altered lightly. . . .
>
> How best to protect that right without compromising either the fundamental rights of the accused or the important prerogatives of the prosecution is not always a simple matter, but I think your final working draft of April 13, 2002, resolves that problem in a thoughtful and sensitive way, improving in a number of respects on the earlier drafts that I have seen. Among other things, the greater brevity and clarity of this version makes it more fitting for inclusion in our basic law. That you achieved such conciseness while fully protecting defendants' rights and accommodating the legitimate concerns that have been voiced about prosecutorial power and presidential authority is no mean feat. I happily congratulate you both on attaining it.

I would say, editorially, not without substantial help from Professor Tribe himself.

Madam President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HARVARD UNIVERSITY
LAW SCHOOL,
Cambridge, MA, April 15, 2002.
Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. JON KYL, *U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATORS FEINSTEIN AND KYL: I think that you have done a splendid job at distilling the prior versions of the Victims' Rights Amendment into a form that would be worthy of a constitutional amendment—an amendment to our most fundamental legal charter, which I agree ought never to be altered lightly. I will not repeat here the many reasons I have set forth in the past for believing that, despite the skepticism I have detected in some quarters both on the left and on the right, the time is past due for recognizing that the victims of violent crime, as well as those closest to victims who have succumbed to such violence, have a fundamental right to be considered, and heard when appropriate, in decisions and proceedings that profoundly affect their lives.

How best to protect that right without compromising either the fundamental rights of the accused or the important prerogatives of the prosecution is not always a simple matter, but I think your final working draft of April 13, 2002, resolves that problem in a thoughtful and sensitive way, improving in a number of respects on the earlier drafts that I have seen. Among other things, the greater brevity and clarity of this version makes it more fitting for inclusion in our basic law. That you achieved such conciseness while fully protecting defendants' rights and accommodating the legitimate concerns that have been voiced about prosecutorial power and presidential authority is no mean feat. I happily congratulate you both on attaining it.

A case argued two weeks ago in the Supreme Judicial Court of Massachusetts, in which a woman was brutally raped a decade and a half ago but in which the man who was convicted and sentenced to a long prison term has yet to serve a single day of that sentence, helps make the point that the legal system does not do well by victims even in the many states that, on paper, are committed to the protection of victims' rights. Despite the Massachusetts Victims' Bill of Rights, solemnly enacted by the legislature to include an explicit right on the part of the victim to a "prompt disposition" of the case in which he or she was victimized, the Massachusetts Attorney General, to who has yet to take the simple step of seeking the incarceration of the convicted criminal pending his on-again, off-again motion for a new trial—a motion that has not been ruled on during the 15 years that this convicted rapist has been on the streets—has taken the position that the victim of the rape does not even have legal standing to appear in the courts of this state, through counsel, to challenge the state's astonishing failure to put her rapist in prison to begin serving the term to which he was sentenced so long ago.

If this remarkable failure of justice represented a wild aberration, perpetrated by a state that has not incorporated the rights to victims into its laws, then it would prove little, standing alone, about the need to write into the United States Constitution a national commitment to the rights of victims. Sadly, however, the failure of justice of which I write here is far from aberrant. It represents but the visible tip of an enormous iceberg of indifference toward those whose rights ought finally to be given formal federal recognition.

I am grateful to you for fighting this fight. I only hope that many others can soon be stirred to join you in a cause that deserves the most widespread bipartisan support.

Sincerely yours,

LAURENCE H. TRIBE.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 240—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN AARON RAISER V. HONORABLE TOM DASCHLE, ET AL

Mr. REID (for himself, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 240

Whereas, the Senate, Senator Tom Daschle, and Senator Trent Lott have been named as defendants in the case of Aaron Raiser v. Honorable Tom Daschle, et al., Case No. 01CV894B, now pending in the United States District Court for the District of Utah;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent the Senate and its Members in civil actions with respect to proceedings or actions taken in their official capacities; Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Senate, Senator Tom Daschle, and Senator Trent Lott in the case of Aaron Raiser v. Honorable Tom Daschle, et al.

SENATE RESOLUTION 241—DESIGNATING APRIL 11, 2002, AS "NATIONAL ALTERNATIVE FUEL VEHICLE DAY"

Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. HATCH, Mr. REID, Mr. DASCHLE, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to.

S. RES. 241

Whereas the energy security of the United States needs to be strengthened to prevent future terrorist attacks;

Whereas the United States needs to reduce its dependence on foreign oil;

Whereas the United States needs to improve its air quality by reducing emissions from the millions of motor vehicles on the Nation's roads;

Whereas the United States needs to foster national expertise and technological advancement in cleaner alternative fuel vehicles;

Whereas the people of the United States need more choices in cleaner transportation;

Whereas the people of the United States need to know that alternative fuel vehicles are a positive choice for transportation; and

Whereas it is in the public interest of the United States to foster the support for new and existing technologies that offer more environmentally friendly transportation choices for the people of the United States during peacetime or wartime: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 11, 2002 as "National Alternative Fuel Vehicle Day";

(2) proclaims "National Alternative Fuel Vehicle Day" as a day to promote programs and activities that will lead to the greater use of cleaner transportation in the United States; and

(3) requests the President to issue a proclamation, calling upon interested organizations and the people of the United States—

(A) to promote programs and activities that take full advantage of the new and existing technologies in cleaner alternative fuel vehicles; and

(B) to foster public interest in the use of cleaner alternative fuel vehicles through the dissemination of information.

SENATE CONCURRENT RESOLUTION 101—EXTENDING BIRTHDAY GREETINGS AND BEST WISHES TO LIONEL HAMPTON ON THE OCCASION OF HIS 94TH BIRTHDAY

Mr. CRAIG submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 101

Whereas Lionel Hampton is regarded internationally as one of the greatest jazz musicians of all time and has shared his talents with the world for more than eight decades;

Whereas Lionel Hampton has consistently exemplified acceptance, tolerance, and the celebration of racial and cultural diversity, by being one of the first black musicians to perform in venues and events previously open only to white performers, including performances with the Benny Goodman Quartet from 1936–1940, and as the first black musician to perform for a presidential inauguration, that of Harry S. Truman in 1949;

Whereas Lionel Hampton has furthered the cause of cultural understanding and international communication, receiving a Papal Medallion from Pope Pius XII, the Israel Statehood Award, serving as a Goodwill Ambassador for the United States, and receiving the Honor Cross for Science and the Arts, First Class, one of Austria's highest decorations;

Whereas Lionel Hampton is one of the most recorded artists in the history of jazz;

Whereas Lionel Hampton has opened doors for aspiring musicians throughout the world, many of whom have established themselves as giants in the world of jazz, including Cat Anderson, Terrance Blanchard, Clifford Brown, Conte Candoli, Pete Condoli, Betty Carter, Ray Charles, Nat "King" Cole, Bing Crosby, Art Farmer, Carl Fontana, Aretha Franklin, Benny Golson, Al Grey, Slide Hampton, Joe Henderson, Quincy Jones, Bradford Marsalis, Wes Montgomery, James Moody, Fats Navarro, Joe Newman, Nicholas Payton, Benny Powell, Buddy Tate, Clark Terry, Stanley Turrentine, Dinah Washington, and Joe Williams, among others;

Whereas Lionel Hampton has worked to perpetuate the art form of jazz by offering his talent, inspiration, and production acumen to the University of Idaho since 1983, and in 1985, when the University of Idaho named its school of music after him, Lionel Hampton became first jazz musician to have both a music school and a jazz festival named in his honor;

Whereas Lionel Hampton has received many national accolades, awards, and commemorations, including an American Jazz Masters Fellowship from the National Endowment for the Arts, Kennedy Center Honors, and a National Medal of Arts;

Whereas Lionel Hampton has received numerous awards and commendations by local and State governments and has received acknowledgment from hundreds of civic and performance groups;

Whereas Lionel Hampton's legacy of inspiration, education, and excellence will be perpetuated by the development of the Lionel Hampton Center at the University of Idaho, a facility that combines the finest in performance, scholarship, and research;

Whereas Lionel Hampton has made a difference in many lives by inspiring so many who have now become jazz greats, by reinforcing the importance of education at all levels, and by showing the world a way of life where love and talent are shared without reservation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3126. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table.

SA 3127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, supra; which was ordered to lie on the table.

SA 3128. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3129. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3130. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3131. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3126. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, between lines 6 and 7, insert the following:

SEC. 403. PREARRIVAL MESSAGES FROM OTHER VESSELS DESTINED TO UNITED STATES PORTS.

(a) In General.—Section 4(a)(5) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(5)) is amended by striking paragraph (5) and inserting the following:

"(5)(A) may require the receipt of prearrival messages from any vessel destined for a port or place subject to the jurisdiction of the United States, not later than 96 hours before the vessel's arrival or such time as deemed necessary under regulations promulgated by the Secretary to provide any information that the Secretary determines is necessary for control of the vessel and the safety and security of the port, waterways, facilities, vessels, and marine environment, including—

"(i) the route and name of each port and each place of destination in the United States;

"(ii) the estimated date and time of arrival at each port or place;

"(iii) the name of the vessel;

"(iv) the country of registry of the vessel;

"(v) the call sign of the vessel;

"(vi) the International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

"(vii) the name of the registered owner of the vessel;

"(viii) the name of the operator of the vessel;

"(ix) the name of the classification society of the vessel;

"(x) a general description of the cargo on board the vessel;

"(xi) in the case of certain dangerous cargo—

"(I) the name and description of the dangerous cargo;

"(II) the amount of the dangerous cargo carried;

"(III) the stowage location of the dangerous cargo; and

"(IV) the operational condition of the equipment under section 164.35 of title 33 of the Code of Federal Regulations;

"(xii) the date of departure and name of the port from which the vessel last departed;

"(xiii) the name and telephone number of a 24-hour point of contact for each port included in the notice of arrival;

"(xiv) the location or position of the vessel at the time of the report;

"(xv) a list of crew members on board the vessel, including with respect to each crew member—

"(I) the full name;

"(II) the date of birth;

"(III) the nationality;

"(IV) the passport number or mariners document number; and

"(V) the position or duties;

"(xvi) a list of persons other than crew members onboard the vessel, including with respect to each such person—

"(I) the full name;

"(II) the date of birth;

"(II) the nationality; and

"(IV) the passport number; and

"(xvii) any other information required by the Secretary; and

"(B) any changes to the information required by subparagraph (A), except changes in the arrival or departure time of less than 6 hours, must be reported as soon as practicable but not less than 24 hours before entering the port of destination. The Secretary may deny entry of a vessel into the territorial sea of the United States if the Secretary has not received notification for the vessel in accordance with this paragraph.".

(b) Inapplicability of Freedom of Information Act.—Section 4 of the Ports and Waterways Safety Act (33 U.S.C. 1223), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) Information not Subject to Freedom of Information Act.—Section 552 of title 5, United States Code, does not apply to any information submitted under subsection (a)(5)(A).".

(c) Relation to the Prearrival Message Requirement.—Section 5 of the Ports and Waterways Safety Act (33 U.S.C. 1224) is amended by adding at the end the following new undesignated paragraph:

"Nothing in this section shall be construed to limit the Secretary's authority to require information under section 4(a)(5) of this Act before a vessel's arrival in a port or place that is subject to the jurisdiction of the United States.".

SEC. 404. SAFETY AND SECURITY OF PORTS AND WATERWAYS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) in section 2(a) (33 U.S.C. 1221 (a)), by striking "safety and protection of the marine environment" and inserting "safety, protection of the marine environment, and safety and security of United States ports and waterways"; and

(2) in section 5(a) (33 U.S.C. 1224(a)), by striking "safety and protection of the marine environment," and inserting "safety, protection of the marine environment, and safety and security of United States ports and waterways,".

On page 41, line 7, strike "SEC. 403." and insert "SEC. 405.".

SA 3127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 29, strike line 1 and all that follows through line 8 on page 30 and insert the following:

SEC. 304. TERRORIST LOOKOUT COMMITTEES.

(a) Establishment.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall establish within each United States Embassy a Terrorist Lookout Committee, which shall include the head of the political section and senior representatives of all United States law enforcement agencies, and the intelligence community, under the authority of the chief of mission.

(2) Chair and vice chair of committees.—Each committee established under subsection (a) shall be chaired by the respective deputy chief of mission, with the head of the consular section as vice chair.

(b) Meetings.—Each committee established under subsection (a) shall meet at least monthly and shall maintain records of its meetings. Upon the completion of its meeting, such committee shall report to the Department of State all names submitted for inclusion in the visa lookout system.

(c) Certification.—If no names are submitted upon completion of a meeting under subsection (b), the chair of the committee that held the meeting shall certify to the Secretary of State, subject to potential application of the Accountability Review Board provisions of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, that none of the relevant sections of the United States Embassy had knowledge of the identity of any individual eligible for inclusion in the visa lookout system for possible terrorist activity.

(d) Report.—The Secretary of State shall submit a report on a quarterly basis to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the status of the committees established under subsection (a).

SA 3128. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United

States, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REGARDING FORCED LABOR.

(a) SHORT TITLE.—This section may be cited as the "Labor Certification Act of 2002".

(b) CERTIFICATION REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall require that any person importing goods into the United States provide a certificate to the United States Customs Service that the goods being imported comply with the provisions of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) and that no part of the goods were made with prison, forced, or indentured labor, or with labor performed in any type of involuntary situation.

(2) DEFINITIONS.—In this section:

(A) GOODS.—For purposes of this section, the term "goods" includes goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country.

(B) INVOLUNTARY SITUATION.—The term "involuntary situation" includes any situation where work is performed on an involuntary basis, whether or not it is performed in a penal institution, a re-education through labor program, a pre-trial detention facility, or any similar situation.

(C) PRISON, FORCED, OR INDENTURED LABOR.—The term "prison, forced, or indentured labor" includes any labor performed for which the worker does not offer himself voluntarily.

(c) INSPECTION OF CERTAIN FACILITIES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall renegotiate and enter into a new agreement with the People's Republic of China, concerning inspection of facilities in the People's Republic of China suspected of using forced labor to make goods destined for export to the United States. The agreement shall supercede the 1992 Memorandum of Understanding and 1994 Statement of Cooperation, and shall provide that within 30 days of making a request to the Government of the People's Republic of China, United States officials be allowed to inspect all types of detention facilities in the People's Republic of China that are suspected of using forced labor to mine, produce, or manufacture goods destined for export to the United States, including prisons, correctional facilities, re-education facilities, and work camps. The agreement shall also provide for concurrent investigations and inspections if more than 1 facility or situation is involved.

(2) FORCED LABOR.—For purposes of this subsection, the term "forced labor" means convict or prison labor, forced labor, indentured labor, or labor performed in any type of involuntary situation.

(d) AUTHORIZATION OF CUSTOMS PERSONNEL.—Section 3701 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 is amended by striking "for fiscal year 1999" and inserting "for each of fiscal years 2002 and 2003".

SA 3129. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 6 and 7, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM BLACK LIQUOR GASIFICATION.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) black liquor gasification.".

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(G) BLACK LIQUOR GASIFICATION FACILITY.—In the case of a facility using black liquor gasification to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.".

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) BLACK LIQUOR GASIFICATION.—The term 'black liquor gasification' means electric power generated by the conversion of black liquor biomass to gas.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3130. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, between lines 2 and 3, insert the following:

SEC. ___. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

"(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the commercial power takeoff vehicles credit under section 45K(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. Commercial power takeoff vehicles credit.".

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45K(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3131. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—COPS REAUTHORIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods Act of 2002" or "PROTECTION Act".

SEC. 702. PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOOD INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting "and prosecutor" after "increase police"; and

(2) inserting "to enhance law enforcement access to new technologies, and" after "presence,".

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting after "Nation" the following: ", or pay overtime to existing career law enforcement officers to the extent that such overtime is devoted to community policing efforts"; and

(ii) by striking "and" at the end;

(B) in subparagraph (C), by—

(i) striking "or pay overtime"; and

(ii) striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) promote higher education among inservice State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education."; and

(2) in paragraph (2) by striking all that follows SUPPORT SYSTEMS.—" and inserting "Grants pursuant to—

"(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;

"(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

"(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.".

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "integrity and ethics" after "specialized"; and

(B) by inserting "and" after "enforcement officers";

(2) in paragraph (7) by inserting "school officials, religiously-affiliated organizations," after "enforcement officers";

(3) by striking paragraph (8) and inserting the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;";

(4) in paragraph (10) by striking "and" at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting "; and"; and

(6) by adding at the end the following:

"(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.".

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "use up to 5 percent of the funds appropriated under subsection (a) to" after "The Attorney General may";

(B) by inserting at the end the following: "In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsection (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.";

(2) in paragraph (2) by inserting "under subsection (a)" after "the Attorney General"; and

(3) in paragraph (3)—

(A) by striking "the Attorney General may" and inserting "the Attorney General shall";

(B) by inserting "regional community policing institutes" after "operation of"; and

(C) by inserting "representatives of police labor and management organizations, community residents," after "supervisors,".

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

"(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

"(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

"(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

"(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

"(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

"(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

"(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

"(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.".

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-2) is amended by inserting at the end the following:

"(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).".

(g) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended by inserting after "criminal laws" the following "including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.".

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosive-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;";

(B) by striking subparagraph (E) and inserting the following:

"(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;"; and

(C) by adding at the end the following:

"(H) to work with school administrators, members of the local parent teacher association, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

"(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

"(J) to document the full description of all explosives or exposure devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

"(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) $1,150,000,000 for fiscal year 2003;

"(ii) $1,150,000,000 for fiscal year 2004;

"(iii) $1,150,000,000 for fiscal year 2005;

"(iv) $1,150,000,000 for fiscal year 2006;

"(v) $1,150,000,000 for fiscal year 2007; and

"(vi) $1,150,000,000 for fiscal year 2008"; and

(2) in subparagraph (B)—

(A) by striking "3 percent" and inserting "5 percent";

(B) by striking "1701(f)" and inserting "1701(g)";

(C) by striking the second sentence and inserting "Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.";

(D) by striking "85 percent" and inserting "$600,000,000"; and

(E) by striking "1701(b)," and all that follows through "of part Q" and inserting the following: "1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce that the Committee on Energy and Natural Resources will meet during the session of the Senate on Thursday, April 18, at 3:00 p.m. to conduct a hearing. The purpose of the hearing is to receive testimony on the following bills:

S. 1441 and H.R. 695, to establish the Oil Region Heritage Area;

S. 1526, to establish the Arabia Mountain National Heritage Area in the State of Georgia, and for other purposes;

S. 1638, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes;

S. 1809 and H.R. 1776, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas;

S. 1939, to establish the Great Basin National Heritage Area, Nevada and Utah; and

S. 2033, to authorize appropriations for the John H. Chafee Backstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 17, 2002, at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on subsistence hunting and fishing issues in the State of Alaska.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 240 submitted earlier today by Senator NICKLES and myself.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 240) to authorize representation by the Senate Legal Counsel in Aaron Raiser v. Honorable Tom Daschle, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, a resident of Utah has commenced a civil action against the Senate, Senator DASCHLE, and Senator LOTT in Federal court in Utah to challenge the Senate's procedures for handling judicial nominations. Specifically, the plaintiff alleges that the practice of nominations that have not been reported out of committee over the past 5 years not being voted on by the full Senate violates the Senate's constitutional duty to advise and consent to nominations. The plaintiff asks the court to order the Senate to change its rules for considering judicial nominations.

The Senate's practices for handling controversial nominations present a subject appropriate for robust debate both within the Senate and among the public at large. However, they do not present a justiciable issue for the courts in this case. This resolution would authorize the Senate Legal Counsel to represent the defendants in this action to protect the Senate's prerogative to fashion its own rules for the exercise of its confirmation duties under the Constitution.

Mr. REID. Madam President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 240) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 240

Whereas, the Senate, Senator Tom Daschle, and Senator Trent Lott have been named as defendants in the case of *Aaron Raiser* v. *Honorable Tom Daschle, et. al.*, Case No. 01CV894B, now pending in the United States District Court for the District of Utah;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent the Senate and its Members in civil actions with respect to proceedings or actions taken in their official capacities; Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Senate, Senator Tom Daschle, and Senator Trent Lott in the case of *Aaron Raiser* v. *Honorable Tom Daschle, et. al.*

NATIONAL ALTERNATIVE FUEL VEHICLE DAY

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 241 submitted earlier today by Senators ROCKEFELLER, BYRD, and REID.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 241) designating April 11, 2002, as "National Alternative Fuel Vehicle Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROCKEFELLER. Madam President, it is my pleasure to join my colleagues Senator HATCH and Senator BYRD to introduce a resolution designating April 11, 2002 as National Alternative Fuel Vehicle Day. I have long been a supporter of alternative fuels and alternative fuel vehicles because they contribute to our nation's energy independence and provide needed environmental benefits.

The transportation sector accounts for more than 65 percent of the petroleum consumed in the United States.

Reducing the amount of petroleum used by the transportation sector by encouraging greater use of alternative fuel vehicles and fuels will improve our energy security and bring the added benefit of reducing emissions from that sector of the economy. As the price of gasoline continues to rise, these facts are perhaps more relevant than ever before.

Adoption of this Resolution will enhance a national event this Thursday, April 11, 2002, organized by industry leaders, educational institutions, Alternative Fuel Vehicles (AFV) coalitions, and others. The event, called National AFV Day Oydssey, is a public awareness event being held in more than 50 locations in 31 states nationwide with more than 72 organizations. Thousands of people will participate all over the country. The purpose of the event is to build awareness and enthusiasm for AFV's as a viable option for consumer and fleet transportation.

The debate over energy security and national security issues has been at the forefront of policy discussions in recent months. We must, as a nation, continue searching for alternatives to our dependence on foreign oil. Supporting these existing and new environmentally friendly transportation choices will reduce our oil use and help prevent the environmental damage being done by conventional cars, trucks, and vans.

Alternative fuel vehicles offer the opportunity for continued personal mobility while significantly reducing the harm done to the environment. Nearly 100 cities across the U.S. fail to meet federal air quality standards, and approximately 62 million people live in counties where monitored data show unhealthy air for one or more of the six "criteria" pollutants (carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, and sulfur dioxide).

For many urban areas, alternative fuel vehicles can be a particularly important means to substantially reduce emissions of mobile source pollutants, including volatile organic compounds and oxides of nitrogen that are the precursors of smog. When integrated into America's transportation network in meaningful quantities, alternative fuels—such as electricity, ethanol, hydrogen, natural gas, methanol and propane—can contribute to mitigating the environmental problems caused by the transportation sector.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 241) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 241

Whereas the energy security of the United States needs to be strengthened to prevent future terrorist attacks;

Whereas the United States needs to reduce its dependence on foreign oil;

Whereas the United States needs to improve its air quality by reducing emissions from the millions of motor vehicles on the Nation's roads;

Whereas the United States needs to foster national expertise and technological advancement in cleaner alternative fuel vehicles;

Whereas the people of the United States need more choices in cleaner transportation;

Whereas the people of the United States need to know that alternative fuel vehicles are a positive choice for transportation; and

Whereas it is in the public interest of the United States to foster the support for new and existing technologies that offer more environmentally friendly transportation choices for the people of the United States during peacetime or wartime: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 11, 2002 as "National Alternative Fuel Vehicle Day";

(2) proclaims "National Alternative Fuel Vehicle Day" as a day to promote programs and activities that will lead to the greater use of cleaner transportation in the United States; and

(3) requests the President to issue a proclamation, calling upon interested organizations and the people of the United States—

(A) to promote programs and activities that take full advantage of the new and existing technologies in cleaner alternative fuel vehicles; and

(B) to foster public interest in the use of cleaner alternative fuel vehicles through the dissemination of information.

EXTENDING BIRTHDAY GREETINGS AND BEST WISHES TO LIONEL HAMPTON

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 101, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 101) extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and its preamble be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 101) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 101

Whereas Lionel Hampton is regarded internationally as one of the greatest jazz musicians of all time and has shared his talents with the world for more than eight decades;

Whereas Lionel Hampton has consistently exemplified acceptance, tolerance, and the celebration of racial and cultural diversity, by being one of the first black musicians to perform in venues and events previously open only to white performers, including performances with the Benny Goodman Quartet from 1936–1940, and as the first black musician to perform for a presidential inauguration, that of Harry S. Truman in 1949;

Whereas Lionel Hampton has furthered the cause of cultural understanding and international communication, receiving a Papal Medallion from Pope Pius XII, the Israel Statehood Award, serving as a Goodwill Ambassador for the United States, and receiving the Honor Cross for Science and the Arts, First Call, one of Austria's highest decorations;

Whereas Lionel Hampton is one of the most recorded artists in the history of jazz;

Whereas Lionel Hampton has opened doors for aspiring musicians throughout the world, many of whom have established themselves as giants in the world of jazz, including Cat Anderson, Terrance Blanchard, Clifford Brown, Conte Candoli, Pete Candoli, Betty Carter, Ray Charles, Nat "King" Cole, Bing Crosby, Art Farmer, Carl Fontana, Aretha Franklin, Benny Golson, Al Grey, Slide Hampton, Joe Henderson, Quincy Jones, Bradford Marsalis, West Montgomery, James Moody, Fats Navarro, Joe Newman, Nicholas Payton, Benny Powell, Buddy Tat, Clark Terry, Stanley Turrentine, Dinah Washington, and Joe Williams, among others;

Whereas Lionel Hampton has worked to perpetuate the art form of jazz by offering his talent, inspiration, and production acumen to the University of Idaho since 1983, and 1985, when the University of Idaho named its school of music after him, Lionel Hampton became first jazz musician to have both a music school and a jazz festival named in his honor;

Whereas Lionel Hampton has received many national accolades, awards, and commemorations, including an American Jazz Masters Fellowship from the National Endowment for the Arts, Kennedy Center Honors, and a National Medal of Arts;

Whereas Lionel Hampton has received numerous awards and commendations by local and State governments and has received acknowledgment from hundreds of civic and performance groups;

Whereas Lionel Hampton's legacy of inspiration, education, and excellence will be perpetuated by the development of the Lionel Hampton Center at the University of Idaho, a facility that combines the finest in performance, scholarship, and research;

Whereas Lionel Hampton has made a difference in many lives by inspiring so many who have now become jazz greats, by reinforcing the importance of education at all levels, and by showing the world a way of life where love and talent are shared without reservation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

ORDERS FOR TUESDAY, APRIL 16, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 11 a.m., Tuesday, April 16; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; further, that the Senate recess from 12:30 to 2:15 p.m. for their weekly party conferences, and at 2:15 p.m. the Senate resume consideration of S. 517, the energy reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TOMORROW, AT 11 A.M.

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:30 p.m., adjourned until Tuesday, April 16, 2002, at 11 a.m.

NOMINATIONS

Executive nomination received by the Senate April 15, 2002:

MARCOS D. JIMENEZ, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS, VICE THOMAS E. SCOTT, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate April 15, 2002:

TERRENCE L. O'BRIEN, OF WYOMING, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

EXTENSIONS OF REMARKS

HONORING NATHANIEL D. WOODSON, 2002 RECIPIENT OF THE ANTI-DEFAMATION LEAGUE'S TORCH OF LIBERTY AWARD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Ms. DELAURO. Mr. Speaker, today, in my hometown of New Haven, Connecticut, friends, family and colleagues will gather to pay tribute to one of our community's most outstanding citizens. It is with great pleasure that I rise today, both as a friend and last year's recipient, to join the Connecticut Anti-Defamation League as they honor Nathaniel Woodson with their 2002 Torch of Liberty Award.

Our communities would not be the same without the efforts of individuals whose work truly benefits our families and neighborhoods. Each year, the Connecticut Anti-Defamation League presents the prestigious Torch of Liberty Award to an outstanding leader in the community, recognizing their unique commitment and dedication. Nat is a remarkable reflection of the true spirit of community service. With extraordinary compassion and generosity, Nat has touched the lives of thousands of families throughout Greater New Haven through his participation in a variety of organizations. Yale-New Haven Hospital, New Haven Savings Bank, the Enterprise Center, the Regional Leadership Council and the United Way of Greater New Haven are just a few of the organizations who have benefitted from his work.

Nat has also been a driving force behind the economic revitalization initiatives for New Haven and the region as a whole. Working with the Regional Growth Partnership, New Haven's Empowerment Zone, and the Southern Connecticut Regional Council of Governments, Nat has put a tremendous amount of time and energy into addressing the many needs of our community. Balancing transportation, infrastructure, business and other interests has not been an easy task. Nat has worked with his colleagues and met this challenge head on—striving to enrich the lives of all residents of the Greater New Haven area.

His involvement with the community has earned him a reputation as a leader. He has built strong relationships by creating public-private partnerships that work and his service to our community has made a real difference. I am proud to stand today to join his wife, Margaret, his children, the Connecticut Anti-Defamation League and the many friends and colleagues who have gathered this evening to congratulate Nathaniel Woodson for his outstanding contributions to our community.

SUPPORTING VICTIMS OF DOMESTIC VIOLENCE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Mr. RANGEL. Mr. Speaker, I take great pleasure in rising before you today to speak out against an international problem–Domestic Violence.

Domestic violence cuts across lines of race, nationality, language, culture, economics, sexual orientation, physical ability, and religion. It affects people from all walks of life.

On October 28, 2000, President Clinton signed into law the Violence Against Women Act of 2000 as Division B of the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386). The original Violence Against Women Act, enacted as Title IV of the Violent Crime and Control and Law Enforcement Act (P.L. 103–322), became law in 1994.

VAWA 2000 reauthorizes VAWA through FY2005, sets new funding levels, and adds new programs. VAWA established within the Departments of Justice and Health and Human Services a number of discretionary grant programs for state, local and Indian tribal governments. Under HHS, grants include funds for battered women's shelters, rape prevention and education, programs to reduce the sexual abuse of runaways, homeless street youths, and community programs on domestic violence.

In addition to grants administered by the states, the Act includes a number of changes in federal criminal law relating to interstate stalking, intrastate domestic abuse, federal sex offense cases, the rules of evidence regarding use of a victim's past sexual behavior, and HIV testing in rape cases. In FY2002, Congress appropriated $517.2 million for VAWA programs, $7 million more than the amount requested in the President's budget.

As many of my colleagues know, I am a long time supporter of instituting laws to prevent violence against women. In the 107th Congress, I cosponsored H.R. 3752, the Domestic Violence and Sexual Assault Victim's Act. As long as the statistics show that approximately one half million women are stalked each year in the United States by an intimate partner, I will continue to support efforts to curtail this criminal act.

It is for these reasons, Mr. Speaker, that I find it not only my duty, but my responsibility to speak out against domestic violence against women during International Women's Week. I hope my colleagues join me in paying a special tribute to the millions of victims of domestic violence.

ELIMINATE TAXATION WITHOUT REPRESENTATION

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Ms. NORTON. Mr. Speaker, today, let this body recognize, in its own CONGRESSIONAL RECORD, where Congress draws the attention of the world to the important issues of the day, the actions of a representative group of citizens of the District of Columbia. On April 15, faced with the denial of rights by this House and by the Senate, these citizens will burn copies of their United States government tax forms for the same reason their ancestors started the Revolutionary War 227 years ago.

April 15 is but one of the many days that mark the insistence of this government on 100 percent of the obligations of citizenship from D.C. residents while the same government fails in its obligation to reciprocate with the basic rights every government owes to taxpaying citizens. September 11, which so recently called D.C. citizens to war, is another such memorable date. December 7, when D.C.'s young men and women responded to Pearl Harbor, is yet another. Even more than our taxes, our contributions in sacrifices by the men and women of the District, who have fought and died for their country tell a unique story: In World War I, more D.C. casualties than 3 states; in World War II, more D.C. casualties than 4 states; in Vietnam, more D.C. casualties than 10 states.

These lives given for our country are trivialized when the Congress remains unmoved by our just demand to remove taxation with representation. The same Congress has no hesitation in taking our money, more per capita than from any residents except the residents of the state of Connecticut, while at the same time denying us a vote in the Congress that votes to impose these taxes on us. The government of the United States enriches itself with funds from the fruits of our labor. In return, the government owes us the vote in the Congress of the United States. We pay. We want to be paid with voting representation.

Expect to hear from us and other Americans often, the next occasion, a month from now on May 15, on D.C. Citizens Lobby Day for Congressional Voting Rights, focusing first on the Senate. We say to the Congress: Don't expect us to allow you to claim for yourself the title of guardian of democracy in the world while denying full democracy to your own citizens here at the very seat of our government. Nor should you take satisfaction from the fact that most D.C. citizens will pay or have paid their taxes this year. They pay under protest, but they will not pay with their silence, their dignity, or their rights. There is no quid pro quo for full representation in the Congress that votes to tell us what to do and how much to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

pay while denying our right to vote on what to do and how much to pay. There is only one coin of the realm we will accept. We must have our vote in the House and the Senate. We put you on notice in your own official record that we are coming straight at you for our vote. Look for us on May 15.

HONORING FATHER BILL SANGIOVANNI FOR HIS OUTSTANDING SERVICE TO THE COMMUNITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Ms. DELAURO. Mr. Speaker, it gives me great pleasure to rise today to honor an outstanding member of our community and my good friend, Father Bill Sangiovanni. Father Bill has been a fixture in our community for many years and because of his seemingly endless contributions, we owe him a great debt of gratitude.

As a spiritual guide, he has nourished the souls of many—often providing much needed comfort in the hardest of personal trials. From South Dakota to Connecticut, Father Bill has touched the lives of thousands. His commitment and dedication is unequaled and as he celebrates the anniversary of his ordainment, I know that he is reflecting on his many experiences.

Father Bill has served in an array of positions in the public arena. For a number of years, he served as assistant to former Congressman Stewart B. McKinney and later as special assistant to the Minority Leader of the Connecticut General Assembly. Appointed by former Governor Lowell Weiker, Father Bill served on the Connecticut Ethics Commission in 1991 and was elected Vice-Chair just a year later. He would then go on to serve as the interim Chairman. Even with his extensive involvement with the government at both the state and federal level, perhaps his most cherished memories are from his many years in education.

Graduating from Fairfield University with a Masters in Education, Father Bill has and continues to be the consummate educator. I have often spoke of our nation's need for talented educators, ready to help our children learn and grow. Father Bill is a true reflection of this ideal. He spent two years at Assumption School and five as the Director of Ministry at Sacred Heart University. For the last sixteen years, Father Bill has been a teacher and administrator at Notre Dame Catholic High School in Fairfield, Connecticut. I have always held the firm belief that education is the cornerstone of great success. An invaluable resource to many of our young people, he has helped hundreds to obtain the knowledge and skills they will need to enjoy successful futures. Father Bill is loved and respected by students, parents, and faculty alike. This is his legacy.

On a personal note, Bill and I grew up together. We argued and challenged each other but learned the values that guided our respective ways since.

Father Bill has left an indelible mark on the hearts of many. His unparalleled commitment and dedication has made a real difference in countless lives. It is my great honor to stand today to extend my sincere thanks and appreciation to Father Bill Sangiovanni for all of his good work.

H.R. 2715

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Mr. GRAVES. Mr. Speaker, H.R. 2715, the Born-Alive Infants Protection Act, is a simple bill that ensures that all infants who are born alive are entitled to the same protections we all share under federal law.

This bill says that if a child is born and is showing signs of life, this child is entitled to the full protection of law. We are talking about babies who are breathing, have a beating heart, or whose muscles are moving. These children are our future and deserve to have every opportunity to embrace the privileges that were granted to each of us.

I believe that life begins at conception, and a child exhibiting these signs of a living, breathing little boy or girl should receive the full protection of law, rather than being left to die a horrible death. I am extremely saddened that today in Congress we have to debate this legislation. What is happening in America that these precious, innocent children are born alive and not protected by the law?

The right in our society to terminate a human life is a grave threat to human principles. It is the most vulnerable members of our society, our newborn children, who fall victim to this fundamental legitimatization of infanticide. I believe all children should be welcome and protected under the law.

I was a co-sponsor and strong supporter of this legislation. I commend the House for passing H.R. 2715, the Born-Alive Infants Protection Act and I urge the Senate to take swift action on this legislation.

"MAYOR" MICO MICONI

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Mr. TAYLOR. Mr. Speaker, on April first, the Washington Post carried the sad news that Mico Miconi will retire after more than three decades as the Clerk of the District of Columbia Subcommittee of the Appropriations Committee. Unfortunately, for the Congress, and the people of Washington, DC, the announcement was no April Fool's joke. I had the honor of working with, and some might say working for, Mico during my two year stint as Chairman of the DC Appropriations Subcommittee. Mico's broad and deep knowledge of the District's government provided a steady hand as we attempted to chart a course though the city's fiscal crisis, the school construction crisis, and the final two years of Mayor Barry's term. Mico and the citizens of Washington can be proud that our landmark legislation established true fiscal responsibility for the District.

I know my colleagues and the people of our National Capital will join me in thanking Mio Miconi for his three decades of service. I commend the following appreciation which appeared in the April 1, 2002 Washington Post.

D.C. "MAYOR" RETIRES FROM CAPITOL HILL

(By Spencer S. Hsu)

On Capitol Hill, he is known simply as "Mr. Mayor."

After 31 years as an unseen power behind congressional members in charge of the District's finances, Americo S. "Mico" Miconi retired Friday as clerk of the House Appropriations subcommittee on the District.

"Clerk" is deceptive. From his corner office in the U.S. Capitol, the 60-year-old son of Italian immigrants has been one of the most influential anonymous figures in District life since Congress granted home rule in 1974.

A telephone call from Miconi to the right city bureaucrat was known to help resolve, say, the circumstances around a pesky $20 parking ticket. His legislative handiwork helped when the federal government bailed out the District's $2 billion unfunded pension liability in 1997.

"Daniel Patrick Moynihan [D-N.Y.] used to say: Everyone is entitled to their own opinions—but they are not entitled to their own set of facts," said Miconi, who bade an upbeat farewell to the District as he packed up his small, chandeliered suite last week. As chief investigator and briefer to the representatives who hold the city's purse strings, Miconi determined which facts made it to members.

Miconi, a tall man whose craggy features strike friends as Lincolnesque and detractors as more like Ichabod Crane, was praised for his dedication and vigilance.

"He was much more demanding of the city government and how the agencies operated, sometimes, than many of the elected leaders. He seemed to care more," said John C. Allbaugh, chief aide to Rep. Ernest J. Istook Jr. (R-Okla.), chairman of the subcommittee from 1998 to 2000. "I think every agency, from secretary to budget officer, knew his name."

Tom Forhan, minority clerk on the panel and aide to the ranking Democrat, Rep. Chaka Fattah (Pa.), said, "He plays his cards very close to the chest, but I always believe he was working in the best interests of the District."

Miconi, whose father was a West Virginia coal miner who named his son Americo in tribute to his adopted land, said his hardscrabble background shaped a career spent combating bureaucratic waste and political featherbedding.

He was recruited to federal service just before graduation in 1963 from Fairmont (W.Va.) State College, near his native Caroline (population 500). He came to Congress on temporary assignment from the Treasury Department's Bureau of Accounts in 1971 and never left. After seven years as an assistant to Earl Silsby, budget chief to longtime D.C. subcommittee Chairman William H. Natcher (D-Ky.), he became chief clerk in 1978.

In a reflection of his standing among both parties, as well as his mastery of a small, arcane segment of the federal budget, Miconi was one of only two out of 13 senior House Appropriations staff members who were asked to stay on after the Republican House takeover in 1994.

Miconi, who lives with his wife in Alexandria, has had many run-ins with city officials. Over the years, some leaders of the majority-black city have chafed at congressional rule, sensing an undercurrent of racism in what they considered meddling inquiries from white, suburban aides to white, nonresident bosses.

That raw antagonism has moderated over time. Miconi has become a quiet patron and constituent to the current generation of District leaders.

"Mico Miconi is an outstanding public servant who represents institutional history. He will be missed," said the District's chief financial officer, Natwar M. Gandhi, whose independent financial watchdog agency Miconi says is his proudest legislative achievement.

"He knows more about the District's relationship with Congress than any other living human," said Tony Bullock, a spokesman for Anthony A. Williams (D), a former chief financial officer who became mayor.

Miconi's legacy includes the mundane and the landmark, both shaped by his tenacity in the face of bureaucratic resistance. After a 20-year battle with federal deadbeats, most notoriously the Pentagon, Miconi drafted a law a decade ago to force agencies to pay water bills on time through the Treasury, a measure that sends $25 million a year to the D.C. Water and Sewer Authority.

After District police dismantled their helicopter unit in a cost-cutting move, Miconi helped find $8.5 million in 1998 for the Interior Department's U.S. Park Police in Washington. He crusaded for district courts to use $30 million as it was intended, for legal services for the indigent, before the courts were transferred to federal control in 1997.

He has done so while remaining in the background.

"The amazing thing about Mico Miconi is, you can spend 2½ hours in a meeting with him and not know what his position is. If he played poker, he'd be a millionaire many times over," Bullock said. "He doesn't forget anything, and he's very, very shrewd."

Miconi's departure follows the retirement of his longtime aide and sidekick, Mary Porter, a 40-year veteran of D.C. government and the Hill. Miconi said he plans to help with the transition to a new House staff before leaving. With a parting word of caution, he is optimistic about the District.

"As long as there's an independent chief financial officer, you won't have a control board come back," Miconi said. "I think the future is very bright."

CORRECTING THE RECORD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Mr. FRANK. Mr. Speaker, on Sunday, March 24, just after we entered our spring recess, the New York Times Sunday magazine published a very interesting interview with Richard Holbrooke, who served as U.N. Ambassador during the Clinton administration. In a short interview, the questioner put several important questions and Ambassador gave very cogent answers. Because Ambassador Holbrooke effectively counters a good deal of mistaken argument in this relatively short space, I ask that some of the remarks relevant to current policy disputes be printed here. Ambassador Holbrooke brings to some of our ongoing debates important perspective and a keen intelligence. In particular I commend to Members Ambassador Holbrooke's argument that with regard to the military effort in Afghanistan, "the military leadership in this country was essentially the same group of senior officers that served the previous administration. The military budget was the budget submitted by the Clinton administration. On the military side I think any President would have responded the same way." He then draws on his significant experience in dealing with the aftermath of a successful military effort to note, accurately, "the true test of a military action is the peace that follows it. Right now, because of the strict limits that the Pentagon has placed on the international peacekeeping force . . . the country is in extreme danger in falling back into the hands of warlords and drug lords and terrorists."

Furthermore, in his comment on foreign policy in general, Ambassador Holbrooke points out that "there are some people in Washington right now who are so hostile on a visceral level to what was done in the Clinton administration that they haven't looked at the successes of that time."

Mr. Speaker, I am grateful to Ambassador Holbrooke for speaking out in ways that some will find controversial, but which are in fact lucid and persuasive, and very relevant to our current policy discussions.

Question. With all that has been happening in the world these days, has it been hard to sit on the sidelines?

Answer. There are plenty of times when you look at things and you say: "They did that well, or they should have done that differently. I might have done that differently." I think everyone second-guesses public officials, and people who have been in public affairs are more likely to do so. But it's not a healthy way to live. And those people who stand around and say, "I would have done it this way instead of that way" are going to waste their lives thinking about things that are too hypothetical.

Question. During the first few months of the war in Afghanistan, a log of people, including Democrats, said that they were surprised to find themselves feeling grateful that Bush had won, because no Democratic administration would have prosecuted this war as well as his administration has. Is there anything to that?

Answer. I've heard that from people, but I reject it completely. First of all, the military leadership in this country was essentially the same group of senior officers that served the previous administration. The military budget was the budget submitted by the Clinton administration. On the military side, I think any President would have responded the same way. And we can win any military victory at any time at any place against any enemy in the world. But the true test of a military action is the peace that follows it. Right now, because of the strict limits that the Pentagon has placed on the international peacekeeping force—5,000 troops, no Americans, limited only to the capital city of Kabul—the country is in extreme danger of falling back into the hands of warlords and drug lords and terrorists. And if this happens, Afghanistan will once again become a sanctuary for attacks against the United States.

Question. So what advice would you offer to those in power now?

Answer. We should apply what we learned in the Balkans to Afghanistan. But there are some people in Washington right now who are so hostile on a visceral level to what was done in the Clinton administration that they haven't looked at the successes of that time. This was particularly evident in the Middle East, where they thought the president was too engaged, so they decided to be unengaged. Would the deterioration of the situation have occurred had the United States been more actively involved? I can't say, but it's hard to imagine the situation being more dangerous than it is today.

Question. Has the administration taken this military victory as a sign that it can afford to go it alone in general?

Answer. There are people in the administration who have made strange noises—atonal noises—that have a unilateralist component. If there are people who hold these views, they will come up against the harsh reality of the world, which is that not even the U.S. can go it alone.

Question. What about Milosevic? You have made it clear that you have admiration for his wiles, even if you deplore his principles. Now he's defending himself in the special tribunal. How has he been doing?

Answer. His performance has been what anyone who knows him would have predicted. He has a legal background, he's smart, he's tricky, he's very dangerous, he's in possession of many facts that he can twist to his own purposes. But I have no doubt that he belongs in The Hague, on trial, that he's responsible for the four wars of the Balkans. This is probably his final strut on the world stage, and the stage is getting smaller—it's no longer southeastern Europe; it's a courtroom.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 16, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 2003 for the Corporation for National and Community Service.

SD–138

10 a.m.
Joint Economic Committee
To hold hearings to examine the monetary policy and the economic outlook in the context of the current economic situation, focusing on the economic rebound now underway.
2118 Rayburn Building

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine levels of jursidiction within the Office of Homeland Security.
SD–226

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the missile defense budget.
SD–192

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Offices of the Secretary of the Senate and the Architect of the Capitol.
SD–124

1:30 p.m.
Appropriations
Treasury and General Government Subcommittee
To hold hearings on the proposed budget estimates for fiscal year 2003 for certain law enforcement activities.
SD–192

2 p.m.
Judiciary
Constitution Subcommittee
To hold hearings to examine the application of the War Powers Resolution to the war on terrorism.
SD–226

Indian Affairs
To hold oversight hearings to examine subsistence hunting and fishing issues in the State of Alaska.
SR–485

2:30 p.m.
Intelligence
To hold hearings on the nomination of John Leonard Helgerson, of Virginia, to be Inspector General, Central Intelligence Agency; to be followed by closed hearings (in Room SH–219).
SH–216

APRIL 18

9:30 a.m.
Governmental Affairs
To hold hearings to examine the state of public health preparedness for terrorism involving weapons of mass destruction.
SD–342

Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253

Finance
To hold hearings to examine corporate governance and executive compensation.
SD–215

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine workplace injury issues.
SD–430

Judiciary
Business meeting to consider pending calendar business.
SD–226

Appropriations
Energy and Water Development Subcommittee
To hold hearings on the proposed budget estimates for fiscal year 2003 for the Office of Environmental Management and the Office of Energy Efficiency and Renewable Energy, Department of Energy.
SD–138

2:30 p.m.
Judiciary
To hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice.
SD–226

Appropriations
Treasury and General Government Subcommittee
To continue hearings on the proposed budget estimates for fiscal year 2003 for certain law enforcement activities.
SD–192

3 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings on S. 1441/H.R. 695, to establish the Oil Region National Heritage Area; S. 1526, to establish the Arabia Mountain National Heritage Area in the State of Georgia; S. 1638, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System; S. 1809, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas; S. 1939, to establish the Great Basin National Heritage Area, Nevada and Utah; and S. 2033, to authorize appropriations for the John H. Chafee Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island.
SD–366

APRIL 19

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine Canadian wheat 301 decisions.
SR–253

APRIL 23

10 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia
Subcommittee
To hold hearings to examine the implications of the human capital crisis, focusing on how the federal government is recruiting, selecting, retaining, and training individuals to oversee trade policies and regulate financial industries.
SD–342

2:30 p.m.
Judiciary
Antitrust, Competition and Business and Consumer Rights Subcommittee
To hold hearings to examine cable competition, focusing on the ATT-Comcast merger.
SD–226

APRIL 24

9:30 a.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine future relations between the United States and Colombia.
SD–419

APRIL 25

9:30 a.m.
Veterans' Affairs
To hold hearings to examine the Department of Veterans' Affairs preparedness regarding options to nursing homes.
SR–418

MAY 2

9:30 a.m.
Veterans' Affairs
To hold hearings to examine pending legislation.
SR–418

CANCELLATIONS

APRIL 17

2:30 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Department of the Interior.
SD–138

SENATE—*Tuesday, April 16, 2002*

The Senate met at 11 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Our dear God, who persistently seeks to make America both great and good, we praise You for the privilege of living in this land You have blessed so bountifully. With awe and wonder we realize anew that You have called our Nation to be a providential demonstration of the freedom and opportunity, righteousness and justice You desire for all nations. Help us to be faithful to our destiny. May our response to Your love be spelled out in dedication to serve. Enable us to grasp the greatness of the blessing of being Americans.

We thank You for the strategic role of this Senate in Your unfolding plans for our beloved land. In this quiet moment, we affirm who we are and why You have called us to be servant leaders in such a time as this. Our ultimate goal is to please You and to serve You.

Inspire the men and women who represent our Nation in the high calling of being Senators. Give them divine wisdom, penetrating analysis, and solutions to problems, but most of all, indomitable courage and inspiring boldness to declare Your best for our Nation. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 16, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REED thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, in a moment, the Chair will put the Senate into a period of morning business until 12:30 today. The Senate will recess from 12:30 to 2:15 for the weekly party conferences.

At 2:15, we are going to resume consideration of the energy reform bill. It was determined yesterday, in speaking to the two Senators from Alaska here in the Chamber, that they would be ready this afternoon to offer the long-anticipated ANWR amendment. So we expect to get that this afternoon and be back on the energy bill.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. LOTT. Mr. President, I understand that perhaps progress has been made on getting a final agreement on the border security bill, that it may be ready today, and that it might just be a matter of getting a vote on final passage. Is that correct information?

Mr. REID. Yes. In the information that I received last night in speaking to Senators KENNEDY and BYRD, Senator BYRD had three amendments. It appears they can work those out. There may be a requirement for a vote on one of them. Speaking to Senator BROWNBACK yesterday, it appeared that there were no Republican amendments. So I think the matter should be resolved today and maybe this evening or tomorrow we can finish the bill very quickly.

Mr. LOTT. That would be good. I hope we can seal that deal and get it done.

Mr. REID. Yes.

PRAYERS FOR CHAPLAIN OGILVIE'S WIFE, MARY JANE

Mr. LOTT. Mr. President, while the Chaplain is still here, I want to make sure that all of our colleagues are aware that his wonderful helpmate, Mary Jane, has been having some difficulty and is spending some time at Washington Hospital Center. We all know the saying that behind every successful man is a strong and supportive woman.

Mary Jane has been a wonderful part of the Senate family for the past 7 years that Lloyd John Ogilvie has been our Chaplain. He comes to minister and to the aid of all of us in our Senate family. I wanted my colleagues and our staffs to know that he, too, sometimes needs our help, our support, and our prayers.

So I say to the Chaplain, we certainly are thinking about you and we are going to be saying a prayer for Mary Jane and her speedy recovery and her ability to come back to help the Chaplain in his very important work.

BUDGET RESOLUTION

Mr. LOTT. Mr. President, I am deeply concerned about reports that I have been hearing that indicate that perhaps the Senate may not even consider a budget resolution this year. It is not clear whether we will or we won't, but in the discussions I have had with Senator DASCHLE, his only response has been: Well, that decision has not been made yet.

I must say that is very troubling, and I hope the decision is not made to just defer action completely on the budget resolution this year.

If we don't have a budget resolution, I predict that it will lead to legislative chaos for the remainder of the year. When you look at the budget resolution, you see page after page of numbers. I realize it is not very exciting, it is difficult to read, and the debate on the budget resolution, while it is under expedited procedures, leads to highly arcane descriptions of such things as reserve funds, reconciliation procedures, and references to points of order. But, clearly, it is a process that you can go through and you can usually do it in about a week. Yes, it leads to a number of votes, quite often even the very unattractive carousel-type procedure where you vote on amendment after amendment.

I wish we could find a way to limit that. Maybe this is the year we can come to some sort of agreement to not have 20 or 30 votes, one right after the other. It makes it very difficult to legislate properly and difficult for Senators to even understand the ramifications of those votes. But that is the way it has been done.

I think that in spite of the messy procedure, it will determine whether or not we are able to really govern this year. The budget resolution is not really about numbers in the final analysis; it is about setting priorities and making choices. What will be the position of the Senate on spending for the year?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

What is the position of the Senate on tax policy? What is the position of the Senate in terms of defense and improving education and health care? Everything sort of depends on having this statement of policy in the budget resolution.

Now, in the years we have had the Budget Empowerment Act, since about 1974, the Senate has never failed to act. Two or 3 years ago, we did have a situation where the Senate passed a resolution, the House passed a resolution, and we could not get a conference agreement. But the two bodies agreed on the numbers that would be followed by the Appropriations Committee and we went forward. I was not proud of that. I thought that was an abdication of our responsibility. At least we agreed on numbers and we went forward.

The idea we would not even make an effort this year sends a fairly bad signal. I realize there is a time problem here. We have about 5 weeks before the Memorial Day recess. We need to finish the energy bill, and we need to do trade promotion authority and bills associated with that, at least indirectly, such as the Andean trade authority and the Trade Adjustment Assistance Act. We still have to do supplemental appropriations. We need to do the Defense authorization bill and a budget resolution, and we need to do all that before the Memorial Day recess. The law requires that we do a budget resolution by April 15.

More years than not, we do not meet that deadline, but at least we go forward and have a budget resolution. If we do not do this by Memorial Day, then it will be very difficult for the Appropriations Committee to proceed. When we look at the fact we have June, July, and September basically remaining in this legislative year, we will have to get going with Defense—well, with all the appropriations bills. Hopefully, Defense appropriations will be first. We need to make sure we fund that program before anything else because our men and women are so dependent on it.

I am very worried about what the situation will be if we do not have a budget resolution. I have been looking at what it could lead to, and I have to say it is going to be a wild-west-type approach. If appropriations bills come up, there are no limits, no points of order to limit spending beyond what a subcommittee may have designated as its numbers. The 60-vote point of order will not apply. The bills could very well collapse of their own weight because there will be so many brilliant ideas of how spending can be added.

If I were a subcommittee chairman, regardless of on which aisle I sat, that would be a very difficult situation to manage.

The argument might be: It will be hard; we will have to vote on all those amendments. That is true, but we do it year after year.

The argument can be made: We are closely divided. Last year we got a budget resolution, and we were divided 50–50. Here are the budget resolutions we passed over the past 6½ years, including last year when it was 50–50. By the way, when we got to a final vote, it was passed by a wide bipartisan vote. In fact, the Senate passed the budget resolution on April 6, before the April 15 date that is included in the budget law, and it was by a bipartisan vote of 65 to 35. It can be done, it should be done, and every year I served as majority leader, we got it done. Here are the budget resolutions. The evidence is there.

I think perhaps what is going on here is just a desire to not have Senators cast these tough votes. That is an abdication of our responsibility.

Perhaps the Senate majority leader and the budget chairmen have something different in mind. Maybe they are saying they prefer to just operate under last year's budget resolution. By choosing not to vote on their own, they are, in effect, choosing to continue under the budget resolution we passed last year. Obviously, that would create a number of problems.

I support the President's budget. The President came up with a good budget. He does provide a significant increase in the priorities that need to have increases. There is an increase for defense funding. We need a supplemental for defense to pay for what we have already spent, and we need to make sure our military men and women have a decent quality of life, have the weapons they need to do the job, the most modern technology possible, which has saved a lot of lives.

We need to move forward on national security. Of course, we realized last year after September 11 that we were vulnerable and we needed to do more with respect to homeland security. There are a lot of hearings occurring now in the Appropriations Committee and other committees of jurisdiction about exactly where this additional spending in homeland security should go. We know we need to do more for port security, airport security, first responders, law enforcement, firemen.

Clearly, we are going to have to add significant increases in funds for homeland security. That has been acknowledged and called for on both sides of the aisle. So national defense, homeland security, and economic security are priorities.

We need to make sure we are doing the right thing with fiscal policy at the Federal Government level so that the economy will grow. We see positive signs, but it is not universal. It is uneven, and it varies from sector to sector, and there are even some regional differences.

This year maybe more than ever we need to have a budget resolution that sets some priorities so that we can do what we need to do but not lose control of it when it gets to this Chamber.

Let me speak a minute about one of the specifics in the budget resolution that came out of the Senate Budget Committee. I commend Senator CONRAD, the chairman of the committee. He could have just said it is not worth the effort, we are not even going to try to get it out of committee. He did make the effort, and they reported out a budget resolution. That signaled to me we were going to be ready to go to the floor with the resolution that came out of the committee.

Now you see it, now you don't. I do not quite understand why that change occurred, even after the Budget Committee stepped up, and while it did not pass on a bipartisan vote, it went through within 2 or 3 days of consideration and is now ready for full Senate consideration.

My concern is specifically in the defense area. I am worried that the budget that came out of the Budget Committee is soft on defense. While it fully funds the President's defense request for next year, it shortchanges the President's request by $225 billion over the next succeeding 9 years. It is $225 billion short. That means the troops will not get the supplies and armaments they need to prosecute the war on terrorism, and this, we all know, is not a short-term issue; this is something that is going to take months and years as we try to root out terrorism and make sure we can be safe around the world at our embassies and at home.

It means that operations and maintenance will suffer. Pilots will not be able to fly the missions they need for training, and upkeep on ships will slow down. It means Secretary Rumsfeld and the Joint Chiefs will have fewer resources in place to plan for the next step. It will mean we will not have the resources to take action against Saddam Hussein and the "axis of evil."

The President has established our priorities, and national defense is tops. The President has called on us to act on the defense bill first.

Why in the world would this decision be made not to fully fund the war? I think the response we are going to hear is: We do fully fund the President's request next year, but then we are going to create a reserve fund for defense spending for the future. Unfortunately, the reserve fund is nothing more than a gimmick.

If one looks elsewhere in the budget, specifically in the section titled "Functional Totals," one will see that the defense money in the reserve fund is not there for defense. It would be used supposedly to reduce the debt. That certainly is a worthwhile objective, and we should continue to try to find ways to live within a budget and reduce the debt, as we had been doing for the previous 4 years.

We have to make some choices now. We should fund defense first, and we should not set up a mechanism that would short the Defense Department by $225 billion.

Our world changed on September 11. We know national security and homeland security is going to be important. We are going to have to act on it. We have to be prepared to defend ourselves against attacks internationally and at home. We have to provide support for our allies and friends, such as NATO and Israel. We must repel and deter and, in some instances, take preemptive action to prevent attacks on American citizens. No one in the Senate disagrees we are going to have to do more in national security and it is going to take more than 1 year. This is a long-term commitment.

I do want to particularly point out to my colleagues that there is a huge problem in the budget resolution reported by the committee in the defense area. We need to stand shoulder to shoulder with the President, and we have in the war on terrorism. We did it repeatedly and courageously after the events of September 11. But slowly we have slipped back into our normal sniping.

We will always have legitimate debate. It is about democracy. That is the great thing about America. We can disagree without undermining what needs to be done for our country. When it comes to defense, we cannot short-fund it, and we cannot allow it to slip off into partisan debate.

Here is what we need to do in the Senate, and we need to do it before the Memorial Day recess: Pass a budget resolution. What other form of discipline can we possibly have? What more important indicator is there about whether or not we are prepared to govern and make tough choices? Pass a budget resolution, fully fund the President's budget request in both the short and long term, add the $225 billion for defense back into the budget resolution, and eliminate the reserve fund. Pass the defense resolution first.

That, Mr. President, is how we stand shoulder to shoulder with the President in this war on terrorism.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business not to extend beyond the hour of 12:30 with Senators permitted to speak therein for up to 10 minutes each, and with the time to be equally divided between the two leaders, or their designees.

The Senator from Kentucky.

Mr. McCONNELL. Thank you, Mr. President.

VACANCY CRISIS IN THE SIXTH CIRCUIT

Mr. McCONNELL. Mr. President, as the Senate is aware, we are facing a vacancy crisis in the Federal courts with over 11 of the Federal judgeships open.

This crisis is even worse at the appellate level where almost 19 percent of the appellate court judgeships are vacant. That means that one out of every five seats is empty.

Nowhere is the problem felt more acutely than in my home circuit, the Sixth Circuit Court of Appeals, which consists of Michigan, Ohio, Kentucky, and Tennessee. We have an astonishing 50-percent vacancy rate. Half of the seats of my home circuit are empty.

I would like to take a little time to discuss what that means to the people who live in Michigan, Ohio, Kentucky, and Tennessee—the people who make up the Sixth Circuit.

We have a chart of the Sixth Circuit—Michigan, Ohio, Kentucky, and Tennessee. There are 16 total seats on the Sixth Circuit. There are eight sitting judges representing, of course, a 50-percent vacancy. The President has sent up seven nominees for the eight vacancies. To date, there have been no hearings on any of those nominees.

The practical effect of that is each judge is having to dispose of many more cases. As the chart shows, according to the Administrative Office of the Courts, the average number of cases that active-status judges on the Sixth Circuit are having to dispose of has increased by 46 percent in the last 5 years.

As a result of this vacancy rate, the dispositions per active judge have gone up 46 percent since 1996—a 46-percent increase—to 535 matters per judge.

From just 1996 to 2001, the average number of cases each Sixth Circuit judge is deciding has increased by almost half—50 percent.

Let us take a look at this second chart on the dramatic increase in decision time.

Why this matters is that with Sixth Circuit judges having to dispose of many more cases, this results in a dramatic increase in the length of time for an appellate decision to be rendered. In fact, according to the Administrative Office of the Courts, the Sixth Circuit is ranked next to last among all Federal circuits in median time for disposition of an appeal.

The national average is 10.9 months. In Sixth Circuit, it is 15.3 months, which is 40 percent slower as a result of the eight vacancies that we have.

It is not just the Sixth Circuit is next to last—someone has to be next to last—but that the deviation from the national average is so great.

Specifically, as my third chart shows, in 1994, when there were no vacancies, the Sixth Circuit was about 1 month slower in processing appeals than the national average, about 10 percent slower.

By the time of the first vacancy in the following year, 1995, the Sixth Circuit was a little over 2 months slower than the national average, or about 17 percent slower than the national average.

But by last year when there were eight vacancies, the Sixth Circuit was almost 4½ months slower than the national average, which translates into a full 40 percent below average.

There is no question that the significant number of vacancies has had an impact on litigants in the Sixth Circuit.

What that means is that in other circuits, if you file your appeal at the beginning of the New Year, you get your decision by about Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you are forced to wait until Easter of the following year to get your case resolved.

These are alarming statistics. To put a human face on it, let me read some comments from judges and practitioners.

Ohio Attorney General Betty Montgomery has said that numerous death penalty appeals before the Sixth Circuit are experiencing prolonged delays. For example, the appeal of Michael Beuke has not been acted on in more than 2 years, and Clarence Carter has had a motion pending before the Sixth Circuit for 3 years.

These are death penalty appeals.

Federal district Judge Robert Holmes Bell described the Sixth Circuit as in a "crisis" because of the vacancies. He added, "We're having to backfill with judges from other circuits who are basically substitutes. You don't get the same sense of purpose and continuity you get with full-fledged court of appeals judges." Even with "backfilling," the Sixth Circuit still takes more than 40 percent longer than the national average to resolve cases.

Cincinnati Attorney Elizabeth McCord, as of the end of last year, had been waiting 15 months just to have oral argument scheduled for her client's appeal in a job discrimination suit. In the interim, her client died. According to the Cincinnati Post, delays like this have become "commonplace" because vacancies have left the court "at half-strength and have created a serious backlog of cases."

Mary Jane Trapp, president of the Ohio Bar Association, said "Colleagues of mine who do a lot of Federal work are continuing to complain (about the delays). When you don't have judges appointed to hear cases, you really are back to the adage of 'justice delayed is justice denied.'"

The purpose of my discussion is not to point fingers or to lay blame. My friend, the chairman—and he is my friend—knows how warmly I feel about the way he handled the district court vacancies in my State. I have repeatedly said how much I appreciate his actions in this regard, and I will continue to do so.

The point of my discussion is simply to underscore the problem facing my constituents in Kentucky and the citizens in the other States in the Sixth Circuit. I also feel compelled to discuss this problem because I don't see any indication of progress.

The President has nominated outstanding individuals to fill seven of the eight vacancies on the Sixth Circuit. And I am hopeful that he will soon fill that last vacancy. Yet, unfortunately, no hearings have been scheduled—not a single one—for any of these seven nominees, even though two of those nominees—Jeffrey Sutton and Deborah Cook, both from Ohio—have been before the Senate for almost a full year, and have not even had a hearing.

We are talking about a substantial amount of time:

John Rogers, from the Commonwealth of Kentucky, has been waiting for 119 days.

Henry Saad, Susan Neilson, and David McKeage from Michigan have now been waiting 160 days.

Julia Gibbons from Tennessee has been waiting for 190 days. And both Jeffrey Sutton and Deborah Cook from Ohio have now been waiting 343 days.

We are talking about well-qualified nominees. For example, Jeffrey Sutton graduated first in his law school class, has served as solicitor for the State of Ohio, and has argued over 20 cases before the U.S. and State Supreme Courts. Deborah Cook has been a well-respected justice on the Ohio Supreme Court for 8 years.

But the nominee, obviously, I know best—in fact, the only one I really know—is Professor John Rogers from my own State of Kentucky. He has taught law for almost a quarter of a century at the University of Kentucky College of Law. He has twice served in the Appellate Division of the Department of Justice, once as a visiting professor.

He has served his country as a lieutenant colonel in the U.S. Army Reserves. He was elected to Phi Beta Kappa at Stanford University during his junior year. He graduated magna cum laude from the law school at the University of Michigan, where he was elected to the Order of the Coif. He is clearly an outstanding selection by the President of the United States.

The Sixth Circuit is in dire need of the services of the fine lawyers such as Professor Rogers whom President Bush has nominated. I hope the Senate can make some reasonable progress on accommodating the court's urgent needs because it is important to remember when you have a circuit that is 50 percent vacant, this has a direct impact on litigants. Justice is being delayed and, therefore, denied in the Sixth Circuit. That has a direct bearing on the people who live in Michigan, in Ohio, in Kentucky, and in Tennessee.

It is still not too late for us to address this problem. I hope we will do it in the coming months because we genuinely have a crisis in the courts, and, particularly, we have a crisis in the Sixth Circuit.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Wisconsin.

THE REPORT OF THE ILLINOIS GOVERNOR'S COMMISSION ON CAPITAL PUNISHMENT

Mr. FEINGOLD. Madam President, I rise today to talk about another significant milestone in our Nation's debate on the death penalty. Last week, our Nation witnessed the 100th innocent person to be freed from death row in the modern death penalty era—that is, since the Supreme Court found the death penalty unconstitutional in 1972. Number 100 is Ray Krone. Krone spent 10 years in the Arizona prisons for a murder he did not commit.

Yesterday, our Nation reached another milestone. The Illinois Governor's Commission on Capital Punishment released its report on the Illinois death penalty system. This report details problems with the administration of the death penalty in Illinois and makes dozens of recommendations for reform. This is actually the first comprehensive analysis of a death penalty system undertaken by a Federal or State government in the modern death penalty era.

Governor George Ryan of Illinois first made history 2 years ago when he was the first Governor in the Nation to step forward and place a moratorium on executions. He recognized that the death penalty system is plagued with errors and the risk of executing the innocent. Governor Ryan, who had supported the death penalty as a State legislator, realized that the death penalty system was so broken that justice could no longer be assured. Since reinstatement of capital punishment in Illinois in 1977, Illinois had put 12 people to death. But during this same period, 13 people were exonerated and removed from death row.

What led to this alarming ratio of 13 exonerations to 12 executions? It was a number of problems—from incompetent counsel, to convictions based on unreliable testimony of jailhouse informants, to mistaken eyewitness testimony, and, in some cases, police misconduct.

As Governor Ryan said when he suspended executions:

> I cannot support a system, which . . . has proven to be so fraught with error and has come so close to the ultimate nightmare, the State's taking of innocent life.

But we know that it is not just Illinois that has come so close to this ultimate nightmare. One hundred innocent people nationwide have been released from death row. Thirteen are in Illinois, but the remaining 87 innocent individuals were convicted and sent to death row by justice systems in States such as Arizona, California, Florida, Maryland, and Texas.

Governor Ryan did the right thing. Before signing off on another execution warrant, he wanted to be sure with moral certainty that no innocent man or women would face a lethal injection. But as he suspended executions, he also created an independent commission to review the death penalty in Illinois. This 14-member, blue ribbon commission includes our former colleague, and dear friend Senator Paul Simon; Judge Frank McGarr; Thomas Sullivan, a former U.S. Attorney; and Bill Martin, a former Cook County prosecutor. Judge William Webster, who has served our Nation with distinction as the former Director of the CIA and the FBI, was a special advisor to the commission.

Two years after its creation, I am pleased to report that the Governor's Commission on Capital Punishment has completed its work. Both death penalty supporters and opponents came together to review the problems in Illinois and have made numerous recommendations for reform. The people of Illinois will not determine how to respond to the commission's recommendations.

I want to commend Governor Ryan for his leadership and the members of the commission for their dedication throughout this long process. Their work is a credit to Illinois and is a model for the Nation.

While Illinois is the only State that has suspended executions, it is not the only State whose death penalty system is fraught with error. In fact, according to a Columbia University study, the overall rate of serious error in the Illinois death penalty system is 2 percent lower than the national average, which is 68 percent. In other words, from 1973 to 1995, over two-thirds of death penalty convictions nationwide were reversed on appeal based on serious, reversible error. That is not just every once in a while. The experts found that almost 7 out of 10 death penalty verdicts will be reversed on appeal, and not for technical reasons, but for substantive, serious reasons.

In the vast majority of these cases reversed on appeal, defendants were found to deserve a sentence less than death when the errors were cured on retrial. And 7 percent were found to be innocent of the crime altogether.

These data show that the same kinds of grave errors that Governor Ryan saw in Illinois exist in death penalty systems across the United States. Incompetent counsel, flimsy or unreliable evidence, and sometimes even prosecutorial or police misconduct—all of these have led to convicting the innocent or, at a minimum, unfair proceedings. We also know that whether you live or die sometimes depends on the color of your skin or where you live. For example, according to a study that reviewed capital prosecutions in Philadelphia from 1983 to 1993, Black defendants were nearly four times as likely to receive a death sentence than non-Black defendants who had committed similar murders. These errors and bias in the system are simply wrong and unjust.

Fortunately, it is not just Governor Ryan and I who are saying there is something terribly amiss. A growing chorus of Americans have come forward to say the death penalty system is fraught with error.

One of those Americans is Justice Sandra Day O'Connor. Last summer, Justice O'Connor expressed her concern about the risk of executing the innocent. She said:

> Unfortunately, as the rate of executions has increased, problems in the way [in] which the death penalty has been administered have become more apparent.

She also said:

> Perhaps most alarming among these is the fact that if statistics are any indication, the system may well be allowing some innocent defendants to be executed.

Madam President, I call on Congress to heed Justice O'Connor's warning and follow the example of the State of Illinois. My bill—a bill that I am working with the Senator from New Jersey, Mr. CORZINE on—is the National Death Penalty Moratorium Act, and it applies the Illinois model to the rest of the Nation. My bill would suspend Federal executions and urge the States to do the same, while a National Commission on the Death Penalty reviews the death penalty systems at the State and Federal levels. The national commission would study whether the administration of the death penalty is consistent with constitutional principles of fairness, justice, equality, and due process.

So, Madam President, I again commend Governor Ryan and the people of Illinois for their leadership. I recently had the chance to speak to a gathering of pro-moratorium supporters in Illinois, the "Land of Lincoln." I told them that I believe they are carrying the mantle of Lincoln. They have given their full devotion to Lincoln's call for freedom and justice throughout the land. In fact, some might say that the struggle for fairness in our Nation's criminal justice system today is, in some ways, an unfinished chapter of the struggle for freedom from slavery earlier in our Nation's history.

Madam President, we should follow the lead of our fellow Americans in the "Land of Lincoln." Let us continue their effort with a nationwide moratorium and a reexamination of the administration of the death penalty. To continue the status quo and risk the execution of another innocent person is truly unjust and just unconscionable.

I urge my colleagues to join me in supporting the National Death Penalty Moratorium Act.

At this point, I yield the floor because I am pleased to see my colleague and tremendous ally in this issue, Senator CORZINE.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Madam President, let me begin by saying how pleased I am to stand with Senator FEINGOLD, who is a man of conscience, who has spoken out for the need for our Nation to examine the practice and application of the death penalty. His call for a moratorium, as was recently provided in the State of Illinois by their Governor, I think is an act of courage and one that is responsible if we all believe in justice, the rule of law, and fairness, which is defining to America.

As I know Senator FEINGOLD outlined, yesterday a commission in the State of Illinois on capital punishment, appointed by Governor George Ryan, released its report on the death penalty. The report raises serious concerns about the fairness of the application of the death penalty and about whether justice is being fairly applied. That commission came back with a number of very important recommendations and movement for reform.

In light of that report, I wish to take this opportunity to truly underscore the effort Senator FEINGOLD has made to raise the level of discussion about the state of the death penalty as it is applied nationally. It is critical that we make sure that the system protects innocent victims and provides for the true application of justice as we know it, making sure fairness and the rule of law are practiced.

Last week a man named Ray Krone was released from prison. Mr. Krone had been convicted of murder. He had already served 10 years behind bars and had been sentenced to die. But Mr. Krone is, and always had been, an innocent man. New DNA evidence proved that conclusively. He was convicted for a crime he did not commit. Prosecutors now admit it. I think the local county attorney put it: He deserves an apology from us. That is for sure. To put it mildly, that is an understatement.

How would any of us feel if we had been charged, tried, and convicted by a jury of our peers for a crime we didn't commit and then, to top it off, sentenced to die? Ray Krone knows what that feels like and, unfortunately, he is not alone. In fact, he was the one-hundredth person, since we reinstated the practice of the death penalty in this Nation, to be released from death row in the United States, with post-trial proof of the individual's innocence. These 100 innocent people have experienced nothing short of living hell. And the outrageous injustice of their convictions and their sentences should be a wake-up call for all of us.

I take second place to no one in my determination to fight the scourge of crime. As part of that effort, I believe we need to be very tough on violent criminals, including imposing long sentences and the potential for no opportunity for parole. But while we get tough on crime, we also need to recognize that our criminal justice system makes mistakes—sometimes very serious mistakes. Until recently, it was virtually impossible to know when innocent people were wrongfully convicted. But today, with the advent of DNA technology, it is far less likely to occur if we let the evidence come to light.

Why are innocent people convicted and sentenced to death? To a large extent, it is because our criminal justice system has some systemic flaws and, frankly, some biases as well, in how it is applied.

Capital defendants are more likely in some parts of our country to be subject to the death penalty than others, and they certainly would give at least the appearance of some racial prejudice administered there.

Capital defendants often have lawyers who do a terrible job. Frankly, there are instances where people have shown up inebriated and unable to carry out their functions in court. Sometimes their failures are simply as a result of carelessness, or lack of preparation, or inexperience, or a failure to find and interview key witnesses, a failure to thoroughly read the case law, and a failure to object to unreliable evidence. They make a variety of mistakes.

I don't say this to criticize all defense attorneys. We accept that most of them try to do a good job. But in many cases where people do not have the economic resources to access the kind of talent necessary to defend them, they may be outgunned in a court of law. Even if they worked 24 hours a day, 7 days a week, they may just be overwhelmed by the resources they are fighting against.

Ineffective assistance of counsel is just one reason why innocent people find themselves on death row. Sometimes eyewitnesses make honest mistakes. Sometimes witnesses give false testimony to protect their own hide, such as jailhouse informants seeking reduced sentences. Sometimes prosecutors engage in misconduct by withholding evidence that could help the defendant's case and not following the rule of law, which is what we are all expected to do. Any of these factors can lead to a wrongful conviction. And now we have 100 examples of the circumstances that can provide for that reality.

A system that wrongly sends 100 people to death row can be called a lot of things, but "fair" and "equitable" and "just" are not among them. In fact, our criminal justice system is badly broken, in my view. Before we send any more innocent people to death row, we need to fix it. That was clearly the conclusion reached by the commission of distinguished experts appointed by Governor Ryan. The Ryan commission was in charge of examining how the death penalty system is working in Illinois. But its conclusions, no doubt, are applicable to the Nation as a whole.

The commissioners were unanimous in agreeing that the death penalty had been applied too often and that the system is in need of reform. I think there were 13 overturned death penalty convictions in Illinois out of the total of 25 before the commission went to work. Clearly, there were problems in Illinois and the Governor should be commended for recognizing that and moving forward.

Now we need to do that as a nation. That commission called for a broad range of specific changes. These include video taping the questioning of capital suspects in a police facility, barring capital punishment based exclusively on the testimony of single witnesses—particularly witnesses who are jailhouse convicts—eliminating the death penalty for people who are mentally retarded, and requiring trial judges to agree with the jury about the imposition of a death sentence.

I hope all of my colleagues will take a look at the Ryan commission's report and think hard about the need to reform our criminal justice system, to think about the fairness that is fundamental to what America is about. Make no mistake, it is an enormous injustice when the death penalty is imposed based on false information.

Innocent people have been sent to death row and there will be more if we don't actually take up this charge of reviewing how we got to this conclusion. We have a moral obligation to do something about this.

I have joined with Senator FEINGOLD—and I am proud to do so—in cosponsoring legislation to establish a moratorium on all Federal executions until a commission, much similar to the Ryan commission, can be established to review the death penalty for our Nation and impose meaningful reforms that give the public a greater sense that we have a fair and just system being applied to all Americans.

This would not lead to the release of any convicted criminals or threaten public safety in any way. It would simply ensure innocent people are not put to death and that the principles we believe in—fairness and rule of law—apply.

I urge my colleagues to support this legislation. Again, I express my sincere appreciation for the leadership of Senator FEINGOLD in this critically important matter.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I commend my colleague from New Jersey and my colleague from Wisconsin for raising this very important issue. It deserves the attention of every American, not just those who serve in this body.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT

Mrs. CLINTON. Madam President, today I rise to address the importance of another critical issue, and that is the Enhanced Border Security and Visa Entry Reform Act of 2001. I believe this measure needs to be passed as soon as possible.

Why? Perhaps I speak from a somewhat parochial perspective, but representing New York, which is one of our border States, gives me a firsthand view and understanding of the challenges we face in trying to make our northern border as safe and secure as possible.

The nearly 4,000-mile-long U.S. border with Canada is about twice the length of the U.S. border with Mexico, but until very recently it has received but a fraction of the resources available for border security.

According to a July 2001 report from the Justice Department's Bureau of Justice Statistics, fewer than 4 percent of all the Border Patrol agents work along the northern border.

Of course, until recently, we did not have to worry too much about our northern border. It has historically been the longest, most peaceful border in the entire world. Certainly, New York has a great stake in having a peaceful border, one that goods and people can cross easily because there is so much traffic between our two countries that goes through our heavily trafficked crossings, places particularly like Plattsburgh and Buffalo, but also other places—Niagra Falls, Messina—and all of the communities along New York's Canadian border are deeply concerned about how that border is protected and managed.

For too long, that has not been a concern, but now we know it is, and the Federal Government has to step up to provide permanent, long-term protection.

Homeland security begins with border security. That is why I strongly support this bill and am an original cosponsor. It is also why last October, after the terrible attacks of September 11, I wrote to Director Ridge asking that he create a position within the Office of Homeland Security devoted to our northern border and all the issues with Canada about which we are concerned to centralize those issues so there would be one person to whom we could go to deal with our various concerns. This legislation attempts to begin to address these concerns.

What does it do? First, it authorizes funding for this year and the next 4 years for an additional 200 INS inspectors and 200 INS investigators over the amount already authorized in the terrorism bill for the next 5 years. Increased funding is also authorized for training facilities and security-related technologies for INS agents.

Second, it enhances information sharing. It contains provisions that concern how we get information that is critical to law enforcement available to all the Federal agencies and State and local law enforcement personnel who need to know what should be done to protect us and apprehend any violators. The INS, the Border Patrol, the Customs agents, the FBI—all of us need to have better cooperation.

In October of last year, I also introduced a bill, along with my colleagues, Senators SCHUMER, LEAHY, and HATCH, that authorizes and encourages Federal intelligence agencies to share relevant information with State and local officials whenever appropriate. It is important, if something is known in one Federal agency that could affect residents of Niagra Falls, that information be shared in a timely manner.

This reform act directs Federal law enforcement and intelligence agencies to share information with the INS and the State Department about the admissibility and deportation of non-U.S. citizens.

It also calls upon the President to report regarding admission- and deportation-related law enforcement and intelligence information needed by the INS and the Department of State to develop a formal information sharing plan.

Third, it addresses the issue of what is called "interoperability" of the INS systems. That is a long word which describes that sometimes the right hand of INS does not know what the left hand or the left foot is doing. That is why we ended up with this absurd situation in which the INS issued a visa for Mohamed Atta months after he piloted one of those planes into the World Trade Center Towers. It was a terrible mistake that never should have happened.

The problem is the databases and data systems do not talk to each other; they are not up to speed. They would not even pass muster in most businesses in America today. This bill calls upon the President to develop and implement an interoperable law enforcement and data system for visa admissibility and deportation determination purposes. The INS must integrate their systems. They have antiquated systems that do not do the job, that cannot even talk to each other.

It also requires the State Department, upon issuing a visa, to provide the INS with an electronic version of the alien's visa file before the alien enters the United States. In addition to addressing this issue of interoperability, the bill also requires relevant Federal agencies to work toward implementing an integrated entry and exit system and to move toward developing and using tamper-resistant, machine-readable documents containing biometric identifiers.

If we are able to put into the sky robot-controlled, predator aircraft to track down and take out enemy artillery installations, we ought to be able to figure out how to have a decent data system for the INS that can provide information to us and uses biometric identifiers right here on the ground to track down, deport, or arrest wherever necessary anyone who intends to do us harm.

Next, we have to have the assurance that citizens of countries that sponsor terrorism will not be allowed to enter this country unless the Secretary of State determines that the person seeking entry does not pose a security threat to the United States.

We have made it very easy for people to come back and forth. That is the American tradition. Unfortunately, what we learned on 9-11 is that some people in some countries take advantage of our hospitality and our welcome to the United States. We have to support this provision which starts from the premise that if you are coming from a state-sponsored terrorism base, even if you are totally innocent—you have nothing to do with the intelligence services, you have nothing to do with terrorism—the burden is on you. We need to shift that presumption to make sure we are not letting in people who are part of a terrorist network.

Finally, with respect to foreign student visas and exchange visitors, the bill requires the Justice Department to develop an electronic means of verifying and monitoring the Foreign Student and Exchange Visitor Information Program, including aspects of documentation and visa issuance, U.S. admission, institution notification, documentation transmittal, registration, and enrollment.

All educational institutions at which foreign students are registered must notify the INS of the failure of such a student or an exchange visitor to enroll within 30 days of the registration deadline.

Education is a privilege, and we are very pleased that in our country we offer so many first-rate educational institutions to students from around the world, but again we have to be smart about this. We cannot let anyone take advantage of our openness. We have to have a system so if someone says he or she is coming to study at one of our universities, that is not the end; that is the beginning of the process to determine whether that actually is the fact or whether, as we unfortunately learned post-9-11, there are people who claim to be coming to this country to be students and that is not their intention whatsoever.

These are a few of the many provisions in this bill that I believe would make us a safer nation by securing our borders. There are probably no people in our country more committed to passing this legislation than the Families of September 11. I have heard from a number of the widows and parents of victims who have made it very clear this is their top priority. MaryEllen Salamone, whose husband John was killed by the terrorists on September 11 at the World Trade Center, was in Washington this past Friday representing Families of September 11 to urge us to act. She appeared before the Immigration Subcommittee of the Judiciary Committee and said that all of us need to heed the warnings we now know were flashing but no one could see them, read them, understand or apply them, so that we must now act to make sure nothing like this can happen again.

The legislation is long overdue. It is much needed, and I call upon all of our colleagues to support it as soon as possible.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m. today.

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. EDWARDS).

The PRESIDING OFFICER. In my capacity as a Senator from the State of North Carolina, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANWR AMENDMENT

Mr. REID. Mr. President, it is my understanding today is finally the day, after 18 days, that we are going to have the great amendment on ANWR. After all this time and all the promises, I think it is finally coming up. We are looking with anticipation to this amendment and this debate because this is really what we have been waiting for on the bill. We have been told that if we focus on what the Republicans want on this bill, we will finally get the opportunity to debate it.

The reason I say that—and the Chair recognizes I am being a little facetious—is that I have been out here many different days asking, When? Today? If you don't offer it, we are going to offer it—and all of these different things we have tried to do to get something moving forward on this legislation. But I do say I am glad it is finally going to be offered. It is my understanding it will be offered momentarily.

I say that because even though the Alaska wilderness is far removed from the State of Nevada where I was born and raised, the two climates are much alike in the sense that they are both delicate. People think that Nevada deserts can be easily disturbed and that it doesn't matter. In the past, our beautiful deserts have been treated that way in many respects. Right near Searchlight where I was born and raised, during the Second World War when we had the South African campaign, the troops who were going overseas trained right below Searchlight. You can still see today the tank tracks through some parts of that country. Even though it is very arid, disturbance takes a long time to get rid of in the desert.

We have in the desert what was called Camp Ibis. In that whole area, there were about 2 million men training for the Second World War and for campaigns around the world. We had, of course, the gunnery range. It was called the Las Vegas Gunnery Range, which is now Nellis Air Force Base. We had Indian Springs Air Force Base, Stead Air Force Base, the Fallon Naval Training Center, and the Hawthorne Ammunition Depot. Then of course in the high desert in Nevada, we had the Nevada Test Site where, to this point, almost 1,000 nuclear devices have been set off above ground and underground.

People have come to recognize that the desert is not a place you can easily disturb without having a long-lasting impact.

Outside the home I have in Searchlight, there are old Joshua trees and yucca trees. We also have creosote bushes, or greasewood trees. They are especially beautiful when it rains because of the smell. The aroma that comes off those bushes is interesting. You have bushes of all sizes, and those that are high off the ground are more than 100 years old. Sometimes they are older than that. They grow little by little because there is no water in the desert.

My point in comparing the Alaska wilderness to what we have in Nevada is that we have to be very careful how we handle and protect it. A majority of the people in America do not want the ANWR disturbed because they believe there are areas that we should leave pristine and untouched. People thought that in Nevada it didn't matter that the desert tortoise needs lots of open space. We call them turtles, but the proper name is desert tortoise. There was a time when they were placed on the endangered list. To protect these turtles, we have had to really do lots of things differently. Because of the press of population, we are killing these animals. And extinction is forever. That is what we have to recognize.

I will say what I have said here on a number of occasions. Out of 100 percent of the total oil reserves in the world, America, including ANWR, has 3 percent of the oil reserves; 97 percent of the oil reserves are elsewhere. Kuwait and Saudi Arabia have about 47 percent. As you know, not only do they have large quantities of oil, but it is very easy to get out of the ground.

My point is that we must maintain some of our pristine wilderness areas. One of those we are going to protect is ANWR.

Eighty-seven percent of the land in the State of Nevada is owned by the Federal Government. We are a very densely populated State. People do not understand that. Most say that we are the most densely populated State in America. Why? Because 90 percent of the people live in two metropolitan areas—Reno and Las Vegas.

Eighty-seven percent of Nevada is owned by the Federal Government. What does that mean? It means that 87 percent is as much yours as it is mine. I think we should do what we can to get more of that land into the private sector. But I recognize that federal lands are as much yours as they are mine. That is the same as the ANWR wilderness. That land is as much mine as it is the Senator from Alaska.

I am going to do everything I can to protect that pristine wilderness because we don't have many areas in the whole world that are pristine, let alone in the United States.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Schumer amendment No. 3030 (to amendment No. 2917), to strike the section establishing a renewable fuel content requirement for motor vehicle fuel.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3132 TO AMENDMENT NO. 2917

(Purpose: To create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self-determination of the Inupiat Eskimos and to promote national security)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. BREAUX, proposes an amendment numbered 3132 to amendment No. 2917.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3133 TO AMENDMENT NO. 3132

(Purpose: To create jobs for Americans, to strengthen the United States steel industry, to reduce dependence on foreign sources of crude oil and energy, and to promote national security)

Mr. STEVENS. I send to the desk an amendment to the Murkowski amendment No. 3132.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3133 to amendment No. 3132.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. The underlying amendment was introduced by Senator STEVENS, myself, and Senator BREAUX and, as a consequence, I think deserves some explanation relative to the specifics that are in the underlying amendment.

The items for consideration, some of which were in H.R. 4, include specifically a 2,000-acre limitation on surface disturbance. Specifically, an export ban of any oil from the refuge cannot under any circumstances be exported, with the provision of authority for exports to Israel. Further, we would extend the U.S./Israeli oil supply arrangement, which is due to expire in the year 2004, to the year 2014.

We would further have a wilderness increase designation, adding a million and a half acres of wilderness from the current refuge management in the southern portion of the refuge.

Finally, there would be a Presidential finding—and this Presidential finding is quite specific that the refuge would not be open until the President makes a finding it is in the national security interest of this Nation.

There would also be a triggering mechanism such as energy supply, threat to strategic reserves not sufficient to cover.

I encourage my colleagues to reflect a little bit on how the underlying amendment was constructed. A great deal of time went into this effort by Members of both parties. I know there has been some frustration about the manner in which this amendment has been brought before the body, and I know there is a question of why we simply do not introduce the House-passed bill, H.R. 4.

The reason is very simple. We have taken a radically different approach because, as I have indicated in my opening remarks, the amendment we offer today does not open ANWR, per se. Let me repeat, the amendment does not give the authority to open ANWR. Rather, the amendment grants the President the authority to open the area for safe exploration only if he makes a determination it is in the national security interest of this country. Obviously, the President has the power, given to him in the Constitution, for extraordinary responsibilities associated with the decisionmaking process, and it is clearly appropriate in this time of crisis that the President be given that authority.

I think it is fair to say for far too long Congress has proved itself incapable of dealing with extreme and difficult issues that have difficult political consequences, and this clearly is one of those issues. However, at this time in our Nation's history we can no longer afford, for our national security, to be held hostage to the massive disinformation campaigns of some of the extreme environmental groups. So we must move on. That is the responsibility of each Member of this body.

Some who oppose opening ANWR are perhaps on autopilot right now and are gearing up for their rebuttals, but I ask them to stop for a few moments and listen to what conditions must be met should the President decide this action is in the national interest of the Nation because many of those who will be opposed to this amendment do not know what they are fighting about.

If development is moved forward, the following conditions must be met: As I indicated, only 2,000 acres of surface disturbance on the Coastal Plain can occur. We have a chart that shows what the footprint is. It shows the entire area of ANWR, which is roughly 19 million acres, which equates to the size of the State of South Carolina. It also recognizes there is within that 19 million acres both wilderness and refuge. We are proposing to add to the wilderness. We are going to increase it from 8 million acres to 9.5 million acres, and we are going to reduce the refuge by that amount. So we are increasing the wilderness.

What does 1.5 million acres equate to? The green area is the 1002 ANWR Coastal Plain. We are adding wilderness equal to that amount. That is the significance of what we believe is a responsible proposal that addresses the concerns of many who say in this area where you are proposing drilling in 1.5 million acres there should be some consideration to more wilderness.

The authorization of the footprint in the 1.5 million acres is limited by the House bill, limited in this Senate bill, to 2,000 acres, roughly 3.13 square miles. The area proposed is the little red dot. It would be similar to a postage stamp being dropped on the floor of the Senate Chamber. That is what we are looking at.

For those under the misunderstanding that this area of ANWR is untouched, let me show a few pictures of the actual footprint. There is the village of Kaktovik. There are roughly 3,000 people in that village. They are American citizens, Alaskans. They have dreams for a better lifestyle, job opportunities, running water, things we take for granted. That is their community. It is in ANWR. They feel very strongly about supporting this because it improves their lives and improves opportunities for their children, including educational opportunities.

This is a picture of the village meeting house in Kaktovik. Those are real people, real kids. We have pictures of real kids going to school. Nobody shovels the snow off the sidewalks in that community. Those are happy Eskimo kids who dream about a better life. They dream about having running water and sewer lines.

Let me show you a honey bucket. Many Members dismiss this, suggesting this is a Third World situation, not something that occurs in the United States. It does occur. It occurs in my State of Alaska. I will share it. It is not the most pleasant sight in the world, but it represents a reality, the reality of a people who want a better lifestyle and jobs and opportunities associated with oil development. That is a honey bucket. We don't have to look at it too long. It is not too pleasant.

This area is permafrost. That means the ground is frozen year-round. Water and sewer lines can only be obtained at great costs. We have that in Barrow, AK.

It is important to see the contrasts in the Arctic. Contrast the development of the responsible residents of the Arctic Eskimos and primarily those in Barrow, Wainwright, and other villages. You cannot go further north than Barrow, without falling off the top. The significance is that community has a tax base, revenues. They have jobs. They have running water and sewer lines, things we take for granted.

In this debate, few Members are going to get down into the earthy issues of what the people of my State want. That is a little beneath the echelon around here, but it should not be. These are American citizens. Their dreams are like yours and mine.

This map shows a small footprint in a very large area. We need to recognize the arguments of today as opposed to the arguments of the late 1960s. We built an 800-mile pipeline, from Prudhoe Bay to Valdez. It is 800 miles long. It is one of the construction wonders of the world at a cost of $7.5 to $8 billion. It was supposed to come in at under $1 billion. The pipeline has moved 20 to 25 percent of the total crude oil produced in this country in the last 27 years. It has been bombed; it has survived earthquakes.

It has accommodated some of the animals. I will show Members what the bears think of the pipeline. They are going for a walk. Why are they walking on the pipeline? It is easier than walking in the snow. There is a compatibility there because no one is shooting those bears. They blend in with the modest amount of activity.

I point out that the infrastructure is already in place. The 800-mile pipeline is operating at half capacity. The prospects for finding a major discovery of oil in the 1002 area, according to the geologists, range somewhere between 5.6 and 16 billion barrels. That is a lot of oil.

But it is nothing if you don't compare it to something. What can you compare it to? Let's try Prudhoe Bay. Prudhoe Bay is the largest oilfield in North America. That is the harsh reality. It is almost 30-year-old technology. If we have an opportunity to develop ANWR, we can make that footprint much smaller because we went in 30 years to another field called Endicott, which was 56 acres and produced 100,000 barrels a day, coming on as the 10th largest producing field in North America and now is the 7th largest.

Getting back to a meaningful comparison, if indeed the estimated reserves are somewhere between 5.6 and 16 billion barrels, if it is half, that is roughly 10, and what was Prudhoe Bay supposed to be? It was supposed to be 10 and it is now supplying its 13th billion barrel. When people say it is insignificant, is 25 percent of the total crude oil produced insignificant?

There is more oil in ANWR than there is in all of Texas. I don't know what that means to my Texas friends, but it is a reality.

This is a jobs issue. This is a jobs issue associated with project labor agreements. This pipeline simply cannot be built without the very important labor unions and their members. We don't have the skills. Only organized labor has the skill. It is a very significant jobs issue. That is why virtually every union supports this effort.

There is another issue that has clouded a lot of the debate. That is the issue of oil exports. I have heard time and time again: You will develop this area and export the oil to Japan. That is a fallacy. We have not exported one drop of oil to Japan or any other nation since 2 years ago last June. We provide Hawaii with oil.

Where does our oil go? From Valdez, AK, down the west coast of the United States, about half of it goes into Puget Sound. Some of it goes into Oregon indirectly because Oregon doesn't have refineries. The rest of it goes down to San Francisco and Los Angeles where it is refined. That is where the oil goes.

We also have an exclusion for Israel from the export ban, and we would extend the U.S. oil supply arrangement with Israel for 10 more years. The expiration date is 2004; we will extend it to 2014.

Let me talk about environment protections, export, labor agreements, and so forth because the amendment included almost 20 pages of carefully drafted environmental standards that I suspect all 100 Senators should favor. These came in from environmental groups, from the Department of the Interior, from the State of Alaska, the Governor, and many others. Among them are the imposition of seasonal limitations to protect denning and migration.

Let me show the area in the wintertime so you have an idea of what it is like about 10 to 10 ½ months a year. It is a very harsh environment. Very harsh. There are no trees. There is ice, snow, and occasionally when there is a whiteout, it looks like the other side of the chart. One cannot see the difference between the sky and the land. As a consequence, it is very hazardous to fly in unless you are an experienced instrument pilot.

The point is, the limited activity associated with ANWR is primarily in the very short spring when there is a migration through the area. There is not going to be any development. There is not going to be any activity. That is why the imposition by the Secretary of seasonal limitations is so important. It is prudent management.

Further, there is a requirement of the lessees to reclaim the leased land. If oil is developed there, it is going to have to all be reclaimed. It further requires the use of the best commercially available technology. That means the industry has to go out and get the very best.

It requires the use of ice roads, ice pads, and ice airstrips for exploration. Let me show you what an ice road looks like. That is an ice road. It is going to a well in the Arctic, in the Prudhoe Bay area. For those who suggest there is something unique about the Prudhoe Bay area vis-a-vis the Kaktovik area—it pretty much looks the same.

The interesting thing here is this is new technology. We did not use that in Prudhoe Bay because we did not have it. Now it is ice roads. You make your roads out of ice—very limited activity.

One of the provisions is to prohibit public use on all pipeline access or service roads. So you are not going to have visitors, hunters, fishermen, and so forth.

I think we have another chart that shows what the same area looks like in the summertime. That is roughly 2.5 months of the year. That is all we really have, free of ice and snow. You can see the small lake—there is a little well there. That is a pretty small footprint. I have heard people say you are going to have jet airports, you are going to have cities. That is absolutely preposterous.

Further, it requires there be no significant adverse effect on fish and wildlife, which is referred to many times throughout this amendment, and it requires consolidation of facility siting. It requires the Secretary of the Interior to close certain special areas of unique character and maybe close additional areas after consultation with local communities.

Finally, surface disturbance of 2,000 acres of the Coastal Plain—2,000 acres out of 1.5 million acres in the Coastal Plain. And we are adding 1.5 million acres of wilderness. That footprint is the size of a postage stamp on this floor.

Let me chat a little bit about national security because I think that is germane to our consideration. This amendment is a matter of national security. I do not think we really reflect on the fact that this Nation is at war. Just 7 months ago, our Nation was under attack. Regarding our dependence on foreign oil, that attack has brought forth more and more awareness of what the merits of reducing our dependence are and the recognition that this is probably more important now than ever, as we look at the chaos in the Mideast. Within the last few days, more than 30 percent of our oil imports are currently threatened with the self-imposed Iraqi embargo, and God knows what the political upheaval in Venezuela will lead to, plus what is going on in Colombia with threats to the pipeline. Those countries export a large amount of crude oil to the United States. The point is, we can no longer rely on a stable supply of imported oil.

I would like to refer to artwork painted by a famous artist who hailed from New England, the State of Vermont. It was painted by Norman Rockwell for the U.S. Office of War in 1943, entitled "Mining America's Coal." There is the coal miner. It is a picture of a coal miner, and you notice his blue star pin, which shows he had two sons in the war. This type of poster was displayed in America's places of work—the shipyards, the factories—specifically to encourage war-related industries to increase output.

We are at war now. Where are the posters? Developing our own resources is just as important as it was in World War II. We need oil to transport our families, but we also need it to transport our troops, and we are going to need it in the future. The reality is that air power and naval power cannot function without oil. In spite of what we create around here, you do not fly out of Washington, DC, on hot air. The Navy no longer uses sails; it is oil.

While the public can generalize about alternative energy sources, the world—and the United States—moves on oil. We wish we had another alternative, but we do not. In the meantime, the Third World developing countries are going to require more oil, and so this Nation becomes more vulnerable unless we are committed to reduce our dependence on imported oil.

Some would hint that wind power is viable as an alternative to oil. As I said before, you are not going to be able to move troops on wind power or solar power. You are going to need oil.

As we look at our relationship with Iraq, opening ANWR will certainly make us less dependent on countries such as Iraq.

Let me show you a picture of our friend Saddam Hussein. There he is. I do not know how much attention is going to have to be given by America and its elected leadership to recognize what this means. Saddam Hussein is saying: Oil as a weapon.

What was the last experience we had with a weapon? It was three aircraft used as weapons. What happened? Catastrophe for America. America will never be the same: The two trade towers are gone; the Pentagon; the heroic effort to try to take over the control of the aircraft that crashed in Pennsylvania. Aircraft are now weapons of war. Oil is a weapon of war.

On the first day of April, Iraq's ruling Baath Party confirmed our worst fears when it issued a statement saying "use oil as a weapon in the battle with the enemy." Of course they meant Israel. Outrageous statements such as these confirm what we have been saying all along: We simply must not rely on Iraq. We must reduce our dependence on foreign oil.

What is the estimate? USGS, the Department of the Interior, suggest that we could, by opening ANWR, reduce our current dependence, which is 1 million barrels a day from Iraq. That would provide this Nation with a 40-year supply, equal to what we import from Iraq. Last year we sent Iraq over $4 billion.

Here are the crude oil imports from Iraq to the United States in 2001: 283 million barrels. It has gone up each month. In December it was 1.1 million a day.

Look at the irony of what happened in September. In September we had an all-time high of almost 1.2 million barrels a day from Iraq. We all know what happened in September.

We have a photo of our friend Saddam Hussein up here. Here he is: American families count on Saddam Hussein for energy.

Every time you go to the gas station, you are in effect funding Iraq, and Iraq is funding terrorism. Is there a connection there? Members say: Senator MURKOWSKI, this is not going to replace our dependence on foreign oil. I certainly acknowledge that. But it is going to reduce it. It is going to send a very strong message to the cartels of OPEC, and the other nations upon which we depend, that we mean business about reducing our dependence on imported oil.

In 2001, America imported a total of 287.3 million barrels of oil from Iraq. Looking at a map of imports, according to the Energy Information Administration, you ought to know who gets some of their oil. There are different States. I will identify some of the States because it causes a little reflection. That is just what it should cause.

Mr. President, 48.1 million barrels of Iraqi oil were imported into California; 4.9 billion barrels of Iraqi oil were imported into New Jersey; 1½ million barrels into Minnesota; Washington; and the list goes on. Don't think somebody else is getting the oil. It is going into all of the States in red—New Jersey, Ohio, Indiana, Illinois, Kentucky, Missouri, Minnesota, Arkansas, Mississippi, Louisiana, and Texas. That is where it is going.

To make matters even worse, Saddam Hussein recently announced that he is increasing money relative to the suicide bombers from $10,000 to $25,000. We revolt at even the thought of that. But you have to recognize that is an incentive, and it is still going on. Since the prices have been raised in the last month, we have had at least 12 suicide bombers who have been successful in their acts of terrorism in Israel. Saddam Hussein is rewarding the acts of murderers who are spreading terrorism throughout the free world. One wonders if it will come to the shores of the United States.

As Defense Secretary Donald Rumsfeld said:

> Saddam's payments promote a culture of political murder.

That is a pretty harsh statement. It comes from our Defense Secretary. I couldn't agree more. With facts such as these, it is impossible for me to imagine why we would want to send one more American dollar to this man.

I just looked at an article that appeared today, April 16, in the Wall Street Journal. It is entitled "Iraqi President Saddam Hussein Praises Suicide Bombers, Urges Iran Oil Halt."

It said:

> Iraq's President Saddam Hussein who sends cash to the families of Palestinian suicide bombers reiterated his support for the attacks, Iraqi media reported Tuesday. The Iraqi leader during a meeting with military officers and engineers on Monday night—today is Tuesday, Mr. President—said, "Suicide attacks were legitimate means used by people whose land is being occupied."
>
> Moslems have been divided over suicide bombings, with some saying Islam forbids any suicide, others condemning bombers for attacking civilians, and others, such as Saddam, supporting them without reservation. Saddam has made payments up to $10,000 to families of Palestinian suicide bombers since the Israeli-Palestinian clashes began in September 2000.
>
> In his comments on Monday, Saddam also urged Iran to follow Iraq in cutting off oil exports for 1 month to support the Palestinians and to return 140 Iraqi warplanes and civilian planes that escaped to Iran during the 1991 gulf war. Iran claims only 22 Iraqi planes. He urged the Arab governments not to yield to "U.S.-Zionist blackmail" in which Zionism and those from that area are using Hitler's deeds against Jews in addition to the September 11 order to subdue the world.

Those are the comments of one who obviously is unstable.

Saddam gets roughly $25,000 from us, this Nation, for oil every 90 seconds that pass. That is one homicide bombing every 90 seconds. Think about it.

What are we going to do about it? We are talking about it, but we would like to ignore it because it is very unpleasant. He is rewarding the acts of murderers who are spreading terrorism. As I have indicated, our Secretary of Defense called it a "culture of political murder."

There are a lot of tensions in the Mideast. They are rising exponentially each day and each hour. Why some of my colleagues would be interested in continuing our reliance on oil from that part of the world is simply beyond me, especially at this time when we can make a commitment to reduce it.

I, for one, would find it very difficult to go back to my home State of Alaska and defend that position, especially if I had to look into the eyes of a mother or father such as the American depicted in this Rockwell work who, as we speak, had a son or daughter overseas fighting for America's freedoms.

I have stood on this floor and made the comparison time and time again that as we import oil from Iraq, we are also enforcing an aerial blockade and the no-fly zone over Iraq. We have bombed them three times already this year. We take his oil, put it into our airplanes, and go bombing. That may be an oversimplification with which the State Department would argue.

But, by the same token, what does Saddam Hussein do with his money? He keeps his Republican Guard well fed, and they keep him alive. He develops weapons of mass destruction, and aims it at whom? We know he has a missile delivery system capable of going to Israel. We know he is developing biological weapons. We suspect he might be developing nuclear weapons.

When are we going to address that threat? That is a real responsibility for our President because, as we have seen with the tragedies associated with September 11, had we known, we would have taken action to prevent that. The same set of circumstances apply to Saddam Hussein. There have not been U.N. inspectors in Iraq for over 2 years. He is in violation of his agreement with the U.N. He is a threat to the world, and we are still depending on him.

Wake up, America. It is time.

In addition to the amendment being about national security, it is also about the economic security of this country. It is projected to create jobs—real jobs. We just came from a rally outside. We had organized labor in support of this issue. We have had the veterans saying they would much rather see us open ANWR than send American men and women to foreign soil to fight a war over oil. A former Senator in this body, Mark Hatfield, made that statement several times. He said: I will vote for opening ANWR any day rather than sending another American soldier overseas to fight a war over oil on foreign soil.

One of the interesting things about that particular study—jobs in the area of 250,000—was it was conducted by a Massachusetts firm, McGraw-Hill. The capability of that firm I will leave to those more qualified than I and who reside in the State of Massachusetts. Some have quibbled about the numbers, but it is a step in the right direction. Every single new job created is important, especially in these times, and especially for those who are in the unfortunate position of being unemployed. These aren't service jobs working at McDonald's; these are high-paying jobs associated with responsible development of our resources—jobs created throughout America, not just my State of Alaska.

One thing about the movement of oil, as I indicated, is that it goes from Alaska and down to the west coast of the United States where it is consumed. But it has to go in U.S. ships that are built in U.S. yards with U.S. crews and which carry the U.S. flag because the Jones Act mandates that the carriage of any goods between two American ports has to be in a U.S.-flagged vessel. There are as many as 19 new double-hull tankers to be constructed. That means jobs in America's shipyards—big jobs, good-paying jobs. This is the largest contribution of tonnage to the American merchant marine.

Mr. KERRY. Mr. President, could I just ask a strictly procedural question of my colleague?

Mr. MURKOWSKI. Please, without losing my right to the floor.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask my colleague—so we can try to get a sense of planning how we will proceed—what he would anticipate in terms of how long he thinks he may be presenting the amendment. Then we can get a sense of how we might go forward.

Mr. MURKOWSKI. Mr. President, I will probably be talking for another 20 minutes or thereabouts. There is a second degree pending, and Senator STEVENS is anticipating recognition to talk about his second degree so I am guessing probably an hour.

Mr. KERRY. Mr. President, I thank the Senator from Alaska very much. And I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, let me again make reference to the creation of what this would do for America's merchant marine.

It would result in some 19 new double-hull tankers to be constructed in

U.S. shipyards, primarily in the gulf and the State of California and, I would hope, in the State of Maine.

It is estimated that these tankers will pump about $4 billion into the U.S. economy. That will create about 2,000 to 5,000 jobs in our shipyards. And this isn't going to require a Government subsidy. These are private funds that will build these ships to haul U.S. oil from my State of Alaska to Washington, Oregon, and California.

Somebody did a little calculation and figured that is equivalent to 90,000 job-years just for the construction of the tankers alone. Also, the equivalent in infrastructure to be used in ANWR will be constructed not in my State but in the other States of this Nation—not in the Arctic of Alaska. Therefore, Americans from all over the country will be put to work in this effort.

The other alternative is to simply send the dollars overseas, which affects the balance of payments and does not keep the jobs or the dollars here.

Some opponents note that oil will not be flowing the day after the ANWR amendment is passed. But what they forget is jobs certainly can be flowing the day after. Americans could go to work constructing everything that will be needed.

If you wonder about the numbers, listen to those who are in the business, the unions. They will benefit from new ANWR jobs, and they have been behind this effort 110 percent. And why not? These are American jobs. These are American unions. They have already had almost 30 years of experience in the Arctic in Prudhoe Bay, and they know, firsthand, the kind of jobs ANWR will create and they know how to do it right. So let's put America to work.

The things we have to talk about, as well, are projections because we really do not know how much oil is in ANWR. There has only been one well ever drilled, and it has been on the Native land at Kaktovik shown up there at the top of the map I have in the Chamber. But there is one well. The results of that well have been kept confidential by the Native community, the State of Alaska, and the two companies, the joint venture.

But geologists, based on 2-D seismic, prior to 1980, had some access in the area. They have gone back and reviewed their analysis, and they have come to the conclusion that, indeed, this area could contain the largest amount of oil in North America.

Some are going to downplay the amount of oil in ANWR, but even numbers from the Clinton administration, the U.S. Geological Survey showed that the Arctic Coastal Plain clearly was North America's best bet for a major oilfield. The Clinton administration's U.S. Geological Survey estimated, in 1998, that there was a 5-percent chance of finding 16 billion barrels, a 50-percent chance of finding 10.3 billion barrels, and a 95-percent chance of finding 5.7 billion barrels.

I want to put this in context. Texas has proven reserves of 5.3 billion barrels. So the projections indicate that ANWR, indeed, has more oil than all of Texas. Is that significant to this body? Is that significant to Members other than those from the State of Texas?

Even if the most conservative effort of 5.7 billion barrels proves to be correct, it would still be the second largest oilfield ever discovered in the 100-year history of the U.S. oil industry, and it would be second only to what? Second only to Prudhoe Bay. If the 5-percent estimate proves right—16 billion barrels—ANWR would be the largest field ever found in North America. To anyone who knows anything about oil and gas in this country, these numbers are truly staggering.

Some Members have come to this Chamber and have argued that there is only a 6-month supply there. But I would hope all Members have enlightened themselves on that argument because it is so misleading it hardly bears a response. But for the benefit of those who might not have come to grips with it, a 6-month supply assumes that there would be no other source of oil, no other source imported, no production in this country of any kind other than ANWR—no imports, no domestic supply.

This is a bogus argument. We are going to produce oil. We are going to continue to import oil. So it would only be a 6-month supply of oil if there was no other oil produced domestically and none imported. So that is a fallacious argument.

It is also important to look at how ANWR will impact our domestic production. Along these lines, it is fair to recognize the Energy Information Administration—which, by the way, provides impartial energy assessment—recently provided an analysis of ANWR's effect on domestic oil production.

This is what it said about the project: Assuming the USGS mean case for oil in ANWR, there would be an increase of domestic production by 13.9 percent.

That is the answer to those who say the increase is of no consequence—13.9 percent. They say: Assuming USGS's higher case for ANWR, that would be an increase of 25.4 percent of domestic production. An increase of domestic production by 25 percent is certainly significant.

Let's put some of the ANWR projections into perspective.

If ANWR yields the Clinton administration's medium estimate of 10.4 billion barrels of oil, ANWR would then provide—and I want to go to some States because it is important that States get some comprehension of how much that would provide—it would provide Massachusetts with 87 years of its oil needs. That is based on the 117 million barrels used in Massachusetts in 1999. It would provide Connecticut with 132 years of Connecticut's oil needs; for South Dakota, roughly 479 years, based on 21 million barrels it used in 1999.

How can Members from those States argue that ANWR is not projected to have a lot of oil, with those numbers? It is a lot of oil.

We have heard from Members who are a little disillusioned with the progress of the energy bill talk about CAFE. They say: The answer is CAFE. If we would just go to CAFE, we could save millions and millions of barrels of oil.

I think it is interesting to reflect a little bit about CAFE because if the proposal of increasing CAFE standards is the answer instead of opening ANWR, it reflects on a couple realities. The Senate has already rejected the argument, No. 1, and, more importantly, the consumers rejected that argument through their purchasing choices.

This is important to recognize. The top 10 most fuel-efficient vehicles account for less than 2 percent of all vehicle sales. Think about that. The public has a choice, and the top 10 most fuel-efficient vehicles account for less than 2 percent of all vehicle sales.

What do we want to do here? Do we want to direct the public on what kind of automobiles they have to buy? That is one answer. We could put a tax on heavier automobiles; that is another answer. But the proposal they have been pushing, known as the Kerry amendment, is simply not acceptable to the American people, as evidenced by the vote on the floor of the Senate.

It would force increases in fleet average fuel economy to 36 miles per gallon by the year 2016. It would cause massive losses of U.S. auto workers' jobs, roughly 200,000, as the debate pointed out. It would cost several tens of billions of dollars to the U.S. economy. It would put American lives at risk in smaller, lighter vehicles. The Senate took these concerns into consideration when it addressed CAFE several weeks ago and rejected the Kerry amendment. Instead, the Senate voted for the Levin-Bond approach, which resolved the issue in favor of letting the experts—not the Congress, the Senate—at NHTSA do their jobs.

Opening ANWR doesn't take away jobs or cost lives. Opening ANWR would create jobs for hard-working Americans. When we get into the argument of CAFE, be very careful and reflect on the debate that took place; it would be a convenient copout for the argument against reality. The world moves on oil. America moves on oil. As the Third World develops, there is going to be more and more requirements for oil, until such time as we obviously reduce our dependence by increasing production here at home.

The time to act is now, and for those who suggest that somehow we are rushing into ANWR, let me tell you, I have been in this body for almost 22 years. I have been with it all the time and so has Senator STEVENS and others. Amazingly, some of the biggest opponents of ANWR have indicated we are rushing into this issue and we are moving it through the system too fast.

Nothing could be further from the truth. Some of the same Senators have been involved in this debate for years, as I have said. You can go back to 1980, when Congress passed the Alaskan National Interest Conservation Act and included the section 1002 area, which is up on top in the green on the chart.

The 1002 area required that the Department of the Interior report to the Congress on the biological resources and the oil and gas potential on the Coastal Plain of ANWR—this green area. The Department of the Interior extensively researched the issue and, after 7 years, a final legislative environmental impact statement was submitted to Congress recommending that ANWR's Coastal Plain be opened. That was the Department of the Interior, after 7 years of research.

Now, when we talk about CAFE and about increasing the vehicle fuel efficiency standard, we want it to be done rationally, safe—not just picking a mileage standard out of the air.

We talked about the National Highway Transportation Safety Administration. We talked about the fact that Democrats and Republicans overwhelmingly rejected what was an arbitrary new standard because it would force American families to buy unsafe cars in the name of fuel efficiency. That was a conscious decision. The American people knew we could get higher CAFE, but they didn't want to trade safety for it. As a consequence, I don't want Washington ordering American families to buy certain types of vehicles. We can talk about solar and wind, and that isn't going to help us in this argument and we know that.

Now, Congress has addressed ANWR. At other times, we have had legislation introduced. We have had hearings. In 1995, a conference report authorized the opening of ANWR and it was passed. So in 1995, Congress passed ANWR, but it was vetoed by the Clinton administration. If it had not been vetoed in 1995, we would have oil already flowing from ANWR, as I speak today.

Now, there is a projection of revenue from the sale of royalties and the royalty bids, and the lease bids alone will produce roughly $1.5 billion in Federal funds. This is not with any appropriation or authorization. This is the private sector funding, if you will, this level of activity in bonus bids and royalties. Where does the money go? It goes into the Treasury basically because these are Federal lands. This amount does not include the billions of dollars that will be generated from royalties in the outyears because, again, we have been producing in Prudhoe Bay for 27 years, to be exact.

ANWR is the only provision in this bill that generates any revenue. I will repeat that. In this entire energy bill that we have labored over for some 5 weeks, ANWR is the only provision that generates revenue of any consequence, and this is from the private sector, not appropriations. Many other provisions in this bill do the exact opposite. They simply authorize new programs that would require further Government spending.

Now, there used to be a policy around here—and Senator STEVENS is well aware of it; he has been here longer than I—that was evident when I came here in 1981. Senator Scoop Jackson was certainly one who fostered it. It was kind of the general feeling that if the two Senators from the State supported an issue, the consensus was they probably knew what was best for their State and what was best in representing the people of that State. So don't forget, there is a States right issue here. Don't forget what Alaska's attitude in this is. The entire congressional delegation supports it, including the Governor, Lieutenant Governor, and the Alaska State Legislature. Most importantly of all, the Eskimo people, the residents, of the Coastal Plain and nearly 75 percent of Alaskans support it.

There is a photo of some of the Eskimo kids who are looking to the future. They want running water. They want to have an educational opportunity, a job opportunity. It is important to remember this because on many occasions other Senators have made passionate arguments regarding activities in their States.

Although we talk about agricultural supports, and various other issues, I am reminded of the Senator from Florida and his attitude regarding lease sale 181 last summer, representing the wishes of the people of Florida. As a result of the Florida delegation's advocacy, the lease sale boundaries were scaled back by the administration.

Senator STEVENS and I are doing the same thing. We are representing the wishes of our State. It is unfair for people from other parts of the Nation to obstruct the will of our citizens. Florida has said "not in my backyard" and that is fine. They have a right to do that, and I respect that. But there is a bit of a reciprocity here. Alaskans are willing to have environmentally sound exploration take place in their backyard, so why not let them?

We have a chart that shows development, if you will, on the east coast and the west coast and, hopefully, we have it—yes. I think it represents "not in my backyard." If you look at that chart, you can see the blue area off the east coast of the United States. That is roughly 31 trillion cubic feet of gas. The only problem is, there is no authorization or authority for exploration. That is from Maine to Florida. That is off limits. They don't want it in their backyard. If you go down to the gulf, there is a good portion of it.

On the west coast—Washington, Oregon, and California—no way; no lease sales offshore.

If you go into the overthrust belt, in Wyoming, Montana, and Colorado, there is a significant potential for oil production. It has been withdrawn by the previous administration as a consequence of the roadless area language.

If it is not in my backyard, where is it? One spot, obviously, is Alaska, and I think we have made the case that clearly the State of Alaska supports this.

We have had debates in this Chamber. I remember when the Senator from California announced her displeasure with the current administration's decision to appeal a case impacting 36 drilling leases off the California shore. She stated that there is a disregard for States to make decisions about their own environment.

The Senator from California proposes that leases be withdrawn from California's coast and swapped to Louisiana's coast. She actually said:

> We are going to swap it so that the oil companies can drill where people want them to drill.

In other words, the industry can drill where there is support for it. Unfortunately, that does not seem to apply to Alaska.

It is the old saying: Not in my backyard. The people of Florida and California should remember that if oil is not found in other parts of the country, there may come a time when we are forced to explore closer to their shores. In fact, the Senator from Massachusetts has suggested we focus on more drilling in the Gulf of Mexico. He has even called for four times more drilling in the gulf.

Drilling in the Gulf of Mexico is fine, but I do not understand why Members should think it is any better for the wildlife than development in ANWR. It should be noted there are many more species in the Gulf of Mexico than there are in ANWR.

Speaking of other Senators, let's look at the New England States. New England enjoys the benefit of getting their natural gas from big offshore platforms off Nova Scotia. When it comes to America getting oil from its own land in ANWR, some of the Senators from the east coast are trying to lead the challenge for the opposition. Although the drilling for natural gas may be offshore, off the coast of Nova Scotia, it requires onshore gas processing facilities on Canadian land. Remember, whatever happens to Canada's environment is closely linked with our own. If they really thought drilling for energy was so bad for the environment, they would have sponsored a bill barring the Canadian gas from entering the United States. But, obviously, charity begins at home.

If there is concern about the effects on the environment, I would think some of the Senators would have concerns with the effects of offshore drilling on New England's fisheries, but that is never brought up. When it comes to Alaska, they are standing in the way of something that at least 75 percent of Alaskans support.

Looking at other activities, in the State of Massachusetts, the "big dig" has been dragging on for years. Some environmentalists are not pleased with it, but the "big dig" has not been interrupted. Instead, it has produced thousands and thousands of jobs in Massachusetts, and that is good for Massachusetts, and the Massachusetts Senators should take credit for it. But why can't citizens of Alaska be permitted the same rights?

Finally, let's not forget the only people who are located within the boundaries of ANWR are our Native people. In fact, they reside on their own land.

I am going to put up the picture of Kaktovik again because I think it is representative of reality. Many people choose to overlook reality and think there is no footprint, there is nobody there. That is not the case. They are the Inupiats, a proud people, and they live in the Kaktovik by choice. They have lived there for thousands of years and support opening ANWR.

They graciously invited some of the most outspoken opponents of ANWR to Kaktovik so they could see firsthand their way of life. Unfortunately, the Inupiats did not get the courtesy of a reply because of the intervention of the Sierra Club and some environmental groups who used their influence, if you will—and I am being gracious—to not allow the people associated with some of the villages that occupy the Gwich'in nation even to go up and look at the prosperity associated with the Eskimos in the Barrow and Wainwright area.

A number of invitations have been extended to Members of the Senate from the Inupiat Eskimos. It is too bad Senators have not taken them up on their offer because the Inupiats have a very interesting and compelling story to tell. They are for self-determination. They want the right to improve their lifestyle and that of their children, and this amendment supports that right of self-determination and their right to develop and live on their land as they please.

They have some 92,000 acres that have been held hostage by the Federal Government long enough. The opponents often gloss over the fact that the Inupiat Eskimos hold title to the land in the Coastal Plain. They do not pay any attention to it. They assume those people up there will just have to somehow work out their lives, but only Congress can give them the authority to have access.

Without congressional approval to open the Coastal Plain, they are unable to develop their privately owned land. There are the 95,000 acres consisting of the village of Kaktovik and the one well that was drilled in that area. Responsible development will allow the Inupiat Eskimos to provide for themselves, heat their homes, provide education, and live in sanitary conditions.

Again, the plumbing in the Arctic is not sanitary. It is not pleasant. There are honey buckets. They want a better lifestyle. They believe responsible development in the area is their fundamental human right to economic self-determination.

This amendment would still allow the Inupiat Eskimos to enforce regulatory powers to make sure the wildlife and traditional environmental values are respected and protected. After all, who is more concerned about the caribou than the Native people who reside there and live off them?

Let me show another picture about the caribou. It reflects the reality. My colleagues have seen it before, but these are not stuffed caribou, these are real caribou, and they are roaming the fields of Prudhoe Bay. Nobody is running them down with a snow machine. Nobody is shooting at them. They are protected, and they wander, and they increase.

When we hear debate about the Porcupine herd—this is the western Arctic herd right in the heart of the oil fields. When we started 27 years ago, there were 3,000 or 4,000 animals. Today there are 26,000 animals. We do not want to confuse the Inupiat Eskimo or the Gwich'ins who live hundreds of miles away from the Coastal Plain, but we have charts that show a little activity on the Canadian side because, as my colleagues know, Alaska does share a border with Canada, and the Gwich'ins are on both sides of Alaska and Canada.

It is known that while the Inupiat Eskimos living on the Coastal Plain support opening ANWR, clearly the environmental groups have had to search far and wide for someone to foster their cause, and roughly 150 miles south of Kaktovik beyond the Brooks Range outside the ANWR boundary, they have found significant support, an Arctic village and other villages, the basic traditional home of the Gwich'ins.

I admire and respect the Gwich'ins for their wishes, but I hate to see environmentalists trotting this indigenous group around saying opening ANWR will hurt their caribou. There is no evidence to suggest that.

The greatest harm to the caribou—this is rather significant because while it may seem confusing, everything on the right of the line straight up and down is Canada and everything on the left is Alaska. One can see the purple. This is the Porcupine caribou herd as they move around during migration. They are on the edge of the 1002 area for a short time during the short summer, but in their migration they do go through Canada. They cross the Dempster Highway.

At the Dempster Highway during their migration, there is a significant number of caribou that are taken for subsistence, sport, and for, obviously, those who need them, the point being, the Gwich'ins have under previous discussions entered into leases for their own land.

This is a copy of the actual lease, Native Village of Venetie. They indicated a willingness in March of 1994 to lease their land. For anyone who questions the details, I am happy to provide a copy of the lease. I am simply saying they have a right to choose what they want to do, but at that particular time they were willing to lease their land. Unfortunately, there was not much interest in it because the prospects for oil discovery were not in the area.

So I think what we should recognize is the central Arctic caribou herd is a herd with which we have had experience. They have increased from 6,000 to 26,000, increasing by more than four times. As the environmentalists have addressed this argument, why, it is pretty weak to suggest we cannot manage this herd for the benefit of the indigenous people. I think it is fair to say, as we look at development, there is no evident harm to these lands or the potential of anything of any consequence affecting the lifestyle of those people.

As we have tried to address the concerns of the Gwich'ins, the difficulty has been encouraging them to simply visit the Eskimos of the Arctic to reflect on what development has meant to their standard of living. What we have in this amendment are protections. We have recommendations that require all the lands be returned to their natural state, and we also have the recognition that, while the Gwich'ins have been opposing activity on the Alaska side, they have been very aggressively pursuing it on the Canadian side. The Gwich'ins in Canada have formed development corporations, as they should. They have an oilfield service company, which they have every right to do.

So this debate should not revolve simply around the Gwich'ins, recognizing that many of them do not live near the Coastal Plain. Instead, we should remember the Inupiat Eskimos who own land right in the Coastal Plain. So there is a difference, and I encourage Members to reflect on it.

Finally, the Inupiat argument is compelling. It is an important one. My friend Jacob Adams, who is an Inupiat, is president of the Arctic Slope Regional Corporation, one of the Fortune

500 companies, a very successful corporation in my State, and I quote his statement:

> I love my life in the Arctic. But, it is harsh, expensive and, for many, short. My people want decent homes, electricity, and education. We do not want to be undisturbed. Undisturbed means abandoned. It means sod huts and deprivation.

He also said:

> By locking up ANWR, the Inupiat people are asked to become museum pieces, not a dynamic and living culture. We are asked to suffer the burdens of locking up our lands forever as if we were in a zoo or on display for the rich tourists that can afford to travel to our remote part of Alaska. This is not acceptable.

I agree, it is not acceptable. I recognize this entire debate is complex and sometimes puts Members in uncomfortable positions, but I also realize this energy debate, especially in regard to ANWR, has been used as a soapbox for some of the most extreme and crafty environmental groups in our country, groups that have treasure chests to support their agenda.

While the issues are complex and the debate has at times become heated, the big picture can still be framed very simply. Is it not better to have a strong domestic energy policy that safeguards our environment and our national security rather than to rely on the likes of Saddam Hussein to supply our energy? The answer is clearly yes.

I, unfortunately, realize that some in this Chamber have found that ANWR has become a political issue. It is another piece of the political puzzle. They could not be more wrong. I have been around long enough to know that lots of people do things for their own reason, but when their actions sell short the American family, the American service man or woman, the American laborer, America's future and America's security, we must not let their efforts succeed.

Do not sell short America's national security. We cannot keep relying on increasing imports from foreign nations such as Iraq, which has publicly said they will use oil as a weapon. How many times do they have to say that before we believe them? Please do not sell America short in order to support the extreme environmentalists' latest popular cause, because we know once we authorize the opening of ANWR these groups are going to move on to another cause. They are not created for one specific cause.

By the way, do not worry about those environmental groups. They are still going to be around, as I indicated. They will find another cause, as I stated. Remember, energy is not about politics and an agenda. It is about families across the Nation wondering if their jobs will be there when they get up in the morning. It is about looking for our Nation's independence.

I believe in a country that is dependent on no one but God alone. We have every right to look out for our Nation's independence.

Our President, President George W. Bush, has asked time and time again for the Senate to follow the example of the House of Representatives and pass an energy bill. The House has done so. H.R. 4 has ANWR in it.

On numerous occasions, the President has expressed specifically his strong support for opening ANWR. He knows it means more jobs for America. It means security for our Nation, which is especially important at this time. He knows as long as we are dependent on other nations for our energy our very security is threatened and our future is at stake.

So the task of this body is clearly to deliver to the President an energy bill that reduces our reliance on foreign oil while at the same time creates thousands of new American jobs. I urge my colleagues on both sides of the aisle to recognize the weight of the task we are starting on. Agendas need to be pushed aside and Members have to muster the courage to do the right thing, even on difficult issues such as ANWR. We need to do what is right for American workers, what is right for our national security, what is right for the Inupiat Eskimos who live in the Coastal Plain, and what is right for America's future.

There has been talk this amendment will put the environment in the hands of big oil. Let me say something about big oil. Big oil is a citizen of my State—Exxon, BP, a number of companies. In reality, those companies are doing business in Alaska because they can make a return on investment. They qualify as good citizens. They have the capability to get oil all over the world and bring it to the United States. Some have said: Where is big oil on the issue of ANWR? There is Phillips Petroleum, other companies. We have not really seen much of them. There is a good reason for that. They are international oil companies. They will come to Alaska if it is open, but if it is not open they will go wherever, and they will import the oil into the United States. That development will not have the oversight that Alaskan oil development will.

Make no mistake about it, Prudhoe Bay is the best oilfield in the world. One of the things I find very frustrating is Members do not seem to care where oil comes from, as long as they get it. But if we can develop it at home, with our environmental laws, both Federal Government and State, is that not in the best interest of Alaska? So we should make sure we recognize big oil for what it is.

The talk that this amendment will put the environment in the hands of big oil is unrealistic. In reality, the environment will be directly in the hands of the American worker who will be working up there, and he and she knows how to do it.

If Members oppose the lease amendment, they are really saying to the American worker: I don't trust you. Instead, send the right signal and do the right thing. Vote for the American worker and show them we trust them to be good stewards at work, that we trust them to take pride in their jobs, and we trust them to help America keep strong and safe.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. REID. I ask the Senator from Alaska to yield.

Mr. STEVENS. I am happy to do that.

Mr. REID. Mr. President, the majority leader has asked me to announce there will be no rollcall votes tonight. It is my understanding the Senator from Alaska will speak for a considerable period of time this evening, is that not correct, I ask Senator STEVENS?

Mr. STEVENS. Yes. I don't know how long.

Mr. REID. We have had a number of inquiries. I think it would be appropriate we announce there will be no rollcall votes. The majority leader authorized me to do that.

Has the Senator from New Mexico entered the unanimous consent request?

Mr. BINGAMAN. I am informed the Senator from Alaska objects to any unanimous consent agreement and, therefore, he would go ahead and speak today. Tomorrow I will seek recognition when we get back on the bill.

Mr. REID. I thank the Senator.

Mr. STEVENS. Mr. President, we have just had a marvelous experience across from the Capitol grounds. We had a press conference attended by the leaders of organized labor, many Senators, a great many members from organized labor, and members of the Alaska Native community. We ought to take time to see whether that settles in with the American public. Three of the greatest labor leaders in the country were there and another representing the fourth. They say they want this project to go forward. They want this area to be drilled.

The concept of extended debate is to give a chance for the public to listen to debate on an issue and to determine whether they should contact their Senators about the issue. I hope that can happen. I hope it is still possible to have the country listen to the leaders of organized labor, listen to the leaders of the State of Alaska and consider whether or not it is safe to drill in the area set aside 21 years ago for just that purpose—to drill in the 1.5 million acres on the Arctic Coastal Plain.

I have been through this before. I asked myself today: Why are we here? Why are we doing this now? The normal process for handling this legislation, which has been passed by the House of Representatives, would be to go to the committee, come to the Senate, be assigned to a committee, be considered by that committee, and report it back to the floor. This bill does not do that. It went to the committee. The committee voted to include the drilling of the Arctic Coastal Plain, ANWR, and the leadership said: No, you cannot report that bill to the floor. Instead, we will draft our own bill.

The majority of the committee that has jurisdiction over this bill voted to report it in the manner we would like to see it approved. We don't get that chance. It comes on the floor, it is a different bill, drafted by the leadership of the majority side of the Senate. We are told: Take it or leave it. Get 60 votes for your amendment or forget about it—as though we are filibustering. They are filibustering our amendment, but we have to have the 60 votes in order to stop them from filibustering our amendment.

This is a point of frustration for someone who has lived through this continuum dealing with Alaskan lands. I talked about it before and I will talk about it ad nauseam until we get the point across that the State of Alaska made a commitment to the Federal Government in 1980 that we would accept the bill that had been outlined by the leaders of the Democratic Party in the Senate, Mr. Jackson in particular, God rest his soul, but he was a great friend. He opposed us in many ways. We reached a consensus on the issue of this Arctic Coastal Plain.

So everyone understands, we are talking about 1.5 million acres on the Arctic Coastal Plain that was set aside in 1980 for the purpose of oil and gas exploration. Anyone who comes to the floor and says this is wilderness is a liar—a liar. Anyone who tries to pretend that somehow or another we are violating the law is a liar. If it was back in the old days, I would challenge them to a duel. I am up to my ears in what I have been hearing about this that is absolutely untrue.

The ANWR area was set aside by the Jackson-Tsongas amendment for the purpose of allowing exploration. It does not become a working part of the Arctic Wildlife Refuge until that is complete. The difficulty is, people say it is wilderness. This area, the ANWR Coastal Plain, is not wilderness. The area of the Arctic Wildlife Range south of that, in the light brown, is 8 million acres of wilderness. But that 1.5 million acres is not wilderness.

Reading the Wilderness Society publication one would think we are invading the most pristine place on Earth. It is hell in the wintertime—60 below. I took the Postmaster General there and the digital thermometer said minus 99 because of the windchill factor. This is not some pristine place that should be protected. It should be protected at a time when it needs protection, which is the summer. And we do that. We do not drill for oil and gas in the summertime.

Why are we here? We are here because some people on that side of the aisle, the majority side of the Senate, have decided they will block this. They do not honor the commitment made by the United States and the President of the United States when the 1980 act was signed. That was a commitment to our people in Alaska.

In 1980, these areas that are marked and checked were withdrawn by the act of Congress called the Alaska National Interest Lands Conservation Act. All of that was withdrawn in 1978.

My colleague, Senator Gravel, blocked a bill to do this because they could not build up there. In 1980, he still objected, but I reached an agreement with Senator Tsongas and Senator Jackson that I would help get this bill done in exchange for an absolute commitment in the law that that area would remain open to oil and gas acres, the 1.5 million acres, and the bill was signed by the President of the United States.

Now they are saying that is a pristine area; you cannot do it. And the Democratic Party has put this in their platform, "Don't drill in Alaska's Arctic," as though the Democratic Party owns Alaska. Someone asked: Who owns Alaska? The public owns Alaska. The public owned all those places, too, but they were set aside for the elite few.

There are no roads there, no airport in there, no way to get there except through guided tours, twin-engine planes with guides and millionaires visiting those areas of Alaska. Eighty percent of the parklands in the United States are there. There are only three parks you can get to by road.

What we are talking about is coddling to the radical environmentalists of this country. We have half the coal of the United States in Alaska. Did you know that? One time when Ed Muskie was running for President, he decided he needed some environmental votes and he came up with an amendment that said: If you mine for coal in the State of Alaska, you must restore the natural contour after you are through.

In Alaska, coal comes with ice lenses, permafrost. When you put the steam points down to melt it, the water runs off. Take the coal off and there is no way in God's Earth you can restore the natural contour. Since Ed Muskie's amendment, not one new coal mine has been opened—30 years, with half the coal in the United States. No, no, we cannot do that.

When I first went to Alaska, I worked on the Rampart Dam on the Yukon River. It would have been the largest power project in the United States. It would have provided my whole State with electrical power. It was economically feasible. There is no question about it. The environmentalists said, "No, you cannot build that dam," and they blocked it. It is gone.

We had, when I came to the Senate, the great forests of Alaska. Forests here, here, and here: The largest forests in the United States. We were cutting 1.3 billion board feet of timber a year on a cutting cycle of 103 years. We would not cut the same place twice in 103 years.

As part of ANILCA, that was lowered to 450 million board feet a year. Last year, we cut 47 million. Why? The environmentalists have decided that timber in Alaska should not be cut. Notwithstanding the sustained use/yield concept that was in place, they just blocked it.

When we passed this bill in 1980, we had six world class mines—six. They are all closed now but one. Why? Environmental litigation. You cannot mine in Alaska now. We have 32 of the 37 strategic and critical minerals and metals of the United States. None of them are being mined except one mine up in the Kotzebue area, the Red Dog Mine, the zinc mine, the largest in the world. Why are they closed? Environmental litigation from radical conservationists, environmentalists.

We get down to the question of oil and gas. When we argued this bill in the period of the 1970s and 1980s, there were 50-odd wildcat operators in Alaska drilling for oil and gas. There is not one today. Not one. Do you know why? The last administration closed it all down. There are no permits to go out and explore for oil and gas on Federal lands, outside of the great Prudhoe Bay—which is State land. It is not Federal land at all, it is State land.

The continuum of what we have been through as a State makes a lot of us wonder if we were right to seek statehood. Were we right? Many of our people wanted to be a commonwealth. Canada was then a commonwealth to the British empire. Some of our people wanted to be a commonwealth in the U.S. system. We said no, we want to be a State. We are Americans. We believe in America. The highest level of enlistment in the U.S. military in World War II was from Alaska, the highest level of veterans per capita today in the United States is in Alaska, from all periods of wars in this past century.

The question is, Why are we here? We are here because an elite few have decided that Alaska should be their playground. The working people today woke up. That meeting outside, across from the Capitol, is a bell tolling for the Democratic Party, and it better listen. It better listen because the working people want jobs. This is a jobs bill.

We will provide jobs. Instead of sending our money over to buy Saddam Hussein's oil, we will produce it on our own shores. We will produce it from Alaska. There are 15 sedimentary basins in Alaska. We have drilled three of them. This will be the fourth. No one knows whether it has oil or gas. We believe it does. We have still a lot left to drill in Alaska, provided some future generation removes some of those lines. Those lines were drawn to prevent development.

We are at the crossroads now with this bill, of whether or not we listen to the President of the United States and, because of the interests of national security and economic security we proceed as was promised in the 1980s to develop this land.

You cannot really understand the 1980 act unless you go back in history. When you go back in history, you go back to the Statehood Act. I was in the Interior Department at the time of statehood. Part of that Statehood Act was section 4. It was a commitment to the Alaskan Native people that once Alaska became a State, Congress would address the question of the claims of the Native people against the United States—not against the State but against the United States, their claims as aboriginal people.

We did that. As a matter of fact, I helped prepare some of that when I was still with the Eisenhower administration. After that came to an end, I went back to Alaska, worked on many things, came back here in 1968, and one of the first things we started working on when I became a Senator was the Alaska Native Land Claims Settlement Act. That became law in 1971. It was the only time in history that Congress has settled claims against the United States of aboriginal people—of our continent. It was necessary because of the very diverse number of tribes in Alaska and the size of Alaska.

I forgot to mention it earlier today, but let me mention it now: Alaska is 20 percent of the land that the American flag flies over. The State of Alaska is one-fifth of all the land of the United States.

On that land were a series of tribes that had claims against the United States. We worked for 3 years and finally, in December of 1971, passed the Alaska Native Land Claims Settlement Act. One of the conditions of that act was section 17(d)(2). That condition said: Before the Native people of the State of Alaska take their lands—Alaska was guaranteed some lands as it became a State; the Native people received some lands in settlement of their claims against the United States—there must be a study of what land should be set aside in the national interest, in Alaska. That was 1971.

For 9 years we argued over that, 9 full years. It became a slogan in Alaska, the (d)(2), 17(d)(2). We called it the "(d)(2)" issue; (d)(2) meant how much of the State was going to be set aside, and the State was prevented from taking it so it could be used to support the economy of the State. How much of it is going to be set aside to prevent the Alaskan Native people from getting the claims they really claim because it is set aside by these people who sought these withdrawals? In fact, the (d)(2) issue is what built the empire of the radical environmentalists in America.

For 9 years they raised money, advertised, went throughout the country, if not the world, to raise money to "save Alaska." Save it from what? There was not any development proposed in any of those areas. There are no roads in there. There are fewer roads in Alaska than there are in King County, WA.

Those are diverse people, living in five different sectors of the largest State in the Union. But, no, it was an issue to withdraw them to prevent the State from getting them—prevent the Natives from getting them; because if we got them, we might develop them. The one area that was not set aside was that area; the 1.5 million acres was set aside for us to use to keep the pipeline filled.

In the time of the Persian Gulf war, I went to the oil industry and I said: You have to increase the throughput of the pipeline. It was designed for 1 million barrels per day. It was running at about 1.9 million barrels a day. They looked into it and reported back they could do it. They increased it to 2.1 million barrels per day in the interests of national defense because we were shut off from a lot of access to oil at that time of the Persian Gulf war.

Today, it is 950,000 barrels a day. We do not have enough reserves to keep the oil pipeline, the 48-inch in diameter, half-inch-thick pipeline, 800 miles from the North Slope to Valdez—we do not have enough oil to keep it filled now. Where do we get the oil in between time? My colleagues say we are getting the oil from Saddam Hussein. The only oil increase we have gotten since our throughput went down is the increase in imports from Saddam Hussein.

We do not buy it directly from him; we buy it from the Food For Oil Program, and he gets the money from that. So we are not really giving him American dollars; we are going through some other exchange. We are washing the money going into Iraq because we don't want people to think we are dealing with Iraq, but it is Iraqi oil and we all know it.

What does he do with it? He is rebuilding his military. Senator INOUYE and I have just gone around the world, really—went into Afghanistan, Uzbekistan, Pakistan, and we talked to people over there about what is going on over there. We went to China, Singapore, Indonesia, the Philippines—looking at what is happening with terrorism in the world. Who is supporting them? Who do you think? Saddam Hussein is supporting them. It is known he is supporting them.

Where is he getting the money? From everybody who buys oil in those States that Senator MURKOWSKI showed, where the oil is going.

We paid Saddam Hussein $6.5 billion in 2001—$6.5 billion went to Saddam Hussein for his oil. The only way we can replace that is to produce our own. We are some sort of people who listen to these obstructionists who tell us to not keep the commitment Congress made to Alaska in 1980: Forget about that. We don't need that oil.

Let me tell you that we need a lot more than that oil.

There was an interesting article in U.S. News & World Report on April 1 of this year. It was called "A waste of energy?"

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A WASTE OF ENERGY?

(By Gloria Borger)

Pity the poor caribou. There they are, minding their own business, roaming silently in the snow and soft tundra of the desolate Arctic landscape. Then, suddenly, they're everywhere: migrating through green Web sites worldwide, their survival the subject of urgent concern. If Big Oil starts drilling in the Arctic National Wildlife Refuge, enviros say, the lovely reindeer are at risk. Antlers, unite!

Enough already. The caribou are fine. In fact, since exploration started around Alaska's Prudhoe Bay in 1968, the local herd has thrived. And in case you're interested, the polar bears roaming ANWR are doing nicely, too. But don't get confused: This fight over 2,000 Arctic acres is not about wildlife. It's not even about oil. It's about political theology—and a small piece of land that has become a huge symbol and great fodder for fundraising. "We need a poster on the wall, and here it is," says Bruce Babbitt, ex-Clinton interior secretary, who opposes drilling in ANWR yet keeps a certain perspective on it. "Why do we spend so much time quarreling over this tiny sliver that has no real implication for energy independence?"

Good question. Here we are, in a war likely to expand throughout the world's oil-producing region, and we're importing 57 percent of our oil—including 790,000 barrels a day indirectly from our buddy, Saddam Hussein. Has this focused the nation on a serious plan for both conservation and production? Hardly. Competing energy plans are stuck in Congress, which is oddly bent on choosing either conservation or production—and could get nothing as a result. "Energy policy doesn't have to involve either-or choices," says Tony Knowles, Alaska's pro-development Democratic governor. Then again, he hasn't spent much time in Congress lately.

To wit: The Senate disgraced itself recently when it killed a gradual increase in gasoline mileage standards for cars that could save as many as 1 million barrels a day. Soon it will most likely kill any drilling in ANWR, which might have provided a small start in the right direction. "We shouldn't let this debate paralyze a real debate over energy policy," says John Holdren, an environmental policy guru at Harvard, who opposes ANWR drilling. But it has. "People have given up on the really big issues" like clean-air policy and climate control, he adds.

That's because ANWR is too easy to spin. Consider the numbers: Drilling proponents say that ANWR will produce a tremendous amount of oil; opponents counter that it's a mirage, less than a six-month supply. The truth is that no one really knows. Kenneth Bird, leader of a U.S. Geological Survey project that studied the potential for oil in the refuge, says the range of "technically recoverable" oil is somewhere between a relatively modest 4.3 billion and 11.8 billion barrels. Different groups use different numbers. "One could spend the entire day writing letters to the editor," Bird sighs. What's more, his estimates were done in 1985. "We might be able to see more with modern seismic equipment," he says. But is anybody proposing a new federal study? Of course not.

Then there's the Big Oil argument. To hear the opponents tell the story, oil companies are salivating at the prospect of drilling in ANWR. They're not—at least not now, because oil prices aren't high enough and they're not clamoring to spend the next decade in litigation. In fact, says Babbitt, "oil companies might not bother with it." So why is the administration pushing it? Because oil prices are bound to go up—and Republicans like oil production, which has become a popular national security issue.

And what about the environment? Sure, there's bound to be some impact. Technology has advanced, but drilling is never going to be a perfectly clean business. Purists say that's enough to bag the effort, even though no one is predicting ecological disaster. "I asked an environmentalist whether he would oppose the drilling if it were on just 1 acre, and he said he would," says a pro-drilling Democrat, Sen. John Breaux of Louisiana. "How can you fight that ideology?"

You can't. There's too much at stake here politically for either side to give. And so the nation continues to feed its oil addiction without increasing homegrown production. Meantime, real energy policy languishes while the symbols thrive. And the poor caribou start looking more like Chicken Littles every day.

Mr. STEVENS. Mr. President, I will read portions of it. It says: "A waste of energy?"

Pity the poor caribou. There they are, minding their own business, roaming silently in the snow and soft tundra of the desolate Arctic landscape. Then, suddenly, they're everywhere: migrating through green Web sites worldwide, their survival the subject of urgent concern. If Big Oil starts drilling in the Arctic National Wildlife Refuge, environs say, the lovely reindeer are at risk. Antlers, unite!

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Good question. Here we are, in a war likely to expand throughout the world's oil-producing region, and we're importing 57 percent of our oil—including 790,000 barrels a day indirectly from our buddy, Saddam Hussein.

Remember that this is U.S. News & World Report, not Senator STEVENS.

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To wit: The Senate disgraced itself recently when it killed a gradual increase in gasoline mileage standards for cars that could save as many as 1 million barrels a day. Soon it will most likely kill any drilling in ANWR, which might have provided a small start in the right direction. "We shouldn't let this debate paralyze a real debate over energy policy," says John Holdren, an environmental policy guru at Harvard, who opposes ANWR drilling. But it has. "People have given up on the really big issues" like clean-air policy and climate control, he adds.

That's because ANWR is too easy to spin. Consider the numbers: Drilling proponents say that ANWR will produce a tremendous amount of oil; opponents counter that it's a mirage, less than a six-month supply.

If there was ever a lie, that is a lie.

The trust is that no one really knows. Kenneth Bird, leader of a U.S. Geological Survey project that studied the potential for oil in the refuge, says the range of "technically recoverable" oil is somewhere between a relatively modest 4.3 billion and 11.8 billion barrels.

It goes on. I wanted to get to that because I want to get back to Prudhoe Bay.

Prudhoe Bay's estimate was 1 billion barrels. When they looked at that, we had the fight over whether or not Prudhoe Bay should be opened and whether the oil could be transported through the Alaska oil pipeline. The estimate was approximately 1 billion barrels of recoverable oil. We have produced now over 13 billion barrels. If this estimate is similar to the other conservative estimates in terms of oil and gas, this is more oil than is dreamed of.

Why can't we drill it? Why can't people here understand that the commitments that were made ought to be kept by the Congress? It is a commitment in the law—not just a promise. It was a hard-fought battle for 9 years, as I said.

I remember that night when Senator Gravel blocked the 1978 act. It was really a bill that we passed out of conference. But the House had already passed it. We were ready to adjourn. The Senator from Alaska asked that the bill be read after the adjournment resolution could be agreed to. He couldn't read that bill in the time left for that Congress, and it died. It died.

I went home with a group of people called the Citizens for Management of Alaska Lands, and we decided we would start raising money for the next Congress. We chartered a plane to go from Juneau to Anchorage, and it crashed. I was on it with my wife Ann and five people. Only one other person—our former Ambassador, Tony Motley—and I survived. We picked ourselves up from that disaster, went back and reorganized. We started working again in 1979 and 1980 and committed ourselves to try to get the issue settled.

Do you know why? We couldn't select our Alaska State land. There was what we call a freeze on it. The Interior Department refused to process the State's request for the lands it was entitled to under the Statehood Act until this issue was settled. The Natives couldn't get their hands on it until this issue was settled. We had to agree to the 1980 act. We had no alternative. We are a land-poor society. We are a resource-based State. So we entered into the agreement. We said: All right. There were a few little tweaks and things made here.

There are some interesting things. The occupant of the chair might be interested in this.

We call this the foot of the gate of the Arctic. That withdrawal was not there in 1978. It was put there to block this road from going over to that mining district. They did not want to withdraw that area, so they just blocked the access.

There is a similar block of access here—the road into Seward. There is a similar block of access here, and a block of access in here, and a total block of access in the southeast—no roads.

That is what that 1980 act meant. There will never be, as long as those withdrawals persist, roads to connect the State of Alaska from point to point. We depend on airports and on water courses. We have only one road system that goes from Anchorage into Fairbanks and down the Alaska Highway to Canada.

I hope people listen to these things. I am not sure they do.

I will tell you a little aside. When I lost the leadership election in 1984, my friend from Kansas Bob Dole became leader. He asked me if I would help bring television to the Senate. It was then opposed by my friend Russ Long and a couple of other Senators. I conferred with them. We and the distinguished current President pro tempore decided we would allow it. We worked out bringing television to the Senate.

I do not know whether that is educational or not. We are going to have a chance this week to find that out. At least for me, this is the first time I have used the concept of the public coverage by television of the proceedings on the floor of the Senate to try to interest people from other States in an issue that affects my State sc vitally. That is why I mentioned the labor leaders' meeting in the front of the Capitol today and the invitation I received this morning to speak to the building trades convention of the AFL–CIO, which I was pleased to do.

It is because people are thinking about jobs.

When I started thinking about this bill—let me go back to this. It is a good idea to go through this again. I want to make sure people understand what we are talking about. We are talking about section 1002 of the Jackson-Tsongas amendment of December 1980, signed by President Carter after he lost the election in 1980. This is the provision drafted by the two Democratic leaders at the time on this legislation. It said:

> The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

That is not an inconsistent position by Senator Jackson.

Where is a copy of that letter?

Madam President, I ask unanimous consent a copy of this letter be placed on every Senator's desk.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mr. STEVENS. This is dated July 3, 1980, signed by Henry M. Jackson, chairman, and Mark Hatfield, ranking minority member, of the Committee on Energy and Natural Resources. It says:

> In this year of sharply heightened national concern over the economy, energy and national defense, the Senate is about to consider Alaska lands legislation—an issue which would have a profound effect on each of these vital subjects.
>
> We write to ask for your full support of the Alaska lands bill approved by the Energy and Natural Resources Committee. After extensive hearings, study and mark-up, the Committee approved this bill by an overwhelming and bi-partisan vote of 17-1.
>
> The Committee bill is a balanced, carefully crafted measure which is both a landmark environmental achievement and a means of protecting the national interest in the future development of Alaska and its vital resources. The bill more than doubles the land area designated by Congress as part of the National Park and National Wildlife Refuge systems; it triples the size of the National Wilderness Preservation system. It protects the so-called Crown Jewels of Alaska. At the same time, it preserves the capability of that mammoth state to contribute far beyond its share to our national energy and defense needs.
>
> A series of five major amendments to the bill and an entire substitute for it will be offered on the Senate floor. The amendments in total would make the bill virtually an equivalent of the measure approved last year by the House. Each amendment in its own way would destroy the balance of the bill.
>
> While the bill is a gigantic environmental accomplishment, it also is crucial to the nation's attempt to achieve energy independence. One-third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Actions such as preventing even the exploration of the Arctic Wildlife Range, a ban sought by one amendment, is an ostrich-like approach that ill-serves our nation in this time of energy crisis.

That was 1980.

Continuing:

> Instability of certain nations abroad repeatedly emphasizes our need for a stronger domestic supply of strategic and critical minerals. Each of the five proposed amendments would either restrict mineral areas from development or block effective access to those areas. Four of the seven world-class mineral finds in Alaska would be effectively barred from development by the amendments. That simply is too high a price for this nation to pay.
>
> Present and potential employment both in Alaska and in the other states would be significantly damaged if the committee bill is amended. Cutting off development of the four mineral finds discussed above would alone cost thousands of potential jobs, many of them in the Lower 48 states. The amendment on national forests would eliminate up to 2,000 jobs in the southeast Alaska timber-related economy.
>
> We urge you to focus on the central fact that the Alaska lands bill is not just an environmental issue. It is an energy issue. It is a national defense issue. It is an economic issue. It is not an easy vote for one constituency that effects only a remote, far-away area. It is a compelling national issue which demands the balanced solution crafted by the Energy and Natural Resources Committee.
>
> We look forward to your support.
>
> Cordially,
>
> MARK O. HATFIELD,
> *Ranking Minority Member.*
>
> HENRY M. JACKSON,
> *Chairman.*

Madam President, do you know why I read that letter? Three of the four amendments that they urged for the Senate not to adopt were, in fact, adopted. The environmental people, at that time, were growing in strength, as I said before. They won every issue but one—every issue but one. There was only one issue that the State of Alaska prevailed on that was a major issue.

There were some minor changes of boundaries that we argued about, whether this part of this town should be in that withdrawal or another part in some other area. But there were four major issues that the chairman and ranking member raised, and Alaska lost three of the four. We won one. We had a solemn commitment from the two leaders. Senator Tsongas had those four amendments that Senator Jackson and Senator Hatfield talked about. Senator Jackson and Senator Hatfield had the committee bill. They melded it. They took three of the Tsongas amendments. But they left one out. They left us access to the Coastal Plain for oil and gas exploration and development.

One wonders whether history should have anything to do with subsequent action by the Senate of the United States. One Congress cannot bind another Congress. But one Congress can enact a law that it takes another Congress to enact and have a President sign it. This is one of the things that was required, and it was the great error of my career in agreeing that the area would be open only if a subsequent law was passed by Congress approving the process which was set up.

The process was that an area would be available for oil and gas leasing. There would be an environmental impact statement. There would be seismic research to see if there was a possibility of recovering oil. If both of those proved positive, then there would be a request of Congress to authorize the use for exploration of oil and gas.

Senator Jackson later that year, on August 18, addressed the Senate. On page 21651 of the CONGRESSIONAL RECORD of August 18, 1980, he said:

> Mr. President, I rise in support of the substitute offered by the Senator from Massachusetts. During the past several weeks, Senator Tsongas and I, as well as Senators Roth, Hatfield, and Cranston, have attempted to draft a compromise substitute amendment. We have before us an amendment which we believe represents an equitable solution to the Alaska lands issue.

He goes on to say later in that same timeframe:

> The substitute retains the Senate Energy Committee's language relative to an oil and gas exploration program on the Arctic Coastal Plain in the existing Arctic Wildlife Range. Several changes in the committee's provisions were incorporated regarding the wildlife portion of the Arctic Slope study. The timing of the seismic exploration program and the Secretary's report to the Congress regarding further oil and gas exploration on the plain were also modified slightly. . . .
>
> Taken together, this approach provides adequate protection for the affected wildlife in the area—including the Porcupine caribou herd—while insuring that an assessment of the area's oil and gas potential is undertaken.

We won one issue, and now the majority party wants to deny us that compromise.

It is an interesting area, the Arctic. Did you know, Madam President, following the great Teapot Dome scandal in 1923—the year of my birth, incidentally—the President, President Harding, withdrew 25 million acres of Alaska as a national petroleum reserve to salve the national conscience about the Teapot Dome scandal. That is what it was. That area has never really been explored for oil and gas. It was set up in 1923.

In 1943, during the conduct of the war, Abe Fortas, who many of us knew, the then-Acting Secretary of the Interior, withdrew all lands in the State of Alaska—all lands in the State of Alaska—about 20 miles south of the Circle. All of that land was withdrawn. Nothing at all could be done up there by Alaskans, the people who lived there and stayed there. He withdrew other lands—the so-called public land order 82—in the Katagkak region down here—it was a broad-scale thing—and in the Cape Lisburne area. This is the area we are talking about now that was withdrawn in 1943—not from oil and gas but from any kind of activity. That persisted until we got to the Statehood Act. And just prior to the Statehood, the Kobuk gas field was discovered just south of the Alaska Range, in that area right there.

While I was at the Interior Department, the Secretary of the Interior, Fred Seaton, amended public land order 82 allowing oil and gas exploration to take place in the Kobuk gas field. As a matter of fact, later in 1959, after we obtained statehood, Secretary Seaton further modified it to affect lands up around the national petroleum reserve of Alaska created by President Harding. And then, in December of 1960, he in effect repealed that land order. He really did it by amending the previous land order and making it possible for Alaska to select lands in that area because under the Statehood Act the State of Alaska could not explore north of the Arctic Circle without prior approval.

He gave the State the authority to select the lands. The area they selected was Prudhoe Bay. That was really divine guidance that took us to that place because that was the only place we could drill in the Arctic at the time. Alaskans found the largest supply of oil on the North American continent at that time—on State lands, not Federal lands. Those Federal lands have never been opened to oil and gas, as intended by Secretary Seaton or by President Eisenhower. Subsequent administrations have found some way to frustrate access to the oil and gas resources of that area.

I have talked for a long time. I will talk a while longer because I will go into this amendment I filed in the second degree. I will speak more about the Arctic wildlife area and what it means. I filed an amendment in the second degree because, as I looked at the House-passed bill, it approved ANWR and it limited the amount of land that could be used to 2,000 acres out of that 1.5 million acres. All that can be used is 2,000 surface acres. But it postulates that there will be a series of bonus bids for the right to lease the land, somewhere between $1.6 billion and $2.7 billion. The House bill channels a portion of that money to what I would call a little carrot—a little conservation restoration of the areas already withdrawn from parts of the refuge.

I thought about that, and I thought about where the drilling in the Arctic wildlife refuge area—ANWR area, the 1002 area—would take us. It takes us a step further toward building the Alaska natural gas pipeline—something the American public should learn about, something on which I hope the great unions of this country and the steel industry and others will start educating the public.

At the time Prudhoe Bay oil was discovered, we found that gas was associated with the oil. There was no means to transport the gas, so a series of reinjection facilities was constructed and, as the oil and gas is produced, the gas is separated and it is reinjected into the ground. There are now 50 trillion to 70 trillion cubic feet of gas known to exist under State land in the Prudhoe Bay area.

We now propose that we build a natural gas pipeline to take that gas to the midwestern part of the United States. It is the largest amount of gas we know of that is not transportable so far. It would transport, when built, a pipeline 52 inches in diameter, 1 inch thick, running 3,000 miles from the North Slope to Chicago, down the Alaska Highway, through Canada, and into the Midwest. Along with that, it takes 15,000 miles of gathering pipelines and adjunct lines.

Originally, they thought about bringing the pipeline through the pristine part of Canada. That has been abandoned. The State wants it to come this way. This is the area here. We are going to follow, partially, the Alaska pipeline right-of-way and come down the Alaska Highway and go through Canada, along the route of the current pipeline through Canada.

People said: What does that have to do with drilling in the Arctic region of the Alaska Coastal Plain?

Mr. President, there is no source of funds that I can see, with the existing economic situation, in the foreseeable future to help get that Alaska gas pipeline started other than funds from the production of oil in the Arctic Plain. The more I study, the more I find we have a really interesting situation in steel. Obviously, I am not from steel country. I don't know a lot about steel. But I have been learning a lot about it since we started this effort.

Since the year 2000, approximately 30 steel companies in the United States have entered bankruptcy, and 60,000 workers are already out of jobs in those places. In 1980, there were more than 500,000 U.S. steelworkers. By the year 2000, there were 224,000. That was 2 years ago. Since that time, we have had, as I have indicated, 30 more steel companies fold.

One of the contracts that exist between the steel companies and their workers is the benefits program—a promise that was made for the contribution to their past work in our society. It was an agreement to pay health benefits for the retirees. There are presently estimated to be 600,000 of those retirees, at a minimum. The companies they worked for are going bankrupt. There is a plan to try to consolidate the U.S. steel companies, but there is a little hitch. These workers have the right to put a lien on those assets before they are consolidated. So a plan was devised, and it is a difficult one to follow through. But it is a plan to use the fund to pay the cost of the health care delivery for the retirees and let the assets go into a consolidated steel industry that would be capable of contributing to major projects such as our Alaska natural gas pipeline.

The plan is the legacy plan, and the legacy would be to keep the commitment made to the retirees. It requires a cashflow for 30 years of $18 billion. If the steel industry does not find $18 billion, it is my judgment they will not be able to consolidate. If they do not consolidate, we will not have a steel industry capable of meeting our needs.

I do not know if you know it, Madam President, but recently Robert Miller, chairman and CEO of Bethlehem Steel, testified that:

> Bethlehem Steel was the only domestic company with the capability to provide the special steel plate that was required to repair the U.S.S. *Cole*.

One steel company left in the United States could meet our national defense needs—one.

I told the union group today I believe there are three things that keep a democracy alive: One is food, one is oil, and one is steel. That gives us the ability to maintain our economy and to defend ourselves.

We have taken very ample care of the farmers, I have to say that. In going through this, I found that in the last 10 years we have spent $656 billion on the farm community in regular bills and $17 billion in the last 10 years on special emergency bills for the farm communities. How much have we spent for steelworkers? How much have we spent for oil? Nothing. They are part of the private enterprise system and must survive themselves.

How can they survive if Congress gets in their way? We are supposed to facilitate the development of this country and maintain our economic viability. We are supposed to provide for our national defense. As a matter of fact, that is one of our constitutional duties—to provide for the national defense and promote the general welfare of this country.

I find it hard to believe we are getting so much criticism of the amendment that I have suggested. What it does is it takes part of the money that would come to the Federal Government and channels it into a fund which will address the health care costs for those retirees, enable the industry to be reconstituted, revitalized, provide money to the Department of Commerce to help with some loans and grants to those steel companies to get them going again, and provide money to the Department of Labor to train people to do some of the work we are going to need.

It is a gigantic project. There are two steel mills in the world today that are capable of rolling the pipe for the Alaska gas pipeline—two. The design of that pipeline will require one-half of the world's capability to produce steel pipe for a period of over 5 years. One project. In order to get it started by 2010, the orders have to be placed by next year. It is not possible to place those orders unless we know where there is a cashflow to take care of the problems of the retirees.

This project of ours will take 5.2 million tons of steel. It will involve $3 billion to $5 billion in initial steel orders alone. We are not talking about the 15,000 miles of gathering pipe. We are not talking about the hundreds of trucks that will carry that pipe down that long 3,000-mile road. We are not talking about the trucks and equipment that will improve the roads so the trucks can run on them. Most of those areas do not have roads that can hold trucks that size.

This is a gigantic project, and one must ask himself or herself: Is gas essential to our economy? Is gas essential to our national security? Is this something on which we should have a partisan dispute? Is this something that we should be here debating about a procedural issue, an issue designed to permit a group of Senators to delay action on a bill until the rest of the country can learn about it?

Actually, I am grateful to them for their filibuster against our amendments and their threat of requiring a cloture vote to terminate our debate because it means we are going to be here for a while talking about this subject. As we talk about it, I hope more and more people learn about it.

We establish in my amendment a trust fund for conservation, jobs, and steel reinvestment. It would provide $155 million for conservation programs. It would provide $232 million for commerce grants to retool industries to get ready for the gas pipeline. It would provide approximately $900 million to reestablish and make solvent the Coal Miners Health Fund. It would provide $7 billion over 30 years to provide for the Legacy Benefits Program I described.

This is not the only money that goes into the legacy fund. The President has already put in effect the tariffs on imported steel. That money goes into the legacy fund. The companies are in the process of agreeing, as I understand it, to pay $6 per ton on steel produced in the United States into the fund. But it is woefully short of money to meet the needs for those 600,000-plus retirees. That is not enough money to make it work.

How do we get our gas pipeline started? We try to find a way to put together the exploration and development of this continent's largest oilfield with the problems of developing a gas pipeline to transmit gases already there. We do not have to look for it. It is known gas. It is just not transportable because there is no mechanism to transport it. I believe we can do that.

I am intrigued with some of the statistics as to this pipe. As I said, it is 52 inches, 1 inch thick, and it is called X-80 pipe. It has never been tested before. In order to make it available, a portion of it will have to be rolled to test to see if the theory that has been worked out on computer is correct: That this is the type of pipe that can withstand the pressure necessary to move that gas over 3,000 miles.

Alaska now has the Alaska oil pipeline. It is a 750-mile pipeline. We call it 800, but it is 750 miles of the really big pipe. That weighed 1.2 million tons. Roads had to be specially created for that pipe to be put in place.

Alberta now has a 1,435-mile pipeline. It weighed 2.1 million tons and cost $1.8 billion delivered. We are looking at, as I said, an enormous amount beyond either of those. The pipeline will be almost as long as the Great Wall of China.

One of the interesting things about it is, eight pipe-bending machines will cost more than $1 million each and a 2-year lead time will be needed to get that pipe into place. They estimate they are going to need 115 backhoes, 27 D-10 bulldozers, 90 D-9s, and 16 to 20 of the large, magnum class chain trenchers.

In terms of manpower, the workforce in Alaska alone would be 2,300 jobs; in Canada 3,400 jobs. But there are jobs throughout the United States into the hundreds of thousands to build the valves, gathering the pipelines and the various pieces of equipment that are necessary to construct this pipeline.

I am saddened to say a lot of people say: That is a crass and cynical thing to do. You are just looking for votes.

That is right. We are looking for votes to open this area to oil and gas exploration so we can get the money to start this pipeline. If taking care of and helping the steelworkers and coal workers is necessary to reconstruct the American steel industry so it can participate in it, we should do it.

I think the real problem I have is to try and figure out how we can put this into real context. With due respect to the Democratic Senators, they are shilling for a bunch of radical environmentalists who control the country now in many ways. Tomorrow I am going to speak at length about the articles that were in the Sacramento Bee about the way these people seek to control what the Sacramento Bee called "the fat of the land." They document it in a series of articles. I have those articles and I will read some of them tomorrow to make sure we know who our enemy is.

It is not the Senators from these various States. They are responding to constituents. They represent 2 to 3 percent of the constituency in most House districts, a little less than that in most elections statewide. They are very powerful, and at times such as we are in right now, look at—we were balanced 50-50. Until Senator JEFFORDS changed his mind, we were 50-50. We are a nation divided. That is when these minorities sneaked in and took control, and that is what the radical environmentalists have done.

I intend to go into that at length tomorrow. I will go further tomorrow into some more statistics about the steelworkers' problems and the reasons I have persisted, even though I must say I do not know so far any Senators who represent the steel States or the steelworker States who have agreed to assist us in this matter. I challenge them to find another cashflow area, another stream of money that will save their workers' retirement benefits. I challenge them.

This is not new. We did it for the black lung disease people in 1992. We have done it a series of times, where we have taken money from one cashflow and put it into an objective where we could not get the money otherwise, but we had a new cashflow and before it was committed, we committed it to good things. I say it this way: Take the airport development fund. All of those taxes do not go into the Treasury. They go into the fund and they pay for airports, they pay for the runways. As to the highway fund, those highway taxes go to pay for a great many things.

Take the emergency agricultural appropriations. Where do they go? They pay the John Deere bill. They pay for the medical insurance for the employees and the farmers. They pay the grocery bill when farmers have trouble. But somehow or another that is normal, right?

When we bring in an emergency bill for agriculture, we do not argue about that at all. We only ask how much more can we raise it because they are farmers. My farmers love them. I voted for those bills; I am not criticizing. I am saying why only the farm community when there are two other streams that we must maintain to keep this democracy alive? One is oil and one is steel. I want a bill that matches them both.

I thank the Chair for her patience, and I thank my friend from North Dakota. I mean no personal offense in any way in what I say, but I think I have a right now to be disturbed. I have argued this matter in the Senate for more than 21 years. It actually started 31 years ago in December of 1971. I have been in the Senate that whole time. There has not been a year gone by we have not had an issue concerning these reactionary radical environmental groups and what their demands are on our State. Why?

There are only three of us. We are way up there. When Senator MURKOWSKI and I are at home, we are closer to Beijing than we are to Washington, DC. These environmentalists raise money by telling people the harm we are liable to do to that land, but less than one-half of 1 percent of Alaska is occupied by man. It is almost the least populated area in the world; yet it is threatened. It is threatened every day. There is another ad on the TV, another ad in a major paper about how this terrible bunch of people are about ready to destroy this land. Less than one-half of 1 percent has been occupied by man.

It is an amazing thing for me to get involved in this, but I intend to stay involved in it. Let's see if the process works. Let's see if the theory of extended debate for the education of our people still has meaning. Do people listen to us? Are they interested in what the labor leaders in the country say? Are they interested in the plight of the steelworkers? Are they interested in the plight of the coal workers? Are they interested in the future of building that gigantic pipeline that will bring the equivalent of more than a million barrels of oil and gas a day to the central part of the United States?

It would assure that the central part of the United States would have all the gas it needs for 40 years. Is that worth thinking about, worth taking some time of my colleagues to listen to me shout a little bit? I think it is, and I hope the system works.

I remember as a young man seeing "Mr. Smith Comes to Washington." I am not Mr. Smith, but I think the issue is more acute than the one he faced. The issue we face is survival. Do we go on increasing our dependence on foreign oil? How much more are we going to import?

The report I had today was it is at 57 percent. in terms of imported oil. I thought it was lower than that. During the crisis that led to an embargo in the 1970s, it was less than 35 percent.

What about steel? During World War II, we produced steel for the world. We produced the steel for the allies. We rebuilt Europe. We built the tanks in the United States, and the planes and the ships that saved the world. Could we do it again? Are we willing to contemplate doing it even to save our own system?

I yield the floor.

Mr. BINGAMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Madam President, I will talk for a few minutes on a couple of points. One is a letter we received from the Secretary of Energy, the Honorable Spencer Abraham. It is a letter to me. I will read excerpts.

The letter reads in part:

> As everyone knows, gasoline prices have been increasing for the past several weeks in anticipation of the historically higher demand seen during the summer driving season. These increases are a source of serious concern to this Administration and I know they are of serious concern to you.
>
> As I committed to you last year, I intend to keep you apprised of circumstances affecting our oil and gasoline markets and of the steps we are taking to mitigate their effects in the short term and address them in the long term.
>
> Briefly, prices for crude oil have risen by over $7 per barrel since late February—an increase of over 30 percent—adding as much as 20 cents per gallon to the retail cost of gasoline. Crude oil prices are rising because of global economic growth, OPEC production restraints, and concern over the current tensions in the Middle East and Venezuela. Of course, we are closely monitoring international developments affecting our petroleum markets.
>
> Partly as a result of rising oil costs, the Energy Information Agency (EIA) expects an average price of $1.46 for regular grade gasoline over the next 6 months. However, gasoline prices will peak somewhat higher in certain regions this summer. Higher gas prices strain the budget of America's working families, raise the cost of goods and services, increase harvest costs for American farmers, and ultimately create a drag on the economy that can impact the livelihood of working Americans.

He advises:

> For more detailed market information, please refer to EIA's Short-Term Energy Outlook . . . online.

He further states:

> Our gasoline market will be in a delicate balance this summer, as it has in the past few years. It only takes one refinery fire—as we saw last August when a fire destroyed part of Citgo's Lemont, Illinois, refinery—or a pipeline disruption—like we experienced the previous June during the Wolverine Pipeline break between Chicago and Detroit—to cause price spikes.
>
> The onset of the driving season coincides with the annual changeover at refineries from winter fuels to specially formulated, cleaner-burning summer fuels that cost more to refine. These fuels are required to protect the public health during the peak ozone season. As recommended in the President's National Energy Plan, the Environmental Protection Agency has already improved some of the rules governing the transition from winter to summer gasoline, including a provision for increased flexibility in blending and reclassification of certain fuels. However, the gasoline market is still constrained at times by refinery and pipeline capacity shortages in America.
>
> As we did last year, Department of Energy will continue to keep track of gasoline supplies and pricing. We have already reinstated our 24 hour Gasoline Hotline—a 1–800 number for consumers concerned about gasoline prices (800–244–3301).

He further indicated he would be meeting with the American Automobile Association to identify ways to encourage Americans to drive smarter and prepare their cars to operate more efficiently—and save fuel and money.

I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, April 11, 2002.

HON. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

> DEAR SENATOR MURKOWSKI: As everyone knows, gasoline prices have been increasing for the past several weeks in anticipation of the historically higher demand seen during the summer driving season. These increases are a source of serious concern to this Administration, and I know they are of serious concern to you.
>
> As I committed to you last year, I intend to keep you apprised of circumstances affecting our oil and gasoline markets and of the steps we are taking to mitigate their effects in the short term and address them in the long term.
>
> Briefly, prices for crude oil have risen by over $7 per barrel since late February—an increase of over 30 percent—adding as much as 20 cents per gallon to the retail cost of gasoline. Crude oil prices are rising because of global economic growth, OPEC production restraints, and concern over the current tensions in the Middle East and Venezuela. Of course, we are closely monitoring international developments affecting our petroleum markets.
>
> Partly as a result of rising crude oil costs, the Energy Information Administration (EIA) expects an average price of $1.46 for regular grade gasoline over the next six months. However, gasoline prices will peak somewhat higher in certain regions this summer. Higher gas prices strain the budgets of America's working families, raise the cost of goods and services, increase harvest costs for America's farmers, and ultimately create a drag on the economy that can impact the livelihood of working Americans.
>
> For more detailed market information, please refer to EIA's Short-Term Energy Outlook (STEO) online (http://www.eia.doe.gov/steo/).
>
> Our gasoline market will be in a delicate balance this summer, as it has in the past few years. It only takes one refinery fire—as we saw last August when a fire destroyed part of Citgo's Lemont, Illinois, refinery—or a pipeline disruption—like we experienced the previous June during the Wolverine Pipeline break between Chicago and Detroit—to cause prices spikes.
>
> The onset of the driving season coincides with the annual changeover at refineries from winter fuels to specially formulated, cleaner-burning summer fuels that cost more to refine. These fuels are required to protect the public health during the peak ozone season. As recommended in the President's National Energy Plan, the Environmental Protection Agency has already improved some of the rules governing the transition from winter to summer gasoline, including a provision for increased flexibility in blending and reclassification of certain fuels. However, the gasoline market is still constrained at times by refinery and pipeline capacity shortages in America.
>
> As we did last year, Department of Energy will continue to keep track of gasoline supplies and pricing. We have already reinstated our 24 hour Gasoline Hotline—a 1–800 number for consumers concerned about gasoline prices (800–244–3301). I have also directed EIA to produce its Energy Situation Analysis Report (ESAR) each weekday in order to monitor world events that could disrupt supplies. The ESAR is released on EIA's website (http://www.eia.doe.gov/) daily after 5 p.m.
>
> I will be meeting this week with the American Automobile Association (AAA) to identify ways to encourage Americans to drive smarter, prepare their cars to operate more efficiently—and save fuel and money. I also intend to meet with both refiners and gas station owners to ensure that our distribution system works well from the wellhead to the fuel pump. A flawless distribution system will help to minimize price spikes this

> year should disruptions occur. As we identify solutions and ideas that help consumers, we will of course provide you that information immediately.
>
> These measures can mitigate somewhat the effects of rising gasoline prices, but the solution is more long term. We must reduce our dependence on OPEC imports of crude oil by promoting energy conservation, increasing domestic oil production, and diversifying our foreign sources of crude oil. We strongly urge Congress to send comprehensive and balanced energy legislation with all of these elements to the President.
>
> Please let me know if you have any questions.
>
> Sincerely,
>
> SPENCER ABRAHAM.

Mr. MURKOWSKI. Madam President, we have been generalizing a bit on this side, relative to the National Environmental Policy Act, about groups in opposition to opening ANWR. On the other hand, I was somewhat relieved to see an ad that appeared in the Washington Post. It is entitled:

> Think All Environmentalists Oppose President Bush's Energy Plan? . . . Think Again . . .''

I am going to read a couple of excerpts because I think it addresses, indeed, some of the more balanced and responsible environmental groups and their opinions on activities associated with relieving our dependence on imported oil. The first is from Douglas Wheeler, former executive director of the Sierra Club:

> The exploration and development of energy resources in the United States is governed by the world's most stringent environmental constraints, and to force development elsewhere is to accept the inevitability of less rigorous oversight.

What he is saying in these few words is that we can do it right in the United States because we have the most stringent environmental oversight on resource development, particularly oil and gas. He implies that is not necessarily the case in other parts of the world, and we seem very nonchalant about taking for granted where our oil comes from. There is very little concern whether the development is harmonious with the environment because our only bottom line is: We have to have the oil.

There is another statement, from James C. Wheat, III, trustee for the Chesapeake Bay Foundation:

> The conservation community should take this opportunity to work closely with Congress to ensure that exploration of ANWR results in net environmental gains.

I certainly take Mr. Wheat at his word.

Further, Brian Ball, former chairman of the Nature Conservancy of Virginia:

> Technology advances and increased ecological awareness have made this kind of exploration possible while leaving a minimum footprint on the surrounding environment.

Again, I will show that footprint on the chart here, which indicates the little area in red which identifies, obviously, the limitation in this legislation, which is 2,000 acres.

We also received from the Laborers' International Union of North America, Terence O'Sullivan, president, writing to each Member of this body:

> On behalf of the more than 800,000 members of the Laborers' International Union of North America, I am writing to express our strong support for opening the Arctic National Wildlife Refuge (ANWR) on Alaska's North Slope for new oil exploration. I am requesting that you not only support an amendment to open ANWR as a part of comprehensive energy legislation, but also any effort to invoke cloture on the issue if necessary.
>
> The benefits of including ANWR in a comprehensive energy bill are clear. Alaska currently provides 25% of the nation's domestic oil and opening ANWR could boost that figure to more than 50%. New drilling technologies will lessen the oil industry's "footprint" on the surrounding environment by increasing the length of directional drills and allowing for smaller and more compact production pads; if Prudhoe Bay were built today it would affect an area of land 65% smaller. Thousands of good-paying jobs would be created across the country by opening ANWR, 130,000 in construction alone. And best of all, Alaskans support drilling in ANWR by a margin of 3–1. If ANWR is not appropriate as a domestic source of oil production, then where in the U.S. is?
>
> While exploration in ANWR is only one piece, it is a very important piece of a national energy policy that should include increased construction of power plants, including nuclear facilities, oil and gas pipelines, refineries and other energy production facilities. A national energy policy will insure a reliable and affordable source of energy while creating tens of thousands of jobs nationwide.
>
> The Laborers and the entire building trades have a long and illustrious history on the North Slope of Alaska of training a highly skilled workforce, building a solid infrastructure, deploying the new drilling technologies and protecting the environment. That record of success is at least one reason for the strong support among Alaskans for drilling in ANWR.
>
> For all these reasons and more, we strongly urge you to not only support an amendment to open ANWR as part of a comprehensive energy legislation, but also any effort to invoke cloture in order to allow a fair debate on the issue.
>
> Sincerely,
>
> TERENCE M. O'SULLIVAN,
> *General President.*

Finally, I noted the debate that covered the second-degree amendment which is pending to the underlying amendment to open up ANWR. I would like to, again, highlight what this second-degree amendment specifically does because it gives America's steel industry an opportunity that otherwise it would not have—basically to rejuvenate and reconstruct the industry so it can be competitive.

We are all aware the administration provided a 30-percent protective tariff to American steel. That is going to be binding for a 3-year period of time. But what we have done here in the crafting of the second-degree amendment, which Senator STEVENS is offering, is to take the funding that would be generated from a combination of royalty and bonus bids—somewhere in the area of $12 billion over 30 years—and take the royalty Federal share and apply it over a period of time to specifically address the unpaid legacy associated with health benefits for the steel industry. The proposal is to contribute approximately $8 billion to the steel legacy benefit program.

I ask, Where is this money going to come from if we do not identify a source? We have the source. The source, of course, is from the revenues generated from the royalties and the bonus bids in opening ANWR.

America's steel industry is not going to get another shot at this. This is an identified source. As Senator STEVENS indicated, the prospects for the renewal of our steel industry, for it to become competitive, is given an extraordinary opportunity as a consequence of the reality that we are going to need steel in this country to build that gas pipeline.

The estimated cost of that project is about $20 billion. My understanding is the order for the steel will be somewhere in the area of $4 billion to $5 billion. The last time we built a pipeline across the length of Alaska, from Prudhoe Bay to Valdez, it was 800 miles. Do you know where the steel came from? It came from Japan; it came from Korea; it came from Italy. That was 48-inch pipe.

The pipe on this steel proposal is approximately 56-inch or thereabouts—52 to 56. It is X–80 to X–100, depending on the tensile strength of the steel.

If it is not built in the United States, we know where it is going to come from. It is going to come from foreign countries. Why wouldn't this proposal stimulate the steel industry, both management and labor, to recognize we have a extraordinary opportunity to revitalize the steel industry in this country?

They have the problem obviously associated with funding of the health benefits for some 600,000 potentially retired employees. But this is an extraordinary opportunity.

In addition to the steel industry's opportunity for the major link associated with the transportation, that is 3 thousand miles roughly from the Coastal Plain to the Chicago city gate. That is what we are talking about. We are also talking about virtually thousands of miles of additional pipe associated with development in the Arctic—with both ANWR and the ultimate development of the gas that has been discovered while looking for oil in Prudhoe Bay. That gas is about 36 trillion cubic feet of proven gas reserves.

I emphasize that as one who looks at opportunities for labor and opportunities for capital to come together with this kind of identification of a funding mechanism of $8 billion to contribute to the steel legacy fund, there is an additional $1 billion to the United Mine Workers combined benefit fund—this is another fund that organized labor and the coal mining industry has had a shortfall in—the contribution of $232 million in commerce grants to retool the industry to compete in this project, as well as labor training through the Department of Labor of roughly $155 million, training steelworkers in the new technologies associated with making this pipe, as well as the direction of funds; and $155 million for National Park Service maintenance backlog, habitat restoration, and conservation programs.

Isn't this a pretty attractive disposition, if you will, of funds associated with the lease sale and the royalties to be generated from opening ANWR or is there a higher need? You take it into the General Treasury, and you can appropriate. But what we are doing, and what Senator STEVENS has identified so clearly, is trying to meld two opportunities. That gas is going to be developed. The reason it is going to be developed is quite obvious. We are using our gas reserves now faster than we are finding new reserves. Where are we going to get the gas? We go down to the Gulf Coast States, and we are pulling down our gas reserves very rapidly there. We get a significant decline. It is estimated to be about 40 percent when we pull down offshore gas reserves. It lasts a little longer on land.

The reference to putting together an opportunity to revitalize our industry and basically work together to train workers to address some of the combined benefits that the United Mine Workers and the coal industry are short, as well as contribute to the steel legacy benefit program, is one that needs more examination by the Senate.

Unfortunately, we have not been able to go through a committee process, as we know, in bringing an energy bill to the floor. We would have been able to pass ANWR out of committee, but the majority leader saw fit to pull it. As a consequence, we have labored on various aspects of the energy bill because it did not go through the committee process, which is indeed unfortunate. But we have to make the best of the situation.

As a consequence, the second degree that is pending gives America's steel industry an opportunity for a new lease on life. Are we simply going to lie back, address and debate the issues of the steel industry's legacy shortfall or are we going to do anything about rejuvenating this industry?

I think Senator STEVENS indicated in his comments that we need steel, we need energy, and we need food to be a great Nation. Are we going to simply let the steel industry drop off, slough off, and become more dependent on imported steel? We have already given them 3 years.

It surprises me there is not more interest from the industry. I recognize there is a good deal of politics involved. I know Senator ROCKEFELLER has been working on this issue. I see in the Wall Street Journal of April 16 a reference where Senator ROCKEFELLER says any deal that would bind opening ANWR with steel is probably dead because the White House and the House Republican leaders won't provide letters of support for the steel bailout. But he said further that commitments from both camps were crucial to guarantees. They are.

We are going to do something with the revenue from ANWR if indeed we authorize it to be opened. The question is, Do we want to, by ourselves here collectively, come together as a bipartisan group and say this is what we want the money used for?

I have the greatest respect for Senator ROCKEFELLER. He is a good friend of mine. He said in the article that commitment from both camps was crucial to the guarantee that the aid would survive final House-Senate negotiations on the broader energy bill now before the Senate.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOP BID FOR SUPPORT ON DRILLING FOUNDERS

WASHINGTON.—A steel state Democrat announced he would oppose drilling for oil in the Arctic National Wildlife Refuge, dashing a Republican bid to build Senate support for ANWR by providing aid to retired steelworkers.

Sen. Jay Rockefeller (D., W.Va.) said the deal fell through because the White House and House Republican leaders won't provide letters of support for the steel bailout. He said a commitment from both camps was crucial to guarantee that the aid would survive final House-Senate negotiations on the broader energy bill now before the Senate.

The steel issue stems from President Bush's March 5 decision to rescue the U.S. steel industry with temporary tariffs on most steel imports.

Drilling in the Arctic is a top priority of the White House and Republicans, as part of their push to reduce dependency on foreign oil. But many Republicans were dismayed at the steel offer, having opposed Mr. Bush's March 5 decision as a political ploy that undermined the U.S.'s free-trade credentials.

Mr. MURKOWSKI. Mr. President, I think the Senator from West Virginia is failing to recognize the obligation and opportunity we have to designate those funds. If we designate those funds for steel, that is where they are going to go. When Senator ROCKEFELLER says he is opposed to ANWR, I would respectfully advise him that if you can support the funding determination which is covered in Senator STEVENS' second degree, then the funding can only come from one source, and that is ANWR.

If this body directs the funds to come from that source, it seems to me that certainly allays Senator ROCKEFELLER's concern that somehow Republicans wouldn't go along with the arrangement. We can dictate the arrangement. We can make it law.

Finally, since we are discussing this, I would like to share a little bit about the status of the steel industry in this country.

I am told there are approximately 50 impacted steel-associated facilities that have been closed since the year 2000—50 impacted facilities—and 25 million tons of steelmaking capacity impacted or eliminated since the year 2000; 25,430 lost steel jobs; idle steelmaking facilities: 6 closed steelmaking facilities in Indiana, Ohio, Utah, Alabama, Arizona, and Tennessee, 15 in Pennsylvania, 3 in Illinois, 4 in New York; in Ohio, Missouri, Kentucky, Indiana, and Alabama, 2 each; iron-rolling mills, and other steel-related and iron ore facilities: 1 in Michigan; closed rolling mills in other steel-related and iron ore facilities: In Missouri, Michigan, 2; Texas, Ohio, 6; Illinois, 4; Pennsylvania, 4; New York, Arkansas, Connecticut, 2; Indiana, California, Minnesota, Maryland, Alabama, Louisiana, 2.

Those are U.S. steel industry and ANWR production key facts.

Let me share with you the U.S. steel employment levels in 1980. There were more than 500,000 U.S. steelworkers in this country. In the year 2000, there were 224,000. It is estimated, in the year 2010, there will be 176,000—an anticipated loss of 21 percent for U.S. steel-related jobs. That is a statistic by the Bureau of Labor Statistics.

What does that mean? It means 23,000 jobs lost between 1998 and September 2001; 270,000 steel jobs lost between 1980 and 1987. There are 600,000 current U.S. steel retirees. This is what we are talking about: their health care benefits alone. That is what we can address in this second-degree amendment. We are proposing to contribute $8 billion.

Where is U.S. Steel? Where is Bethlehem? Where are they? Where are the workers? Where are the retirees? Where are the unions on this one?

It is a source of revenue. Somebody is going to get that revenue when we open ANWR. We are talking about a marriage, if you will, of U.S. steel and U.S. jobs to build the largest pipeline ever conceived in North America, from Alaska to Chicago. What an opportunity. It is a win-win-win situation. Where is the downside?

What does that clean gas do to our environment? It cleans up our air. Forty-seven percent of U.S. steelworkers are employed in Pennsylvania, Ohio, and Indiana. Forty-five percent of U.S. steel jobs are related directly to production. Eighteen percent of the jobs are related to installation, maintenance, repair, and construction. Sixteen percent are related to transportation and material-moving workers. Twenty percent are related to manager, professional sales, and administrative support occupations.

In 2000, 40 percent of steelworkers were covered by union contracts compared with 16.2 percent in durable goods manufacturing and 14.9 percent in all industries.

Bringing new production capacity online—that is what we are talking about—means thousands of new union members or reemploying laid-off union members.

U.S. steel financial data: Domestic steel shipments down 14 percent in the first quarter of 2001.

Between 1997 and 2001, 31 steel companies in the United States filed for bankruptcy and are in chapter 11. This represents more than 21 percent of U.S. steel's capacity.

In the late 2001 timeframe, U.S. steel prices fell to some of their lowest levels in 20 years. Nearly half of U.S. steel employees work in factories with at least 1,000 employees.

Building new high-end, 52-inch X-100 steel capacity in the United States—that is the pipeline we would build in the United States—would mean more factories that could employ thousands of new workers.

This is a $5 billion contract. The cost of building the new 52-inch X-100 pipeline rolling capacity—it is estimated to run somewhere in the area of $250 million per facility because we are going to need more than one facility.

Where are we going to buy it if we do not buy it in the United States? We are going to buy it from Korea, we are going to buy it from Japan, and we are probably going to buy some from Italy because that is where we got it the last time when we built the TransAlaska Pipeline.

The total market capitalization of U.S. steel companies, as of March 19, 2002, is $12.8 billion. Contracts worth $4 billion or more in steel for the Alaska natural gas pipeline equals one-third of the total value of the entire U.S. steel industry.

Need I say more? I can go through the companies that have filed for bankruptcy. I think I will because it may awaken, if you will, some of the folks out there who are following the debate.

This is an opportunity to rejuvenate America's steel industry—those who are not covered by the steel legacy benefits for their health care, the unfunded health programs, those who are unemployed, those who have been laid off. This is an opportunity for those companies that are still in business to come together and recognize this is an opportunity.

When is the last time we had an opportunity such as this? We debated Chrysler years ago. It was a question of whether we should give a guarantee to keep Chrysler afloat. We debated that heavily in the Congress. It was one of the first real debates we had on whether we were going to save a traditional well-known corporation in this country. We decided to go ahead with that guarantee.

The results? Chrysler is still in business today. They are a profitable corporation. But the premise of what we did was gambling on Lee Iacocca and his imagination to rebuild the company.

For Heaven's sake, don't we have that same initiative left somewhere in America's steel industry, some CEO who wants to take the challenge? Let's make American steel competitive again. Let's make it great again. We have that opportunity.

And the opportunity is good for all of America because it brings together, if you will, the components. We have the gas. We found it while developing Prudhoe Bay. We need the gas because we are pulling down our reserves faster than we are finding new ones. We are going to build it sooner or later. It is going to require a pipeline.

For Heaven's sake, why not come together with America's steel industry and ensure it is built in America, and get on with revitalizing, if you will, this important industry?

We talk about national security. We can talk a lot about oil. I think Senator STEVENS put it very succinctly when he said: You have to have oil and energy. You have to have food. You have to have steel. So that is what we are talking about here.

States with steel companies filing for bankruptcy: In Indiana, Action Steel, Galv Pro, Great Lakes Metals, Heartland Steel, and Qualitech Steel; in Oklahoma, Sheffield Steel; in Texas, Metals USA; in Pennsylvania, Bethlehem Steel, Riverview Steel, Edgewater Steel, Freedom Forge, Erie Forge & Steel, J&L Structural, and Worldclass Processing; in Missouri, Excaliber Holding Co. and Laclede Steel; in California, Precision Steel; in Ohio, Republic Technologies, CSC Ltd., and LTV Corporation; in Alabama, Trico Steel and Gulf States Steel; in Louisiana, American Iron; in North Carolina, GS Industries; in Illinois, Northwestern Steel & Wire; in West Virginia, Wheeling-Pittsburgh; in Michigan, Vision Metals; in Utah, Geneva Steel; in New York, Al Tech Specialty and ACME Metals. That is 62,500 jobs. That is what is lost.

We are going to be debating this issue extensively, but I did want to follow a little bit on the second degree and challenge America's steel industry, challenge a couple CEOs out there who might have a little of the Lee Iacocca spirit to try to bring America's steel industry together and come to grips with an opportunity.

If we do not open ANWR, clearly it is not going to fund the rejuvenation of America's steel industry. That is apparent. That is why I hope, as we proceed with this debate, there will be a critical evaluation of the merits of opening ANWR, what it can do for our national security, and what it can do for American labor.

I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Alaska is absolutely right in his remarks about the need for the natural gas pipeline that is in this bill. One of the first things we did—I cannot remember if it was the Senator from Nevada or the majority leader who offered the amendment—but we offered the amendment that would create the opportunity to build a gasline from Alaska to Chicago, basically. It would be 3,500 miles long. That gasline would be 52 inches in diameter, and there would be a need for 5 million tons of steel to build that pipeline. It is estimated that pipeline alone would create 400,000 jobs.

So it would seem to me, we would be well advised to move this piece of legislation based on something we can all agree on; and that is, to bring natural gas from the North Slope to the lower 48 States. It is noncontroversial in the sense that it is bipartisan in nature. We have not only authorized the direction of that pipeline, we have also provided, in the legislation, loan guarantees for the private sector to build that pipeline. But we have gotten off on a tangent here on something that both sides have their own opinion of what is best for the country. As a result of that, ANWR is not going to happen.

But it should be recognized that the pipeline should happen. We should join together and quickly handle the remaining amendments. We are working over here to get rid of as many as we can and move this legislation forward.

The Senator from Alaska, Mr. MURKOWSKI, has worked so hard on this issue that he and Senator STEVENS believe in so fervently. I am glad we have the amendment before us. It is important we do that. Simply because I disagree with these two fine Senators from Alaska doesn't take away from the fervor they feel about this amendment. We will find during the debate that will take place in the next couple of days that there are people who believe just as fervently that this amendment is a bad idea.

That is what the Senate is all about—the ability to debate publicly issues of extreme importance to the country. The decision to be made on ANWR is important to the country.

As I have indicated, building a pipeline would not only create thousands of new jobs but would provide a huge opportunity for the steel industry. The Senate has already spoken that we encourage the use of American steel and union labor in the construction of the pipeline. The total cost of the Alaska natural gas pipeline is estimated to be as much as $20 billion. That is a real shot in the arm.

In addition to these enormous supplies of natural gas from existing oilfields, there is another substantial opportunity to obtain additional oil and gas resources from the Alaska North Slope. It is the National Petroleum Reserve—Alaska. This reserve is 23 million acres, as I understand it, of public land approximately the size of the State of Indiana. It was created to secure the Nation's petroleum reserves.

It is administered by the BLM which, in 1999, offered 4 million acres in the northeast portion of this for leasing. The result was an extremely successful lease sale.

That sale had a high level of interest from the industry with about $105 million in bonus bids for 133 leases on about 860,000 acres. Exploratory drilling has already occurred, and there have been major finds by the industry there.

A second lease sale is scheduled to take place this summer. Planning is being undertaken to open an additional portion of this for leasing. Again, no new law needs to be passed in order to drill here. We are not talking about a piece of land the size of a postage stamp. We are talking about 23 million acres.

As I said while I was waiting earlier today for Senator MURKOWSKI to offer his amendment, I am very happy it is being offered. Tomorrow morning we hope Senator BINGAMAN will have the opportunity to speak. He has managed this bill. He has sat here patiently waiting for this amendment. He has some things to say. I spoke to Senator BREAUX this afternoon. He is on the side of the Senators from Alaska. He wishes to speak tomorrow. Senator KERRY from Massachusetts believes very passionately that drilling in ANWR is absolutely wrong, and he will speak for a considerable period of time to lay out his position. Senator LIEBERMAN is scheduled to come as soon as he has an opportunity to speak in opposition to the two fine Senators from Alaska.

This is going to be a good debate. I personally look forward to it, on a very serious note, and would hope the debate is, for lack of a better description, as high class as it has been to this point. There is a lot to talk about. This is an issue that is important to the country, and it is time we laid our cards on the table and at a subsequent time vote as the Senate will allow us to do, either on a procedural matter or on a substantive matter.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I very much appreciate the remarks of my good friend the majority whip. The only question I would have is whether or not the majority whip realizes that not one single steel mill in the United States has the capacity currently to make the 52-inch steel pipe that is needed for the Alaska pipeline. They neither have the capacity nor are they familiar with this particular strength of steel. It is 80 to 100 in the dimension.

So I ask the majority whip, my good friend from Nevada, how does he propose we are going to go through this transition of America's steel industry achieving the capability to make the investment when indeed a good portion of the industry is in bankruptcy, another portion of the industry is in the process of not being able to pay its fund for health care, the legacy costs?

It is important as we get into this debate that we not generalize that somehow America's steel industry is going to participate without identifying where the funds are going to come from because the private sector is going to be very reluctant to invest in America's steel industry. That is why, obviously, the financial community did not see fit to invest in Chrysler when they had their troubled times. They exhausted all their alternatives. They came to the Congress, and the Congress came forward with a guarantee.

I ask my friend from Nevada how he proposes that any steel mill, since not one in the United States currently makes 52-inch X–80 steel pipe, how is the industry going to develop to meet the challenge of the order which we anticipate will be forthcoming?

Mr. REID. I am happy to respond to my friend from Alaska. First of all, the American Iron and Steel Institute has stated that no one in the world can make this pipe right now. But they also go on to say that if in fact there is an opportunity to do this pipeline, American entrepreneurship can do this. Remember, this legislation that we have already accepted in this bill provides loan guarantees.

I also say to my friend from Alaska, I have great faith in the American labor force and those, as I have said, entrepreneurs who have an opportunity to do good things for the country but also make money.

As far as the steel manufacturers, we have worked hard on this. As you remember, last year Senator BYRD worked long and hard on something to bail out the industry. Of course, we received little help from your side of the aisle.

Senator ROCKEFELLER, with whom I have spoken about this, recognizes that if we are going to do something for the steel industry—and we are—that it is going to take real money. We look forward to working with the steel State Senators. It is my understanding steel is now manufactured in some form or fashion in about 16 States.

We are committed to do everything we can to help that industry, not only from the management side but also for those workers who are entitled to a lot of things, not the least of which is pensions.

Mr. MURKOWSKI. Mr. President, I appreciate the response of the majority whip. I guess my frustration is in knowing how to get the two sides together. I am referring to the article in the Wall Street Journal today where they quoted Senator ROCKEFELLER saying that, supposedly, the deal was ANWR revenues for steel. He said:

> The deal fell through because the White House and the House Republican leaders would not provide letters of support for the steel industry—

He used the word "bailout." I prefer "rejuvenation."

I ask my friend, don't we have the power in the Senate to direct the use of these funds, as opposed to what the White House happens to think is in the best interest of the industry or politics? We have the authority, do we not, to direct these funds for the benefit of the steel industry if we authorize ANWR to be opened?

I ask my friend if, indeed, he can explain to me the logic that Senator ROCKEFELLER proposes because he simply says the deal fell through because the White House and the Republican leaders would not provide letters of support for the steel bailout. Why don't we just pass the law here and designate the funds for the industry? That in itself should address the concerns of the Senator from West Virginia.

I recognize it is not appropriate to ask the majority whip to explain the rationale of Senator ROCKEFELLER; nevertheless, I think the principle is here. If we wanted to pass this, we could, could we not?

Mr. REID. First of all, while I don't like to admit it, I don't read the Wall Street Journal, so I don't know what it said. I have not read that. Senator ROCKEFELLER would have to respond to his questions. I have my own reasons why I think it would be a very bad program, not the least of which is I don't think ANWR would be improved. You would have to talk to Senator ROCKEFELLER about that. All I know is that the development of this pipeline would create jobs in steel production, pipe manufacturing, pipe laying, and construction. It would create lots of jobs. By any estimate I am aware of, the pipeline would create probably at least 300 percent more jobs than the ANWR project.

Mr. MURKOWSKI. Mr. President, I think the hour is late and I am sure we are about to wind up. I look forward to continuing the debate. I hope we can have, from the organization that represents the American steel industry, some indication by tomorrow's debate just what their attitude would be toward their ability to restructure, to meet the anticipated order associated with the 3,000-mile natural gas pipeline from Alaska to Chicago. We will attempt to contact them in the 24 hours that we have before we start the debate tomorrow to obtain their views on their ability to meet this demand and what conditions would have to be met in order for them to be competitive.

I think it is rather interesting, also—and I simply call this to the attention of my good friend, Senator REID—it is my understanding that someone in the debate, regarding the merits of the 30-percent tariff that was set for imported steel, specifically excluded 52-inch pipe. Now, I encourage Members to check on that because, to me, that pretty much gives an out for American steel. In effect, it says that all steel coming into the United States is subject to a 30-percent import tariff, except 52-inch pipe. It seems to me that is not in the best interest of what we are talking about here, to try to encourage the American steel industry to gear up for the largest order, by specifically exempting 52-inch pipe, which is what this argument is all about.

I yield the floor.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Stevens amendment No. 3133, regarding drilling in ANWR:
>
> Tom Daschle, Kent Conrad, Harry Reid, Ben Nelson, Barbara Mikulski, Patty Murray, Dianne Feinstein, Tim Johnson, Tom Carper, Jeff Bingaman, Byron Dorgan, Richard Durbin, Mark Dayton, Jay Rockefeller, Patrick Leahy, Jack Reed.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Murkowski ANWR amendment No. 3132 to S. 517, the Energy Bill:
>
> Tim Johnson, Tom Carper, John Kerry, Jeff Bingaman, Patrick Leahy, Tom Harkin, Tom Daschle, Harry Reid, Hillary Rodham Clinton, Max Cleland, Maria Cantwell, Jack Reed, Ron Wyden, Carl Levin, Patty Murray, Max Baucus.

Mr. REID. Mr. President, the only remaining business is to wrap up. We will do that as soon as the Senator from Alaska allows me to go forward.

Mr. MURKOWSKI. Mr. President, I find it rather interesting that here we are, and we have started on this bill roughly at 3 o'clock; it is now roughly 6:35. I think it is extraordinary that the majority would file cloture on this amendment when not one single Member has risen in opposition to either amendment. I do grant the whip that he did mention it briefly—his opinion on certain aspects of it.

But in view of the fact that no one has spoken on the other side, I hope that these amendments could just be accepted. Obviously, that is wishful thinking. I think it, again, represents a terrible departure from the traditions of this body in the way this entire energy bill has been handled. From the beginning, it was taken away from the committee of jurisdiction, the Energy and Natural Resources Committee. It was taken away by the majority leader because he knew we had the votes to include ANWR in the energy bill and present it to the floor for debate.

Now, he also knew that, from a political point of view, he could ramrod his bill without the benefit of the committee process. Yet he has seen fit to take to task our side for delaying the bill.

Let me tell you what happened in this bill. It was an educational process. Most Members didn't have an idea of certain aspects of the renewable portfolio, the electric portfolio. So he has opted out of the tradition of this body in the handling of this bill, and we have been on it for a very short period of time. I am talking about, obviously, the lightning rod, which is ANWR, and we all knew it. Now he has seen fit to file cloture on this amendment when not one single Member has risen in opposition to either amendment. This means that debate around here is no longer of any significance because everybody has their mind made up ahead of time.

I think it is a sorry day for the Senate when we come to this impasse and address the disposition of this paramount issue by a cloture motion so early in the debate.

Outside of expressing my extreme disappointment in the manner this has been handled, I hope that as we address the debate from here on in, it will be represented by factual information, not innuendoes, and that those speaking in opposition have some knowledge because I will venture to say virtually every Member who will speak in opposition tomorrow has never been to ANWR, has never been to Prudhoe Bay, and has never ever considered the significance of what this legislation would do for the Native indigenous people of the North Slope; namely, the Eskimo people of Kaktovik.

I am going to leave one thing for this body as we go out, and that is to reflect on the honey bucket in Kaktovik. That is the difference between a Third World nation and the realities of what a lifestyle would bring to those people who want to have the same conveniences we take for granted; that is, running water and sewer facilities. They can have it if we can open up ANWR.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, by any standard one can come up with, in any body, especially any deliberative body, being on a bill since February 18, being on a bill 19 full days of debating would be a pretty good amount of debate. By any standard, being on a bill this long, one would say is enough, but we have not had enough because under the rules of the Senate which protect debate, we are not only going to be able to debate all tomorrow, we can go all night tomorrow if anyone wants to talk. That is what this is all about.

It seems to me we have had every opportunity to have this brought before us. I have been on this floor many times, most of the time representing the majority leader, saying: Please bring this forward. Could you do it tomorrow? I even said I think I will offer the amendment out of the House just to speed things up. Yesterday I asked: Can we start this in the morning?

The reason we have not had other people speaking in opposition to the amendment is that the two Alaska Senators would not allow us to have anybody. We wanted to intersperse speakers. Senator BINGAMAN, the manager of the bill, wanted to propound a unanimous consent request to set up an orderly process to debate. Senator BINGAMAN, being the gentleman he is, sat down and did not say a word. It is unusual that the manager of the bill has not had the opportunity to speak. He waited around, I guess, but he has been here all day.

Senator BINGAMAN is going to speak tomorrow against these amendments. I announced this earlier. I said Senator BINGAMAN is going to speak against the amendment, and Senator BREAUX is going to speak in favor. Senator KERRY wants to speak for an extended period of time. If anybody is looking for opposition to this amendment, I spoke in opposition to it today. I compared the Arctic wilderness to my home in Searchlight, NV. I compared the desert to the wilds of Alaska.

Mr. MURKOWSKI. Mr. President, I wonder if my friend will yield for a question.

Mr. REID. I will be happy to yield to my friend from Alaska.

Mr. MURKOWSKI. Mr. President, I respectfully request the reference not be to the Arctic wilderness because, obviously, we are all aware that this is not a designated wilderness. I thank the Chair.

Mr. REID. I will be happy to restate it: ANWR, and anyplace in my remarks in the last few minutes where I said "Arctic wilderness," I was simply saying not wilderness in the sense of legislative wilderness, but it is a very remote area. The place around Searchlight is not wilderness either in the true sense of the word, but it is pretty wild desert. I did not mean to connote any legal term when I said "wilderness." It is just a place out there all alone, Mr. President.

My friend from Alaska used the words "extreme disappointment." I can relate the extreme disappointment I have had on this bill in the last 18 days waiting, waiting, waiting to get to ANWR. That is the crux of this bill. We know that. If ANWR is disposed of one way or another, we have a bill.

My friends from Alaska said they knew they had the votes. We will find out when we vote on this. Under a procedure of the Senate, unless something changes, we are going to vote on this an hour after the Senate comes in on Thursday. That is under the rules of the Senate. I know—and I repeat what I said a few minutes ago—the Senators from Alaska believe in what they are doing. I repeat the words fervently. I do not take a bit of credit away from them for doing that. That is their job, and they have done a good job. But there are certain things that are not really—I should say they are not factual in some respects.

For example, on the energy bill, there have been a lot of hearings in the committee on which Senator MURKOWSKI sat as the chairman; now Senator BINGAMAN is the chairman. We went through this before. There were 12 hearings. Senator MURKOWSKI is right, maybe we should have had more hearings. There are not a lot of bills around here that have that many hearings on them. Anytime there is important legislation—which this is, setting the energy policy of this country—it is hard to satisfy everybody.

Senator DASCHLE did the best he could. He brought a bill before the Senate. I lost track of the time: 18, 19 days—a long time ago. We started on the 18th day of February. Senator DASCHLE has done fine getting it to this point. I think the legislation is moving along. I look forward to the debate tomorrow.

Senator MURKOWSKI wants to hear people in opposition to this. He is going to hear some. They will be just as believable as the Senators from Alaska in presenting their case.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wonder if my friend will yield. I hate to prolong this, but I have to stay here as long as he does. I guess we have a little bit of a standoff. With respect to the committee process, I certainly concur we have had a lot of hearings, but I ask the majority whip why we did not have any markups. Why did the majority leader forbid our committee from having markups after the hearings, when a majority of the committee supported ANWR? I would certainly appreciate any enlightenment. The only thing I have ever heard is that it was perhaps controversial. But I certainly defer to the whip to advise us as to what the rationale was of forbidding any markups.

Mr. REID. Mr. President, if I may respond to my friend from Alaska—we have been through this before, but I am happy to go through it again—I had an exchange on the floor with my counterpart, Senator NICKLES, who said we had no hearings, and I listed by date the hearings we had. He said we had no markup, and there was not a markup on this bill. That is acknowledged. Perhaps we learned something from when the Republicans were in control of the Senate because their last energy bill had no markup.

We do not need to have this tit for tat. This is the Senate. There are different ways of moving things forward. Senator DASCHLE did everything by the rules of the Senate. He did not do anything that was shady or try to contrive something. He certainly did not do anything that the Republicans had not done when they were in the majority, except I believe we had a lot more hearings on our bill than they had on their bill.

As I say, in the legislative process, this is used so many times, but it certainly is as descriptive as I can be: There are two things one does not want to watch: Sausage being made and the Senate creating legislation because it is not a lot of times an orderly process, but we do it by the rules, just as when the Republicans were in the majority they did it by the rules.

Sometimes we wish we did not have these rules, but they are here, and they are here for a reason. We have played by the rules and we will continue to play by the rules and do the best we can.

The important issue is when we vote. That is when the real decisions are made. On occasions it is hard to get to a vote, as it has been on this issue. On Thursday morning we are going to vote.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I think it is appropriate, however, since we have the responsibility for some consistency, to refer to the manner in which the Pickering nomination was handled.

A quote from the majority leader on March 6 states:

> If we respect the committee process at all, I think you have to respect the decisions of every committee. I will respect the wishes and the decisions made by that committee, as I would with any other committee.

Then at a news conference March 14, after the disposition:

> Committees are there for a reason, and I think we have to respect the committee jurisdiction, responsibility and leadership, and that's what I intend to do.

Obviously, there was never an opportunity for the committee as a whole to bring the matter to the floor, and I think we all can reflect on that bit of inconsistency.

I conclude by referring to the release on October 9, 2001. It was entitled: Energy Committee Suspends Markups; Will Propose Comprehensive and Balanced Energy Legislation to Majority Leader. This was by Chairman JEFF BINGAMAN, and it says:

> At the request of Senate Majority Leader Tom Daschle, Senate Energy and Natural Resources Committee Chairman Jeff Bingaman today suspended any further markup of energy legislation for this session of Congress. Instead, the chairman will propose comprehensive and balanced energy legislation that can be added by the majority leader to the Senate calendar for potential action prior to adjournment. Noted Bingaman, it has become increasingly clear to the majority leader and to me that much of what we are doing in our committee is starting to encroach on the jurisdictions of other committees. Additionally, with the few weeks remaining in this session, it is now obvious to all how difficult it is going to be for these various committees to finish their work on energy-related provisions.
>
> Finally, and perhaps most importantly, Senator Bingaman said, the Senate's leadership sincerely wants to avoid quarrelsome, divisive votes in committees. At a time when Americans all over the world are pulling together with a sense of oneness and purpose, Congress has an obligation at the moment to avoid these contentious issues that divide rather than unite us.

I ask unanimous consent that these quotes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Congress Daily AM, Apr. 16, 2002]

GOP PLAN TO LINK DRILLING WITH STEEL AID FALLS THROUGH

(By Geoff Earle and Brody Mullins)

An idea that top Republicans had been considering to link a steel program with an amendment oil drilling in the Arctic National Wildlife Refuge has fallen through, according to Sen. John (Jay) Rockefeller, D-W. Va.

"It's quite dead," Rockefeller said. "The deal was nixed by the White House."

Rockefeller said that Sen. Ted Stevens, R-Alaska, approached him last week about linking provisions to provide healthcare and retirement benefits to steelworkers using ANWR royalties. Rockefeller said that Stevens told him, "I need oil, you need steel, let's see if we can work together."

Rockefeller, who has opposed ANWR in the past, said he would be willing to back ANWR if it included so-called steel legacy provisions. But Rockefeller said he would not go along unless Republicans could produce letters from the president or vice president, Speaker Hastert, and House Energy and Commerce Chairman Tauzin, to ensure that the provisions are included in a final bill after a conference committee.

But Rockefeller said the administration told him that while a letter might be possible, "you get us 60 votes first."

Sixty votes will be needed to break a filibuster of an ANWR amendment.

Rockefeller said he did not think there were more than 54 votes for a clean ANWR bill. "The deal being off, they'll be lucky if they're at 50," he said. Rockefeller added he was searching for other vehicles to move steel legislation.

Rockefeller said he was able to draw conclusions about the lack of interest on the part of the White House from a conversation with Commerce Secretary Evans.

"The White House isn't behind it, you can forget the whole thing," he said. Rockefeller added that he plans to vote against ANWR.

Meanwhile, the Senate is expected to begin debate today on the ANWR amendment. Energy and Natural Resources ranking member Frank Murkowski, R–Alaska, had considered delaying action until Wednesday, but debate on the measure now is expected to begin today.

Majority Leader Daschle is expected to debate an amendment offered by Sens. Dianne Feinstein, D–Calif., and Paul Wellstone, D–Minn., to give the Federal Energy Regulatory Commission new authority to safeguard electricity consumers.

On other controversial amendments, Consumers Union called Monday on the Senate to strip from the energy bill a far-reaching ethanol compromise that would triple the amount of ethanol-produced gasoline.

ENERGY COMMITTEE SUSPENDS MARK-UPS; WILL PROPOSE COMPREHENSIVE AND BALANCED ENERGY LEGISLATION TO MAJORITY LEADER

(By Jeff Bingaman, Chairman Senate Committee on Energy and Natural Resources, Oct. 9, 2001)

At the request of Senate Majority Leader Tom Daschle, Senate Energy & Natural Resources Committee Chairman Jeff Bingaman today suspended any further mark-up of energy legislation for this session of Congress. Instead, the Chairman will propose comprehensive and balanced energy legislation that can be added by the Majority Leader to the Senate Calendar for potential action prior to adjournment.

Noted Bingaman, It has became increasingly clear to the Majority Leader and to me that much of what we are doing in our committee is starting to encroach on the jurisdictions of many other committees. Additionally, with the few weeks remaining in this session, it is now obvious to all how difficult it is going to be for these various committees to finish their work on energy-related provisions.

Finally, and perhaps most importantly, Bingaman said, the Senate's leadership sincerely wants to avoid quarrelsome, divisive votes in committee. At a time when Americans all over the world are pulling together with a sense of oneness and purpose, Congress has an obligation at the moment to avoid those contentious issues that divide, rather than unite, us.

Bingaman will continue to consult and build consensus with members of his committee, with other committee chairs and with other Senators as he finalizes a proposal to present to the Majority Leader.

If we respect the committee process at all, I think you have to respect the decisions of every committee. I will respect the wishes and the decisions made by that committee, as I would with any other committee.—Senator Tom Daschle, News Conference, March 6, 2002.

Committee are there for a reason, and I think we have to respect the committee jurisdiction, responsibility, and leadership, and that's what I intend to do.—Senator Tom Daschle, News Conference, March 14, 2002.

For whatever reason, the Republicans are slow-walking the energy bill. They appear not to want to move this to final passage or to a conclusion. We're not sure why they're not more supportive of bringing the debate to a close, but they have yet to offer the ANWR amendment and some of the other more controversial amendments. So we've been on the legislation 12 days already, and, you know, that's almost three weeks, and we have—we have very little prospect of finishing the legislation any time in the foreseeable future. So we're going to have to make some decisions about cloture when we get back, but its disappointing that they have not been more willing to move the legislation forward than we've seen so far.—Senator Tom Daschle, News Conference, March 21, 2002.

Mr. MURKOWSKI. I think it speaks for itself that indeed there is an inconsistency. When it benefits the other side, they basically steamroll the process by excluding the committee. They have seen fit to do so, and the energy bill is certainly the most recent, and I think the most blatant, inconsistency associated with the administration of the leadership. I think this is certainly evidenced even further by the manner in which the cloture motion has been laid down this evening, after only less than 3 hours of debate on what, indeed, the majority whip identified as the major issue in the energy bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this indicates how tough Senator DASCHLE's job is. He is criticized for doing something in the committee. He is criticized by the minority for doing the work in the Committee on the Judiciary. When he does that, he is criticized. When he does not do it, he is criticized on the energy bill.

We do not need this tit for tat stuff, but at least having been in the Senate during the time the Republicans controlled the Judiciary Committee we are at least having hearings for the judges. They would not even do that. We had judges who waited 4 years and did not even get a hearing. I do not think the Judge Pickering nomination is a good example because if they use how they treated our judicial nominees, that is those under President Clinton, we would win that in a slam dunk.

We are moving judges more rapidly than they did. We are giving all the judges hearings as quickly as possible. My personal feeling is the Pickering nomination is not a good example of how the Republicans have treated us with the Judiciary Committee. Maybe some other committee but not Judiciary, because we, for lack of a better description, took it in the shorts with our judicial nominees.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

Ms. LANDRIEU. I am delighted to participate in a colloquy with Senator KENNEDY on the important issue of the Low Income Energy Assistance Program.

I want to recognize Senator KENNEDY's tireless work on behalf of the people in need that this program strives to serve. In particular, I want to laud his efforts to increase LIHEAP authorizations. For too long, this program has not kept pace with Congress' original intent. No one has been more acutely aware of this than Senator KENNEDY himself. He has worked diligently to ensure LIHEAP is fully funded, including an effort to commit $3.4 billion to the program.

Unfortunately, it takes more than the tireless work of even such a distinguished Chairman as Senator KENNEDY to make this change. It takes each of us in Congress, and a willing administration as well. Unfortunately, that will has not yet been there. In fact, LIHEAP's average annual appropriation since 1984 has been $1.4 billion.

Mr. President, 22 years ago, LIHEAP was amended, following its original enactment in 1981. With the 1984 amendments, Congress put in place an elegant, simple and straightforward mechanism to ensure these scarce Federal resources got to those low-income Americans in greatest need. It accommodates: Annual updates of State expenditures for low-income home energy requirements—regardless of fuel source—for heating and cooling. Changes in weather—including heating/cooling degree days and fuel price volatility—for electricity, fuel oil, liquid petroleum gases and natural gas.

I have just described to you as near-perfect a means as possible to get the funds to those low-income Americans in greatest need. This mechanism can get funds to low-income Californians reeling from gas and electric price shocks, or Georgians who last summer endured crushing gas bills.

However, LIHEAP funds do not flow to all the places they are needed today but instead where they were needed in 1979 and 1980.

Back then, it was assumed that LIHEAP appropriations would rise, and the allocation mechanism mentioned above has been cast aside. The law states that unless LIHEAP appropriations exceed $1.975 billion, the elements described above do not control. Instead, the controlling factor is a state's receipt of funds in 1981.

Much can happen in 22 years. For example, from 1980 to 2000: Dallas' population grew from 904,074 to 1,118,580; Clark County, NV's population grew from 463,087 to 1,375,765; Greater Phoenix, Arizona grew from 1,509,000 to 3,072,000.

It would be unfortunate, if we were unable to respond to such situations, in these areas, or to the needs of the citizens of my own State of Louisiana, merely because LIHEAP was locked into the past. We need to address today's problems as well.

Mr. KENNEDY. Mr. President, I thank Senator LANDRIEU for her comments and commend her for her steadfast commitment to the Low Income Home Energy Assistance Program. She is an outstanding advocate for needy families in Louisiana and across the country. She is correct that the program demands and deserves significantly more funding than it currently receives. I'm sure she's as pleased as I am that LIHEAP's authorization levels are increased in the underlying bill. I look forward to working with her and with her colleagues on the Appropriations Committee to increase funding for this vital program.

Senator LANDRIEU has raised some very important concerns about the program which must be addressed during the re-authorization process. I plan to hold hearings on this issue and invite Senator LANDRIEU to testify. Her proposals will play a very serious role during consideration of LIHEAP re-authorization.

Senator LANDRIEU raises a critical point regarding the vulnerability of our poorest citizens to extreme weather conditions. My State is the home of ground-breaking research on the negative health impacts of extreme temperatures, particularly on poor children with chronic illnesses suffering through cold winters. Research at the Failure to Thrive Clinic at Boston Medical Center has indicated that needy children often start to lose weight and suffer additional problems associated with malnutrition, because their families are spending less of their meager incomes on food and medicine, and more on fuel bills. No family should have to choose between energy, rent, prescription drugs, or food. LIHEAP helps families meet their home energy needs, so they can meet other immediate priorities, too.

From 1979 to 1998, the Centers for Disease Control reports that there were 7,421 deaths in the United States due to heat stroke. Over the same time period, CDC says 13,970 people died of hypothermia, or exposure to cold. In Massachusetts, people who cannot afford to heat their homes efficiently often employ more dangerous methods of heat—such as using space heaters or simply leaving oven doors open. In winter 2000, an unseasonably cold winter for my state, deaths from home fires due to space heaters surged in Massachusetts. Nearly one out of every five fire deaths in Massachusetts in 2000 was caused by a space heater.

Had LIHEAP been fully funded, and had the program reacted more effectively to crises, we would have been able to save lives. The real tragedy of this debate is that the flexibility already in LIHEAP isn't being utilized. Emergency LIHEAP funding, desperately needed in Louisiana, Massachusetts, and across the country, is still sitting at the White House.

The Bush administration is sitting on $600 million in LIHEAP funds that can be placed wherever it is needed most. Half of this emergency funding was approved by Congress in the previous fiscal year. LIHEAP applications keep increasing, the economy still struggles, and States are forced to cut LIHEAP benefits for our people—but the administration keeps claiming an "emergency" doesn't exist while thousands of families are still facing the terrible choice of heat, cooling, or food. The Bush administration can reach the families it mentioned in its budget message right now by releasing the emergency funds. Until it does so, the administration can't discuss improving LIHEAP with any credibility.

Ms. LANDRIEU. Mr. President, I wish to thank the senior Senator from Massachusetts, Senator KENNEDY, for his interest and commitment to addressing this issue during reauthorization. I look forward to working closely with Chairman KENNEDY on this matter next year as well as the opportunity to testify before his committee. Throughout the South and the Southwest there is an urgent need for this reform and I am grateful for Senator KENNEDY's support.

RENEWABLE PORTFOLIO STANDARD

Mr. GRAHAM. Mr. President, we have heard hours of debate on the Senate energy bill. One of the messages that we've heard repeated in statements on many different energy related subjects is that energy policy is highly influenced by region. Energy policy that works in one region may not work in another, nor do policy decisions necessarily translate from state to state. For example, Florida's unique topographic, climatic, and geological conditions make it impossible to harness certain forms of renewable energy, such as wind and hydropower. Just as it would be difficult for the State of Alaska to rely on solar energy during its dark winter months. For these reasons, I have expressed my concern to the chairman of the Energy Committee, Senator BINGAMAN, that a broadly applied renewable portfolio standard will not work optimally for all fifty states of the union. While I remain supportive of expanding the use of renewable energy supplies as an important part of our national energy portfolio, I prefer an approach that treats regions and states with deference to their unique circumstances. An RPS standard cannot be rigid, but must be flexible.

Mr. BINGAMAN. I have been working with my colleagues from Florida for some time to address their concerns with the renewable portfolio standard in the Senate energy bill. Let me say that I think it is critical to increase the use of renewables in order to decrease our dependence on fossil fuels and foreign imports. However, I also appreciate the differences that occur from region to region and State to State. I would like to extend an offer to Senators GRAHAM AND NELSON to work in conference to find some method that will enable a renewable portfolio standard to accomplish the goal of increasing renewables while recognizing the legitimate differences among States. I believe that we can find an appropriate way to help each state include a renewable standard as part of their overall energy production, and I am committed to working with Senator GRAHAM to accomplish this.

Mr. GRAHAM. I want to thank Senator BINGAMAN for his work on the energy bill and for his offer to help address on my concerns with the renewable standard specifically. I look forward to working together on this important provision, and I withdraw my related amendments.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak therein for a period up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECTING DAVID AND ANN SCOVILLE TO RECEIVE THE NATIONAL CRIME VICTIM SERVICE AWARD

Mr. LEAHY. Mr. President, I join all Vermonters in congratulating David and Ann Scoville on receiving the National Crime Victim Service Award of 2002. We thank them for all they do to help the victims of crime and to help the public understand victims' needs.

Nearly 20 years ago the Scovilles suffered every parent's nightmare—the disappearance and murder of their daughter, Patricia. The crime that took her from them remains unsolved to this day—a situation that has compounded the Scovilles' suffering and one that also torments many other families.

Through their lives and examples, the Scovilles have become role models for grieving families who have suffered similar losses. They have summoned the courage and compassion to harness their pain for positive outcomes. They have made it their work to help other families escape the anguish they endured, and to help raise the awareness of public officials about the importance of victims' participation throughout all phases of the criminal justice process.

Victims of murder, rape, domestic violence, sexual assault and other crimes deserve the understanding and support of the American people and of the Congress. We have a duty to ensure that the criminal justice system is one that respects the rights and dignity of crime victims, rather than one that complicates or even exacerbates the suffering of those already victimized.

Congress has listened to their counsel and to the counsel of other victims of crime. Over the past two decades many of us have worked hard to pass laws that have provided victims with greater rights and assistance, including stronger protection for witnesses of crime; a Victims' Bill of Rights; protection for female victims of violence;

mandatory restitution for crime victims; special awareness of the needs of victims with disabilities; special programs for victims of terrorism; and an act for victims of trafficking.

We continue the fight to win more rights and help for victims of crime, largely because the victims' rights agenda in Congress has been advanced, year by year, by advocates like the Scovilles. I, with Senator KENNEDY, have introduced the Crime Victims Assistance Act of 2001, which focuses on protecting victims' rights, including victims' enhanced participatory rights at trial and sentencing.

This legislation requires that a responsible official consult with victims prior to detention hearings, and consider victims' views about any contemplated plea agreement. It calls for the presiding judge to inquire regarding victims' views on detention, and prohibits the court from entering a judgment upon a guilty plea without regarding victims' views. The bill also provides for enhanced victims' rights regarding the right to attend the trial and sentencing. Victims are also given specific rights regarding notice of sentence adjustment, discharge from a psychiatric facility and executive clemency.

In addition to these improvements to the Federal system, this legislation proposes several programs to help States provide better assistance for victims of State crimes. These programs would improve compliance with State victims' rights laws, promote the development of state-of-the-art notification systems to keep victims informed of case developments and important dates on a timely and efficient basis, and encourage further experimentation with the community-based restorative justice model in the juvenile court setting.

We were able to include much of the Crime Victims Assistance Act in last year's USA PATRIOT Act supported by Republicans and Democrats. One major provision that remains to be achieved, however, is to eliminate the artificial cap on the Crime Victims' Fund, which has prevented millions of dollars from reaching victims and from supporting essential services for them.

While we have greatly improved our crime victims assistance programs and made advances in recognizing crime victims' rights, we still have more to do. I commend David and Ann Scoville for their leadership and look forward to continuing to work with them to advance crime victims' rights legislation, and to make a difference in the lives of crime victims.

ADDITIONAL STATEMENTS

HOLOCAUST EDUCATION ASSISTANCE ACT

• Mr. DEWINE. Mr. President, I rise today, during these Days of Remembrance, to remind my colleagues about those who perished, but also those who persevered, in the unimaginable atrocities of the Holocaust.

Through remembering the Holocaust and teaching generation after generation about the atrocities that occurred over 60 years ago, we can help ensure that such tragedies do not repeat themselves. General Dwight D. Eisenhower recognized this long ago. After visiting the Ohrdruf concentration camp in 1945, General Dwight Eisenhower arranged for mass witnessing of the camps by military, press reporters, and photographers. "Let the world see," ordered Eisenhower. He realized that the world must bear witness to the atrocities of the Holocaust, and that it was necessary to teach our children about what had happened.

To help make sure that future generations continue to learn about and remember the Holocaust, my friend and colleague from Connecticut, Senator DODD, and I introduced a bill last week, called the "Holocaust Education Assistance Act." Our new bill would authorize two million dollars for grants to schools and school districts to develop a curriculum that teaches our students about the Holocaust, the triumph of the Jewish people, and all who helped them persevere.

At the same time, it is also important to teach our children about the thousands of individuals, both Jewish and non-Jewish, who took a stand against the persecution and killing of innocent people. I am reminded today of an obituary I read in the New York Times a couple of years ago, of a man named Jan Karski, who was one of the first to stand up to the injustice of the Holocaust. I am reminded of the role he, and many others, played in our modern history. He had a unique view of an appalling and shameful era of history. Let me explain.

During World War II, Jan Karski brought Allied leaders in the West—at no small risk to his own life—what is believed to be the first eyewitness reports of Hitler's indescribable acts of hate and cruelty against the Jews. In 1942, Jewish resistance leaders asked Jan, then a 28-year-old courier for the Polish underground, to be their voice to the West—to convey to the Allies an actual eyewitness account of the genocide in Europe.

He readily accepted this dreadful task, because he knew that someone had to tell the world exactly what was happening in Europe. Though he succeeded in relaying the nightmarish stories to Western leaders, his reports were met initially by indifference. While many others would eventually confirm Jan's horrifying accounts of the Jewish concentration camps and the Warsaw Ghetto in Poland, he was one of the first, and one of very few, to take action against these atrocities.

We are discovering that Jan was not the only witness to the slaughter of innocent civilians by Nazi Germany. We are learning more about the atrocities of the Holocaust through thousands and thousands of pages of previously classified material about Nazi war criminals, persecution, and looting. This information is being made available by a dedicated group of individuals, both in government and in the private sector, who are working hard to declassify these important pieces of history. This effort is the result of the "Nazi War Crimes Disclosure Act" legislation passed and signed into law with the help of my friends and colleagues from New York, Senator PATRICK MOYNIHAN and Congresswoman CAROLYN MALONEY.

The documents that are now public can serve as tools for education, to teach our children the horrors of the Holocaust, so that it will never be repeated.

Jan Karski persevered, but for the rest of his life, he carried the sights, the sounds, the smells, and the sadness of the Holocaust with him. Karski, himself, once said: "This sin will haunt humanity to the end of time. It does haunt me. And, I want it to be so."

Jan Karski wanted us all to be haunted by the Holocaust. He wanted us never to forget. He devoted his life to ensuring that such inhumane horror would be present forever in our collective conscience, so that we, above all else, would never let this dark chapter in our history ever, ever repeat, itself.

To understand the Holocaust is to remember the lives of those who perished and those who resisted, to remember, "always remember," as Jan would say, what their sacrifices meant, and still mean, for our world. Stories such as Jan Karski's should never be forgotten and the way to ensure that is through education.•

STRENGTHENING THE PUBLIC'S HEALTH AND FIGHTING BIOTERRORISM

• Mr. AKAKA. Mr. President, I rise today to talk about strengthening our medical care community against the threat of bioterrorism. As chairman of the Subcommittee on International Security, Proliferation, and Federal Services, I held a hearing in July 2001 where representatives from the Federal Emergency Management Agency and the Department of Health and Human Services discussed the activities underway by dedicated Federal employees across the Government to prepare our communities for a biological crisis. On October 17, 2001, I co-chaired a joint Subcommittee/Governmental Affairs Committee hearing to discuss further the public health implications of bioterrorism. Coincidentally the hearing was held on the same day the Hart Senate Office Building was shut down because of the anthrax attack.

Through these hearings, and several others held in both the House and Senate, we have learned that the Federal Government is not unprepared to deal with bioterrorism. However, preparedness levels are not uniform or consistent across the United States, and there are considerable and serious problems. As I said during our hearing in October, while not unprepared, America is clearly under prepared.

Now, almost 6 months to the day after the first anthrax letter arrived in Hart, I urge my colleagues to join me in sponsoring two initiatives that are modest in nature but which have profound impact on our fight against bioterrorism.

The first initiative, S. 1560 the Biological Agent-Environmental Detection Act, will increase our efforts to develop the necessary tools to minimize the impact of bioterrorism by reducing the number of people exposed and alerting authorities and medical personnel to a threat before symptoms occur. Current methods are not adequate to monitor the air, water, and food supply continuously in order to detect rapidly the presence of biological agents.

The Biological Agent-Environmental Detection Act establishes an interagency task force to coordinate public-private research in environmental monitoring and detection tools of bioterrorist agents. The act authorized appropriations totaling $40 million to the Department of Health and Human Services to encourage cooperative agreements between Federal Government and industry or academic laboratory centers, and pursue new technologies, approaches and programs to identify clandestine laboratory locations. The act also establishes a means of testing, verifying and calibrating new detection and surveillance tools and techniques developed by the private sector. Secretary of Health and Human Services Thompson supported this legislation and the authorization amount during the Subcommittee/Governmental Affairs Committee Hearing in October.

Senator ROCKEFELLER and I introduced S. 1561 Strengthening bioterrorism preparedness through expanded National Disaster Medical System training programs. This measure provides training for health care workers for bioterrorism or any biological crisis. Strengthening the public health system is very important and is being addressed by several congressional and administrative initiatives. But public health does not translate necessarily to the medical community. Creating a critical line of defense against bioterrorism must involve health care professionals. Training of emergency medical technicians, physicians, and nurses has been hindered by a lack of economic incentives for hospitals and clinics to make available formal training opportunities.

In fiscal year 2001, the Department of Veterans Affairs, VA, was appropriated **$800,000** to establish a training program for VA staff for the National Disaster Medical System, which is made up of VA and the Departments of Defense and Health and Human Services, and the Federal Emergency Management Agency.

One such training program, open to VA and Department of Defense staff as well as their community counterparts, took place earlier this year. The Akaka-Rockefeller bill expands this program by drawing on established partnerships between the 173 VA hospitals and community hospitals and using existing VA resources to implement a telemedicine and training program for local health care providers in bioterrorism preparedness and response.

In formulating a congressional response to bioterrorism, we must not forget the role our local and community hospitals would play in such a crisis. We must provide our professionals, public health officials, and emergency managers the earliest possible warning of pending outbreaks. I know our scientists and engineers can develop robust, effective, and accurate detection methods. Likewise, I believe we have the best and most dedicated health care staff in the world. They deserve to have the training and information needed to protect and treat Americans in instances of biological terrorism.•

THE PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

• Mr. ENZI. Mr. President, it is with a great deal of pride that I share with my colleagues the names of several Wyoming students who are being honored for their outstanding community service with a Prudential Spirit of Community Award.

These awards, in their seventh year, are presented by Prudential Financial, together with the National Association of Secondary School Principals. They honor the young people of our State who were nominated for their remarkable acts of volunteerism. This year a record 28,000 young men and women were considered for this special award.

The two top youth volunteers from my State are Chelsie Gorzalka, 17, of Clearmont and Tabetha Waits, 12, of Rawlins. We can be proud of each of them for the difference they have made in their communities. Their efforts help to make their home towns better places to live.

Chelsie Gorzalka is a member of the Sheridan County Extension 4-H and a senior at Arvada/Clearmont High School. Chelsie received her nomination for the puppet plays she puts on around the State in an effort to educate our young children about the dangers of tobacco and drugs.

Tabetha Waits of Rawlins Middle School was nominated for her organization of "You Can't Break Our Stride" an all-school walkathon that raised nearly $10,000 to assist the families of those who were affected by the September 11 terrorist attacks.

These two award winners, along with the two honorees who have received this award from each of the other States, the District of Columbia and Puerto Rico, will receive a $1,000 award, an engraved silver medallion, and a trip to the Nation's capital. During their stay here, ten from among that group of finalists will be named America's top youth volunteers for 2002.

In addition to Chelsie and Tabetha, I would like to congratulate our State's two distinguished finalists.

Cory Poulos, 18, was nominated by Natrona County High School. He organized and participated in a Roof-Sit fundraiser that collected more than $5,000 to benefit "Families of Freedom," a post secondary education fund for children whose parents were injured or killed in the September 11 terrorist attacks.

Mark Sabec, 17, was nominated by Natrona County High School as well. He created "No Casualties," a peer and adult mentoring project aimed at reducing the number of school dropouts in his community.

Our congratulations goes out to these fine young people and to all those who participated in the awards program. Thanks to them, it is clear that our future is in good hands.•

IN SUPPORT OF ONCOLOGY NURSES AND ONCOLOGY NURSING SOCIETY

• Mr. REED. Mr. President, I would like to bring to the attention of my colleagues the important role that oncology nurses play in the care of patients diagnosed with cancer.

This year alone 1,284,900 Americans will hear the words "You have cancer". Everyday, oncology nurses see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment.

Cancer is a complex, multifaceted, and chronic disease, and people with cancer are best served by a multidisciplinary health care team specialized in oncology care, including nurses who are certified in that specialty. Oncology nurses play a central role in the provision of quality cancer care as they are principally involved in the administration and monitoring of chemotherapy and the associated side-effects patients may experience. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial, and supportive care to patients and their families. In short, they are integral to our nation's cancer care delivery system.

The Oncology Nursing Society, ONS, is the largest organization of oncology health professionals in the world with more than 30,000 registered nurses and other health care professionals. Since 1975, the Oncology Nursing Society has been dedicated to excellence in patient care, teaching, research, administration and education in the field of oncology. The Society's mission is to promote excellence in oncology nursing and quality cancer care. To that end, ONS honors and maintains nursing's historical and essential commitment to advocacy for the public good by providing nurses and healthcare professionals with access to the highest quality educational programs, cancer-care resources, research opportunities, and networks for peer support.

The ONS has a chapter that serves the state of Rhode Island and the southeastern Massachusetts areas. This chapter helps them to continue to provide high quality cancer care to those patients and their families. On behalf of the people of Rhode Island, I want to express my appreciation for all that these amazing nurses do to advance the health and well-being of people with cancer and to further the practice of oncology nursing.

Despite significant breakthroughs in the treatment, early detection, and prevention of cancer, two-thirds of new cancer cases strike people over the age of 65 and the number of new cancer cases diagnosed among the elderly is projected to more than double by 2030 as the Baby Boom generation ages. The impact that cancer has on our nation, especially on the Medicare Program, cannot be underestimated or overlooked. In addition, more than 115,000 nursing positions will go unfilled by the year 2015—a factor which—taken with eroding Medicare payment for outpatient cancer care—further exacerbates the challenge of a growing number of cancer cases.

This week more than 5,000 oncology nurses from around the country have traveled to Washington, DC to attend the Oncology Nursing Society's 27th Annual Congress. This year's theme is aptly titled "The Many Faces of Oncology Nursing." The attendees will increase their knowledge of the newest cancer treatments, learn the latest developments in cancer nursing research, and enhance their clinical skills and contribute to their professional development. In addition, approximately 550 of these nurses—representing 49 states—will come to Capitol Hill to discuss issues.

I would like to commend the Oncology Nursing Society for all of its efforts over the last 27 years and to thank the Society and its members for their ongoing commitment to improving and assuring access to quality cancer care for all cancer patients and their families.●

CYGNUS

• Mr. CRAIG. Mr. President, I rise today to congratulate Cygnus, Inc. of Ponderay, ID on being recognized as one of Boeing's Top 25 Suppliers for the C–17.

As we all know, the C–17 is one of our key aircraft. Since it was first put into service in 1993, the C–17 has proven its worthiness as an extremely flexible airlift aircraft vital to our national security. Lately, Congress has reaffirmed its commitment to the C–17 by authorizing the purchase of additional aircraft. This is the right thing to do and I applaud my colleagues. In this day and age, we need a rapid-deployment airlift aircraft that can reach remote areas. The C–17 delivers and we must continue to support the program. Not only is it important for our national defense, it is money well spent because of quality subcontractors like Cygnus.

Cygnus has supplied top-notch parts for the C–17 since the first aircraft rolled off the assembly line. Today, Boeing and Cygnus celebrated the delivery of the parts for the 100th C–17 and Boeing will recognize Cygnus as one of the top 25 suppliers for the program.

Cygnus is a real success story of Idaho. It started in 1998 and since then has grown to sixty-five employees, forty-five of which work on its C–17 program. What is truly remarkable is they have taken those 65 employees, who didn't have experience in the aerospace manufacturing field, and turned them into a stellar team supplying our Nation's military. Because they have chosen to locate in Ponderay, ID, they have helped to diversify the local economy from a natural resource dependent economy to one that has a diverse industrial base.

Boeing is not the only one to recognize Cygnus' performance. In 2000, Region 10 of the Small Business Administration recognized Cygnus as the Subcontractor of the Year for their outstanding work on the U.S. Navy's F–18 E/F program.

Since September 11, our country has recognized, more than ever, the sacrifice that our Nation's military gives to protect our freedoms. Today, I also want to recognize the effort that our civilian laborers put into the effort. Much like Rosie the Riveter assisted our troops in World War II, our civilian manufacturers of today, working with our military, will ensure the freedoms we all enjoy.●

REVEREND DR. BYRON HOWELL BROWN, JR.

• Mrs. CLINTON. Mr. President, the congregation of Christ Church and the Village of Garden City experienced a great loss when the Reverend Dr. Byron Howell Brown, Jr. passed away on Saturday, April 13. Father Brown, as he was affectionately known by all those who knew him, was a life-long resident of Garden City and was instituted as Rector of Christ Church in 1967. Throughout his tenure as Rector, Father Brown was the spiritual leader of several generations of parishioners, but it would be impossible to quantify how many lives he touched. Father Brown truly practiced the lessons that he preached. He was a faithful and committed rector, husband, father, grandfather, coach, counselor, mentor, and friend. He will be deeply missed by all those who were fortunate enough to know him, learn from him, and hear his message of God's abiding love. Through his devotion and kindness to his congregation, his family, and all those he served, he set a standard to which we should all aspire.

Father Brown will be laid to rest tomorrow, with a mass of Christian burial at the Cathedral of the Incarnation. But Father Brown's spirit and kindness will live on through his beloved wife Marylou, his children Jeanne, Thomas, Timothy and Janice, his daughters in law Lisa, and Mary Patricia, and especially through his grandchildren Aidan Byron, Sarah Margaret, Frances Anne, and Matthew George.●

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 8, 1997 in Rock Island, IL. A gay man was attacked by two youths who used anti-gay epithets. The assailants, Nicholas S. McGonigle, 18, and Donald Thompson, 17, were charged with aggravated battery and a hate crime in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

CLARIFICATION OF THE RECORD

• Mr. WYDEN. Mr. President, on April 9, 2002, on the floor of the U.S. Senate, I announced the cancelation of the Mt. Hood National Forest Eagle Creek timber sales. These sales were sold under the salvage rider, enacted in 1996 by the 104th Congress. During my floor speech, I reiterated my opposition to the salvage rider, but also inadvertently referred to salvage sales instead of confining my remarks to salvage rider sales.

I have been, and will continue to be, a supporter of salvage sales involving the commercial recovery of dead or dying timber, when such sales make sense for the health of the forest. In fact, I worked very hard to make sure that a salvage sale project went forward in the wake of the 1996 Summit and Tower fires, and I continue to support constructive salvage work being done to improve forest health throughout the National Forests.

As I continue to work toward comprehensive forestry legislation which will include both active forest management and old growth protection, I thought it important to correct the RECORD.•

RECOGNITION OF JOYCE MAISH

• Mr. BROWNBACK. Mr. President, I take this moment to recognize Joyce Maish, a high school business teacher in Augusta, KS. Joyce was one of twelve teachers across the United States who was named Teacher of the Year by the National Foundation for Teaching Entrepreneurship.

Joyce has been a teacher at Augusta High School for twenty-five years. At the high school, Joyce conducts a "Youth Entrepreneurs for Kansas" class, in which she attempts to focus the ideas and dreams of her students on the possibility that they could someday start their own businesses. Moreover, she has done an outstanding job of bringing in local business owners and officials from Augusta and Wichita to speak to her students to teach them about the realities of business enterprise.

Joyce Maish is a role model teacher for Kansas and for the Nation. I am very pleased that the National Foundation for Teaching Entrepreneurship has honored Joyce for her years of excellence. I wish Joyce continued success in all of her future endeavors.•

CONGRATULATIONS AND GOOD LUCK TO HIGHLANDS HIGH SCHOOL

• Mr. BUNNING. Mr. President, today I rise to congratulate the young men and women of Highlands High School in Fort Thomas, KY for being chosen to represent the Commonwealth of Kentucky in the national finals of the We the People . . . The Citizen and the Constitution program. The competition will take place May 4-6 here in Washington and will include more than 1,200 students from across the United States.

The three-day national competition is appropriately modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on various constitutional topics. Questions ranging from factual concerns of how the framers created the Constitution to more analytical questions such as how a member of Congress should represent his or her constituency will be directed at the students to determine their depth of understanding and ability to apply their constitutional knowledge.

The We the People . . . program, directed by the Center for Civic Education and funded by the U.S. Department of Education, has provided curricular materials at upper elementary, middle, and high school levels for more than 2.5 million students nationwide. By providing students with a working knowledge of our Constitution, Bill of Rights, and principles of democratic government, We the People . . . gives our next generation of leaders an opportunity to study in depth the documents and ideals that have bound this nation together for so many years. I thank the U.S. Department of Education for continuing to provide fiscal support to this great program and the Center of Civic Education for their ongoing commitment to the education of our Nation's future. It is truly inspiring to see that so many young people are interested in furthering the democratic ideals brought forth by our forefathers so many years ago.

The class from Highlands High School, led by teacher Brian Robinson, has proven without a doubt that they are dedicated to representing Kentucky in the most admirable fashion possible in this year's competition. They are currently conducting thorough research and preparing for their upcoming participation in the national finals. I would like to wish all of these students the best of luck at the We the People . . . national finals. It is comforting to know what one of these students may one day be standing in my place, representing the great people of the Commonwealth of Kentucky in the U.S. Senate.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6483. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, a report entitled "Report on Activities and Programs for Countering Proliferation and NBC Terrorism"; to the Committee on Armed Services.

EC-6484. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Extension to Administrative Fines" received on March 21, 2002; to the Committee on Rules and Administration.

EC-6485. A communication from the Senior Attorney, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Government Participation in the Automated Clearing House" (RIN1510–AA84) received on April 11, 2002; to the Committee on Finance.

EC-6486. A communication from the Secretary of the Federal Trade Commission, Bureau of Competition, transmitting, pursuant to law, the report of a rule entitled "16 CFR Parts 801 and 802" (RIN3084–AA23) received on April 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-6487. A communication from the Assistant Secretary for Land and Minerals Management, Regulatory Affairs Group, Bureau of Land Management, transmitting, pursuant to law, the report of a rule entitled "National Petroleum Reserve, Alaska, Oil and Gas Unitization Rule" (RIN1004–AD13) received on April 10, 2002; to the Committee on Energy and Natural Resources.

EC-6488. A communication from the Deputy Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Annual Report From Federal Contractors" (RIN1293–AA07) received on April 8, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-6489. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Postsecondary Education, received on April 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-6490. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendments of Appendix A to 31 CFR Chapter V" received on April 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-6491. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Rail Fixed Guideway Systems; State Safety Oversight" (RIN2132–AA69) received on April 5, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-6492. A communication from the Deputy Secretary, Investment Management Office of Disclosure Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies" (RIN3235–AG37) received on April 12, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-6493. A communication from the Congressional Review Coordinator, Animal and

Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of the Czech Republic Because of BSE" (Doc. No. 01-062-2) received on April 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6494. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Viruses, Serums, and Toxins and Analogous Products; Autogenous Biologics" (Doc. No. 95-066-2) received on April 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6495. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Infectious Salmon Anemia; Payment of Indemnity" (Doc. No. 01-126-1) received on April 12, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6496. A communication from the Chief of Staff, United States Trade and Development Agency, transmitting, pursuant to law, a report of prospective funding obligations; to the Committee on Appropriations.

EC–6497. A communication from the Congressional Liaison Officer, United States Trade and Development Agency, transmitting, pursuant to law, a report on prospective funding obligations; to the Committee on Appropriations.

EC–6498. A communication from the Chairman and Vice Chairman of the Federal Election Commission, transmitting jointly, a report concerning the request of emergency Fiscal Year 2002 supplemental appropriations; to the Committee on Appropriations.

EC–6499. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a report relative to the draft legislative proposal, "To Clarify the Authority of the Executive Director of the Board to Bring Suit on Behalf of the Thrift Savings Fund in the District Courts of the United States"; to the Committee on Governmental Affairs.

EC–6500. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-320, "Mandarin Oriental Hotel Project Tax Deferral Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–6501. A communication from the Director, Office of Personnel Management, Workforce Compensation and Performance Service, transmitting, pursuant to law, the report of a rule entitled "Absence and Leave: Use of Restored Annual Leave" (RIN3206-AJ51) received on April 12, 2002; to the Committee on Governmental Affairs.

EC–6502. A communication from the Chairman of Federal Trade Commission, transmitting, pursuant to law, the Commission's Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6503. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's Accountability Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6504. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "VISAS: Passports and Visas Not Required for Certain Nonimmigrants—Visa Waiver Program" (22 CFR Part 41) received on April 10, 2002; to the Committee on Foreign Relations.

EC–6505. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Saudi Arabia; to the Committee on Foreign Relations.

EC–6506. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6507. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6508. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–6509. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–6510. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to France, the United Kingdom, and Germany; to the Committee on Foreign Relations.

EC–6511. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement with Japan; to the Committee on Foreign Relations.

EC–6512. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC–6513. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Germany and Saudi Arabia; to the Committee on Foreign Relations.

EC–6514. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement with Japan; to the Committee on Foreign Relations.

EC–6515. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6516. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6517. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6518. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–6519. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–6520. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to International Waters, Pacific Ocean; to the Committee on Foreign Relations.

EC–6521. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export to Japan, France and Canada of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–6522. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed Technical Assistance Agreement with Bulgaria; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ROCKEFELLER:

S. 2132. A bill to amend title 38, United States Code, to provide for the establishment of medical emergency preparedness centers in the Veterans Health Administration, to provide for the enhancement of the medical research activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. 2133. A bill to suspend temporarily the duty on Dichlorobenzidine Dihydrochloride; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. SCHUMER, Mr. NICKLES, Mrs. CLINTON, Mr. WARNER, Ms. MIKULSKI, Mr. BURNS, and Mr. CRAIG):

S. 2134. A bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. DASCHLE, Mr. CONRAD, Mr. THOMAS, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. HARKIN, Mr. JOHNSON, and Mr. ROBERTS):

S. 2135. A bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the authorization for appropriations for certain medicare rural grants; to the Committee on Finance.

By Mr. SPECTER:

S. 2136. A bill to establish a memorial in the State of Pennsylvania to honor the passengers and crewmembers of Flight 93 who, on September 11, 2001, gave their lives to prevent a planned attack on the Capitol of the United States; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 2137. A bill to facilitate the protection of minors using the Internet from material that is harmful to minors, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 242. A resolution designating August 16, 2002, as "National Airborne Day"; to the Committee on the Judiciary.

By Mr. HUTCHINSON (for himself, Mr. DODD, Mrs. MURRAY, Mr. HATCH, Mr. SPECTER, Mr. BOND, Mr. BINGAMAN, Mr. CRAIG, Mr. TORRICELLI, Mr. BIDEN, Mr. JEFFORDS, Mr. CORZINE, Mr. SARBANES, Ms. MIKULSKI, Mr. KENNEDY, Mr. HELMS, Mr. FRIST, Mr. BREAUX, Mr. EDWARDS, Mr. CRAPO, Ms. COLLINS, Mr. CAMPBELL, Mr. SESSIONS, Mr. INHOFE, Mrs. CARNAHAN, Mr. DURBIN, Mr. KERRY, and Mr. THURMOND):

S. Res. 243. A resolution designating the week of April 21 through April 28, 2002, as "National Biotechnology Week"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 77

At the request of Mr. DASCHLE, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 170

At the request of Mr. REID, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 1208

At the request of Mr. GRAHAM, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1208, a bill to combat the trafficking, distribution, and abuse of Ecstasy (and other club drugs) in the United States.

S. 1304

At the request of Mr. KERRY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1304, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1523

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1523, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1644

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1644, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 1738

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1738, a bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the medicare program, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Hampshire (Mr. GREGG), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1836

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1836, a bill to amend the Public Health Service Act to establish scholarship and loan repayment programs regarding the provision of veterinary services in veterinarian shortage areas.

S. 1850

At the request of Mr. CHAFEE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1850, a bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes.

S. 1977

At the request of Mr. THURMOND, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 1977, a bill to amend chapter 37 of title 28, United States Code, to provide for appointment of United States marshals by the Attorney General.

S. 1988

At the request of Ms. LANDRIEU, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1988, a bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 1995

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1995, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Montana (Mr. BURNS) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2064

At the request of Mr. MCCAIN, the name of the Senator from Arizona (Mr.

KYL) was added as a cosponsor of S. 2064, a bill to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 2132. A bill to amend title 38, United States Code, to provide for the establishment of medical emergency preparedness centers in the Veterans Health Administration, to provide for the enhancement of the medical research activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

● Mr. ROCKEFELLER. Mr. President, I am proud to introduce legislation that would establish four medical emergency preparedness research centers within the Department of Veterans Affairs. These centers would make the most of VA's expertise in basic and clinical research to shape new strategies for coping with, or preventing, the medical crisis that could result from a terrorist attack against the American people.

The threats posed by biological, chemical, radiological, and incendiary weapons demand that we prepare immediately, using our existing national resources as efficiently as possible. Although many of my colleagues know that VA operates the Nation's largest integrated healthcare system, fewer may know that VA manages the largest health professionals training program in the United States. VA's clinical research programs investigate both cutting-edge technology and best medical practices, and included over 15,000 projects last year.

Through its reach, its educational programs, and its research capacity, VA stands ready to make a significant contribution to protecting veterans and the public from the medical consequences of a terrorist attack. Only a few weeks ago, VA researchers announced that they have developed the most promising drug yet to protect the public should a terrorist deliberately release smallpox virus. I remain confident that this is only the first of many such scientific breakthroughs by VA scientists.

VA already plays a key role in supporting Federal disaster preparedness, including maintaining pharmaceutical stockpiles, jointly administering the National Disaster Medical System, serving as primary medical back-up to the Department of Defense, and sharing medical personnel and supplies with communities whose own resources are overwhelmed. The legislation that I propose today would add another dimension to VA's role in emergency preparedness by acknowledging its expertise in developing clinical approaches to public health.

The centers authorized by this legislation would foster research by VA scientists and clinicians in the diagnosis, prevention, and treatment of illnesses or injuries that might arise from the use of terrorist weapons. These centers would encourage cooperation between VA researchers and professionals at affiliated schools of medicine and public health to bring new findings and ideas as quickly as possible to the Nation's caregivers. The legislation that I have proposed would promote fruitful collaboration between VA, academic, and other Federal researchers, so that we can integrate research, public health, and domestic security efforts expeditiously.

The legislation I introduce today also makes two changes in law which affect VA's non-profit research corporations. These two changes are technical in nature and are designed to clarify existing provisions of law: one clarifies that research corporation employees are covered under the Federal Tort Claims Act, FTCA, and the other provision clarifies that VA Medical Centers may enter into contracts or other forms of agreements with nonprofit research corporations to provide services to facilitate VA research and education.

On the issue of FTCA coverage, a recent Department of Justice opinion determined that physicians employed by the VA-affiliated nonprofit research did not enjoy FTCA coverage, despite the fact that they have VA appointments. Prior to this opinion, the understanding was that the corporations' employees were covered, subject to a certification that their activities were within the scope of government work. Since research corporations were authorized in 1988, not a single suit has been filed against a corporation employee. Nevertheless, it is critical that employees working on VA approved research and education be protected. It is estimated that nationwide, the corporations have 1,500–2,000 research employees.

These non-profit research corporations have been placed in a difficult spot. Corporations must decide whether to take their chances that the FTCA will cover a suit despite the Department of Justice provision, as the VA General Counsel believes; to reduce their activities by only hiring employees with access to private sector insurance; to use funds normally devoted to supporting research to buy an expensive blanket insurance policy; or to close down entirely. The better choice, is to be explicit in providing FTCA coverage to corporation employees engaged in activities that further VA's research and education missions.

The second change relates to contracts between VA Medical Centers and research corporations. Many times, VA Medical Centers need help to provide services which are ancillary to research, such as travel coordination, technical services, and conference management.

I believe that a precedent for such contracts already exists. VA Medical Centers can enter into agreements with closely affiliated universities. For more than 50 years, the VAMCs and universities have contracted with each other for goods and services. In my view, we need to bring this kind of thinking to the non-profit research corporations.

I ask unanimous consent that the text of the bill be printed in the RECORD.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAL EMERGENCY PREPAREDNESS CENTERS IN VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by inserting after section 7320 the following new section:

"§ 7320A. Medical emergency preparedness centers

"(a) The Secretary shall establish and maintain within the Veterans Health Administration four centers for research and activities on medical emergency preparedness.

"(b) The purposes of each center established under subsection (a) shall be as follows:

"(1) To carry out research on the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices, including the development of methods for the detection, diagnosis, prevention, and treatment of such injuries, diseases, and illnesses.

"(2) To provide to health-care professionals in the Veterans Health Administration education, training, and advice on the treatment of the medical consequences of the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices.

"(3) Upon the direction of the Secretary, to provide education, training, and advice described in paragraph (2) to health-care professionals outside the Department through the National Disaster Medical System or through interagency agreements entered into by the Secretary for that purpose.

"(4) In the event of a national emergency, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the national emergency.

"(c)(1) Each center established under subsection (a) shall be established at an existing Department medical center, whether at the Department medical center alone or at a Department medical center acting as part of a consortium of Department medical centers for purposes of this section.

"(2) The Secretary shall select the sites for the centers from among competitive proposals that are submitted by Department medical centers seeking to be sites for such centers.

"(3) The Secretary may not select a Department medical center as the site of a center unless the proposal of the Department medical center under paragraph (2) provides for—

"(A) an arrangement with an accredited affiliated medical school and an accredited affiliated school of public health (or a consortium of such schools) under which physicians and other health care personnel of such schools receive education and training through the Department medical center;

"(B) an arrangement with an accredited graduate program of epidemiology under which students of the program receive education and training in epidemiology through the Department medical center; and

"(C) the capability to attract scientists who have made significant contributions to innovative approaches to the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices.

"(4) In selecting sites for the centers, the Secretary shall—

"(A) utilize a peer review panel (consisting of members with appropriate scientific and clinical expertise) to evaluate proposals submitted under paragraph (2) for scientific and clinical merit; and

"(B) to the maximum extent practicable, ensure the geographic dispersal of the sites throughout the United States.

(d)(1) Each center established under subsection (a) shall be administered jointly by the offices within the Department that are responsible for directing research and for directing medical emergency preparedness.

"(2) The Secretary and the heads of the agencies concerned shall take appropriate actions to ensure that the work of each center is carried out—

"(A) in close coordination with the Department of Defense, Department of Health and Human Services, Office of Homeland Security, and other departments, agencies, and elements of the Federal Government charged with coordination of plans for United States homeland security; and

"(B) in accordance with any applicable recommendations of any joint interagency advisory groups or committees designated to coordinate Federal research on weapons of mass destruction.

"(e)(1) Each center established under subsection (a) shall be staffed by officers and employees of the Department.

"(2) Subject to the approval of the head of the department or agency concerned and the Director of the Office of Personnel Management, an officer or employee of another department or agency of the Federal Government may be detailed to a center if the detail will assist the center in carrying out activities under this section. Any detail under this paragraph shall be on a non-reimbursable basis.

"(f) In addition to any other activities under this section, a center established under subsection (a) may, upon the request of the agency concerned and with the approval of the Secretary, provide assistance to Federal, State, and local agencies (including criminal and civil investigative agencies) engaged in investigations or inquiries intended to protect the public safety or health or otherwise obviate threats of the use of a chemical, biological, radiological, or incendiary or other explosive weapon or device.

"(g) Notwithstanding any other provision of law, each center established under subsection (a) may, with the approval of the Secretary, solicit and accept contributions of funds and other resources, including grants, for purposes of the activities of such center under this section.".

(2) The table of sections at the beginning of chapter 73 of title 38, United States Code, is amended by inserting after the item relating to section 7320 the following new item:

"7320A. Medical emergency preparedness centers.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated for the Department of Veterans Affairs amounts for the centers established under section 7320A of title 38, United States Code (as added by subsection (a)), $20,000,000 for each of fiscal years 2003 through 2007.

(2) The amount authorized to be appropriated by paragraph (1) is not authorized to be appropriated for the Veterans Health Administration for Medical Care, but is authorized to be appropriated for the Administration separately and solely for purposes of the centers referred to in that paragraph.

(3) Of the amount authorized to be appropriated by paragraph (1) for a fiscal year, $5,000,000 shall be available for such fiscal year for each center referred to in that paragraph.

SEC. 2. MODIFICATION OF AUTHORITIES ON RESEARCH CORPORATIONS.

(a) RESTATEMENT AND ENHANCEMENT OF AUTHORITY ON AVAILABILITY OF FUNDS.—Section 7362 of title 38, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking the second sentence of subsection (a); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Any funds, other than funds appropriated for the Department, that are received by the Secretary for the conduct of research or education and training may be transferred to and administered by a corporation established under this subchapter for the purposes set forth in subsection (a).

"(2) Funds appropriated for the Department are available for the conduct of research or education and training by a corporation, but only pursuant to the terms of a contract or other agreement between the Department and such corporation that is entered into in accordance with applicable law and regulations.".

(b) TREATMENT OF CORPORATIONS AS AFFILIATED INSTITUTIONS FOR SHARING OF HEALTH-CARE RESOURCES.—Section 8153(a)(3) of that title is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subsections (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) If the health-care resource required is research or education and training (as that term is defined in section 7362(c) of this title) and is to be acquired from a corporation established under subchapter IV of chapter 73 of this title, the Secretary may make arrangements for acquisition of the resource without regard to any law or regulation (including any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.";

(3) in subparagraph (D), as so redesignated, by striking "(A) or (B)" and inserting "(A), (B), or (C)"; and

(4) in subparagraph (E), as so redesignated, by striking "(A)" and inserting "(A) or (B)".

SEC. 3. COVERAGE OF RESEARCH CORPORATION PERSONNEL UNDER FEDERAL TORT CLAIMS ACT AND OTHER TORT CLAIMS LAWS.

(a) IN GENERAL.—Subchapter IV of chapter 73 of title 38, United States Code, is amended by inserting after section 7364 the following new section:

"§ 7364A. Coverage of employees under certain Federal tort claims laws

"(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

"(1) Section 1346(b) of title 28.

"(2) Chapter 171 of title 28.

"(3) Section 7316 of this title.

"(b) An employee described in this subsection is an employee who—

"(1) has an appointment with the Department, whether with or without compensation;

"(2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training carried out with Department funds; and

"(3) performs such duties under the supervision of Department personnel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of that title is amended by inserting after the item relating to section 7364 the following new item:

"7364A. Coverage of employees under certain Federal tort claims laws.".

By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. 2133. A bill to suspend temporarily the duty on Dichlorobenzidine Dihydrochloride; to the Committee on Finance.

• Mr. DEWINE. Mr. President, I rise today to join my friend and colleague, Senator VOINOVICH, to introduce legislation that would temporarily suspend the import duty on Dichlorobenzidine, DCB.

DCB is a chemical used to produce organic pigments for printing ink. It is reacted with other materials to form various yellow organic pigments. These yellow pigments are used extensively by the printing ink industry because yellow is one of the three primary colors used in printing and is used in nearly all color printing applications. DCB also is used to produce certain red and orange pigments.

The U.S. printing ink industry is facing increasingly aggressive competition from low-cost foreign producers. Despite its widespread use, DCB is no longer produced in the United States and is unlikely to be produced here in the foreseeable future. Domestic manufacturers of synthetic organic pigments must import all of the DCB required for their production of yellow pigment. These imports are currently subject to high duties despite the fact that there is no longer a domestic DCB industry to protect.

Our duty suspension bill would help U.S. producers remain competitive in the global market, and it would remove unnecessary costs on U.S. pigment, ink, and printing industries and on millions of consumers of printed products.

Though our bill is quite simple, its effects would be widespread. It would suspend the duty on DCB, therefore eliminating a significant and unnecessary cost for U.S. pigment producers. That action, by itself, would have a significant positive impact on our domestic industry

I urge my colleagues to join us in support of this legislative effort.●

By Mr. HARKIN (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. SCHUMER, Mr. NICKLES, Mrs. CLINTON, Mr. WARNER, Ms. MIKULSKI, Mr. BURNS, and Mr. CRAIG):

S. 2134. A bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states; to the Committee on the Judiciary.

● Mr. HARKIN. Mr. President, I am very pleased to be joined by my Republican colleague, Senator GEORGE ALLEN of Virginia, in introducing the Terrorism Victim's Access to Compensation Act of 2002. Senators BOB SMITH of New Hampshire, SCHUMER, NICKLES, CLINTON, WARNER, MIKULSKI, BURNS, and CRAIG are also original co-sponsors of this much-needed, bipartisan legislation.

The war against terrorism must be fought and won on multiple fronts. And we cannot forget that terrorist acts are ultimately stories of human tragedy. The dedicated, professional woman from Iowa, Kathryn Koob, seeking to build cross-cultural ties between the Iranian people and the American people only to be held captive for 444 days in the U.S. Embassy in Tehran. The teenage boy from Iowa, Taleb Subh, visiting family in Kuwait, terrorized by Saddam Hussein at the outbreak of the Persian Gulf War. The U.S. aid worker from Virginia, Charles Hegna, tortured and killed in 1984 by Iranian-backed hijackers in order "to punish" the United States. These are only a few of the people we know; Americans in all 50 States have suffered. What do we say to these families, the wives, mothers and fathers, sons and daughters?

We believe that those who sponsor as well as those who commit these inhumane acts must pay a price. In 1996, the Congress passed a significant law without partisan divide, and with the support of the U.S. State Department. This law allows Americans to pursue justice in U.S. Federal courts. The idea behind this law is to make the terrorists and their sponsors pay an immediate price for attacks against Americans abroad. For example, the money of foreign sponsors of terrorism and their agents that we hold here in the United States could be used to compensate innocent Americans who are victimized by their attacks for their pain, suffering and losses. Make the bad guys pay.

This law only applies to "terrorist states", currently a list of seven foreign governments officially designated as state sponsors of terrorism (i.e. Iran, Iraq, Libya, Syria, Sudan, North Korea, and Cuba). It is those state sponsors of international terrorism, not the American taxpayer, who must be compelled to pay these costs first and foremost.

Currently, the U.S. Treasury Department lawfully controls at least $3.7 billion in blocked or frozen assets of these seven state sponsors of terrorism. But officials of the U.S. Treasury and State Departments oppose using these funds to compensate American victims of terrorism who have brought lawsuits in Federal courts, won their cases on the merits, and secured court-ordered judgments and compensation awards against the rogue governments that are responsible for the attacks upon them and their families. To summarize, these American victims have been encouraged to pursue justice in U.S. Federal courts, have complied with existing U.S. law, but have been denied what little justice they were encouraged to pursue. Unelected bureaucrats, instead, want American taxpayers apparently to foot the bill for what could amount to hundreds of millions of dollars. In fact, in the pending case involving the 53 Americans taken hostage in the U.S. Embassy in Iran in 1979 and held in captivity for 444 days and their families, U.S. Justice and State Department attorneys have gone into Federal court in recent months to have their lawsuit dismissed in its entirety, thus de facto siding with the Government of Iran.

This policy is wrong-headed and counterproductive for at least three reasons.

First, paying American victims of terrorism from the blocked and frozen assets of these rogue governments and their agents will really punish and impose a heavy cost on those aiding and abetting the terrorists; this tougher policy will provide a new, powerful disincentive for any foreign government to continue sponsoring terrorist attacks on Americans, while also discouraging any regimes tempted to get into the ugly business of sponsoring future terrorist attacks.

Second, making the state sponsors actually lose billions of dollars will more effectively deter future acts of terrorism than keeping their assets blocked or frozen in perpetuity in pursuit of the delusion that long-standing, undemocratic, brutish governments like those in Iran and Iraq can be moderated.

Third, the American wives, husbands, sons, and daughters will have a sense of justice, they will have the public condemnation by the U.S. Government and statement of guilt, but they will have also made those terrorists responsible for the attacks and their sponsors pay a price.

In his last days in office, former President Clinton signed a law endorsing a policy of paying American victims of terrorism from blocked assets, while simultaneously signing a waiver of the means to make this policy work. But the Bush administration hasn't registered an opinion yet on this crucial test of our nation's resolve to fight state-sponsored terrorism. That is why we are pushing bipartisan legislation to establish two new policy cornerstones in our Nation's war against terrorism. First, we seek to require that compensation be paid from the blocked and frozen assets of the state sponsors of terrorism in cases where American victims of terrorism secure a final judgment in our Federal courts and are awarded compensation accordingly. Second, we will provide a level playing field for all American victims of state-sponsored terrorism who are pursuing redress by providing equal access to our federal courts.

American victims of state-sponsored terrorism deserve and want to be compensated for their losses from those who perpetrated the attacks upon them. The Congress should clear the way for them to get some satisfaction of court-ordered judgments and, in so doing, deter future acts of state-sponsored terrorism against innocent Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorism Victim's Access to Compensation Act of 2002".

SEC. 2. FINDINGS.

Congress finds that:

(1) The war against international terrorism must be fought and won on multiple fronts.

(2) The state sponsors of international terrorism (including their agencies and instrumentalities) are ultimately responsible for the damages, pain, and suffering inflicted upon Americans who are victimized by terrorist acts. It is the state sponsors, not the American taxpayer, who must be compelled to pay those costs.

(3) The Secretary of the Treasury lawfully controls billions of dollars in blocked assets of several governments which the President and the Department of State have determined to be state sponsors of international terrorism and responsible for multiple terrorist attacks on United States citizens abroad.

(4) There have been multiple Federal lawsuits brought since 1996 by American victims of state sponsored terrorism abroad and final judgments and financial awards in some of those cases have been paid appropriately by using some of the blocked assets of state sponsors of terrorism. Additional cases are still pending.

(5) Paying victims of state sponsored terrorism from the blocked assets of state sponsors of acts of terrorism (including their agencies and instrumentalities) will punish

those entities, deter future acts of terrorism, and provide a powerful incentive for any foreign government to stop sponsoring terrorist attacks on Americans.

(6) There must be a level playing field for all American victims of state sponsored terrorism who are pursuing redress in the Federal courts and compensation from the blocked assets of state sponsors of terrorism (including their agencies and instrumentalities).

SEC. 3. SENSE OF THE SENATE.

Considering the policy set forth in this Act, the Antiterrorism and Effective Death Penalty Act of 1996, and in the Victims of Trafficking and Violence Protection Act of 2000, it is the sense of Congress that it should be the policy of the United States—

(1) to use the blocked assets of state sponsors of acts of terrorism (including their agencies and instrumentalities) that are under the control of the Secretary of the Treasury to pay court-ordered judgments and awards made to United States nationals harmed by such acts; and

(2) to provide equal access to all United States victims of state sponsored terrorism who have secured judgments and awards in Federal courts against state sponsors of terrorism (including their agencies and instrumentalities) and that those judgments and awards be paid by state sponsors of terrorism (including their agencies and instrumentalities) from any of their blocked assets controlled by the Secretary of the Treasury.

SEC. 4. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—Except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim for compensatory damages for an act of terrorism, or a claim for compensatory damages brought pursuant to section 1605(a)(7) of title 28, United States Code, the blocked assets of any terrorist party, or any agency or instrumentality of a terrorist party, shall be available for satisfaction of the judgment.

(b) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment or satisfaction in aid of execution of judgment, or execution of judgment, against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used for any nondiplomatic purpose (including use as rental property), and the proceeds of such use; or

(B) any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that is sold or otherwise transferred for value to a third party, and the proceeds of such sale or transfer.

(c) DEFINITIONS.—In this Act:

(1) BLOCKED ASSETS.—The term "blocked assets" means assets seized or blocked by the United States in accordance with law.

(2) PROPERTY AND ASSETS SUBJECT TO VIENNA CONVENTIONS.—The terms "property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" and "asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" mean any property or asset, respectively, the attachment in aid of execution or execution of which may, for the limited purpose of satisfying a judgment under subsection (a), breach an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(3) TERRORIST PARTY.—The term "terrorist party" means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) (including any agency or instrumentality of that state).

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. DASCHLE, Mr. CONRAD, Mr. THOMAS, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. HARKIN, Mr. JOHNSON, and Mr. ROBERTS):

S. 2135. A bill to amend title X of the Social Security Act to provide for a 5-year extension of the authorization for appropriations for certain Medicare rural grants; to the Committee on Finance.

• Mr. BAUCUS. Mr. President, I rise today to introduce the Rural Hospital Access and Improvement Act of 2002. I am pleased to be joined by Senators GRASSLEY, DASCHLE, THOMAS, CONRAD, JEFFORDS, ROCKEFELLER, BINGAMAN, HARKIN, JOHNSON, and ROBERTS in sponsoring this important legislation.

Simply put, this bill is about keeping small hospitals open in rural areas. It's about preserving access to quality health care for farmers and ranchers and their families. It's about protecting the health of folks who live in small towns and hamlets across our Nation.

I think these are goals that every one of us can agree on.

But the fight to preserve access to health care in rural America has never been an easy one. Hospitals in rural areas constantly struggle with the difficulties of operating in a low-volume environment. Their emergency rooms might see two or three patients a day. Or some days, none at all. They lack the economies of scale that urban and suburban facilities enjoy. They have a hard time hiring health professionals. And with every passing year, they face a growing regulatory burden that takes time and energy away from patients.

In the face of all these obstacles, many small, rural communities have confronted the unthinkable: losing their hospital altogether. I have no doubt that I speak for the vast majority of Senators when I say we should never let this happen. We should never allow a community to go without the health care services it needs to stay healthy. To borrow from the flight director of Apollo 13, I suggest that failure is not an option.

This was the message that Congress sent 5 years ago, when it took two giant strides toward helping rural communities keep their hospitals. First, it passed legislation allowing small hospitals in rural and frontier areas to become Critical Access Hospitals, or CAHs. CAHs are reimbursed by Medicare based on their actual costs, not fixed or limited payments. They can organize their staff and facilities based on their patients' needs, not on rules made for large, urban facilities. In short, they are given flexibility to adapt to the unique challenges of providing health care in rural areas.

This concept was a perfect fit for rural America. In the past 5 years, over 500 facilities have converted to CAH status. By taking advantage of the CAH option, these hospitals have remained open and continue to serve patients. This success is not surprising. After all, the Critical Access Hospital concept was modeled on a demonstration project that had already been working for years in hospitals across Montana.

The second step Congress took in 1997 was to authorize $25 million a year for the Rural Hospital Flexibility Grant Program, or, as I like to call it, the Flex grant. This program awards grants to States to help hospitals convert to CAH status. Already, over 1,000 health care facilities have been assisted by these funds. In my State nearly half of our hospitals, about two dozen facilities, have converted to CAH status. About a dozen more are on the way.

Now the Senate has an opportunity to renew its commitment to rural health care. The legislation I have introduced today would reauthorize the Flex grant at a level of $40 million a year. This would continue the work that we have already begun, by helping hundreds more rural hospitals covert to CAH status.

In the latest count, nearly 600 hospitals across the Nation were eligible to become CAHs, but have not yet converted. By increasing the size of the Flex grant program, Congress can reach out to these facilities. At the same time, Congress will continue its support for existing CAHs by providing technical assistance and helping them access capital for their physical plants. These funds will also advance the important process of coordinating between emergency medical services providers and other health care providers in rural areas. In the wake of September 11 and the bioterrorist attacks of last fall, this work must move forward without delay.

I want to thank my colleagues for their support of the Critical Access Hospital program and the Flex grant over the past 5 years. Through their efforts, over 500 rural communities have kept their hospitals up and running. Now, I hope they will continue this work by supporting the Rural Hospital Access and Improvement Act of 2002 an reauthorizing the Flex grant at a level of $40 million a year.•

• Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the Rural Hospital Access and Improvement Act of 2002, along with Finance Committee Chairman BAUCUS and Ranking Member GRASSLEY, in addition to other distinguished colleagues with an interest in rural health care. This legislation reauthorizes the Medicare Rural Hospital Flexibility program, known as the "flex" program, which has become a key component in stabilizing rural health care delivery networks.

The "flex" program was created in the Balanced Budget Act of 1997 to improve access to essential health care services through the establishment of Critical Access Hospitals, (CAHs), rural health networks and rural emergency medical services. To date, flex grants have provided assistance to 1,170 rural hospitals for technical assistance and education, 881 rural emergency medical services projects and 557 communities for needs assessment and community development activities. As a result, almost 600 hospitals that were on the verge of closing have been certified as Critical Access Hospitals. Over half of CAHs serve counties that are designated as a Health Professional Shortage Area. It is quite obvious that this innovative program works and merits continued congressional support.

In my State of Wyoming, the South Big Horn County Hospital District has been certified as a Critical Access Hospital and several more are interested in converting to CAH status. Additionally, my State has used flex grant dollars to shore up rural emergency medical services in many of our frontier communities.

The bill I am introducing today with several of my colleagues will continue to build upon the early success of this program by increasing the annual funding authorization from $25 million to $40 million. Additional funding is necessary to expand quality improvement initiatives within network development plans, enhance the development of rural emergency medical services and continue technical support to Critical Access Hospitals. I strongly urge all my colleagues to cosponsor this important rural health care legislation.•

By Mr. SPECTER:

S. 2136. A bill to establish a memorial in the State of Pennsylvania to honor the passengers and crewmembers of Flight 93 who, on September 11, 2001, gave their lives to prevent a planned attack on the Capitol of the United States; to the Committee on Energy and Natural Resources.

• Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.•

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flight 93 National Memorial Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) on September 11, 2001, passengers and crewmembers of United Airlines Flight 93 courageously gave their lives to prevent a planned attack on the Capital of the United States;

(2) thousands of people have visited the crash site since September 11, 2001, drawn by the heroic action and sacrifice of the passengers and crewmembers aboard Flight 93;

(3) many people in the United States are concerned about the future disposition of the crash site, including—

(A) grieving families of the passengers and crewmembers;

(B) the people of the region where the crash site is located; and

(C) citizens throughout the United States;

(4) many of those people are involved in the formation of the Flight 93 Task Force, a broad, inclusive organization established to provide a voice for all parties interested in and concerned about the crash site;

(5) the crash site commemorates Flight 93 and is a profound symbol of American patriotism and spontaneous leadership by citizens of the United States;

(6) a memorial of the crash site should—

(A) recognize the victims of the crash in an appropriate manner; and

(B) address the interests and concerns of interested parties; and

(7) it is appropriate that the crash site of Flight 93 be designated as a unit of the National Park System.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a memorial to honor the passengers and crewmembers aboard United Airlines Flight 93 on September 11, 2001;

(2) to establish the Flight 93 Advisory Commission to assist in the formulation of plans for the memorial, including the nature, design, and construction of the memorial; and

(3) to authorize the Secretary of the Interior to administer the memorial, coordinate and facilitate the activities of the Flight 93 Advisory Commission, and provide technical and financial assistance to the Flight 93 Task Force.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Flight 93 Advisory Commission established by section (4)(b).

(2) CRASH SITE.—The term "crash site" means the site in Stonycreek Township, Somerset County, Pennsylvania, where United Airlines Flight 93 crashed on September 11, 2001.

(3) MEMORIAL.—The term "Memorial" means the memorial to the passengers and crewmembers of United Airlines Flight 93 established by section 4(a).

(4) PASSENGER OR CREWMEMBER.—

(A) IN GENERAL.—The term "passenger or crewmember" means a passenger or crewmember aboard United Airlines Flight 93 on September 11, 2001.

(B) EXCLUSIONS.—The term "passenger or crewmember" does not include a terrorist aboard United Airlines Flight 93 on September 11, 2001.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) TASK FORCE.—The term "Task Force" means the Flight 93 Task Force.

SEC. 4. MEMORIAL TO HONOR THE PASSENGERS AND CREWMEMBERS OF FLIGHT 93.

(a) ESTABLISHMENT.—There is established as a unit of the National Park System a memorial at the crash site to honor the passengers and crewmembers of Flight 93.

(b) ADVISORY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the "Flight 93 Advisory Commission".

(2) MEMBERSHIP.—The Commission shall be composed of—

(A) the Director of the National Park Service; and

(B) 14 members, appointed by the Secretary, from among persons recommended by the Task Force.

(3) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(4) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(B) FREQUENCY.—The Commission shall meet not less than quarterly.

(C) NOTICE.—Notice of meetings and the agenda for the meetings shall be published in—

(i) newspapers in and around Somerset County, Pennsylvania; and

(ii) the Federal Register.

(D) OPEN MEETINGS.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum.

(6) CHAIRPERSON.—The Commission shall select a Chairperson from among the members of the Commission.

(7) DUTIES.—The Commission shall—

(A) not later than 3 years after the date of enactment of this Act, submit to the Secretary and Congress a report that contains recommendations for the planning, design, construction, and long-term management of the memorial;

(B) advise the Secretary on—

(i) the boundaries of the memorial; and

(ii) the development of a management plan for the memorial;

(C) consult with the Task Force, the State of Pennsylvania, and other interested parties, as appropriate;

(D) support the efforts of the Task Force; and

(E) involve the public in the planning and design of the memorial.

(8) POWERS.—The Commission may—

(A) make expenditures for services and materials appropriate to carry out the purposes of this section;

(B) accept donations for use in carrying out this section and for other expenses associated with the memorial, including the construction of the memorial;

(C) hold hearings and enter into contracts, including contracts for personal services;

(D) by a vote of the majority of the Commission, delegate any duties that the Commission determines to be appropriate to employees of the National Park Service; and

(E) conduct any other activities necessary to carry out this Act.

(9) COMPENSATION.—A member of the Commission shall serve without compensation, but may be reimbursed for expenses incurred in carrying out the duties of the Commission.

(10) TERMINATION.—The Commission shall terminate on the dedication of the memorial.

(c) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) administer the memorial as a unit of the National Park Service in accordance with—

(A) this Act; and

(B) the laws generally applicable to units of the National Park System;

(2) provide advice to the Commission on the collection, storage, and archiving of information and materials relating to the crash or the crash site;

(3) consult with and assist the Commission in—

(A) providing information to the public;

(B) interpreting any information relating to the crash or the crash site;

(C) conducting oral history interviews; and

(D) conducting public meetings and forums;

(4) participate in the development of plans for the design and construction of the memorial;

(5) provide to the Commission—

(A) assistance in designing and managing exhibits, collections, or activities at the memorial;

(B) project management assistance for design and construction activities; and

(C) staff and other forms of administrative support;

(6) acquire from willing sellers the land or interests in land for the memorial by donation, purchase with donated or appropriated funds, or exchange; and

(7) provide the Commission any other assistance that the Commission may require to carry out this Act.

By Ms. LANDRIEU:

S. 2137. A bill to facilitate the protection of minors using the Internet from material that is harmful to minors, and for other purposes; to the Committee on Commerce, Science, and Transportation.

• Ms. LANDRIEU. Mr. President, today I want to introduce a very important piece of legislation, the Family Privacy Protection Act. Let me just take a few minutes to explain this bill to my colleagues.

In this age of high-technology, we are blessed with many things that our ancestors did not have. Cell phones and e-mail allow us to communicate quickly. Advances in medical science are allowing our citizens to live much longer and healthier lives. And advances in computers and other equipment help make workers and businesses many times more productive. However, technology is a double-edged sword. Sometimes the bad comes with the good. This fact hit home in the most tragic way when it was learned that the September 11 hijackers had communicated through e-mail and cell phones.

As frightening as this is, it is not the only example of the problems associated with advances in technology. There are day-to-day issues that must be resolved. For instance, technology has exposed our citizens to breaches of privacy that could never have taken place before the days of the Internet and other advances.

Former Chief Justice Earl Warren once said, "The fantastic advances in the field of communication constitute a grave danger to the privacy of the individual." If Chief Justice Warren were alive today to offer his remarks, he might substitute the word "technology" for "communication." Let me give one example of an incident which highlights this fact.

In the early 1990's, a shocking thing happened to a family in Monroe, Louisiana. Monroe is a relatively small city, at least by the standards of most parts of the country, but it is the largest city in the northeastern section of my state. I want to talk about a family who lives in Monroe, the Wilsons. Susan Wilson was just an average woman with an average family.

Unfortunately, something terrible happened, which tore apart the quiet life of this family. A family friend, a former deacon at the Wilson's church, did something despicable. While the Wilson's weren't home, this man broke into their house and planted a video camera in their bathroom. The Wilson's eventually learned that, for almost 2 years, video cameras had been filming everything in their bathroom. This man filmed all of their private moments for the past years for his own sick and twisted purposes.

But even then, the family's nightmare wasn't over. You see, under Louisiana state law, and the law of most States, there was no crime under which this man could be charged for filming the family without their consent. Although he was eventually charged with unauthorized entry, there was no way to punish this man for the more serious crime he committed.

The State legislature remedied this in 1999, passing a law making video voyeurism a crime. This was thanks in large part to Susan Wilson, who spoke with the media, testified before committees—in short, give up her privacy and put her life on public display, doing everything she had to do to call attention to this problem. In short, she has sacrificed so that women such as herself will not have to experience the pain of watching the individuals who devastated their lives walk away virtually untouched by the law.

And she continues to make this sacrifice to this day. There was even a recent movie detailing Susan's story, some of my colleagues may have seen it. It aired February 6 on Lifetime, starring Angie Harmon. It was a very compelling, though obviously disturbing, film, and if my colleagues have not seen it I would urge them to do so.

Since the law was passed in Louisiana, several individuals have been prosecuted under it. Let me just give a couple of examples. Two years ago, a New Orleans man was arrested under the law after a video camera was found in his neighbor's air conditioning vent. In nearby Marrero just a couple of months before, a man was arrested for allegedly pointing a video camera in someone's window. And just before that, a man was arrested under the video voyeurism law and charged with videotaping a woman during intercourse and then trying to sell the tape. And, just over a month ago in Lafayette, LA, a man was charged for undressing a sleeping woman and videotaping her in his apartment.

This law has also be used in conjunction with laws already on the books, to give police another tool with which to charge offenders. For instance, last year in Slidell, LA, a man was charged with seven counts of video voyeurism in addition to various pornography-related charges. And in Leesville, LA, a year ago, three people, including a Sheriff's deputy, were arrested and charged with video voyeurism and juvenile pornography.

Louisiana is not the only State to pass this law, or to charge offenders with violating it. A principal in Arkansas was charged with the crime, although the charges were later dropped. And in Milwaukee, a man was arrested late last year and charged with videotaping guests in his house while they showered and undressed.

These are terrible crimes; they are a violation of privacy, and more. They strike at the very heart of one of our most cherished personal freedoms, the right to live our lives free of the fear of people watching us perform the most regular of tasks, bathing, getting dressed, or sleeping.

In the past, someone who looked in another person's window at night was called a "Peeping Tom." We are not dealing with people looking in windows anymore, we are dealing with technologies like video cameras small enough to fit in an air conditioning vent. In the past, that person looking in the window could be caught by police and charged with a crime. Unfortunately, for the person who plants the camera in the air conditioning duct, as things stand now, except for a few states that have passed this type of legislation, that person can at best only be charged with a crime like unlawful entry.

This brings me to the first provision of the legislation that I am introducing today. I met with Susan last year, and promised her I would introduce Federal legislation addressing this crime. Currently, only five states have laws dealing with video voyeurism. This is one of the reasons I am here today to introduce my legislation, the Family Privacy Protection Act.

This measure contains several important provisions, but the first one I want to focus on today is the video voyeurism section. This bill will make it a Federal crime to film someone in these circumstances without their consent. The bill provides exceptions for legitimate purposes such as police investigations and security; but the bottom line is that this legislation would hold these individuals responsible for their actions.

Actress Judy Garland, speaking of her lack of privacy, once said, "I've never looked through a keyhole without finding someone was looking back." How frightening it would be for all of our citizens to feel this way; that they are not safe from prying eyes in their own home.

The video voyeurism component, while important, is only one part of this bill. This bill also contains a provision to protect children from Internet websites with pornographic material. A recent study showed that 31 percent of children aged 10–17 who used the Internet have accidentally come across a pornographic website. That includes 75 percent ages 15–17.

One of the problems is that companies and individuals who have websites make money from "hits" by Internet users. It doesn't matter whether someone intentionally visits a website or does so on accident, it still counts as a "hit". So some of these companies that set up pornographic websites specifically choose names that will cause people to accidentally find them. Let me give a quick example. As I'm sure all of my colleagues know, the web address for the White House is *http://www.whitehouse.gov*. But if you make a mistake—and it's not a difficult mistake, I know many people who have made it, and type a slightly different address, www.whitehouse.com, you will access a different site altogether, a pornographic website. While I'm sure these companies are not targeting children specifically, they inevitably come across these inappropriate sites.

I have already mentioned some statistics on how many children have accidentally visited inappropriate Web sites. I just want to share a few examples. An 11-year-old boy was searching for game sites, typed in "fun.com", and a pornographic site came up. A 15-year-old boy was looking for info on cars, did a search for "escort", and an escort service site came up.

And, in one of the most disturbing examples that I came across, in one instance a 15-year-old boy was doing a report on wolves, and found a site on bestiality. I just want my colleagues to imagine for a moment this happening to their son or daughter. I think we can all agree that this is something that we need to be concerned about.

The American people are certainly concerned about it. In the same Kaiser study, 84 percent of the American people worry about the availability of pornography online, and 61 percent say the government should regulate it. Sixty-one percent. And I am certain that number is much higher among parents.

That is why I believe this legislation is so important. I understand that these websites are protected by the First Amendment. This bill does not intrude upon these sites' right to free speech. Instead, it would set up a whole new domain name for pornographic material. A domain name, as my colleagues know, is the three letters at the end of the web address. Dot-com, dot-gov, dot-org, dot-net—these are all domain names. My legislation would instruct the Internet Corporation for Assigned Names and Numbers to set up a new domain name for pornographic websites. The owners of these sites would have 12 months to move their sites to the new domain.

This is a very simple yet effective method of protecting our children from these sites. A new domain would make "filter" programs, which screen out these pornographic sites, much more effective. It would eliminate mistakes like the whitehouse dot-gov, dot-com, problem that I mentioned earlier. And, I firmly believe this bill passes First Amendment tests for freedom of speech.

I understand that some people will not agree with me, saying that this bill does not go far enough and that this type of material should be banned altogether. But the First Amendment to the Constitution protects even material of this kind, whether or not we may agree with it. My bill would not infringe on the right of free speech, but would simply restrict where this type of speech could be presented on the Internet. As one of my constituents from Louisiana said, "We need to put it where the people who want to see it can get to it, and the ones who don't want to see it don't have to." That is all this provision does.

Finally, a similar provision in the bill provides protection for children from pornographic e-mails. This language is very similar to a bill that was introduced in the House of Representatives by Congresswoman ZOE LOFGREN of California. I wanted to take a second to acknowledge Congresswoman LOFGREN for her efforts, and I hope to work with her on this initiative.

In short, the bill would require that e-mail advertisements be clearly labeled as containing sexually oriented material. We are all familiar with receive e-mails with subjects that say "Lose weight now" or "You have won!" that in reality contain pornographic material. Many of us simply delete these e-mails without look at them, knowing them to be deceptive or junk. However, it is easy to be fooled. I have received letters from several constituents who were offended, and rightly so, after opening falsely labeled e-mails.

As you can imagine, children are particularly vulnerable to this type of deceptive e-mail. In a study done for Congress by the Crimes Against Children Research Center, 25 percent of children studied were exposed to unwanted sexual pictures in the previous year. Of these exposures, 28 percent occurred by opening or clicking on an e-mail.

There is one case that upsets me in particular. A 12-year-old girl, a little girl who collects Beanie Babies, received an e-mail with a subject line saying "Free Beanie Babies." As you can imagine, this excited little girl quickly opened the e-mail, only to be confronted with pictures of naked people. Again, I'd like my colleagues to stop for a moment and imagine that this was their child.

Let me just conclude with a few more facts. The Kaiser study also looked at the consequence on these children from encountering these pornographic Web sites and e-mails. Fifty-seven percent of those age 15–17 who were studied believed that exposure to online pornography could have a serious impact on those under 18. And 76 percent of children surveyed by Kaiser said that pornography that kids can see is a "big problem."

I just want to add that I am hopeful that, in the future, we can take even stronger steps to address the problem of pornographic e-mails. However, at the moment, this bill will at least ensure that Internet users, particularly children, know that an e-mail contains sexually oriented material before opening it.

I hope that my colleagues will join me in support of this important legislation. It is intended to protect our most vulnerable citizens, our children, while protecting the right of individuals to free speech. I believe this is something that we can all support.●

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 242—DESIGNATING AUGUST 16, 2002 AS "NATIONAL AIRBORNE DAY"

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 242

Whereas the airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16, 2002, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind battle lines by means of parachute;

Whereas the United States' experiment of airborne infantry attack was begun on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the United

States Department of War, and was launched when 48 volunteers began training in July 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities;

Whereas among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Infantry (Ranger) regiment, the 173rd, 187th, 503rd, 507th, 508th, 517th, 541st, and 542nd airborne infantry regiments, the 88th Glider Infantry Battalion, and the 509th, 550th, 551st, and 555th airborne infantry battalions;

Whereas the achievements of the airborne forces during World War II provided a basis for evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Infantry (Ranger) regiment which, together with other units, comprise the quick reaction force of the Army's XVIIIth Airborne Corps when not operating separately under the command of a Commander in Chief of one of the regional unified combatant commands;

Whereas that modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance, Navy SEALs, Air Force Combat Control Teams, Air Sea Rescue, and Airborne Engineer Aviation Battalions, all or most of which comprise the forces of the United States Special Operations Command;

Whereas, in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Infantry (ranger) regiment, Special Forces units, and units of the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas, of the members and former members of the Nation's combat airborne forces, all have achieved distinction by earning the right to wear the airborne's "Silver Wings of Courage", thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas, the members and former members of the Nation's combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operations forces, and (in former days) glider troops; and

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2002, as the 62nd anniversary of the first official jump by the Army Parachute Test Platoon: Now, therefore, be it

Resolved, That the Senate requests and urges the President to issue a proclamation—

(1) designating August 16, 2002, as "National Airborne Day"; and

(2) calling on Federal, State, and local administrators and the people of the United States to observe "National Airborne Day" with appropriate programs, ceremonies, and activities.

Mr. THURMOND. Mr. President, I am pleased to rise today to submit a Senate resolution which designates August 16, 2002 as "National Airborne Day."

On June 25, 1940, the War Department authorized the Parachute Test Platoon to experiment with the potential use of airborne troops. The Parachute Test Platoon, which was composed of 48 volunteers, performed the first official army parachute jump on August 16, 1940. The success of the Platoon led to the formation of a large and successful airborne contingent that has served from World War Two until the present.

I was privileged to serve with the 82nd Airborne Division, one of the first airborne divisions to be organized. In a two-year period during World War Two, the regiments of the 82nd served in Italy at Anzio, in France at Normandy (where I landed with them), and at the Battle of the Bulge.

The 11th, 13th, 17th, and 101st Airborne Divisions and numerous other regimental and battalion size airborne units were also organized following the success of the Parachute Test Platoon. In the last 62 years, these airborne forces have performed in important military and peace-keeping operations all over the world, and it is only appropriate that we designate a day to salute the contributions they have made to this Nation.

Through passage of "National Airborne Day," the Senate will reaffirm our support for the members of the airborne community and also show our gratitude for their tireless commitment to our Nation's defense and ideals.

SENATE RESOLUTION 243—DESIGNATING THE WEEK OF APRIL 21 THROUGH APRIL 28, 2002, AS "NATIONAL BIOTECHNOLOGY WEEK"

Mr. HUTCHINSON (for himself, Mr. Dodd, Mrs. Murray, Mr. Hatch, Mr. Specter, Mr. Bond, Mr. Bingaman, Mr. Craig, Mr. Torricelli, Mr. Biden, Mr. Jeffords, Mr. Corzine, Mr. Sarbanes, Ms. Mikulski, Mr. Kennedy, Mr. Helms, Mr. Frist, Mr. Breaux, Mr. Edwards, Mr. Crapo, Ms. Collins, Mr. Campbell, Mr. Sessions, Mr. Inhofe, Mrs. Carnahan, Mr. Durbin, Mr. Kerry, and Mr. Thurmond) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. Res. 243

Whereas biotechnology is a strategic industry and is increasingly important to the research and development of products that improve health care, agriculture, industrial processes, environmental remediation, and biological defense;

Whereas biotechnology has been responsible for medical breakthroughs that have benefited millions of people worldwide through the development of vaccines, antibiotics, and other drugs;

Whereas biotechnology is central to research into cures and treatments for conditions such as cancer, diabetes, epilepsy, multiple sclerosis, heart and lung disease, Alzheimer's disease, Acquired Immune Deficiency Syndrome, Parkinson's disease, spinal cord injuries, and many other ailments;

Whereas biotechnology contributes to crop yields and farm productivity, reduces chemical pesticide use, and enhances the quality, value, and suitability of crops for food and other uses that are critical to the agriculture of the United States;

Whereas biotechnology offers the potential for increasing food production, particularly in developing nations facing chronic food shortages;

Whereas biotechnology, through industrial applications, is creating an abundance of efficient enzymes and other biobased products, which foster cleaner industrial processes and can help produce energy, fine chemicals, and biobased plastics from renewable resources;

Whereas biotechnology contributes to homeland defense and national security by providing the tools to develop a new generation of vaccines, therapeutics, and diagnostics for defense against bioterrorism;

Whereas biotechnology contributes to the success of the United States as the global leader in research and development, and international commerce;

Whereas biotechnology will be an important catalyst for creating more high-skilled jobs throughout the 21st century and will help reinvigorate rural economies; and

Whereas it is important for all people of the United States to understand the beneficial role biotechnology plays in an improved quality of life: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of April 21 through April 28, 2002, as "National Biotechnology Week"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

• Mr. HUTCHINSON. Mr. President, I rise today with Senators Dodd, Murray, Hatch, Specter, Bond, Bingaman, Craig, Torricelli, Biden, Jeffords, Corzine, Sarbanes, Mikulski, Kennedy, Helms, Frist, Breaux, Edwards, Crapo, Collins, Campbell, Sessions, Inhofe, Carnahan, Durbin, Kerry, and Thurmond to submit a Senate Resolution declaring the Week of April 21–April 27, 2002, as "National Biotechnology Week."

There have been incredible advancements in science over the last few years that are allowing us to improve health care, increase crop yields, reduce the use of pesticides, and replace costly industrial processes involving harsh chemicals with cheaper, safer, biological processes. These advancements have occurred due to the hard work and diligence of scientists and researchers in the United States, and all around the world, who have spent their lives promoting and perfecting the practice of biotechnology.

In addition, biotechnology and the tools and devices developed for this technology will be essential as our country continues to heighten its efforts to combat bioterrorism. One of the first challenges in combating bioterrorism is detection. Quick analysis of pathogens using gene chips and advanced techniques derived from biotechnology will allow health providers to quickly identify the type and nature of any biological attack. Also, there is a need to be able to respond to a biological attack. The tools of biotechnology will allow us to develop the vaccines and treatments needed for this purpose. Because of its great potential, biotechnology is a key component of promoting national security.

In my home State of Arkansas, the potential for biotechnology as a motor for driving economic growth is just taking hold. Innovative research at the University of Arkansas in Fayetteville and the University of Arkansas Medical School is paving the way for many small start-up companies at the state's incubation centers. In addition, research at Arkansas Children's Hospital and new genomics research at the National Center for Toxicological Research is leading to greater understanding of the impact that diets have on health. Also, there is great economic potential for a biotechnology corridor between Little Rock and the Pine Bluff Arsenal where the research community would be welcome to grow and thrive in our State.

With all of these benefits, there is no doubt that biotechnology is touching our lives and improving our world. But, along with this technology comes the responsibility to understand and carefully evaluate it. It is essential that this technology be used to improve our world and preserve our humanity. If there is to be a future for this technology, and we are to fully realize its benefits and potential, elected officials and the public must be informed and engaged about the basics of technology itself and its incredible benefits.

This is why my colleagues and I are pleased to introduce this resolution declaring April 21–27, 2002, as "National Biotechnology Week." It is our hope that public officials, community leaders, researchers, professors, and school teachers across the country will take this week to actively promote understanding of biotechnology in their communities and their classrooms.●

AMENDMENTS SUBMITTED AND PROPOSED

SA 3132. Mr. MURKOWSKI (for himself, Mr. Breaux, and Mr. Stevens) proposed an amendment to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 3133. Mr. STEVENS proposed an amendment to amendment SA 3132 proposed by Mr. Murkowski (for himself, Mr. Breaux, and Mr. Stevens) to the amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

SA 3134. Mr. REID (for Mr. Kennedy (for himself, Mr. Jeffords, Mr. Frist, Mr. Bingaman, Mr. Roberts, Mr. Harkin, Mr. Bond, Mr. Daschle, Ms. Collins, Mr. Wellstone, Mr. Enzi, Mrs. Murray, Mr. Hutchinson, Ms. Mikulski, Mr. Dodd, Mr. Reed, Mr. Edwards, and Mrs. Clinton)) proposed an amendment to the bill S. 1533, to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program which will help coordinate services for the uninsured and underinsured, and for other purposes.

TEXT OF AMENDMENTS

SA 3132. Mr. MURKOWSKI (for himself, Mr. BREAUX, and Mr. STEVENS) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 590, after line 14, insert the following:

DIVISION H—DOMESTIC ENERGY SECURITY

TITLE XIX—AMERICAN HOMELAND ENERGY SECURITY

SEC. 1901. SHORT TITLE AND PRESIDENTIAL DETERMINATION.

(a) This title may be cited as the "American Homeland Energy Security Act of 2002".

(b) Presidential National Economic and Security Interest Certification to Congress.—

(1) The provisions of this title, other than this subsection, shall take effect upon a determination by the President and certification by the President to the Senate and the House of Representatives that exploration, development, and production of the oil and gas resources of the Coastal Plain (as defined in section 1902(1) of this title) are in the national economic and security interests of the United States.

(2) The President shall base a determination under paragraph (1) upon the President's judgment of the contribution that production of the oil and gas resources of the Coastal Plain would make in—

(A) meeting the energy requirements of the United States in a time of national emergency, taking into account foreseeable military contingencies in the war on terrorism and international commitments;

(B) reducing dependence on imported foreign oil, including from Iraq and other potentially hostile nations; and

(C) creating new jobs for American men and women.

(3) The determination and certification by the President shall be made in his sole discretion and shall not be reviewable.

SEC. 1902. DEFINITIONS.

In this title:

(1) Coastal plain.—The term "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres, and as legally described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) Secretary.—The term "Secretary", except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

(3) Kaktovik.—The term "Kaktovik" means the home of the only human residents of the Arctic National Wildlife Refuge.

SEC. 1903. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) In General.—The Secretary shall take such actions as are necessary—

(1) to establish and implement in accordance with this title a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain;

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased; and

(3) to consult with the representatives of the City of Kaktovik and the Kaktovik Inupiat Corporation to ensure that the oil and gas exploration, development and production activities authorized by this title are conducted in a manner that recognizes the interests of the city, the corporation, and the residents of Kaktovik, their culture, their traditional subsistence activities, and their use of the resources of the Coastal Plain.

(b) Repeal.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(c) Compliance With Requirements Under Certain Other Laws.—

(1) Compatibility.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) Adequacy of the Department of the Interior's Legislative Environmental Impact Statement.—The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) Compliance with NEPA for other actions.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) Relationship to State and Local Authority.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) Special Areas.—

(1) In general.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 1902(1).

(2) Management.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) Exclusion from leasing or surface occupancy.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) Directional drilling.—Notwithstanding the other provisions of this section, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) Limitation on Closed Areas.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) Regulations.—

(1) In general.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of the enactment of this title.

(2) Revision of regulations.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 1904. LEASE SALES.

(a) In General.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) Procedures.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) Lease Sale Bids.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) Acreage Minimum in First Sale.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) Timing of Lease Sales.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this title; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 1905. GRANT OF LEASES BY THE SECRETARY.

(a) In General.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 1904 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) Subsequent Transfers.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 1906. LEASE TERMS AND CONDITIONS.

(a) In General.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 1903(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease, except exports to Israel; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) Energy Security of Israel.—To further the purposes of paragraph (a)(8), the oil supply arrangement between the United States and Israel, as memorialized in a Memorandum of Agreement which entered into force on November 25, 1979, as extended through 2004, and the related Contingency Implementing Arrangements for the Memorandum of Agreement, as extended through 2004, are extended through 2014.

(c) Project Labor Agreements.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 1907. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) No Significant Adverse Effect Standard To Govern Authorized Coastal Plain Activities.—The Secretary shall, consistent with the requirements of section 1903, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the

Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) Site-Specific Assessment and Mitigation.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) Regulations To Protect Coastal Plain Fish and Wildlife Resources, Subsistence Users, and the Environment.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) Compliance With Federal and State Environmental Laws and Other Requirements.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the 'Final Legislative Environmental Impact Statement' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if—

(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

(B) the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. (4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) Considerations.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIM–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) Facility Consolidation Planning.—

(1) In general.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) Objectives.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Using existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

SEC. 1908. EXPEDITED JUDICIAL REVIEW.

(a) Exclusive Jurisdiction.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any federal agency or officer under this title;

(2) the constitutionality of any provision of this title, or any decision made or action taken thereunder; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this title.

(b) Deadline for Filing Claim.—Claims arising under this title may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) Expedited Consideration.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration.

(d) Limitation on Scope of Certain Review.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless the Court determines that there is no rational basis for the final action of the Secretary.

(e) Limitation on Other Review.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 1909. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) Exemption.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) Terms and Conditions.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) Regulations.—The Secretary shall include in regulations under section 1903(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 1910. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(a) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(b) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 1911. COASTAL PLAIN LOCAL GOVERNMENT IMPACT AID ASSISTANCE FUND.

(a) Financial Assistance Authorized.—

(1) In general.—The Secretary of the Interior may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly affected by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) Eligible entities.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) Use of Assistance.—Financial assistance made available under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects; and

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services.

(c) Application.—

(1) In general.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary of the Interior, in such form and under such procedures as the Secretary of the Interior may prescribe by regulation.

(2) North slope borough communities.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) Application assistance.—The Secretary of the Interior shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) Establishment of Fund.—

(1) In general.—A separate account is hereby established in the U.S. Treasury which shall be known as the "Coastal Plain Local Government Impact Aid Assistance Fund".

(2) Use.—Amounts in the fund may be used only for providing financial assistance under this section and shall be available to the Secretary of the Interior without further appropriation and without fiscal year limitation.

(3) Deposits.—Subject to paragraph (4), and in accordance with section 1912(a)(2) of this title, there shall be deposited into the fund amounts received by the United States as revenues derived from bonus bids on leases and lease sales authorized under this title.

(4) Investment of balances.—The Secretary of the U.S. Treasury shall invest amounts in the fund in interest bearing government securities.

SEC. 1912. REVENUE ALLOCATION.

(a) Bonus Bids.—Notwithstanding section 1904 of this title, the Mineral Leasing Act (30 U.S.C. 181 et. seq.), or any other law, of the amount of the adjusted bonus bids from oil and gas leasing and operations authorized under this title—

(1) 50 percent shall be paid to the State of Alaska;

(2) 1 percent shall be deposited into the Coastal Plain Local Government Impact Aid Assistance Fund as authorized under section 1911 of this title; and

(3) The balance of such revenues shall be distributed as follows:

(i) $10 million shall be available to the Secretary of Energy, without further appropriation and without fiscal year limitation, to fill the Strategic Petroleum Reserve, including terminalling, transportation, power and third party inspections, and to the extent the Secretary of Energy determines that geographic dispersal of the Reserve would enhance its use for national security, the Secretary of Energy shall consider adding Strategic Petroleum Reserves to the West Coast and Hawaii, consistent with current law; and

(ii) the remainder of the balance shall be distributed as follows: 50 percent shall be deposited into the Renewable Energy Technology Investment Fund as provided in this section and 50 percent shall be deposited into the Habitat Conservation and Federal Maintenance and Improvements Backlog Fund.

(b) Renewable Energy Technology Investment Fund.—

(1) Establishment and availability.—A separate account is hereby established in the U.S. Treasury of the United States which shall be known as the "Renewable Energy Technology Investment Fund".

(2) Use, generally.—Not to exceed $80,000,000 of the funds deposited into the Renewable Energy Technology Investment Fund shall be available in each fiscal year to the Secretary of Energy, without further appropriation, to finance research grants, contracts, and cooperative agreements and expenses of direct research by Federal agencies, including the costs of administering and reporting on such a program of research, to improve and demonstrate technology and develop basic science information for development and use of renewable and alternative fuels including wind energy, solar energy, geothermal energy, hydroelectric energy and energy from biomass. Such research may include studies on deployment of such technology including research on how to lower the costs of introduction of such technology and of barriers to entry into the market of such technology.

(3) Consultation and coordination.—Any specific use of the Renewable Energy Technology Investment Fund shall be determined only after the Secretary of Energy consults and coordinates with the heads of other appropriate Federal agencies.

(4) Reports.—Not later than 1 year after the date of the enactment of this Act and on an annual basis thereafter, the Secretary of Energy shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the use of funds under this section and the impact of and efforts to integrate such uses with other energy research efforts.

(c) Habitat Conservation and Federal Maintenance and Improvements Backlog Fund.—

(1) Establishment and availability.—A separate account is hereby established in the U.S. Treasury of the United States which shall be known as the "Habitat Conservation and Federal Maintenance and Improvements Backlog Fund".

(2) Use, generally.—Funds shall be deposited into the Habitat Conservation and Federal Maintenance and Improvements Backlog Fund shall be available to the Secretary of the Interior, without further appropriation and without fiscal year limitation, and may be used by the Secretary of the Interior to finance grants, contracts, cooperative agreements (including Memoranda of Understanding), and programs for direct activities of the Department of the Interior to:

(A) eliminate maintenance and improvement backlogs on Federal lands;

(B) restore and protect uplands, wetlands, and coastal habitat;

(C) provide public access and necessary facilities for visitor accommodations;

(D) restore and improve historic landmarks and property; and

(E) develop urban parks through the Urban Park Recreation and Recovery Program and state and local recreation areas.

(3) Consultation and coordination.—Any specific use of the Habitat Conservation and Federal Maintenance and Improvements Backlog Fund shall be determined only after the Secretary of the Interior consults and coordinates with the heads of other appropriate Federal agencies.

(4) Reports.—Not later than 1 year after the date of the enactment of this Act and on an annual basis thereafter, the Secretary of the Interior shall transmit to the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Appropriations Committees of both the House of Representatives and the Senate a report on the use of funds under this section.

(d) Rents and Royalties.—Notwithstanding section 1904 of this title, the Mineral Leasing Act (30 U.S.C. 181, et. seq.), or any other law, of the amount of the rents and royalties from oil and gas leasing and operations authorized under this title—

(1) 50 percent shall be paid to the State of Alaska; and

(2) 50 percent shall be deposited into the U.S. Treasury as miscellaneous receipts.

(e) Adjustments.—Adjustments to rental and royalty amounts from oil and gas leasing and operations authorized under this title shall be made as necessary for overpayments and refunds from lease revenues received in current or subsequent periods before distribution of such revenues pursuant to this section.

(f) Payments to State.—Payments to the State of Alaska under this section shall be made quarterly.

SEC. 1913. ADDITIONAL WILDERNESS DESIGNATION.

Notwithstanding Sections 101(d) and 1326 of the Alaska National Interest Lands Conservation Act, Section 702(3) of the Alaska National Interest Lands Conservation Act (P.L. 96-487) is amended to read as follows:

"(3) Mollie Beattie Wilderness of approximately 9.5 million acres generally depicted on a map entitled "Arctic National Wildlife Refuge" dated April 2002 on file in the Office of the Director of the U.S. Fish and Wildlife Service;".

SA 3133. Mr. STEVENS proposed an amendment to amendment SA 3132 proposed by Mr. Murkowski (for himself, Mr. Breaux, and Mr. Stevens) to the amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

(a) On page 3, strike all after line 1 and insert the following:

"SEC. 1903. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

"(a) In General.—The Secretary shall take such actions as are necessary—

"(1) to establish and implement in accordance with this title a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain;

"(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased; and

"(3) to consult with the representatives of the City of Kaktovik and the Kaktovik Inupiat Corporation to ensure that the oil and gas exploration, development and production activities authorized by this title are conducted in a manner that recognizes the interests of the city, the corporation, and the residents of Kaktovik, their culture, their traditional subsistence activities, and their use of the resources of the Coastal Plain.

"(b) Repeal.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

"(c) Compliance With Requirements Under Certain Other Laws.—

"(1) Compatibility.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

"(2) Adequacy of the Department of the Interior's Legislative Environmental Impact Statement.—The 'Final Legislative Environmental Impact Statement' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

"(3) Compliance with NEPA for other actions.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 6 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

"(d) Relationship to State and Local Authority.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

"(e) Special Areas.—

"(1) In general.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 1902(1).

"(2) Management.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

"(3) Exclusion from leasing or surface occupancy.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

"(4) Directional drilling.—Notwithstanding the other provisions of this section, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

"(f) Limitation on Closed Areas.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

"(g) Regulations.—

"(1) In general.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 4 months after the date of the enactment of this title.

"(2) Revision of regulations.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

"SEC. 1904. LEASE SALES.

"(a) In General.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

"(b) Procedures.—The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

"(2) the holding of lease sales after such nomination process; and

"(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

"(c) Lease Sale Bids.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

"(d) Acreage Minimum in First Sale.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

"(e) Timing of Lease Sales.—The Secretary shall—

"(1) conduct the first lease sale under this title within 8 months after the date of the enactment of this title; and

"(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

"(f) Authorization for Appropriations.—The Secretary of the Interior is authorized and directed to make available from funds available to the Secretary under Public Law 107-63 under the Bureau of Land Management, "Management of Lands and Resources" such sums as are necessary to carry out the provisions of this section."

"SEC. 1905. GRANT OF LEASES BY THE SECRETARY.

"(a) In General.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 1904 any lands to be leased on the

Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

"(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

"SEC. 1906. LEASE TERMS AND CONDITIONS.

"(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

"(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

"(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

"(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

"(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

"(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

"(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 1903(a)(2);

"(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

"(8) prohibit the export of oil produced under the lease, except exports to Israel; and

"(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

"(b) ENERGY SECURITY OF ISRAEL.—To further the purposes of paragraph (a)(8), the oil supply arrangement between the United States and Israel, as memorialized in a Memorandum of Agreement which entered into force on November 25, 1979, as extended through 2004, and the related Contingency Implementing Arrangements for the Memorandum of Agreement, as extended through 2004, are extended through 2014.

"(c) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

"SEC. 1907. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

"(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 1903, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

"(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

"(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

"(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

"(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

"(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

"(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

"(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

"(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

"(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

"(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the 'Final Legislative Environmental Impact Statement' (April 1987) on the Coastal Plain.

"(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

"(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if—

"(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

"(B) the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

"(4) Design safety and construction standards for all pipelines and any access and service roads, that—

"(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

"(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

"(5) Prohibitions on public access and use on all pipeline access and service roads.

"(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

"(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

"(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

"(9) Consolidation of facility siting.

"(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

"(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

"(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

"(14) Fuel storage and oil spill contingency planning.

"(15) Research, monitoring, and reporting requirements.

"(16) Field crew environmental briefings.

"(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

"(18) Compliance with applicable air and water quality standards.

"(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

"(20) Reasonable stipulations for protection of cultural and archeological resources.

"(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

"(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

"(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

"(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

"(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

"(f) FACILITY CONSOLIDATION PLANNING.—

"(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

"(2) OBJECTIVES.—The plan shall have the following objectives:

"(A) Avoiding unnecessary duplication of facilities and activities.

"(B) Encouraging consolidation of common facilities and activities.

"(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

"(D) Using existing facilities wherever practicable.

"(E) Enhancing compatibility between wildlife values and development activities.

"SEC. 1908. EXPEDITED REVIEW.

The provisions and limitations in subsections 203(c), "(d) and (e) of Public Law 93-153 shall apply to all actions and decisions concerning pre- leasing, leasing and development activities authorized in this title."

"SEC. 1909. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

"(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

"(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

"(c) REGULATIONS.—The Secretary shall include in regulations under section 1903(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

"SEC. 1910. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

"(a) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

"(b) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

"SEC. 1911. COASTAL PLAIN LOCAL GOVERNMENT IMPACT AID ASSISTANCE FUND.

"(a) FINANCIAL ASSISTANCE AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of the Interior may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly affected by the exploration for or production of oil and gas on the Coastal Plain under this title.

"(2) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

"(b) USE OF ASSISTANCE.—Financial assistance made available under this section may be used only for—

"(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

"(2) implementing mitigation plans and maintaining mitigation projects; and

"(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services.

"(c) APPLICATION.—

"(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary of the Interior, in such form and under such procedures as the Secretary of the Interior may prescribe by regulation.

"(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

"(3) APPLICATION ASSISTANCE.—The Secretary of the Interior shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

"(d) ESTABLISHMENT OF FUND.—

"(1) IN GENERAL.—A separate account is hereby established in the U.S. Treasury which shall be known as the "Coastal Plain Local Government Impact Aid Assistance Fund".

"(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section and shall be available to the Secretary of the Interior without further appropriation and without fiscal year limitation.

"(3) DEPOSITS.—Subject to paragraph (4), and in accordance with section 1912(a)(2) of this title, there shall be deposited into the fund amounts received by the United States as revenues derived from bonus bids on leases and lease sales authorized under this title.

"(4) INVESTMENT OF BALANCES.—The Secretary of the U.S. Treasury shall invest amounts in the fund in interest bearing government securities.

"SEC. 1912. REVENUE ALLOCATION.

"(a) BONUS BIDS.—Notwithstanding section 1904 of this title, the Mineral Leasing Act (30 U.S.C. 181 et. Seq.), or any other law, of the amount of the adjusted bonus bids from oil and gas leasing and operations authorized under this title—

"(1) 50 percent shall be paid to the State of Alaska;

"(2) 1 percent shall be deposited into the Coastal Plain Local Government Impact Aid Assistance Fund as authorized under section 1911 of this title; and

"(3) The balance of such revenues shall be distributed as follows:

"(i) $10 million shall be available to the Secretary of Energy, without further appropriation and without fiscal year limitation, to fill the Strategic Petroleum Reserve, including terminalling, transportation, power and third party inspections, and to the extent the Secretary of Energy determines that geographic dispersal of the Reserve would enhance its use for national security, the Secretary of Energy shall consider adding Strategic Petroleum Reserves to the West Coast and Hawaii, consistent with current law; and

"(ii) the remainder of the balance shall be deposited into the Conservation, Jobs, and Steel Reinvestment Trust Fund as provided in section 1914.

"(b) RENTS AND ROYALTIES.—Notwithstanding section 1904 of this title, the Mineral Leasing Act (30 U.S.C. 181, et. seq.), or any other law, of the amount of the rents and royalties from oil and gas leasing and operations authorized under this title—

"(1) 50 percent shall be paid to the State of Alaska; and

"(2) 50 percent shall be deposited into the Conservation, Jobs, and Steel Reinvestment Trust Fund, in accordance with the provisions of section 1914, and thereafter into the U.S. Treasury as miscellaneous receipts.

"(c) PAYMENTS TO STATE.—Payments to the State of Alaska under this section shall be transferred on the 15th day of each month as a direct lump sum payment from the Treasury without further appropriation.

"SEC. 1913. ADDITIONAL WILDERNESS DESIGNATION.—

Notwithstanding Sections 101(d) and 1326 of the Alaska National Interest Lands Conservation Act, Section 702(3) of the Alaska National Interest Lands Conservation Act (P.L. 96-487) is amended to read as follows:

"(3) Mollie Beattie Wilderness of approximately 9.5 million acres generally depicted on a map entitled "Arctic National Wildlife Refuge" dated April 2002 on file in the Office of the Director of the U.S. Fish and Wildlife Service;".

"SEC. 1914. CONSERVATION, JOBS, AND STEEL REINVESTMENT TRUST FUND.

"(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United

States a separate account which shall be known as the 'Conservation, Jobs, and Steel Reinvestment Trust Fund'.

"(b) DEPOSITS.—Deposits described in subsection (g), the bonus bid revenues described in section 1912(a)(3)(ii) from leases authorized or issued under this title, and for 30 years following the production from leases issued under this title fifty percent of the rents, royalties and other payments, as described in section 1912(b)(2), shall be deposited into the Conservation, Jobs, and Steel Reinvestment Trust Fund. Amounts described at subsections (c)(2), (3), (4) and (5) of this section and deposited in such Fund each fiscal year shall be available until expended without further appropriation. Amounts described at subsections (c)(1) and (g) and deposited in such Fund shall be available in accordance with subsection (g).

"(c) USE GENERALLY.—Subject to paragraph (d), of the funds deposited into the Conservation, Jobs, and Steel Reinvestment Trust Fund—

"(1)(A) 57 percent of bonus bids in Fiscal Year 2003;

"(B) 48 percent of bonus bids in Fiscal Year 2005; and

"(C) 90 percent of rents, royalties and payments for the first 30 years of production shall be available for activities described in subsection (g).

"(2)(A) 10 percent of bonus bids in Fiscal Year 2003; and

"(B) 10 percent of bonus bids in Fiscal Year 2005

may be used by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Energy to finance grants, contracts, cooperative agreements (including Memoranda of Understanding), and programs for direct activities of the Departments of the Interior, Energy, and Agriculture to—

"(i) eliminate maintenance and improvement backlogs on Federal lands;

"(ii) restore and protect upland and coastal habitat;

"(iii) provide public access and necessary facilities for visitor accommodations;

"(iv) restore and improve historic landmarks and property;

"(v) develop urban parks through the Urban Park Recreation and Recovery Program and state and local recreation areas;

"(vi) support renewable energy programs, expand energy efficiency programs (including the Steel Industry of the Future program), and develop alternative energy sources; and

"(vii) support other related authorized programs within the jurisdiction of the House and Senate Committees on Appropriations.

"(3)(A) 15 percent of bonus bids in Fiscal Year 2003; and

"(B) 15 percent of bonus bids in Fiscal Year 2005

may be used by the Secretary of Commerce to provide grants, loans, and other assistance (including federal loans with deferred or forgivable payments) to modernize the United States steel, heavy equipment, and related manufacturing industries, and to produce the necessary materials and equipment and construct the necessary infrastructure to support such industries, with emphasis on the transportation systems and infrastructure necessary to transport domestic petroleum products, under authorized programs including, but not limited to—

"(i) the Manufacturing Enterprise Program to stimulate manufacturing capacity;

"(ii) the Economic Development Administration;

"(iii) the International Trade Administration; and

"(iv) federal loan guarantees to finance private sector construction of such transportation systems and infrastructure; and

"(v) other related authorized programs within the jurisdiction of the House and Senate Committees on Appropriations to improve or increase manufacturing capacities and capabilities in the United States.

"(4)(A) 10 percent of bonus bids in Fiscal Year 2003; and

"(B) 10 percent in Fiscal Year 2005

may be used by the Secretary of Labor, except as provided under subsection (e), to train American workers to fabricate, construct, operate, and transport materials for systems and infrastructure necessary to transport domestic petroleum products using authorized programs, including but not limited to—

"(i) veterans employment and training programs;

"(ii) dislocated workers program to train unemployed workers;

"(iii) the Mine Safety and Health Administration;

"(iv) the Occupational Safety and Health Administration;

"(v) employment and training administration programs; and

"(vi) other related authorized job training and worker programs within the jurisdiction of the House and Senate Committees on Appropriations.

"(5)(A) $100 million in Fiscal Year 2003;

"(B) $50 million in Fiscal Year 2005; and

"(C) 10 percent of the rents, royalties and payments for the first 30 years of production shall be deposited into the Fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231), and shall be available without further appropriation for transfer, as needed, to the Combined Fund identified in section 402(h)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) to pay the amount of any shortfall in any premium account for any plan year under the Combined Fund."

In the event bonus bids received exceed the amounts specified in subparagraphs (1)(A) and (B), 2(A) and (B), 3(A) and (B), 4(A) and (B) and 5(A) and (B), 90 percent of such excess funds shall be available for uses as described in paragraph (1), and 10 percent of such excess funds shall be available for use as described in paragraph (5) of this subsection.

"(d) ASSURANCE.—The President, at his discretion, may request that amounts available in any fiscal year under paragraphs (c)(2), (3), and (4) be reallocated among the qualified uses in paragraphs (c)(2), (c)(3), and (c)(4) through appropriations acts.

"(e) MAXIMIZING AMERICAN EMPLOYMENT.—The Secretary of State is authorized to enter into agreements with foreign countries to allow American workers to enter foreign countries to construct, operate, and maintain projects that will increase production and transportation of domestic energy resources and reduce America's reliance on foreign oil and natural gas.

"(f) SEVERABILITY CLAUSE.—If any provision of this section, including subsections, sentences, clauses, phrases, or individual words, or the application thereof is held invalid, the validity of the remainder of the section and of the application of any such provision, subsection, sentence, clause, phrase, or individual word shall not be affected thereby.".

"(g) ESTABLISHMENT OF STEEL INDUSTRY RETIREE BENEFITS PROTECTION PROGRAM.—The Trade Act of 1974 is amended by adding at the end the following new title:

"TITLE IX—PROTECTION FOR STEEL INDUSTRY RETIREMENT BENEFITS

"SUBTITLE A. Definitions.
"SUBTITLE B. Steel Industry Retiree Benefits Protection Program.
"SUBTITLE C. Conservation Jobs, and Steel Reinvestment Trust Fund.

"Subtitle A—Definitions

"Sec. 901. Definitions.

"SEC. 901. DEFINITIONS.

"(a) TERMS RELATING TO BENEFITS PROGRAM.—For purposes of this title—

"(1) RETIREE BENEFITS PROGRAM.—The term 'retiree benefits program' means the Steel Industry Retiree Benefits Protection Program established under this title to provide medical and death benefits to eligible retirees and beneficiaries.

"(2) STEEL RETIREE BENEFITS.—

"(A) IN GENERAL.—The term 'steel retiree benefits' means medical, surgical, or hospital benefits, and death benefits, whether furnished through insurance or otherwise, which are provided to retirees and eligible beneficiaries in accordance with an employee benefit plan (within the meaning of section 3(3) of the Employee Retirement Income Security Act of 1974) which—

"(i) is established or maintained by a qualified steel company or an applicable acquiring company, and

"(ii) is in effect on or after January 1, 2000.

Such term includes benefits provided under a plan without regard to whether the plan is established or maintained pursuant to a collective bargaining agreement.

"(B) RETIREE.—

"(i) IN GENERAL.—The term 'retiree' means an individual who has met any years of service or disability requirements under an employee benefit plan described in subparagraph (A) which are necessary to receive steel retiree benefits under the plan.

"(ii) CERTAIN RETIREES INCLUDED.—An individual shall not fail to be treated as a retiree because the individual—

"(I) retired before January 1, 2000, or

"(II) was not employed at the steelmaking assets of a qualified steel company.

"(b) TERMS RELATING TO STEEL COMPANIES.—For purposes of this title—

"(1) QUALIFIED STEEL COMPANY.—

"(A) IN GENERAL.—The term 'qualified steel company' means any person which on January 1, 2000, was engaged in—

"(i) the production or manufacture of a steel mill product,

"(ii) the mining or processing of iron ore or beneficiated iron ore products, or

"(iii) the production of coke for use in a steel mill product.

"(B) TRANSPORTATION.—The term 'qualified steel company' includes any person which on January 1, 2000, was engaged in the transportation of any steel mill product solely or principally for another person described in subparagraph (A), but only if such person and such other person are related persons.

"(C) SUCCESSORS IN INTEREST.—The term 'qualified steel company' includes any successor in interest of a person described in subparagraph (A) or (B).

"(2) STEELMAKING ASSETS AND STEEL MILL PRODUCTS.—

"(A) STEELMAKING ASSETS.—The term 'steelmaking assets' means any land, building, machinery, equipment, or other fixed assets located in the United States which, at any time on or after January 1, 2000, have been used in the activities described in subparagraph (A) or (B) of paragraph (1).

"(B) STEEL MILL PRODUCT.—The term 'steel mill product' means any product defined by the American Iron and Steel Institute as a steel mill product.

“(3) Acquiring company.—The term ‘acquiring company’ means any person which acquired on or after January 1, 2000, steelmaking assets of a qualified steel company with respect to which a qualifying event has occurred.

“(c) Other Definitions.—For purposes of this title—

“(1) Related person.—The term ‘related person’ means, with respect to any person, a person who—

“(A) is a member of the same controlled group of corporations (within the meaning of section 52(a)) as such person, or

“(B) is under common control (within the meaning of section 52(b)) with such person.

“(2) Secretary.—The term ‘Secretary’ means the Secretary of Commerce.

“(3) Trust fund.—The term ‘Trust Fund’ means the Conservation, Jobs, and Steel Reinvestment Trust Fund established under section 1914 of the Energy Policy Act of 2002.

“Subtitle B—Steel Industry Retiree Benefits Protection Program

“I. Establishment.
“II. Relief and assumption of liability, eligibility, and certification.
“III. Program benefits.

“PART I—ESTABLISHMENT

“Sec. 902. Establishment.

“SEC. 902. ESTABLISHMENT.

“There is established a Steel Industry Retiree Benefits Protection program to be administered by the Secretary and the Board of Trustees for the amounts of the Trust Fund described in section 1914(c)(1) of the Energy Policy Act of 2002 and this title in accordance with the provisions of this title for the purpose of providing medical and death benefits to eligible retirees and eligible beneficiaries certified as participants in the program under part II.

“PART II—RELIEF AND ASSUMPTION OF LIABILITY, ELIGIBILITY, AND CERTIFICATION

“Sec. 911. Relief and assumption of liability.
“Sec. 912. Qualifying events.
“Sec. 913. Eligibility and certification of eligibility.

“SEC. 911. RELIEF AND ASSUMPTION OF LIABILITY.

“(a) In General.—If—

“(1) the Secretary certifies under section 912 that there was a qualifying event with respect to a qualified steel company,

“(2) the asset transfer requirements of subsection (b) and the contribution requirements of subsection (c) are met with respect to the qualifying event, then the United States shall assume liability, subject to amounts available in the Trust Fund and additional funds made available in appropriations acts, for the provision of steel retiree benefits for each eligible retiree and eligible beneficiary certified for participation in the retiree benefits program under section 913 (and the qualified steel company, any predecessor or successor, and any related person to such company, predecessor, or successor shall be relieved of any liability for the provision of such benefits). The United States shall be treated as satisfying any liability assumed under this subsection if benefits are provided to eligible retirees and eligible beneficiaries under the retiree benefits program provided in part III, and

“(3) the qualified steel company and any acquiring company assumes their respective liability to make any contributions required under subsection (c),

then the United States shall assume liability, subject to amounts available in the Trust Fund and additional funds made available in appropriations acts, for the provision of steel retiree benefits for each eligible retiree and eligible beneficiary certified for participation in the retiree benefits program under section 913 (and the qualified steel company, any predecessor or successor, and any related person to such company, predecessor, or successor shall be relieved of any liability for the provision of such benefits). The United States shall be treated as satisfying any liability assumed under this subsection if benefits are provided to eligible retirees and eligible beneficiaries under the retiree benefits program provided in part III.

“(b) Required Asset Transfers.—

“(1) In general.—The requirements of this subsection are met if the qualified steel company and any applicable acquiring company transfer to the Trust Fund all assets, as determined in accordance with rules prescribed by the Secretary, which, under the terms of an applicable collective bargaining agreement, were required to be set aside under an employee benefit plan or otherwise for the provision of the steel retiree benefits the liability for which (determined without regard to this subsection) is relieved by operation of subsection (a). The assets required to be transferred shall not include voluntary contributions, including voluntary contributions made pursuant to a voluntary employees beneficiary association trust, which are in excess of the contributions described in the preceding sentence.

“(2) Determination.—The amount of the assets to be transferred under paragraph (1) shall be determined at the time of the certification under section 912 and shall include interest from the time of the determination to the time of transfer. Such amount shall be reduced by any payments from such assets which are made after the determination by the qualified steel company or applicable acquiring company for the provision of steel retiree benefits for which such assets were set aside and the liability for which (determined without regard to this subsection) is relieved by operation of subsection (a).

“(c) Contribution Requirements.—

“(1) Contributions based on ownership of steelmaking assets.—

“(A) In general.—If there is a qualifying event certified under section 912 with respect to a qualified steel company—

“(i) the qualified steel company shall assume the obligation to pay, and

“(ii) if the qualified steel company transferred on or after January 1, 2000, any of its steelmaking assets, the qualified steel company and any acquiring company acquiring such assets as part of a qualifying event shall assume the obligation to pay,

to the Trust Fund for each of the years in the period beginning on the date of the qualifying event its ratable share of the amount determined under subparagraph (B) with respect to the steelmaking assets owned by such company or person.

“(B) Amount of liability.—

“(i) In general.—The amount required to be paid under subparagraph (A) for any year shall be equal to $6 per ton of products described in section 901(b)(1)(A) attributable to the steelmaking assets which are subject to the qualifying event. If 2 or more persons own steelmaking capacity or assets, the liability under this clause shall be allocated ratably on the basis of their respective ownership interests. The determination under this clause for any year shall be made on the basis of shipments during the calendar year preceding the calendar year in which such year begins. In the event the cost of the program is reduced the amount paid by qualified steel companies per ton of products described in 901(b)(1)(A) shall be reduced by the same percentage.

“(ii) Reductions in liability.—The amount of any liability under clause (i) for any year shall be reduced by the amount of any assets transferred to the Trust Fund under subsection (b), reduced by any portion of such amount applied to a liability for any preceding year. If 2 or more persons are liable under subparagraph (A) with respect to any qualifying event, the reduction under clause (i) shall be allocated ratably among such persons on the basis of their respective liabilities or in such other manner as such persons may agree.

“(2) FASB liability in case of certain qualifying events.—

“(A) In general.—If there is a qualifying event (other than a qualified acquisition) with respect to a qualified steel company, then, subject to the provisions of subparagraphs (C) and (D), the qualified steel company shall be liable for payment to the Trust Fund of the amount determined under subparagraph (B). If a qualified acquisition occurs after another qualifying event, such other qualifying event shall be disregarded for purposes of this paragraph.

“(B) Amount of liability.—The amount determined under this subparagraph shall be equal to the excess (if any) of—

“(i) the amount determined under the Financial Accounting Standards Board Rule 106 as being equal to the present value of the steel retiree benefits of eligible retirees and beneficiaries of the qualified steel company the liability for which (determined without regard to any modification pursuant to section 1114 of title 11, United States Code) is relieved under subsection (a), over

“(ii) the sum of—

“(I) the value of the assets transferred under subsection (b) with respect to the retirees and beneficiaries, and

“(II) the present value of any payments (other than payments determined under this subparagraph) to be made under this subsection with respect to steelmaking assets of the qualified steel company.

“(C) Discharges in bankruptcy.—The amount of any liability under subparagraph (B) shall be reduced by the portion of such liability which, in accordance with the provisions of title 11, United States Code, is discharged in any bankruptcy proceeding.

“(D) No liability if industry-wide election made.—If a qualifying event occurs by reason of a qualified election under section 912(d)(2)(B), then—

“(i) any liability that arose under this paragraph for any qualifying event occurring before such election is extinguished (and any payment of such liability shall be refunded from the Trust Fund with interest), and

“(ii) this paragraph shall not apply to the qualifying event occurring by reason of such election or any subsequent qualifying event.

“(3) Joint and several liability.—Any related person of any person liable for any payment under this subsection shall be jointly and severally liable for the payment.

“(4) Time and manner of payment.—The Secretary shall establish the time and manner of any payment required to be made under this subsection, including the payment of interest.

SEC. 912. QUALIFYING EVENTS.

“(a) In General.—For purposes of this title, the term ‘qualifying event’ means any—

“(1) qualified acquisition,

“(2) qualified closing,

"(3) qualified election, and

"(4) qualified bankruptcy transfer.

"(b) Qualified Acquisition.—For purposes of this title, the term 'qualified acquisition' means any arms'-length transaction or series of related transactions—

"(1) under which a person (whether or not a qualified steel company) acquires by purchase, merger, stock acquisition, or otherwise all or substantially all of the steelmaking assets held by the qualified steel company as of January 1, 2000, and

"(2) which occur on and after January 1, 2000, and before the date which is 2 years after the date of the enactment of this title.

Such term shall not include any acquisition by a related person.

"(c) Qualified Closing.—For purposes of this title—

"(1) In general.—The term 'qualified closing' means—

"(A) the permanent cessation on or after January 1, 2000, and before January 1, 2004, by a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, of all activities described in subparagraph (A) or (B) of paragraph (1) of section 901(b), or

"(B) the transfer on or after January 1, 2000, and before January 1, 2004, by a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, of all or substantially all of its steelmaking assets to 1 or more persons other than related persons in an arms'-length transaction or series of related transactions which do not constitute a qualified acquisition.

"(2) Companies in imminent danger of closure.—A qualified closing of a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, shall be treated as having occurred if the company—

"(A) meets the acquisition effort requirements of paragraph (3),

"(B) establishes to the satisfaction of the Secretary that—

"(i) it is in imminent danger of becoming a closed company, or

"(ii) in the case of a company operating under protection of chapter 11 of title 11, United States Code, it is unable to reorganize without the relief provided under this title, and

"(C) elects, in such manner as the Secretary prescribes, at any time after the date of the enactment of this title and before the date which is 2 years after the date of the enactment of this title, to avail itself of the relief provided under this title.

"(3) Acquisition effort requirements.—

"(A) In general.—The requirements of this paragraph are met by a qualified steel company if—

"(i) the company files with the Secretary within 10 days of the date of the enactment of this title—

"(I) a notice of intent to be acquired, and

"(II) a description of the actions the company will undertake to have its steelmaking assets acquired in a qualified acquisition, and

"(ii) the company at all times after the filing under clause (i) and the date which is 2 years after the date of the enactment of this title (or, if earlier, the date on which the requirement of paragraph (2)(B) is satisfied) makes a continuing, good faith effort to have its steelmaking assets acquired in a qualified acquisition.

"(B) Good faith effort.—A continuing, good faith effort under subparagraph (A)(ii) shall include—

"(i) the active marketing of a company's steelmaking assets through the retention of an investment banker, the preparation and distribution of offering materials to prospective purchasers, allowing due diligence and investigatory activities by prospective purchasers, the active and good faith consideration of all expressions of interest by prospective purchasers, and any other affirmative action designed to result in a qualified acquisition of a company's steelmaking assets, and

"(ii) a demonstration to the Secretary by the company that no bona fide and fair offer which would have resulted in a qualified acquisition of the company's steelmaking assets has been unreasonably refused.

"(d) Qualified Election.—For purposes of this title—

"(1) In general.—The term 'qualified election' means an election by a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, meeting the acquisition effort requirements of subsection (c)(3) to transfer its obligations for steel retiree benefits to the retiree benefit program. Such an election shall be made not earlier than the date which is 2 years after the date of the enactment of this title, and in such manner as the Secretary may prescribe.

"(2) Industry-wide election.—Notwithstanding paragraph (1), a qualified election shall be treated as having occurred with respect to a qualified steel company (whether or not operating under the protection of chapter 11 or 7 of title 11, United States Code) if—

"(A) the Secretary determines that at least 200,000 eligible retirees and beneficiaries have been certified under section 913 for participation in the retiree benefits program, and

"(B) the qualified steel company elects to avail itself of the relief provided under this title on or after the date of the determination under subparagraph (A).

"(e) Qualified Bankruptcy Transfer.—For purposes of this title, the term 'qualified bankruptcy transfer' means any transaction or series of transactions—

"(1) under which the qualified steel company, operating under the protection of chapter 11 or 7 of title 11, United States Code, transfers by any means (including but not limited to a plan of reorganization) its control over at least 30 percent of the production capacity of its steelmaking assets to 1 or more persons which are not related persons of such company,

"(2) which are not part of a qualified acquisition or qualified closing of a qualified steel company, and

"(3) which occur on and after January 1, 2000, and before January 1, 2004.

"(f) Certification.—

"(1) In general.—The Secretary shall certify a qualifying event with respect to a qualified steel company if the Secretary determines that the requirements of this title are met with respect to such event and that the asset transfer and contribution requirements of section 911 will be met.

"(2) Time for decision.—The Secretary shall make any determination under this subsection as soon as possible after a request is filed (and in the case of a request for certification as a qualified acquisition filed at least 60 days before the proposed date of the acquisition, before such proposed date).

"(3) Eligibility to file request.—A request for certification under this subsection may be made by the qualified steel company or any labor organization acting on behalf of retirees of such company.

"SEC. 913. ELIGIBILITY AND CERTIFICATION.

"(a) Retirees.—

"(1) In general.—Any individual who is a retiree of a qualified steel company with respect to which the Secretary has certified under section 912 that a qualifying event has occurred shall be treated as an eligible retiree for purposes of this title if—

"(A) the individual was receiving steel retiree benefits under an employee benefit plan described in section 901(a)(2)(A) as of the date of the qualifying event, or

"(B) the individual was eligible to receive such benefits on such date but was not receiving such benefits because the plan ceased to provide such benefits.

"(2) Certain individuals included.—An individual shall be treated as an eligible retiree under paragraph (1) if the individual—

"(A) was an employee of the qualified steel company before a qualified acquisition,

"(B) became an employee of the acquiring company as a result of the acquisition, and

"(C) voluntarily retires within 3 years of the acquisition.

"(b) Beneficiaries.—An individual shall be treated as an eligible beneficiary for purposes of this title if the individual is the spouse, surviving spouse, or dependent of an eligible retiree (or an individual who would have been an eligible retiree but for the individual's death before the date of the qualifying event).

"(c) Certification of Eligible Retirees and Beneficiaries.—

"(1) In general.—The Board of Trustees shall certify an individual as an eligible retiree or eligible beneficiary if the individual meets the requirements of this section.

"(2) Eligibility to file request.—A request for certification under this subsection may be filed by any individual seeking to be certified under this subsection, the qualified steel company, an acquiring company, a labor organization acting on behalf of retirees of such company, or a committee appointed under section 1114 of title 11, United States Code.

"(d) Records.—A qualified steel company, an acquiring company, and any successor in interest shall on and after the date of the enactment of this title maintain and make available to the Secretary and the Board of Trustees, all records, documents, and materials (including computer programs) necessary to make the certifications under this section.

PART III—PROGRAM BENEFITS

"Sec. 921. Program benefits.

"SEC. 921. PROGRAM BENEFITS.

"(a) General Rule.—Each eligible retiree and eligible beneficiary who is certified for participation in the retiree benefits program shall be entitled subject only to amounts available in the Trust Fund and additional funds made available in appropriations acts—

"(1) to receive health care benefits coverage described in subsection (b), and

"(2) in the case of an eligible retiree, payment of $5,000 death benefits coverage to the beneficiary of the retiree upon the retiree's death.

"(b) Health Care Benefits Coverage.—

"(1) In general.—The Board of Trustees shall establish health care benefits coverage under which eligible retirees and beneficiaries are provided benefits for health care items and services that are substantially the same as the benefits offered as of January 1, 2002, under the Blue Cross/Blue Shield Standard Plan provided under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, to Federal employees and annuitants. In providing the benefits under such program, the secondary payer provisions and the provisions relating to benefits provided when an individual is eligible for benefits under the medicare program under title XVIII of the Social Security Act that are applicable under such Plan shall apply in the same manner as such provisions apply to Federal employees and annuitants under such Plan.

"(2) CONTRACTING AUTHORITY.—The Board of Trustees shall have the authority to enter into such contracts as are necessary to carry out the provisions of this subsection, including contracts necessary to ensure adequate geographic coverage and cost control. The Board of Trustees may use the authority under this subsection to establish preferred provider organizations or other alternative delivery systems.

"(3) PREMIUMS, DEDUCTIBLES, AND COST SHARING.—The Board of Trustees of the Trust 15 Fund shall establish premiums, deductibles, and cost sharing for eligible retirees and beneficiaries provided health care benefits coverage under paragraph (1) which are substantially the same as those required under the Blue Cross/Blue Shield Standard Plan described in paragraph (1).

"Subtitle C.—Conservation, Jobs, and Steel Reinvestment Trust Fund

"SEC. 931. CONSERVATION, JOBS AND STEEL REINVESTMENT TRUST FUND.

"(a) TRANSFERS TO THE CONSERVATION, JOBS AND STEEL REINVESTMENT TRUST FUND.—

"(1) IN GENERAL.—There are appropriated to the Trust Fund established in section 1914 of the Energy Policy Act of 2002 amounts equivalent to—

"(A) tariffs on steel mill products received in the Treasury under title II of this Act,

"(B) amounts received in the Treasury from asset transfers and contributions under section 911,

"(C) amounts credited to the Trust Fund under section 9602(b) of the Internal Revenue Code of 1986,

"(D) the premiums paid by retirees under the program; and

"(E) bonus bids and rents, royalties and payments from the production of oil deposited pursuant to section 1914(b) and (c)(1) of the Energy Policy Act of 2002.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Trust Fund each fiscal year an amount equal to the excess (if any) of—C

"(A) expenditures from the amounts in the Trust Fund for the fiscal year, over

"(B) the assets of the Trust Fund for the fiscal year without regard to this paragraph.

"(b) EXPENDITURES.—Amounts in the Trust Fund described in section 1914(c)(1) of the Energy Policy Act of 2002 and this section shall be available only for purposes of making expenditures—

"(1) to meet the obligations of the United States with respect to liability for steel retiree benefits transferred to the United States under this title, and

"(2) incurred by the Secretary and the Board of Trustees in the administration of this title.

"(c) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—Amounts in the Trust Fund described in section 1914(c)(1) of the Energy Policy Act of 2002 and this section and the retiree benefits program shall be administered by a Board of Trustees, consisting of—

"(A) 2 individuals designated by agreement of the 5 qualified steel companies which, as of the date of the enactment of this title—

"(i) are conducting activities described in subparagraph (A) or (B) of section 901(b)(1), and

"(ii) have the largest number of retirees, and

"(B) 2 individuals designated by the United Steelworkers of America in consultation with the Independent Steelworkers Union, and

"(C) 3 individuals designated by individuals designated under subparagraphs (A) and (B).

"(2) DUTIES.—Except for those duties and responsibilities designated to the Secretary, the Board of Trustees shall have the responsibility to administer the amounts in the Trust Fund described in section 1914(c)(1) of the Energy Policy Act of 2002 and this section and the retiree benefits program, including—

"(A) enrolling eligible retirees and beneficiaries under the program,

"(B) procuring the medical services to be provided under the program,

"(C) entering into contracts, leases, or other arrangements necessary for the implementation of the program,

"(D) implementing cost-containment measures under the program,

"(E) collecting revenues and enforcing claims and rights of the program,

"(F) making disbursements as necessary under the program, and

"(G) acquiring and maintaining such records as may be necessary for the administration and implementation of the program.

"(3) REPORT.—The Board of Trustees report to Congress each year on the financial condition and the results of the operations of the retiree benefits program during the preceding fiscal year and on its expected condition and operations during the next 2 fiscal years. Such report shall be printed as a House document of the session of Congress to which the report is made.

"(d) TRANSFER INVESTMENT OF ASSETS.—Sections 9601 and 9602(b) of the Internal Revenue Code of 1986 shall apply to the amounts in the Trust Fund described in section 1914(c)(1) of the Energy Policy Act of 2002 and in this section.".

SA 3134. Mr. REID (for Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. FRIST, Mr. BINGAMAN, Mr. ROBERTS, Mr. HARKIN, Mr. BOND, Mr. DASCHLE, Ms. COLLINS, Mr. WELLSTONE, Mr. ENZI, Mrs. MURRAY, Mr. HUTCHINSON, Ms. MIKULSKI, Mr. DODD, Mr. REED, Mr. EDWARDS, and Mrs. CLINTON)) proposed an amendment to the bill S. 1533, to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Care Safety Net Amendments of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

Sec. 101. Health centers.

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

Sec. 201. Grant programs.

Subtitle B—Telehealth Grant Consolidation

Sec. 211. Short title.
Sec. 212. Consolidation and reauthorization of provisions.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

Sec. 221. Programs.

Subtitle D—School-Based Health Center Networks

Sec. 231. Networks.

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

Sec. 301. National Health Service Corps.
Sec. 302. Designation of health professional shortage areas.
Sec. 303. Assignment of corps personnel.
Sec. 304. Priorities in assignment of corps personnel.
Sec. 305. Cost-sharing.
Sec. 306. Eligibility for Federal funds.
Sec. 307. Facilitation of effective provision of corps services.
Sec. 308. Authorization of appropriations.
Sec. 309. National Health Service Corps Scholarship Program.
Sec. 310. National Health Service Corps Loan Repayment Program.
Sec. 311. Obligated service.
Sec. 312. Private practice.
Sec. 313. Breach of scholarship contract or loan repayment contract.
Sec. 314. Authorization of appropriations.
Sec. 315. Grants to States for loan repayment programs.
Sec. 316. Demonstration grants to States for community scholarship programs.
Sec. 317. Demonstration project.

TITLE IV—HEALTHY COMMUNITIES ACCESS PROGRAM ACT

Sec. 401. Purpose.
Sec. 402. Creation of Healthy Communities Access Program.
Sec. 403. Expanding availability of dental services.

TITLE V—RURAL HEALTH CLINICS

Sec. 501. Exemptions for rural health clinics.

TITLE VI—STUDY

Sec. 601. Guarantee study.

TITLE VII—CONFORMING AMENDMENTS

Sec. 701. Conforming amendments.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

SEC. 101. HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in subsection (b)(1)(A)—

(A) in clause (i)(III)(bb), by striking "screening for breast and cervical cancer" and inserting "appropriate cancer screening";

(B) in clause (ii), by inserting "(including specialty referral when medically indicated)" after "medical services"; and

(C) in clause (iii), by inserting "housing," after "social,";

(2) in subsection (b)(2)—

(A) in subparagraph (A)—

(i) in clause (vi), by striking "and";

(ii) by redesignating clause (vii) as clause (x); and

(iii) by inserting after clause (vi) the following:

"(vii) the detection and alleviation of chemical and pesticide exposures;

"(viii) the promotion of indoor and outdoor air quality;

"(ix) the detection and remediation of lead exposures; and";

(B) by redesignating subparagraphs (A) and (B) as subparagraphs (D) and (E), respectively;

(C) by inserting before subparagraph (D) (as redesignated by subparagraph (B)) the following:

"(A) behavioral and mental health and substance abuse services;

"(B) recuperative care services;

"(C) public health services;";

(D) in subparagraph (B)—

(i) in the heading, by striking "COMPREHENSIVE SERVICE DELIVERY" and inserting "MANAGED CARE";

(ii) in the matter preceding clause (i), by striking "network or plan" and all that follows to the period and inserting "managed care network or plan."; and

(iii) in the matter following clause (ii), by striking "Any such grant may include" and all that follows through the period; and

(E) by adding at the end the following:

"(C) PRACTICE MANAGEMENT NETWORKS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop practice management networks that will enable the centers to—

"(i) reduce costs associated with the provision of health care services;

"(ii) improve access to, and availability of, health care services provided to individuals served by the centers;

"(iii) enhance the quality and coordination of health care services; or

"(iv) improve the health status of communities.

"(D) USE OF FUNDS.—The activities for which a grant may be made under subparagraph (B) or (C) may include the purchase or lease of equipment, which may include data and information systems (including paying for the costs of amortizing the principal of, and paying the interest on, loans for equipment), the provision of training and technical assistance related to the provision of health care services on a prepaid basis or under another managed care arrangement, and other activities that promote the development of practice management or managed care networks and plans.";

(3) in subsection (d)—

(A) by striking the subsection heading and inserting "LOAN GUARANTEE PROGRAM.—";

(B) in paragraph (1)—

(i) in subparagraph (A), by striking "the principal and interest on loans" and all that follows through the period and inserting "up to 90 percent of the principal and interest on loans made by non-Federal lenders to health centers, funded under this section, for the costs of developing and operating managed care networks or plans described in subsection (c)(1)(B), or practice management networks described in subsection (c)(1)(C).";

(ii) in subparagraph (B)—

(I) in clause (i), by striking "or";

(II) in clause (ii), by striking the period and inserting "; or"; and

(III) by adding at the end the following:

"(iii) to refinance an existing loan (as of the date of refinancing) to the center or centers, if the Secretary determines such refinancing will be beneficial to the health center and the Federal Government and will result in more favorable terms."; and

(iii) by adding at the end the following:

"(D) LOAN GUARANTEES.—Notwithstanding any other provision of law, the following funds shall be made available until expended for loan guarantees under this subsection:

"(i) Funds appropriated for fiscal year 1997 under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, which were made available for loan guarantees for loans to health centers for the costs of developing and operating managed care networks or plans, and which have not been expended.

"(ii) Funds appropriated for fiscal year 1998 under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998, which were made available for loan guarantees for loans to health centers under this subsection (as in effect on the day before the date of enactment of the Health Care Safety Net Amendments of 2001), and which have not been expended.

"(E) PROVISION DIRECTLY TO NETWORKS OR PLANS.—At the request of health centers receiving assistance under this section, loan guarantees provided under this paragraph may be made directly to networks or plans that are at least majority controlled and, as applicable, at least majority owned by those health centers.

"(F) FEDERAL CREDIT REFORM.—The requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) shall apply with respect to loans refinanced under subparagraph (B)(iii)."; and

(C)(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6);

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking "subsection (j)(3)" and inserting "subsection (l)(3)"; and

(ii) by adding at the end the following:

"(C) OPERATION OF NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section, or at the request of the health centers, directly to a network or plan (as described in subparagraphs (B) and (C) of subsection (c)(1)) that is at least majority controlled and, as applicable, at least majority owned by such health centers receiving assistance under this section, for the costs associated with the operation of such network or plan, including the purchase or lease of equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment).";

(B) in paragraph (2) by adding at the end the following: "The costs for which a grant may be made under paragraph (1)(C) may include the costs of providing such training.";

(C) in paragraph (5)—

(i) in subparagraph (A), by inserting "subparagraphs (A) and (B) of" after "any fiscal year under";

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(iii) by inserting after subparagraph (A) the following:

"(B) NETWORKS AND PLANS.—The total amount of grant funds made available for any fiscal year under paragraph (1)(C) and subparagraphs (B) and (C) of subsection (c)(1) to a health center or to a network or plan shall be determined by the Secretary, but may not exceed 2 percent of the total amount appropriated under this section for such fiscal year."; and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(5) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting "and seasonal agricultural worker" after "agricultural worker"; and

(ii) in subparagraph (B), by striking "and members of their families" and inserting "and seasonal agricultural workers, and members of their families,"; and

(B) in paragraph (3)(A), by striking "on a seasonal basis";

(6) in subsection (h)—

(A) in paragraph (1), by striking "homeless children and children at risk of homelessness" and inserting "homeless children and youth and children and youth at risk of homelessness";

(B)(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

"(4) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under this subsection has provided services described in this section under the grant to a homeless individual, such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months."; and

(C) in paragraph (5)(C) (as redesignated by subparagraph (B)), by striking "and residential treatment" and inserting ", risk reduction, outpatient treatment, residential treatment, and rehabilitation";

(7) in subsection (j)(3)—

(A) in subparagraph (E)—

(i) in clause (i)—

(I) by striking "(i)" and inserting "(i)(I)";

(II) by striking "plan; or" and inserting "plan; and"; and

(III) by adding at the end the following:

"(II) has or will have a contractual or other arrangement with the State agency administering the program under title XXI of such Act (42 U.S.C. 1397aa et seq.) with respect to individuals who are State children's health insurance program beneficiaries; or"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) has made or will make every reasonable effort to enter into arrangements described in subclauses (I) and (II) of clause (i);";

(B) in subparagraph (G)—

(i) in clause (ii)(II), by striking "; and" and inserting ";";

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following:

"(iii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

"(II) will assure that any fees or payments required by the center for such services will be reduced or waived to enable the center to fulfill the assurance described in subclause (I); and"; and

(C) in subparagraph (H)—

(i) in clause (ii), by inserting "reviews any internal outreach plans for specific subpopulations served by the center," after "such services will be provided,"; and

(ii) in the matter following clause (iii), by striking "or (p)" and inserting "or (q)";

(8)(A) by redesignating subsection (l) as subsection (s) and moving that subsection (s) to the end of the section;

(B) by redesignating subsections (j), (k), and (m) through (q) as subsections (l), (m), and (n) through (r), respectively; and

(C) by inserting after subsection (i) the following:

"(j) ENVIRONMENTAL CONCERNS.—The Secretary may make grants to health centers for the purpose of assisting such centers in identifying and detecting environmental factors and conditions, and providing services, including environmental health services described in subsection (b)(2)(D), to reduce the disease burden related to environmental factors and exposure of populations to such factors, and alleviate environmental conditions that affect the health of individuals and communities served by health centers funded under this section.

"(k) LINGUISTIC ACCESS GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants to eligible health centers with a substantial number of clients with limited English speaking proficiency to provide translation, interpretation, and other such services for such clients with limited English speaking proficiency.

"(2) ELIGIBLE HEALTH CENTER.—In this subsection, the term 'eligible health center' means an entity that—

"(A) is a health center as defined under subsection (a); and

"(B) provides health care services for clients for whom English is a second language.

"(3) GRANT AMOUNT.—The amount of a grant awarded to a center under this subsection shall be determined by the Administrator. Such determination of such amount shall be based on the number of clients for whom English is a second language that is served by such center, and larger grant amounts shall be awarded to centers serving larger numbers of such clients.

"(4) USE OF FUNDS.—An eligible health center that receives a grant under this subsection may use funds received through such grant to—

"(A) provide translation, interpretation, and other such services for clients for whom English is a second language, including hiring professional translation and interpretation services; and

"(B) compensate bilingual or multilingual staff for language assistance services provided by the staff for such clients.

"(5) APPLICATION.—An eligible health center desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including—

"(A) an estimate of the number of clients that the center serves for whom English is a second language;

"(B) the ratio of the number of clients for whom English is a second language to the total number of clients served by the center; and

"(C) a description of any language assistance services that the center proposes to provide to aid clients for whom English is a second language.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, in addition to any funds authorized to be appropriated or appropriated for health centers under any other subsection of this section, **$10,000,000** for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.";

(9) by striking subsection (m) (as redesignated by paragraph (9)(B)) and inserting the following:

"(m) TECHNICAL ASSISTANCE.—The Secretary shall establish a program through which the Secretary shall provide technical and other assistance to eligible entities to assist such entities to meet the requirements of subsection (l)(3) in developing plans for, or operating, health centers. Services provided through the program may include necessary technical and nonfinancial assistance, including fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to the entities of the variety of resources available under this title and how those resources can be best used to meet the health needs of the communities served by the entities.";

(10) in subsection (q) (as redesignated by paragraph (9)(B)), by striking "(j)(3)(G)" and inserting "(l)(3)(G)"; and

(11) in subsection (s) (as redesignated by paragraph (9)(A))—

(A) in paragraph (1), by striking "**$802,124,000**" and all that follows through the period and inserting "**$1,369,000,000** for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "(j)(3))" and inserting "(l)(3))"; and

(II) by striking "(j)(3)(G)(ii)" and inserting "(l)(3)(H)"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) DISTRIBUTION OF GRANTS.—For fiscal year 2002 and each of the following fiscal years, the Secretary, in awarding grants under this section, shall ensure that the proportion of the amount made available under each of subsections (g), (h), and (i), relative to the total amount appropriated to carry out this section for that fiscal year, is equal to the proportion of the amount made available under that subsection for fiscal year 2001, relative to the total amount appropriated to carry out this section for fiscal year 2001.".

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

SEC. 201. GRANT PROGRAMS.

Section 330A of the Public Health Service Act (42 U.S.C. 254c) is amended to read as follows:

"SEC. 330A. RURAL HEALTH CARE SERVICES OUTREACH, RURAL HEALTH NETWORK DEVELOPMENT, AND SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANT PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to provide grants for expanded delivery of health care services in rural areas, for the planning and implementation of integrated health care networks in rural areas, and for the planning and implementation of small health care provider quality improvement activities.

"(b) DEFINITIONS.—

"(1) DIRECTOR.—The term 'Director' means the Director specified in subsection (d).

"(2) FEDERALLY QUALIFIED HEALTH CENTER; RURAL HEALTH CLINIC.—The terms 'Federally qualified health center' and 'rural health clinic' have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

"(3) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' means a health professional shortage area designated under section 332.

"(4) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' has the meaning given the term in section 799B.

"(5) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3).

"(c) PROGRAM.—The Secretary shall establish, under section 301, a small health care provider quality improvement grant program.

"(d) ADMINISTRATION.—

"(1) PROGRAMS.—The rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs established under section 301 shall be administered by the Director of the Office of Rural Health Policy of the Health Resources and Services Administration, in consultation with State offices of rural health or other appropriate State government entities.

"(2) GRANTS.—

"(A) IN GENERAL.—In carrying out the programs described in paragraph (1), the Director may award grants under subsections (e), (f), and (g) to expand access to, coordinate, and improve the quality of essential health care services, and enhance the delivery of health care, in rural areas.

"(B) TYPES OF GRANTS.—The Director may award the grants—

"(i) to promote expanded delivery of health care services in rural areas under subsection (e);

"(ii) to provide for the planning and implementation of integrated health care networks in rural areas under subsection (f); and

"(iii) to provide for the planning and implementation of small health care provider quality improvement activities under subsection (g).

"(e) RURAL HEALTH CARE SERVICES OUTREACH GRANTS.—

"(1) GRANTS.—The Director may award grants to eligible entities to promote rural health care services outreach by expanding the delivery of health care services to include new and enhanced services in rural areas. The Director may award the grants for periods of not more than 3 years.

"(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection for a project, an entity—

"(A) shall be a rural public or rural nonprofit private entity;

"(B) shall represent a consortium composed of members—

"(i) that include 3 or more health care providers; and

"(ii) that may be nonprofit or for-profit entities; and

"(C) shall not previously have received a grant under this subsection for the same or a similar project, unless the entity is proposing to expand the scope of the project or the area that will be served through the project.

"(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(B) a description of the manner in which the project funded under the grant will meet the health care needs of rural underserved populations in the local community or region to be served;

"(C) a description of how the local community or region to be served will be involved in the development and ongoing operations of the project;

"(D) a plan for sustaining the project after Federal support for the project has ended;

"(E) a description of how the project will be evaluated; and

"(F) other such information as the Secretary determines to be appropriate.

"(f) RURAL HEALTH NETWORK DEVELOPMENT GRANTS.—

"(1) GRANTS.—

"(A) IN GENERAL.—The Director may award rural health network development grants to eligible entities to promote, through planning and implementation, the development of integrated health care networks that have combined the functions of the entities participating in the networks in order to—

"(i) achieve efficiencies;

"(ii) expand access to, coordinate, and improve the quality of essential health care services; and

"(iii) strengthen the rural health care system as a whole.

"(B) GRANT PERIODS.—The Director may award such a rural health network development grant for implementation activities for a period of 3 years. The Director may also award such a rural health network development grant for planning activities for a period of 1 year, to assist in the development of an integrated health care network, if the proposed participants in the network do not have a history of collaborative efforts and a 3-year grant would be inappropriate.

"(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, an entity—

"(A) shall be a rural public or rural nonprofit private entity;

"(B) shall represent a network composed of participants—

"(i) that include 3 or more health care providers; and

"(ii) that may be nonprofit or for-profit entities; and

"(C) shall not previously have received a grant under this subsection (other than a grant for planning activities) for the same or a similar project.

"(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(B) an explanation of the reasons why Federal assistance is required to carry out the project;

"(C) a description of—

"(i) the history of collaborative activities carried out by the participants in the network;

"(ii) the degree to which the participants are ready to integrate their functions; and

"(iii) how the local community or region to be served will benefit from and be involved in the activities carried out by the network;

"(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the integration activities carried out by the network;

"(E) a plan for sustaining the project after Federal support for the project has ended;

"(F) a description of how the project will be evaluated; and

"(G) other such information as the Secretary determines to be appropriate.

"(g) SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—

"(1) GRANTS.—The Director may award grants to provide for the planning and implementation of small health care provider quality improvement activities. The Director may award the grants for periods of 1 to 3 years.

"(2) ELIGIBILITY.—To be eligible for a grant under this subsection, an entity—

"(A)(i) shall be a rural public or rural nonprofit private health care provider or provider of health care services, such as a critical access hospital or a rural health clinic; or

"(ii) shall be another rural provider or network of small rural providers identified by the Secretary as a key source of local care; and

"(B) shall not previously have received a grant under this subsection for the same or a similar project.

"(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, such as a hospital association, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(B) an explanation of the reasons why Federal assistance is required to carry out the project;

"(C) a description of the manner in which the project funded under the grant will assure continuous quality improvement in the provision of services by the entity;

"(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the activities carried out by the entity;

"(E) a plan for sustaining the project after Federal support for the project has ended;

"(F) a description of how the project will be evaluated; and

"(G) other such information as the Secretary determines to be appropriate.

"(4) EXPENDITURES FOR SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—In awarding a grant under this subsection, the Director shall ensure that the funds made available through the grant will be used to provide services to residents of rural areas. The Director shall award not less than 50 percent of the funds made available under this subsection to providers located in and serving rural areas.

"(h) GENERAL REQUIREMENTS.—

"(1) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds provided through the grant—

"(A) to build or acquire real property; or

"(B) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment.

"(2) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs described in this section, to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar grant programs, to maximize the effect of public dollars in funding meritorious proposals.

"(3) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to entities that—

"(A) are located in health professional shortage areas or medically underserved communities, or serve medically underserved populations; or

"(B) propose to develop projects with a focus on primary care, and wellness and prevention strategies.

"(i) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsections (e), (f), and (g).

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

Subtitle B—Telehealth Grant Consolidation

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Telehealth Grant Consolidation Act of 2001".

SEC. 212. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq) is amended by adding at the end the following:

"SEC. 330I. TELEHEALTH NETWORK AND TELEHEALTH RESOURCE CENTERS GRANT PROGRAMS.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR; OFFICE.—The terms 'Director' and 'Office' mean the Director and Office specified in subsection (c).

"(2) FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC.—The term 'Federally qualified health center' and 'rural health clinic' have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

"(3) FRONTIER COMMUNITY.—The term 'frontier community' shall have the meaning given the term in regulations issued under subsection (r).

"(4) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' has the meaning given the term 'medically underserved community' in section 799B.

"(5) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3).

"(6) TELEHEALTH SERVICES.—The term 'telehealth services' means services provided through telehealth technologies.

"(7) TELEHEALTH TECHNOLOGIES.—The term 'telehealth technologies' means technologies relating to the use of electronic information, and telecommunications technologies, to support and promote, at a distance, health care, patient and professional health-related education, health administration, and public health.

"(b) PROGRAMS.—The Secretary shall establish, under section 301, telehealth network and telehealth resource centers grant programs.

"(c) ADMINISTRATION.—

"(1) ESTABLISHMENT.—There is established in the Health and Resources and Services Administration an Office for the Advancement of Telehealth. The Office shall be headed by a Director.

"(2) DUTIES.—The telehealth network and telehealth resource centers grant programs established under section 301 shall be administered by the Director, in consultation with the State offices of rural health, State offices concerning primary care, or other appropriate State government entities.

"(d) GRANTS.—

"(1) TELEHEALTH NETWORK GRANTS.—The Director may, in carrying out the telehealth network grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used through telehealth networks in rural areas, frontier communities, and medically underserved areas, and for medically underserved populations, to—

"(A) expand access to, coordinate, and improve the quality of health care services;

"(B) improve and expand the training of health care providers; and

"(C) expand and improve the quality of health information available to health care providers, and patients and their families, for decisionmaking.

"(2) TELEHEALTH RESOURCE CENTERS GRANTS.—The Director may, in carrying out the telehealth resource centers grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used in the areas and communities, and for the populations, described in paragraph (1), to establish telehealth resource centers.

"(e) GRANT PERIODS.—The Director may award grants under this section for periods of not more than 4 years.

"(f) ELIGIBLE ENTITIES.—

"(1) TELEHEALTH NETWORK GRANTS.—

"(A) GRANT RECIPIENT.—To be eligible to receive a grant under subsection (d)(1), an entity shall be a nonprofit entity.

"(B) TELEHEALTH NETWORKS.—

"(i) IN GENERAL.—To be eligible to receive a grant under subsection (d)(1), an entity shall demonstrate that the entity will provide services through a telehealth network.

"(ii) NATURE OF ENTITIES.—Each entity participating in the telehealth network may be a nonprofit or for-profit entity.

"(iii) COMPOSITION OF NETWORK.—The telehealth network shall include at least 2 of the following entities (at least 1 of which shall be a community-based health care provider):

"(I) Community or migrant health centers or other Federally qualified health centers.

"(II) Health care providers, including pharmacists, in private practice.

"(III) Entities operating clinics, including rural health clinics.

"(IV) Local health departments.

"(V) Nonprofit hospitals, including community access hospitals.

"(VI) Other publicly funded health or social service agencies.

"(VII) Long-term care providers.

"(VIII) Providers of health care services in the home.

"(IX) Providers of outpatient mental health services and entities operating outpatient mental health facilities.

"(X) Local or regional emergency health care providers.

"(XI) Institutions of higher education.

"(XII) Entities operating dental clinics.

"(2) TELEHEALTH RESOURCE CENTERS GRANTS.—To be eligible to receive a grant under subsection (d)(2), an entity shall be a nonprofit entity.

"(g) APPLICATIONS.—To be eligible to receive a grant under subsection (d), an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(2) a description of the manner in which the project funded under the grant will meet the health care needs of rural or other populations to be served through the project, or improve the access to services of, and the quality of the services received by, those populations;

"(3) evidence of local support for the project, and a description of how the areas, communities, or populations to be served will be involved in the development and ongoing operations of the project;

"(4) a plan for sustaining the project after Federal support for the project has ended;

"(5) information on the source and amount of non-Federal funds that the entity will provide for the project;

"(6) information demonstrating the long-term viability of the project, and other evidence of institutional commitment of the entity to the project;

"(7) in the case of an application for a project involving a telehealth network, information demonstrating how the project will promote the integration of telehealth technologies into the operations of health care providers, to avoid redundancy, and improve access to and the quality of care; and

"(8) other such information as the Secretary determines to be appropriate.

"(h) TERMS; CONDITIONS; MAXIMUM AMOUNT OF ASSISTANCE.—The Secretary shall establish the terms and conditions of each grant program described in subsection (b) and the maximum amount of a grant to be awarded to an individual recipient for each fiscal year under this section. The Secretary shall publish, in a publication of the Health Resources and Services Administration, notice of the application requirements for each grant program described in subsection (b) for each fiscal year.

"(i) PREFERENCES.—

"(1) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for projects involving telehealth networks, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

"(A) ORGANIZATION.—The eligible entity is a rural community-based organization or another community-based organization.

"(B) SERVICES.—The eligible entity proposes to use Federal funds made available through such a grant to develop plans for, or to establish, telehealth networks that provide mental health, public health, long-term care, home care, preventive, or case management services.

"(C) COORDINATION.—The eligible entity demonstrates how the project to be carried out under the grant will be coordinated with other relevant federally funded projects in the areas, communities, and populations to be served through the grant.

"(D) NETWORK.—The eligible entity demonstrates that the project involves a telehealth network that includes an entity that—

"(i) provides clinical health care services, or educational services for health care providers and for patients or their families; and

"(ii) is—

"(I) a public school;

"(II) a public library;

"(III) an institution of higher education; or

"(IV) a local government entity.

"(E) CONNECTIVITY.—The eligible entity proposes a project that promotes local connectivity within areas, communities, or populations to be served through the project.

"(F) INTEGRATION.—The eligible entity demonstrates that health care information has been integrated into the project.

"(2) TELEHEALTH RESOURCE CENTERS.—In awarding grants under subsection (d)(2) for projects involving telehealth resource centers, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

"(A) PROVISION OF SERVICES.—The eligible entity has a record of success in the provision of telehealth services to medically underserved areas or medically underserved populations.

"(B) COLLABORATION AND SHARING OF EXPERTISE.—The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels.

"(C) BROAD RANGE OF TELEHEALTH SERVICES.—The eligible entity has a record of providing a broad range of telehealth services, which may include—

"(i) a variety of clinical specialty services;

"(ii) patient or family education;

"(iii) health care professional education; and

"(iv) rural residency support programs.

"(j) DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—In awarding grants under this section, the Director shall ensure, to the greatest extent possible, that such grants are equitably distributed among the geographical regions of the United States.

"(2) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for a fiscal year, the Director shall ensure that—

"(A) not less than 50 percent of the funds awarded shall be awarded for projects in rural areas; and

"(B) the total amount of funds awarded for such projects for that fiscal year shall be not less than the total amount of funds awarded for such projects for fiscal year 2001 under section 330A (as in effect on the day before the date of enactment of the Health Care Safety Net Amendments of 2001).

"(k) USE OF FUNDS.—

"(1) TELEHEALTH NETWORK PROGRAM.—The recipient of a grant under subsection (d)(1) may use funds received through such grant for salaries, equipment, and operating or other costs, including the cost of—

"(A) developing and delivering clinical telehealth services that enhance access to community-based health care services in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations;

"(B) developing and acquiring, through lease or purchase, computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other equipment that furthers the objectives of the telehealth network grant program;

"(C)(i) developing and providing distance education, in a manner that enhances access to care in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations; or

"(ii) mentoring, precepting, or supervising health care providers and students seeking to become health care providers, in a manner that enhances access to care in the areas and communities, or for the populations, described in clause (i);

"(D) developing and acquiring instructional programming;

"(E)(i) providing for transmission of medical data, and maintenance of equipment; and

"(ii) providing for compensation (including travel expenses) of specialists, and referring health care providers, who are providing telehealth services through the telehealth network, if no third party payment is available for the telehealth services delivered through the telehealth network;

"(F) developing projects to use telehealth technology to facilitate collaboration between health care providers;

"(G) collecting and analyzing usage statistics and data to document the cost-effectiveness of the telehealth services; and

"(H) carrying out such other activities as are consistent with achieving the objectives of this section, as determined by the Secretary.

"(2) Telehealth resource centers.—The recipient of a grant under subsection (d)(2) may use funds received through such grant for salaries, equipment, and operating or other costs for—

"(A) providing technical assistance, training, and support, and providing for travel expenses, for health care providers and a range of health care entities that provide or will provide telehealth services;

"(B) disseminating information and research findings related to telehealth services;

"(C) promoting effective collaboration among telehealth resource centers and the Office;

"(D) conducting evaluations to determine the best utilization of telehealth technologies to meet health care needs;

"(E) promoting the integration of the technologies used in clinical information systems with other telehealth technologies;

"(F) fostering the use of telehealth technologies to provide health care information and education for health care providers and consumers in a more effective manner; and

"(G) implementing special projects or studies under the direction of the Office.

"(l) Prohibited Uses of Funds.—An entity that receives a grant under this section may not use funds made available through the grant—

"(1) to acquire real property;

"(2) for expenditures to purchase or lease equipment, to the extent that the expenditures would exceed 40 percent of the total grant funds;

"(3) in the case of a project involving a telehealth network, to purchase or install transmission equipment (such as laying cable or telephone lines, or purchasing or installing microwave towers, satellite dishes, amplifiers, or digital switching equipment), except on the premises of an entity participating in the telehealth network;

"(4) to pay for any equipment or transmission costs not directly related to the purposes for which the grant is awarded;

"(5) to purchase or install general purpose voice telephone systems;

"(6) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment; or

"(7) for expenditures for indirect costs (as determined by the Secretary), to the extent that the expenditures would exceed 20 percent of the total grant funds.

"(m) Collaboration.—In providing services under this section, an eligible entity shall collaborate, if feasible, with entities that—

"(1)(A) are private or public organizations, that receive Federal or State assistance; or

"(B) are public or private entities that operate centers, or carry out programs, that receive Federal or State assistance; and

"(2) provide telehealth services or related activities.

"(n) Coordination With Other Agencies.—The Secretary shall coordinate activities carried out under grant programs described in subsection (b), to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar programs, to maximize the effect of public dollars in funding meritorious proposals.

"(o) Outreach Activities.—The Secretary shall establish and implement procedures to carry out outreach activities to advise potential end users of telehealth services in rural areas, frontier communities, medically underserved areas, and medically underserved populations in each State about the grant programs described in subsection (b).

"(p) Telehealth.—It is the sense of Congress that, for purposes of this section, States should develop reciprocity agreements so that a provider of services under this section who is a licensed or otherwise authorized health care provider under the law of 1 or more States, and who, through telehealth technology, consults with a licensed or otherwise authorized health care provider in another State, is exempt, with respect to such consultation, from any State law of the other State that prohibits such consultation on the basis that the first health care provider is not a licensed or authorized health care provider under the law of that State.

"(q) Report.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsection (b).

"(r) Regulations.—The Secretary shall issue regulations specifying, for purposes of this section, a definition of the term 'frontier area'. The definition shall be based on factors that include population density, travel distance in miles to the nearest medical facility, travel time in minutes to the nearest medical facility, and such other factors as the Secretary determines to be appropriate. The Secretary shall develop the definition in consultation with the Director of the Bureau of the Census and the Administrator of the Economic Research Service of the Department of Agriculture.

"(s) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

"(1) for grants under subsection (d)(1), $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006; and

"(2) for grants under subsection (d)(2), $20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

"SEC. 330J. TELEHOMECARE DEMONSTRATION PROJECT.

"(a) Definitions.—In this section:

"(1) Distant site.—The term 'distant site' means a site at which a certified home care provider is located at the time at which a health care service (including a health care item) is provided through a telecommunications system.

"(2) Telehomecare.—The term 'telehomecare' means the provision of health care services through technology relating to the use of electronic information, or through telemedicine or telecommunication technology, to support and promote, at a distant site, the monitoring and management of home health care services for a resident of a rural area.

"(b) Establishment.—Not later than 9 months after the date of enactment of the Health Care Safety Net Amendments of 2001, the Secretary shall establish and carry out a telehomecare demonstration project.

"(c) Grants.—In carrying out the demonstration project referred to in subsection (b), the Secretary shall make not more than 5 grants to eligible certified home care providers, individually or as part of a network of home health agencies, for the provision of telehomecare to improve patient care, prevent health care complications, improve patient outcomes, and achieve efficiencies in the delivery of care to patients who reside in rural areas.

"(d) Periods.—The Secretary shall make the grants for periods of not more than 3 years.

"(e) Applications.—To be eligible to receive a grant under this section, a certified home care provider shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(f) Use of Funds.—A provider that receives a grant under this section shall use the funds made available through the grant to carry out objectives that include—

"(1) improving access to care for home care patients served by home health care agencies, improving the quality of that care, increasing patient satisfaction with that care, and reducing the cost of that care through direct telecommunications links that connect the provider with information networks;

"(2) developing effective care management practices and educational curricula to train home care registered nurses and increase their general level of competency through that training; and

"(3) developing curricula to train health care professionals, particularly registered nurses, serving home care agencies in the use of telecommunications.

"(g) Coverage.—Nothing in this section shall be construed to supersede or modify the provisions relating to exclusion of coverage under section 1862(a) of the Social Security Act (42 U.S.C 1395y(a)), or the provisions relating to the amount payable to a home health agency under section 1895 of that Act (42 U.S.C. 1395fff).

"(h) Report.—

"(1) Interim report.—The Secretary shall submit to Congress an interim report describing the results of the demonstration project.

"(2) Final report.—Not later than 6 months after the end of the last grant period for a grant made under this section, the Secretary shall submit to Congress a final report—

"(A) describing the results of the demonstration project; and

"(B) including an evaluation of the impact of the use of telehomecare, including telemedicine and telecommunications, on—

"(i) access to care for home care patients; and

"(ii) the quality of, patient satisfaction with, and the cost of, that care.

"(i) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.".

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

SEC. 221. PROGRAMS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 212) is further amended by adding at the end the following:

"SEC. 330K. RURAL EMERGENCY MEDICAL SERVICE TRAINING AND EQUIPMENT ASSISTANCE PROGRAM.

"(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the 'Secretary') shall award grants to eligible entities to enable such entities to provide for improved emergency medical services in rural areas.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be—

"(A) a State emergency medical services office;

"(B) a State emergency medical services association;

"(C) a State office of rural health;

"(D) a local government entity;

"(E) a State or local ambulance provider; or

"(F) any other entity determined appropriate by the Secretary; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

"(A) a description of the activities to be carried out under the grant; and

"(B) an assurance that the eligible entity will comply with the matching requirement of subsection (e).

"(c) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (a), either directly or through grants to emergency medical service squads that are located in, or that serve residents of, a nonmetropolitan statistical area, an area designated as a rural area by any law or regulation of a State, or a rural census tract of a metropolitan statistical area (as determined under the most recent Goldsmith Modification, originally published in a notice of availability of funds in the Federal Register on February 27, 1992, 57 Fed. Reg. 6725), to—

"(1) recruit emergency medical service personnel;

"(2) recruit volunteer emergency medical service personnel;

"(3) train emergency medical service personnel in emergency response, injury prevention, safety awareness, and other topics relevant to the delivery of emergency medical services;

"(4) fund specific training to meet Federal or State certification requirements;

"(5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

"(6) acquire emergency medical services equipment, including cardiac defibrillators;

"(7) acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; and

"(8) educate the public concerning cardiopulmonary resuscitation, first aid, injury prevention, safety awareness, illness prevention, and other related emergency preparedness topics.

"(d) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to—

"(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (F) of subsection (b)(1); and

"(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (c).

"(e) MATCHING REQUIREMENT.—The Secretary may not award a grant under this section to an entity unless the entity agrees that the entity will make available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to 25 percent of the amount received under the grant.

"(f) EMERGENCY MEDICAL SERVICES.—In this section, the term 'emergency medical services'—

"(1) means resources used by a qualified public or private nonprofit entity, or by any other entity recognized as qualified by the State involved, to deliver medical care outside of a medical facility under emergency conditions that occur—

"(A) as a result of the condition of the patient; or

"(B) as a result of a natural disaster or similar situation; and

"(2) includes services delivered by an emergency medical services provider (either compensated or volunteer) or other provider recognized by the State involved that is licensed or certified by the State as an emergency medical technician or its equivalent (as determined by the State), a registered nurse, a physician assistant, or a physician that provides services similar to services provided by such an emergency medical services provider.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

"(2) ADMINISTRATIVE COSTS.—The Secretary may use not more than 10 percent of the amount appropriated under paragraph (1) for a fiscal year for the administrative expenses of carrying out this section.

"SEC. 330L. MENTAL HEALTH SERVICES DELIVERED VIA TELEHEALTH.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public or nonprofit private telehealth provider network that offers services that include mental health services provided by qualified mental health providers.

"(2) QUALIFIED MENTAL HEALTH EDUCATION PROFESSIONALS.—The term 'qualified mental health education professionals' refers to teachers, community mental health professionals, nurses, and other entities as determined by the Secretary who have additional training in the delivery of information on mental illness to children and adolescents or who have additional training in the delivery of information on mental illness to the elderly.

"(3) QUALIFIED MENTAL HEALTH PROFESSIONALS.—The term 'qualified mental health professionals' refers to providers of mental health services reimbursed under the medicare program carried out under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who have additional training in the treatment of mental illness in children and adolescents or who have additional training in the treatment of mental illness in the elderly.

"(4) SPECIAL POPULATIONS.—The term 'special populations' refers to the following 2 distinct groups:

"(A) Children and adolescents located in public elementary and public secondary schools in mental health underserved rural areas or in mental health underserved urban areas.

"(B) Elderly individuals located in long-term care facilities in mental health underserved rural areas.

"(5) TELEHEALTH.—The term "telehealth' means the use of electronic information and telecommunications technologies to support long distance clinical health care, patient and professional health-related education, public health, and health administration.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth.

"(2) POPULATIONS SERVED.—The Secretary shall award the grants under paragraph (1) in a manner that distributes the grants so as to serve equitably the populations described in subparagraphs (A) and (B) of subsection (a)(4).

"(c) AMOUNT.—Each entity that receives a grant under subsection (b) shall receive not less than $1,200,000 under the grant, and shall use not more than 40 percent of the grant funds for equipment.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible entity that receives a grant under this section shall use the grant funds—

"(A) for the populations described in subsection (a)(4)(A)—

"(i) to provide mental health services, including diagnosis and treatment of mental illness, in public elementary and public secondary schools as delivered remotely by qualified mental health professionals using telehealth;

"(ii) to provide education regarding mental illness (including suicide and violence) in public elementary and public secondary schools as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth, including education regarding early recognition of the signs and symptoms of mental illness, and instruction on coping and dealing with stressful experiences of childhood and adolescence (such as violence, social isolation, and depression); and

"(iii) to collaborate with local public health entities to provide the mental health services; and

"(B) for the populations described in subsection (a)(4)(B)—

"(i) to provide mental health services, including diagnosis and treatment of mental illness, in long-term care facilities as delivered remotely by qualified mental health professionals using telehealth;

"(ii) to provide education regarding mental illness to primary staff (including physicians, nurses, and nursing aides) as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth, including education regarding early recognition of the signs and symptoms of mental illness, and instruction on coping and dealing with stressful experiences of old age (such as loss of physical and cognitive capabilities, death of loved ones and friends, social isolation, and depression); and

"(iii) to collaborate with local public health entities to provide the mental health services.

"(2) OTHER USES.—An eligible entity that receives a grant under this section may also use the grant funds to—

"(A) acquire telehealth equipment to use in public elementary and public secondary schools and long-term care facilities for the objectives of this section;

"(B) develop curricula to support activities described in subparagraphs (A)(ii) and (B)(ii) of paragraph (1);

"(C) pay telecommunications costs; and

"(D) pay qualified mental health professionals and qualified mental health education professionals on a reasonable cost basis as determined by the Secretary for services rendered.

"(3) PROHIBITED USES.—An eligible entity that receives a grant under this section shall not use the grant funds to—

"(A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project involved); or

"(B) build upon or acquire real property (except for minor renovations related to the installation of reimbursable equipment).

"(e) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

"(f) APPLICATION.—An entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary determines to be reasonable.

"(g) REPORT.—Not later than 4 years after the date of enactment of the Health Care Safety Net Amendments of 2001, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate activities funded with grants under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.".

Subtitle D—School-Based Health Center Networks

SEC. 231. NETWORKS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.), as amended in section 221, is further amended by adding at the end the following:

"SEC. 330M. SCHOOL-BASED HEALTH CENTER NETWORKS.

"(a) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a nonprofit organization, such as a State school-based health center association, academic institution, or primary care association, that has experience working with low-income communities, schools, families, and school-based health centers.

"(b) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to establish statewide technical assistance centers and carry out activities described in subsection (c) through the centers.

"(c) USE OF FUNDS.—An eligible entity that receives a grant under this section may use funds received through such grant to—

"(1) establish a statewide technical assistance center that shall coordinate local, State, and Federal health care services, including primary, dental, and behavioral and mental health services, that contribute to the delivery of school-based health care for medically underserved individuals;

"(2) conduct operational and administrative support activities for statewide school-based health center networks to maximize operational effectiveness and efficiency;

"(3) provide technical support training, including training on topics regarding—

"(A) identifying parent and community interests and priorities;

"(B) assessing community health needs and resources;

"(C) implementing accountability and management information systems;

"(D) integrating school-based health centers with care provided by any other school-linked provider, and with community-based primary and specialty health care systems;

"(E) securing third party payments through effective billing and collection systems;

"(F) developing shared services and joint purchasing arrangements across provider networks;

"(G) linking services with health care services provided by other programs, especially services provided under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the State Children's Health Insurance Program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

"(H) contracting with managed care organizations; and

"(I) assuring and improving clinical quality and improvement; and

"(4) provide to interested communities technical assistance for the planning and implementation of school-based health centers.

"(d) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including—

"(1) a description of the region that will receive service and the potential partners in such region;

"(2) a description of the policy and program environment and the needs of the community that will receive service;

"(3) a 1- to 3-year work plan that describes the goals and objectives of the entity, and any activities that the entity proposes to carry out; and

"(4) a description of the organizational capacity of the entity and its experience in serving the region's school-based health center community.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2002, and such sums as may be necessary for subsequent fiscal years.".

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 301. NATIONAL HEALTH SERVICE CORPS.

(a) IN GENERAL.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by adding at the end of subsection (a)(3) the following:

"(E)(i) The term 'behavioral and mental health professionals' means health service psychologists, licensed clinical social workers, licensed professional counselors, marriage and family therapists, psychiatric nurse specialists, and psychiatrists.

"(ii) The term 'graduate program of behavioral and mental health' means a program that trains behavioral and mental health professionals.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "health professions" and inserting "health professions, including schools at which graduate programs of behavioral and mental health are offered,"; and

(B) in paragraph (2), by inserting "behavioral and mental health professionals," after "dentists,"; and

(3) by striking subsection (c) and inserting the following:

"(c)(1) The Secretary may reimburse an applicant for a position in the Corps (including an individual considering entering into a written agreement pursuant to section 338D) for the actual and reasonable expenses incurred in traveling to and from the applicant's place of residence to an eligible site to which the applicant may be assigned under section 333 for the purpose of evaluating such site with regard to being assigned at such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

"(2) The Secretary may also reimburse the applicant for the actual and reasonable expenses incurred for the travel of 1 family member to accompany the applicant to such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

"(3) In the case of an individual who has entered into a contract for obligated service under the Scholarship Program or under the Loan Repayment Program, the Secretary may reimburse such individual for all or part of the actual and reasonable expenses incurred in transporting the individual, the individual's family, and the family's possessions to the site of the individual's assignment under section 333. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.".

(b) DEMONSTRATION PROJECTS.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i)(1) In carrying out subpart III, the Secretary may, in accordance with this subsection, carry out demonstration projects in which individuals who have entered into a contract for obligated service under the Loan Repayment Program receive waivers under which the individuals are authorized to satisfy the requirement of obligated service through providing clinical service that is not full-time.

"(2) A waiver described in paragraph (1) may be provided by the Secretary only if—

"(A) the entity for which the service is to be performed—

"(i) has been approved under section 333A for assignment of a Corps member; and

"(ii) has requested in writing assignment of a health professional who would serve less than full time;

"(B) the Secretary has determined that assignment of a health professional who would serve less than full time would be appropriate for the area where the entity is located;

"(C) a Corps member who is required to perform obligated service has agreed in writing to be assigned for less than full-time service to an entity described in subparagraph (A);

"(D) the entity and the Corps member agree in writing that the less than full-time service provided by the Corps member will not be less than 16 hours of clinical service per week;

"(E) the Corps member agrees in writing that the period of obligated service pursuant to section 338B will be extended so that the aggregate amount of less than full-time service performed will equal the amount of service that would be performed through full-time service under section 338C; and

"(F) the Corps member agrees in writing that if the Corps member begins providing less than full-time service but fails to begin or complete the period of obligated service, the method stated in 338E(c) for determining the damages for breach of the individual's written contract will be used after converting periods of obligated service or of service performed into their full-time equivalents.

"(3) In evaluating a demonstration project described in paragraph (1), the Secretary shall examine the effect of multidisciplinary teams.".

SEC. 302. DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) In General.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting after the first sentence the following: "All Federally qualified health centers and rural health clinics, as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), that meet the requirements of section 334 shall be automatically designated, on the date of enactment of the Health Care Safety Net Amendments of 2001, as having such a shortage. Not later than 5 years after such date of enactment, and every 5 years thereafter, each such center or clinic shall demonstrate that the center or clinic meets the applicable requirements of the Federal regulations, issued after the date of enactment of this Act, that revise the definition of a health professional shortage area for purposes of this section."; and

(B) in paragraph (3), by striking "340(r)) may be a population group" and inserting "330(h)(4)), seasonal agricultural workers (as defined in section 330(g)(3)) and migratory agricultural workers (as so defined)), and residents of public housing (as defined in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1))) may be population groups";

(2) in subsection (b)(2), by striking "with special consideration to the indicators of" and all that follows through "services." and inserting a period; and

(3) in subsection (c)(2)(B), by striking "XVIII or XIX" and inserting "XVIII, XIX, or XXI".

(b) Regulations.—

(1) Report.—

(A) In general.—The Secretary shall submit the report described in subparagraph (B) if the Secretary, acting through the Administrator of the Health Resources and Services Administration, issues—

(i) a regulation that revises the definition of a health professional shortage area for purposes of section 332 of the Public Health Service Act (42 U.S.C. 254e); or

(ii) a regulation that revises the standards concerning priority of such an area under section 333A of that Act (42 U.S.C. 254f–1).

(B) Report.—On issuing a regulation described in subparagraph (A), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that describes the regulation.

(2) Effective date.—Each regulation described in paragraph (1)(A) shall take effect 180 days after the committees described in paragraph (1)(B) receive a report referred to in paragraph (1)(B) describing the regulation.

(c) Scholarship and Loan Repayment Programs.—The Secretary of Health and Human Services, in consultation with the American Dental Association, the American Dental Education Association, the American Dental Hygienists Association, the American Academy of Pediatric Dentistry, the Association of State and Territorial Dental Directors, and the National Association of Community Health Centers, shall develop and implement a plan for increasing the participation of dentists and dental hygienists in the National Health Service Corps Scholarship Program under section 338A of the Public Health Service Act (42 U.S.C. 254l) and the Loan Repayment Program under section 338B of such Act (42 U.S.C. 254l–1).

(d) Site Designation Process.—

(1) Improvement of designation process.—The Administrator of the Health Resources and Services Administration, in consultation with the Association of State and Territorial Dental Directors, dental societies, and other interested parties, shall revise the criteria on which the designations of dental health professional shortage areas are based so that such criteria provide a more accurate reflection of oral health care need, particularly in rural areas.

(2) Public health service act.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended by adding at the end the following:

"(i) Dissemination.—The Administrator of the Health Resources and Services Administration shall disseminate information concerning the designation criteria described in subsection (b) to—

"(1) the Governor of each State;

"(2) the representative of any area, population group, or facility selected by any such Governor to receive such information;

"(3) the representative of any area, population group, or facility that requests such information; and

"(4) the representative of any area, population group, or facility determined by the Administrator to be likely to meet the criteria described in subsection (b).".

SEC. 303. ASSIGNMENT OF CORPS PERSONNEL.

Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter before subparagraph (A), by striking "(specified in the agreement described in section 334)";

(ii) in subparagraph (A), by striking "nonprofit"; and

(iii) by striking subparagraph (C) and inserting the following:

"(C) the entity agrees to comply with the requirements of section 334; and"; and

(B) in paragraph (3), by adding at the end "In approving such applications, the Secretary shall give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned."; and

(2) in subsection (d)—

(A) in paragraphs (1), (2), and (4), by striking "nonprofit" each place it appears; and

(B) in paragraph (1)—

(i) in the first sentence, by striking "may" and inserting "shall";

(ii) in the second sentence—

(I) in subparagraph (C), by striking "and" at the end; and

(II) by striking the period and inserting ", and (E) developing long-term plans for addressing health professional shortages and improving access to health care."; and

(iii) by adding at the end the following: "The Secretary shall encourage entities that receive technical assistance under this paragraph to communicate with other communities, State Offices of Rural Health, State Primary Care Associations and Offices, and other entities concerned with site development and community needs assessment.".

SEC. 304. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Section 333A of the Public Health Service Act (42 U.S.C. 254f–1) is amended—

(1) in subsection (a)(1)(A), by striking ", as determined in accordance with subsection (b)";

(2) by striking subsection (b);

(3) in subsection (c), by striking the second sentence;

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

"(1) Proposed list.—The Secretary shall prepare and publish a proposed list of health professional shortage areas and entities that would receive priority under subsection (a)(1) in the assignment of Corps members. The list shall contain the information described in paragraph (2), and the relative scores and relative priorities of the entities submitting applications under section 333, in a proposed format. All such entities shall have 30 days after the date of publication of the list to provide additional data and information in support of inclusion on the list or in support of a higher priority determination and the Secretary shall reasonably consider such data and information in preparing the final list under paragraph (2).";

(C) in paragraph (2) (as redesignated by subparagraph (A)), in the matter before subparagraph (A)—

(i) by striking "paragraph (2)" and inserting "paragraph (3)";

(ii) by striking "prepare a list of health professional shortage areas" and inserting "prepare and, as appropriate, update a list of health professional shortage areas and entities"; and

(iii) by striking "for the period applicable under subsection (f)";

(D) by striking paragraph (3) (as redesignated by subparagraph (A)) and inserting the following:

"(3) Notification of affected parties.—

"(A) Entities.—Not later than 30 days after the Secretary has added to a list under paragraph (2) an entity specified as described in subparagraph (A) of such paragraph, the Secretary shall notify such entity that the entity has been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

"(B) Individuals.—In the case of an individual obligated to provide service under the Scholarship Program, not later than 3 months before the date described in section 338C(b)(5), the Secretary shall provide to such individual the names of each of the entities specified as described in paragraph (2)(B)(i) that is appropriate for the individual's medical specialty and discipline."; and

(E) by striking paragraph (4) (as redesignated by subparagraph (A)) and inserting the following:

"(4) Revisions.—If the Secretary proposes to make a revision in the list under paragraph (2), and the revision would adversely alter the status of an entity with respect to the list, the Secretary shall notify the entity of the revision. Any entity adversely affected by such a revision shall be notified in writing by the Secretary of the reasons for the revision and shall have 30 days to file a written appeal of the determination involved which shall be reasonably considered by the Secretary before the revision to the list becomes final. The revision to the list shall be effective with respect to assignment of Corps members beginning on the date that the revision becomes final.'';

(5) by striking subsection (e) and inserting the following:

''(e) Limitation on Number of Entities Offered as Assignment Choices in Scholarship Program.—

''(1) Determination of available corps members.—By April 1 of each calendar year, the Secretary shall determine the number of participants in the Scholarship Program who will be available for assignments under section 333 during the program year beginning on July 1 of that calendar year.

''(2) Determination of number of entities.—At all times during a program year, the number of entities specified under subsection (c)(2)(B)(i) shall be—

''(A) not less than the number of participants determined with respect to that program year under paragraph (1); and

''(B) not greater than twice the number of participants determined with respect to that program year under paragraph (1).'';

(6) by striking subsection (f); and

(7) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d) respectively.

SEC. 305. COST-SHARING.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by striking section 334 and inserting the following:

''SEC. 334. CHARGES FOR SERVICES BY ENTITIES USING CORPS MEMBERS.

''(a) Availability of Services Regardless of Ability To Pay or Payment Source.—An entity to which a Corps member is assigned shall not deny requested health care services, and shall not discriminate in the provision of services to an individual—

''(1) because the individual is unable to pay for the services; or

''(2) because payment for the services would be made under—

''(A) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

''(B) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.); or

''(C) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

''(b) Charges for Services.—The following rules shall apply to charges for health care services provided by an entity to which a Corps member is assigned:

''(1) In general.—

''(A) Schedule of fees or payments.—Except as provided in paragraph (2), the entity shall prepare a schedule of fees or payments for the entity's services, consistent with locally prevailing rates or charges and designed to cover the entity's reasonable cost of operation.

''(B) Schedule of discounts.—Except as provided in paragraph (2), the entity shall prepare a corresponding schedule of discounts (including, in appropriate cases, waivers) to be applied to such fees or payments. In preparing the schedule, the entity shall adjust the discounts on the basis of a patient's ability to pay.

''(C) Use of schedules.—The entity shall make every reasonable effort to secure from patients fees and payments for services in accordance with such schedules, and fees or payments shall be sufficiently discounted in accordance with the schedule described in subparagraph (B).

''(2) Services to beneficiaries of federal and federally assisted programs.—In the case of health care services furnished to an individual who is a beneficiary of a program listed in subsection (a)(2), the entity—

''(A) shall accept an assignment pursuant to section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)) with respect to an individual who is a beneficiary under the medicare program; and

''(B) shall enter into an appropriate agreement with—

''(i) the State agency administering the program under title XIX of such Act with respect to an individual who is a beneficiary under the medicaid program; and

''(ii) the State agency administering the program under title XXI of such Act with respect to an individual who is a beneficiary under the State children's health insurance program.

''(3) Collection of payments.—The entity shall take reasonable and appropriate steps to collect all payments due for health care services provided by the entity, including payments from any third party (including a Federal, State, or local government agency and any other third party) that is responsible for part or all of the charge for such services.''.

SEC. 306. ELIGIBILITY FOR FEDERAL FUNDS.

Section 335(e)(1)(B) of the Public Health Service Act (42 U.S.C. 254h(e)(1)(B)) is amended by striking ''XVIII or XIX'' and inserting ''XVIII, XIX, or XXI''.

SEC. 307. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

(a) Health Professional Shortage Areas.—Section 336 of the Public Health Service Act (42 U.S.C. 254h–1) is amended—

(1) in subsection (c), by striking ''health manpower'' and inserting ''health professional''; and

(2) in subsection (f)(1), by striking ''health manpower'' and inserting ''health professional''.

(b) Technical Amendment.—Section 336A(8) of the Public Health Service Act (42 U.S.C. 254i(8)) is amended by striking ''agreements under''.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended—

(1) by striking ''(1) For'' and inserting ''For'';

(2) by striking ''1991 through 2000'' and inserting ''2002 through 2006''; and

(3) by striking paragraph (2).

SEC. 309. NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

Section 338A of the Public Health Service Act (42 U.S.C. 254l) is amended—

(1) in subsection (a)(1), by inserting ''behavioral and mental health professionals,'' after ''dentists,'';

(2) in subsection (b)(1)(B), by inserting '', or an appropriate degree from a graduate program of behavioral and mental health'' after ''other health profession'';

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''338D'' and inserting ''338E''; and

(B) in subparagraph (B), by striking ''338C'' and inserting ''338D'';

(4) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) the Secretary, in considering applications from individuals accepted for enrollment or enrolled in dental school, shall consider applications from all individuals accepted for enrollment or enrolled in any accredited dental school in a State; and'';

(5) in subsection (f)—

(A) in paragraph (1)(B)—

(i) in clause (iii), by striking ''and'' after the semicolon;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

''(iv) if pursuing a degree from a school of medicine or osteopathic medicine, to complete a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and''; and

(B) in paragraph (3), by striking ''338D'' and inserting ''338E''; and

(6) by striking subsection (i).

SEC. 310. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

Section 338B of the Public Health Service Act (42 U.S.C. 254l–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''behavioral and mental health professionals,'' after ''dentists,''; and

(B) in paragraph (2), by striking ''(including mental health professionals)'';

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

''(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession, or an appropriate degree from a graduate program of behavioral and mental health, or be certified as a nurse midwife, nurse practitioner, or physician assistant;'';

(3) in subsection (e), by striking ''(1) In general.—''; and

(4) by striking subsection (i).

SEC. 311. OBLIGATED SERVICE.

Section 338C of the Public Health Service Act (42 U.S.C. 254m) is amended—

(1) in subsection (b)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''section 338A(f)(1)(B)(iv)'' and inserting ''section 338A(f)(1)(B)(v)''; and

(B) in paragraph (5)—

(i) by striking all that precedes subparagraph (C) and inserting the following:

''(5)(A) In the case of the Scholarship Program, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for the degree for which the individual receives the scholarship, except that—

''(i) for an individual receiving such a degree after September 30, 2000, from a school of medicine or osteopathic medicine, such date shall be the date the individual completes a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

''(ii) at the request of an individual, the Secretary may, consistent with the needs of the Corps, defer such date until the end of a period of time required for the individual to complete advanced training (including an internship or residency).'';

(ii) by striking subparagraph (D);

(iii) by redesignating subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively; and

(iv) in clause (i) of subparagraph (C) (as redesignated by clause (iii)) by striking ''subparagraph (A), (B), or (D)'' and inserting ''subparagraph (A)''; and

(2) by striking subsection (e).

SEC. 312. PRIVATE PRACTICE.

Section 338D of the Public Health Service Act (42 U.S.C. 254n) is amended by striking subsection (b) and inserting the following:

''(b)(1) The written agreement described in subsection (a) shall—

''(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 334 that apply to entities; and

"(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

"(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.".

SEC. 313. BREACH OF SCHOLARSHIP CONTRACT OR LOAN REPAYMENT CONTRACT.

(a) In General.—Section 338E of the Public Health Service Act (42 U.S.C. 254o) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking the comma and inserting a semicolon;

(B) in subparagraph (B), by striking the comma and inserting "; or";

(C) in subparagraph (C), by striking "or" at the end; and

(D) by striking subparagraph (D);

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking "338F(d)" and inserting "338G(d)";

(ii) by striking "either";

(iii) by striking "338D or" and inserting "338D,"; and

(iv) by inserting "or to complete a required residency as specified in section 338A(f)(1)(B)(iv)," before "the United States"; and

(B) by adding at the end the following new paragraph:

"(3) The Secretary may terminate a contract with an individual under section 338A if, not later than 30 days before the end of the school year to which the contract pertains, the individual—

"(A) submits a written request for such termination; and

"(B) repays all amounts paid to, or on behalf of, the individual under section 338A(g).";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "338F(d)" and inserting "338G(d)"; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

"(A) the total of the amounts paid by the United States under section 338B(g) on behalf of the individual for any period of obligated service not served;

"(B) an amount equal to the product of the number of months of obligated service that were not completed by the individual, multiplied by $7,500; and

"(C) the interest on the amounts described in subparagraphs (A) and (B), at the maximum legal prevailing rate, as determined by the Treasurer of the United States, from the date of the breach.";

(B) by striking paragraphs (2) and (3) and inserting the following:

"(2) The Secretary may terminate a contract with an individual under section 338B if, not later than 45 days before the end of the fiscal year in which the contract was entered into, the individual—

"(A) submits a written request for such termination; and

"(B) repays all amounts paid on behalf of the individual under section 338B(g)."; and

(C) by redesignating paragraph (4) as paragraph (3);

(4) in subsection (d)(3)(A), by striking "only if such discharge is granted after the expiration of the five-year period" and inserting "only if such discharge is granted after the expiration of the 7-year period"; and

(5) by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an action relating to an offset or garnishment, or other action, may be initiated or taken by the Secretary, the Attorney General, or the head of another Federal agency, as the case may be, for the repayment of the amount due from an individual under this section.".

(b) Effective Date.—The amendment made by subsection (a)(4) shall apply to any obligation for which a discharge in bankruptcy has not been granted before the date that is 31 days after the date of enactment of this Act.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

Section 338H of the Public Health Service Act (42 U.S.C. 254q) is amended to read as follows:

"SEC. 338H. AUTHORIZATION OF APPROPRIATIONS.

"(a) Authorization of Appropriations.—For the purposes of carrying out this subpart, there are authorized to be appropriated $146,250,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

"(b) Scholarships for New Participants.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing contracts for scholarships under this subpart to individuals who have not previously received such scholarships.

"(c) Scholarships and Loan Repayments.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, from amounts appropriated under subsection (a) for a fiscal year, obligate not less than a total of 10 percent for contracts for both scholarships under the Scholarship Program under section 338A and loan repayments under the Loan Repayment Program under section 338B to individuals who are entering the first year of a course of study or program described in section 338A(b)(1)(B) that leads to such a certification or individuals who are eligible for the loan repayment program as specified in section 338B(b) for a loan related to such certification.".

SEC. 315. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

Section 338I of the Public Health Service Act (42 U.S.C. 254q–1) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) Authority for Grants.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health care services in health professional shortage areas. The National Advisory Council established under section 337 shall advise the Administrator regarding the program under this section.";

(2) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) to submit to the Secretary such reports regarding the States loan repayment program, as are determined to be appropriate by the Secretary; and"; and

(3) in subsection (i), by striking paragraph (1) and inserting the following:

"(1) In general.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $12,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.".

SEC. 316. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is repealed.

SEC. 317. DEMONSTRATION PROJECT.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by adding at the end the following:

"SEC. 338L. DEMONSTRATION PROJECT.

"(a) Program Authorized.—The Secretary shall establish a demonstration project to provide for the participation of individuals who are chiropractic doctors or pharmacists in the Loan Repayment Program described in section 338B.

"(b) Procedure.—An individual that receives assistance under this section with regard to the program described in section 338B shall comply with all rules and requirements described in such section (other than subparagraphs (A) and (B) of section 338B(b)(1)) in order to receive assistance under this section.

"(c) Limitations.—The demonstration project described in this section shall provide for the participation of individuals who shall provide services in rural and urban areas, and shall also provide for the participation of enough individuals to allow the Secretary to properly analyze the effectiveness of such project.

"(d) Designations.—The demonstration project described in this section, and any providers who are selected to participate in such project, shall not be considered by the Secretary in the designation of a health professional shortage area under section 332 during fiscal years 2002 through 2004.

"(e) Rule of Construction.—This section shall not be construed to require any State to participate in the project described in this section.

"(f) Report.—

"(1) In general.—The Secretary shall prepare and submit a report describing the information described in paragraph (2) to—

"(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

"(B) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;

"(C) the Committee on Energy and Commerce of the House of Representatives; and

"(D) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives.

"(2) Content.—The report described in paragraph (1) shall detail—

"(A) the manner in which the demonstration project described in this section has affected access to primary care services, patient satisfaction, quality of care, and health care services provided for traditionally underserved populations;

"(B) how the participation of chiropractic doctors and pharmacists in the Loan Repayment Program might affect the designation of health professional shortage areas; and

"(C) the feasibility of adding chiropractic doctors and pharmacists as permanent members of the National Health Service Corps.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal years 2002 through 2004.".

TITLE IV—HEALTHY COMMUNITIES ACCESS PROGRAM ACT

SEC. 401. PURPOSE.

The purpose of this title is to provide assistance to communities and consortia of health care providers and others, to develop or strengthen integrated community health care delivery systems that coordinate health care services for individuals who are uninsured or underinsured and to develop or strengthen activities related to providing coordinated care for individuals with chronic conditions who are uninsured or underinsured, through the—

(1) coordination of services to allow individuals to receive efficient and higher quality care and to gain entry into and receive services from a comprehensive system of care;

(2) development of the infrastructure for a health care delivery system characterized by effective collaboration, information sharing, and clinical and financial coordination among all providers of care in the community; and

(3) provision of new Federal resources that do not supplant funding for existing Federal categorical programs that support entities providing services to low-income populations.

SEC. 402. CREATION OF HEALTHY COMMUNITIES ACCESS PROGRAM.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after subpart IV the following new subpart:

"Subpart V—Healthy Communities Access Program

"SEC. 340. GRANTS TO STRENGTHEN THE EFFECTIVENESS, EFFICIENCY, AND COORDINATION OF SERVICES FOR THE UNINSURED AND UNDERINSURED.

"(a) IN GENERAL.—The Secretary may award grants to eligible entities to assist in the development of integrated health care delivery systems to serve communities of individuals who are uninsured and individuals who are underinsured—

"(1) to improve the efficiency of, and coordination among, the providers providing services through such systems;

"(2) to assist communities in developing programs targeted toward preventing and managing chronic diseases; and

"(3) to expand and enhance the services provided through such systems.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a public or nonprofit entity that—

"(1) represents a consortium—

"(A) whose principal purpose is to provide a broad range of coordinated health care services for a community defined in the entity's grant application as described in paragraph (2); and

"(B) that includes a provider (unless such provider does not exist within the community, declines or refuses to participate, or places unreasonable conditions on their participation) that—

"(i) serves the community; and

"(ii)(I) is a Federally qualified health center (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)));

"(II) is a hospital with a low-income utilization rate (as defined in section 1923(b)(3) of the Social Security Act (42 U.S.C. 1396r-4(b)(3)), that is greater than 25 percent;

"(III) is a public health department; and

"(IV) is an interested public or private sector health care provider or an organization that has traditionally served the medically uninsured and underserved;

"(2) submits to the Secretary an application, in such form and manner as the Secretary shall prescribe, that—

"(A) defines a community of uninsured and underinsured individuals that consists of all such individuals—

"(i) in a specified geographical area, such as a rural area; or

"(ii) in a specified population within such an area, such as American Indians, Native Alaskans, Native Hawaiians, Hispanics, homeless individuals, migrant and seasonal farmworkers, individuals with disabilities, and public housing residents;

"(B) identifies the providers who will participate in the consortium's program under the grant, and specifies each provider's contribution to the care of uninsured and underinsured individuals in the community, including the volume of care the provider provides to beneficiaries under the medicare, medicaid, and State child health insurance programs carried out under titles XVIII, XIX, and XXI of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq., and 1397aa et seq.) and to patients who pay privately for services;

"(C) describes the activities that the applicant and the consortium propose to perform under the grant to further the objectives of this section;

"(D) demonstrates the consortium's ability to build on the current system (as of the date of submission of the application) for serving a community of uninsured and underinsured individuals by involving providers who have traditionally provided a significant volume of care for that community;

"(E) demonstrates the consortium's ability to develop coordinated systems of care that either directly provide or ensure the prompt provision of a broad range of high-quality, accessible services, including, as appropriate, primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services in a manner that assures continuity of care in the community;

"(F) demonstrates the consortium's ability to create comprehensive programs to address the prevention and management of chronic diseases of high importance within the community, where applicable;

"(G) provides evidence of community involvement in the development, implementation, and direction of the program that the entity proposes to operate;

"(H) demonstrates the consortium's ability to ensure that individuals participating in the program are enrolled in public insurance programs for which the individuals are eligible;

"(I) presents a plan for leveraging other sources of revenue, which may include State and local sources and private grant funds, and integrating current and proposed new funding sources in a way to assure long-term sustainability of the program;

"(J) describes a plan for evaluation of the activities carried out under the grant, including measurement of progress toward the goals and objectives of the program and the use of evaluation findings to improve program performance;

"(K) demonstrates fiscal responsibility through the use of appropriate accounting procedures and appropriate management systems;

"(L) demonstrates the consortium's commitment to serve the community without regard to the ability of an individual or family to pay by arranging for or providing free or reduced charge care for the poor; and

"(M) includes such other information as the Secretary may prescribe;

"(3) agrees along with each of the participating providers identified under paragraph (2)(B) that each will commit to use grant funds awarded under this section to supplement, not supplant, any other sources of funding (including the value of any in-kind contributions) available to cover the expenditures of the consortium and of the participating providers in carrying out the activities for which the grant would be awarded; and

"(4) has established or will establish before the receipt of any grant under this section, a decision-making body that has full and complete authority to determine and oversee all the activities undertaken by the consortium with funds made available through such grant and that includes representation from each of the following providers listed in (b)(1)(B) if they participate in the consortium.

"(c) PRIORITIES.—In awarding grants under this section, the Secretary—

"(1) shall accord priority to applicants that demonstrate the extent of unmet need in the community involved for a more coordinated system of care; and

"(2) may accord priority to applicants that best promote the objectives of this section, taking into consideration the extent to which the application involved—

"(A) identifies a community whose geographical area has a high or increasing percentage of individuals who are uninsured;

"(B) demonstrates that the applicant has included in its consortium providers, support systems, and programs that have a tradition of serving uninsured individuals and underinsured individuals in the community;

"(C) shows evidence that the program would expand utilization of preventive and primary care services for uninsured and underinsured individuals and families in the community, including behavioral and mental health services, oral health services, or substance abuse services;

"(D) proposes a program that would improve coordination between health care providers and appropriate social service providers, including local and regional human services agencies, school systems, and agencies on aging;

"(E) demonstrates collaboration with State and local governments;

"(F) demonstrates that the applicant makes use of non-Federal contributions to the greatest extent possible; or

"(G) demonstrates a likelihood that the proposed program will continue after support under this section ceases.

"(d) USE OF FUNDS.—

"(1) USE BY GRANTEES.—

"(A) IN GENERAL.—Except as provided in paragraphs (2) and (3), a grantee may use amounts provided under this section only for—

"(i) direct expenses associated with planning and developing the greater integration of a health care delivery system, and operating the resulting system, so that the system either directly provides or ensures the provision of a broad range of culturally competent services, as appropriate, including primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services; and

"(ii) direct patient care and service expansions to fill identified or documented gaps within an integrated delivery system.

"(B) SPECIFIC USES.—The following are examples of purposes for which a grantee may use grant funds under this section, when such use meets the conditions stated in subparagraph (A):

"(i) Increases in outreach activities.

"(ii) Improvements to case management.

"(iii) Improvements to coordination of transportation to health care facilities.

"(iv) Development of provider networks and other innovative models to engage physicians in voluntary efforts to serve the medically underserved within a community.

"(v) Recruitment, training, and compensation of necessary personnel.

"(vi) Acquisition of technology, such as telehealth technologies to increase access to tertiary care.

"(vii) Identifying and closing gaps in health care services being provided.

"(viii) Improvements to provider communication, including implementation of shared information systems or shared clinical systems.

"(ix) Development of common processes for determining eligibility for the programs provided through the system, including creating common identification cards and single sliding scale discounts.

"(x) Creation of a triage system to coordinate referrals and to screen and route individuals to appropriate locations of primary, specialty, and inpatient care.

"(xi) Development of specific prevention and disease management tools and processes, including—

"(I) carrying out a protocol or plan for each individual patient concerning what needs to be done, at what intervals, and by whom, for the patient;

"(II) redesigning practices to incorporate regular patient contact, collection of critical data on health and disease status, and use of strategies to meet the educational and psychosocial needs of patients who may need to make lifestyle and other changes to manage their diseases;

"(III) the promotion of the availability of specialized expertise through the use of—

"(aa) teams of providers with specialized knowledge;

"(bb) collaborative care arrangements;

"(cc) computer decision support services; or

"(dd) telehealth technologies.

"(IV) providing patient educational and support tools that are culturally competent and meet appropriate health literacy and literacy requirements; and

"(V) the collection of data related to patient care and outcomes.

"(xii) Translation services.

"(xiii) Carrying out other activities that may be appropriate to a community and that would increase access by the uninsured to health care, such as access initiatives for which private entities provide non-Federal contributions to supplement the Federal funds provided through the grants for the initiatives.

"(2) DIRECT PATIENT CARE LIMITATION.—Not more than 15 percent of the funds provided under a grant awarded under this section may be used for providing direct patient care and services.

"(3) RESERVATION OF FUNDS FOR NATIONAL PROGRAM PURPOSES.—The Secretary may use not more than 3 percent of funds appropriated to carry out this section for providing technical assistance to grantees, obtaining assistance of experts and consultants, holding meetings, development of tools, dissemination of information, evaluation, and carrying out activities that will extend the benefits of a program funded under this section to communities other than the community served by the program funded.

"(e) GRANTEE REQUIREMENTS.—

"(1) IN GENERAL.—A grantee under this section shall—

"(A) report to the Secretary annually regarding—

"(i) progress in meeting the goals and measurable objectives set forth in the grant application submitted by the grantee under subsection (b); and

"(ii) such additional information as the Secretary may require; and

"(B) provide for an independent annual financial audit of all records that relate to the disposition of funds received through the grant.

"(2) PROGRESS.—The Secretary may not renew an annual grant under this section for an entity for a fiscal year unless the Secretary is satisfied that the consortium represented by the entity has made reasonable and demonstrable progress in meeting the goals and measurable objectives set forth in the entity's grant application for the preceding fiscal year.

"(f) TECHNICAL ASSISTANCE.—The Secretary may, either directly or by grant or contract, provide any entity that receives a grant under this section with technical and other nonfinancial assistance necessary to meet the requirements of this section.

"(g) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in this section.

"(h) DEMONSTRATION AUTHORITY.—The Secretary may make demonstration awards under this section to historically black medical schools for the purposes of—

"(1) developing patient-based research infrastructure at historically black medical schools, which have an affiliation, or affiliations, with any of the providers identified in section (b)(1)(B);

"(2) establishment of joint and collaborative programs of medical research and data collection between historically black medical schools and such providers, whose goal is to improve the health status of medically underserved populations; or

"(3) supporting the research-related costs of patient care, data collection, and academic training resulting from such affiliations.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.".

SEC. 403. EXPANDING AVAILABILITY OF DENTAL SERVICES.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

"Subpart X—Primary Dental Programs

"SEC. 340F. DESIGNATED DENTAL HEALTH PROFESSIONAL SHORTAGE AREA.

"In this subpart, the term 'designated dental health professional shortage area' means an area, population group, or facility that is designated by the Secretary as a dental health professional shortage area under section 332 or designated by the applicable State as having a dental health professional shortage.

"SEC. 340G. GRANTS FOR INNOVATIVE PROGRAMS.

"(a) GRANT PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, is authorized to award grants to States for the purpose of helping States develop and implement innovative programs to address the dental workforce needs of designated dental health professional shortage areas in a manner that is appropriate to the States' individual needs.

"(b) STATE ACTIVITIES.—A State receiving a grant under subsection (a) may use funds received under the grant for—

"(1) loan forgiveness and repayment programs for dentists who—

"(A) agree to practice in designated dental health professional shortage areas;

"(B) are dental school graduates who agree to serve as public health dentists for the Federal, State, or local government; and

"(C) agree to—

"(i) provide services to patients regardless of such patients' ability to pay; and

"(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

"(2) dental recruitment and retention efforts;

"(3) grants and low-interest or no-interest loans to help dentists who participate in the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to establish or expand practices in designated dental health professional shortage areas by equipping dental offices or sharing in the overhead costs of such practices;

"(4) the establishment or expansion of dental residency programs in coordination with accredited dental training institutions in States without dental schools;

"(5) programs developed in consultation with State and local dental societies to expand or establish oral health services and facilities in designated dental health professional shortage areas, including services and facilities for children with special needs, such as—

"(A) the expansion or establishment of a community-based dental facility, free-standing dental clinic, consolidated health center dental facility, school-linked dental facility, or United States dental school-based facility;

"(B) the establishment of a mobile or portable dental clinic; and

"(C) the establishment or expansion of private dental services to enhance capacity through additional equipment or additional hours of operation;

"(6) placement and support of dental students, dental residents, and advanced dentistry trainees;

"(7) continuing dental education, including distance-based education;

"(8) practice support through teledentistry conducted in accordance with State laws;

"(9) community-based prevention services such as water fluoridation and dental sealant programs;

"(10) coordination with local educational agencies within the State to foster programs that promote children going into oral health or science professions;

"(11) the establishment of faculty recruitment programs at accredited dental training institutions whose mission includes community outreach and service and that have a demonstrated record of serving underserved States;

"(12) the development of a State dental officer position or the augmentation of a State dental office to coordinate oral health and access issues in the State; and

"(13) any other activities determined to be appropriate by the Secretary.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) ASSURANCES.—The application shall include assurances that the State will meet the requirements of subsection (d) and that the State possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

"(d) MATCHING REQUIREMENT.—The Secretary may not make a grant to a State under this section unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the activities for which the grant was awarded, the State will provide non-Federal contributions in an amount equal to not less than 40 percent of Federal funds provided under the grant. The State may provide the contributions in cash or in kind, fairly evaluated, including plant, equipment, and services and may provide the contributions from State, local, or private sources.

"(e) REPORT.—Not later than 5 years after the date of enactment of the Health Care Safety Net Amendments of 2001, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to dental services in designated dental health professional shortage areas.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for the 5-fiscal year period beginning with fiscal year 2002.".

TITLE V—RURAL HEALTH CLINICS

SEC. 501. EXEMPTIONS FOR RURAL HEALTH CLINICS.

(a) EXEMPTIONS FROM COINSURANCE REQUIREMENTS.—Section 1128B(b)(3)(D) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)(D)) is amended by striking "a Federally qualified health care center" and inserting "a rural health clinic (as defined in section 1861(aa)) to which members of the National Health Service Corps are assigned under section 333 of the Public Health Service Act, or a Federally qualified health center (as defined in section 1861(aa))".

(b) EXEMPTIONS FROM DEDUCTIBLE REQUIREMENTS.—Section 1833(b)(4) of the Social Security Act (42 U.S.C. 1395l(b)(4)) is amended by striking "such deductible shall not apply to Federally qualified health center services." and inserting "such deductible shall not apply to rural health clinic services made available through a rural health clinic to which members of the National Health Service Corps are assigned under section 333 of the Public Health Service Act, provided to an individual who qualifies for subsidized services under the Public Health Service Act or Federally qualified health center services,".

TITLE VI—STUDY

SEC. 601. GUARANTEE STUDY.

The Secretary of Health and Human Services shall conduct a study regarding the ability of the Department of Health and Human Services to provide for solvency for managed care networks involving health centers receiving funding under section 330 of the Public Health Service Act. The Secretary shall prepare and submit a report to the appropriate Committees of Congress regarding such ability not later than 2 years after the date of enactment of the Health Care Safety Net Amendments of 2001.

TITLE VII—CONFORMING AMENDMENTS

SEC. 701. CONFORMING AMENDMENTS.

(a) HOMELESS PROGRAMS.—Subsections (g)(1)(G)(ii), (k)(2), and (n)(1)(C) of section 224, and sections 317A(a)(2), 317E(c), 318A(e), 332(a)(2)(C), 340D(c)(5), 799B(6)(B), 1313, and 2652(2) of the Public Health Service Act (42 U.S.C. 233, 247b-1(a)(2), 247b-6(c), 247c-1(e), 254e(a)(2)(C), 256d(c)(5), 295p(6)(B), 300e-12, and 300ff-52(2)) are amended by striking "340" and inserting "330(h)".

(b) HOMELESS INDIVIDUAL.—Section 534(2) of the Public Health Service Act (42 U.S.C. 290cc-34(2)) is amended by striking "340(r)" and inserting "330(h)(5)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, April 16, 2002, at 9:30 am on the Technology Administration and the National Institute of Standards and Technology, including the Advanced Technology Program (ATP).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. CLINTON. Mr. President, I ask unanimous consent that the subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 16, 2002 at 2:30 p.m. to hold a hearing titled, "U.S. Mexican Relations: Unfinished Agenda."

Witnesses

AGENDA

Panel 1: The Honorable Silvestre Reyes, Chairman, Congressional Hispanic Caucus, Washington, DC.

Panel 2: The Honorable Alan P. Larson, Undersecretary for Economic, Business, and Agricultural Affairs, Department of State, Washington, DC; the Honorable John Taylor, Undersecretary for International Affairs, Department of Treasury, Washington, DC; and Mr. Stuart Levey, Associate Deputy Attorney General, Department of Justice, Washington, DC.

Panel 3: Ms. Barbara Shailor, Director, International Affairs Department, AFL-CIO, Washington, DC; Mr. Steven M. Ladik, President, American Immigration Lawyers Association, Washington, DC; Mr. Gregori Lebedev, Chief Operating Officer and Executive Vice President, International Policy, U.S. Chamber of Commerce, Washington, DC; and Ms. M. Delal Bear, Senior Fellow and Director, Mexico Project, Deputy Director, Americas Program Center for Strategic and International Studies; Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on medical privacy during the session of the Senate on Tuesday, April 16, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, April 16, 2002 from 2:30 p.m. in Dirksen 192 for the purpose of conducting a forum.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on "Leading the Fight: The Violence Against Women Office" on Tuesday, April 16, 2002 at 10:15 a.m. in Dirksen 226.

Panel I: Diane Stuart, Director, Violence Against Women Office, Office of Justice Programs, U.S. Department of Justice, Washington, DC.

Panel II: Attorney General Thurbert E. Baker (to be introduced by the Honorable Max Cleland), Office of the Attorney General of Georgia, Atlanta, GA; Chief Judge Vincent J. Poppiti, Family Court for the State of Delaware, Wilmington, DE; Lynn Rosenthal, Executive Director, National Network to End Domestic Violence, Washington, DC; Laurie E. Ekstrand, Director, Justice Issues, U.S. General Accounting Office, Washington, DC; and Casey Gwinn, City Attorney for San Diego, San Diego, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Committee on Government Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Tuesday, April 16, 2002 at 10 a.m. for a hearing to examine "Are You Really Who You Say You Are? Improving the Reliability of State-Issued Drivers' Licenses."

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2002 first quarter mass mailing is April 25, 2002. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

HEALTH CARE SAFETY NET AMENDMENTS OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 192, S. 1533.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1533) to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, it is my understanding Senator KENNEDY has a substitute amendment at the desk. I ask unanimous consent that the amendment be considered, agreed to, and the motion to reconsider be laid upon the table; that the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3134) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 1533), as amended, was read the third time and passed.

ORDERS FOR WEDNESDAY, APRIL 16, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. tomorrow, Wednesday, April 17. I further ask that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for use later in the day, and the Senate proceed to Executive session and vote on Executive Calendar No. 760—this is one of the judges I should note we have been asked to approve—that any statements therein be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that it be in order to ask for the yeas and nays on this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. REID. Mr. President, the Senate will vote on the nomination of Lance Africk to be United States District Judge for the Eastern District of Louisiana at approximately 10 a.m. tomorrow; that is, after the prayer and the pledge. Following this vote, the Senate will resume consideration of the energy reform bill with the ANWR amendments pending.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Wednesday, April 17, 2002, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 16, 2002:

COMMODITY FUTURES TRADING COMMISSION

WALTER LUKKEN, OF INDIANA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2005, VICE DAVID D. SPEARS, TERM EXPIRED.

DEPARTMENT OF DEFENSE

VINICIO E. MADRIGAL, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2003, VICE CAROL JOHNSON JOHNS.

L. D. BRITT, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR THE REMAINDER OF THE TERM EXPIRING MAY 1, 2005, VICE JOHN F. POTTER.

LINDA J. STIERLE, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 2007, VICE SHIRLEY LEDBETTER JONES.

WILLIAM C. DE LA PENA, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2007, VICE ROBERT E. ANDERSON, TERM EXPIRED.

DEPARTMENT OF JUSTICE

JAMES E. MCMAHON, OF SOUTH DAKOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF FOUR YEARS, VICE KAREN ELIZABETH SCHREIER, RESIGNED.

DAVID WILLIAM THOMAS, OF DELAWARE, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF DELAWARE FOR THE TERM OF FOUR YEARS, VICE TIMOTHY PATRICK MULLANEY, SR., TERM EXPIRED.

STEPHEN ROBERT MONIER, OF NEW HAMPSHIRE, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF FOUR YEARS, VICE RAYMOND GERARD GAGNON, TERM EXPIRED.

JOSE GERARDO TRONCOSO, OF NEBRASKA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NEBRASKA FOR THE TERM OF FOUR YEARS. (REAPPOINTMENT)

GARY EDWARD SHOVLIN, OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS, VICE ALAN D. LEWIS.

THOMAS M. FITZGERALD, OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS, VICE FRANK POLICARO, JR., TERM EXPIRED.

RANDY PAUL ELY, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE D. W. BRANSOM, JR., TERM EXPIRED.

RUBEN MONZON, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE HIRAN ARTHUR CONTRERAS, TERM EXPIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. RICHARD W. MAYO, 4195

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

MICHAEL B. TIERNEY, 2750

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

DONALD R. COPSEY, 3512

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MICHAEL D. ARMOUR, 7759
WILLIAM A. BANKHEAD JR., 3158
PHILLIP H. GLISE, 6125
LAWRENCE H. ROSS, 5226
ALEXANDRA P. SHATTUCK, 5347
DAVID J. WHEELER, 8911

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BRYAN T. MUCH, 3612
LIONEL D. ROBINSON, 9453

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CARL V. HOPPER, 0327
TIMOTHY A. REISCH, 9875

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JOHN R. CARLISLE, 0408

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

BRYAN C. SLEIGH, 7330

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LESTER H. EVANS JR., 0503
TIMOTHY M. HATHAWAY, 3186

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL H. GAMBLE, 4821

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

THOMAS P. BARZDITIS, 9968

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

FRANKLIN MCLAIN, 1387

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE

UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

A. D. KING JR., 4839
RICHARD A. RATLIFF, 9635

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DONALD C. SCOTT, 6148

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN J. FAHEY, 3483

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MARK A. KNOWLES, 0210

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DUANE W. MALLICOAT, 5504

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

FRANCIS MICHAEL PASCUAL, 4096

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

LARRY D PHEGLEY, 8922
JEFFREY ROBERT VANKEUREN, 7950

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

ARTHUR KELSO DUNN, 3697
CHARLES RUSSELL KRUMHOLTZ, 1776
WAYNE TYLER NEWTON, 0232

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MARK THOMAS DAVISON, 3247
JEFFREY ROBERT MCFETRIDGE, 2302
ROBIN ROCHELLE MCPHILLIPS, 9805
RICHARD SHANT ROOMIAN, 2749

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JENNITH ELAINE HOYT, 2077
MARCIA MONTGOMERY N WILSON, 4814
ROBERT A. WOOD, 3893

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

EDMUND WINSTON BARNHART, 5732
MARTIN CHRISTIAN DEWET, 0853
PHILIP ALAN KING, 9674
MARK FRANCIS LILLY JR., 6379
PAUL MICHAEL SHAW, 3767
L M SILVESTER, 9207

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

ROBERT M CRAIG, 1464
PATRICK JAMES MURPHY, 1326
RAYMOND CRAIG WINSLOW, 0337
MELANIE SUZANNE WINTERS, 2448

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

ROBERT K BAKER, 8416
PETER J BLAKE, 2565
RICHARD J CAMARDA, 9594
STEVEN J DELONG, 2567
ROBERT A DEMARINIS, 6196
OWEN J DOHERTY, 7235
JAN S DOWNING, 8635
DAVID W FIELDS, 6333
JAMES E MERCANTE, 4231
PETER E PETRELIS, 0461
RICHARD J ROCKWOOD, 6759
RICHARD H RUSSELL, 7252

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DAVID S CARLSON, 5979
FRANCIS CHAN, 8842
CARL CHING, 3615
PAUL S GLANDT, 1051
ALMA M GROCKI, 9522
FREDERICK HOOVER, 0332
ERIC J KARELL, 5806
ROLF G LUND, 2928
DREW D NELSON, 8029
RAYMOND D OTOOLE JR., 0858
THADDEUS A PEAKE III, 4115
ANTHONY PELLEGRINO, 1584
PHILIP A PERRY, 1780
GREGORY A PORPORA, 3124
JOHN G POSADAS, 2247
THOMAS A JR ROLLOW, 9157
CHRISTOPHER S TAGGART, 2585
MICHAEL J ZULICH, 8644

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOHN J ALDA, 0091
CHARLES K APGAR, 9742
KAREN M ARMESON, 6279
HENRY J BABIN, 7544
WILLIAM E BATTLE II, 0497
JAMES F BIANCHI, 1880
CHRISTOPHER W BIRD, 8223
MARK D BURROWS, 3028
JAY S CAPUTO, 4465
CHRISTINE E CARTY, 3802
WILLIAM C DODGE, 4464
ROBERT L DOLEZAL, 6855
RANDY E DUNCAN, 3309
BRIAN E ERWIN, 7032
BRIAN D FILA, 1615
KAREN F GERRINGER, 6806
WILLIAM S GIECKEL, 5730
CHRISTOPHER K GIFFIN, 6578
ROBERT E GREGOIRE, 2497
GEORGE E HAPLEA, 0624
DON L HAYES JR., 2586
FRANK J HEFESTAY JR., 9252
CHARLTON T HOWARD II, 2825
DAVID R JAHN, 4091
JEFFREY W JOHNSON, 6379
MICHAEL E KENNEDY, 2541
PATRICK M KINSEY, 4140
ROBERT D LIVINGSTON, III7 80
MICHAEL W LUTCHE, 5378
TIMOTHY P LYON, 9116
WILLIAM H MITCHELL, 9187
JENNIFER S NASH, 8630
JEFFREY A NELSON, 4280
E J NUSBAUM, 9788
POMPEI L ORLANDO JR., 6563
LAURENT C REINHARDT, 5028
TIMOTHY C RILEY, 1235
JOHN W ROGERS, 4970
DAVID A ROSENBERG, 0144
ERIC D SEELAND, 0091
MICHAEL A VANHORN, 8791
CANDACE C VESSELLA, 6460
KATHRYN D YATES, 2739

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MICHAEL P ARGO, 7844
JEFFREY M BRUSOSKI, 7454
JEFFREY F CARLSON, 5429
MARK E DONAHUE, 1555
ROBERT W FOWLER, 2272
DAVID D FOY, 4655
JOHN C HALL, 9797
KEVIN R HEMPEL, 6661
JAMES F IANNONE, 4565
KENNETH C IRELAND, 9899
MARK W KRAUSE, 0989
KENNETH R LEWKO, 3825
ROBERT E LOUZEK, 8742
KEVIN G MCCARTHY, 1884
CARL J MURRAY, 1160
GEORGE W MYERS JR., 5959
EDWARD M PHELPS, 1074
STEVEN J RICHEY, 7488
STEVEN L RICHTER, 5234
CHARLES M SAYLOR, 5635
GERARD B SCHOENFELD, 2277
MARK S SPENCER, 2565

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

RONALD D ABATE, 9686
SANDRA E ADAMS, 9033
GARY S ALMEIDA, 2914
CRAIG F ARNDT, 1143
BRIAN O BARRETT, 6600
PAUL L BARRY, 0669
CARYN F BARRY, 2632
MARK W BAUCKMAN, 3042
JOHN L BEDKER, 4331
THOMAS J BELKE, 1413
BROOKS D BERG, 6552
JOHN C BISHOP, 4231
THOMAS M BOERUM, 1409
THOMAS E BOUGAN, 4479
GERALD L BOUTS, 5840
JEAN D BOUVET, 7763
THOMAS H BOYCE, 6191
STEVEN C BRADFORD, 5144
WILLIAM K BRISTOW, 8219
JOHN M BRODARICK, 3831
RICHARD H BROWN, 5858
NEAL G BUNDO, 6258
ROBERT D CHANDLER, 6385
CHARLES J CHANDONNET, 3996
BRIAN G CHESLACK, 3017
KEVIN W CHIZEK, 3801
MICHAEL D CHRISTOPHER, 1181
STEVEN W COLON, 5047
STANLEY K COOK, 1152
PETER J CORCORAN, 5551
RAYMOND J CRAVAACK JR., 8357
JACK R CROCKETT, 0189
ARTURO C CUELLAR, 4157
PHILLIP L DALTON, 0716
DANIEL S DAVIDSON, 8403
DAVID J DELANCEY, 3273
MARGARET A DEMING, 8689
GREGORY M DENKLER, 7071
DONALD E DENSFORD JR., 8557
TONEY R DOLLINS, 3099
BRENT A DORMAN, 5605
ANDREW W EBERHART, 6520
MICHAEL F ERICKSON, 8506
RUSSELL R ERVIN, 9371
RUDOLPH N ESCHER, 3208
STEVEN M FARR, 9913
JAMES R FENTON, 3103
GREGORY R FINE, 3390
MICHAEL R FINN, 9483
BERNARD L FLANK, 7550
ROBERT A FORD, 4248
DAVID M FOSTER, 7364
JEFFREY W FUNDERBURK, 4512
SIMEON C GARRIOTT JR., 5705
BRADLEY D GAWBOY, 1238
HARVEY R GERRY, 7949
AURELIUSB GIBSON JR., 0471
DAVID A GILLILAND, 6415
JOHN B GIUDA, 8751
KATHLEEN E GOUGH, 3290
JOSEPH A GRACE, 4116
JEFFREY H GREEN, 0440
MICHAEL J GUNNING, 8553
STEPHEN A GUSTIN, 6703
JAMES R GWYN, 5588
KENNY D HARRIS, 4861
JACOB A HARRISON, 6892
WILLIAM G HARRISON, 3907
KEVIN J HAUGHEY, 4483
GEORGE A HAYES III, 3600
FRANCIS C HEIL, 2994
THOMAS J HIGGINS, 2726
THOMAS G HILTZ, 9149
KATHRYN P HIRE, 8393
KEVIN D HOLWELL, 9691
WILLIAM G HOMAN, 1158
DANIEL W HUDSON, 0893
EUGENE G HUETHER, 7237
MARK G HUNN, 6384
DENNIS J HUNT, 9915
GERALD A JABLONSKI, 0431
ROBERT W JACKSON, 6356
THOMAS R JACOB, 2783
RAYMOND B JAHN, 0637
THOMAS J JARDINE, 0382
JEFFREY B JEROME, 2292
ELLEN M JEWETT, 5635
KIRK G JOHANSEN, 0105
ROBERT J JOHNSON, 2373
STEVEN E JOHNSON, 0429
JANET P JORDAN, 4395
EDWARD J KANE, 8515
PETER L KENNEDY, 5930
KRISS M KENNEDY, 1554
JAMES D KENT, 7167
JASON L KESSEL, 6714
ANDREW L KILGORE, 3692
WILLIAM R KILLEA, 6142
RALPH W KIVETTE, 0178
ALAN E KNUTH, 5638
ROBERT G KOERBER, 9420
JOHN M KREGER, 7129
GRANT E KRUEGER, 7520
DOUGLAS J KURTZ, 2052
RICHARD M KYNASTON, 7116
LESTER M LAMBERTH, 0472
DAVID J LEBLANC, 4187

MICHAEL W LEONARD, 9289
KENNETH A LISS, 1483
RANDALL P LITTLE II, 6342
STEPHEN R LYON, 0521
STEWART L MAGRUDER JR., 1334
KEITH J MAHOSKY, 3624
HARRY A MARSH, 0896
ARMANDO M MARTINEZ, 1909
VALERIE A MAURER, 2697
CHARLES M MCCLESKEY, 8526
ROBERT W MCDOWELL, 5309
MONI MCINTYRE, 3868
ERICSON W MENGER, 8968
NORMAN H MESSINGER, 9089
CHRISTOPHER G MILLER, 9098
WILLIAM C MILLS, 6706
ROBERT V MILLS, 3111
ROBIN Y MORISHITA, 8789
ROBERT G MORISSETTE, 0014
TIMOTHY S MOXON, 1458
JORGE L MUNOZ, 3417
WILLIAM J MURTAGH III, 1421
JOHN E MYERS, 4676
PHILIP O NOLAN, 4987
KEVIN K NONAKA, 5229
GEORGE M NORMAN, 7495
KENNETH W NOVOTNY, 9746
JAMES P OHARA, 7064
PAULA L OSTROM, 6839
MICHAEL E OTTLINGER, 6363
JOSEPH C PAPALSKI, 3964
CONWAY D PATERNOSTRO, 2930
LARRY A PECK, 8544
DOUGLAS E PENCE, 4197
JOEL PICKERING, 7373
THOMAS J PINSON III, 4885
EDWARD F POSS III, 4571
JULIUS I PRYOR, 3296
BRIAN L QUISENBERRY, 5123
ALAN K RAGAN, 2935
HERMAN P REDDICK, 0228
PAUL J REESE, 6596
ALAN L RIDNOUR, 3195
ROBERT M RIVERA, 2285
ROBERT E ROCHFORT JR., 2595
SUSAN P SAUNDERS, 2220
JOSEPH T SCHARTUNG, 1026
STEPHEN K SCHINI, 4900
DAVID R SCHOENE, 9902
STEPHEN J SCHRADER, 5026
ALVIN D SEARS, 5302
STEPHEN E SHEELY, 5374
KENT E SHERRER, 9472
VIRGINIA R SIMPSON, 2777
MICHAEL P SMITH, 5131
JEFFRY R SPENCER, 3249
ROBERT C SPERO, 6348
JOSEPH C SPITEK, 1385
JAMES E STAHLMAN, 2808
JOHN B STANLEY, 3168
WILLIAM G STARK, 2967
DAVID R STASER, 9770
DANNY A STEWART, 7446
DAVID R STITZLEIN, 0065
MARK A STOFFEL, 3277
VICTOR B STUCKEY, 0673
T D STUDWELL, 2359
HENRY B STUEBER, 6580
EUGENE P SULLIVAN, 2334
TINA J TALLEY, 4467
ANDREW C TAYLOR, 8114
MICHAEL THOMPSON, 3033
DAVID P TORMA, 5885
JAMES J TOWNSEND, 3277
PAUL M ULMER, 6322
MICHAEL J VANBROCKLIN, 2194
RICHARD M VANDERHOEVEN, 9415
MICHAEL F VANVLECK, 5734
TIMOTHY C VICKERS, 9363
JOSEPH F VONSAUERS, 8850
BOBBY D WALDEN, 8307
DOUGLAS E WEATHERFORD, 5954
ERIC A WIEMAN, 3300
ANDREAS M WILSON, 2956
STEVEN W WILSON, 0281
BILL L YANCEY, 0220
GLENN L ZITKA, 7136

HOUSE OF REPRESENTATIVES—*Tuesday, April 16, 2002*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 16, 2002.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 101. Concurrent resolution extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

REFLECTING ON TAX DAY, APRIL 15

Mr. STEARNS. Mr. Speaker, this week we again come to view one of the things Americans dread most, that is, tax day. It is a dreaded and feared day, a day on which taxpayers all across the country are concentrating and reflecting on America's frustrating and complex system of taxation.

We in Congress should take time ourselves to reflect on our Nation's Tax Code and the problems it imposes upon the taxpayers of this country. April 15 serves as a stark reminder that my constituents, and, in fact, all Americans, have paid entirely too much in Federal taxes, more than food, clothing and shelter combined. The Federal tax burden is the highest since World War II.

Also Americans are paying taxes at the same time they are trying to pay off personal debt. Yes, we seem to forget that Americans have a debt to pay down as well. They have mortgages, auto loans, credit card debt, and school loans.

We have stated time and time again that Americans deserve tax relief; and with the assistance of President Bush, we have given them just that relief. We passed the Economic Growth and Tax Relief Reconciliation Act of 2001, providing the economy a much-needed boost with the rebate check provided to all American taxpayers. In addition, the bill decreases the marginal tax rate, reduces the marriage penalty, and eliminates the death tax. It increases the child adoption credits and the child tax credit. We also passed the Job Creation and Worker Assistance Act, providing for additional tax decreases.

As a result of our efforts, Mr. Speaker, according to the Tax Foundation, the average taxpayer will work 2 days less this year to pay off their total tax bill. The so-called Tax Freedom Day, April 27, represents an identifiable mark for Americans to gauge their total tax burden. This serves as an example that we have made great strides reducing the Federal income tax burden on all American taxpayers.

However, there remains much to be done. The Federal tax burden continues to make up two-thirds of the total tax burden. Individual income taxes and payroll taxes are the primary culprits. We also face, Mr. Speaker, hidden taxes such as sales and excise tax on beverages. In fact, we are still paying a Federal telephone tax instituted during the Spanish-American War.

In addition, the taxpayer faces State and local taxes, which include property taxes, sales taxes and additional income taxes in most States. Wherever one turns, he can expect to pay a tax on something.

Finally, the taxpayer faces a cost of complying with our Tax Code. According to the Tax Foundation, in 2002 individuals, businesses, and nonprofit organizations will spend an estimated 5.8 billion hours complying with the Federal income tax code with an estimated compliance cost of over $194 billion. This amounts to imposing a 20.4 cent tax compliance surcharge for every dollar the income tax system collects.

We have kept our promise, Mr. Speaker, in working with the President to give Americans the tax relief they need. Later this week we will have the opportunity to make that relief permanent. The Economic Growth and Tax Relief Reconciliation Act of 2001 unfortunately contained sunset provisions which would end the tax relief after 10 years. We will have the opportunity to correct this oversight and give Americans permanent tax relief.

In conclusion, in this country there are seven traits that really define who we are as Americans, cultural traits. One of those traits is we like reform. We are willing to change things. We are just not satisfied with the status quo in this country. We are always trying to improve.

Mr. Speaker, we are making progress. Let us continue to work harder and do more for the American taxpayers of this country.

AGRICULTURAL BILL PAYMENT LIMITATIONS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, this afternoon I will introduce a motion to instruct conferees on the agricultural bill that suggests that we need to incorporate payment limitations.

Payment limitations now in effect are not binding simply because there is a loophole in the law which allows many farmers to receive $1 million-plus in farm benefit payments. One reason I feel so strongly that it is reasonable to have some kind of payment limits is that the public thinks that farmers are just being given a great deal of money, regardless of their need, regardless of their size. If we are going to have farm program policy in the United States, then I and many others suggest that we focus our efforts on those farmers that need that kind of help.

We talk about the family farm, and, of course, we can get in arguments about what is a family farm or how big is a family farm. But I think most of us can agree that if someone has 40,000, 50,000 or 60,000 acres and is taking in millions of dollars of farm program payments, then probably this is not the mainstream type of family farm that most of us think of.

I would like to read some quotes from the Senate debate when this language was put into the Senate version

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of the bill. What this shows is that there is tremendous bipartisan support for some kind of a limit on these farm payments.

Senator GRASSLEY, Republican from Iowa, said, "When is enough enough? How long will the American public put up with these programs that send out billions of dollars to the biggest farm entities?"

BYRON DORGAN, Senator from North Dakota, a Democrat, said, "Many of the benefits provided through the current ag programs are being funneled to large, non-family agricultural corporations while family farmers are being shortchanged. That is just plain wrong."

Senator JOHN KERRY, Democrat of Massachusetts: "This amendment ensures that farm aid will target the people who need it the most, the small family farmers that actually work the land and are the lifeblood of our rural communities. It is a pleasure to support this amendment."

Senator CHUCK HAGEL, Republican: "The amendment would remove the loopholes that allow a handful of large farmers to receive unlimited payments. Without real payment-limitation reform, we will continue to weaken the same farmers we claim to want to help."

I want to just mention what that loophole is. There are price-support benefit limits on a couple ways a farmer can derive those benefits, specifically the loan deficiency payment and the marketing loans. But what is left out of that payment limit, which tends to hoodwink a lot of people when we brag there are some kind of payment limits in the House bill, is non-recourse loans. You can do an end-run and farmers can have a non-recourse loan that they can forfeit, or the government will give you the certificate that results in the same kind of subsidy benefit payments for price supports as do the loan deficiency payments in marketing loans.

It gets rather complicated, Mr. Speaker; but the fact is that we are calling for, and we are going to have, a debate in this House tomorrow on the reasonableness of having some kind of price limitations.

I am a farmer from Michigan. I served as deputy administrator of Farm Programs in the USDA in the early seventies. Currently 82 percent of the farm program payments go to 17 percent of the largest farm operations. If we do not control this, if we do not have some kind of a cap, some kind of a limit, we are going to lose the good will of the people of this Chamber, of the people in the Senate, of the people in the United States that really want to help those farmers. So payment limitations of $275,000 per farmer per year is reasonable as structured in the Senate version. I hope we can do that.

A couple more quotes, with your permission, Mr. Speaker. Senator RICHARD LUGAR said, "This is a modest amendment. I stress 'modest.' There were 98,835 recipients of farm subsidies in Indiana during 1996 to 2000. Only six of that 98,000 would be affected by this amendment."

Senator TOM DASCHLE says, "I am pleased we were able to pass this important payment limitation amendment."

The President of the United States says we need to help those small and medium-sized farmers that need it the most.

Mr. Speaker, I hope my colleagues will support me on this payment limitation that the gentleman from Michigan (Mr. BONIOR) and I are offering tomorrow.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 42 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PENCE) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

"O the happiness of the heavenly Alleluia sung in security, in fear of no adversity!" These words of Your servant Augustine from the fifth century sound melodious, as from another world, when read in the springtime of our conflicted lives.

Lord, many Americans wonder if we have lost an innocence never to be regained. In the midst of war and unpredictable terrorism, evil sometimes seems more creative than goodness. Fear not only reveals the most fragile ones around us, uncertainty can cause the strong to be hesitant and slow down a Nation's progress.

Reassure us by Your presence, Lord. Out of compassion for Your people, grant a glimpse of Your glory so that hopefulness springs eternal and confidence is restored.

With hearts fixed on lasting values, give the Members of Congress practical wisdom to address the substantive issues which truly affect the lives of their constituents. May their work together build signs of hope that will move this country into a bright future.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the bill on the Private Calendar.

NANCY B. WILSON

The Clerk called the bill (H.R. 392) for the relief of Nancy B. Wilson.

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

BUSH TAX CUTS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, yesterday millions of Americans lined up at post offices all over the country to get their taxes in on time. And once again, as this poster illustrates, the average American family spent more on taxes last year than food, clothing, shelter, and transportation combined.

Once again, the average wage earner spends the first 3 hours of an 8-hour working day laboring just to pay his taxes. Once again, the equivalent of every paycheck from January to the middle of May goes just to pay taxes.

Mr. Speaker, last year we joined the President in passing much-needed tax relief for the American people. But because of opposition from the big spenders in the other body, there is a sunset clause in the law. In other words, unless we vote to make the tax cuts permanent, everyone will get a big tax hike, the marriage penalty tax will come back, the death tax will come back, the child tax credit will be cut in half, IRAs will be cut by $3,000, and the economy will suffer.

This week we will vote on a bill to prevent this from happening. I urge my colleagues to support the effort to make the tax relief permanent for the American people.

EQUAL PAY DAY: CLOSING THE WAGE GAP

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to urge Congress to pass legislation that will guarantee equal pay for equal work for women. Equal pay for equal work should not even be a question in the year 2002. Yet women earn only 73 percent of wages earned by men for doing the same work with the same qualifications. For African American women, it is only 64 cents on a dollar; and for Hispanic women, 52 cents for every dollar earned by men. The time for pay equity is now. Let us do the right thing: pass equal pay for women.

TRAFICANT EXPULSION RESOLUTION INTRODUCED

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, I have introduced a resolution expelling the gentleman from Ohio (Mr. TRAFICANT) from the House of Representatives. Last week, a Federal court jury in Cleveland found the gentleman from Ohio (Mr. TRAFICANT) guilty on all 10 felony counts of a criminal indictment. Regretfully, this resolution is necessary because Mr. TRAFICANT foolishly rejected the call of the minority leader to resign. Felons belong in jail and not in Congress. He has broken the public trust by breaking the law; and if he will not voluntarily leave this House, our duty is to remove him.

Throughout my tenure in the House, I have consistently taken the position that Members who have been convicted of felonies should be expelled if they do not resign. In 1980, the House expelled Michael Meyers of Pennsylvania after he refused to resign following conviction of Abscam-related felonies. In 1995, Walter Tucker of California was convicted, initially refused to resign, and changed his mind after I introduced an expulsion resolution.

Mr. Speaker, I hope that Mr. TRAFICANT will follow the example of Mr. Tucker and save the House the need to debate once again whether felons should continue to serve in Congress.

BROOKLAND BAPTIST CHURCH'S 100TH ANNIVERSARY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, the Good Book teaches us that the perseverance of a faithful few can touch the lives of many for the better. During the late 1800s in New Brookland, South Carolina, a small group of men and women met together for prayer and worship. By 1902, the group had grown and the Brookland Baptist Church was founded.

For decades, the church has been a refuge of hope, and the church began a new chapter in 1971 when Rev. Charles B. Jackson, Sr., became their ninth pastor at the age of 18. Attracting large crowds of over 4,000 members, the church bought and renovated a nearby shopping center. I am honored that Earl Brown, a deacon, is my special assistant.

Today, the church serves the community through HIV-AIDS program, homeless outreach, the Black Male Conference, scouting programs, recreational and tutorial programs, and has even organized a full-service credit union. The church is one of South Carolina's largest African American congregations.

This year, as Brookland Baptist Church celebrates its 100th anniversary, it is very easy to see how this once-small group of believers has grown to make the lives of those around them immeasurably improved for the better.

DOE HAS IGNORED GEOLOGICAL PROBLEMS AT YUCCA MOUNTAIN

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this morning I joined with hundreds of Americans opposed to the idea of shipping high-level nuclear waste across the entire country to a geologically unstable site in a Nevada desert.

Scientific evidence continues to mount showing that Yucca Mountain is not a safe or sound location for nuclear waste, and evidence also shows that the Department of Energy has ignored its geologic problems.

Even former DOE officials have agreed that the DOE has not held Yucca Mountain to high scientific standards. Dr. Victor Gilinsky, former commissioner of the U.S. Nuclear Regulatory Commission, asserted in a sworn affidavit that the DOE's site suitability standard is so lax that it could be met in the basement of the DOE headquarters here in Washington, D.C.

Mr. Speaker, Americans deserve better. The site suitability of a nuclear repository should be based on science, not politics. Yucca Mountain is not a suitable site for the storage of the deadliest substance known to man. I urge Members to oppose the DOE Yucca Mountain lie.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6:30 p.m. today.

JOSEPH W. WESTMORELAND POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3960) to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building".

The Clerk read as follows:

H.R. 3960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOSEPH W. WESTMORELAND POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, shall be known and designated as the "Joseph W. Westmoreland Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Joseph W. Westmoreland Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3960, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3960, introduced by the gentleman from Florida (Mr. JEFF MILLER) designates the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the

Joseph W. Westmoreland Post Office Building.

Mr. Speaker, Joseph Westmoreland was appointed as postmaster at the Jay, Florida, post office in 1948, where he served for 41 years until his retirement in September 1989. Prior to this appointment, Mr. Westmoreland also served in our Nation's military during World War II as a member of the Army Air Corps. Throughout his life, Mr. Westmoreland distinguished himself as a community leader, constantly working for what was best for northwest Florida. Mr. Speaker, I urge adoption of H.R. 3960.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a Member of the Committee on Government Reform, I am pleased to join my colleague in the consideration of H.R. 3960, a measure which names a postal facility after Joseph W. Westmoreland, introduced by the gentleman from Florida (Mr. JEFF MILLER) on March 13, 2002, and enjoys the support and cosponsorship of the Florida congressional delegation. This measure was originally introduced by our former colleague, Mr. Scarborough.

Mr. Speaker, Joseph Westmoreland was a member of the postal community, serving as postmaster of the Jay, Florida, post office for 41 years until his retirement in 1989. A World War II veteran, community leader, and very devout member of the Jay United Methodist Church, Mr. Westmoreland was a civil servant who believed in going the extra mile to help the public. As a matter of fact, there are some who would say he was a servant of the community and enjoyed it. I urge swift passage of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. JEFF MILLER), the distinguished sponsor of the bill.

Mr. JEFF MILLER of Florida. Mr. Speaker, it is a great privilege to rise today as the House considers H.R. 3960, a bill to designate the United States Postal Service Facility located in Jay, Florida, as the Joseph W. Westmoreland Post Office Building.

Mr. Speaker, earlier this year I introduced this measure to provide a fitting tribute to the service and life of the man who did so much for that area of the State in northwest Florida.

Mr. Joseph Westmoreland was born to humble beginnings in South Carolina before serving in the Army Air Corps during World War II. Upon leaving service in 1946, Joe married Evelyn, whom he had met while stationed at Hurlburt Field. The couple moved to Jay, where Evelyn's father owned a small grocery store, and where they would share 55 years of marriage.

Joe was appointed postmaster by Congress in 1948, a position he would serve in for 41 years until his retirement. Time and time again, Joe proved himself not only an exemplary postmaster, but a strong community leader until his death January 28 of last year. While living in Jay, he became a charter member of the Jay Lions Club and served in many positions in the Jay United Methodist Church, from teaching adult Sunday school classes to chair of the finance committee.

Joe was an example to all of us that a civil servant is forever indebted to the people he serves. His faith taught him that there is no greater act than service to fellow man, and his life was a testament to these beliefs. Although Joe is not with us today, his legacy of service and dedication to community serves as a shining example to those in northwest Florida.

Mr. Speaker, I thank Joe's wife, Evelyn, and his sons, Lofton and Dale, for sharing their husband and father with the communities for so many years.

I would like to thank the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), and the gentleman from California (Mr. WAXMAN) for their assistance in getting this bill to the floor, and urge my colleagues to support this measure to recognize a man who dedicated over 4 decades of his life to the people of Jay, Florida.

□ 1415

Mr. DAVIS of Illinois. Mr. Speaker, I yield such times he may consume to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I rise today to support H.R. 3960, to designate a post office in Jay, Florida, as the Joseph W. Westmoreland Post Office Building.

Joseph Willis Westmoreland was an admirable American and a public servant. He was among the greatest generation and served in the Army during World War II. World War II veterans alone represent nearly 40 percent of all American war participants. These great individuals risked their lives for the future of this country and we must keep our promise to them. Mr. Speaker, the World War II veteran population is aging and we must keep our promise to these individuals and give them the Social Security benefits we guaranteed to them when they went off to war.

Joseph Westmoreland served as the postmaster of the Jay Post Office in Jay, Florida for 41 years. He dedicated his working years to public service and made our government a better place. After a lifetime of public service, Mr. Westmoreland retired to enjoy his golden years. Like over 32 million Americans, Mr. Westmoreland relied on Social Security as a safety net. In Florida alone, where this post office will be dedicated, there are over 3 million Social Security recipients. The Republican budget taps into the Social Security trust fund and jeopardizes the future of these millions of seniors in Florida and throughout the country.

The Joseph W. Westmoreland Post Office Building in Florida will be another shining example of what good government is all about. The Postal Service has a slogan, "We deliver." Sadly, Mr. Speaker, this Congress continues not to deliver for America's retirement. This Congress, after spending down the surplus, continues to pass legislation to raid the Social Security trust fund. Our seniors deserve better.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I can imagine that over a period of 41 years as postmaster that Mr. Westmoreland must have passed out hundreds and thousands of Social Security checks and people probably would come to the post office with a smile on their face and with glee in their heart, knowing that they were going to pick up that valued Social Security check. I would just hope that we never do anything that would jeopardize or take away the opportunity for people to continue to have that feeling.

Mr. Speaker, I urge the passage of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I urge the adoption of this measure honoring an exemplary civil servant.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PENCE). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 3960.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PHILIP E. RUPPE POST OFFICE BUILDING

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1374) to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building".

The Clerk read as follows:

H.R. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PHILIP E. RUPPE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 600

Calumet Street in Lake Linden, Michigan, shall be known and designated as the "Philip E. Ruppe Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Philip E. Ruppe Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1374, introduced by the distinguished gentleman from Michigan (Mr. STUPAK), designates the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the Philip E. Ruppe Post Office Building.

Mr. Speaker, Philip Ruppe was first elected to the United States House of Representatives from Michigan's Upper Peninsula in 1966 and served with distinction until 1979. Prior to his congressional service, Mr. Ruppe served in the United States Navy during the Korean War.

Mr. Ruppe, with his long family history in Michigan, has contributed to his community as an active civic leader and respected businessman. He brought this leadership and concern from northern Michigan to the Merchant Marine and Fisheries Committee and the Interior and Insular Affairs Committee where he served as the ranking member.

Mr. Speaker, I urge adoption of H.R. 1374.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join with my colleague, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) in consideration of H.R. 1374, legislation naming a postal facility after former Congressman Philip E. Ruppe. H.R. 1374 was introduced by the gentleman from Michigan (Mr. STUPAK) on April 3, 2001. This bill enjoys the support and cosponsorship of the entire Michigan delegation.

Mr. Ruppe represented northern Michigan from 1967 until 1979. During his tenure in Congress, Mr. Ruppe served on the Merchant Marine and Fisheries and Interior and Insular Affairs Committees, always dedicated to improving the quality of life for his constituents back home.

An active member of his community and noted businessman, he will long be remembered for his service to this House as well as service to the people of northern Michigan.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STUPAK), the sponsor of this legislation.

Mr. STUPAK. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to offer H.R. 1374, to designate the United States Post Office in Lake Linden, Michigan, as the Philip E. Ruppe Post Office Building.

Mr. Ruppe, as has been noted, became a Member of the United States House of Representatives on January 3, 1967, and served until January 3, 1979. Phil Ruppe was born in Laurium, Michigan, on September 29, 1926, where his family has lived since the 1870s.

Mr. Ruppe married the former Loret Miller and she went on to serve as director of the Peace Corps and Ambassador to Norway. Phil and Loret taught their daughters the intrinsic value of public service. Unfortunately, Mr. Speaker, Loret Ruppe passed away in 1996.

Throughout his lifetime, Mr. Phil Ruppe was a community leader and businessman in the Keewanaw Peninsula located in Michigan's Upper Peninsula. Besides serving this country as a legislator, Phil Ruppe served his country as a lieutenant in the United States Navy during the Korean conflict.

While in Congress, Mr. Ruppe was devoted to the concerns of the people of northern Michigan and was a member, as has been noted, of the Merchant Marine and Fisheries Committee and the Interior and Insular Affairs Committee. One of his legislative achievements included establishing the Father Marquette National Memorial near St. Ignace, Michigan. Mr. Ruppe was devoted to constituent and economic development in northern Michigan. He was actually the first Congressman representing this northern Michigan district to have district offices, demonstrating his focus on local concerns. Mr. Ruppe was well respected by all Members of Congress.

Before Mr. Ruppe retired, former Member Sonny Montgomery best summarized Phil Ruppe when he said, and I quote, "I have always been impressed with Phil's intense interest and dedication to his legislative committees. He has never failed to be an effective member and contribute to the deliberation of the Interior and Insular Affairs Committee and the Merchant Marine and Fisheries Committee."

Mr. Speaker, a fitting tribute to Phil Ruppe's service to northern Michigan would be naming the Lake Linden Post Office after Phil Ruppe. I would like to thank the chairman of the Committee on Government Reform the gentleman from Indiana (Mr. BURTON) and the ranking member, the gentleman from California (Mr. WAXMAN) for moving this legislation. I would like to thank the gentleman from Illinois (Mr. DAVIS) and also the gentlewoman from Virginia (Mrs. JO ANN DAVIS) for moving forth the legislation on the floor.

I ask my colleagues to support this bill.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, I rise in support of H.R. 1374, to designate a post office in Lake Linden, Michigan, as the Philip E. Ruppe Post Office Building. I am always satisfied when we honor a former colleague.

However, we should also be working to protect the Social Security trust fund from being raided. As we debate H.R. 1374, a good bill that will benefit hundreds or maybe thousands of Americans, we should also think about the millions of Americans who currently survive only on a Social Security income, like my 91-year-old grandmother back home in Prescott, Arkansas, who lives from Social Security check to Social Security check. Do they not deserve to live their latter years with dignity?

If we continue to pass fiscally irresponsible legislation that raids the Social Security trust fund, when will it be before their benefits are cut? Sometime between 2011 and 2016, we are going to have more people earning Social Security benefits than paying into the Social Security system. Everyone agrees that by 2041, Social Security as we know it today is broke.

My grandparents left an America a little bit better than they found for my parents. And my parents left us a little bit better country than they found for us. I think we owe it to our children and our grandchildren to ensure that we live the kind of life and make the kind of decisions, the kind of responsible decisions, sometimes difficult as they may be, but we must do those things to ensure that we leave this country just a little bit better off than we found it for our kids and our grandkids.

What about the millions of baby boomers who will soon retire? Again, between 2011 and 2016 we will have more people earning Social Security benefits than those paying into the system. By 2041, Social Security as we know it today is broke. And guess what? That is assuming that the trillion dollars plus that has been borrowed from the Social Security system, with no provision on how it ever gets paid back, is paid back by 2041.

It is time that we stop raiding the Social Security trust fund. That is why the first bill I filed as a Member of Congress was a bill to tell the politicians in Washington to keep their hands off the Social Security and Medicare trust fund.

I hope that when those retirees who go to the Philip E. Ruppe Post Office expecting to pick up a Social Security check in a few years, I hope they are not left with an empty promise. I hope they have a Social Security check in their post office building just as our seniors do today, a check that many of them live on from paycheck to paycheck.

Let us pass this bill, but let us quit raiding the Social Security trust fund.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the dean of the Congressional Black Caucus.

Mr. CONYERS. Mr. Speaker, I am pleased that the ranking member, the gentleman from Illinois (Mr. DAVIS) would allow me some time, because I knew Phil Ruppe and worked with him. He was a real gentleman, a collegial Member of Congress. We worked on many projects together. I also wanted to raise the memory of his wife, Loret Ruppe, who was a former head of the Peace Corps and an Ambassador to Norway as well. I do not think it has ever been done before, but if ever there was a case for naming this Federal facility after both a husband and wife, this would be it. Unfortunately, she is deceased but those of us who remember this great couple from Michigan will remember and think very highly of the very appropriate memorialization of a building in their honor.

□ 1430

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly want to thank the gentleman from Michigan for his fond memories of Mr. Ruppe and the fact that we are naming this postal facility for him.

People often wonder why it is that you are naming Federal buildings and why you are naming post offices and how important is this. Well, it is important because people who have made America, who have made America strong, ought to in fact be remembered.

One of the things that has made America strong is the fact that we have always been able to rely upon some assistance in our old age. We have always known, after we passed the legislation, that when it came to a certain period of time, you could look forward to having some help, you could know that you had a Social Security check coming. You could just rely upon it and know that it was there.

I would hope that as we name these post offices in memory of Americans who have made great contributions, that we also keep in mind that we need to keep the tradition of Social Security being available alive, well and healthy.

Mr. Speaker, I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of this worthy measure honoring one of our former colleagues.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PENCE). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 1374.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXTENDING BIRTHDAY GREETINGS AND BEST WISHES TO LIONEL HAMPTON

Mr. OTTER. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 101) extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

The Clerk read as follows:

S. CON. RES. 101

Whereas Lionel Hampton is regarded internationally as one of the greatest jazz musicians of all time and has shared his talents with the world for more than eight decades;

Whereas Lionel Hampton has consistently exemplified acceptance, tolerance, and the celebration of racial and cultural diversity, by being one of the first black musicians to perform in venues and events previously open only to white performers, including performances with the Benny Goodman Quartet from 1936–1940, and as the first black musician to perform for a presidential inauguration, that of Harry S Truman in 1949;

Whereas Lionel Hampton has furthered the cause of cultural understanding and international communication, receiving a Papal Medallion from Pope Pius XII, the Israel Statehood Award, serving as a Goodwill Ambassador for the United States, and receiving the Honor Cross for Science and the Arts, First Class, one of Austria's highest decorations;

Whereas Lionel Hampton is one of the most recorded artists in the history of jazz;

Whereas Lionel Hampton has opened doors for aspiring musicians throughout the world, many of whom have established themselves as giants in the world of jazz, including Cat Anderson, Terrance Blanchard, Clifford Brown, Conte Candoli, Pete Candoli, Betty Carter, Ray Charles, Nat "King" Cole, Bing Crosby, Art Farmer, Carl Fontana, Aretha Franklin, Benny Golson, Al Grey, Slide Hampton, Joe Henderson, Quincy Jones, Bradford Marsalis, Wes Montgomery, James Moody, Fats Navarro, Joe Newman, Nicholas Payton, Benny Powell, Buddy Tate, Clark Terry, Stanley Turrentine, Dinah Washington, and Joe Williams, among others;

Whereas Lionel Hampton has worked to perpetuate the art form of jazz by offering his talent, inspiration, and production acumen to the University of Idaho since 1983, and in 1985, when the University of Idaho named its school of music after him, Lionel Hampton became the first jazz musician to have both a music school and a jazz festival named in his honor;

Whereas Lionel Hampton has received many national accolades, awards, and commemorations, including an American Jazz Masters Fellowship from the National Endowment for the Arts, Kennedy Center Honors, and a National Medal of Arts;

Whereas Lionel Hampton has received numerous awards and commendations by local and State governments and has received acknowledgment from hundreds of civic and performance groups;

Whereas Lionel Hampton's legacy of inspiration, education, and excellence will be perpetuated by the development of the Lionel Hampton Center at the University of Idaho, a facility that combines the finest in performance, scholarship, and research;

Whereas Lionel Hampton has made a difference in many lives by inspiring so many who have now become jazz greats, by reinforcing the importance of education at all levels, and by showing the world a way of life where love and talent are shared without reservation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho (Mr. OTTER).

GENERAL LEAVE

Mr. OTTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. Con. Res. 101.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider Senate Concurrent Resolution 101, a resolution introduced by my colleague, Senator LARRY CRAIG from Idaho. This resolution is virtually identical to its House version, House Concurrent Resolution 363, introduced by my distinguished colleague, the gentleman from Michigan (Mr. CONYERS).

This resolution extends birthday wishes to Lionel Hampton, the undisputed "King of the Vibraphone." Lionel Hampton, whose enduring contributions as an extraordinary musician and artistic achievements symbolize the impact that he has had on jazz and that jazz music has had on our culture. Happy birthday, Lionel Hampton.

Mr. Speaker, Lionel Hampton has devoted his life to the love and the belief in jazz and music and education. Lionel Hampton has stated, "Nothing is more important than doing something that you like, and that's jazz music. My heart and my soul are in jazz."

Mr. Hampton was born in Louisville, Kentucky, on April 20, 1908. In the 1930s, Lionel Hampton's musical career hit its stride when he began playing with such musical luminaries as Louis Armstrong and Benny Goodman. Lionel Hampton formed his own band in the early 1940s, writing top-of-the-chart sellers, including his signature tune, "Flying Home." Lionel Hampton was the first black musician to perform for a Presidential inauguration, that of Harry S. Truman in 1949.

In his lifetime, Mr. Speaker, Lionel Hampton has received numerous prestigious awards. These include the title of American Goodwill Ambassador bestowed on him by President Eisenhower and President Nixon, along with the Papal Medal from Pope Paul I. President George H.W. Bush appointed him to the Board of the Kennedy Center, and President Clinton awarded him the National Medal of Arts in 1992.

Lionel Hampton branched out in his musical career by running his own publishing companies and his own record label. In the 1980s, Lionel Hampton founded the Lionel Hampton Development Corporation, which was responsible for building two multi-million-dollar apartment complexes in Harlem.

In 1985, the Lionel Hampton Jazz Festival was launched at the University of Idaho in Moscow, Idaho. The festival has become a nationally acclaimed event, featuring 4 days of concerts, clinics, and student competitions. In 1987, the music school at the University of Idaho was named the Lionel Hampton School of Music, becoming the first musical school of a university to be named for a jazz musician. Lionel Hampton has stated that this event was the highlight of his distinguished career.

I might also state, Mr. Speaker, that Lionel Hampton created more than just a school of music, because that institution today has become a cultural center for celebrating the diversities that we have in race, in creed, and in social life and also in music.

We honor Lionel Hampton on his upcoming 94th birthday on April 20, because Lionel Hampton is, in the words of David Friesen, ". . . a man that has truly been blessed, not only with the gift of playing music, but also the ability to communicate his love of music to so many."

Mr. Speaker, it is appropriate that the House recognize the dedicated and outstanding accomplishments of Lionel Hampton today. He improved the lives of all who have heard and been touched by his love for jazz and his musical talent.

Mr. Speaker, I ask all Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the gentleman from Idaho in consideration of this resolution.

Lionel Hampton is an internationally acclaimed jazz artist and undisputed King of the Vibraphone. Lionel Hampton, who began his career as a drummer, has been thrilling individuals like the gentleman from Michigan (Mr. CONYERS) with his music for well over 50 years.

Hampton's idol during his early years was drummer Jimmy Bertrand, and drums became Lionel's first instrument. However, Hampton so impressed Louis Armstrong that he invited the young drummer to join his big band rhythm section for a recording session. During a session break, Armstrong pointed to a set of vibes at the back of his studio and asked Hampton if he knew how to play them. Taking up the challenge, Lionel, who was well schooled in his keyboard studies, picked up the mallets and said he would give it a go. Of course, the rest is history.

In 1936, Benny Goodman signed Lionel Hampton to form the Benny Goodman Quartet. The Quartet made history, not only for its great history, but because they were the first racially integrated group of jazz musicians.

In the 1940s, Lionel Hampton formed his own big band, the Lionel Hampton Quartet. "Sunny Side of the Street" and "Central Avenue Breakdown" are two of his most highly successful records. He flew to the top of the charts with his recording of "Flying Home" in 1942 and "Hamp's Boogie-Woogie" in 1943.

Many now-famous musicians and singers had their start with the Lionel Hampton Orchestra. Among these were Quincy Jones, Cat Anderson, Diana Washington, Joe Williams, and Aretha Franklin.

Hampton has received innumerable prestigious awards over the years. He was bestowed the title of Official American Goodwill Ambassador by Presidents Eisenhower and Nixon, the Papal Medal from Pope Paul I, and the Gold Medal of Paris, France's highest cultural award. In 1992 he received the highly coveted Kennedy Center Honors Award, and in 1997 he received the National Medal of the Arts, bestowed by President William Jefferson Clinton and First Lady HILLARY RODHAM CLINTON at the White House.

Lionel Hampton is a beloved classic in American jazz and popular music, and I join with the gentleman from Michigan (Mr. CONYERS) and others in both the House and Senate as sponsors of this resolution in congratulating Lionel Hampton on his 94th birthday. I thank him for his contribution to international music.

Mr. OTTER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, my remarks today are of a personal nature because I expect that the relationship that most of us have to Lionel Hampton is in fact personal.

I recall very clearly I think almost the first moment that I became aware of what was in fact America's contribution to the music of the world, jazz, when I inadvertently one afternoon was at a friend's house, and, completely without knowledge of what exactly I was doing, I had recently taken up the trumpet, and the gentleman from Michigan (Mr. CONYERS) is laughing at the moment because he knows when I say "taken up the trumpet," I had just picked it up, because I was not able to do much more than that. I was a living example of ambition over technique and talent, and I can see that that relates then to a lot of Members here.

But what had happened was I saw something that said "Carnegie Hall Concert, 1938, Benny Goodman Orchestra," and I had no idea at that time as a little boy what that might involve.

For those who are familiar with it, this was the concert that was made almost as an afterthought, with a single overhead microphone, tape that was in Benny Goodman's closet for many years, finally found it, and that was when the quartet that the gentleman from Illinois (Mr. DAVIS) cited, the first integrated quartet, not integrated in terms of musicians, integrated in terms of America's true voice of jazz, with white and black musicians, had been gathered together, with Teddy Wilson on piano and Gene Kruppa on drums, and, of course, Benny Goodman playing the lead in the quartet on clarinet and Lionel Hampton on the vibes.

When I heard that quartet playing, I had never heard anything like it in my life. It is so vivid in my mind, even now as I am speaking. And it is an emotional experience, because we have certain transcendent moments in our lives, and that was not just one of them, but perhaps one that most formed the world for me, a world view at the time, as to what was possible. The excitement of it, the vitality of it, the vividness of the playing, the exuberance, it was everything and anything that could be expected and hoped for in American music and, by extension then, our gift, as I said before, to the world.

Lionel Hampton was a particularly meaningful part of that, because, along with Gene Kruppa on the drums, I do not think you can find, except perhaps in the hero of both of them, Louis Armstrong, anyone in jazz more enthusiastic, more full of life, more expressive of the innate vitality of jazz, than Gene Kruppa and Lionel Hampton playing together; and that excited me as a young boy. It motivated me in trying to do the best I could with that trumpet, becoming involved in a jazz band in high school; and I cannot think, as I look back and I try to recall in my life to this point, of a single minute, a single moment, when I was not happy playing music, that it did not give me a sense of self that was always by definition optimistic, I can tell my colleagues, if they ever heard me play.

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I had a great tone, though. That was the thing. If only Hampton heard it, he would have said, kid, you got a great tone; too bad you missed out on the talent part. I cannot think of a single moment when I was not happy, not because I had any ambition to play the way that Hampton and Krupa and Goodman and Wilson played, but that that was my way of sharing with them the creative instinct that is in all of us and which had been freed in all of us by Lionel Hampton and all of the pioneers of jazz in this country.

It is fitting, of course, that we celebrate this today because Lionel Hampton is, of course, approaching almost a century. He has achieved iconic status, and for good reason, because that talent and that liveliness and that exuberance for life and for his music has been carried over into every venue in which he has exposed himself to the American public and, in fact, the world. If there is anything that characterizes Lionel Hampton, and for those who have not had the opportunity to see him in person, to listen to him in person, they have missed out on one of the greatest experiences of life. There is no one in music, there is no one in life that exudes more of the core of creativity and what it means to be a human being in terms of that creativity than Lionel Hampton.

I want to conclude, Mr. Speaker, by saying that we, as a species, differentiate ourselves from all of the other species on the earth by our ability to reflect and our ability to imagine. As I reflect on this life force called Lionel Hampton, and as I reflect on the capacity to create that he exemplifies, I can think of no greater example of what it means to be a good and true human being and creative person, a life force of which we can all be proud to have known musically and to be able to honor today.

Mr. OTTER: Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I have been told that music is a universal language, and it is my pleasure to yield such time as he might consume to the gentleman from Michigan (Mr. CONYERS), one who is known as a culturist, but also an impresario himself.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS), the ranking member of the subcommittee for yielding me this time, and I thank the gentleman from Idaho (Mr. OTTER), the chairman of the subcommittee.

I am delighted to be here, because Lionel Hampton is coming to the Capitol tomorrow and I am hoping that a number of us will be able to celebrate, not just his birthday, but his life and works. The gentleman from Idaho and a number of people from the University of Idaho will be here and we will be able to see and enjoy the company of this great legend.

Now, some wonder why on earth would a university in Moscow, Idaho, of all places, decide to name its institution after Lionel Hampton. Well, I am glad that question was asked, because years ago, and I think it was in the 1930s, someone there used to call Lionel Hampton and beg him to either come in or send jazz musicians and Lionel Hampton would always come out to Idaho. And gradually, over the years, the jazz department, the music department began to grow, because no one could figure out why all of these people were flying in from New York and Los Angeles to celebrate with the University of Idaho. Lionel Hampton would either go himself or, if he could not go, he would send someone, and the school has become one of the famous music institutions that grants degrees in the country.

So with this American music called jazz came the references that were made by my colleague about how the social, musical, religious and racial diversity grew up in that State and out of that university, and now it brings in people from all over the world. I was privileged to be there one year myself.

So this is a wonderful occasion. I am confident that this resolution will be unanimously supported by the Members. I just wanted to add a comment about Lionel Hampton the musician, the human being, because he is one of the warmest, most outgoing people that one could have ever hoped to meet, and when he performs, it is like he has to put everything into every performance. Every performance is his best; complete, exhaustive, exuberant. He goes up and down the aisles and out into the street and anywhere else, and his music is infectious. Everybody goes along with it.

As the gentleman from Hawaii was mentioning about the epiphany that can occur when one listens to great jazz, and Lionel Hampton, when we think of all of the people that he has been associated with that came out of his group, we understand why.

National Public Radio did a profile on Lionel Hampton, and I am going to include it in my remarks. It details all of the people that have been connected with this great musician.

Now, it is only appropriate to mention that he was not the first great jazz vibraphonist. As a matter of fact, Red Norvo was the first person to popularize that instrument. But his enthusiasm and his learning of music, because he was originally a drummer, but he studied piano, as has been indicated, but he laid the groundwork for the greatest jazz bebop vibraphonist, Milt Jackson, the late Milt Jackson, who was at his birthday, another birthday celebration in New York, and he came to pay tribute. Bill Cosby was there, who was another great jazz aficionado.

Mr. Speaker, it is just a marvelous thing that we here in the House and in the Senate would collaborate to get this resolution out just in time for Lionel Hampton to make his appearance on the Hill tomorrow.

So I congratulate the committee for its expeditious work, and I look forward to presenting this resolution to Lionel Hampton tomorrow.

BIOGRAPHY

There is some confusion about the year of Lionel Hampton's birth, which has sometimes been given as 1908. Around 1916 he moved with his family to Chicago, where he began his career playing drums in various lesser bands. In the late 1920s he was based in Culver City, California, where he worked in clubs and took part in several recording sessions (1930) with Louis Armstrong, who encouraged him to take up vibraphone. Hampton soon became the leading jazz performer on this instrument, and achieved wide recognition through his many film appearances with Les Hite's band. After playing informally with Benny Goodman in 1936 he began to work in Goodman's small ensembles, with which he performed and recorded regularly until 1940; as a result he became one of the most celebrated figures of the swing period, and his resounding success allowed him to form his own big band in 1940.

This group, which at times has included musicians of the stature of Cat Anderson, Illinois Jacquet, Clifford Brown, and Quincy Jones, has been one of the most long-lived and consistently popular large ensembles in jazz. From the 1950s Hampton undertook numerous "goodwill" tours to Europe, Japan, Australia, Africa, the Middle East, and elsewhere, and made a large number of television appearances, attracting a huge and enthusiastic international following.

Hampton performed in the Royal Festival Hall, London, in 1957, and played at the White House for President Carter in 1978; during the same year he formed his own record label, Who's Who in Jazz, to issue mainstream recordings. In the mid 1980s his band continued to draw capacity crowds throughout the world. Hampton was honored as alumnus of the year by the University of Southern California in 1983.

Hampton was not the first jazz musician to take up vibraphone (Red Norvo had preceded him in the late 1920s), but it was he who gave the instrument an identity in jazz, applying a wide range of attacks and generating remarkable swing on an instrument otherwise known for its bland, disembodied sound. Undoubtedly his best work was done with the Goodman Quartet from 1936–1940, when he revealed a fine ear for small-ensemble improvisation and an unrestrained, ebullient manner as a soloist. The big band format was probably better suited to the display of his flamboyant personality and flair for showmanship, but after a few early successes, especially the riff tunes Flying Home, Down Home Jump, and Hey Bab-Ba-Rebop, the group was too often content to repeat former trimuphs for its many admirers. Hampton has at times also appeared as singer, played drums with enormous vitality, and performed with curious success asa pianist, using only two fingers in the manner of vibraphrone mallets.

Lionel Hampton, former Presidential appointed Ambassador of Goodwill, the holder of over 15 Honorary Doctor of Music Degrees, awarded the highest honors from the Kennedy Center of the Performing Arts and, the National Commission On The Endowment for the Arts, was recently honored at the White House in August 1998 in celebration of his 90th birthday. This musical legend has been the Co-Honorary Chairman of the International Agency for Minority Artist Affairs (IAMAA) since 1978. Not only a musician, Lionel Hampton is a businessman and, has developed housing projects across this nation and, is a leading philanthropist for community-based initiatives.

Mr. Hampton, reigning King of the Vibraphone for over a half a century, begain his musical career as a drummer. Born in Birmingham, Alabama in 1908, he spent most of his childhood in Kenosha, Wisconsin, where he first studied music under very strict Dominican nuns. His tools then were Louis Armstrong and a drummer named Jimmy Bertrand, who tossed his sticks in the air as lights blinked from inside his bass drum (a style Hamp still uses today in some of his shows).

In 1930, Lionel finally got to meet Louis Armstrong. Playing in a backup band for "Satchmo" at a nightclub in L.A. Hamp so impressed Louis that he invited him to a recording session. Armstrong spotted a set of vibes in the studio and asked Hamp if he knew how to play them. Never one to refuse a challenge, Lionel (who knew keyboards well) picked up the mallets. The first tune they cut was "Memories of You," a new number just written by Eubie Blake, and it became a hit for Louis. John Hammond, great jazz impresario, heard the record and began touting Lionel's vibes work to Benny Goodman.

In August, 1936, Hammond flew out to L.A. and brought Goodman in to the Paradise Club to hear Lionel play. At that time, Benny had a trio within his big band featuring Teddy Wilson on piano and Gene Krupa on drums. "Next thing you know," recalls Hamp, "I was out there on stage jamming with these great musicians. That's one session I'll never forget"

To make a long story short, the Benny Goodman Trio became a quartet and made history-not only with the brilliant music they produced, but because they were the first racially-integrated group in the nation. The foursome recorded "Memories of You," "Moonglow," and "Dinah." Hamp spent the next four years with Goodman as the quartet developed into the hottest jazz group in the world.

In the early 1940's, Lionel left Benny Goodman to form his own big band after the release of a couple of wildly successfully RCA singles under his own name: "Sunny Side of the Street" (on which he sang as well as playing vibes) and "Central Avenue Breakdown" (on which he played piano with two fingers, using them like vibes mallets.)

His first big band included such sidemen as Dexter Gordon and Illinois Jacquet, and he busted the charts with his recording of "Flying Home" in 1942 and "Hamp's Boogie Woogie" in 1943. Among the sidemen who got their start with Lionel Hampton are Quincy Jones, Wes Montgomery, Clark Terry, Cat Anderson, Ernie Royal, Joe Newman, Fats Navarro, Charlie Mingus, Al Grey, Art Farmer, and, of course, the singers: Dinah Washington (who was discovered-and named-by Hamp while working in the powder room of Chicago's Regal Theater), Joe Williams, Betty (Be Bop) Carter the great Aretha Franklin, among others.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time, and I urge passage of this resolution.

Mr. OTTER. Mr. Speaker, far be it for me to add to the eloquence of the gentleman from Michigan, but I would just say that Lionel Hampton has been a groundbreaker throughout his career, throughout his life. He has been an internationally acclaimed giant of music, and because he is an internationally acclaimed giant of music, he has an been internationally acclaimed giant of communication, because we find many times in music one voice and we find one spirit, and that is what Lionel Hampton has brought to the world. We are to celebrate his 94th birthday.

Mr. Speaker, I would ask in closing that all Members support this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PENCE). The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 101.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CLERGY HOUSING ALLOWANCE CLARIFICATION ACT OF 2002

Mr. RAMSTAD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4156) to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property, as amended.

The Clerk read as follows:

H.R. 4156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clergy Housing Allowance Clarification Act of 2002".

SEC. 2. CLARIFICATION OF PARSONAGE ALLOWANCE EXCLUSION.

(a) IN GENERAL.—Section 107 of the Internal Revenue Code of 1986 is amended by inserting before the period at the end of paragraph (2) "and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

(2) RETURNS POSITIONS.—The amendment made by this section also shall apply to any taxable year beginning before January 1, 2002, for which the taxpayer—

(A) on a return filed before April 17, 2002, limited the exclusion under section 107 of the Internal Revenue Code of 1986 as provided in such amendment, or

(B) filed a return after April 16, 2002.

(3) OTHER YEARS BEFORE 2002.—Except as provided in paragraph (2), notwithstanding any prior regulation, revenue ruling, or other guidance issued by the Internal Revenue Service, no person shall be subject to the limitations added to section 107 of such Code by this Act for any taxable year beginning before January 1, 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. RAMSTAD) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in one of the most obvious cases of judicial overreach in recent memory, the Ninth Circuit Court of Appeals in San Francisco is poised to inflict a devastating tax increase on America's clergy. Unless Congress acts quickly, the 81-year-old housing tax exclusion for members of the clergy will be struck down by judicial overreach on the part of America's most reversed and most activist circuit court.

The focus of this court's attack is a long-standing clergy housing allowance. Dating back to 1921 and recodified in 1954 in section 107 of the Tax Code, this allowance prevents clergy from being taxed on the portion of their church income that is used to provide their housing. This allowance is similar to other housing provisions in the Tax Code offered to workers who locate in a particular area for the convenience of their employers, and military personnel who receive a tax exclusion for their housing.

Clergy members of every faith and denomination rely on the housing allowance. Without it, America's clergy face a devastating tax increase of $2.3 billion over the next 5 years. At a time when our places of worship are financially strapped and struggling to serve people in need, we cannot allow this important tax provision to fall.

The case, now in the Ninth Circuit, Mr. Speaker, arose because of a dispute over a 1971 IRS ruling that limited the clergy allowance to the fair rental value of the parsonage. A taxpayer in turn challenged this limit and won in tax court and the IRS appealed. But rather than simply considering the issue presented in the case, which was whether the Internal Revenue Service had authority to limit the allowance, the Ninth Circuit hijacked the case and turned it into a challenge of the very constitutionality of the housing allowance. Neither party in the case even raised the constitutionality issue or requested the court to consider that issue, so the Ninth Circuit, in turn, asked for a "friend of the court" brief from a law professor who happened to believe that it was unconstitutional.

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Mr. Speaker, this is judicial activism at its worst. The legislation on the floor today will stop the attack on the housing allowance by resolving the underlying issue in the tax court case. H.R. 4156, the bill before us today, clarifies that the housing allowance is limited to the fair rental value of the home, which has been common practice for decades, for 81 years.

H.R. 4156, as introduced, included a section of congressional findings and statement of purpose, I might add. But the amendment before us, Mr. Speaker, deletes that section in order to accommodate the tradition that the Committee on Ways and Means normally has; that is, not to include such language in tax legislation.

However, the fact that it has been deleted does not, let me repeat that, does not, reflect the lack of support within the House or among the bill's sponsors.

The gentleman from North Dakota (Mr. POMEROY) has been tremendous in working with us on this legislation in a bipartisan way, bringing his considerable expertise to this important legislation, and I thank the gentleman for that. Certainly there is strong support among the bill's sponsors on both sides of the aisle for that language.

We believe Congress clearly has the constitutional authority to enact section 107 of the Tax Code and the amendments contained in H.R. 4156 that are before us today. In addition, we believe the Internal Revenue Service should provide guidance on the issue of fair rental valuation to avoid unnecessary disputes with taxpayers. I intend to work with my colleagues to make sure the guidance is issued.

Finally, the amendment clarifies that the new fair rental value limitation to section 107 applies prospectively to the year 2002 and beyond. Both H.R. 4156 and this amendment explicitly provide that for tax years before the effective date, the fair rental value limitation does not apply. This language is intended to end the current litigation and fully resolve the matter.

Mr. Speaker, again, I appreciate the strong bipartisan support this legislation has received from our colleagues, with 37 cosponsors. My fellow Committee on Ways and Means member and friend, the distinguished gentleman from North Dakota (Mr. POMEROY), the chief sponsor on the other side of the aisle, has been tremendous on working on this legislation.

Mr. Speaker, I urge my colleagues to vote for this bipartisan legislation to protect America's clergy from an unwarranted judicial attack and to preserve the important housing allowance.

Mr. Speaker, I also want to thank the gentleman from California (Chairman THOMAS) and the majority leader, the gentleman from Texas (Mr. ARMEY), for helping expedite this legislation.

I thank Jim Clark, chief counsel on our Committee on Ways and Means, for his work, as well as counsel on the Committee on Ways and Means, Lisa Rydland and Bob Winters, for their exemplary work. I thank Siobhan Abell, who helped arrange this bill to be expedited from the office of the majority leader, the gentleman from Texas (Mr. ARMEY), who as well deserves our gratitude.

Finally, I thank my own tax counsel, Karen Hope, who has worked night and day since this issue arose, and has really done a yeo-person's work on this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by making it very clear that I strongly support this legislation, the Clergy Housing Allowance Clarification Act. I want to commend my friend and colleague on the Committee on Ways and Means, the gentleman from Minnesota (Mr. RAMSTAD), for his leadership in identifying this very troubling issue and for bringing it into legislative response, and for securing the cooperation of the majority leadership so we could consider this quickly as a stand-alone issue, and send the kind of response that I know both parties in Congress will want to send.

It really has been a wonderful piece of work by the gentleman from Minnesota (Mr. RAMSTAD), and I am really very pleased to have been a part of it.

From the earliest days of the Federal income tax, in the 1920s, the Tax Code has allowed the clergy of all religious faiths to exclude their housing allowance from taxable income. This provision has always been recognized not as an endorsement of any one religion, but as a reasonable accommodation of all religions.

The housing exclusion benefits clergy of all faiths, recognizing that a clergy person's home is not just shelter, but an essential meeting place for members of the congregation, and also, in light of the unique relationship between a pastor or a clergy member and the congregation, the distinct housing component of it is a unique feature of that relationship.

Under a longstanding IRS revenue ruling, the housing exclusion is limited to the fair market rental value of the home. As the gentleman from Minnesota (Mr. RAMSTAD) outlined, in a recent court case a taxpayer successfully challenged the IRS' authority to set such a limit.

This is a case of bad facts making bad law. When the IRS appealed that decision, the Ninth Circuit decided not to limit its review to the narrow question of whether the IRS exceeded its authority, but instead chose to consider whether the exclusion violates the constitutional doctrine of separation of church and State, an issue raised by neither party nor presented in the litigation before the court.

If the housing exclusion is struck down, as we can only assume the Ninth Circuit appears to be poised to do, the effect would be to increase taxes on clergy by $2.3 billion over the next 5 years. Churches, which already operate on the thinnest of margins, would be unable to offset this tax increase, and as a result, many could actually lose the services of their clergy. Rural churches are especially vulnerable.

Although many of us believe in the constitutionality of this provision, we cannot tell the court how to rule. But by passing this legislation, we can resolve the underlying issue in the case, and thereby protect the housing exclusion. H.R. 4156 codifies the prior revenue ruling by expressly limiting the housing exclusion to the fair market rental value of the home.

The leaders of our churches face many challenges in ministering to their congregations. They must cultivate faith in a world that too often seems not to have the time or inclination to accommodate spiritual development. They must help us grow healthy families, avoiding the harms of alcohol, drug abuse, domestic violence, and other perils that can tear apart our families and communities. They must help us serve those who lack adequate food, shelter, and other basic necessities.

At a time when their role in all of this I think is appreciated more than ever, to have them have to divert precious program dollars to pay a new tax bill is just completely unacceptable.

I had a very interesting roundtable meeting in North Dakota yesterday with a number of clergy terribly concerned about the underlying threat to the housing allowance. North Dakota has more churches per capita than any other State in the country, more than 2,000 churches, 78 percent of which are located in communities of under 2,500 people. These are congregations just struggling to get by. We have already lost 400 churches over the last several years, and projections are we could lose another fifty in this decade.

I had one of the roundtable participants talk about how, when their daughter was born, the trustee who happened to be the city accountant said they should go down and apply for food stamps, because they were now eligible, but that was all that could be paid. One other minister talked about when the pledges did not come in on schedule, they were simply not given their full dimension of meager salary. And to think about laying upon these congregations and these faithful servants of those congregations, the pastors, this new tax bill is really completely unacceptable.

One of the pastors participating gave me the tax return that he was about to put in the mail yesterday. It reflects the combined income of him and his wife, both pastors serving a church in Fargo, North Dakota. Although making a very modest income, the tax hit, if they lost the housing exclusion, would be an additional $3,958.

When he explained that to the chairman of the board of trustees as he came out of the church to go to the meeting, the response by the chairman was, well, there goes the playground equipment. In other words, this was a congregation prepared to hold harmless the tax burden to the clergy, but they would literally be forced to divert dollars from constructing a Sunday school playground to send it to the IRS.

This is not a result anybody wants. Therefore, I believe that this legislation is so completely important. I again commend the gentleman from Minnesota (Mr. RAMSTAD) for his leadership.

Mr. Speaker, I reserve the balance of my time.

Mr. RAMSTAD. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Texas (Mr. SAM JOHNSON), a distinguished member of the Committee on Ways and Means and an important cosponsor of the bill.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am glad to be an original cosponsor of the Clergy Housing Allowance Clarification Act, and I totally agree with what the gentleman from North Dakota (Mr. POMEROY) just elaborated on. I am sorry that the Ninth Circuit Court of Appeals has made our actions today necessary. Their motives are unreasonable, unconscionable, and unnerving, at best.

We must act quickly on this bill to preserve the parsonage allowance that members of the clergy receive as part of their compensation. For thousands of years, churches, temples, mosques, and synagogues have provided housing to members of their clergy. It makes complete sense that these benefits are not taxed.

Since 1921, the parsonage allowance has been considered exempt from the United States income tax system. The problem is that the Ninth Circuit Court of Appeals has taken it upon itself to challenge the very constitutionality of the clergy housing being tax-exempt.

Rather than simply decide the facts in a case that only had to do with how much of a minister's salary could be considered exempt, the court has gone way out of its way to raise this question. The best I can say about this issue is that at least it was not the IRS this time that decided to take this strange action.

If Congress does not act, clergy in this country would be faced with a tax increase, as the gentleman from North Dakota (Mr. POMEROY) said, of roughly $2.3 billion in the next few years.

Reverend Dr. Frederick Schmidt of SMU's Perkins School of Theology, who lives in my district, said it best when he wrote me a letter stating that not protecting the tax exemption "will drastically alter the financial well-being of many clergy, and present a fiscal hurdle to religious communities that are ill-prepared to address that change." He calls it unconscionable and unnerving, as well.

I say that our courts must be restrained from undermining American values by making law. Americans are the most generous of people. However, I doubt they will want to increase their charitable donations simply because of a bad decision of a court in California.

In passing this bill, we are merely providing a legislative capstone to an issue that everyone else in America, except for the judges in the Ninth Circuit, presume to be current law.

I look forward to this bill being signed into law very quickly to take the case away from these nutty judges and settle the issue for our hard-working clergy.

Mr. RAMSTAD. Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, first of all, I want to thank the gentleman from North Dakota (Mr. POMEROY) for yielding me time. I also want to commend the Committee on Ways and Means for bringing this legislation to us. I commend the gentleman from Minnesota (Mr. RAMSTAD) for the leadership that he has provided.

Mr. Speaker, I rise in support of H.R. 4156, the Clergy Housing Allowance Clarification Act of 2002. Regarding the U.S. Tax Court ruling that occurred in May of 2000 in the Warren versus Commissioner case about a well-established Internal Revenue Service decision to limit the amount of income that a member of the clergy could exclude from taxable income for a housing allowance, the IRS appealed this decision to the Ninth U.S. Circuit Court concerning their authority to limit the tax allowance for fair market rental value of a home, and to allow the court to review the constitutionality of the housing allowance tax-exemption for members of the clergy.

I believe that members of the clergy should continue this long-standing practice since 1921 to exclude from taxes a portion of their church income that is attributable to housing. Many clergy from every denomination rely on this tax benefit. If this housing allowance is not permitted, our clergy men and women could face a harsh tax increase of $2.3 billion over the next 5 years.

I encourage all of my colleagues to support H.R. 4156. This legislation would codify the original IRS ruling. This legislation would help thousands of clergy men and women throughout the Nation.

As one who spends a great deal of my individual time near, close by, and in interaction with members of the clergy, I can tell the Members that there is no legislation that they are more concerned about than this issue. I would encourage all of my colleagues to support it.

Once again, I commend the Committee on Ways and Means for bringing this to us.

□ 1515

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, I would just observe that while this body considers many very complex issues, the issue before us is an easy one. It is an extraordinarily important issue but an easy one. Bipartisan, no-brainer. We want to continue existing tax treatment of the housing allowance allowed the clergy of this country, and in that regard, I urge all of my colleagues to vote for the legislation that the gentleman from Minnesota (Mr. RAMSTAD) has so capably brought before us.

Mr. Speaker, I yield back the balance of my time.

Mr. RAMSTAD. Mr. Speaker, may I inquire as to how much time remains?

The SPEAKER pro tempore (Mr. PENCE). The gentleman from Minnesota (Mr. RAMSTAD) has 11 minutes remaining.

Mr. RAMSTAD. Mr. Speaker, I yield myself such time as I may consume.

I first want to thank again my distinguished colleague and friend the gentleman from North Dakota (Mr. POMEROY) for his excellent work on this legislation and strong bipartisan support. I want to thank the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from Illinois (Mr. DAVIS) for their supportive statements here today and their cosponsorship, as well as the 35 other cosponsors.

I certainly want to again thank the gentleman from California (Mr. THOMAS) and the gentleman from Texas (Mr.

ARMEY), the majority leader, for helping us expedite this legislation to get it to the floor in such rapid fashion. I also want to thank the staff of the gentleman from California (Mr. THOMAS) of our Committee on Ways and Means, as well as the gentleman from Texas (Mr. ARMEY'S) staff for working with my chief tax counsel, Karin Hope, on this important legislation.

Mr. Speaker, this legislative effort on behalf of our Nation's clergy is a great example of Congress working in a bipartisan, common sense way for a noble purpose. That purpose is to preserve the clergy housing allowance, to stop a $2.3 billion tax increase on our Nation's clergy. Hundreds of thousands of clergy from every faith and every denomination urge my colleagues support for this bipartisan legislation.

This legislation, Mr. Speaker, is important to virtually every religious congregation in America, to every church, every temple, every synagogue, and every mosque, and I urge a strong bipartisan vote for this important legislation to preserve the clergy housing allowance.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. RAMSTAD) that the House suspend the rules and pass the bill, H.R. 4156, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. RAMSTAD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. RAMSTAD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 4156.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

FAMILY FARMER BANKRUPTCY EXTENSION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4167) to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The Clerk read as follows:

H.R. 4167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

Section 149 of title I of division C of Public Law 105–277, as amended by Public Laws 106–5, 106–70, 107–8, and 107–17, is amended—

(1) by striking "October 1, 2001" each place it appears and inserting "June 1, 2002"; and

(2) in subsection (a)—

(A) by striking "May 31, 2001" and inserting "September 30, 2001"; and

(B) by striking "June 1, 2001" and inserting "October 1, 2001".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on October 1, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Arkansas (Mr. ROSS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4167, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4167. This bill reenacts and extends Chapter 12, a specialized form of bankruptcy relief for small family farmers for a period of eight months retroactive to October 1, 2001.

Chapter 12 was enacted on a temporary basis in 1986 and has been subsequently extended on several occasions over the years. Without question, the family farmer plays a critical role in our Nation's health and economic wellbeing. Unfortunately, bad weather, rising energy costs, volatile marketplace conditions, competition from large agri-businesses and economic forces experienced by any small business affect the financial stability of some family farmers.

Although Chapter 12 addresses the special needs of family farmers, it is utilized infrequently. While total bankruptcy filings in each of the past 6 years surpassed more than a million cases, the number of Chapter 12 cases has exceeded 1,000 on only one occasion, and that was back in 1996. In the absence of Chapter 12, family farmers may apply for relief under the bankruptcy code's other alternative, although these generally do not work quite as well for farmers as Chapter 12.

As my colleagues know, I have consistently supported prior efforts to extend Chapter 12 in this Congress. In addition, I have supported a provision included in both the House and Senate versions of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act, that would make Chapter 12 a permanent component of the bankruptcy code.

H.R. 333 is currently in conference. As the chairman of the bankruptcy conference, I am pleased to report that the anticipated bankruptcy conference report will likely include a series of other provisions that will give family farmers even more enhanced protections under Chapter 12. These farmer-friendly provisions were included in the bankruptcy conference as part of complex and an extensively negotiable effort.

Specifically, the other provisions would, first, increase the debt eligibility limit and require it to be automatically adjusted for inflation so that more family farmers would qualify for relief under Chapter 12.

Second, lower the percentage of income that must be derived from farming operations which would also ensure that more farmers would be eligible for Chapter 12 than would be under current law.

Third, give farmers more protection with respect to how they may treat the claims of creditors.

Fourth, for the first time in the history of Chapter 12, allow certain family fishermen to be eligible for this form of bankruptcy relief.

Since August of last year, the House and Senate staff have been actively working to resolve the differences between the respective bills. In February of this year, House conferees sent the Senate a proposed offer resolving all outstanding issues. Although the Senate did not accept the proffer, only a mere handful of issues remain to be resolved.

In fact, I have scheduled a meeting of the bankruptcy conferees one week from today for the purpose of resolving these remaining issues. Accordingly, I expect to complete the bankruptcy conference well before the extension of Chapter 12, effectuated by this bill, expires.

H.R. 4167 is good for family farmers because it immediately restores Chapter 12 and maintains the status quo for an appropriate period of time. This bill serves to support our efforts in resolving the pending bankruptcy conference which when completed and enacted will provide even more protection for family farmers.

Accordingly, I urge my colleagues to support H.R. 4167.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSS. Mr. Speaker, I yield myself such time as I may consume.

This bill today is important to my congressional district back home in rural Arkansas, and quite frankly, it is important to farm families all across America. Family farmers injured by low commodity prices are being held hostage by the lack of certainty of whether or not Chapter 12 is going to be there for them.

Just last week, the House and Senate both voted to make Chapter 12 permanent through bankruptcy reform legislation. Yet that legislation remains in conference committee, and it is an issue that has been going on since 1997, and I do not know that it is going to be resolved anytime soon.

I support bankruptcy reform. As a member of the House Committee on Financial Services, I have fought hard to see that bill to the floor. I fought hard to see it passed on the floor of the United States House of Representatives, and I am as frustrated as anyone else that we have been trying to get bankruptcy reform since 1997, and yet it remains in the conference committee with an awful lot of amendments attached to it that have nothing in the world to do with bankruptcy reform, and I am perhaps a little less optimistic than the Chairman that we may see bankruptcy reform come our way soon.

I believe the gentleman from Wisconsin raises some very good points about what we need to do for our farm families as it relates to Chapter 12 bankruptcy reform, and I would, in fact, offer to sign on as a Democratic sponsor with him to write a bill that addresses the aspects that are in the overall bankruptcy reform legislation that is stuck in the conference committee. Let us take that, let us extract those ideas that will help our farm families out of that bill that has been around since 1997 in one form, fashion or the other, and let us really try to file a bill tomorrow that will really help, that will really help our farm families in an important way.

I think it is also important to note that although we have not had a lot of farm families file Chapter 12 bankruptcy, I think the ability to do that has helped a lot of our farm families be able to negotiate rather than simply file for bankruptcy. I do not think there is any dispute that Chapter 12 has worked well in saving our farm families by protecting the needs of both our financially struggling farm families as well as protecting their creditors.

Our farmers cannot afford to continue to be left hanging out in the wind and held hostage by bankruptcy legislation that is stuck in conference committee. I am not opposing the bankruptcy reform bill. I support it. I supported it in the House Committee on Financial Services. I supported it on the floor of the United States House of Representatives. I hope it is enacted and I hope it is enacted soon.

I also hope a new farm bill is enacted soon. I am on the House Committee on Agriculture. We wrote and passed that bill last October. It went to the Senate. They put some amendments on it that have really caused a lot of problems for farm families in my district. That, too, is now in conference committee. It seems like these conference committees are really causing a lot of havoc for our farm families, everything from bankruptcy reform to a new farm bill.

Our farm families, they need help and they need it now. I think it is important to note that farm families are the backbone of our rural communities, of rural America, and when we lose farm families, it has a devastating impact on the economy of rural America. Unfortunately, our farmers are under increasing financial pressure each year to make ends meet due to low crop prices, added debt simply to get their crops planted and increasing competition from imports from other countries.

We have seen that with commodities, with Canadian soft wood lumber. We have even seen it with the dumping of the so-called catfish that are being raised in cages in polluted rivers in Vietnam.

When Chapter 12 of the bankruptcy code was first enacted, there was legitimate concern over whether it would work. We now know that it has worked, and there is no reason why our farmers should have to wait to know that this safety net is there for them. Yet it has not been there for them since October 1 of last year.

We must move forward in helping our farm families. This measure extends Chapter 12 for 8 months, retroactively starting on October 1 and ending on May 31. While this is only a temporary fix, while the conference committee continues to do what they have done since the mid to late 1990s and, that is, try to work out a bankruptcy reform bill that can pass both the House and Senate and gain the President's signature, it is desperately needed for our farmers, for rural America. It is needed now and that is why this temporary fix is so very, very important.

I urge my colleagues not to delay any further, pass the Chapter 12 bankruptcy extension. Please let us pass it today for our farm families, so that they can do what they do best, and that is, feed America and feed much of the world.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. SANDLIN), whose district joins mine in Texarkana.

□ 1530

Mr. SANDLIN. Mr. Speaker, the well-being of family farms in America is critical to our economy and to the American way of life. Family farmers deserve certainty in pricing. They deserve certainty in legal protections. This legislation and bankruptcy reform is a part of that critical protection for American families and American farmers.

Last year both the House and the Senate voted to make Chapter 12 permanent, and yet here we sit. No decision, no reform, no protection; and uncertainty reigns supreme. We all recognize that it is important to protect both the family farmer and the creditor who provides needed and necessary capital. Neither the farmer nor the creditors can afford endless uncertainty.

Mr. Speaker, it is critical to help farmers now. We need a legitimate farm bill that is truly pro-agriculture. Additionally, we need legitimate protections for farmers as provided by this bill. Family farmers face uncertainty every day; it is nothing new. Weather, foreign markets, increasing competition from big corporate farmers, the list goes on and on. They should not face another uncertainty. We can prevent it. We can do something about it. We can pass this bill. We can tell American farmers and their families that their well-being is important to us.

Now this bill is not the be-all and the end-all. It is a temporary fix; but one that is critical, nevertheless. Haul this safety net up for our farmers and their children. Extend Chapter 12 for 8 months starting on October 1 and ending on May 31. Let us pass this bill and support our family farmers in America.

Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Arkansas (Mr. ROSS) for calling attention to this issue and presenting it to us today. Our farmers deserve our attention and our respect.

Mr. ROSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I rise to support H.R. 4167, which extends Chapter 12 bankruptcy protection. However, I have concerns that this legislation will only temporarily extend Chapter 12 bankruptcy protection, by being retroactive to October 12 and extending through the end of May. Our farmers need this legislation to be made permanent, the point we made about a week ago.

When Chapter 12 was enacted in 1986, there were some questions whether it would work properly, so Congress made it temporary. The idea behind Chapter 12 is very straightforward. Other forms of bankruptcy relief are either too costly or do not fit the particular circumstances of a family farm. If one is out in the small hamlets and villages, they will make that very clear.

Last week I offered a motion to instruct the conferees on the farm bill; and my motion to instruct, which passed overwhelmingly, asked the conferees on the farmer bill to accept the language in the Senate bill that would make Chapter 12 of the bankruptcy code permanent. I do not think there is any controversy whatsoever that Chapter 12 works well and that it protects our family farmers who are in distress, or that it properly balances the legitimate needs of financially troubled farmers and their creditors, and that it preserves the family farm, which is our whole intent, our whole point.

It is our hope that the farm bill conferees will include Chapter 12 bankruptcy protection in the farm bill and that we will finally be able to offer this to our family farmers. Chapter 12 bankruptcy protection is also included in the bankruptcy bill which is currently in conference. Again, it is my hope we are able to pass this legislation and that it does not remain tied up in conference. Our farmers need this option; and I hope that we see through all of this, that we can simplify, cut to the chase and equip the family farms with what they need to face the terrible situation that was not brought on through any fault of their own.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, this legislation is very important to farmers. I have been working on it for the last 6 years, trying to make Chapter 12 permanent so farmers are not put in the predicament of kind of an on-and-off situation, and also the bankruptcy courts holding pending some of those farm applications. I am glad that we are bringing it up to date and extending the Chapter 12 provisions until June 1, 2002.

Chapter 12 was originally enacted in 1986. We had a lot of farm bankruptcies. There was a problem. The other chapters were putting farmers at a disadvantage, making them sell their equipment which made it impossible for them to reorganize and start developing the kind of farm operation that could pay back some of those loans.

I appreciate that this is important legislation. It is an important piece of bankruptcy law. I am hopeful that we can make Chapter 12 permanent as the chairman's bankruptcy bill provides for. There are more than 12,000 farmers that have filed for Chapter 12 bankruptcy since it went into effect in 1986, and they have been able to restructure their debts without having to liquidate property. The continued low commodity prices, the financial stresses facing farmers further exacerbate the importance of extending Chapter 12.

Mr. Speaker, I have introduced several bills. I would have preferred that we were going ahead with my bill, but I appreciate the chairman helping to make sure that this law is current for those farmers desperately needing bankruptcy protection.

Why is Chapter 12 so important to farmers—especially small, family farmers? Chapter 12 contains special provisions that allows farmers to use bankruptcy laws in the manner that is available to others seeking bankruptcy.

Under the bankruptcy laws, debtors must only have a certain level of debt to reorganize rather than liquidate. Many farmers have too many assets to do this, primarily because of the value of their farm equipment—their tractors, plows, combines, and tools. Obviously, this equipment is essential to the farm operation. If this equipment were used to pay off debts, how would the farmer then be able to operate the farm and reconstruct the business? Chapter 12 recognizes this fact of farm life and lets these farmers reorganize their debts rather than liquidate their property.

Extending this provision is especially critical today. There are many farmers who have filed for bankruptcy since the last Chapter 12 extension expired last fall. The courts are waiting for Congress to act and change the law to allow these farmers to re-file under Chapter 12. These farmers need the options available under Chapter 12 now.

I have introduced legislation that would make Chapter 12 protection permanent, and working with the Gentle Lady from Wisconsin, TAMMY BALDWIN, I have offered many bills extending these protections, most recently H.R. 2914.

Like many other Members, I am hoping that we can free the logjam that is holding up permanent Chapter 12 protections for farmers. I understand that the House and Senate conferees will be meeting soon on H.R. 3333, the bankruptcy reform bill. Let's hope that an agreement can be reached soon so that we do not have to come to the floor of the House to extend once again a provision that should be a permanent fixture in law.

I would like to express my support for the Gentleman for Wisconsin, Mr. SENSENBRENNER, the Chairman of the Judiciary Committee, not only for this bill, but also for his efforts to get the other body moving on a bankruptcy reform compromise that will make Chapter 12 permanent.

Mr. Speaker, Chapter 12 is critically important if we are to help family farmers maintain farms that, for many, have been in their families for generations. I urge my colleagues to support this very important piece of legislation.

Mr. ROSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply close in support of the bill by saying that this weekend I was driving across my congressional district, as I do every weekend, some 75,000 miles we traveled across those 29 counties over the past 16 months. There is a lot of row crop land not planted because our farm families do not know what to do. They do not know what to do because they are waiting on Chapter 12 bankruptcy protection; they are waiting on a new farm bill, both of which are tied up in conference committees.

Our farm families do not need more conference committees. They need Chapter 12 bankruptcy reform, and they need it permanent and they need it today. They need a new farm bill today. When that bill got gutted with amendments in the Senate and went to conference committee, in my district we began to see three-, four-, and five-generation farm families selling out. The price of equipment at those auctions dropped 35 percent overnight after those amendments were attached to the farm bill in the Senate and it was sent to the conference committee.

The time for action on bankruptcy reform, the time for action on a new farm bill for our struggling farm families is now. I think it is important to note that this bill sunsets 45 days from today. This is a temporary fix, and our farm families need it; but they need a long-term solution so they can continue to do what they do best, generation after generation after generation, and that is simply feed America and feed the world. I am proud today to stand in support of our farm families.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been listening with great interest to the three speakers on behalf of my bill on the Democratic side of the aisle, and each of them complained about how long the bankruptcy conference has taken. Believe me, as the chairman of that conference, I am even more frustrated than they are because I have to deal with attempting to negotiate out very complex issues.

Mr. Speaker, let me tell the gentleman that we have made Chapter 12 permanent in that bankruptcy conference, and we have made it better for farmers so farmers will get a better deal by having the bankruptcy conference passed and signed into law, not only in Chapter 12, but also on the entire economic effect of bankruptcies on our economy.

In the last several years, bankruptcy courts have written off $44 billion of debt every year, and that amounts to $400 of additional cost of goods and services, in effect, a $400 hidden tax on people all throughout this country who pay their bills as agreed.

I think practically every farm family, let alone every other family in this country, would rather have that $400 in their pocket rather than having to pay more for goods and services because debts have been written off. One of the purposes of the bankruptcy bill that we have been dealing with has been to drive that $44 billion down so that the hidden tax on every American family would not be as great as $400 a year.

Last February I sent an offer to the Senate conferees. They rejected it. They never came back with their own offer; and I have called a meeting of the bankruptcy conference for Tuesday, April 23, 2002. I would like to ask the three Democratic speakers on behalf of Chapter 12 if they would do me a favor, and that is to write the Democratic Senate conferees and ask them to reach an agreement on the bankruptcy bill.

If we reach that agreement, I can assure the gentlemen that we can bring that bill to the floor the end of this month or the first part of next month and beat the farm bill conference to the President's desk.

I regret even having to talk about this because both Houses of Congress did pass bankruptcy reform legislation in the last Congress that included a permanent extension of Chapter 12, and guess what happened? The former President, Mr. Clinton, pocket vetoed the bill. If he had not done so, we would not be talking about this issue at all.

Mr. ROSS. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Arkansas.

Mr. ROSS. Mr. Speaker, I am in the House of Representatives. I am proud to be a conservative, small-town-value kind of Democrat that is standing before the gentleman today, and I am appalled that for some reason a Member of the House has some control over what happens in a Senate conference committee. I have no more control over the Democrats in the Senate than the gentleman from Wisconsin does.

Mr. Speaker, I think the American people are sick and tired of the partisan bickering that goes on in the Nation's Capitol. It should not be what makes the Republicans or Democrats look good or bad; it ought to be about doing what is right and providing a strong, effective voice for the people who sent us here to represent them.

Mr. SENSENBRENNER. Mr. Speaker, absolutely. I sent an offer over to the Senate 2 months ago to resolve all of the issues in the bankruptcy conference. They rejected it, but they never came back with a counterproposal of their own. So whatever we send over there, they appear not to like; but they do not have a counterproposal.

One of the things I think we are supposed to do in reconciling bills is to go back and forth until something is reached in the middle. I want to bring this matter to a head. I want to get the bankruptcy bill off the national table. I want to get Chapter 12 made better and made permanent, and I want to do it by getting H.R. 333 passed through both Houses and signed by the President of the United States. All I am doing is enlisting the gentleman's help and the help of the two other speakers to write a letter to those folks over there and tell them to be constructive, because they have not been that constructive to date.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for H.R. 4167, which retroactively extends Chapter 12 bankruptcy for family farms and ranches to June 1, 2002. Chapter 12 bankruptcy expired on October 1, 2001. This legislation is very important to the nation's agriculture sector.

This Member would express his appreciation to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the House Judiciary Committee, for introducing H.R. 4167. In addition, this Member would like to express his appreciation to the distinguished gentleman from Michigan (Mr. SMITH) for his efforts in getting this measure to the House Floor for consideration.

This extension of Chapter 12 bankruptcy is supported by this Member as it allows family farmers to reorganize their debts as compared to liquidating their assets. The use of the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not extended for family farmers, it will be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option other than to end their operations, but it will also cause land values to likely plunge. Such a decrease in value of farmland will negatively affect the ability of family farmers to earn a living. In addition, the resulting decrease in farmland value will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families—it is clear that the agricultural sector is hurting.

I closing, this Member urges his colleagues to support H.R. 4167.

Mr. GEKAS. Mr. Speaker, I rise today to lend my strong support for H.R. 4167 and for farmers in financial distress. Extension of Chapter 12 is necessary to insure that these financially distressed farmers are granted the protection they need.

I would doubt that there is any one of us who does not want to aid a farmer in distress. Mr. Speaker, I am sure that H.R. 4167 will be approved today because the vast majority of this body recognizes the difficulty and risk inherent in farming and want to give farmers a fail-safe net of bankruptcy in case they become distressed. I have consistently supported efforts to extend Chapter 12. Since the bankruptcy reform movement started five years ago, there was not one moment in which we did not consider making Chapter 12 permanent.

Chapter 12 of the Bankruptcy code is a specialized form of bankruptcy relief available to family farmers. The special attributes of Chapter 12 makes it better suited to meet the particularized needs of family farmers in financial distress than other forms of bankruptcy relief, such as Chapter 11 (business reorganization) or Chapter 13 (individual reorganization). Chapter 12 allows family farmers to keep essential farm assets and reorganize their debts.

Chapter 12 was enacted on a temporary seven-year basis as part of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 in response to the farm financial crisis of the 1980's. It has subsequently been extended on several occasions. H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act, would make Chapter 12 permanent.

But isn't there more we can do? Of course farmers want a fail-safe net of bankruptcy in case they go into distress, but more than that, they want expanded markets, and an end to the federal death tax. We stand here today debating the merits of a bill that will aid failing farms, but we can't stop here—we must keep fighting to help American farms succeed. The best farmers in the world, American farmers, want a fair chance to compete with other farmers around the world and they want a legitimate chance to make a profit. I will continue to support Trade Promotion Authority and death tax repeal to help insure that American farmers have less need for the bankruptcy protections we vote to advance here today.

Mr. Speaker, I support H.R. 4167 for distressed farmers, but I urge my colleagues to grant the president Trade Promotion Authority so that markets for our agricultural goods will be opened from which our farmers will profit. I also ask that my colleagues permanently abolish the federal death tax, which is a specter that hangs over every family farmer who looks forward to passing his farm on to the next generation. Action on these pieces of legislation sends a message that the United States Congress recognizes the importance of the hard work, pride and competitive nature of the American agriculturalist.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PENCE). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4167.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 45 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISAKSON) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 1374, by the yeas and nays;

H.R. 4156, by the yeas and nays; and

H.R. 4167, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PHILIP E. RUPPE POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1374.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. Jo Ann Davis) that the House suspend the rules and pass the bill, H.R. 1374, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 26, as follows:

[Roll No. 93]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—26

Berman
Blagojevich
Burton
Cannon
Clement
Condit
Filner
Gilchrest
Gutierrez
Hansen
Hastings (FL)
Hilleary
Hilliard
Jefferson
Jenkins
Jones (OH)
Kingston
Levin
Pryce (OH)
Riley
Serrano
Simpson
Sweeney
Thornberry
Traficant
Watkins (OK)

☐ 1857

Ms. SLAUGHTER, Mr. HOEKSTRA and Mr. SHAW changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 93, I was attending a U.S./Mexico conference on border environmental issues. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Isakson). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

CLERGY HOUSING ALLOWANCE CLARIFICATION ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4156, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. Ramstad) that the House suspend the rules and pass the bill, H.R. 4156, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 26, as follows:

[Roll No. 94]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch

Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—26

Berman
Blagojevich
Burton
Cannon
Clement
Condit
Ehlers
Filner
Gilchrest
Gilman
Gutierrez
Hansen
Hastings (FL)
Hilleary
Hilliard
Jefferson
Jenkins
Jones (OH)
Kingston
Levin
Pryce (OH)
Riley
Sweeney
Thornberry
Traficant
Young (AK)

□ 1906

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 94, I was attending a U.S./Mexico conference on border environmental issues. Had I been present, I would have voted "yea."

FAMILY FARMER BANKRUPTCY EXTENSION ACT

The SPEAKER pro tempore (Mr. ISAKSON). The pending business is the question of suspending the rules and passing the bill, H.R. 4167.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4167, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 3, not voting 24, as follows:

[Roll No. 95]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas

Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Flake
Paul
Rohrabacher

NOT VOTING—24

Berman
Blagojevich
Burton
Cannon
Clement
Condit
Doyle
Filner
Gilchrest
Gutierrez
Hansen
Hastings (FL)
Hilleary
Hilliard
Jefferson
Jenkins
Jones (OH)
Kingston
Levin
Pryce (OH)
Riley
Sweeney
Thornberry
Traficant

☐ 1915

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 95, I was attending a U.S./Mexico conference on border environmental issues. Had I been present, I would have voted "yea."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 476, CHILD CUSTODY PROTECTION ACT

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 107–411) on the resolution (H. Res. 388) providing for consideration of the bill (H.R. 476) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. SMITH of Michigan. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 2646 tomorrow. The form of the motion is as follows:

Mr. SMITH of Michigan moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 (an Act to provide for the continuation of agricultural programs through fiscal year 2011) be instructed:

(1) to agree to the provisions contained in section 169(a) of the Senate amendment, relating to payment limitations for commodity programs; and

(2) to insist upon an increase in funding for:

(A) conservation programs, in effect as of January 1, 2002, that are extended by title II of the House bill or title II of the Senate amendment; and

(B) research programs that are amended or established by title VII of the House bill or title VII of the Senate amendment.

☐ 1915

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. ISAKSON). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BACKLASH OF HATE

The SPEAKER pro tempore (Mr. FLAKE). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to draw attention to the backlash of hate that is occurring around the country and around the world as the result of September 11 and as a result of current actions in the Middle East. Mr. Speaker, this Congress must condemn these violent acts which are hurting families and communities around the world and here at home.

During the first week in April, two men dressed in Orthodox Jewish clothing were attacked and beaten in Berkeley, California, one of the most tolerant cities in the United States, and they were beaten because they were Jewish. In the same town, a Jewish student center located near the campus was broken into and antiIsrael slogans were spray-painted on the property. Also in California, a Los Altos Hills orthodox Christian church with a congregation of mostly Palestinians and Arab Americans was destroyed in a mysterious fire.

And it continues. In Los Angeles, three 17-year-old boys, all wearing yarmulkes were walking home from a friend's house at 12:30 a.m., when 2 skinheads attacked and beat them for no other reason than that they were Jewish. Across the country in Florida, a pickup truck was driven into the front of an Islamic center in Tallahassee. The driver, motivated by hatred of Muslims, bragged to the officers that he could have blown up the mosque if he had put propane tanks on the front of his truck. He also said that he tried to join the military in order to kill Muslims.

Mr. Speaker, all of these events happened over the past 3 weeks. However, since September 11, the increasing trend of hate has been abundantly clear. Immigrants from south Asia appear to have been the victims of attacks and other racially motivated incidents because they were perceived, often incorrectly, to be Arab or Muslim.

The National Asian Pacific American Legal Consortium reported 250 incidents against South Asian immigrants just in the last 3 months of the year 2001. This number compares to 400 to 500 incidents a year, bad enough, that were reported in the past. Complaints of discrimination received by Arab American Muslim and Sikh groups have soared.

Since September 11, the Council on American Islamic Relations has received more than 1,700 reports of workplace bias, Arab profiling, discrimination in schools, physical assaults and other incidents compared with 322 in all of the year 2000.

This backlash is not only a national problem, it is a global problem. France has seen a wave of attacks on Jewish schools, cemeteries and synagogues. According to an annual study by the Tel Aviv University, anti-Semitic acts rose sharply around the world after September 11 and following Israel's offensive into the West Bank. The study revealed some of the worst anti-Semitic days since the end of World War II.

Congress must make it clear that there is no room for personal attacks and bigotry in America or abroad. The first step we as a Congress can take is to pass H.R. 1343, the Local Law Enforcement Hate Crimes Prevention Act introduced by Congressman JOHN CONYERS. Under current law, the government must prove both that the hate crime occurred because of a person's association with a designated group and because the victim was engaged in a Federal activity such as voting or serving on a jury. H.R. 1343 would eliminate these overly restrictive obstacles to Federal involvement, which have prevented government involvement in many cases in which individuals kill or injure others because of racial or religious bias.

In addition, H.R. 1343 would authorize the Department of Justice to assist local prosecutions and investigate and prosecute cases in which bias violence occurs because of the victim's sexual orientation, gender, or disability. Currently, Federal law does not provide authority for involvement in those cases.

Mr. Speaker, the people of the United States must set an example for the world by expressing our differences without resorting to violence against our neighbors. We must remember that disagreement can be expressed without physically attacking or demeaning those with whom we disagree. Our freedom of speech is a fundamental right that should be used for causes that citizens are passionate about, but not in a way that damages others' rights to their opinion.

Mr. Speaker, this Congress has the ability to combat unnecessary hatred and lead the charge. Let us take a first step by passing H.R. 1343.

CHALLENGES FACING RURAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I appreciate the opportunity to address the House this evening in regard to our responsibility as Members of this body to listen to our constituents. It is important that once we listen, that we bring that message back to Washington, to our colleagues here on the House Floor, and to the administration down the street.

Mr. Speaker, within the last few weeks I completed my 66th town hall meeting, one in each county of the First Congressional District of Kansas. Unfortunately, Mr. Speaker, there are many challenges that rural America faces as we try to survive today, have a little prosperity, and move our people and our communities to the future.

The issues across my State and across rural America continue to be serious; .issues related to agriculture. This is another year, Mr. Speaker, in which farm commodity prices remain low. In addition to that, we have, in many places in the country, and including most of Kansas, a very severe drought.

So on top of low commodity prices, our farmers face the prospect of poor production. Absent snow falls this winter, absent rainfalls this spring, our ability to put a product into the bin at any price has become very difficult.

Our circumstances in agriculture are bleak, remain bleak, and they are the backbone for the economy of places like Kansas, and it is important that we continue our efforts in regard to farm legislation. Our conferees, the gentleman from Texas (Mr. STENHOLM), the ranking member, and the gentleman from Texas (Mr. COMBEST), the chairman of the House Committee on Agriculture, continue in almost 24-hour-a-day sessions attempting to negotiate a farm bill. It is important that this work proceed. It is important that there be a return financially to the farmers and ranchers of this country.

Our farmers are concerned not only about farm policy, but about the desire for competition within the agribusiness world, the entities which they buy from and sell to, and certainly a desire for open markets, the ability to export their agriculture commodities around the world.

So, Mr. Speaker, I hope to raise the awareness of my colleagues from places outside the farm belt of the importance of farm policy, the importance of agriculture and consumption, and the importance of having competition within the agricultural arena.

We look forward to meeting the country's energy needs with agriculture, and certainly the opportunities for biodiesel and ethanol remain an important opportunity for our farmers across the grain belt of our country. But in addition to agriculture, we have concerns with our hospitals. Medicare has become a huge factor in whether or not hospital doors remain open, whether or not there are physicians in our communities, and we need to continue to find ways that we can reimburse our health care providers in rural America who are 60, 70, 80 and even 90 percent of the patients that those hospitals treat and that are seen by our physicians are Medicare recipients.

In addition, we have issues related to small businesses. How do we keep our businesses on Main Street? Clearly, the tax burden, the rules and regulations that we in Congress and those in administrations, current and past, have placed upon our business community have a huge impact. We do not have more customers everyday who move to our communities for our businesses to sell to, to spread those increasing costs among. So we in Congress have an obligation to oversight, to reign in those rules and regulations that lack common sense and that are not based upon science, because the end result of failing to do so means that the business community in rural America suffers.

It is also important for us to have adequate transportation, to make certain that our railroads, our highways, our airports and aviation are functioning, that people who live in rural America have access to the rest of the world. Of course we have concerns about the consequences of losing passenger train service across long distances of our country. I look forward to working with my colleagues in that regard.

Finally, I would say education and technology are important to rural America. We need to do our part to make certain that our Federal mandates are paid for. The consequences of our failure to pay for IDEA has a huge effect upon those who try to finance local school districts through the property tax levy.

So we have our work cut out for us as we look at educational issues to make sure that what we require, we pay for. It is important for us to make certain that the rural communities and the people who live there are not left behind as the rest of the world accesses technology. It is important to us to have fiberoptics and Internet and broadband services; things that used to have to be done in the city can now be done in rural places across the country.

So despite all of our challenges, we know what the issues are. We must work together, rural and urban America, to try to make a difference in the lives of all Americans. But I will tell my colleagues that despite the problems in 66 counties during the last few weeks, I remain optimistic because the people are there to make a difference.

□ 1930

TRIBUTE TO LIEUTENANT (J.G.) RAFE WYSHAM, USN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WALDEN) is recognized for 5 minutes.

Mr. WALDEN of Oregon. Mr. Speaker, I rise this evening to pay tribute to a young Oregonian serving our country abroad as part of Operation Enduring Freedom. Lieutenant Junior Grade Rafe Wysham, a native of Madras, Oregon, is currently assigned as an F-14 Radar Intercept Officer aboard the U.S.S. *John F. Kennedy* in the Arabian sea.

Mr. Speaker, Lt. Wysham is a third-generation naval officer. His grandfather, a veteran of the Second World War, served on a destroyer and received the Purple Heart. Rafe's father, Bill, served as a tactical coordinator on a P-3 naval aircraft in Vietnam. In short, Mr. Speaker, the Wysham family is not unfamiliar with the sacrifices that attend service in the United States Armed Forces.

After his graduation from Madras High School in 1994, Rafe entered the United States Naval Academy, where he graduated in 1998 in the top 10 percent of his class. Following his graduation from the academy, Rafe was sent to flight school in Pensacola, Florida, followed by advanced training in Norfolk, Virginia. His assignment to the U.S.S. *Kennedy* marks his first overseas deployment.

Mr. Speaker, on March 3 of this year, Lieutenant Wysham was confronted with a sobering reminder of the danger he faces every time he straps himself into his Tomcat and is catapulted into the sky.

That day during takeoff on a routine training mission in the Mediterranean Sea, Rafe's aircraft developed a problem that prevented it from gaining enough airspeed to take flight. Nevertheless, the carrier's catapult system launched the plane forward too fast to abort the takeoff, but too slow to make it into the air. The aircraft's pilot, Lieutenant Commander Christopher M. Blaschum of Virginia Beach, immediately called for both to eject.

Rafe complied, but blacked out from the force of that ejection. Tragically, while Rafe's parachute opened and delivered him safely to the water below, Commander Blaschum's chute failed and his life was lost.

Lieutenant Wysham woke to find himself floating in the water in full gear, directly in the path of one of the world's most lethal warships. Cutting away his seat pan, he swam desperately to escape the oncoming carrier, which passed within 20 feet of him. Fortunately, Rafe survived.

Mr. Speaker, the loss of his pilot was a devastating blow to Lieutenant Wysham, his shipmates aboard the U.S.S. *Kennedy*, and the entire naval family. Commander Blaschum leaves behind a wife and two sons, Jack and Max, who will carry the memory of their father's service and his ultimate sacrifice as long as they live.

Mr. Speaker, Lieutenant Wysham would probably be mortified to know that he is being honored on the floor of the United States House of Representatives today. He is not the sort who seeks public recognition for his service to our country. Neither is he the sort to dwell on his own mortality, or let the fear of the unexpected keep him from completing his vital mission.

Indeed, Rafe was back up in the air less than a week after the accident, and in an e-mail to his mother shortly after the incident, Rafe wrote, "I entered this business knowing something like this could happen." Like the thousands of men and women in uniform fighting the war on terrorism, Lieutenant Wysham simply accepts his reality, and he marches on.

Mr. Speaker, the author, James Michener, wrote a famous story of another group of naval aviators whose service in the Korean War bears close resemblance to that of the men and women serving in harm's way today. In his novel, the Bridges at Toko-Ri, Michener tells of an officer named Harry Brubaker, a lawyer who had fought as a carrier pilot in World War II, and then was recalled to fight again in the skies over Korea. Brubaker is not at all pleased with the turn of events, but tucks in his chin and accepts his duty, nonetheless.

Brubaker's task force commander is a salty old admiral named Tarrant, who develops a deep but well-concealed affection for the young pilot. Tarrant describes him as one of the men who "hammer on in, even though the weight of the war has fallen unfairly on them. I always think of them as the voluntary men. The world is always dependent on the voluntary men.

In the end, Brubaker is lost pressing the attack on the bridges, leaving the old admiral reeling in the loss of one of his boys. On the final page of the book, he asks himself the question that haunts us all when we learn of the heroism of our men and women in uniform: "Why is America lucky enough to have such men," he asks. "Where did we get such men?"

Mr. Speaker, in this case, we got them from the small town of Madras, Oregon, and the bigger city of Virginia Beach, Virginia. Thank God we have them, voluntary men, like Rafe Wysham and Chris Blaschum. We should be forever grateful on that account.

HONORING WALK-FM OF LONG ISLAND, NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GRUCCI) is recognized for 5 minutes.

Mr. GRUCCI. Mr. Speaker, today I rise to honor WALK Radio Station in my district on Long Island that is celebrating their 50th birthday this Saturday, April 19. WALK-FM invited the public to visit its new stations and studios on Colonial Drive in Patchogue on its official opening day, Saturday, April 19, 1952.

Quoting from the invitation, the station's staff was "most anxious for you to see the glamorous, fully-equipped studios and offices in our ultra-modern building, which is not only the radio showplace of Long Island, but one of the most beautiful radio stations in the East."

WALK received well wishes on the air that day from radio and television personalities of the era, including Perry Como, Dick Powell, Kay Starr, and Jack Sterling.

A clipping from the Bay Shore Sentinel and Journal dated April 24, 1952, described WALK this way: "The ultramodern station affords the best in facilities and promises to become a most important link in the communications field in Suffolk County."

In more recent years, WALK 97.5 FM has had consistent ratings success. WALK has been the number one adult radio station on Long Island for over 16 years, reflecting a heritage of broadcast excellence. WALK uniquely balances the needs of the Long Island community in providing vital news, weather, and traffic information, and a variety of music that Long Islanders enjoy at home, at work, and while in their car.

WALK's news and public service commitment has been recognized and honored over the years with a slew of awards from the Long Island Coalition for Fair Broadcasting, the New York State Broadcasters Association, and the Press Club of Long Island. On the trade side, their programming has won national awards from Billboard Magazine and Radio & Records.

WALK 97.5 was chosen as the National Association of Broadcasters' Marconi Adult Contemporary Station of the year in 2001, giving the station national recognition for its community service and leadership.

In short, WALK embraces the Long Island community through its tireless support of the island's not-for-profit organizations and important causes, like the fight against breast cancer.

Mr. Speaker, I ask my colleagues in the House to join me in congratulating WALK-FM radio and its employees for 25 years of being a thoughtful neighbor, and for its leadership in the community for over 50 years.

EQUAL PAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, I rise in support of the Equal Pay Day. The Equal Pay Act became public law in 1963, making it illegal to pay women lower rates for the same job strictly on the basis of sex. Yet, almost four decades later, the wage gap among women and men persists.

It is appalling that in the year 2002, women across the United States continue to be discriminated against on the basis of gender. Women holding similar jobs with similar education, skills, work experience, job content, still earn less than men. The Census Bureau reports that women earn 27 cents less than men on the dollar.

Why would I bring this up, other than it being Equal Pay Day, Mr. Speaker? There has been a lot of commentary here on the floor of the House about welfare and welfare reform, and truly, women want not to draw welfare, but rather to get into the marketplace and be economically self-sufficient.

Yet, we find just in Indiana, in a glance at Indiana, that the African American women earn only 67 percent of what men earn, and the earnings among Latino women fall even lower, earning 58 percent of what men earn. Three-quarters of African American women and Latinos work in just three types of employment: sales, clerical, and service and factory jobs, and a majority of those women do not even make enough money to reach the poverty line for a family of four, which is $18,000 in the year 2002.

In Indiana, women, older women, women who are Social Security age, are living in poverty because their income, their lifetime income earnings, have decided the amount of their Social Security checks. So the consequence of that is that women are drawing a very minuscule amount of Social Security checks, which propels them into a remaining lifetime of poverty.

Thirty-nine years ago, President Kennedy signed the Equal Pay Act. He called it the first step in addressing the unconscionable practice of paying female employees less wages than male employees for the same job. At that time, women earned 58 cents for each dollar earned by a man. So Mr. Speaker, equal pay is not only a woman's issue, it is a family issue. It is beneficial for the entire family.

Women often provide a significant amount or all of their family's income, and in many cases, they are the sole wage-earners, struggling to provide their families with the best quality of life they possibly can. It is a shame that they and their families continue to be victims of this unjust discrimination.

I thought it was imperative that we call this to the attention of the House of Representatives and to the United States, as well, to suggest that we have, indeed, come a long way since Niagara Falls, but we have a long way to go.

STUART R. PADDOCK, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, Stuart Paddock, Jr., was a leader. He inspired reverence among his friends, his associates, and his employees. He was a leader who did not take credit, but instead, gave it away. He led with vision, enthusiasm, determination, and courage. His kind words, his optimism, trust in people, and thoughtfulness endeared him to all.

According to an editorial in today's Daily Herald, if we took a poll of the people who work at the Herald, we would find something extraordinary. We could not find a single person with a bad word to say about Stu, not one. The work force numbers 880. That is the kind of leader he was.

Stu Paddock died on Monday, April 15, at the age of 86. During three-and-one-half decades of ownership, he built the Daily Herald from a weekly community newspaper to the third largest daily in Illinois. His is a remarkable success story of a family-owned business in an era of corporate giants.

Paddock was the inspirational heart and soul of one of the small number of family-owned newspapers in America. When he assumed leadership of the company in 1968, the newspapers were publishing three times a week, with a circulation below 20,000. At his death, he left a growing suburban daily with a circulation of over 148,000, now the 7th largest in the Nation.

Born September 19, 1915, in Palatine, Paddock graduated in 1937 from Knox College in Galesburg, and joined the paper as an assistant editor. He was called into service shortly after Pearl Harbor as a second lieutenant, serving as a company commander in a tank destroyer battalion as part of Patton's Third Army in Europe. He was discharged in 1946 at the rank of captain.

In 1969, Paddock's willingness to take risks saved the newspaper. A critical slowdown occurred when Marshall Field and his Sun-Times started a daily newspaper called The Day in direct competition with the Herald. Over the next 4 years, the weekly Herald newspapers lost 40 percent of their circulation.

A plan to publish three times a week failed to turn around the paper's fortunes. "We either had to go daily or die," Paddock later reflected. Shortly after taking over as president, he turned the paper into a five-days-a-week publication in 1969. Day Publications soon surrendered and sold its newspaper operations to Paddock in 1970.

Paddock constantly pushed expansion, adding weekend editions and weekly papers in Lake County in the 1970s that then went daily in 1984, and in the years since, Paddock oversaw nearly 20 expansions into areas of Lake, DuPage, Kane, McHenry, and Will counties.

□ 1945

Paddock's thoughtfulness is legendary among staff. Bob Frisk, the Daily Herald's veteran assistant managing editor of sports, retells the story of the night he was to be inducted into the media wing of the Illinois Basketball Coaches Hall of Fame in Bloomington. Bob's wife was very ill and could not attend. Frisk was feeling lonely when Stu and Ann Paddock walked into the room. Paddock told Frisk, "We didn't want you to be alone when you were inducted on this big night."

Stu's legacy is rich with similar stories, like funding spirits "not the cheap stuff" for a holiday party to celebrate a job well done in Naperville and coming out to cheer on employees who were playing for the local softball team.

Stu Paddock enjoyed classical music, the Bears and opera. He supported a number of good causes like the Chicago Symphony Orchestra, Lyric Opera, Ravinia, Goodman Theatre and the Elgin Symphony Orchestra. Stu was the father of six, five daughters and a son. His wife, Ann, his four children and between them, 23 grandchildren and four great grandchildren.

Stuart R. Paddock, Junior, he served our country, he served our community, he served his employees and served his family with courage, honor, determination and thoughtfulness and will be sorely missed by all.

IN HONOR OF EQUAL PAY DAY

The SPEAKER pro tempore (Mr. FLAKE). Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, I rise today in honor of Equal Pay Day. This is a national day of action to promote fair pay. It is disheartening that Equal Pay Day comes only once a year. Mr. Speaker, everyday should be equal pay day.

Even though we have had equal pay laws on the books for nearly 40 years, women still only earn .73 cents to the male dollar nationally. In my home state of Michigan, that figure is even worse, with women earning an average of .67 cents to the male dollar. Not surprisingly, women of color are in the worst position, earning only .64 cents to the male dollar. This, Mr. Speaker, is quite simply a disgrace.

Equal work deserves equal pay. But in today's economy, unfair pay hurts more than just women; it hurts families. When women are not paid fairly, it lowers the family income. That means there is less money for essentials like groceries, doctors' visits, and clothes for the children. This is not a women's issue, Mr. Speaker, it is a family issue. We protect America's working families by rectifying this wrong.

What can we do? I have two answers for you.

1. We can pass the Paycheck Fairness Act, which was introduced by my good friend from Connecticut, ROSA DELAURO. The Paycheck Fairness Act would strengthen existing equal pay and civil rights laws by providing effective remedies to women who are not being paid equal wages for equal work.

2. We can pass the ERA, reintroduced this year by my good friend and colleague, the gentlewoman from New York, CAROLYN MALONEY. We have waited too long to provide women with equal standing in the Constitution. The ERA would put some real teeth in our equal pay laws, and guarantee equal pay for equal work.

I would encourage all members who are not currently cosponsors of the ERA to join us. We have 200, but we need more. I would ask my colleagues to truly represent the 50 percent of their constituency that still goes unrecognized in the very document that guarantees our rights and freedoms. Why should women be left behind?

Mr. Speaker, I thank Representatives DELAURO and MALONEY for their much needed leadership on this very important issue.

There is no excuse for disparity in pay between men and women. Mr. Speaker, it is time for action. In honor of Equal Pay Day, I would ask my colleagues to join me as cosponsors of these two important bills. There is no better time than the present. Let's stop ignoring this serious family problem today.

EXPRESSING SUPPORT FOR REPEAL OF MARRIAGE TAX PENALTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. SCHROCK) is recognized for 5 minutes.

Mr. SCHROCK. Mr. Speaker, I am happy to join my colleagues this evening in calling for the support of Congress to set in concrete the repeal of the marriage tax penalty.

I was honored last year to become president of the Republican freshman class of the 107th Congress. Early last year, our class members came together and made the repeal of the marriage tax penalty our class priority. Fresh from the campaign trial and living in and working in our districts, each of our class members came to Washington with the understanding that one of the major priorities of the American people was to bring an end to this anti-family, anti-marriage tax.

On our third day on the job, our class joined with the gentleman from Illinois (Mr. WELLER) to announce our commitment to the repeal of the marriage tax penalty. We championed this noble cause and were successful in obtaining the eventual repeal of the marriage tax penalty.

Unfortunately, due to Senate rules, the marriage tax penalty repeal legislation included a sunset provision that would automatically reinstate the marriage tax penalty in the year 2011. What does that say to the American people about this Congress?

Marriage is the bedrock of our society. It is an institution that is to be honored and respected, and it is a bond that should not be put asunder, especially by the tax policies of the Federal Government.

Yet until last year, our tax laws gave married couples a $1,400 surprise on their tax bill. They saw their taxes go up for no other reason than they said "I do," and the effect of this tax mostly penalized young couples trying to get their feet on the ground and retired couples just trying to keep their feet on the ground.

In the second congressional district of Virginia, which I represent, there are over 56,000 married couples which were subject to the marriage tax penalty. However, if these couples decided to live together, rather than get married, they would not have to pay the tax. That is simply unfair.

The repeal of the marriage tax penalty provides a new level of fairness by preventing the Federal Government from penalizing couples for being married. Now these families are able to keep $1,400 a year of their hard earned income if they can save for a down payment on a house or a new car, obtain health insurance, pay off student loans, save for their children's education or to pay off debts.

The repeal of the marriage tax penalty passed last year is now helping families all across our Nation to better plan for their future. If they are able to eliminate debt, save for retirement or pay cash for large ticket items, their future discretionary income will grow, helping to also grow our economy.

Between now and 2011, it is certain that many of these couples' income will increase from raises or from taking new jobs. Also, they will be able to better handle their day-to-day expenses and any emergencies that may come along, but in 2011, that comfort level provided by tax relief is set to disappear for these families. On that day, the penalty for being married will surprise them once again.

I cannot stand by and allow that to happen to the 56,000 families that I represent. Unfortunately, there are those in this body and the other body that do not support making the repeal of the marriage tax penalty permanent. They will argue that we must work to ensure that Social Security is intact for future and present retirees. I could not agree more. Social Security is important for all Americans, and we should make sure that it stays protected for all Americans. However, I believe we can save Social Security and provide meaningful tax reform at the same time.

If we restrain the growth of government and the growth of discretionary spending, we can achieve both, and the economic benefits from tax relief will help generate greater revenues as our economy continues to pull out of the now ended recession.

Therefore, the repeal of the marriage tax penalty should be made permanent this year. Let us show the American people that this Congress is determined to support legislation that helps strengthen families and thus our communities and economy.

When the tax permanency legislation comes to the House floor, I hope that we will send a strong message in support of American families by voting in favor of repealing this marriage tax penalty once and for all.

MAKING PERMANENT THE BUSH TAX CUT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Illinois (Mr. WELLER) is recognized for 60 minutes as the designee of the majority leader.

Mr. WELLER. Mr. Speaker, this week we have an important vote in the House of Representatives, and my good friend from Virginia, the leader of the freshman class, our new Members, spoke so eloquently on this issue that is before us, and a group of us plan to kind of expound on this issue that is going to be before us this week.

As President Bush noted this past weekend, the tax cut that the President led, initiated and our Congress passed and was signed into law in June expires in less than 10 years, and tonight we felt it was important to talk about the impact of a temporary tax cut because this week, on Thursday morning, the House of Representatives will begin debate on legislation which will make permanent what has become known as the Bush tax cut.

Let us review a little bit of history here. Over the last 7 years that we have had a Republican majority in the Congress, we have been working to balance the budget and also to lower taxes for working families. Unfortunately the previous administration, the Clinton-Gore administration, vetoed time and time again our effort to lower taxes for working Americans.

Fortunately, the voters of our Nation this past year and a half ago in November of the year 2000 elected a President who feels the same way the majority of this House does, that is, the taxes are too high, families are struggling, and of course, we need to find ways to bring fairness to the Tax Code.

I was very proud of the President's leadership because he noted in January of last year, and January 2000 when he became President, that the economy was in a downturn. The President inherited a weakening economy and he says we have got this huge surplus, all this extra tax revenue that the Federal Government is collecting because taxes are too high and we are not spending it all, thanks to the fiscal responsibility of this House. So why do we not take a portion of that surplus, that extra tax revenue, and give it back to working families? Provide an across-the-board tax cut that helps every working family, bring about tax fairness by eliminating the marriage tax penalty, wiping out the death tax, increasing opportunities for retirement savings and saving for a college education?

The President was successful. President Bush's leadership, with the leadership of the gentleman from Illinois (Mr. HASTERT) and Committee on Ways and Means chairman, the gentleman from California (Mr. THOMAS), this House led the effort to lower taxes, and in June of this past year, the President signed into law what has become known as the Bush tax cut. Unfortunately, because of the arcane rules of the Congress, the tax cut was temporary, which meant it had to expire in the year 2011.

When we think about that, when it expires, it is going to mean a big tax increase on millions of working families across this country. That is really what this vote is about on Thursday is whether or not we continue to keep taxes lower for working families, whether or not we continue to have tax fairness or do we bring back an unfair Tax Code that punishes married couples and takes away the family farm and family businesses and makes it harder to save for retirement or a college education, essentially imposing a tax increase on working Americans. That is what this vote is going to be this week.

I would note that one of the arguments the President made when he talked about the need to cut taxes is that the President stated that we need to get the economy moving again, and if workers have a little extra spending money in their pockets, they are going to be able to meet the family needs, go to the grocery store, make some improvements to their home, fix the car, maybe have a family vacation the first time ever.

The President said that if his tax cut was signed into law, the economy would get better, and frankly, it was working. Economists tell us that by Labor Day of this past year, Labor Day 2001, the economy was on the rebound and the Bush tax cut was the primary reason that the economy was on the upswing. Of course, every one of us knows what occurred on September 11 and the terrible tragedy of that attack on our Nation and its economic impact with almost 1 million Americans having lost their jobs.

Well, the Bush tax cut is continuing to work and the economy is beginning, according to economists, to get on the rebound again, and tonight we want to talk about what was in the Bush tax cut.

I would note, as I stated earlier, that the Bush tax cut did a number of good things to help working families. Provided for marginal rate reductions, reducing the tax rate for every American who pays taxes, creating a whole new tax rate structure. In fact, we created a new lower tax rate for the lowest income Americans, lowering their taxes from 15 percent to 10 percent, helping low income taxpayers.

We also, of course, repealed the death tax, a tax which has historically taken a majority of the family business away from families who inherit the family business from the founder and that has caused so many businesses to go out of business, and some of my colleagues are going to talk about that.

We doubled the child tax credit from $500 to $1,000, helping families with children better afford their children's needs.

We increased retirement savings, increasing the amount one can contribute to their IRA from $2,000 to $5,000, what one can contribute to their 401(k) from $10,500 to $15,000, and for working moms and empty nesters, we allowed those over 50 to make up missed contributions to their IRA and 401(k), essentially what we call catch-up contributions.

We helped families save for education, increasing education savings accounts from $500 to $2,000 a year, and allowing families to use that for expenses for elementary and secondary education, as well as for college.

Those are good things. Also, because many families were stepping forward and volunteering to adopt children and give children a loving home, we increased the adoption tax credit to $10,000 for children with special needs, and of course, for those with nonspecial needs, we have it at $5,000, and we also increased the income level of families that can qualify from $75,000 to $150,000, and we also prevented the alternative minimum tax from interfering or taking away this tax relief for working families.

Of course, part of the debate of who benefits from tax relief is who gets it, and there is always some who say, oh, we cannot cut taxes because those who pay taxes will get it. We should not help those who pay taxes because apparently they are rich. Well, let me note who it is that benefited from the Bush tax cut.

Under the President's tax plan that was signed into law and this Congress supported on and that we are going to make permanent or vote to make permanent this week, over 100 million individuals and families pay lower taxes. Forty-three million married couples see their taxes reduced on average by more than $1,700 a year. Thirty-eight million families with children will receive an average tax cut of almost $1,500. Eleven million single moms with children will be able to keep on average $77 more to care for their children. Thirteen million seniors will see their taxes reduced on average by $920, and 3.9 million taxpayers, including 3 million taxpayers with children, will have their taxpayer liability for the Federal tax burden completely eliminated.

Think about that. Almost 4 million taxpayers under the Bush tax cut, those at the lower end of the economic area, pay no more taxes, thanks to the Bush tax cut.

Small business owners and entrepreneurs will receive a big chunk of this tax relief. Whenever my colleagues argue about who is going to get the rate reduction and what that means, they have to recognize that the vast majority of small businesses, almost 80 percent, pay in the top rate, and we lowered their rate to 35 percent.

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Mr. Speaker, I have worked with many of my colleagues over the last several years to address something we call the marriage tax penalty. Often in debate I have asked that question, is it right, is it fair that under our Tax Code 28 million married working couples pay higher taxes just because they are married.

Prior to the Bush tax cut, Americans saved money on taxes if they stayed single. Our Tax Code encouraged couples not to marry. We made a decision, and it was certainly a priority of House Republicans, to remove the penalty on marriage. I often introduced a couple from Joliet, Illinois, Shad and Michelle Hallihan, who in combined income make about $65,000. Their marriage tax penalty was $1,400 that they paid in higher taxes just because they got married.

Under the Bush tax cut, their marriage tax penalty was eliminated. Now if the Bush tax cut is allowed to expire, Shad and Michelle Hallihan will once again pay higher taxes just because they are married. Their child, Ben, who is 2, they got married about the time we introduced the legislation, the child was about a year old by the time the Bush tax cut was signed into law. When the Bush tax cut expires, when Ben is 11 or 12, that is $1,400 less that Shad and Michelle Hallihan are going to have to be able to set into their education savings account.

Let me give an example of another couple from Joliet, Illinois, Jose and Magdalene Castillo. They are both laborers in Joliet, Illinois. They have two children, Eduardo and Carolina. They suffer the marriage tax penalty as well. They make about $85,000 a year. Jose makes about $57,000 in his building trade construction-related job, and Magdalene makes about $25,000. With their combined income and the way the marriage tax penalty works for the Castillos is by being married, they file jointly. When you are single, you file as two singles. But when you marry, you file jointly, which means you combine your income. That usually pushes one into a higher tax bracket. For the Castillos, for Jose and Magdalene, they paid $1,100 in higher taxes just because they were married.

Now, if our colleagues in this House of Representatives vote this week against making the Bush tax cut permanent, Jose and Magdalene Castillo are going to end up paying higher taxes once again when the Bush tax cut expires. I believe that is wrong, and I believe the majority of this House thinks it is wrong and unfair that if the Bush tax cut were to expire that couples like Jose and Magdalene Castillo and Shad and Michelle Hallihan would pay higher taxes just because they are married.

We have two leaders that are here in the House that have been leaders on issues so important when it comes to helping working Americans. I would like to yield to the gentleman from Indiana (Mr. KERNS), who has been one of the leaders and one of my partners in eliminating the marriage tax penalty.

Mr. KERNS. Mr. Speaker, I rise today in support of the legislation to make the elimination of the marriage tax permanent. One of my top priorities when I came to Congress was to eliminate the marriage tax penalty, a penalty that unfairly punishes hard-working men and women for entering into marriage, a fundamental institution of our Nation.

I have worked closely with the gentleman from Illinois (Mr. WELLER), who has been a leader of this Nation on this issue. I was a chief cosponsor of this bill to end the marriage tax penalty, and it has been moving forward steadily, but we do not have the job done yet. We succeeded in passing marriage tax relief; but after 10 years, the marriage tax penalty returns. Imagine that, our Federal Tax Code would once again punish married couples. That is why we are here today, to stand up for families, to call for the final end to this unfair penalty that singles out married couples. Simply put, the elimination of the marriage tax penalty helps families. This is legislation that will provide relief to nearly 43 million married couples. It will save the average married couple $2,720. If we do not make this elimination of the marriage tax penalty permanent, Congress will be raising taxes on families. We should allow families to keep more of their hard-earned dollars and to save and use as they choose. The government should not be in the business of discouraging marriage.

For that same reason, the permanent repeal of the death tax is also sound public policy. People work hard all of their lives it save and pass along something for their families, perhaps a farm or a small business to their children and grandchildren. It is wrong for the Federal Government to punish those families for their hard work and success. While we took a step in the right direction of ending the Federal estate tax, it, too, like the marriage tax, returns after 10 years. How can we expect the American people to plan for the future with the threat of the death tax returning after a few years looming overhead?

We must continue to protect and preserve the family farm and small businesses by making repeal of the death tax permanent. Mr. Speaker, we must make the elimination of the marriage tax and the elimination of the death tax permanent. If we do not, Congress will be increasing taxes on families. Let us work toward a more family-friendly Federal Government. Let us have a more family-friendly Congress. Let us end these burdensome taxes once and for all.

Mr. WELLER. Mr. Speaker, I thank the gentleman from Indiana (Mr. KERNS), who as a freshman has been a real leader in his efforts to eliminate the marriage tax penalty and working with President Bush and the gentleman from Illinois (Mr. HASTERT) and ensuring that a key part of the Bush tax cut included what we consider to be the most unfair tax of all, and that is the tax on the institution of marriage, one of society's most basic institutions.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, what an appropriate time for us to really continue this debate that we began a year ago last spring when we, this body, voted in a bipartisan way to enact some significant tax relief.

Mr. Speaker, yesterday was in fact tax day; and always there are jokes that sort of go around April 15. My favorite happens to be an old Farmer's Almanac saying if Patrick Henry thought taxation without representation was bad, he ought to see it with representation.

As one of the members of the Committee on Ways and Means that insists on doing my own taxes, and I did not deny myself that enjoyment over the weekend, I was thinking what can we do to make the Tax Code simpler and fairer. As my seat mate on the Committee on Ways and Means, the gentleman from Illinois (Mr. WELLER) has done so admirably, and over these months I feel as if I know quite well Shad and Michelle Hallihan because the gentleman tells their story so frequently on the House floor.

As we set this debate up, Mr. Speaker, first of all, why is this vote necessary? Why is it that we are talking about permanence or the lack of permanence with what Congress did last summer? It is interesting to note, I think, that tax increases are always permanent. I think back, we had a debate recently about the Spanish-American war tax, a tax on luxury telephones back in 1898 to help pay for the war effort, and later the World War I effort. That tax still exists today.

I think of the inheritance tax that was enacted back in 1916; it still exists today. It is a permanent tax. Even the tax increases of 1993, I know the Democratic colleagues are proud to point out that tax increase passed without one single Republican vote; and a lot of those items called deficit reduction tax still exist today.

So it is ironic when we are talking about tax increases; they are always permanent. And yet when it comes to tax decreases, that is letting Americans keep more of their hard-earned money, we have to go through yeomen effort to try to make those tax cuts permanent.

I have had constituents who asked me why was this sunset placed on the bill. Well, there were procedural rules. When this tax relief measure made it to the other body, there were opponents to the bill which threatened to filibuster the bill and institute a lot of arcane budget rules unless this sunset were added. There is no public policy rationale behind this sunset. It was simply an effort to avoid a procedural roadblock in the United States Senate. I do not believe that American taxpayers should be held hostage to arcane Senate budget rules. From that policy perspective, I think it is important that we vote in favor of permanence.

Mr. WELLER. Mr. Speaker, say that the Bush tax cut were to expire and the House and the Senate were to fail to pass legislation to make permanent the Bush tax cut, eliminating the marriage penalty, wiping out the death tax, across-the-board tax reductions, helping low-income families, creating a much lower tax bracket for low-income families, would you consider that a tax increase?

Mr. HULSHOF. Mr. Speaker, there is no question about it. There was some discussion already that certain Senators were talking earlier in the year about suspending this year's tax relief and capturing those monies for additional spending. There was some discussion about whether suspending those tax cuts would in fact be a tax increase or not. Putting that aside, clearly on January 1, 2011, if Congress fails to act, we will see a significant income tax hike of billions of dollars on America's families, just as some of those that the gentleman mentioned in his congressional district.

I know that the gentleman from Indiana (Mr. KERNS) earlier was talking about the death tax and marriage penalty relief, and I see my cosponsor of H.R. 2316, the gentleman from Wisconsin (Mr. RYAN), is here; and I look forward to hearing what he has to say.

In today's Wall Street Journal there was an editorial in favor of permanence, and it was focusing on making the death tax repeal permanent. I absolutely agree with that, but I think the entire tax relief measure that we enacted in this Congress last year, all of those provisions, should be made permanent. Here is why:

There are so many sole proprietors, small businesses in America, in fact, the majority of small businesses in America that actually pay the individual income tax rate. In other words, they did not pay the corporate income tax rate, but instead because they are sole proprietorships and partnerships, perhaps they are subchapter S corporations, they have the benefit of this individual income tax rate that they pay each April 15. As these income tax rates are reduced, and when they are fully phased in in 2006, small businesses are going to have additional resources for fostering economic growth and development. In other words, they capture that money that normally they would pay to the Federal Government, they get to reinvest it in their businesses which creates more jobs, provides additional spending power for those people who work for those small businesses. For then to say, to pull the rug out from underneath them on January 1, 2011, and say well, we know that you have enjoyed low tax rates of the last couple year, but on New Year's Day of 2011, these tax rates go back to the pre-2001 level, that is a significant income tax hike.

It is for policy reasons that I think this body should act, and certainly I would call on all of those from both sides of the aisle that supported this bill a year ago. I think there were 28 Democrats who joined us in this bipartisan vote. If it was good policy then, it remains good policy now.

Mr. WELLER. Mr. Speaker, reclaiming my time, I thank the gentleman from Missouri for his leadership and helping small businesses and agriculture. Seventy-nine percent of those who benefit from the rate reduction at the top bracket, as the gentleman pointed out, are self-employed entrepreneurs and small business people. They are not rich people. These are folks down on Main Street.

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They are real people that work hard, struggle to employ their neighbors and, of course, benefit when we lower the tax rate because, frankly, making permanent the Bush tax cut is also good for the economy.

One thing I have heard time and time again from businesspeople and entrepreneurs and small businesspeople and farmers is that when they know there is a provision in the Tax Code that affects them and it is permanent, they are more inclined to make long-term investment decisions. When the consequences are short-term, they are hesitant. So if we really want to get this economy moving again, it is one more reason to make permanent the Bush tax cut.

We have been joined by the gentleman from Wisconsin (Mr. RYAN), a colleague of ours on the Committee on Ways and Means, someone who is one of the thinkers in the House when it comes to understanding policy and understanding also what it means for small business and for farmers and for working people in every community in America. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. I thank the gentleman from Illinois for yielding. First before I contribute, I would like to thank the two of you gentlemen for your leadership on this issue. This is my first year on the Committee on Ways and Means. I have long known about the gentleman from Illinois' work on repealing the marriage penalty. He is the reason the marriage penalty is repealed in this legislation. He deserves the credit for that. And the gentleman from Missouri (Mr. HULSHOF) who is my lead partner on this bill is the leading advocate for agriculture and tax policy and helping farmers, in Congress, I would add. I want to thank him for allowing me to join him in proposing this legislation and being his coauthor on this legislation to make this tax cut permanent.

I have been watching the debate. It seems that you can wrap it up into four big issues. This tax bill, which we all worked very hard to pass, the President proposed, we worked on it in the Committee on Ways and Means, we passed it bipartisanly through the House, through the Senate and got it signed into law, this tax cut fixes four big inequities. It brings fairness to four major issues.

As the gentleman from Illinois has championed, it brought fairness to the issue of the marriage penalty. It reduced and repealed the marriage tax penalty. But it did many other things. On the retirement end, we have a pension system that before this tax bill was written at a time in our pension laws, in our economy, when people did not change jobs that much. What we did in this bill was update our pension laws so people could move their pensions with them as they change jobs. We fixed a lot of the problems that have been experienced with the Tax Code in the new economy. They have been fixed in this bill.

We increased the act for businesses to offer higher 401(k) matches to their employees. We increased the cap on 401(k)s. We increased the cap on IRAs from $2,000 to $5,000. That is another big problem, a big fairness issue that we restored in this bill. We also repealed the estate tax, a tax that has been the single greatest killer of the transfer of family farms and small businesses on to the next generation. And what we did in income tax rates, and as you gentlemen mentioned, almost 80 percent of the top rate bracket filers file as individuals, meaning the small businessmen and women of America are not corporations, they are not C corps, they do not file their taxes as large corporations, they file their taxes as subchapter S corps, as sole proprietorships. Therefore, they pay individual tax rates.

What happens right now under the tax law, we are taxing small businesses at a rate higher than we tax the largest corporations. So the small business men and women of America on Main Street USA, in the barber shops, and all the small manufacturers, they were being taxed before this tax bill at nearly 40 percent, while we were taxing the largest corporations of America, IBM, General Motors, Chrysler at 35 percent. This tax bill lowers that small business tax rate to the same tax rate as large corporations.

Mr. WELLER. Let me ask the gentleman this question. Are you telling me that prior to the Bush tax cut, that self-employed people, entrepreneurs, small businesspeople actually paid at a higher tax rate than IBM or any other major corporations?

Mr. RYAN of Wisconsin. That is exactly right. That is one of the injustices, one of the fairness issues we fixed in this tax bill. We finally lowered the small business tax rate to be equal with the corporate tax rate. Because before this tax cut, it was higher than that. Not only do we help Americans save for their retirement, not only do we repeal the estate tax in this bill, the single greatest killer of transfer of your business to the next generation, not only did we repeal the marriage penalty and not only did we lower the small business tax rate to that level of the large corporate tax rate, what we did was we helped people reinvest in their businesses, we helped people keep more of their own money.

What is going to happen if this legislation to make this tax cut permanent does not pass is we will be imposing on January 1, 2011, the single largest tax increase in American history in any given year. We are going to impose on the American taxpayer a $125 billion tax increase that year.

So, for example, if you are a small business owner or a family farmer and your estate is worth, they say, $3 million, there are a lot of small family farms in Wisconsin that are worth well more than $3 million. They have a lot of assets locked up in combines, in land, in barns and other kinds of things. If you are a small business owner and you own some kind of small distribution business, you have some vans and trucks and a factory, $3 million can add up very quickly. If you died in the year 2010, you do not pay an estate tax. That is the correct way to do it, because you already paid taxes on all the money you earned while you were living. But if that person with the $3 million estate dies on January 1, 2011, that person is going to have to pay $800,000 in estate tax. Just think of this. If you die in the year 2010 when the estate tax is repealed, no tax. If you die the next year, $800,000.

Mr. WELLER. I represent the south side of Chicago and the south suburbs, of course, an area that is going from farmland to subdivision in many cases. We have a lot of family farmers in the Frankfurt and Mokena area, in the Manhattan area in Will County, and they would like to stay in the farming business. But many of them have told me the story of when grandpa died, because the value of that land for development purposes, even though they wanted to keep it in the family farm, continue farming it, keep it in open space, because they like farming and it is a family business, because of the estate tax and the value of that land if they sold it to somebody who would develop it and build houses or put a factory there, turn it into an industrial park, they were forced to sell off a piece of grandpa's farm in order to pay the estate tax.

So if you care about open space, about urban conservation, farmland and urban sprawl and frankly the environment, you should work for the elimination of the death tax. I know that was one of the arguments I heard many times from the farmers in my suburban area, if you care about the environment, about open space and the preservation of farmland, you want to eliminate the death tax.

Mr. HULSHOF. I would like to amplify the point by my colleague from Wisconsin and coauthor of this bill to sunset the sunset. It is interesting that a New York Times columnist, as he was commenting on the work that we had done, and finally we were moving toward repeal of the death tax, but as the gentleman noted, for a single year, 2010, and this New York Times columnist dubbed what we had done, the "throw momma from the train act," because the only way to take full advantage of the death tax repeal was to throw momma from the train in the year 2010 because on January 1 of the next year, then here comes the death tax springing out of the grave, coming back to life.

Mr. RYAN of Wisconsin. I appreciate that comment. That is what is so crazy about this arcane rule in the other body that was forced into this legislation that sunset this tax cut in the year 2011. If this legislation that we are now proposing does not pass, on the year 2011, the estate tax goes from zero to 55 percent. The education IRAs go from a $2,000 limit back down to $500. The IRAs, individual retirement accounts, go from a $5,000 per year limit back down to $2,000. 401(k)s go back from $15,000 per year down to $10,500. The marriage tax penalty comes back to haunt us. All of those things that we will have been accustomed to over the decade, all of those tax inequities, marriage tax penalty, estate tax, taxing small businesses at a higher rate than corporations, all will come back in that one year to sock it to the American economy. That is one thing that I think we need to bear in mind.

What is this going to do to our economy? I hear it from so many small business members and entrepreneurs and farmers in my district, that they say, we cannot plan appropriately for the future. There is so much hesitancy built into the marketplace all across America because they do not know as small business men and women whether they can bank on the fact that these tax laws are going to be made permanent. So they withhold that investment. They do not take that extra risk. The bank will not give them credit because they do not know what is going to happen in the future with respect to tax law. So we see a hesitancy built into the marketplace. That means less risk, less job creation, less economic growth.

Mr. HULSHOF. As we have already begun to debate this and as representatives of the media have begun to inquire about the bill being on the floor this week, and one question that I think we have to continue to answer this week as we move forward the bill's consideration on Thursday is why are we taking up the bill now? If we are talking about something, the sunset actually not taking effect until January 1 of 2011, why consider the bill now?

I think the gentleman has, in part, answered the question, because if you are a small businessperson, certainty in the Tax Code is appropriate as you make long-term decisions about your own business. Moreover, especially the death tax. You cannot legitimately plan or have an estate plan based upon the uncertainty of the death tax being gone today and back tomorrow. And so that certainty is necessary. I would say to those green eyeshade wearers in this body, I do not mean to denigrate because there are fiscal considerations to this as well, but I was informed by one of the media representatives today that the Senate majority leader said that a vote on permanence would be fiscally irresponsible. And so I want to answer with certain budget numbers, that this is fiscally responsible. If we were to enact permanence to the tax cut of a year ago, the revenue impact would be $374 billion over the next 10 years. The amount, the most recent projection by the Congressional Budget Office, that is, our bookkeepers for the House, propose that over that same period of time, we will be taking in a surplus of $2.332 trillion. And so this really, as far as the fiscalness of what we are taking up, is appropriate.

I think, again, the worst thing we could do is allow these tax items, the many tax relief measures that we have been talking about, to somehow allow them to be what we know in parlance to be called extenders, that is, just as they are getting ready to expire, maybe giving another 2 or 3-year extension of that tax cut. Again, I think that just breeds a lot of uncertainty.

And so from a policy perspective, I think it is so vitally important that we enact this permanence.

Getting away from the numbers, if the gentleman would permit me just another minute or so, I do not have a photograph, but a family that has actually been portrayed, I think, in USA Today and some other national publications is the Eiffert family. Howard Eiffert, the constituent, is from Columbia, Missouri. Howard Eiffert began a lumber business back about 37 years ago. He has two sons now, Brad and Greg. Brad and Greg Eiffert are running the lumber business. It is a fairly small business. It employs about 32 people. Yet they are so concerned about the estate tax or the death tax that they have reported that annually they contribute between $30,000 and $35,000 a year to purchase an insurance policy on the life of Howard Eiffert, the founder of this company, in the event that he were to meet his demise in that year and that insurance policy then would pay the Federal Government this estate tax bill.

Brad and Greg, who now run this company, have expressed to me so many times, and very passionately, think of what that business could do with another 30 to $35,000 a year. It could be a well-paying job for another employee every year. It could be maybe another piece of equipment. It could be adding on to their warehouse where they keep the lumber and their inventory. It could be a lot of things. But unless we make the death tax permanent, unless we take this entire tax cut of a year ago and make that tax cut permanent, there is going to be this continued uncertainty, which is a drain on our small businesses across the country. That is why I hope for a good vote this week.

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Mr. RYAN of Wisconsin. I want to point out also the score the gentleman mentioned, the revenue cost that is assumed by the Congressional Budget Office. What is interesting about that score is not so much that it is $374 billion out of a surplus of $2.3 trillion. It is that that is the most dour and pessimistic, conservative score anybody could come up with, because that score assumes that people will not change their behavior when their taxes are cut.

That score denies the assumption that if we lock in permanency we are going to unleash a lot of investment out there. When we lock in certainty to the small American businessman and businesswoman and entrepreneur, that, yes, this tax law is permanent and now you can move on with certainty to expand your job and invest, that we are going to get positive economic growth out of that. I believe that the economic positive benefits we are going to get out of this bill will more than make up for a lot of the revenue costs we are assuming.

They assume no one makes a change if their taxes are changed. They assume no positive economic growth is derived from a lowering of marginal income tax rates or repeal of the estate tax. They just assume it is a loss of revenue to the government.

So even though we now can point out that the loss of revenue according to our budget keepers is minuscule in comparison to the size of the surplus over the decade, they do not point out all of those positive economic benefits, the jobs that will be created, the investment that will be unleashed, by making certainty in this tax bill.

Mr. WELLER. Reclaiming my time, again I want to commend the gentleman from Missouri (Mr. HULSHOF) and the gentleman from Wisconsin (Mr. RYAN) for their leadership on making permanent what we call the Bush tax cut and what the real impact is on families.

When we think about it, voting against permanency is a tax increase. It is a tax increase on millions of Americans. The Bush tax cut actually provides help for 100 million Americans who benefited from the Bush tax cuts: across-the-board rate reductions, which helped everyone who pays taxes; elimination of the marriage tax penalty; elimination of the death tax; doubling the child tax credit; increased opportunity for retirement savings and saving for education.

If you vote against making it permanent, you are really voting to put the marriage tax penalty back on Jose and Magdalene Castillo, or Shad and Michelle Hallihan and 28 million other married working couples across America who pay higher taxes, or the hundreds of thousands of small businesses and family farms that are in jeopardy of moving on to the next generation because of the death tax; and if we fail to make permanent the elimination of the death tax, we put it back in place, jeopardizing the future of the family farm and the family business.

If you care about retirement savings, well, if you vote against making permanent the Bush tax cut, you better save every dime that you are capable of doing right now, because in 2011 you will go back to $500, versus the $2,000 for education savings accounts, or $2,000 versus $5,000 for your IRA. Those are tax increases.

Some are going to argue that we should not make it permanent because they want to spend the money. They think it is better that we collect that money and reimpose those taxes and collect that money and spend it here in Washington, because Washington can better spend the folks back home's hard-earned dollars better than they can.

I was so proud of the leadership of President Bush, and I was so proud of the leadership of Speaker HASTERT and the Republican majority in this House and moving through the Bush tax cut, because, similar to the Kennedy and Reagan tax cuts, this tax cut is meaningful. One hundred million Americans benefit.

Again, let me share those statistics of who benefits from the Bush tax cut and our efforts to make it permanent. Again, 100 million individuals and families pay lower taxes because of the Bush tax cut. If we fail to make it permanent, their taxes go up.

Forty-three million married couples see their taxes reduced on average by more than $1,700 a year. If you vote against making the Bush tax cut term permanent, you are reimposing a marriage tax penalties on Jose and Magdalene Castillo, who right now save about $1,125 a year because of marriage tax penalty relief.

Thirty-eight million families a year with children, Jose and Magdalene are an example here with Eduardo and Carolina, they benefit from the child tax credit as well. If you fail to make the Bush tax cut permanent, you take that away from them and raise their taxes on their kids. That is wrong.

I have a note that 13 million senior citizens have seen their taxes reduced under the Bush tax cut on average by $920, and 3.9 million taxpayers, including 3 million taxpayers with children, had their tax liability to the Federal Government completely, completely wiped out.

Mr. RYAN of Wisconsin. If the gentleman will yield on that point, what was that number again?

Mr. WELLER. Three million families with children no longer pay Federal income taxes because of the Bush tax cut.

Mr. RYAN of Wisconsin. Under the Bush tax cut, over 3 million families are being taken off the Federal income tax roles and would be put back on, they would have new taxes reimposed back on them, if this tax bill is not made permanent?

Mr. WELLER. Reclaiming my time, the gentleman from Wisconsin is absolutely right. Three million families with children would be placed back on the tax rolls, and 3.9 million taxpayers would be placed back on the tax rolls.

Mr. RYAN of Wisconsin. Three million families hit with a new tax in the year 2011.

Mr. WELLER. Yes. The gentleman from Wisconsin is absolutely correct. If you think about it, who are those families? Who are those individuals? They are low-income Americans. The biggest beneficiaries of the Bush tax cut, what we passed this past year, were low-income families, because low-income families saw the biggest portion of their taxes wiped out. If you think about it, 3 million Americans with children who previously had paid taxes no longer pay Federal taxes. That is total simplification of their taxes. They no longer have to pay taxes.

What happens to the money that would have come to Washington? They can spend it back home in Janesville, Wisconsin, and Morris, Illinois, and Columbia, Missouri, fine communities, where there are hard-working people who can better spend their hard-earned dollars better than we can for them and take care of their families' needs, and maybe buy some new clothes for the kids to go to school, or make an addition on to the family house, build an extra bedroom for the children. They have all been bunking together, and they are getting older and they want to put an addition on the house. So they can afford to do it with the Bush tax cut. But if you vote against permanency, you are reimposing that and hurting those 3.9 million families who no longer pay taxes because of the Bush tax cut.

I would like to ask the gentleman from Missouri, and be happy to yield, you have also been one of the leaders on retirement savings. Of course, the Bush tax cut built upon a lot of the work done by our colleague, the gentleman from Ohio (Mr. PORTMAN), and many others who have worked so hard to increase the opportunity for small businesses to offer additional retirement savings opportunities for their workers, and also for individuals to be able to set aside money in their IRAs.

I would be happy to yield to the gentleman to explain that portion of the Bush tax cut.

Mr. HULSHOF. I appreciate the gentleman yielding.

What is interesting about our Tax Code is it really does punish those who wish to save and invest. There are so many other nations that have a higher savings rate than the United States of America because we have built into our code, in fact, I am so familiar again with my 1040, having just spent so much time with it, line 8 of your 1040 says what was your interest income, put that here, because we are going to tax it. A lot of nations do not do that.

So we have tried in various ways to help American families, especially as they look way down the road at retirement. We have a vexing problem ahead of us as far as the baby boomers retiring and the future solvency of Social Security. That is an issue for another day.

But what we have done over the course of Congress, since 1997, as the gentleman recalls the significant tax relief that we passed back in 1997, that was actually signed into law by then President Clinton, we created some additional savings vehicles and tried to expand the opportunities for families to put money aside in 401(k) plans, or, as the gentleman knows, really a pet issue of mine, to help parents save for their childrens' education. Back in 1997, the idea was created of an education savings accounts. Now we have the ability, because of last summer's tax cut, the Bush tax cut, as the gentleman has referred to it, we have now given more flexibility to families to put money, or even neighbors or churches or businesses, to put money into a family's education account in the name of their child.

It used to be pretty strict as to what that education account could be used for. Now we have some flexibility. Not only can you contribute more money into it, up to $2,000 a year, but it is not just for those students, those children who go to public college. It could be used for any educational expense for any child. It could be K through 12. It could be a tutor at school if you are having trouble with 4th grade math. It could be a computer program, it could be a foreign language skill or some help in that regard. It can be anything to help educate our kids.

So this was a tremendous change, a positive change. We called it the Coverdell account in honor of the late Senator from Georgia who had first created this idea back in 1997 of putting aside money and letting the interest that is built up be tax free.

I hesitate to think, I shudder to think, that if we do not make this tax cut permanent, that that flexibility is gone, the ability to contribute money into that education account, up to $2,000 a year, is gone.

So the number of positive tax changes that we have helped create, in a bipartisan way, friends across the aisle have helped vote for it, worked for some of these items, those items would be no longer in the Tax Code. That positive tax relief would be obliterated if this House and Congress do not act to make the tax cut permanent.

Mr. WELLER. Reclaiming my time, again, I salute the gentleman from Missouri for his leadership in helping expand education savings accounts. I think of thousands of families in the district that I represent, the South Side of Chicago and the south suburbs, who now have the opportunity, thanks to your leadership, to be able to set aside money for elementary and secondary education, schools of their choice, or else for other expenses affecting their child's education.

In the past it was only for college and you could only set aside $500; but under the gentleman's leadership, you can set aside up to $2,000. Think about that. When a child turns 18, if you could only set aside $500, that is $9,000. Well, we all know what college costs today, and that would not go very far at a year's tuition at most universities across this country.

But thanks to the gentleman's leadership, now they would be able to set aside $2,000 a year and potentially have up to $36,000 that they could save and set aside for college, if they do not spend any of that for elementary or secondary education.

So I commend the gentleman for his leadership. That means a lot to the people of the south suburbs, towns in Joliet and elsewhere.

We have been joined by my other seatmate on the Committee on Ways and Means, a classmate of mine. I remember when the gentleman from Arizona (Mr. HAYWORTH) and I were elected to Congress. Of course, we were working on the Contract with America, and a key part of the Contract with America was lowering taxes for families. Of course, part of Contract with America was eliminating the marriage tax penalty, creating a new adoption tax credit, creating a new child tax credit.

Thanks to the leadership of many, and particularly the gentleman from Arizona, we created that new adoption tax credit. Of course, we expand it in the Bush tax cut and make it bigger. And we created the child tax credit as part of the Contract with America, and we have doubled that under the Bush tax cut. If we fail to make it permanent, we lose it. It is taken away.

I would be happy to yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Illinois, Mr. Speaker; and I thank my other colleagues the Committee on Ways and Means, the gentleman from Missouri and the gentleman from Wisconsin, for joining us this evening.

In listening to my friend from Missouri speak about the different opportunities, I was struck by really two themes running through his discourse. One is the notion of flexibility and freedom, and the other a basic philosophy that we really need to change, and we have played a great role in changing it, and that is the notion that people should not be punished for succeeding; that they should have the possibilities economically to deal with whatever challenges confront them in life.

My friend from Missouri talked about educational tax credits, and certainly our heart goes out not only to those who are planning for college, but children with special needs, the opportunity to help parents of a Down's Syndrome child, provide educational opportunities through the Tax Code to enhance their options and flexibility, not to wait upon the largesse of government, but to utilize their own money for their own legitimate interests and their own timetable.

That is really what it comes down to, to transfer money, power and influence out of the hands of a bureaucracy, an impersonal bureaucracy in Washington, D.C. and understand that the money utilized does not belong to the Federal Government.

I look and I see my friend from Arizona serving tonight as Speaker pro tem. Last night we were at the State Capital in Phoenix discussing the realization that the money people gave voluntarily April 15 is their money.

□ 2045

They give to the Federal Government "voluntarily." When we allow people to have more of their own money to save, spend, and invest as they see fit, things work better for them, and government actually works better.

The other thing that my colleagues have talked about tonight is the bipartisan nature of this historically. Think back to recent history. Four decades ago it was Jack Kennedy who said, let us reduce the marginal tax rates; in his words, "a rising tide lifts all boats." Two decades ago it was President Ronald Reagan who suggested the same thing, and then just last year, working with our current President, George W. Bush, we were able to again enact marginal rate reductions.

Now, here is something, and this is one of the things I lament in the way Washington works. Given the arcana of the budget and the way we predict things here, it is very Washington-centric. We take a look at what is called a static model. We fail to take into account growth in revenues to the Federal Government. It is a historical fact that under Jack Kennedy and under Ronald Reagan, when we reduced the tax rates, revenues actually increased to the Federal Government.

The gentleman from Arizona in the Chair tonight made the point last night at the State capital. And, we recall this as members of the Committee on Ways and Means in 1997 when we, through cheerful persistence, persuaded a reluctant President to join us in a reduction in the top rate of capital gains taxation, especially for primary residences that cost less than $600,000, and what that meant to housing starts and new home sales and just a change in the real estate market.

But it was very interesting; the gentleman from Arizona, the Speaker pro tempore tonight, made the point that the forecasters, the estimators said that that capital gains rate reduction was going to cost the Federal Government. Yet, the reality is in terms of revenue accrued, it has been a triple-digit winner. Revenue has been produced. Why? Because it is a simple notion, regardless of party affiliation. The simple fact that the budgeteers do not want to recognize is this: reduction in tax rates leads to economic activity, leads to job creation, especially when we reduce the capital gains rate, leads to capital formation and the use of capital, putting it to work. When we do that in an economy, a people prosper. Indeed, one magazine in town asked our friends on the left if they were really concerned about revenues to the government, perhaps they should join us in asking for tax reductions because overall revenues increase, based on economic activity.

So it is simple self-interest, not selfishness, but a chance just as President Kennedy said in the 1960s, that a rising tide lifts all the boats, and as President Reagan said in the 1980s, that people can save, spend, and invest their money as they see fit, rather than keeping Washington in charge, or as President Bush said in Iowa yesterday: expand the recovery, take the lesson that we learned in the economic downturn, and even in the wake of the dark days, in the aftermath of 9–11 and the uncertainty we confronted then, and move to make the marginal tax relief and the other provisions that my colleagues have discussed tonight, Mr. Speaker, move to make that permanent so that we can continue to grow this economy and people will have the freedom and the flexibility to choose what is right for them, and they will not wait upon government programs for improvement, with educational opportunities, especially for those children with special needs, with the purchase of a home, with the starting of a business, with the raising of a family; indeed, every facet of American life, give people the freedom to recognize the money belongs to them.

Mr. Speaker, we made substantive changes in the Tax Code and it is a start, but we need to follow the call of our Commander in Chief who asks now that we finish the job, that we make these rate reductions permanent, so that the economic renaissance and the rebuilding and the restoration of our economic conditions toward greatness can continue. I thank the gentleman.

Mr. WELLER. Mr. Speaker, I would be happy to yield some additional time to the gentleman from Arizona, and I would like to ask the gentleman from Arizona a question. We have been noting in our conversation here about the 100 million Americans who benefit from what we call the Bush tax cut and that, of course, is the fact that there are 3 million Americans who, under the Bush tax cut, no longer pay Federal taxes, low-income families. Of course, if we fail to make it permanent, those low-income families are taxed once again, and that 79 percent of those who benefit from the top rate reduction are small business entrepreneurs. I am happy to yield the remaining time to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, one fact which we should remember and which should give every Member of this House pause, if we fail to make these tax cuts permanent, then a decade hence, we will see the largest tax increase in American history eclipsing what we saw in 1993 under former President Clinton.

Mr. WELLER. Mr. Speaker, in closing, again, we have a very important vote on Thursday. Thursday morning this House of Representatives is going to cast a vote on whether or not to make what we call the Bush tax cut permanent. A vote against permanency is a vote for the biggest tax increase in the history of our Nation, or do we continue to help those 100 million Americans who benefit from the Bush tax cut who see their rates reduced, 3 million Americans who no longer pay taxes, couples such as Jose and Magdalene Castillo who will no longer pay the marriage tax penalty, but if the tax cut expires, they will once again, because people like the Castillos from Joliette, Illinois will once again pay the marriage tax penalty. Let us make it permanent. Let us do the right thing. Let us prevent the world's largest tax increase.

RAISING THE FEDERAL DEBT LIMIT

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). Under the Speaker's announced policy of January 3, 2001, the gentleman from Indiana (Mr. HILL) is recognized for 60 minutes as the designee of the minority leader.

Mr. HILL. Mr. Speaker, this evening the Blue Dog Coalition will once again be discussing the administration's request that Congress raise the Federal debt limit, and that is what we want to talk about this evening. The Blue Dog Coalition, for those who are listening, is a group of about 30 Democrats who believe it is important for the Federal Government to be fiscally responsible; in other words, not to spend more money than it takes in. I think the American people, with their families, try to practice their own home budgets in the same way, and the Blue Dog Democrats have adopted this principle. Balancing our budgets helps us keep interest rates lower so that businesses and families can borrow money at lower interest rates. It is the only right and common sense thing to do. The Blue Dogs tonight want to talk about some problems that are going on with our present Federal budget that I think the American people need to hear.

This past August, Secretary of the Treasury O'Neill wrote the first of three letters to Congress requesting an increase in the debt limit. In these letters, he asked for a $750 billion increase. None of these letters, however, mentioned how long $750 billion would keep the Federal Government in the clear. More important, none of the letters recognized the irresponsibility inherent in asking Congress to hand the administration a three-quarters of a trillion dollar blank check without also requiring it to explain how we are going to get back to balanced budgets and a Social Security surplus that is off limits.

Many of my Blue Dog colleagues have pointed out on past Tuesdays that the Federal debt limit is a lot like the credit limit on any credit card used by any American. The difference in this example is that the administration has hit its credit limit at $5.95 trillion dollars, but not indicated a willingness to examine its own fiscal policies. Few things in life are certain, but I feel confident in saying that the average family in southern Indiana, if faced with a maxed out credit card, would step back for a moment and figure out how he is going to pay it off.

In early April, Secretary O'Neill sent another letter to Congress. This time he was writing to inform Senate and House leaders that he was tapping Federal Government retiree accounts, let me repeat that again, that he was tapping Federal Government retiree accounts in order to give the Federal Government the breathing room it needs to continue to meet its spending obligations.

Now, Mr. Speaker, in the private world, if a business tried to raid its pension fund and was found guilty of doing that, they would go to jail, but here we are doing a similar thing with government retiree accounts in order to give the government the breathing room it needs to continue to meet its spending obligations.

Six years ago, 225 members of the majority party voted to reprimand and prohibit then-Secretary of the Treasury, Robert Rubin, from taking these same actions. Now, one could argue that the old saying, what is good for the goose is good for the gander is in order here. Even if one-quarter of the 147 who remain in the House had been moved to action by Secretary O'Neill's recent maneuver, there is little doubt in my mind that together we would have already sat down to discuss some kind of compromise, a plan to, one, raise the debt limit enough to get the government through this fiscal year; and two, to get our budget back in balance without relying on Social Security surpluses.

Historically, partisan squabbling has characterized the debate over whether to increase the Federal debt limit. There are many Blue Dogs, however, who would like to put an end to political gamesmanship and get down to business. We do not believe in political brinkmanship, especially when the ability of the United States Government to continue to meet its lawful financial obligations is on the line.

No one among us is suggesting that the Federal Government be allowed to default on its debt. Secretary O'Neill's recent tapping of the Federal employee retirement funds, however, does not change the fact that we are bumping up against the debt ceiling. In fact, action is still needed and the Secretary now has one less accounting trick up his sleeve. As of this evening, the administration has put only one option on the table: raise the debt limit by three-quarters of a trillion dollars. That is it; that is the only option.

In early 2001, it was projected that the debt limit would not need raising until 2008. Let me repeat that. In early 2001, last year, it was projected that the debt limit would not need raising until 2008. Even though the administration has requested an increase in the debt limit far sooner than we expected, there has been no talk about its evaluating its own budget policies, no talk about fashioning a plan to get back to a balanced budget without using the Social Security surpluses, and no talk that maybe, just maybe, we have a problem here that needs to be dealt with.

The basic Blue Dog position has not changed. We still say that along with any action on the debt limit must come a recognition that we have a problem and a plan to correct that problem.

The current budget situation is like the elephant living in the living room. He is there and he is larger than life, but very few, if any, of our colleagues on the other side of this aisle, they will not acknowledge him. Several of my Blue Dog colleagues and I have been, over the past couple of months, trying to alert everyone who will listen, to the elephant's presence. Rest assured that we will keep coming down here to the floor and pointing him out until everyone acknowledges that he exists and he is in the living room.

This elephant, unfortunately, comes with his own set of numbers. In one year, the projected 10-year surplus decreased $4 trillion. The Federal Government will run a deficit, both this year and next year. Because of these deficits, the Federal Government will have to borrow money to pay its bills and, to pay these bills, the government will borrow almost $2 trillion more this decade than was expected when the CBO published its numbers in January of 2000.

□ 2100

All told, by the time the interest payments are added in, the national debt will be almost $3 trillion larger than earlier projected when the 10-year budget closes. And, to top it all off, Social Security surplus dollars will be used to help balance the budget through the end of the decade. This is our problem: The elephant is a fiscal house not in order.

Last year, the Blue Dogs presented a plan that was prudent, fiscally responsible, and dealt with the future of both Social Security and Medicare. Our plan would have cut taxes and paid down the debt. Unfortunately, we were not successful in passing our plan.

Now we are being asked to greenlight an additional three-quarters of a trillion dollars in debt to help implement the plan that carried the day. That is too much to ask when we have not at all yet acknowledged the elephant in our midst.

The conventional wisdom here in Washington is that the long-term increase in the debt limit will be attached to the supplemental appropriations request. This $27 billion supplemental spending request to fund the immediate needs in the war on terrorism is very obviously important. The war is important, and we need to fund it. From the beginning of this war campaign, we have been supportive of doing whatever it takes to make sure our fighting men and women can do their jobs. But pairing an increase in the debt limit to this important bill is not necessary. In fact, it could complicate consideration of the supplemental request.

So as members of the Blue Dog Coalition, we are ready to sit down and work with the administration to come up with a plan to get our budget back in balance without using Social Security surpluses, and provide for a short-term increase in the debt limit. It is time for all of us, Democrats and Republicans, to roll up our sleeves and get the work done.

Mr. Speaker, it is my pleasure to yield to the gentleman from the great State of Utah (Mr. MATHESON), another member of the Blue Dog Coalition, a new member who has done an outstanding job on the Committee on the Budget.

Mr. MATHESON. Mr. Speaker, I thank my colleague, the gentleman from Indiana, for yielding to me, and also I appreciate the very good description he has given of the circumstances we are finding ourselves in.

This is not an easy circumstance. It is a challenge we face. The answers to this challenge are not simple.

If they were simple, we probably would have already taken care of it, but we have not. Instead, we find ourselves in a circumstance where our country has a war on terrorism, our country faces increased requirements in terms of providing for homeland security, and those are issues that we as Blue Dog members support. We fully support that effort.

We are also in a recession. We are hopefully coming out of that recession right now.

But those factors, the increased resources going to the war on terrorism and to homeland security and our country's recession, have clearly put us into a circumstance where right now we are running a deficit this year.

I do not like deficits and I do not like debt. I think most members of the Blue Dog Coalition, in fact, I think all members of the Blue Dog Coalition, would agree with me on that. But we recognize that there are times in the short term where it is appropriate, in extraordinary circumstances. Being at war, in a recession, it is appropriate to see a deficit.

But just like in the business world, there are times when we have a bad year and maybe we put more money out than we pay in revenue; but in the business world, if we keep doing that year after year, we get in trouble.

The problem here is we do not have a plan yet for how we are going to get out of the problem. For the administration to request an increase in the debt limit of $750 billion, I have to tell the Members, we throw a lot of numbers around in this town, but that is a lot of money. To suggest we raise the limit by that much without identifying any plan for how we are going to end this pattern of increased deficit spending, that is just not being responsible, and that is not really what my constituents elected me to do.

I am not here to force this country to face some type of problem that they are not able to pay off their obligations. I would be more than happy to support a short-term limited increase in our debt limit to accommodate the current circumstances we are in, where the war on terrorism and the recession have clearly put us into a deficit situation. I will accept that for the short term. The Blue Dog Coalition is prepared to support a clean, limited increase in the debt ceiling to accommodate that purpose in the short term.

But what we have to have happen along with that is a commitment to sit down and really take on this long-term problem. There are no easy solutions, as I said at the outset. It is going to require a lot of work, a lot of work by people on both sides of the aisle.

That is why I have to suggest that I am really proud to be part of the Blue Dog Coalition, because I think the Blue Dogs really have a reputation for sitting down, rolling up their sleeves, and putting their plan out on the table. We do not try to use a lot of rhetoric, we try to talk about real numbers, and we welcome people to sit down with us and tell us where we are wrong, because we are open to a dialogue and we are open to suggestion. I wish more people in the House would take us up on that offer, because this problem we face right now is a serious one, and it is one that is of great concern.

I look at this issue, quite frankly, as I look at a lot of issues, through the eyes of my 3-year-old son. I try to think about what life is going to be like for him. I think about the extra burden we are placing on his generation as we rack up more and more debt, and a bigger slice.

Do Members know those pie charts we always see, where that slice of the pie that represents interest payments is just going to keep expanding? That is not a future I want to leave for my son. I do not think it is a future anybody in Congress would want to leave for the next generation, and that ought to be the focus that we have right now as we make those decisions.

When we talk about this debt limit issue, I often like to refer to an experience I had before I came to Congress, in the private sector. I worked developing independent power plants, co-generation facilities. I developed a couple of facilities, and each cost $100 million. I had to go out and convince a bank to lend me money to build those power plants. That bank required me to have a story that I could tell them, a story about how, over the long run, they were going to get their money back.

That makes sense. We can all relate to that. Whether we have been in the business world and had to borrow a business loan, or whether we have taken out a home mortgage or a car loan, we have to pass a test. We have to be able to have a story about how I have the capability to pay that back.

We are being asked to raise this debt limit $750 billion, and we do not have that story. We are here as Members of Congress. We are the banker here. We have to represent the people's interest in making sure there is a story about how this is going to be paid back. Until we have that, it is just not responsible. It is not responsible to raise this by $750 billion.

So I am so pleased that the Blue Dog Coalition has made this an issue. We keep coming here to the floor to raise this issue, because we are looking for people to work with. We are looking for an opportunity to sit down and roll up our sleeves.

We recognize the magnitude of this problem and the complexity of this problem. There is no easy way out. We cannot do it alone, so we call on everybody on both sides of the aisle: Please, let us sit down, let us develop a long-term plan. Let us not be irresponsible and just give a blank check to Congress and to the administration to rack up another $750 billion of debt with no way out of that pattern.

Mr. HILL. Mr. Speaker, I thank the gentleman from Utah for an outstanding presentation.

One of the things that I heard the gentleman talking about was that we are not opposed to raising the debt ceiling. There is a war going on, and there are certain responsibilities that we have to think about. That is one of them.

But one of the reasons why I like the Blue Dogs so much is they are a group of Democrats that are responsible. It is responsible to raise the debt ceiling to fight the war, but it is also our responsibility to have some kind of a plan. Right now, there is no plan.

Mr. Speaker, I have come to know the gentleman from Illinois (Mr. PHELPS) very well for the last going on 4 years now, and he is a man with a distinguished record in the Congress of the United States, and one of the outstanding Blue Dogs who feels very strongly about this issue. I yield to the gentleman from Illinois (Mr. PHELPS), a person that I came into Congress with back in 1998, and a person who serves on the Committee on Agriculture and the Committee on the Budget.

Mr. PHELPS. Mr. Speaker, I thank the gentleman for yielding to me. I thank my friend, the gentleman from Indiana, for his leadership and his persistence on this issue.

I would also like to thank my colleagues on the Blue Dog Coalition for giving me the opportunity once again to speak on this important issue.

We, as the fiscal policy leaders of this great Nation, have a responsibility to look out for future generations. How can we say that we are doing our best to look out for our children when we are not keeping our commitment to save the Social Security and Medicare trust fund surpluses?

We need to be fiscally responsible. My Blue Dog colleagues and I realize that. That is why we are spending these hours and these weeks trying to drive this point home.

It should not be hard for others to understand that, as well. Fiscal responsibility does not mean raising the debt limit when we are already in debt by $5.9 trillion. Fiscal responsibility does not mean tapping into the Social Security trust fund to support other government programs every year for the next 10 years, for a total of $1.5 trillion. Fiscal responsibility means working together as a team on both sides of the aisle to get the budget back in check without tampering with our Social Security surplus.

I completely understand that our Nation is in a different place than we were 7 months ago, and we need to be effective and properly fight this war on terrorism. I believe we are. We stand behind this President and his Cabinet to do this.

However, we should be able to come up with a solution that battles the war against terrorism without taking away from crucial resources here at home, resources that our citizens depend on and resources that our children are counting on us to protect. Social Security funds belong to the people that paid them out of their own hard-earned dollars, just like they have all the other taxes they have paid.

I have heard much around here about giving back money to the taxpayers. These are their dollars they have entrusted us, their government leaders, to save for the purpose for which they were intended. But there are those around here who want the taxpayers to believe that there is enough money to return taxes from the same source twice, and then try to convince them that Social Security can remain solvent and do all this other good stuff we claim we are going to do. That just is not so.

I want to pay down the public debt, balance the budget, give tax cuts that are affordable and reasonable, as I have voted, such as repealing the estate tax and the marriage tax penalty, those that are affordable, and that we can make Social Security then solvent.

But all of this cannot be done if we travel down this path and this policy direction. We must be honest with the American people, the citizens of this Nation, and level with them from the standpoint of what is realistic.

There is a big price to pay for strong leadership, and to be responsible. It is not easy, coming before the American people and telling them that those on both sides of the aisle emphasized the point just this time last year that the Social Security money and the Medicare trust fund were in a lockbox, locked away where we would not touch it. But now we are saying that we have enough money to do all this by projecting 10 years in the future the rosiest forecasts that reflect the best the economy ever has been in our history, without acknowledging what has happened to us after September 11, and without acknowledging the loss through the recession and the tax cuts that we did a year or so ago.

Now we are talking that we can do all of this, keep it solvent, and still look the public in the face and say we are being honest about the budget. This is not so. It is my responsibility to tell the truth, because I did not take it lightly when I took that oath of office and said that I would deal with the facts as I see them and the truth as I know it.

That is why I feel so strongly about this issue tonight, and want to communicate it in the best terms possible. It is a complex situation, but we must face it. This is your money, too. We said we should save it for the purpose for which you gave it, not say it is a tax return that we can ignore, building up the debt at the same time, and never communicate truthfully.

Mr. HILL. Mr. Speaker, I thank the gentleman from Illinois for his remarks. He is exactly right, that this is people who paid their payroll taxes. It is their money, and we should be making sure that we preserve it for them in their retirement years, and not be using it for other things.

□ 2115

I would like to call on one of the deans of the Blue Dog Coalition, a man I have really come to respect very much. He is a leader on this issue, leader on the Committee on Ways and Means, a leader for the Congress of the United States. So I would like to yield some time to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I come tonight to talk about debt. That seems to be the topic of the day, and I have got to tell my colleagues, I watched the previous hour and I was thinking all of the time I was watching that these are the same folks that last year touted the tax plan as presented and now tonight say, oh, no, it is terrible because it was not permanent. We were criticized last year, but let me talk about what is happening in this country.

My colleagues are seeing a group, a minority within a minority really, the Blue Dog Democrats, my colleagues are seeing a group emerge from all of the rhetoric here in this town, partisan rhetoric. They are seeing a group emerge that has some credibility on the debt. What was missing and what is missing and what will be missing on Thursday morning when we talk about making the tax cut bill that the House passed last year and the Senate passed last year permanent, what they do not say is that we have right now in, and the citizens of this country right now last year paid $360 billion in interest on a revenue total of $1.991 trillion. This comes out of a CBO publication of March of this year.

That is an 18 percent mortgage on this country. There is no business in the world, in America or anywhere else that I know of, that can withstand an 18 percent mortgage on their inventory, on what they are doing in terms of their business. If we take away the interest on the debt that was paid as far as Social Security goes, we have a net total of $206 billion, which on non-Social Security revenue, amounts to 16 percent. Said another way, this country right today has a 16 percent mortgage on it that we all have to pay.

Now, if we want to ensure and people want us to ensure that not only those that are my age but my children and my grandchildren will be overtaxed all of their lives and all of the foreseeable future, then keep us on the road of the Republican policies that have been enunciated here and will be enunciated here Thursday, and that basically is we are going to spend more because we are in a war, which we should. We are going to do a tax break for those of us in my generation passing on to those who are in uniform tonight in Afghanistan, fighting the war and their children. We are going to borrow money so that we can have a tax break to spend more money, knowing we have an 18 percent or 16 percent, whichever figure we want to use, mortgage on this country.

If people want to make sure that we are going to be overtaxed as an American public for the rest of our lives, then continue down the Republican policies. Because what it means is it means cut taxes now, spend more and borrow, and borrowing means interest and that interest has got to be paid before we do anything, before we have a missile system, before we have a submarine, before we have an aircraft carrier, before we have an interstate highway. Before we have anything, we have got to pay the interest.

If my colleagues want to make sure that we are going to overtax ourselves and those who follow us for the rest of their lives and ours, then just follow down this road and borrow more money and borrow more money, and we will make sure, we will make very sure that we are overtaxed and they are overtaxed as follows.

This is something that they do not say. Nikita Khrushchev once said that an American politician is a fellow that likes to promise to build a dam or a bridge where there is no river. This is not easy stuff, to stand here and say to the American public we cannot do what some of these people around here want to tell them that we can do.

We cannot spend the money that is necessary to win and fight, fight and win the war on terrorism. We cannot cut taxes for everybody in this land right now and spend that money without borrowing money to do it, and when we do, we are making a mistake that I think generations will pay for because that interest keeps going, whether someone is on vacation, whether someone is sleeping, whatever they are doing they have got to pay the interest.

People know that and so I am proud that the Blue Dogs took this hour to talk about fiscal responsibility. There has not been in my mind a sitting down and talking about prioritizing what we have to do. We have got to win the war on terrorism. Whatever it takes, we have got to do it. We are willing to do that, but by gosh, to cut taxes on somebody making $50 million a year at the same time my colleagues are trying to ask everybody else to sacrifice is simply not right. It is not right generationally.

We do not want to leave this country to our children with rivers and streams that fish cannot live in and kids cannot swim in. We do not want that. We did not inherit that and we sure do not want to leave it. We do not want to leave a country where kids have to wear a hospital mask to ride their bicycle because the air is so polluted that they cannot breathe unless they have a mask on. We did not inherit that, and we do not want to leave that. We did not inherit a country that was broke, and I do not want to leave my kids a country that is broke.

If we continue down the path we are going, where we are spending more, cutting revenue, and borrowing more so we pay more interest, that is exactly the formula that we have been asked to pass, and I just think it is wrong. I think it is wrong generationally, not only to people, our contemporaries, but it is wrong to our children, and I hope that we can, the Blue Dogs and others who are here with us tonight, can impress on the American people that it is not easy to be against tax cuts.

It is not easy to be against more spending, but there has to be priorities given to what we need, and we are willing to cut and cut spending any way we can to make sure that we are doing the things only that are necessary, but we have got to have the revenue to pay for what we want. If we are not willing to do that, then I think we are generationally immoral with regard to what we are giving to our children.

I appreciate the gentleman taking this time. I do not know if anybody is listening to what we are saying or not, but when we have got an 18 or 16 percent mortgage on this country and we do not make any attempt to get back in the black, I think what we are doing is passing the buck, and I think that is wrong.

Mr. HILL. Mr. Speaker, reclaiming my time, would the gentleman agree that it was just a couple of years ago when we began to reverse this trend of debt, the United States Government incurring debt, we were actually running a surplus, and would he agree within a very short period of time, say within the last 12 months, we have completely reversed that policy of surplus budgets into deficit spending once again?

Mr. TANNER. Mr. Speaker, I would agree, but whether I agree or not, I think the facts speak for themselves. Last year at that time we were told there was money as far as the eye could see. We had a $5 trillion surplus. That did not come true.

The budget that the President submitted shows red ink for the next 10 years. Once this interest figure gets up 20, 25 percent, I have never seen a country that was proud, free and broke. There is not one on the face of the earth, and we are going broke under these policies, and people are going to begin to realize that I think that, unlike maybe public perception now, at least when it comes to the Blue Dog Coalition, there are some Democrats around here that are more fiscally and financially responsible than all the Republicans who want to tell my colleagues, as they have, we are going to cut taxes, increase spending, but they do not say more borrowing, and more borrowing means more interest, and more interest means more taxes from now on, forever.

Mr. HILL. Mr. Speaker, I thank the gentleman for his leadership on this issue. The gentleman from Tennessee can say it just about as good as anybody in the Congress can say it, and he is exactly right, and his leadership on this issue is very much appreciated.

I would like to call on a freshman Member of Congress who has asserted himself as a rising star in the Congress of the United States, the gentleman from California, (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Indiana for yielding and for his leadership and the bipartisan ethic he has brought to this House, which has certainly been a model for this freshman.

Once again, I join my Blue Dog colleagues on the House floor tonight to bring attention to an issue that has long-term implications for our Nation's future. The administration has come to Congress asking us to raise the debt limit by $750 billion. This request comes to us a full 7 years earlier than was predicted when the budget was submitted just last year.

The request to raise the debt limit presents us with an ideal opportunity to re-examine our long-term budget priorities and particularly our commitment to protecting the Social Security surplus.

Perhaps second only to the hanging chad, the enduring political buzz word of the 2000 election, was "lock box." It seems almost quaint now to think back about lock box, but this Congress and the President promised the American people that the Social Security trust fund surplus would be placed in an iron clad box and used solely to fund the retirement of the baby boom generation. Do my colleagues remember that? Democrats and Republicans all agreed on this. The inviolable lock box.

Here we are now with a budget that promises to break that lock box wide open regardless of the long-term fiscal consequences.

Social Security faces a serious financial crisis, and this budget would do away with the lock box entirely and allow the surplus to be raided to pay for tax cuts and additional Federal spending. The primary source of the Social Security revenue is the payroll tax paid by millions of American workers and their employers.

According to the 2001 Social Security trustee's report, Social Security outlays will exceed payroll tax revenues in less than 14 years. By 2025 Social Security will face an annual cash shortfall of $400 billion. An annual cash shortfall of $400 billion. By 2038, the last year the trust funds are technically solvent, the annual shortfall will be over a trillion dollars.

Despite these ominous numbers, the administration's budget, according to the Office of Management and Budget, will consume the entire trust fund surplus in just a few years. This debate is not about whether Social Security needs reform. It does. This debate is not about whether preserving the trust fund surplus will save Social Security in the long term. It will not.

This debate is about common sense and fiscal responsibility. It is common sense that we should not in any way consider tampering with the trust fund before Congress agrees to and passes Social Security reform legislation. Spending the surplus will leave our children holding the bag. They will have to pay for the unfunded obligations that build up in the Social Security trust fund if we spend the surplus, and to pay for these obligations, the Treasury will step in, pay the entitlement, and to come up with that cash, Congress will have to cut spending, raise taxes, or borrow even more as if the trust funds had never existed, and our children will pay the consequences. They will have to deal with our lack of fiscal responsibility.

This Congress cannot afford to take such a risk in light of the fiscal challenges that we face in the next 10 years. Social Security is the most successful government assistance program ever. Millions of senior citizens rely on it to survive. Millions of working Americans are currently paying Social Security taxes, expecting their money to be used for its intended purpose, and we understand that we are now faced with the challenges of fighting a war and bringing our country out of this economic slowdown.

We have accepted this reality and we are willing to work together to develop fiscal policies that reflect our wartime needs, ,protect the Social Security trust fund and set our country back on the path toward fiscal responsibility.

□ 2130

Mr. Speaker, while we examine the need to increase the national debt, we must tread carefully and remain constantly aware of the burden we are placing on future generations because this debate is about more than our current economic situation. It is about what we will pass on to our children and to their children. We must continue to work in a bipartisan way to return to a balanced budget and fiscal discipline without using the Social Security surplus. This is a promise we make, and a promise we must keep.

Mr. HILL. Mr. Speaker, I thank the gentleman from California (Mr. SCHIFF) for his outstanding remarks and his leadership.

The gentleman was talking about Social Security and how important it is and how we need to preserve it for our senior citizens and to protect it. I was in Columbus, Indiana, in a retirement home about a month ago; and I was talking to some retirees in that home. One of the senior citizens spoke up to me and asked a question, Where does Social Security come from? My reply to her, It comes from payroll taxes. And she said, Who pays the payroll taxes? And I said, People who work and employers.

She said, What gives the right for people in Congress to steal our money then if we pay the taxes? She is exactly right. If we are spending Social Security surpluses for things other than Social Security, we are in effect stealing that money. Strong words on her part that makes some sense.

At that same meeting was a good friend of mine who is going to be the next Speaker, the gentleman from Maryland (Mr. HOYER), who is the ranking member of the Committee on House Administration, and the other night his basketball team from Maryland beat my basketball team from Indiana University. And if there was going to be any team that beat the Hoosiers, I would just as soon it be the team of the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding and for being such a great sport and a representative of such a great team with such a great coach with Mike Davis, their coach handling himself so well. We are proud of the job he did.

Mr. Speaker, 1 year ago President Bush and congressional Republicans promised us that we could have it all. They said we could afford the largest tax cut in a generation and still be able to invest in domestic priorities, strengthen Social Security and Medicare, and pay off our publicly held debt. When we Democrats questioned whether we could afford the President's $1.7 trillion tax cut, and that is absent the additional interest we have to pay, which the gentleman from Tennessee (Mr. TANNER) talked about, and still pay down the debt, our Republican colleagues responded there was a danger in paying off the publicly held debt too quickly.

Well, worry no more because we are not in any hurry to pay off any debt. In fact, we are in a hurry to incur a lot more debt. The OMB now projects that our national debt, which includes publicly held and intergovernmental debt, will approach $7.8 trillion by the end of 2007. That is $275 billion more debt than was projected at the beginning of last year. Just this month after congressional Republicans again rebuffed the request of the Secretary of Treasury, Mr. O'Neill, to increase the statutory debt limit of $5.59 trillion by $750 million, the administration was forced to borrow Federal employee retirement funds to ensure that the government meets its obligations. In other words, Federal employees' pension dollars are now funding government. The gentleman from Indiana (Mr. HILL) spoke of that earlier in his remarks.

Do Members remember the last time that happened? It was back in 1995, and the GOP was blocking an increase in the debt ceiling in an attempt to get President Clinton to sign their budget. Treasury Secretary Rubin used the same short-term device that Secretary O'Neill is using to avoid a default. How did congressional Republicans respond? They reprimanded him. They threatened to impeach the Secretary of Treasury, and former Speaker Gingrich derided the tactic as "looting." The gentleman referred to stealing Social Security funds. Mr. Gingrich, the Speaker of the House, said that what Bob Rubin was doing so we would not default in the payment of the monies that the richest Nation on the face of the earth owed, that he was prepared to say that he was looting the Treasury.

I have not heard one Republican come to this floor and say that Secretary Paul O'Neill is looting the Treasury. Now, I represent 58,000 Federal employees. I do not think we ought to be doing this policy; but frankly, we have an obligation to pay it back, and I think we are going to do that. But the fact of the matter is if Secretary O'Neill did not do it, this government would default on its debt. If that happened, the finances of the world would be put at risk.

Republicans, when Secretary O'Neill did it, neither criticized the administration for doing precisely the same thing that Secretary Rubin had done, and which sent them in orbit 7 years ago, nor accede to an increase in the debt ceiling. In other words, they do not want to make sure that we do not default, and they do not want to raise the debt. That is the definition of irresponsibility. That is the definition of pretending you are doing something when you are doing just the opposite.

My good friend, the gentleman from Tennessee (Mr. TANNER) said it exactly right. If we defaulted, interest rates would skyrocket. Average people, no matter how deeply their taxes were cut, could not afford their mortgage payment, particularly if they were an ARM, an adjustable mortgage. They could not afford to buy consumer goods with interest because interest rates would skyrocket. That would be an irresponsible policy, but it is the policy that we are pursuing today.

In what can only be described as a perverse twist, House Republicans intend to bring legislation to the floor in 2 days that will make last year's tax cut permanent and drive us even deeper into the fiscal ditch.

Mr. Speaker, I am not a Blue Dog; but I support much of what the Blue Dogs support, particularly as it relates to fiscal policy. Why? Because it is fundamental that if we do not manage our finances responsibly, we will not manage anything else responsibly. In just 15 months, our Nation has experienced the worst fiscal reversal in the history of the world; $5 trillion in projected surpluses have evaporated. Think of that. President Bush stood at this podium 12 months ago in February of 2001 and predicted, he said he was assured we were going to have a $5.6 trillion surplus over the next 10 years. We said you better be careful. That is a long projection to make. You ought not to mortgage the farm based on what you think your income is going to be 6, 7, 8 years from now.

A month ago President Bush came to that same podium, presented a budget, and lo and behold the surplus he now projects over that same 10 years is $1.6 trillion. That is $4 trillion less. What he does not factor into that is because we have less surplus and are going into debt, we are going to have an additional $1 trillion in interest. We heard the gentleman from Tennessee (Mr. TANNER) talking about that, which means we have lost $5 trillion in 12 months.

I wish Ross Perot would start having infomercials on that issue. It is critical. We cannot operate this great Nation with our responsibilities to our own citizens, and in the international community, operating as fiscally irresponsibly as that. Five trillion dollars. Our debt is climbing again, and according to the Congressional Budget Office, our on-budget accounts will be in deficit every year for the next 10 years, producing a total on-budget deficit of nearly $2 trillion.

Now, the gentleman from Indiana (Mr. HILL) talked about our policies in the 1990s. They are instructive because in 1992 we had a $292 billion annual operating deficit. We could not, nor should we have sustained that. So we came in 1993, and we adopted a program. It cut spending deeply and it raised taxes. Some people would say that is an awful thing to do. What does raising taxes mean? I do not mean raising them in terms of increasing them. It means this generation is committed to paying for what it buys.

My position is if we do not want to pay for it, we ought not to buy it. I do not mean that we ought not to buy an aircraft carrier that we can amortize over 40 years. It is like buying a house, you mortgage it and pay it over time. We ought not to be paying for salaries that are used this year with borrowed money. That is how New York went bankrupt and we had to bail them out. We need to be responsible.

There is an extraordinary American sitting on the floor with us. He is the gentleman from Nebraska (Mr. OSBORNE), one of the greatest football coaches in the history of this country. He taught his young people fundamentals. He did not teach them to make some hail Mary pass, he hoped that would happen from time to time. What he taught them was how to block, how to tackle, how to run, how to watch what the other fellow was doing, how to learn your plays. He taught the fundamentals. He was convinced if those young people knew the fundamentals, they would win games. Because, as Gary Williams knows, as Coach Smith knows, if you teach young people the fundamentals, they will win games because they will do it right. And sometimes, yes, they will do something spectacular.

But a nation, a nation needs to pay attention to its fundamentals as well. Do any of my colleagues in this Chamber remember what the majority leader said last July? I talked about the President 12 months ago. Last July the gentleman from Texas (Mr. ARMEY), majority leader of this House: "We must understand that it is inviolate to intrude against either Social Security or Medicare; and if that means foregoing, or as it were paying for tax cuts, then we will do that," said the gentleman from Texas (Mr. ARMEY).

We are now some 9 months later. On Thursday, we are not going to do that. In our budget that we passed, not with my vote, just a few weeks ago, we did not do that. We preached fundamentals, but we are not playing fundamentals. And the losers will not be, frankly, any of us who sit on this floor. It will be our children and grandchildren, and it will be the fiscal integrity of this great Nation.

That promise turned out to be as empty as the GOP's lockbox stunt last year. The rally is that the Republican tax cut is the single largest factor in erasing our surpluses. Do we need to pay for the war on terrorism? Absolutely. Is it going to cost us more money than we expected? Yes. Should we follow that policy? Of course we should. We are in lock step with our President in confronting those who would undermine our security and safety in this land, and, very frankly, in other lands as well.

However, the Social Security and Medicare surpluses which were critical, as the gentleman from Texas (Mr. ARMEY) said, and would not be touched, are in fact going to be used 100 percent.

I have some other things to say about this policy, but I want to close with this. David Stockman in 1981 became director of the Office of Management and Budget.

□ 2145

He came in with a roar, like March, I suppose, and he was going to see that this budget was balanced. In fact, Ronald Reagan, when he signed the Reagan program in 1981 said the budget is going to be balanced by October of 1983. Or perhaps it was 1984.

In any event, it did not happen. Mr. Stockman, of course, was the director of OMB the same year I was elected to Congress. His mandate, sell President Reagan's supply side economic program. President Reagan assured us, as I said, that by fiscal 1984 we were going to balance the budget. We did not. Instead of producing increased revenue, the Reagan tax program threw us into fiscal freefall. The budget deficit, just under $79 billion in 1981, exploded until, as I said before, peaking at $290 billion in 1992. As David Stockman himself later admitted, and I quote, David Stockman, OMB director, "I knew that we were on the precipice of triple digit deficits, a national debt in the trillions and destructive and profound dislocations throughout the American economy."

David Stockman, in his book, looked back on his service with lament because he knew where we were going. My friends, it is clear where we are going if we continue to pursue these policies. What the Blue Dogs are saying is that we need to work together, not Republicans and Democrats, but 435 of us, elected by our people, to responsibly manage their country, their dollars, their hard-earned wages. We need to commit ourselves to doing that. I commend the Blue Dogs for their leadership on this most critical fundamental responsibility of this Congress.

Mr. HILL. I thank the gentleman from Maryland for that strong presentation. The gentleman has been in the Congress for quite some time and has an historical appreciation for the events as they have unfolded on this particular issue. His presentation was an exposure of the truth. That is what we need more of in this institution. I just cannot say enough about that strong presentation. I am glad that though he is not a Blue Dog Democrat, he has the same feelings that we do about this issue and I appreciate his comments.

Another Member who is not a Blue Dog Democrat is the gentleman from Wisconsin (Mr. KIND). He has asked to have a few minutes to share with us about this very important issue. I yield to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. I thank the gentleman from Indiana (Mr. HILL) for not only grabbing this hour for an important conversation and debate that we are going to be having later this week but for the leadership that he has particularly shown on fiscal responsibility, maintaining fiscal discipline. He has been very active in both the Blue Dog and also the coalition of which I am a member, the New Democratic Coalition. We have a lot of overlap in the membership between our two groups, and it is because we are basically fiscal soulmates.

When it comes to the issues affecting the public purse, the Federal budget, both of our groups, the New Dems and the Blue Dogs, believe very strongly in maintaining fiscal discipline, keeping our eye on taxpayer dollars, trying to promote policies that will best position this Nation to deal with the challenges of the future, which to me seems the looming budget debt and the implosion that is about to occur starting next decade. Of course I am referring to the 77 million Americans who are all marching virtually simultaneously to their retirement, the so-called baby boom generation, who will start entering into the Social Security and Medicare trust funds.

Yet this week we are going to have a very important policy debate in regards to whether or not this Nation will have the resources to deal with the greatest fiscal challenge we face, that is, this aging population and the burden it will place on the Social Security program, the burden it will place with rising health care costs and how do we maintain some common sense and fiscal discipline to deal with that.

I am very concerned. It is almost like deja vu all over again, pursuing the policies of the 1980s where we had large tax cuts being proposed and enacted which left us in annual structural deficits year after year, adding to the $5.7 trillion national debt that we now have rather than maintaining the fiscal discipline which was needed. For me, and I believe for a lot of people in this Congress, one of the keys to future economic growth and prosperity, and it is something we hear constantly from Chairman Greenspan when he is testifying, is keep your eyes on the effect fiscal policy has on long-term interest rates. They have consistently testified, and the history of fiscal policy shows, that when you start racking up deficits again, adding to the national debt rather than subtracting from it, having the public sector squeezing the private sector for the limited resources in order to finance ongoing government operations, it has an adverse effect on the bond market and it leads to long-term interest rates going up rather than coming down, which is a hidden tax then on all Americans, whether they are wealthy or middle-income or low-income Americans, because of the additional expense it will take for them to borrow money, whether it is for home payments or car or credit card payments or to invest capital in businesses. It is the long-term interest rates we need to keep an eye on.

The best thing we can do as an institution here is to maintain sound fiscal policy, reduce the national debt which will help reduce those long-term interest rates and really set us on the course for long-term economic prosperity. This is a serious issue. One of the concerns I have is that the majority party in the House and the party at the White House right now are pursuing policies that are not enabling our country to best position ourselves for the challenges of the future. That is what has to change.

I think people back home are beginning to realize that the tax cut that was enacted last year is being financed now through the collection of payroll taxes, FICA taxes, additional moneys that are supposed to be going in and guarded in the Social Security and Medicare trust funds, but which are now being raided in order to finance these tax cuts. If anyone last year would have been told that this would be the reality, that we would be passing tax cuts for some Americans and paying for it through the collection of payroll taxes that are supposed to be going into these trust funds, they would have thought it was crazy economic policy to pursue. But given the economic slowdown, the change of events of last September, that is, in fact, the situation.

I think it is time for groups like the Blue Dog Coalition and the New Democratic Coalition to stand up and start making an issue of this. I commend the gentleman from Indiana (Mr. HILL) for his leadership and for the time he was able to get this evening to talk about this very important issue.

Mr. HILL. I thank the gentleman from Wisconsin for joining us here this evening.

ENDANGERED SPECIES ACT

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). Under the Speaker's announced policy of January 3, 2001, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 60 minutes.

Mr. OSBORNE. Mr. Speaker, I represent a very large rural area in Nebraska. Ninety-seven percent of this district is privately owned. Currently landowners are very concerned about property rights and they are especially concerned about the Endangered Species Act, because this Act can be tremendously invasive.

Currently, I believe there is a crisis of confidence regarding the administration of the Endangered Species Act. I am going to mention just a few things here that have happened that have led to this crisis of confidence. First of all, the Klamath Basin situation that happened a year ago, the water, the irrigation water for 1,400 farmers was cut off abruptly.

Of course, what this did was to cause a great deal of financial hardship. There were two types of suckers in Klamath Lake, and coho salmon in the river below that were supposedly to be protected. As a result, the farmers lost their crops, some lost their farms, land values declined from $2,500 an acre to $35 per acre in that particular area. Oregon State University estimates that the loss of water cost the economy $134 million in that particular area. And so this was a tremendously costly and a very invasive situation that occurred.

Of course, to make matters worse, recently the National Academy of Science, in an independent peer review, ruled that there was insufficient data to justify the decision to shut off the irrigation water in the Klamath Basin. In other words, they have more or less said that this was something that should not have happened. Factors other than the lower levels in Klamath Lake were endangering the sucker fish and actually the larger releases of water, the irrigation water that normally went down the irrigation canals, was released down the Klamath River supposedly to help the coho salmon and actually because this water was warmer, the National Academy of Science indicated that these larger releases actually harmed the coho salmon. So it was the reverse of what they had tried to accomplish.

Secondly, more recently, in a congressional hearing, we heard from people from Fish and Wildlife and the Forest Service and these officials were asked to testify, because seven employees of these agencies and a Washington State agency also falsely planted Canadian lynx hair in the forests of Washington and Oregon. You might ask, why in the world would somebody do this? Why would you go out and bother to take hair from a captive lynx and plant it in widespread areas? Apparently this would result in a wider declaration of critical habitat for the Canadian lynx and they must have felt in some way that this would have helped preserve the Canadian lynx.

Obviously, it was a falsehood and, according to testimony, others within government agencies were aware of the planted lynx hair and did not report it. The interesting thing was that after all of this happened, the guilty parties were subjected to counseling as a punishment, and most of them received their year-end bonuses and raises. And so you would think, well, what kind of a message are we sending if somebody falsifies data and yet practically no consequences occur as a result of that falsification?

Recently, the National Park Service also indicated some false and inflated numbers of visitors to national forests from an actual count of 209 million visitors to our national forests, and they reported 920 million visitors which was roughly a 400 percent increase, an inflation, that was false. Again you might ask, why in the world would a responsible Federal agency do this? They certainly can count better than this. Certainly this could not be a mathematical error to miss by 700 million visitors. Again I think, many assume that this had something to do with the fact that they wanted to point out overcrowding, and that maybe some more roads or some more areas of the parks needed to be restricted to visitors because of overcrowding.

And so many of these different situations have led to somewhat of a crisis of confidence in terms of how our public officials are dealing with the Endangered Species Act and our wildlife in general. It would seem that sometimes there is not a real level playing field involved in this situation.

Recently here in Washington, D.C., the Environmental Protection Agency gave the Corps of Engineers permission to dump thousands of tons of sludge into the Potomac River. Of course this was in direct violation, you would think, of the Endangered Species Act because the sturgeon, the short-nosed sturgeon, occupies the Potomac River and it is endangered. And so you would say, why would they do this? How in the world could you get by with this when out in the West you cannot do these other things? And, of course, it also caused beavers and ducks and others to be mucked up to the point where they had a hard time surviving. It would appear that maybe one of the answers is that these tons of sludge, if they are not pumped into the Potomac River, would have to be put in dump trucks and would be trucked through the city of Washington, DC, which is not real politically popular in this area.

So sometimes people in rural areas have the feeling that maybe there is a double standard and maybe people in some urban areas because of the size of the population and the economic impact do not pay quite the same price. And so that has been a concern.

And then the issue that I want to spend most of my time tonight on has to do with the Central Platte River in the State of Nebraska. In 1978, 56 miles of the Central Platte were declared critical habitat for the whooping crane. At that time in 1978 there were not very many cranes, whooping cranes, probably less than 50. And so they were listed as an endangered species and certainly rightly so. At the present time they are doing better. There are roughly 175 whooping cranes that fly generally through the State of Nebraska. And so as a result of that designation, we find that some things occurred.

□ 2200

As a result, in order to protect habitat, critical habitat, for the whooping crane, the Platte River Cooperative Agreement began to take shape. What they proposed in this agreement was in-stream flows. So what was required was 2,400 cubic feet per second of water down the Platte River in that area of critical habitat in the spring.

The interesting thing here is that water generally is lost to irrigation, because you do not irrigate that early in the spring, and some of it is lost to power generation as well, and it was strictly put there to enhance the habitat for the whooping crane.

It was interesting, because the original recommendation by many biologists was not 2,400 cubic feet per second, but rather they said 1,300 cubic feet per second would be the ideal flow. By tweaking it one way or another, Fish and Wildlife almost doubled the flow and the amount of water that goes down the river. They wanted 1,200 cubic feet per second during the summer, and then they want pulse flows of 12,000 to 16,000 cubic feet per second for 5 days in May and June of wet years.

This is a huge amount of water in the Platte River, and it results in some flooding; and it results in some real difficult situations. Some people assume that actually the main issue here is that it deepens the channels in the river when you have these large pulse flows, and then the issue is what do you do to compensate for the loss of sediment in the river when you do this?

Now, the problem with those pulse flows is as follows: the 12,000 to 16,000 cubic feet per second as we mentioned will deepen the channel in the river and will remove sediment. So Nebraska is being, as part of their contribution to the cooperative agreement, is being asked to contribute 100,000 acre feet of water, stored in Lake McConahay; and this water is being used to flow down the Platte River when people feel the cranes might need it. Wyoming contributes 34,000 acre feet of water and Colorado 10,000 acre feet of water, so the total contribution is 140,000 acre feet of water. So that is an interesting premise, and it is fairly expensive.

Of course, the other issue is there are some other requirements, and that is that there are no new depletions in the Platte River. So we not only have these flows, but within 3 to 4 miles of either side of the Platte River, you cannot set down a new well within 3 to 4 miles of the river after 1997. So a community that is expanding, a farmer, whatever, is no longer able to do this.

Then the sediment that is lost in the river from the large pulse flows has to be replaced. At one time what they were doing was talking about the fact that they would haul in 100 dump truckloads of sediment per day, and this would go on for years and years and years. You can imagine the cost of doing this. That is supposed to replace the sediment that these large pulse flows used to take sediment out of the river.

Now they have revised that, and they are talking about taking bulldozers and pushing islands into the river and causing more sediment. So as you can see, this is a very invasive procession; it is a very expensive process; and it has been very difficult to administer.

That is phase one. After 10 years, phase two kicks in. Phase two, listen to this, requires 417,000 acre feet of water. That is about triple what we are talking about here, 140,000 acre feet. So when you get up to 417,000 acre feet of water, you are talking about practically all of the irrigation water used in the Platte River system. So what farmers and ranchers are rightly concerned about is that at some point the Endangered Species Act could be used in a way that would cut off all irrigation up and down the Platte River, which is several hundred miles long, and would probably make the Klamath Basin situation pale by comparison.

So far the estimated total cost of the project, that is just to the cooperative agreement, it is not the water loss or anything else, just to plan it is $160 million. That is just to create it, as we said. That is a small cost compared to the cost of the irrigation water, the power lost and the land and sediment dumping and so on.

So I think most people would say the cooperative agreement has been time-consuming, has been expensive and has been burdensome to landowners. And, the most important thing, the thing I would really like to drive home tonight, is the idea that the whole thing, I believe, is based on a false premise; and the false premise is that that 56-mile stretch of the Platte River is critical for the existence of the whooping crane.

So let us take a look at the map of Nebraska. The area here in red, from Lexington to Grand Island, is the critical habitat for the whooping crane, really not quite that far. So the idea of critical habitat is this is habitat that it is removed or in some way damaged or changed; it really does great damage to the endangered species. So you would assume that this would be an area that would really be critical to the migration of the whooping crane as they go north and south.

So let us take a look at this issue and some of the data. The Watershed Program director, who worked for the Whooping Crane Trust, this was an environmental group, not a farm group, this was an environmental group, and he worked for that group for 17 years and wrote a document filed on March 22, 2000, that was sent to Fish and Wildlife, and the letter states as follows: "From 1970 through 1998, that is a total of 29 years, 11 years there were no whooping cranes."

That is almost 40 percent of the time there were no whooping cranes that were sighted at any point in this stretch of river, which is supposedly critical habitat. You would think if that was critical habitat, that certainly you would not go 40 percent of the years without any observation of a whooping crane in that area.

Then he goes on to say this: "On average, less than 1 percent of the population of whooping cranes was ever confirmed in the Platte Valley during that same time frame."

So, again, if it is critical habitat, you would think that you would see 50, 60, and 80 percent, whatever. But you have had 1 percent or less cranes who have ever been seen in that region of the river over 29 years.

Probably the most convincing evidence that I have run across is that from 1981 to 1984, a period of 2½ to 3 years, there was a radio-tracking study of whooping cranes where they had an electronic collar put on them so you knew absolutely where they were all the time. This went on for three southern migrations and two northern migrations. Eighteen cranes at that time represented somewhere between 15 and 20 percent of the total whooping crane population.

Here was what they found in that research: they found that none of those

18 whooping cranes over 2½ years, three southern and two northern migrations, none of them used the Platte River at any time during that migration.

Now, surely if this is critical habitat for the whooping crane, you would think that at least seven or eight or nine of those cranes would have regularly used the river, but yet not one of them did over that period of time of 2½ years. It is not a case here where they can slip out of the area under the radar screen, because they are checked electronically and they know where they are. They were not in that area of the river.

So the author goes on to say: "I wonder if the Platte River would even be considered if the Fish and Wildlife Service was charged with designating critical habitat today. Whooping crane experts that I have visited would be hard-pressed to consider the Platte River, given our current state of knowledge."

Then he says: "Certainly none would be willing to state on a witness stand that the continued existence of the species would be in jeopardy if the Platte River were to disappear."

So what he is saying is if this area of the Platte River for some reason went away, he does not know of any experts that would say that would harm the whooping crane. Yet that is the critical habitat, and that is the area that has caused all of the in-stream flows, the 140,000 acre feet of water and the sediment being dumped into the Platte River to compensate for pulse flows, and all of the things that are going on up and down this river, which really have impacted farmers and ranchers.

Also within three miles of either side of this river, you cannot drill a new well. Anytime you do, you have to close down another one. So all of the water here is restricted, primarily for this particular stretch of the Platte which is supposed to preserve the whooping crane. So again, I would have to say that this is a false premise.

The thing we might also mention is that whooping cranes, normally when they do stop in February, and they do stop, and you will see a scattergram of where they stop, and there are some here, and there are some here and up here, so they are all through the State, but normally they only stay overnight.

If this was critical habitat, they would probably stay here for several days, a week, maybe a month, and regroup, do some mating, whatever; but they do not. I think they simply fly along, and when they are tired and see some water, they drop in for the evening. It may be here, it may be here, it could be almost anywhere place. It might be on a lake, Sand Hill Lake or whatever.

But the important thing to remember is this central part of the Platte is really critical habitat for one group of cranes, and that is the Sand Hill cranes. There are roughly 400,000 to 500,000 Sand Hill cranes that come into that area, and they spend 2 to 4 weeks every year. They come from Arizona, and they come from Texas and Oklahoma and Arkansas and Louisiana; and they funnel into this area, and they are heavily concentrated in this area; and then they go up to their nesting grounds up in Canada and North Dakota and so on.

So what has happened I think is early on Fish and Wildlife and others made a mistake, and I think it was an honest mistake. I think they assumed that the whooping crane does the same thing as the Sand Hill crane, and that the whooping crane really needed this area to spend time to stage, to mate, to gain strength for the rest of their trip. But that is not the case. We very well have proven this at the present time.

There is one whooping crane that got mixed up, and this whooping crane apparently was imprinted and identified with Sand Hill cranes. They have even named it. "Oklahoma" is the name of it. This particular crane comes with the Sand Hill cranes, and he sticks around for 3 or 4 weeks like the other Sand Hill cranes, because he thinks he is a Sand Hill crane, apparently. I would wonder how many of the sightings in this area have been Oklahoma, that one crane. He may have been sighted many times over. So, anyway, there is a difference between these two different species; and I think it is important that we understand that this is the case.

Actually, Fish and Wildlife is doing everything they can to make the habitat fit the whooping crane. Twice a day they fly the river here looking for whooping cranes; and, of course, if you look hard enough, you may find something. But, still, you are only having 1 percent, maybe 2 percent of the total population, even with surveillance flights going back and forth on the river. Only 1 to 2 percent of the whooping cranes are spotted in that area as they come north or as they go south.

So, again, we would say that probably most definitely there has been an improper designation of this area for the whooping crane, and nobody cares too much if it is an improper designation. The main issue is simply the fact that it is causing an awful lot of disruption up and down the Platte River Valley.

Now, further, and I think this is important too, Fish and Wildlife is expected shortly to declare 450 miles of the Platte River and the Loop River right here and the Niabrara River as critical habitat for the piping plover and the least tern. Ninety-seven percent of these rivers flow through private land. Also these same two species, the piping plover and the least tern, will have critical habitat declared in South Dakota, North Dakota, Montana and Minnesota; and in those States almost 100 percent of the area is public land. In Nebraska it is almost all private. The same issues that apply to the whooping crane apply to this particular designation of these species.

So it is interesting. But let us stick with the middle section of the Platte River, because this is the area we know the most about, and this is the area where we have the most data. Again, refer to the document from the watershed director who wrote the letter. He said "that the Central Platte does not offer any naturally occurring nesting habitat for these species, i.e., the piping plover and least tern, is amply demonstrated by the fact that no tern or plover chicks were known to fledge on any natural river sandbar during the entire decade of the 1990s."

So this stretch of river we have been talking about was studied over a 10-year period, and at that time they found no fledglings of chicks on the river, other than in sand pits which are off the river and then some man-made sandbars that were strictly designed for this fledgling capacity.

□ 2215

So the problem is that these birds nest near the water level. So any time there is a fluctuation, any time a river raises, it flushes out the nests. So they do pretty well on lakes, they do pretty well on sand pits, but they do not do very well on rivers, particularly rivers that fluctuate.

So the letter from this particular individual who wrote to the Fish and Wildlife Service, the researcher said this. He said, "A 50-to-60 day window of flows less than about 1,500 cubic feet per second during late May through mid July is necessary to allow for nesting and subsequent fledging. This did not happen in the 1990s. Nests and/or young were flooded out."

So what he is saying is this: that on that stretch of Platte River, any time you get elevated flows above 1,500 cubic feet per second, because the nests are built right at water level, you are going to flush them out. So what they are trying to do is that they are trying to regulate flows in the river from this lake right here, Lake McConaughy. The problem is that the lake is 100 miles from the start of the critical habitat, right there, and it is about 170 miles to the end of the critical habitat, which is right there.

Now, the problem is that it takes, to go 100 miles, that water needs 5 days to get to the start of the habitat, it needs 7 days to get to the bottom end of the habitat, so you are releasing water out of Lake McConaughy to control the flow to try to get 1,500 cubic feet per second or whatever. The problem is that in the next 5 days, we better not have a rain. Because if we have a rain down here or if we have a significant inflow from the South Platte River, then, all of a sudden, that water comes up and that is what happened for 10 straight years. All of those rivers were flushed out. So here we have critical habitat, again, that is going to be very disruptive to ranchers and farmers that apparently is not working.

For some reason, the sand pits and the lakes and the other areas where the piping plover and the least tern have been hatching and have been fledging have not been declared as critical habitat; only the rivers. So this is a little bit of a puzzle, at least to me; I do not quite understand exactly how this is working.

So it would seem that attempting to create a river environment which, for most nesting by the piping plover and the least tern, may actually harm the species. This is the logic.

Again, the letter from this particular researcher goes on. He says, "This begs the question as to whether it is in the best interests of the species' long term well-being to attract them to an area where they are likely to be flooded or eaten by predators." So what you do is you adjust the river and in the spring, because you are trying to hold down the flows, you get them to nest and then over that next 50 or 60 days, you are holding your breath and, most of the time, they are going to get flooded out. So you attract them into an area that probably is going to result in their destruction. They would be much better off if they went to a sand pit or some place where they are not going to be flooded out. So in some ways, all of the machinations and the different gyrations that we are going through here to save the piping plover and the least tern may actually contribute to their demise.

So it is interesting to note that much of the regulation of critical habitat is designed to restore habitat to its original state. That is sort of the gold standard I think for many environmental groups, and particularly for Fish and Wildlife. So we read in the Journals of Lewis and Clark 1800, as they went up the Missouri River, we read about prairie dogs and we read about buffalo. So these folks are pointing to these journals and they are saying, well, this is where the prairie dogs once lived and this was before people disturbed it. Therefore, we must restore this situation, this habitat, and we must make sure these species are again existent in those areas.

So there was a study done by EA Engineering in the late 1980s, and they indicated this. They said the Central Platte did not play a significant role in the maintenance of the least tern or the piping plover prior to the construction of Kingsley Dam in 1941. Here is the dam, and what they are saying is before that dam was in existence back in the 1800s, nobody saw the piping plover or least tern in any numbers at all along the Platte River.

They said there were 3 reasons for this: Number one that ran the river ran unimpeded; the snow pack melted and the highest water would occur in June, which was about in the peak nesting time for the piping plover and least tern. Every year they got wiped out because that water went up and they could no longer survive and then, the Platte River is rather unique in that in August, it would dry up. Most years there would not be any water in the river, which meant essentially that there was no feed, there was no habitat for the young birds if they did manage to survive. So the river was not really what some people thought it was. Then lastly, there was no historical data of tern or plover sightings on the Central Platte at all during the early 1900s, the late 1800s.

So we would say, well, certainly, if settlers, trappers, people who went along the river, if they were there they would have seen them and they would have reported them, but they did not do so. So the assumption is that this is not critical habitat that is indigenous to the species. This is not something that has occurred over a long period of time, and if it has worked at all, it has been because of that dam. But even then, it has not been effective.

So what we are saying here is that the critical habitat designations for the whooping crane and the piping plover would not seem to be accurate, at least the way I interpret the data. So I have requested the Secretary of the Interior provide an independent peer review through the National Academy of Science or some equivalent agency. I know that Secretary Norton is dedicated to making decisions based on accurate data. I have talked to her, and I know this is true. So we are assuming, we are hoping that we can avert another situation similar to the Klamath Basin by having an independent peer review. I think everyone is willing to live with it if the data indicates it. But most people that I know who study the river are really uncomfortable with making this critical habitat and all of the changes that occur in Nebraska, in Wyoming and in Colorado, for what appears to be nonexistent habitat. So we are hoping that we can get a study done.

Mr. Speaker, I think it is important that those listening do not assume that I oppose endangered species. I am very much in tune with wildlife and I certainly do not want to see the whooping crane suffer, the piping plover, the least tern, the prairie dog, or whatever, but I think it is important to remember that sometimes the Endangered Species Act may actually harm the species. Of course I already mentioned that the coho salmon was harmed by the larger flows out of Klamath Lake because the water warmed up and when the water went down the river, the coho were damaged. So that is one example of the Endangered Species Act actually harming a species.

We have also talked about the flows on the Central Platte luring the piping plover to nest and then having them wiped out by rain events. Then let us consider one other case, and that is the issue of prairie dogs, because the prairie dogs are now considered threatened. They are not listed. But I think the one thing that people need to understand is that ranchers and farmers right now can, in places, tolerate some prairie dogs, because they know they can control them. Now, a prairie dog can take over and eliminate a whole pasture, a whole ranch, a whole farm if they are left unchecked. But you can handle a prairie dog colony here, a prairie dog colony there, and you understand if they start spreading, you can do something to control the spread. But once the prairie dog is listed as endangered or threatened, then you cannot do anything to that prairie dog.

So ranchers and farmers are concerned. So right now, some ranchers and farmers are saying, I cannot afford to have any prairie dogs on my property in case it is listed as an endangered species. So I think right now in some ways, the Endangered Species Act and the ability to list the prairie dog potentially may be working against the prairie dog more than any other issue at the present time.

So we have had several examples, and there are others where the Endangered Species Act does not serve landowners and wildlife well. We talked about the Klamath Basin issue, the 2001 Canadian lynx, falsification of visitor data to national forests, the ignoring of the dumping of sludge into the Potomac and also the critical habitat designation on the Platte River. Let us be fair. I think it is only fair to say this too. I have been a little bit hard on fish and wildlife and the Forest Service. Certainly the great majority of Federal employees who work with endangered species are ethical, they are hard-working. I have met them, I know them and I have worked with them. It is like any profession: 5 or the 10 percent tend to paint with a very broad brush.

However, I would have to say this, in all candor. I do believe that an end-justifies-the-means mentality has become more and more pervasive. In other words, there is the thought process that we need to save the species; therefore, we are going to make sure that we do whatever we have to do to have plenty of critical habitat, and we are going to protect the species and we are not going to be too worried about the financial consequences to ranchers and other people. So the absolute authority granted by the Endangered Species Act has given license, I believe, to rather serious abuses and we have chronicled some of those this evening. The person closest to the species is the landowner and the person who often cares as much about the species as anybody is the landowner.

So I have seen some cases where Fish and Wildlife people have worked in partnership and in a symbiotic relationship with the landowners. This has made a huge difference, because when you get the landowners on board, when they are with you and they understand what you are trying to do and they understand you are not out to get them, some great things can happen for the wildlife. So I have seen it that way.

I have seen it on the other hand too. I have seen arbitrary behavior where the Endangered Species Act has been used as a club: my way or the highway. You guys do not have any rights, we are going to shove it down your throat. When that happens, you find that the landowner is forced to choose between a species and his livelihood, and the landowner usually is going to choose his livelihood. The Endangered Species Act, often unnecessarily, forces the landowner to make this choice, and when this happens, everyone loses.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. TANCREDO. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer the following motion to instruct House conferees tomorrow on H.R. 2646.

The form of the motion is as follows: I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646, an Act to provide for the continuation of agricultural programs through fiscal year 2011, be instructed to disagree to the provisions contained in Section 452 of the Senate amendment, relating to partial restoration of benefits to legal immigrants.

WELFARE REFORM AND OTHER ISSUES IMPORTANT TO AMERICANS

The SPEAKER pro tempore (Mr. BOOZMAN). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, before I give my comments tonight, I want to take note of one individual in particular here in the room with us tonight and those that are also here every single night, every single day on the floor, and they are the pages that have worked so hard to make the operation of this House successful as it is. In particular, one Katie Roehrick, who I spoke to just a little earlier, I want to especially point out and thank her for her work and staying late in the evenings as she does and to her mom, Brenda, for producing such a lovely daughter.

Mr. Speaker, there are a number of issues with which I wish to deal tonight. Before I begin the major body of my presentation, I want to refer to the comments that were made by members of the minority party here earlier this evening, and for at least an hour, perhaps longer, they went on about the concerns they have with the fact that we have, that this body has passed and this Congress has passed, a package of bills that we refer to as a stimulus package and essentially, they are measures designed to reduce taxes on the people of the United States of America.

□ 2230

I think, and they were concerned about this, and they certainly do not want, as they said, they do not want these measures to become permanent. They want all of the temporary tax cuts to remain only temporary. In fact, they are concerned about the fact that we passed them at all. They would just as soon that we never had passed tax cuts.

I would like the people listening, and also, most importantly, Mr. Speaker, I want to address this comment to the House, and reflect upon exactly what it was that we had to do in order to get Democratic support for our package, the package that we refer to as a stimulus package. I think it is very elucidative. It tells us a great deal about the difference between the two parties, and about the way in which we do our business here in this House. It tells us a great deal about how we view government and its relationship to the people.

Now, it is undeniably true that as a result of a number of things, traditional economic downturns, the war we are facing, a variety of other issues have impacted negatively on the economy of this Nation. That is undeniably true. No one argues with that.

As a result, revenues have dropped, jobs have disappeared, and Federal, State and local governments are having a more difficult time meeting their commitments because revenues have decreased. That is undeniably true. That is the only thing upon which we agree.

Everybody here can agree there is a problem. The President has articulated the problem, and has postulated a response and a solution. This is what separates the two parties, this philosophy of government embodied in this whole idea of a stimulus package, "stimulus," meaning to get the country moving again.

What can we do, what is there that the Members of this body can do, to reinvigorate the American economy?

Now, when we presented this in the form of a motion here on the floor, in the form of regulations and/or laws, here is what we came up with.

On the Republican side, we said that the best thing that we can do as a body is to in fact reduce the tax burden on the people of the country and on the businesses that employ the people of this country, because we believe in order to get the economy in fact stimulated, as the title of the package implies, we need to increase the number of jobs that are available to the people of the country. We have to make sure that the government does what it can do to make it easier for corporations, for small businesses, to employ other people, to sell their products and services, and thereby prosper. We believe that is the way to get the economy moving again.

What did our friends on the other side offer to this stimulus package? What did we in fact have to include in order to get it passed? The one proposal, the one and only proposal that came from the minority party to stimulate our economy, was to increase the length of time people could be on unemployment compensation.

Now, we can argue for the need for the Federal Government to increase the length of time people can be eligible for unemployment, but that is a separate debate. It should be a separate debate, totally and completely different from the debate over what it is we can do to get the economy moving again. Yet, this is the only thing they put forward, an increase in the amount of time people could be eligible for unemployment.

Now, I suggest, Mr. Speaker, that that is a perfect example. I cannot think of a better way to explain to the American people the difference that exists between two parties, two philosophies, two ideas of government.

One, because we want tax breaks, we are characterized as heartbreakers, cruel, or only wanting to help the "rich." But as has been said often on this floor, and certainly something with which I agree, Mr. Speaker, I have never personally been given a job by a poor person. Jobs only come from people who can afford to give jobs, companies that can afford to employ people. And their ability to do so, their ability to employ people, is directly related to the costs they incur to be in business.

One of those costs, in fact, I think a very expensive cost, is the cost of the government. I think it is too high. I think we interfere far too much with the marketplace and with people's ability to actually do business.

There are legitimate roles for the government, undeniably, legitimate roles in this area. But when we are talking about trying to get this economy moving again, and then to hear our friends on the other side of the aisle come up here tonight and talk for over an hour about their fear that a tax break, that a tax cut would in some way or other jeopardize the success of our stimulus package, that is absolutely incredible.

Actually, it is not incredible, it is to be expected, but it is also to be rejected. It is a failed philosophy. We cannot tax ourselves out of a recession. What we can do is, of course, unleash the power, the spirit, and the enterprise of the American people, and that is what we have done. That is what this President has requested. That is how this Congress has responded.

We should not only disavow any attempt on the part of the minority party to retain the degree to which all of these things were temporary, but we should in fact move quickly to make all of these tax reductions permanent, and we should do so with haste and with great pride, because it is in fact what will get this country moving again.

Now, it is interesting to note that although we heard a number of protestations from the other party tonight about the cost of government, about the expenditures of the Federal Government, something I am sure they are not used to actually doing, when we consider that for 40 years this body was controlled by the Democratic Party and for 40 years we were in deficit spending, and the idea of a balanced budget was almost laughable. In fact, I know that many people did consider it a joke: How could we ever do that? Impossible. It is only right and just and God willed somehow that we would always be in deficit spending, as long as they were in charge.

So the idea of actually coming to the floor and talking about fiscal prudence, fiscal responsibility, I am happy to hear it. I hope somehow or other those words begin to actually take root within the Members of the other side. I hope they actually begin to listen to what they say about being able to actually prioritize the needs of this Nation in a way that allows us as a nation to live within our means, as we all must do, or face the consequences.

I say that that is ironic in a way because, on another note, we will be and have been for some time and we will continue to debate the issue of immigration into the United States of America. We will talk about the need for immigration, and we will talk about its impact, and the fact that diversity plays such a wonderful role in the American landscape.

We will soon be debating whether or not we should in fact be increasing the amount of money, and in particular, the amount of food stamps, that will be made available to people who are here who are not citizens of the country: an expansion of the food stamp welfare program. That may be up on this floor as early as tomorrow. It is the motion that I made earlier upon the beginning of my comments here that I intend to instruct the conferees, at least I intend to bring a motion before this body that would instruct the House conferees that are presently in conference with the Senate over the farm bill to not agree to any expansion of welfare benefits for people who are not citizens of the United States.

Now, we passed just a few years ago, 6 short years ago, we passed a bill in this body that is widely, widely accepted as being a monumental improvement in the area of welfare. The Welfare Reform Act that we passed in this body did a number of amazing things. It was a sea change, if you will. It was one of the few times that a government reverses its policy and begins to go in a different direction. That hardly ever happens around here, as we know, but it happened in 1996, and to the benefit of literally millions and millions of Americans, millions of Americans who were no longer besieged, in a way, by the plight of welfare.

I say it in that way, I couch it in those terms, because that is exactly what welfare is in reality, it is a plight. It is something that we understood in 1996 to affect intrinsically, I say, intrinsically, the character of the Nation, and to negatively affect the people it was designed to benefit.

Welfare was always, since the beginning of the country, designed or thought of as being a very thing. For the most part, of course, we know at the beginning of the Nation it was never thought of as being a government responsibility at all; it was the responsibility of churches and of local communities. But we have expanded that concept dramatically, as we all know. We did so, I think, for the most part for very altruistic reasons. We did so because we believed that the people who were more well off needed to help and benefit those who were in need. That is something that I think we can all agree to.

But the whole idea of welfare was that it was a temporary thing, meant to get them over a particular bump in the road, a problem they were having in their lives that, with a little bit of help from the government, they could overcome and move on to self-sufficiency.

But we all know, Mr. Speaker, what happened over the course of time: it was no longer thought of, for the most part, as just a temporary thing; it was thought of as a lifestyle. It became a lifestyle for far too many, literally millions of Americans, far too many Americans. And it did not benefit them, in the long run.

In a way, there is a great metaphor. We could think about penguins who were at one time able to fly. I always think about this, and realize that over eons of time, these particular birds did not use that ability and they eventually lost it.

What we did to a lot of people was to take away their ability to fly; in this case, I mean to actually make their own way in life. We took away their self-esteem.

There have been many books, many research papers, written on the effects, the negative effects, of welfare on our society. We came to that conclusion as a majority of this body, and with the President. After he vetoed it two times, the past president, President Clinton, he eventually came to the conclusion that it was the right thing to do, and it was. That was to stop doing what we were doing and begin to move in a direction that would once again reflect that original attitude about welfare; that is, that it was a temporary intercession on the part of the Federal Government or the State or local government, and that the worst thing we could do was to make it a continuing process.

So we started a new era, and almost without exception, every State began to see a reduction in the number of people on the welfare rolls. Now we are something like 50 percent below where we were. Some States, I am told, are 80 percent or 90 percent below where they were in 1996.

Now, a lot of people say, well, naturally, it is because, of course, we had a time of economic prosperity. But I would refer to the many, many studies that have been done on this issue that have shown that heretofore, prior to 1996, it did not matter how many economic boom and bust cycles we went through in the country, it did not matter that the graph showed this fluctuating line in times of great prosperity, in times of economic downturns. It did not matter that, over the course of time, the number of people on welfare went up, and the economic boom cycle had nothing to do with bringing it down. It never came down. It went up in good times, it went up in bad times, prior to 1996.

□ 2245

It was not the economic good times of the nineties. After all, we only passed this in 1996. It began to take effect maybe 1997–1998, and we had already been in a period of at least 10 or more years of economic upturn. Why had we not seen an increase in the number of people employed during that period and getting off of welfare during the time prior to 1996, say, from about 1985 to 1996?

We did not see it because, of course, the welfare system only encouraged people to stay on welfare. We encouraged generation after generation after generation of people to be on welfare. It is all they knew. It is all they trusted. It is all that they could actually hope for or think about.

We actually forced a change in the character, the national character of a nation, an amazing thing.

So what are we now proposing in the farm bill? We are proposing to add people to the welfare rolls, 200,000, perhaps more, depending upon which version of this thing is passed by this body, if it is passed. I suggest if history is any guide to this, it will be far more than 200,000; but what we are saying is that all of the things we did right in 1996 we are going to undo, little by little here; and we are going to start with people who are immigrants to the country, legal, that is true, but nonetheless ineligible for welfare at the present time, ineligible for food stamps at the present time.

Mr. Speaker, there is a peculiar thing that we do, one of the many I guess that we do with regard to this issue of immigration, and that is, that when someone comes here as an immigrant they have to actually find a sponsor who is willing to say and swear to the fact that when this person comes in as the person they sponsor, that they, in fact, will be held financially responsible so that that person coming in will never be a drain on the resources of the Nation. We say that all the time. I mean, that is every single person comes in, they actually sign it.

Amazingly, Mr. Speaker, we do not enforce it. In fact, there is not a mechanism to enforce it. We would not know what court to go to. There is no regulation that allows us to actually have a pathway to do this. So it is never enforced. Not one person, not one person here today as an immigrant, and some are eligible under our laws because of economic status, but none should be eligible because of the fact that we have someone who said they would be responsible, financially responsible. Yet not one person has ever been held responsible for an immigrant family coming here that then goes on welfare, not one. It is a big joke, as much of the immigration issue is a nasty, ugly and really not-so-funny joke. No one has ever been held responsible, no one; but that is the law. They are supposed to.

I ask my colleagues, Mr. Speaker, should it be the business of this body to actually reverse some of the activity, some of the benefits of the 1996 Welfare Reform Act and now begin an expansion of the number of people who are on welfare, in this particular case, on food stamps, who are made eligible for food stamps? I believe it is wrongheaded.

I know that there are political motivations for this. I understand that in this body is what really makes things work. That is the mother's milk of this organization, that is, what are the politics of the issue, and in this case, it is pretty clear. There is a rapidly-expanding immigration population in the United States; and the hope that we can garner their support, the political support of these people who will soon become citizens and eligible to vote and even those who vote, even though they are not citizens, and they do en masse, believe me, fraudulently vote, but we are all concerned about the impact of this massive immigration on our own political futures. This goes from the White House down through the House and Senate.

Mr. Speaker, it is fascinating, because in the Zogby poll I saw not too long ago there was one portion of it where they actually went to Hispanic Americans, and in this case Hispanic immigrants to the country who are not yet citizens, and said there is a proposal to, among other things, provide amnesty for people coming into this country, and would you be more or less inclined to vote for someone who supported amnesty for someone here illegally? Amazingly, a majority of the people, Hispanic Americans, said no, I would not be in favor of that. I would actually vote against someone who proposed that.

I believe with all my heart, Mr. Speaker, that we can appeal to every American, whether they be Hispanic or black or Italian, as I am, or Hungarian or Polish or whatever, we can appeal to them all to vote for our party based on our principles.

I am a Republican. The principles of my party rest on less government, less welfare, more individual freedom, a greater degree of trust and understanding of the importance of individual responsibility. That is what I believe we can appeal to people on.

People on the other side have their own principles and ideas, all just as deeply felt, all principled. I do not suggest for a moment that the folks on the other side of the aisle do not feel these things as strongly as I feel our principles.

Let us go forward based on who we are and what we are and ask for the support of the people who are here in the country; and I think, as Republicans, I think we will win. Certainly we will win our share. We will not win every single person, but I believe we can win our share by saying to them that we trust you, we want you to be part of this American mosaic, and we want to give you the freedom to both succeed and the freedom to fail.

That is the essence of freedom. Every country on the Earth that has tried the other experiment we call socialism, that experiment that tells people you really cannot fail, you really cannot, do not worry, we will always make sure you have a job even if your job produces nothing of value, the government will subsidize it, we will always make sure you have a home, a little apartment maybe someplace, because this is a guarantee against your ever failing.

Well, when you say to people you cannot fail, you also say to them, well, you cannot succeed; and the greatness of America is the fact that here we do say to everyone or at least it is the promise of America that you have this great opportunity. The great opportunity is to succeed even beyond your wildest imagination, and yes, you may fail, but that is an important part in the process, and to fail does not mean it is all over. It means you start again on a new path.

That is what I consider to be the American way. That is what I consider to be the promise we should hold out to everyone coming into the United States and to people who have been here for all of their lives, that we give them both the freedom to succeed and the freedom to fail.

There is an immediate allure I know to going up to people and saying we will protect you from failure, we will make sure you cannot; and we will hide any of the negative from you, but to fail as a system cannot work like this, and they have failed all over the world. It is only our system that now shines a light as a beacon really to the poor and impoverished of the world as to how we can improve the lives of everyone.

The poorest American for the most part lives even a better life than most of the people in the Third World. The poorest American has a better life today than most people in the world. I say in the world because, in fact, the Third World populations dwarf those of the rest of the world and so, in reality, the poorest American still lives better than most people in the world.

That is an amazing thing. It is an incredible thing, and of course if you are here and the only thing against which you judge it is what your neighbor has you feel impoverished, and I do not mean for a moment that we should not do everything we can to make sure that everyone in the United States does not move as quickly as they possibly can toward economic self-sufficiency, but welfare is not the way to do it.

It is more often than not a political ploy. It is a political carrot we dangle in front of people for their votes, but it is in a way as destructive to them as a drug that we put in front of them. Welfare is a drug that once injected becomes addictive. We recognize that. This is what I am saying now. What is amazing to me is that we came to this conclusion as a body, as a country just 6 years ago. Yet here we are talking about expanding the number of people eligible for, in this case, food stamp benefits; and again I say it is simply for political reasons.

The issue of immigration is one with which we must deal; and it will be interesting to see tomorrow, Mr. Speaker, if we do bring this motion to the floor to instruct conferees. It will be interesting to see how all the people who stood on the floor tonight to talk about fiscal discipline, the importance of not spending more than we take in, it will be interesting to see how they vote on this $2 billion proposal, an expansion of welfare.

My guess is that most of them will vote to expand it. Regardless of the fiscal implication of this country, it really does not matter. I would bet, Mr.

Speaker, that most of the people on this floor would vote for it even if it expanded welfare by $20 billion, by $50 billion, because the issue is not fiscal responsibility at that point. It is politics. It is votes. How many votes can we buy with welfare; and as I have told people on my side of the aisle so often, Mr. Speaker, we will never be able to outbid the folks on the other side of the aisle for votes when it comes to handicap welfare because everything we offer they will up the ante.

After all, it is not their money. It is just the people's money. Why not buy votes with the people's money? It is not yours, and that is in fact what we are doing here when we expand welfare. It is, in fact, what we are doing when we expand the number of people that can come into the United States. It is exactly what we do when we try to stop organizations of our government from actually enforcing the immigration laws, because we want for the most part, many people here want more people coming into the country. Why? Because they want diversity? Because they have some sort of altruistic feeling? No. No, sir. I do not believe that that is the case.

I think for the most part, this is my feeling, Mr. Speaker. I believe that what we are talking about here is the most crass politics. I see it as verbose. I see the people coming in as potential voters that I know want to retain power and even if you have to buy them off to do so, through government programs and services, some people will do that.

There is a great danger to this country from massive immigration, both legal and illegal. It is on many fronts. One is, in fact, the economic implications of massive immigration. For many, many years, immigration was thought of as one of the things that drove the economic engine of this country, and we still talk about it in that way. We still talk about the need for labor, especially low-cost labor. People on my side of the aisle especially talk about the need for low-cost labor and the importance of, in fact, keeping the engine running with those folks, and therefore, the need for massive immigration.

For a long time, Mr. Speaker, I think that that was a legitimate argument. When the country was going through the industrial revolution, it was in desperate need of low-cost labor. That was necessary for the accumulation of capital and for the eventual development of our system.

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And there were horrendous examples of the excesses of the time, sweat shops and the like. Nonetheless, a case could be made for the need for massive numbers of low-cost, low-skilled workers. I suggest, Mr. Speaker, like everything, the economics of this changed dramatically and that the impact today of massive numbers of low-skilled, low-wage workers is actually negative on the country.

I know that there are people who will disagree with me, recognizing as I hear all of the time from certain industries that they could not run their business, a lot of ski areas in Colorado, talk about the fact that they cannot find enough people, they have to rely on immigrants; and they know that most of them are illegal.

Here is an interesting concept put forth by a Vanderbilt professor, and I will characterize it in this way. Massive immigration of low-skilled workers privatizes profits and socializes costs. That means that there are undeniably a number of people who do profit as a result of having a lot of low-skilled people working for them. They do in fact have greater profits in that regard because you can pay lower wages. But on the other side, there are costs to society. There are costs for schools, costs for streets, hospitals, costs for social services, including welfare. What we have found is that the cost of immigration, especially for low-skilled, low-wage people are higher than the profits they return, higher than the benefits that they provide in terms of taxes, higher than what they actually turn in in terms of their own tax revenues.

Low-wage, low-skilled workers naturally pay less in taxes, naturally. Many of them, of course, are paid in cash because they are illegal. They are here illegally. So there is an advantage to the employer who can skirt the law by paying the employee in cash, thereby avoiding all kinds of employment taxes, and to the employee who takes it in cash who therefore does not have to pay taxes on it, does not have to account for it or fill out any forms. So a huge amount of money, a huge part of this economy, is a cash economy from which the government receives absolutely no revenues.

For those people who then in fact do pay taxes, they are people who pay a low level because naturally they are low-skilled, low-wage earners. Most pay none. Even if they are filing, they do not really pay taxes with the exception of sales and use taxes, but they pay no income taxes for the most part. But the costs of society are significant.

The cost of adding each new person to a community is about $1,500 and that is the first year, taking into account all of the things that have to be put in place for that additional person, streets, houses, all of the infrastructure. It is not economically viable; it is no longer something that pushes the engine of the economy. It is a drain on the economy. It is a governor, if you will, on the engine, on the speed of the engine.

It does in fact benefit certain people, undeniably true. The hotel owners in the resort areas in my State are benefited by having low-skilled, low-wage people come into the United States seeking jobs that perhaps no one else would take. That is what we always hear. But what we do not hear is the rest of that line, jobs no one else would take for the price I am paying this person. Well, it is true that perhaps they will have a harder time getting other folks to take those jobs, but it is not true this is an overall economic benefit to the Nation.

The numbers are staggering. In a recent article, and I should preface this by saying at the height of the immigration wave into the United States in the early part of the 20th century, we saw about 200,000 people a year coming in. That was only for 2 or 3 years, and after that it went down. That was tops. That was at the heyday of immigration into the country. Today, about a million come in legally. We do not know how many come in illegally.

Mr. Speaker, here is an interesting article that appeared recently in World Net Daily. It says in Cochise County, Arizona, the U.S.-Mexican border is the most heavily used corridor for illegal alien traffic on America's southern border, and the numbers of unauthorized immigrants smuggled across the porous border dumbfounds the imagination. As of October 19, 2001, the U.S. Border Patrol had apprehended 158,782 illegals. That was in 2001. By the Border Patrol's own admission, it catches one in five and admits that around 800,000 have slipped across the border up to that point in time. Local ranchers who have been watching the border for several generations strongly disagree and estimate that the agency nets one in 10. Estimates are that in 2001, over 1.5 million unlawful immigrants crossed into America in what the Border Patrol people called the Tucson sector. The numbers are staggering. It is growing dramatically.

Mr. Speaker, please understand, we are not just talking about people from Mexico or South America; we are talking about people from all over the world coming through Mexico.

This article goes on to identify the many people coming through that border illegally from the Middle East. A Border Patrol spokesman stated that the other than Mexican detentions has grown by 42 percent. Most of the non-Mexican immigrants are from El Salvador, but they have picked up people from all over the world. Arabs have been reported crossing the Arizona border for an unknown period, and border rancher George Morgan encountered thousands of illegals crossing his ranch on a well-used trail. He talks about an incident where he saw literally hundreds on his property one day. They were all Iranians, 100 Iranians, coming across the border. This article goes on to detail that particular phenomenon. That is to say that just because we have a porous border in the south and we talk about the danger that that poses to America from an economic standpoint, please understand that there is another danger that it poses to America, and that is a very vital part of this discussion, and that is the danger to our national security that is as a result of our porous borders, that is as a result of the fact that we do not care.

Mr. Speaker, we do not care who comes across. We are afraid of actually putting into any sort of order our border control efforts. We are afraid of it. Why are we afraid? How can this be, Mr. Speaker? That after 3,000 Americans were killed by aliens, people who came here from other countries for the purpose of doing harm, some of them here illegally as a result of overstaying their visas, how can we say that we turn a blind eye and that we do not care about the fact that these borders are porous? How can we continue to encourage people to come across those borders illegally? How is it that we can be so cavalier about what I consider to be one of the most important aspects of our national sovereignty, the establishment of, the protection of, the defense of our borders.

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Is it really passe? Is it really outdated for me to stand on the floor of this body and this House and plead for the protection of our borders, the defense of our borders? Is that really that odd? How is it that we can look at this whole phenomenon and not reel by the impact made when we understand the fact that every day, literally thousands of people are crossing our borders without our knowledge, certainly without our permission. For the most part, I am sure that their intentions are benign. But whether their intentions are simply to take a low-cost job that no one else will take or their intentions are to do something more evil, the fact is that the impact is negative on the country, negative from an economic standpoint and negative from a national security standpoint.

This body has failed to produce a single piece of legislation, both the House and the Senate together, failed to produce a single piece of legislation which will significantly increase the security of the people of the United States as regards the borders. We have done a great deal to improve our ability to respond to the threats of terrorists in Afghanistan, in Iraq maybe soon, in the Philippines, in the Republic of Georgia, the many other nations where we have identified tentacles of the terrorist threat Al Qaeda. We have done a marvelous job. It is to the credit of this President, this body, the Congress of the United States and more importantly to the people, the men and women who serve in the Armed Forces, that we have been able to accomplish what we have been able to accomplish since 9/11. But it is not enough, Mr. Speaker.

We have one primary responsibility here in this body, one thing that is more important than making sure that we fund health and human services activities, education activities, transportation and all of the other budget bills that we deal with. Something more important than that is the protection of the life and property of the people of this country. We shirk that responsibility if we do not pay attention to our borders, if we do not get some sort of hold on our own immigration policy and become a real nation. Because a real nation has borders. It defends them. It determines who comes across them to the best of its ability. It expels people who come across illegally. We laugh at that. We wink at it. It is a joke.

Let me tell you, Mr. Speaker, we will not be laughing the next time we have an incident. God forbid that another event occur in this Nation that we can attribute to the evil intent of people who come here from other nations and who sneak across or come across legally and stay beyond what they should or who lie to us for telling us why they are coming in. All those people coming in illegally, we have a responsibility to do everything we can to protect the American citizens by defending our borders. Do not shirk this responsibility, I beg my colleagues. It is our primary responsibility. God and the American people will judge us for our actions.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and the balance of the week on account of official business.

Mr. THORNBERRY (at the request of Mr. ARMEY) for today and April 17 on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. WELLER) to revise and extend their remarks and include extraneous material:)

Mr. HANSEN, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. WALDEN of Oregon, for 5 minutes, today.

Mr. GRUCCI, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SCHROCK, for 5 minutes, today.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 17, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6188. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Truth in Lending [Regulation Z; Docket No. R-1118] received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6189. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for the Household Furniture Industry—received March 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6190. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guide Concerning Fuel Economy Advertising For New Automobiles—received March 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6191. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guide For The Rebuilt, Reconditioned, And Other Used Automobile Parts Industry—received March 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6192. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (Appliance Labeling Rule)—received March 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6193. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services (Transmittal No. 02-05), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

6194. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal

No. 08–02 which informs of the intention to sign the Future Air Capabilities Projects (FAC) Memorandum of Understanding (MOU) between the United States, France, Germany, and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6195. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 07–02 which informs of the intention to sign an Amendment to the Memorandum of Understanding (MOU) between the United States, the United Kingdom, Canada, and The Netherlands concerning the Cooperative Framework for the System Development and Demonstration (SDD) Phase of the Joint Strike Fighter (JSF) Program and the Netherlands Supplement between the United States and The Netherlands, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6196. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 12–02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

6197. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 027–02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

6198. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to India [Transmittal No. DTC 168–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6199. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 032–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6200. A letter from the Inspector General, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period April 1, 2001, through September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6201. A letter from the FHWA Regulations Officer, Department of Transportation, transmitting the Department's final rule—Right-of-Way and Real Estate; Program Administration [FHWA Docket No. FHWA–2001–8624] (RIN: 2125–AE82) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6202. A letter from the FMCSA Regulations Officer, Department of Transportation, transmitting the Department's final rule—Certification of Safety Auditors, Safety Investigators, and Safety Inspectors [Docket No. FMCSA–2001–11060] (RIN: 2126–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6203. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. 2001–NM–07–AD; Amendment 39–12632; AD 2002–02–04] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6204. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and A300 B4; A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600); and Model A310 Series Airplanes [Docket No. 2001–NM–253–AD; Amendment 39–12633; AD 2002–02–05] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6205. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–200, –200C, –300, and –500 Series Airplanes [Docket No. 2000–NM–332–AD; Amendment 39–12636; AD 2002–02–08] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6206. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Britten-Norman Limited BN–2, BN–2A, BN–2B, and BN–2T Series Airplanes [Docket No. 2001–CE–38–AD; Amendment 39–12638; AD 2002–02–10] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6207. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 2000–NM–413–AD; Amendment 39–12652; AD 2002–03–11] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6208. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes and Model Avro 146–RJ Series Airplanes [Docket No. 2000–NM–266–AD; Amendment 39–12651; AD 2002–03–10] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6209. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes [Docket No. 2001–CE–10–AD; Amendment 39–12644; AD 2002–03–03] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6210. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International, S. A. CFM56–5 Series Turbofan Engines [Docket No. 2001–NE–20–AD; Amendment 39–12461; AD 2002–02–13] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6211. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Honeywell International, Inc., (formerly AlliedSignal, Inc., and Textron Lycoming) T5311A, T5311B, T5313B, T5317A, T5317B, T53–L–11, T53–L–11A, T53–L–11B, T53–L–11C, T53–L–11D, T53–L–11AS/SA, T53–L–13B, T53–L–13BS/SA, T53–L–13BS/SB, and T53–L–703 Turboshaft Engines [Docket No. 2000–NE–34–AD; Amendment 39–12642; AD 2002–03–01] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6212. A letter from the Program Analyst, FAA, Department Of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Series Airplanes [Docket No. 2001–NM–224–AD; Amendment 39–12648; AD 2002–03–07] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6213. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans' Affairs, transmitting the Department's final rule—Board of Veterans' Appeals Rules of Practice: Claim for Death Benefits by Survivor (RIN: 2900–AL11) received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 3955. A bill to designate certain National Forest System lands in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, and for other purposes; with an amendment (Rept. 107–409). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3421. A bill to provide adequate school facilities within Yosemite National Park, and for other purposes; with an amendment (Rept. 107–410 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 388. Resolution providing for consideration of the bill (H.R. 476) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions (Rept. 107–411). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII, the Committee on Education and the Workforce discharged from further consideration. H.R. 3421 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3421. Referral to the Committee on Education and the Workforce extended for a period ending not later than April 16, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MANZULLO (for himself and Ms. VELÁZQUEZ):

H.R. 4231. A bill to improve small business advocacy, and for other purposes; to the Committee on Small Business.

By Mr. FERGUSON:

H.R. 4232. A bill to extend the temporary suspension of duty on bromine-containing compounds; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 4233. A bill to extend the temporary suspension of duty on filter blue green photo dye; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 4234. A bill to extend the temporary suspension of duty on a fluoride compound; to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. GEORGE MILLER of California, Mr. MURTHA, and Mr. STRICKLAND):

H.R. 4235. A bill to amend the Black Lung Benefits Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ACEVEDO-VILÁ (for himself, Mr. UNDERWOOD, and Mrs. CHRISTENSEN):

H.R. 4236. A bill to provide access to welfare tools to help Americans get back to work; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN:

H.R. 4237. A bill to provide for the liquidation or reliquidation of certain entries of protective cases; to the Committee on Ways and Means.

By 'Mr. BECERRA:

H.R. 4238. A bill to extend the temporary suspension of duty on 5-[(3,5-Dichlorophenyl)-thio]-4-(1-methylethyl-1)-(4-pyridin lmethyl)-1H-imidazole-2-methanol carbamate; to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4239. A bill to extend the temporary suspension of duty on [4R-[3(2S*,3S*),4R*]]-3-[2-Hy-droxy-3-[(3-hydroxy-2-methyl-b enzoyl)amino]-1-oxo-4-phenylbutyl]-5,5-dimethyl-N-](2-methyl penyl)-methyl]-4-thiazolidine-carboxamide; to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4240. A bill to extend the temporary suspension of duty on (2E,4S)-4-(((2R,5S)-2-((4-Fluorophenyl)-methyl)-6-methyl-5-((5-methyl-3-isoxazolyl)-carbonyl y)amino)-1,4-dioxoheptyl)-amino)-5-((3S)-2-oxo-3-pyrrolidiny 1)-2-pentenoic acid, ethyl ester; to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4241. A bill to suspend temporarily the duty on 1H-imidazole,4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-(9C 1); to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4242. A bill to suspend temporarily the duty on Benzamide, N-methyl-2-[[3-[(1E)-2-(2-pyridinyl—ethenyl]-1H-indazol-6- yl)thio]-; to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4243. A bill to suspend temporarily the duty on 1(2H)-Quinolinecarboxylic acid, 4-[[[3,5-bis(trifluoromethyl)phenyl] methyl](methoxycarbonyl)amino]-2-ethyl- 3,4-dihydro-6-(trifluoromethyl)-, ethyl ester, (2R,4S)-(9CI); to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4244. A bill to suspend temporarily the duty on Disulfide,bis(3,5-dichlorophenyl)(9C1); to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4245. A bill to suspend temporarily the duty on Pyridine,4-[[4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-1H- midazol-1-yl] methyl]- ethanedioate (1:2); to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4246. A bill to suspend temporarily the duty on 1H-Pyrazole-5-carboxamide,N-[2-fluoro-5-[[3-[(1E)-2-(2-pyrid inyl)ethenyl]-1H-indazol-6-yl]amino]phenyl]1,3-dimethyl-; to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 4247. A bill to suspend temporarily the duty on 1H-imidazole-2-methanol,5-[(3,5-dichlorophenyl)thio]-4-(1-me hlethyl)-1-(4-pyridinylmethyl)-(9C1); to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4248. A bill to suspend temporarily the duty on Paclobutrazole Technical; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4249. A bill to suspend temporarily the duty on Paclobutrazole 2SC; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4250. A bill to suspend temporarily the duty on Methidathion Technical; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4251. A bill to suspend temporarily the duty on Vanguard 75 WDG; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4252. A bill to suspend temporarily the duty on WAKIL XL; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4253. A bill to suspend temporarily the duty on Oxasulfuron Technical; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4254. A bill to suspend temporarily the duty on Mucochloric Acid; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4255. A bill to suspend temporarily the duty on Azoxystrobin Technical; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4256. A bill to suspend temporarily the duty on Flumetralin Technical; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4257. A bill to suspend temporarily the duty on Cyprodinil Technical; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4258. A bill to suspend temporarily the duty on Mixtures of Lambda-Cyhalothrin; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4259. A bill to suspend temporarily the duty on Primisulfuron; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4260. A bill to suspend temporarily the duty on 1,2 Cyclohexanedione; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 4261. A bill to suspend temporarily the duty on Difenoconazole; to the Committee on Ways and Means.

By Mr. COX:

H.R. 4262. A bill to suspend temporarily the duty on certain refracting and reflecting telescopes; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4263. A bill to extend the temporary suspension of duty on Baytron M; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4264. A bill to extend the temporary suspension of duty on Baytron P; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4265. A bill to extend the temporary suspension of duty on certain ion-exchange resins; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4266. A bill to extend the temporary suspension of duty on Thionyl Chloride; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4267. A bill to extend the temporary suspension of duty on DEMT; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4268. A bill to extend the temporary suspension of duty on PHBA (p-hydroxybenzoic acid); to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4269. A bill to extend the temporary suspension of duty on Iminodisuccinate; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4270. A bill to extend the temporary suspension of duty on Mesamoll; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4271. A bill to extend the temporary suspension of duty on Baytron C-R; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4272. A bill to extend the temporary suspension of duty on ortho-phenylphenol (OPP); to the Committee on Ways and Means.

By Mr. COYNE (for himself and Mr. HOLDEN):

H.R. 4273. A bill to extend the temporary suspension of duty on 11-Aminoundecanoic acid; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4274. A bill to extend the suspension of duty on Vulkalent E/C; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4275. A bill to suspend temporarily the duty on Phenylisocyanate; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4276. A bill to suspend temporarily the duty on Bayowet FT-248; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4277. A bill to suspend temporarily the duty on APEC 1745; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4278. A bill to suspend temporarily the duty on P-Phenylphenol; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 4279. A bill to suspend temporarily the duty on certain rubber riding boots; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4280. A bill to suspend temporarily the duty on aluminum etched foil; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4281. A bill to suspend temporarily the duty on Chemical RH water-based (iron toluene sulfanate); to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4282. A bill to suspend temporarily the duty on Chemical NR Ethanol-based (iron toluene sulfanate); to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4283. A bill to suspend temporarily the duty on tantalum top/bottom inner shield, tantalum pan, tantalum crucibles, tantalum rod, and tantalum wire; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4284. A bill to suspend temporarily the duty on tantalum capacitor ink; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4285. A bill to suspend temporarily the duty on certain cultured crystals; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4286. A bill to suspend temporarily the duty on certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4287. A bill to suspend temporarily the duty on certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4288. A bill to suspend temporarily the duty on nickel powder; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4289. A bill to suspend temporarily the duty on certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4290. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4291. A bill to suspend temporarily the duty on certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4292. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4293. A bill to suspend temporarily the duty on certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4294. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT:

H.R. 4295. A bill to suspend temporarily the duty on certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4296. A bill to suspend temporarily the duty on barium titanate; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4297. A bill to suspend temporarily the duty on thermal release plastic film; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4298. A bill to suspend temporarily the duty on certain formulated silver paints and pastes to coat tantalum anodes colloidal precious metals; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4299. A bill to suspend temporarily the duty on polymer masking material for aluminum capacitors (UPICOAT); to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4300. A bill to suspend temporarily the duty on standard grade ferroniobium; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4301. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4302. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4303. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4304. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4305. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4306. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 4307. A bill to extend temporary suspension of duty with respect to Ethofumesate; to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 4308. A bill to extend the temporary suspension of duty with respect to Desmedipham; to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 4309. A bill to extend the temporary suspension of duty with respect to Phenmedipham; to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 4310. A bill to extend the temporary suspension of duty with respect to Diclofop methyl; to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 4311. A bill to suspend temporarily the duty on endosulfan; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 4312. A bill to provide emergency agricultural assistance to producers of the 2002 crop of certain agricultural commodities; to the Committee on Agriculture.

By Mr. HOLDEN:

H.R. 4313. A bill to suspend temporarily the duty on 3-[(4 Amino-3-Methoxyphenyl) Azo]-benzene sulfonic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4314. A bill to suspend temporarily the duty on 2-Methyl-5-nitrobenzenesulfonic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4315. A bill to suspend temporarily the duty on 2 Amino 6 Nitro Phenol 4 sulfonic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4316. A bill to suspend temporarily the duty on 2 Amino 5 sulfobenzoic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4317. A bill to suspend temporarily the duty on 2,5 bis [(1,3 Dioxobutyl) Amino] benzene sulfonic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4318. A bill to suspend temporarily the duty on p-Aminoazobenzene 4 sulfonic acid, monosodium salt; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4319. A bill to suspend temporarily the duty on p-Aminoazobenzene 4 sulfonic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4320. A bill to suspend temporarily the duty on 3-[(4 Amino-3-Methoxyphenyl) Azo]-benzene sulfonic acid, monosodium salt; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 4321. A bill to extend the temporary suspension of duty on R115777; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 4322. A bill to suspend temporarily the duty on ET-743; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 4323. A bill to extend the temporary suspension of duty on Imazalil; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 4324. A bill to extend the temporary suspension of duty on Norbloc 7966; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 4325. A bill to extend the temporary suspension of duty on Fungaflor 500 EC; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 4326. A bill to suspend until December 31, 2006, the duty on Benzenepropanal, 4-(1,1-Dimethylethyl)-Alpha-Methyl-; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4327. A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[[2-[[4-fluoro-6-[[5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo]-7-sulfo-2-naphthalenyl]amino]-1,3,5-triazin 2-yl] amino]-1-me-thylethyl]amino]-1,3,5-triazin-2-yl]amino]-3-[[4-(ethenylsulfonyl)phenyl]azo]-4-hydrox'-, sodium salt; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4328. A bill to suspend temporarily the duty on 1,5-Naphthalenedisulfonic acid, 3-[[2-(acetylamino)-4-[[4-[[2-[2-(ethenylsulfonyl)ethoxy]ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]phenyl]azo]-, disodium salt; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4329. A bill to suspend tempor-arily the duty on 7,7'-[1.3-propanediylbis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)amino]-4,1-phenylene]azo]]bis-, sodium salt; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4330. A bill to suspend temporarily the duty on Cuprate(3-), [2-[[[[3-[[4-[[2-[2-(ethenylsulfonyl)ethoxy]ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-2-(hydroxy-.kappa.O)-5-sulfophenyl]azo-.kappa.N2]phenylmethyl]azo-.kappa.N1]-4-sulfobenzoato(5-)-.kappa.O], trisodium; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4331. A bill to suspend temporarily the duty on 1,5-Naphthalenedisulfonic acid, 2-[[8-[[4-[[3-[[[2-(ethenylsulfonyl)ethyl]amino]carbonyl]pheny]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-1-hydroxy-3,6-d isulfo-2-naphthalenyl]azo]-, tetrasodium salt; to the Committee on Ways and Means.

By Mr. KING:

H.R. 4332. A bill to designate the facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, as the "Gerard A. Fiorenza Post Office Building"; to the Committee on Government Reform.

By Mr. LAHOOD:

H.R. 4333. A bill to suspend temporarily the duty on certain certain wheel rims; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4334. A bill to suspend temporarily the duty on certain visual signaling equipment; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4335. A bill to suspend temporarily the duty on certain machinery parts; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4336. A bill to suspend temporarily the duty on certain parts of gearing, gear boxes, and other speed changers; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4337. A bill to suspend temporarily the duty on parts of fuel-injection pumps for compression-ignition engines; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4338. A bill to suspend temporarily the duty on certain lubricating pumps; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4339. A bill to suspend temporarily the duty on fuel-injection pumps for compression ignition engines; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4340. A bill to suspend temporarily the duty on certain engine parts; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4341. A bill to suspend temporarily the duty on certain engine parts; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4342. A bill to suspend temporarily the duty on certain compression-ignition internal combustion piston engines; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4343. A bill to suspend temporarily the duty on marine propulsion engines; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4344. A bill to suspend temporarily the duty on certain tubes, pipes, and hoses; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 4345. A bill to suspend temporarily the duty on certain tubes, pipes, and hoses; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 4346. A bill to suspend temporarily the duty on PTFMBA; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 4347. A bill to suspend temporarily the duty on difluoroaniline; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4348. A bill to extend the temporary suspension of duty on Solvent Blue 124; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4349. A bill to extend the temporary suspension of duty on 4-Amino-2,5-dimethoxy-N-phenylbenzene sulfonamide; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4350. A bill to extend the temporary suspension of duty on Solvent Blue 104; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4351. A bill to extend the temporary suspension of duty on Pigment Yellow 154; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4352. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4353. A bill to extend the temporary suspension of duty on Pigment Red 208; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4354. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4355. A bill to extend the temporary suspension of duty on Pigment Red 185; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4356. A bill to suspend temporarily the duty on benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4357. A bill to suspend temporarily the duty on Pigment Red 176; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4358. A bill to suspend temporarily the duty on p-amino benzamide; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4359. A bill to suspend temporarily the duty on Pigment Yellow 214; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4360. A bill to suspend temporarily the duty on Pigment Yellow 180; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4361. A bill to reduce temporarily the duty on Imidacloprid pesticides; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4362. A bill to reduce temporarily the duty on FOE Hydroxy; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4363. A bill to reduce temporarily the duty on Alkylketone; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4364. A bill to reduce temporarily the duty on Beta-cyfluthrin; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4365. A bill to suspend temporarily the duty on Imidacloprid Technical; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4366. A bill to suspend temporarily the duty on Bayleton Technical; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4367. A bill to suspend temporarily the duty on Propoxur Technical; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4368. A bill to suspend temporarily the duty on MKH 6561 Isocyanate; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4369. A bill to suspend temporarily the duty on Propoxy Methyl Triazolone; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4370. A bill to suspend temporarily the duty on Nemacur VL; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4371. A bill to suspend temporarily the duty on Methoxy Methyl Triazolone; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. SKELTON, and Mr. GRAVES):

H.R. 4372. A bill to reduce temporarily the duty on MKH 6562 Isocyanate; to the Committee on Ways and Means.

By Mr. MCDERMOTT (for himself, Mr. WYNN, Mrs. CHRISTENSEN, Ms. KAPTUR, Mr. FROST, Mr. GEORGE MILLER of California, Mr. BONIOR, Mr. STARK, Mr. KUCINICH, Ms. LEE, Mr. UDALL of New Mexico, Mr. JACKSON of Illinois, Mr. ACEVEDO-VILÁ, and Mrs. MINK of Hawaii):

H.R. 4373. A bill to amend the Federal Unemployment Tax Act and the Social Security Act to modernize the unemployment insurance system, and for other purposes; to the Committee on Ways and Means.

By Mr. MEEKS of New York (for himself and Mr. FOLEY):

H.R. 4374. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of frequent flyer mileage awards; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4375. A bill to suspend temporarily the duty on Levafix Golden Yellow E-G; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4376. A bill to suspend temporarily the duty on Levafix Blue CA/Remazol Blue CA; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4377. A bill to suspend temporarily the duty on Remazol Yellow RR Gran; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4378. A bill to suspend temporarily the duty on Indanthren Blue CLF; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4379. A bill to extend the temporary suspension of duty on Sodium petroleum sulfonate; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4380. A bill to suspend temporarily the duty on Chloroacetic acid; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4381. A bill to suspend temporarily the duty on Indanthren Yellow F3GC; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4382. A bill to suspend temporarily the duty on Acetyl Chloride; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4383. A bill to suspend temporarily the duty on 4-Methoxy-phenacychloride; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4384. A bill to suspend temporarily the duty on 3-Methoxy-thiophenol; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4385. A bill to suspend temporarily the duty on Levafix Brilliant Red E-6BA; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4386. A bill to extend the temporary suspension of duty on Isobornyl Acetate; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4387. A bill to suspend temporarily the duty on 2,4-xylidine; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4388. A bill to extend the temporary suspension of duty on certain TAED chemicals; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4389. A bill to suspend temporarily the duty on Remazol Br. Blue BB 133%; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4390. A bill to suspend temporarily the duty on Fast Navy Salt RA; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4391. A bill to suspend temporarily the duty on Levafix Royal Blue E-FR; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4392. A bill to suspend temporarily the duty on p-Chloro aniline; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4393. A bill to suspend temporarily the duty on esters and sodium esters of Parahydroxybenzoic Acid; to the Committee on Ways and Means.

By Mr. NADLER:

H.R. 4394. A bill to amend the Internal Revenue Code of 1986 to provide for regional cost of living adjustments; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts (for himself and Mr. Akin):

H.R. 4395. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts (for himself and Mr. Akin):

H.R. 4396. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts (for himself and Mr. Akin):

H.R. 4397. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts (for himself and Mr. Akin):

H.R. 4398. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts (for himself and Mr. Akin):

H.R. 4399. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts (for himself and Mr. Akin):

H.R. 4400. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Ways and Means.

By Mr. NETHERCUTT:

H.R. 4401. A bill to suspend temporarily the duty on RWJ 241947; to the Committee on Ways and Means.

By Mr. NETHERCUTT:

H.R. 4402. A bill to suspend temporarily the duty on RWJ 394718; to the Committee on Ways and Means.

By Mr. NETHERCUTT:

H.R. 4403. A bill to suspend temporarily the duty on RWJ 394720; to the Committee on Ways and Means.

By Mr. NUSSLE:

H.R. 4404. A bill to amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for certain log forwarders used as motor vehicles for the transport of goods; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4405. A bill to extend the temporary suspension of duty on diethyl phosphorochidothioate; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4406. A bill to suspend temporarily the duty on 3,4-DCBN; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4407. A bill to extend the temporary suspension of duty on 2,6-dichloroaniline; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4408. A bill to suspend temporarily the duty on Cyhalofop; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4409. A bill to extend the temporary suspension of duty on benfluralin; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4410. A bill to extend the temporary suspension of duty on 1,3-diethyl-2-imidazolidinone; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4411. A bill to suspend temporarily the duty on ethalfluralin; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4412. A bill to extend the temporary suspension of duty on diphenyl sulfide; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4413. A bill to suspend temporarily the duty on Asulam; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4414. A bill to suspend temporarily the duty on 2-methyl-4-chlorophenoxyacetic acid; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4415. A bill to suspend temporarily the duty on Florasulam; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4416. A bill to extend the temporary suspension of duty on DMDS; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4417. A bill to suspend temporarily the duty on Propanil; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4418. A bill to extend the temporary suspension of duty on Methoxyfenozide; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4419. A bill to extend the temporary suspension of duty on halofenozide; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4420. A bill to suspend temporarily the duty on Myclobutanil; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4421. A bill to extend the temporary suspension of duty on Starane F; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4422. A bill to suspend temporarily the duty on Ortho-phthalaldehyde; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4423. A bill to extend the temporary suspension of duty on Triazamate; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4424. A bill to suspend temporarily the duty on trans 1,3-dichloropentene; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4425. A bill to suspend temporarily the duty on methacrylamide; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4426. A bill to suspend temporarily the duty on Cation Exchange Resin; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4427. A bill to extend the temporary suspension of duty on Propiconazole; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4428. A bill to extend the temporary suspension of duty on B-Bromo-B-nitrostyrene; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4429. A bill to suspend temporarily the duty on Oryzalin; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4430. A bill to extend the temporary suspension of duty on quinoline; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4431. A bill to extend the temporary suspension of duty on 2-Phenylphenol; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4432. A bill to extend the temporary suspension of duty on tebufenozide; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4433. A bill to extend the temporary suspension of duty on 3-amino-5-mercapto-1,2,4-triazole; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4434. A bill to suspend temporarily the duty on Gallery; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4435. A bill to extend the temporary suspension of duty on 4,4-dimethoxy-2-butanone; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4436. A bill to extend the temporary suspension of duty on Fenbuconazole; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4437. A bill to extend the temporary suspension of duty on Diiodomethyl-p-tolylsulfone; to the Committee on Ways and Means.

By Mr. PENCE:

H.R. 4438. A bill to suspend temporarily the duty on trifluralin; to the Committee on Ways and Means.

By Mr. PETERSON of Pennsylvania:

H.R. 4439. A bill to suspend temporarily the duty on certain polyamides; to the Committee on Ways and Means.

By Mr. PETRI:

H.R. 4440. A bill to suspend temporarily the duty on fixed-ratio gear changers for truck-mounted concrete mixers; to the Committee on Ways and Means.

By Mr. POMBO:

H.R. 4441. A bill to reduce the duty on certain straw hats; to the Committee on Ways and Means.

By Ms. PRYCE of Ohio (for herself and Mr. Tiberi):

H.R. 4442. A bill to suspend temporarily the duty on certain necks used in cathode ray tubes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4443. A bill to suspend temporarily the duty on polytetramethylene ether glycol; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4444. A bill to suspend temporarily the duty on magnesium aluminum hydroxide carbonate hydrate; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4445. A bill to suspend temporarily the duty on leaf alcohol; to the Committee on Ways and Means.

By Mr. ROGERS of Michigan (for himself, Mr. WILSON of South Carolina, Mr. ISSA, Mr. SULLIVAN, Mr. BOOZMAN, Ms. HART, Mrs. CAPITO, Mr. GRUCCI, Mr. SCHROCK, Mr. AKIN, Mr. SIMMONS, Mr. CHAMBLISS, Mr. BACHUS, Mrs. KELLY, Mr. BEREUTER, Mr. CANTOR, Mrs. BIGGERT, Mrs. ROUKEMA, Mr. FLETCHER, Mr. FOLEY, Mr. HORN, Mr. RILEY, Mr. KENNEDY of Minnesota, Mr. FERGUSON, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. LATOURETTE, Mr. OXLEY, Mr. KELLER, Mr. MCHUGH, Mr. TIBERI, Mr. NEY, Mr. COOKSEY, Mr. EHRLICH, Mr. GREEN of Wisconsin, Mr. ISRAEL, Mr. CLAY, Mr. ROSS, Ms. KILPATRICK, Mr. CUMMINGS, and Mr. RUSH):

H.R. 4446. A bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Financial Services.

By Mrs. ROUKEMA (for herself, Mr. ROTHMAN, and Mr. DOOLEY of California):

H.R. 4447. A bill to suspend temporarily the duty on certain prepared or preserved artichokes, not frozen; to the Committee on Ways and Means.

By Mrs. ROUKEMA (for herself, Mr. ROTHMAN, and Mr. DOOLEY of California):

H.R. 4448. A bill to suspend temporarily the duty on certain prepared or preserved artichokes; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 4449. A bill to suspend temporarily the duty on combed cashmere and camel hair yarn; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 4450. A bill to suspend temporarily the duty on carded cashmere yarn of 6 run or finer; to the Committee on Ways and Means.

By Mr. STRICKLAND (for himself and Mr. NEY):

H.R. 4451. A bill to amend the Harmonized Tariff Schedule of the United States to provide separate subheadings for low-energy magnets and articles containing magnets and to create additional U.S. notes explaining the tariff classification of low-energy magnets and articles containing magnets; to the Committee on Ways and Means.

By Mr. WATKINS (for himself and Mr. POMEROY):

H.R. 4452. A bill to amend title XVIII to provide for a 5-year extension of the authorization for appropriations for certain Medicare rural grants; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4453. A bill to suspend temporarily the duty on Sulfur Black 1; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4454. A bill to suspend temporarily the duty on Reduced Vat Blue 43; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4455. A bill to suspend temporarily the duty on Fluorobenzene; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4456. A bill to extend the suspension of duty on Propiophenone; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4457. A bill to extend the suspension of duty on Meta-chlorobenzaldehyde; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4458. A bill to extend the suspension of duty on 4-bromo-2-fluoroacetanilide; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 4459. A bill to extend the suspension of duty on 2,6, Dichlorotoluene; to the Committee on Ways and Means.

By Mr. DEMINT (for himself and Mrs. MYRICK):

H.R. 4460. A bill to suspend temporarily the duty on tantalum powder; to the Committee on Ways and Means.

By Mr. RILEY (for himself, Mr. ADERHOLT, Mr. BACHUS, Mr. CALLAHAN, Mr. CRAMER, Mr. EVERETT, and Mr. HILLIARD):

H. Con. Res. 377. Concurrent resolution expressing the sense of Congress regarding the establishment by the Hyundai Motor Company of its first automotive manufacturing facility in the United States; to the Committee on Energy and Commerce.

By Mr. NEY (for himself and Mr. HOYER):

H. Con. Res. 378. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001; to the Committee on House Administration.

By Mr. ROGERS of Michigan:

H. Con. Res. 379. Concurrent resolution recognizing the efforts and activities of the National SAFE KIDS Campaign to prevent all unintentional injuries among children, including bicycle-related traumatic brain injuries; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER:

H. Res. 387. A resolution providing for the expulsion of Representative James A. Traficant, Jr., from the House of Representatives; to the Committee on Standards of Official Conduct.

By Ms. SANCHEZ:

H. Res. 389. A resolution providing for the expulsion of Representative James A. Traficant, Jr., from the House of Representatives; to the Committee on Standards of Official Conduct.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DEMINT:

H.R. 4461. A bill to provide for the liquidation or reliquidation of entries of certain manufacturing equipment; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 4462. A bill to provide for the reliquidation of certain entries; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri:

H.R. 4463. A bill to provide for the liquidation or reliquidation of certain entries; to the Committee on Ways and Means.

By Mr. ROGERS of Michigan:

H.R. 4464. A bill to provide for reliquidation pursuant to section 1003 of the Miscellaneous Trade and Technical Corrections Act of 1999; to the Committee on Ways and Means.

By Ms. SANCHEZ:

H.R. 4465. A bill to provide for the reliquidation of entries of certain machines used to replicate optical discs; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 122: Mr. LOBIONDO, Mr. PETERSON of Minnesota, Mr. LUCAS of Kentucky, Mr. SIMPSON, Mr. LEACH, Mr. TOM DAVIS of Virginia, Mr. FORBES, and Mr. MANZULLO.

H.R. 168: Mr. SIMPSON.

H.R. 448: Mr. FILNER.

H.R. 647: Mr. SCHROCK.

H.R. 648: Mrs. JO ANN DAVIS of Virginia.

H.R. 721: Ms. WATSON, Mr. SCHIFF, and Mr. HOSTETTLER.

H.R. 792: Ms. HOOLEY of Oregon.

H.R. 848: Mr. ISRAEL, Mr. SULLIVAN, Mr. PASCRELL, Mr. MALONEY of Connecticut, Mr. STRICKLAND, and Mr. SHIMKUS.

H.R. 854: Mr. TERRY, Mr. OLVER, Mrs. DAVIS of California, and Mr. HUNTER.

H.R. 951: Mr. TAUZIN, Mr. PAUL, Mrs. MCCARTHY of New York, Ms. ROS-LEHTINEN, and MR. CRENSHAW.

H.R. 1041: Ms. HART.

H.R. 1073: Mr. HILLEARY.

H.R. 1081: Mr. PETRI.

H.R. 1109: Mr. STEARNS, Mr. PICKERING, Mr. SHADEGG, Mr. JENKINS, Mr. LATHAM, Mr. LUCAS of Oklahoma, and Mr. BARTLETT of Maryland.

H.R. 1198: Mr. LATOURETTE, Mr. NEY, and Mr. HOLDEN.

H.R. 1239: Mrs. DAVIS of California.

H.R. 1262: Mr. LEVIN, Mr. BONIOR, and Mr. LANTOS.

H.R. 1265: Mr. PRICE of North Carolina.

H.R. 1305: Mr. GILMAN, Mr. ISTOOK, and Mr. WEINER.

H.R. 1353: Mr. MASCARA.

H.R. 1421: Mr. LOBIONDO.

H.R. 1436: Mr. BERRY and Mr. PHELPS.

H.R. 1475: Mr. WEINER and Ms. KAPTUR.

H.R. 1524: Mr. SOUDER.

H.R. 1556: Mr. SULLIVAN, Mr. CANTOR, Mr. COMBEST, Mr. PASTOR, Ms. MCKINNEY, Mr. LUCAS of Kentucky, Mr. GANSKE, and Mr. TERRY.

H.R. 1581: Mr. DICKS.

H.R. 1598: Mr. HOLT, Mr. LEACH, and Mr. BAIRD.

H.R. 1602: Mr. JEFF MILLER of Florida.

H.R. 1609: Mr. TERRY.

H.R. 1671: Mr. TOWNS, Ms. MCCOLLUM, and Mr. FRANK.

H.R. 1759: Mrs. CHRISTENSEN.

H.R. 1795: Mr. MALONEY of Connecticut, Mr. ROSS, and Mr. CRAMER.

H.R. 1808: Mr. HEFLEY.

H.R. 1873: Mr. KENNEDY of Rhode Island.

H.R. 1919: Mr. LATHAM.

H.R. 1943: Mr. BOUCHER, Mr. GORDON, Mr. GIBBONS, and Ms. MCCOLLUM.

H.R. 1956: Mr. NETHERCUTT and Mr. LEWIS of Kentucky.

H.R. 1979: Mr. BARR of Georgia and Ms. DUNN.

H.R. 1983: Mr. GARY G. MILLER of California and Mr. ABERCROMBIE.

H.R. 2002: Mr. BURTON of Indiana, Mr. WELLER, Mr. TERRY, and Mr. VISCLOSKY.

H.R. 2073: Mr. ABERCROMBIE.

H.R. 2125: Mr. HEFLEY, Mr. LYNCH, and Mr. FORD.

H.R. 2148: Mrs. MINK of Hawaii.

H.R. 2163: Mr. LARSEN of Washington and Mr. SULLIVAN.

H.R. 2219: Mr. WELLER, Mr. GREENWOOD, Mr. KLECZKA, and Mr. COOKSEY.

H.R. 2220: Mr. FOLEY.

H.R. 2290: Mrs. Johnson of Connecticut.

H.R. 2316: Mr. Hostettler, Mr. Manzullo, Mr. Shuster, Mr. Simpson, and Mr. Bachus.

H.R. 2347: Mr. Shuster.

H.R. 2349: Mr. Moore and Mr. Larson of Connecticut.

H.R. 2374: Mr. Rogers of Michigan.

H.R. 2419: Mr. McGovern.

H.R. 2462: Mr. Lipinski and Mr. Israel.

H.R. 2466: Mr. Paul, Mr. Hilleary, Mr. Doyle, Mr. Bonilla, Mr. Lewis of Kentucky, and Mr. Turner.

H.R. 2487: Mr. Brown of Ohio and Mr. Clay.

H.R. 2569: Mr. Chambliss.

H.R. 2605: Mr. Allen.

H.R. 2623: Mr. Rothman.

H.R. 2638: Mr. Doolittle and Mr. King.

H.R. 2695: Mr. Tancredo.

H.R. 2714: Mr. Aderholt, Mr. Flake, Mr. Chambliss, Mr. Calvert, and Mr. Hostettler.

H.R. 2735: Mr. Platts, Mr. Petri, Mr. Tancredo, and Mr. LaTourette.

H.R. 2817: Mr. Foley and Mr. King.

H.R. 2820: Mr. Shows, Mr. Mascara Ms. DeLauro, and Mr. Hall of Ohio.

H.R. 2867: Mr. Manzullo and Mr. Carson of Oklahoma.

H.R. 2874: Mr. Blagojevich, Mrs. Jo Ann Davis of Virginia, and Ms. Kaptur.

H.R. 2878: Mr. Strickland.

H.R. 2941: Mr. Maloney of Connecticut, Mr. Souder, and Mrs. Mink of Hawaii.

H.R. 2957: Mr. Pence and Mr. Owens.

H.R. 3058: Mr. Becerra and Ms. Watson.

H.R. 3113: Mr. Coyne.

H.R. 3231: Mr. Udall of Colorado and Mr. Cooksey.

H.R. 3234: Mr. Allen.

H.R. 3278: Mr. Rahall.

H.R. 3321: Mr. Sweeney and Mrs. McCarthy of New York.

H.R. 3333: Mr. Kerns.

H.R. 3388: Mr. Davis of Illinois and Mrs. Kelly.

H.R. 3397: Mr. Hoyer.

H.R. 3435: Mr. Mascara.

H.R. 3450: Mr. Moran of Virginia, Mr. Becerra, Mr. Bass, Mr. Weiner, Mr. Baird, Mrs. Tauscher, and Mr. Vitter.

H.R. 3476: Mr. Calvert.

H.R. 3478: Mr. Mascara.

H.R. 3553: Mr. Snyder.

H.R. 3569: Mr. Mascara.

H.R. 3573: Mr. Paul.

H.R. 3605: Mr. Barr of Georgia.

H.R. 3611: Mr. Goodlatte.

H.R. 3615: Mr. Davis of Illinois.

H.R. 3618: Mr. Riley.

H.R. 3626: Mr. Horn and Mr. Peterson of Minnesota.

H.R. 3679: Mr. Hastings of Florida and Mr. Payne.

H.R. 3684: Mr. Schrock and Mr. Otter.

H.R. 3686: Mr. Calvert and Mr. Phelps.

H.R. 3698: Ms. Hart.

H.R. 3717: Mr. Tancredo and Mr. Hoekstra.

H.R. 3747: Mr. Udall of Colorado and Ms. Solis.

H.R. 3794: Mr. Wu, Mr. Frelinghuysen, Mr. Cummings, Mr. Gekas, Mrs. Morella, Mr. Langevin, Ms. Sánchez, and Mr. Markey.

H.R. 3831: Mr. Clement, Mr. Hefley, and Mr. Peterson of Minnesota.

H.R. 3834: Mr. Rangel.

H.R. 3842: Mr. Calvert.

H.R. 3847: Mr. Andrews and Mr. Payne.

H.R. 3887: Ms. Woolsey, Mrs. Meek of Florida, Mr. Holt, Mr. Larsen of Washington, Mr. Pastor, Mr. Davis of Illinois, Mr. Moran of Virginia, Mr. Gilman, Mr. Gonzalez, Ms. Kilpatrick, Ms. Jackson-Lee of Texas, Mrs. Maloney of New York, Mr. Ackerman, Mr. Nadler, Mrs. Mink of Hawaii, Ms. Brown of Florida, Mr. Matsui, Ms. Harman, Ms. Lofgren, Mr. Brady of Pennsylvania, and Mr. Allen.

H.R. 3952: Ms. Lee and Mr. Filner.

H.R. 3972: Mr. Paul.

H.R. 3974: Ms. Hart.

H.R. 3976: Mr. Kleczka.

H.R. 4000: Mr. Walsh, Mr. Green of Wisconsin, Ms. Hart, Mr. Frost, Mr. Payne, Mr. Owens, Mr. Pallone, Mr. Kennedy of Rhode Island, and Mr. Hilliard.

H.R. 4014: Mr. Weldon of Florida, Mr. Hoeffel, Mr. Lantos, Ms. DeLauro, Mr. Stupak, Mrs. Mink of Hawaii, and Mrs. Kelly.

H.R. 4018: Mr. Rodriguez and Mr. LaTourette.

H.R. 4019: Ms. Hart.

H.R. 4037: Ms. Solis.

H.R. 4038: Ms. Lee.

H.R. 4043: Mr. Culberson and Ms. Hart.

H.R. 4066: Mr. McNulty, Mr. Pastor, Mr. Sullivan, Mr. Matheson, Mr. Rangel, Mr. Levin, Mr. Wexler, Mrs. Lowey, Mrs. Jones of Ohio, Mr. Sanders, Mr. Capuano, Mr. LaTourette, Mr. King, Mr. Price of North Carolina, Mr. Holt, Mr. Gutierrez, Mr. Meehan, Mr. Dicks, Mrs. Maloney of New York, Mr. Carson of Oklahoma, Ms. Carson of Indiana, Ms. Eddie Bernice Johnson of Texas, Mrs. McCarthy of New York, Mr. Nadler, Mr. Frank, Mr. Matsui, and Mr. Foley.

H.R. 4071: Mr. Hoekstra.

H.R. 4086: Mr. Inslee, Mr. Moore, Mr. Lynch, and Mr. Horn.

H.R. 4090: Mr. Barr of Georgia, Mr. Hayworth, Mr. Wilson of South Carolina, and Mr. Shays.

H.R. 4104: Mr. Lucas of Kentucky.

H.R. 4119: Mr. Rohrabacher, Mr. Crowley, and Mr. Forbes.

H.R. 4152: Mr. Pickering, Mr. Young of Florida, Mr. Wicker, Mr. Forbes, and Mr. Tiberi.

H.R. 4156: Mr. Weller, Mr. Pickering, Mr. Souder, Mr. Hayes, Ms. Hart, Mr. Watkins, Mr. Shimkus, Mr. Bachus, Mr. Tanner, Mr. Stump, Mr. Peterson of Minnesota, Mr. Kind, and Mr. Davis of Illinois.

H.R. 4158: Mr. Rangel.

H.R. 4169: Mr. Cannon.

H.R. 4193: Ms. McCollum.

H.R. 4197: Mr. McGovern.

H.R. 4198: Mr. McGovern.

H. Con. Res. 114: Mr. Lynch, Mr. Snyder, Mr. Kucinich, Mr. Davis of Illinois, Mr. Owens, Mr. Fattah, Ms. Lee, Mr. Engel, Mr. Towns, Ms. Kaptur, Ms. Watson, Mr. Hastings of Florida, Mr. Frank, Mr. Clay, Ms. Brown of Florida, and Ms. Carson of Indiana.

H. Con. Res. 162: Mr. Cantor.

H. Con. Res. 222: Mr. Gordon and Mr. Forbes.

H. Con. Res. 291: Mr. Foley and Ms. McKinney.

H. Con. Res. 315: Mr. Stenholm and Mr. Calvert.

H. Con. Res. 340: Mr. Owens and Mr. Frost.

H. Con. Res. 359: Mr. Frost, Mr. Kildee, and Mr. Frank.

H. Con. Res. 371: Mr. Boozman, Mr. Ehrlich, Mr. Lewis of California, Mr. Castle, Mr. Filner Mrs. Davis of California, Ms. Brown of Florida, Ms. Harman, Mr. Baird Mr. Coyne, Mr. Jones of North Carolina, Mr. Ose Mr. Hall of Ohio, Mr. Forbes, Mr. Pence, Mr. Cramer Mr. Moran of Virginia, Mr. Radanovich, Mr. Brady of Pennsylvania, and Mr. Wynn.

H. Res. 225: Mr. Foley.

H. Res. 295: Mr. Pence.

H. Res. 361: Mr. McHugh, Ms. Baldwin, and Mr. Fattah.

EXTENSIONS OF REMARKS

"PAUL REVERE FORUM" AND THE PAUL REVERE FREEDOM TO WARN ACT

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 2002

Mr. ISRAEL. Mr. Speaker, on February 27, 2002, I was honored to be joined by a number of American patriots for a forum on my legislation, the Paul Revere Freedom To Warn Act.

The courage of the whistleblowers who joined me that day was wonderful testimony to the power of the individual and to the responsibility we all have to monitor our national security. Brave men and women have taken great personal risks to protect all of us. Now we must do a better job protecting them.

For years, whistleblowers have been forced to make personal sacrifices in order to do what is right. I would submit that, at the least, whistleblowers deserve to be free from retaliation for simply doing what is right.

The is why I sponsored the Paul Revere Freedom to Warn Act. This legislation would merely give people a remedy. This legislation would merely say that any whistleblower who is retaliated against (in contravention of the Lloyd-LaFollette Act, which is current law), should have the right to seek redress for their harm.

I would like to thank all those who attended the forum on February 27 as well as the event's sponsors, the Government Accountability Project, the Project on Government Oversight, and the National Whistleblower Center. In particular, I would like to thank former New York Police Detective Frank Serpico for detailing his personal account. Mr. Serpico, who courageously exposed police corruption in the 1970's, is a shining example of how one person's courage can change the system and make life better for millions of people.

I was moved by the heroism of these individuals and unsettled by our failure to protect them in the past. This was no less true with Mr. Bogdan Dzakovic, whose efforts to warn the FAA about serious flaws in airport security, were virtually ignored. Matthew Zipoli, Randy Robarge, Ronald E. Timm, and Darlene Catalan, other patriots and whistleblowers, told their stories, and I thank them as well for reminding us that whistleblowers need our protection now more than ever.

Mr. Speaker, I ask that articles dealing with the forum and whistleblower issues from the Christian Science Monitor, the Washington Post and the Bureau of National Affairs' Government Employee Relations Report appear in the RECORD at this time.

[From the Christian Science Monitor, Feb. 28, 2002]

DEFENDING WHISTLEBLOWERS

The public is well served by the courageous few who put their careers at risk by going public about a dangerous or unethical situation in their area of work.

The latest example of such noble whistleblowing is Enron's Sherron Watkins, who brought to light the accounting fiction of Enron's books.

But she, like many whistleblowers, had difficulties getting the truth out. About 90 percent of whistleblowers experience some reprisal or threat of one.

A public forum is being held on Capitol Hill this week to drum up more protection for public truthtellers whether they be in aviation, nuclear power plants, border security, or the military.

Many parts of government rely on secrecy for their work but, as Tom Devine of the watchdog Government Accountability Project points out in these post-9/11 days: "Secrecy can be a threat to national security. It can sustain government breakdowns that create vulnerability to terrorism."

The 1989 Whistleblower Protection Act needs to have some loopholes closed, and a bipartisan effort within Congress to do just that is gaining momentum.

Congress should seize the opportunity to make sure citizens who sound the alarm have the rights—and protections—they need in order to help safeguard the greater society.

[From the Washington Post, Feb. 28, 2002]

MORE HELP SOUGHT FOR THOSE WHO BLOW WHISTLE

(By Bill Miller)

Joined by government insiders who had gone public with concerns about lapses in security at airports, nuclear facilities and borders, three watchdog groups yesterday called for stronger federal laws to protect whistleblowers from workplace retaliation.

"We can do a lot more to defend national security by listening to the messengers," said Tom Devine, legal director for the Government Accountability Project. "These people are the pros on the front lines, and they've been beating their heads against bureaucratic walls for years and warning that we're not prepared."

But, Devine said, those who come forward run the risk of being harassed, demoted or put out of work because of loopholes in the federal laws meant to protect them.

The 1989 Whistleblower Protection Act was supposed to protect federal employees, who wanted to expose misconduct, waste or abuse. But it has been narrowly interpreted by the U.S. Court of Appeals for the Federal Circuit to exclude employees who first take their allegations to supervisors or co-workers, Devine said. Judges also have demanded that employees present "irrefragable,"or indisputable, proof of the credibility of their disclosures, a nearly impossible standard, Devine said.

Devine spoke at an event billed as the "Paul Revere Forum," in honor of the Revolutionary War hero who rode through Massachusetts in 1775 to warn that the British troops were coming. Two other groups—the Project on Government Oversight (POGO) and the National Whistleblower Center—joined the call for tougher legislation.

"Rather than admit their failings, large institutions always seek to destroy the messenger, no matter how high the stakes," said Danielle Brian, POGO's executive director.

The organizations presented first-person accounts from former New York City police detective Frank Serpico, who exposed police corruption in the 1970s, as well as from five people who have warned that the United States remains vulnerable to terrorist attacks.

They included Randy Robage, a former nuclear power plant supervisor, who said those facilities remain at risk; former security officer Mathew Zipoli and government consultant Ronald E. Timm, who alleged that security is lax at nuclear weapons research facilities; Darlene Catalan, a former U.S. Customs agent who said railroad tanker cars aren't being adequately checked for explosives at the borders; and Bogdan J. Dzakovic, the leader of a Federal Aviation Administration security team who went public this week with allegations that government officials ignored problems for years.

Dzakovic said he led a security team that was able to get weapons or explosives past airport checkpoints in 1998 but that the FAA failed to follow up.

The Office of Special Counsel, which investigates whistle-blower cases, asked the Transportation Department to review Dzakovic's complaints on Feb 5; his allegations were first reported on Monday by USA Today. Yesterday, Dzakovic said he continued to work for the new federal Transportation Security Administration. FAA officials have declined to discuss the matter but maintained that security problems have been addressed.

Advocates said that two measures pending in Congress would protect other whistleblowers so they could raise similar concerns without fear of reprisals.

The first is a proposed amendment to the 1989 law, backed by Rep. Constance A. Morella (R–Md.), that would change the standards to make it easier to win cases. The other is a bill that would make it illegal for public or private employers to retaliate against whistle-blowers and would permit them to take their cases before federal juries. Its backers include Rep. Steve Israel (D–N.Y.) and Sen. Charles E. Grassley (R–Iowa).

The timing is urgent, Israel said, adding: "I think it's vital that Americans are fully aware of their level of security at our airports and that people working in the federal government aren't afraid of alerting the public to these conditions."

[From the Government Employee Relations Report, Mar. 5, 2002]

WHISTLEBLOWERS WOULD GET ACCESS TO COURTS, RIGHT TO SEEK DAMAGES UNDER NEW BILL

Federal whistleblowers would be able to bypass the Merit Systems Protection Board and go directly to U.S. district court, where they could seek compensatory and punitive damage, under legislation introduced in the House Feb. 26 by Rep. Steve Israel (D-N.Y.).

The Paul Revere Freedom to Warn Act (H.R. 3806) also would allow state and local

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

government whistleblowers, as well as private sector whistleblowers, to bring claims in federal court, providing an alternative venue to the current patchwork of laws affecting those whistleblowers.

The bill provides that any person experiencing whistleblower retaliation for communicating with Congress or federal law enforcement agencies may bring a civil action—and is entitled to a jury trial—in the appropriate federal trial court within three years of the date of the violation. Suits against any person, organization, or employer responsible for a violation may seek lost wages and benefits; reinstatement; attorneys' fees and costs; compensatory and punitive damages; and equitable, injunctive, and other appropriate relief.

Remedy for Inconsistent Coverage. One of the purposes of the bill, according to Tom Devine, executive director of the Government Accountability Project, a nonprofit groups based in Washington, D.C., is to put teeth into the congressional right-to-know law, the Lloyd LaFollette Act of 1912. While that bill made whistleblower retaliation illegal, he said, it did not provide for a legal remedy. Various whistleblower statutes provide administrative remedies for federal and nonfederal workers, but the coverage of those laws is inconsistent, Devine said in talking points prepared for a Feb. 27 press event to announce the introduction of the new legislation.

Legislation introduced by Sen. Daniel K. Akaka (D-Hawaii) June 7, 2001, in the Senate and by Rep. Constance A. Morella (R-Md.) July 23, 2001, in the House as S. 995 and H.R. 2588, respectively, would strengthen the Whistleblower Protection Act, which is designed to protect federal whistleblowers (39 GERR 865, 8/7/01). Among other things, the Akaka and Morella bills would clarify what types of information disclosures are protected from prohibited personnel practices such as retaliation.

IN TRIBUTE TO AL AGOVINO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ENGEL. Mr. Speaker, Al Agovino is a man who knows how to give of himself. He started, officially, in the Pacific Theater with Motor Torpedo Squadron 36 and was awarded five Battle Stars.

Back home in the Bronx he has also been generous with his time and ability. At St. Benedict's Church he has been President of the Holy Name Society and Co-ordinator of the Church Ushers and of the Blood Bank. He has been Grand Knight of St. Luke's Council of the Knights of Columbus. He has served on the New York State Autism Advisory Council. He also serves on the Bronx Consumer Council.

He has also served on the Bronx Developmental Disabilities Service Office Parent Association, on the Human Resources Administration Advisory Council, and on the New York State Commission on Quality Care for the Mentally Disabled Advisory Council.

If that wasn't enough he has been a vital advocate for parents and for all people with developmental disabilities and their families. He has served on the Board of the Association for the Help of Retarded Children and in that capacity rarely missed a meeting in over twenty years. His presence has made AHRC a force in its field.

More immediately, I rise today to speak of Mr. Agovino with some sadness, for he is retiring from the Board of Visitors Association after 25 years of constant and devoted service. The Board oversees conditions and the quality of life offered to patients in the State Psychiatric and Developmental Centers. While on the Board, to which he was named by the Governor and confirmed by the State Senate, he also served on many committees including Government Relations and Geriatric, and was also President of the New York State Association of Boards of Visitors. His leaving will leave a hole in our hearts and our abilities.

Al and his wife Vera have been married for 55 years. They had six children who in turn gave them six grandchildren. I offer him my sincerest congratulations for all he has done, and it is a lot. I join with the countless others he knows and has helped in wishing the very best in all that he does. He has made the world a better place.

MONINA SUNGA RECIPIENT OF 2001 PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING (PAEMST)

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. UNDERWOOD. Mr. Speaker, the Presidential Awards for Excellence in Mathematics and Science Teaching Program (PAEMST) is designed to recognize our nation's outstanding teachers. Administered by the National Science Foundation (NSF), recipients of the program's awards serve as role models for peers. They focus interest upon the teaching profession, encourage high quality teachers to remain in the field of education, and generate the enthusiasm required to foster the next generation of teachers.

One of the outstanding individuals to be honored this year is Ms. Monina Sunga, a science teacher from the Vicente S.A. Benavente Middle School in Dededo, Guam. Monina joined fellow-awardees from all over the United States in a visit to our Nation's capital where they were honored for their achievements. During her visit to Washington, DC, she had the opportunity to meet and confer with government and education officials along with other awardees. Having received this honor, she became part of a growing network of exceptional teachers.

Monina has been described as "a teacher who takes a hand, opens a mind and touches a heart." To her students, she is a counselor, supporter and friend. Having been a teacher on Guam for more than twenty-five years, Monina claims to have found the "fountain of youth" within her mind and within her classroom. Convinced that her youthful disposition is derived from her students, she has made it known that she intends to say as a classroom instructor for as long as she is able to do so. To her fellow teachers she imparts the knowledge that the true joy of teaching is achieved when teachers ultimately inspire students to learn.

As a science teacher, Monina found that going beyond the assigned readings is a very efficient method of teaching the subject. She firmly believes that healthy interaction in conjunction with hands-on training for the children are keys to successful learning. She encourages her students to use their natural environment as their laboratories. Her students are acquainted with learning tools derived from the simplest of things and they respond with great enthusiasm to her teaching method.

In addition to the prestige Monina brings to her school and the pride she instills in her students, the rewards of being a PAEMST awardee also includes a grant of $7,500 which will be employed for the benefit of her school. This goes a long way towards furthering her goals and examples.

It gives me great pleasure to recognize and highlight the contributions of Ms. Monina Sunga and her fellow teachers. Having been a former classroom teacher herself, I am aware of the sacrifices and high standards expected from those in the teaching profession. I would like to take this opportunity to express my appreciation and admiration for the teachers whose constant contributions instill exemplary values and shape the lives of our children, our communities and our future.

COMMEMORATING THE TAIWAN RELATIONS ACT

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. KIRK. Mr. Speaker, as we mark the 23rd anniversary of the Taiwan Relations Act today, I wish to comment on the special relationship between the United States and Taiwan.

In 1978, President Jimmy Carter switched diplomatic recognition from the Republic of China to the People's Republic of China. To ensure Taiwan would continue to prosper and grow, Congress passed the Taiwan Relations Act in 1979. For the last twenty-three years, the Taiwan Relations Act has worked exceedingly well, providing Taiwan with the necessary security, while reminding the Chinese mainland not to use force against this flourishing democracy. On this 23rd anniversary, it is important to remind everyone that the United States stands behind the spirit of the Taiwan Relations Act.

The United States continues to enjoy a longstanding and healthy relationship with Taiwan. The people of Taiwan have always stood shoulder to shoulder with us, and we should stand by them as well. I rise today in recognition of these continued positive relations between Taiwan and the United States.

JEREMY J. WARREN'S HONOR FOR SERVICE ON SEPTEMBER 11, 2001

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. COMBEST. Mr. Speaker, I rise today to commend Jeremy J. Warren for his selfless service to citizens of the United States during the September 11 tragedy in New York.

Jeremy and 11 of his classmates at the United States Merchant Marine Academy were called to aid in rescue efforts merely hours after the World Trade Centers collapsed. Jeremy used his extensive rescue training to help search the debris during the critical post-collapse hours in hopes of finding survivors. Jeremy worked at ground zero through the night and was relieved from the operation in the early morning hours of September 12.

In 1994, Jeremy graduated from Midland Lee High School in my congressional district. He sought a nomination to the United States Merchant Marine Academy and was granted the appointment. In June 2002, Jeremy will graduate from this institution. The excellent training Jeremy received at King's Point paid off not only for himself but also his country.

Mr. Speaker, it is my honor to publicly thank Jeremy for his actions on September 11, 2001, and to extend my congratulations to him on the occasion of his upcoming graduation. I wish him nothing but the best for the future.

IN TRIBUTE TO MARY A. GAINES

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ENGEL. Mr. Speaker, the Carter G. Woodson Award of Mercy College has been given annually since 1986 to notable contributors to African American life and history. This year the awardee is Mary A. Gaines, the executive director of the Nepperhan Community Center. I am proud to consider her a good friend.

Early in her life Mary knew she wanted to work with young people. She came to Yonkers from North Carolina and studied at Mercy College and Westchester Community College. Since 1968 she has served in various capacities in the Nepperhan Community Center, an organization serving a wide range of community needs.

Indeed Mary has touched the lives of hundreds, if not thousands of young people in her time at the Community Center. During that same period of time the Nepperhan Community Center grew from a small, cramped facility to one occupying a renovated and spacious building. The youth programs have become much more solidly funded and the number of programs serving the community has grown to include the Adolescent Pregnancy Prevention Service Program, the Independent Living Skills/Careers for Youth, the Youth Communications Network, Act for Youth, the Yonkers Success Training Academy, and the Drug Free Program, among many others.

She has also served in other distinguished organizations such as the United Way of Yonkers, the Black Women's Political Caucus, the New York State Division for Youth Advisory Board, the Yonkers Community Development Agency Board, and many others.

Needless to say she has received many awards for her good works. She attends the Mount Carmel Baptist Church, serving on its Missionary Society and Education Committee.

She epitomizes the adage that if you want something done, ask a busy person to do it. She has worked for several generations of Yonkers youth, helping and guiding them with her knowledge and experience, and her love. If Yonkers is a better place, and it is, we can thank Mary Gaines, and those who share her dedication and devotion to making the lives of its people better. Congratulations Mary, I'm proud to know you and Yonkers is fortunate to have you.

RICHARD DAVID KAHN MELANOMA FOUNDATION

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. FOLEY. Mr. Speaker, I would like to express my support for the Richard David Kahn Melanoma Foundation and to recognize May 6, 2002 as Melanoma Monday, Skin Cancer Awareness Day. This year alone, over one million Americans will be diagnosed with some form of skin cancer. Out of the one million diagnosed—10,000 of those will die—that equals one person every hour.

This number is unconscionable given the fact that skin cancer is 100 percent preventable and curable when detected early. Our most powerful tool against this disease is education. I commend the actions of the Palm Beach County-based Richard David Kahn Melanoma Foundation for its relentless efforts in educating the people of South Florida about the dangers of melanoma and the steps needed to prevent it. The Foundation reaches more than 10,000 local residents directly each year through the many school and community-based presentations and special events.

I would encourage my constituents, and the American people at large, as we come close to the summer of 2002, that they avoid peak sunlight hours (10 a.m. to 3 p.m.), when the Sun's rays are most intense. I would also recommend that anyone going outside use the appropriate sun block and minimize their exposure.

Every year we spend billions of dollars on curing thousands of diseases. Melanoma can be cured by simple education and awareness. I am proud of the work that the Foundation has done and am proud to recognize May 6, 2002, Melanoma Monday, Skin Cancer Awareness Day.

COMMENDATION FOR 11-YEAR OLD LIFESAVER, VINCENT MICHAEL CRUZ SABLAN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. UNDERWOOD. Mr. Speaker, as islanders, the people of my home district of Guam are particularly sensitive to water-related accidents, whether in the ocean, in a swimming pool or in a bathtub. All too often, we are saddened by the news of drowning tragedies, especially those which claim the lives of children. A physical education class at the Andersen Air Force Base swimming pool last December would have ended in another such tragedy, if not for the quick action of 11-year old Vincent Michael Cruz Sablan, a sixth-grade student at DODEA's Andersen Middle School.

On December 19, 2001, as his classmates frolicked in and around the water, Vincent and his friends noticed that another boy was lying motionless on the bottom in the deep end of the pool. At first they thought the boy was fooling around, testing his ability to hold his breath underwater, but they soon realized that the boy was in trouble. A self-taught swimmer with no formal lifesaving training, Vincent was the only one in the group able to dive deep enough to reach the boy at the bottom of the pool. On his first attempt, Vincent could only get close enough to see that the boy was not just holding his breath. He then re-surfaced, drew a big breath and dove again. He reached the submerged boy's body and grabbed a hold of him. The drowned boy was taller and heavier, but Vincent managed to bring him to the surface.

By then, the commotion had drawn adult attention and base emergency responders were summoned immediately. The boy was not breathing and had to be resuscitated. He was transported to the Naval Regional Medical Center, where he spent two days in the Intensive Care Unit. According to medics, the boy was only seconds away from death, but Vincent's effort made the difference. After five days in the hospital, the boy was released and is now well and fully recovered.

Vincent went home from school that day and made no mention of the incident to his parents, Guam National Guardsman, CWO Vincent A. and Agnes Cruz Sablan, of Dededo. He resumed his sixth-graders life, watching television, playing with his friends, being reminded to do his chores and struggling with his homework. It wasn't until base security called and reported to CWO Sablan that his son was a genuine hero.

Mr. Speaker, as parents, we strive to teach our children right from wrong, to instill in them the virtues and values we hold dear. We try to prepare them for life as responsible adults and we hope that they make right decisions and do good things. Just as we are dismayed when they stumble, we must praise when they shine. Last December, Vincent witnessed something wrong. He realized that someone's life was at stake and that he had to do something to help. He did not panic or turn away from a threatening situation. Instead, he did what he knew was right, and what he did was extraordinary. He saved a life. Afterward, he did not brag about his deed. He sought no accolades or rewards. Even so, this young man deserves our gratitude and our praise, for proving that, when taught, children will be responsible even from an early age. I take great pride and pleasure in commending Vincent Michael Cruz Sablan. He truly is a lifesaver and merits recognition as such.

The youngest of four children, the "baby" of his family, Vincent has already proven himself to be a valuable member of the Guam community. I join his parents and his siblings, Michael, Angela and Steven, in saying, "Well Done, Vincent!"

TRIBUTE TO LYNNE SILBERT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. BERMAN. Mr. Speaker, I am greatly honored today to pay tribute to one of my most unique and closest friends, Lynne Silbert, who has been chosen to receive the prestigious Human Spirit Award from the Wellness Community of West Los Angeles.

It is hard to find words to adequately describe Lynne. Lovely and charming, inside and out, she has touched a myriad of lives. She is warm and generous, but truly defined by her enormous desire to serve humanity. She is funny and fun; a companion to do something crazy with and a friend so loyal and so sensitive that your moment of need is the moment she is at your side. She approaches life as she approaches her work, with passion and a great heart. As an aside, my wife Janis and I will always remember her opening her home to us for our wedding.

The daughter of distinguished and philanthropic parents, Lillian and Harvey Silbert, Lynne chose—as a young widow with two small children—to go back to school. She received her degree in counseling and started her career with a small nonprofit organization that provided support, education and hope to cancer patients and their families. She has helped that organization grow from a small yellow house in Santa Monica to an international organization with facilities throughout the United States and in Japan and Israel.

Over 19 years later, Lynne is still with the Wellness Community. She has led thousands of support groups, and has infused thousands of cancer patients with hope and determination. Especially noteworthy is her work with children—both the kids of cancer patients and those who suffer with cancer themselves. Beloved by adolescents because she never has lost her own youthfulness, she has both created and facilitated hundreds of groups to support young people battling this dread disease. It takes enormous skill, empathy and grace to do this difficult work. Lynne has an abundance of each of these attributes.

Her good works aren't limited, however, to the Wllness Community. She is a member of the Cedars-Sinai Medical Center Board of Governors and is active with the American Friends of Hebrew University. She is the mother of two accomplished daughters: Jill and Gina and, although you'd never know it, the grandmother of four. She is married to a distinguished member of Los Angeles' medical community, Dr. Seth Weingarten.

Mr. Speaker, distinguished Colleagues, I ask you today to join me in saluting Lynne Silbert and congratulating her this honor, which she so richly deserves. She embodies the Spirit of Humanity. To know her is to be greatly blessed and to find your life immeasurably enriched.

IN RECOGNITION OF REGINALD LAFAYETTE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ENGEL. Mr. Speaker, since he arrived in Mount Vernon from Charleston, South Carolina 30 years ago, Reginald Lafayette has held so many responsible positions in the City we can rightly ask; Could we have gotten along without him.

He started in politics as a Democratic District Leader, a position he still holds. Some of the other positions he holds or has held are the Democratic Chairman of the City of Mount Vernon, member of the Westchester County Democratic Executive Committee, member of the Black Democrats of Westchester, former member of the United States Selective Service Board No. 104, former member of the Mount Vernon Postal Service Board, former Executive Vice President of the Mount Vernon Chapter of the N.A.A.C.P., former Treasurer of the Independent Citizen's League, former President of the Mount Vernon Lions Club, former member of the Board of Directors of the Westchester Opportunity Program, and former member of the Mount Vernon Day Care Center.

He did all of this while working full time for Met Life for his first nine years in Mount Vernon.

Besides all of the above, he served as Commissioner of Human Rights, as the City of Mount Vernon Deputy Controller for 14 years, and is a member of the Westchester County Board of Elections and the New York State Election Commissioner Association.

He has worked hard to make his community a better place to live and he has succeeded admirably, I and many others in Mount Vernon have long admired his diligence and his ability to achieve results. We are all thankful that we have Reggie among us. I am thankful to know him and to be his friend.

RECOGNIZING THE NEW DONALD BREN HALL AT THE UNIVERSITY OF CALIFORNIA, SANTA BARBARA

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mrs. CAPPS. Mr. Speaker, it is with great pleasure that I rise today to recognize one of the "greenest" commercial buildings in the Nation, Donald Bren Hall. This important structure houses the Donald Bren School of Environmental Science & Management at the University of Southern California, Santa Barbara and is a living laboratory for sustainable green building practices and materials.

Donald Bren Hall incorporates all of the latest elements of sustainable design, including solar photovoltaic panels that capture the sunlight to provide almost 10 percent of the building's electricity, natural air cooling using ocean breezes and energy-efficient lamps and ballasts, including motion and ambient light sensors to control lighting levels.

Recyclable materials are used throughout the building, including reclaimed carpets, rubber flooring made from recycled tires, ceiling tiles made from cornstarch and recycled paper and roofing materials that insulate and reduce energy consumption. Windows have a device that automatically shuts off the room's heating system when opened and reclaimed water is used for irrigation. The building will use 27 to 40 percent less electricity than a conventional structure.

The new Donald Bren Hall will achieve the Platinum rating from the U.S. Green Building Council for Leadership in Energy and Environmental Design—or LEED—which is the highest level of distinction given to a capital project that meets or exceeds the strictest requirements of the LEED Green Building Rating System.

Mr. Speaker, clearly this building is a role model not only for UCSB, but also for other university campuses throughout the state and country. This building stands as a testament to what is possible when engineers, suppliers and architects work together to achieve a practical, environmentally-friendly balance between a structure's comfort and its functionality. They have set the bar very high, and I hope this building's influence extends beyond the university setting and into the realm of business and commercial development.

On Friday, April 19, 2002 Donald Bren Hall will be officially welcomed to the Santa Barbara community, Mr. Speaker, I hope my colleagues will join me today in congratulating the University of California, Santa Barbara for its vision and commitment to working with and on the behalf of our precious environment

CONGRATULATING STUDENTS FROM STEVENSON HIGH SCHOOL IN LINCOLNSHIRE, ILLINOIS

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. KIRK. Mr. Speaker, I would like to congratulate nine students from Stevenson High School in Lincolnshire, Illinois who competed in the prestigious U.S. Academic Decathlon contest over the weekend. Created in 1981, the rigorous program tests students in 10 categories: art, economics, essay, interview, language and literature, mathematics, science, social science, speech, and super-quiz. This year's super-quiz topic was "E-Communication: The Internet and Society."

Stevenson's decathlon team has risen to statewide prominence since it was formed six years ago. The team placed seventh in the Illinois competition in 1997 and fourth the two following years. The squad placed fifth in 2000, second last year and third this year in the state-wide competition.

The team who competed over the weekend in Phoenix, Arizona consisted of: Julia Wallace, a senior from Long Grove; Jessica Eggert, a senior from Hawthorn Woods; Dan Pyster, a senior from Lincolnshire; Dan Kaplan, a senior from Lincolnshire; Jackie Lantz, a senior from Buffalo Grove; Chad Spiegel, a senior from Buffalo Grove; Ryan Schaefges, a senior from Buffalo Grove; Eric Swanson, a junior from Buffalo Grove; and Jeff Waxman, a junior from Buffalo Grove.

I want to commend these students and teachers who have worked tirelessly on the weekends and after school to prepare to achieve this goal. The team from Stevenson entered the competition ranked 10th in the nation. They faced 55 schools from 40 states which were broken up into three divisions based on their size. The Stevenson team placed 8th in the largest division and 11th in the nation. Congratulations for all your hard work.

CONGRATULATING MR. JAMES "BUTCH" BLEVINS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and enthusiasm that I wish to congratulate Mr. James "Butch" Blevins for his thirty-seven years of dedicated service to Ironworkers Local #395 in Hammond, Indiana. James will be honored for his strong commitment to the Ironworkers at a retirement party to be held on Saturday, April 20, 2002 at the St. Elijah Serbian-American Hall in Merrillville, Indiana. His leadership and desire for excellence in all of his activities have made James a popular figure among his fellow members, and his departure will be felt throughout the organization.

Throughout its seventy-eight year history, the devoted members of Ironworkers Local #395 have displayed the commitment and work ethic that we in Northwest Indiana value so highly. I can remember as a child hearing my father, an Ironworker himself, tell us the stories of his friends and their experiences together in the workplace. Ironworkers are a loyal, hard-working, dedicated group of individuals who strive to produce the highest quality product that is possible. James "Butch" Belvins has exemplified these characteristics for thirty-seven years at Local #395.

During his thirty-seven years as a member of Ironworkers Local #395, James served as an elected officer for twenty-one years. He currently holds the title of Business Agent, and also serves as the Trustee to the Health and Welfare Plan, as well as the Trustee to the Northwestern Indiana Building Trades. His active role in these positions has been a tremendous asset to his fellow union members as well as to the entire Northwest Indiana community. James also served as a Hammond Precinct Committeeman and as President of the Hammond Economic Development Committee. His personal commitment and dedication to the citizens of Indiana's First Congressional district has been outstanding.

Although he has been a devoted worker and union member, James has always put his family first. He, along with his wife, Sally, takes great pride in raising their three children, Jim, Chad, and Eric. James' retirement will allow him to spend even more time with his loved family, something he eagerly awaits.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in congratulating Mr. James "Butch" Blevins on his retirement after thirty-seven years of faithful and diligent service to Ironworkers Local #395 in Hammond, Indiana. James has been a valuable member to his union as well as to his community, and his service to Northwest Indiana will be greatly missed. I wish him the best of luck in his future endeavors, and I hope that he enjoys his retirement for many years to come.

IN RECOGNITION OF GERARD LANGLAIS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ENGEL. Mr. Speaker, Social Security benefits have become, since their inception, a mainstay of America's elderly. The men and women who work in the Social Security Administration are responsible for seeing that our elderly and dependents get the benefits they have earned through a lifetime of work.

One such man is Gerard Langlais, the Manager of the East Bronx District Office, who is now retiring so he can collect his Social Security benefits. And he has earned them. He joined the Social Security Administration in 1961 as a claim representative in Poughkeepsie. Three years later he was promoted to Field Representative and four years later promoted again to Operations Supervisor at the Flatbush District Office. In 1970 he became an Assistant District Manager, also in Brooklyn. Three years later he was promoted to his present position, where he has served honorably and well for the past 29 years.

Mr. Langlais was born in Maine, graduated from Siena College, and served as a Seabee in the U.S. Navy for two years where he operated and designed construction equipment. He and his wife Toni live in Yonkers.

Mr. Langlais has served the people of America in their government for 41 years. It is people like him who make our society work. I congratulate him and thank him for the diligence and dedication he has done, work that has made the lives of so many of our citizens better.

PENSION SECURITY ACT OF 2002

SPEECH OF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. ROUKEMA. Mr. Speaker, I am deeply concerned about Enron employees and retirees who invested a substantial portion of their retirement assets in Enron stock and are now facing financial uncertainty. I would like to commend Chairman BOEHNER for working expeditiously to produce a package of reforms that will help protect the retirement savings of millions of American workers.

By virtue of my service on two key Committees—the Committee on Education and Workforce and the Committee on Financial Services—I wear more than one hat when it comes to Enron. As you know, the Financial Services Committee is working to determine how the regulatory system failed in the Enron case and how reforms could correct these shortcomings. Our focus today is retirement security. The issues raised by the Enron bankruptcy have serious implications for millions of Americans who depend on their employers' pension plans for their retirement. Our actions today will help to protect nearly 50 percent of American households.

I represent a section of the country that has become known as a bedroom community for thousands of men and women who work every day in one of the most important financial districts on the planet. The confidence of these professionals has been shaken over the past few months. They come to doubt some of the very institutions they previously had come to rely on. It is obvious that these concerns are echoed throughout the country.

Since the enactment of ERISA in 1974, almost half of American households have joined the "shareholder society" by investing in the stock market, many through their employer-provided defined contribution plans. Today, 42 million workers hold 401(k) accounts amounting to $2.0 trillion in retirement assets. Private pension plans—including 401(k)s—are crucial to retirement security for millions of Americans. These workers need to have full confidence in the security of their pension plans.

We have spent considerable time over the years promoting expanded pension coverage and portability. But we have also tried to ensure that American workers' pensions and retirement savings are protected. I have always argued that there are three necessary components of a successful retirement system: (1) accessibility; (2) security; and (3) information.

These are exactly the issues that we are facing today. We need to provide our workers easier access to pensions so that they have the ability to save for retirement. We must ensure that retirement savings are secure. And we must ensure that workers have the information they need to make wise choices to fully achieve their retirement goals.

The bill before us today addresses all of these important points. The Pension Security Act of 2002 will: (1) provide workers greater freedom to diversify and manage their own retirement funds; (2) give workers quarterly information about their investments and rights to diversify them; (3) expand workers' access to investment advice; and (4) ensure that senior corporate executives are held to the same restrictions as average American workers during "blackout periods."

In spite of the flaws exposed by the Enron debacle, we must be careful not to dissuade employers from providing such plans to their workers. Even while we make reforms to protect retirement savings, we must continue to encourage employers to make generous contributions to workers' 401(k) plans.

Workers must also be free to choose how to invest their retirement savings. It is not our role to tell employees how to manage their pension plans. However we can ensure that employees have the ability to sell company stock and diversify into other investment options. And we can also guarantee employees access to information and advice regarding their pensions and investments. We have already recognized the importance of equipping workers with the knowledge to make wise decisions for their future, but we must now make this proposal a reality.

I am pleased that this bill contains important provisions to work toward ensuring fiduciary responsibility. Specifically, at Committee markup I offered two amendments which are contained in the bill before us today.

EDUCATIONAL RESOURCES FOR PLAN FIDUCIARIES

The first provision requires the Secretary of Labor to ensure that information and educational resources are made available to persons serving as fiduciaries under employee benefit plans in order to assist them in diligently and effectively carrying out their fiduciary duties.

There has been a lot of talk on Capitol Hill about the rigorous fiduciary duties under ERISA. Many argue that ERISA subjects fiduciaries to what is considered the highest fiduciary obligation in the law, namely an express trust.

ERISA requires that fiduciaries have a duty of loyalty, prudence, diversification, and that they act in accordance with plan documents. Plan fiduciaries are required to discharge their duties "solely in the interest of participants and beneficiaries" and for the "exclusive purpose" of providing benefits and defraying reasonable expenses of administering the plan."

The law requires that the "assets of a plan shall never inure to the benefit of any employer." It requires that fiduciaries act with the care, skill, prudence, and diligence that a prudent person familiar with such matters would use in similar circumstances.

The responsibilities of fiduciaries are very clear in ERISA. I know these rules exist and the ERISA lawyers know it too—The problem is that oftentimes the actual fiduciaries are not aware of or do not understand these strict rules governing their behavior.

What the Enron debacle has brought to light is that this carefully crafted law of fiduciary responsibility is not always followed with the due diligence that is expected. Many people who are charged with operating employee benefit plans do not understand what their fiduciary roles require. Even worse, many do not understand the consequences for violating their fiduciary obligations.

This was a problem at a large company like Enron, as we learned from the testimony of one Enron fiduciary, Cindy Olson. We can be assured that the fiduciaries for other companies are likewise not adequately informed about their responsibilities in managing a pension plan.

Dr. Norman Stein testified in front of the Education and Workforce Committee that during a pension-counseling clinic at the University of Alabama, a personnel manager "indicated that she did not know what a fiduciary was, did not know what rules governed a fiduciary behavior, and did not, of course, realize that she herself was a fiduciary."

This is what is happening in the real world. How can we, in good conscience, tell American workers to entrust their retirement security to fiduciaries who do not understand the rules that govern their behavior? How can we ensure that fiduciaries are acting in the sole interest of participants and beneficiaries if they don't even know this requirement exists?

I believe that this provision is a modest first step in addressing this lack of knowledge. The Secretary is directed "to establish a program under which information and educational resources are made available on an ongoing basis to persons serving as fiduciaries under employee benefit plans so as to assist them in diligently and effectively carrying out their fiduciary duties."

This provision is just common sense. It addresses an issue that most of us thought was a given in the implementation of ERISA. The Enron case has demonstrated that we were incorrect in making that assumption. The Department of Labor must ensure that fiduciaries understand their responsibilities under the law. Information dissemination is a necessary first step in preventing breaches of fiduciary duties.

I am pleased that my amendment was accepted unanimously by the Committee and thank the Chairman for ensuring that it is contained in the bill that we are voting on today.

INDEPENDENT ADVISORS FOR FIDUCIARIES

The second amendment that was unanimously accepted by the Committee and is included here requires a study of the implications of requiring an independent advisor to provide investment guidance to fiduciaries regarding the management or disposition of plan assets.

I am very concerned about the inherent problems of conflict of interest when a firm must both manage a pension plan and maximize profit. This conflict of interest is particularly acute when the employer has exclusive control over retirement plans.

As we learned all too well from our hearings on the Enron crisis, this conflict of interest is real and can be detrimental to plan participants. Outside experts would be able to give independent advice to the plan fiduciaries because they are not beholden to the employer.

It makes sense that competent professional advisors should assist with retirement plan investment management. Employers' strict fiduciary responsibilities should necessitate consultation with competent investment managers. Some employers do this. However, as we saw with Enron, others do not. In fact, in the case of Enron, the Department of Labor has taken steps to replace Enron's fiduciaries with independent experts. Every day we talk about the lessons we have learned from the Enron fiasco. This sounds like a lesson to me. How can we correct the situation of Enron and ignore the case of all other workers? Must we wait for other companies to reach the disaster point of Enron before we ensure that independent advisors assist with plan management? Every plan should have the benefit of an independent advisor to assist with plan management. If it makes sense for Enron after-the-fact, it makes sense for all businesses before there is a problem! What we saw in Enron is that when the interest of the plan participants was pitted against company interests, the participants lost.

As such, we should seriously study the implications of requiring employers to hire an independent advisor to assist in the management of plan assets. Rather than requiring that a new trustee board be created or requiring that the independent advisor serve as a plan manager, I believe we should investigate the implications of requiring that plan managers seek advice and guidance from an independent source regarding the management or disposition of plan assets. This is a common sense approach.

I do understand that some employers may be concerned about the implications of such a proposal. This bill requires a study of the issue so we can better understand the specific impact on retirement savings of requiring fiduciary consultants for individual account plans. Specifically, the study would assess:

(1) The benefits to plan participants and beneficiaries of engaging independent fiduciary advisers to provide investment advice regarding the assets of the plan to persons who have fiduciary duties.

(2) The extent to which independent advisers are currently retained by plan fiduciaries.

(3) The availability of assistance to fiduciaries from appropriate Federal agencies.

(4) The availability of qualified independent fiduciary consultants to serve the needs of accounts in individual account plans in the United States.

(5) The impact of the additional fiduciary duty of an independent advisor on the strict fiduciary obligations of plan fiduciaries.

(6) The impact of consulting fees, additional reporting requirements, and new plan duties to prudently identify and contract with qualified independent fiduciary consultants on the availability of individual account plans.

(7) The impact of a new requirement on the plan administration costs per participant for small and mid-size employers and the pension plans they sponsor.

CONCLUSION

In sum, I am committed to strengthening the retirement security of workers and their families. I believe that this bill takes important steps to further protect plan participants and I urge my colleagues to support this legislation.

PENSION SECURITY ACT OF 2002

SPEECH OF

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. FRELINGHUYSEN. Mr. Speaker, today, I rise in strong support of H.R. 3762 the Pension Security Act of 2002. I believe the time to update Federal pension law is now! I also believe this legislation could have prevented the tragic financial consequences of the Enron collapse, which is why I strongly support H.R. 3762.

This legislation will help ensure the safety of the American workers' pension fund savings through the following ways:

First, this legislation holds businesses to a higher standard of accountability. Specifically, it clarifies that company pension officials who do not act in the best interests of pension beneficiaries, can be held liable for breaching their fiduciary duty; it requires that workers be given 30 days advance notice of any blackout period affecting their pensions; and it forbids employers to sell their stock during "black out" periods when employees are not permitted to sell their stock. Thus, this legislation ensures that the Ken Lay's of the world, do not get rich at the expense of the American workers' pension fund savings.

Second, this legislation empowers the American worker by protecting employees against future abuses by giving them more control over their investments. Specifically, the American worker is empowered with the right to diversify employer stock contributions and the option to sell company stock three years after receiving it.

Third, this legislation also empowers the American worker by increasing their access to quality investment advice and by providing them with more information about their pensions. Specifically, it encourages employers to make investment advice available to their employees; it allows workers to use a tax-free payroll deduction to purchase investment advice on their own; and it requires companies to give quarterly reports that include account information, as well as their rights to diversify.

Notably, the Democrat's alternative for pension reform does not address the current shortcomings in the pension system. Instead, the Democratic alternative increases mandates and regulations that will result in increased costs, which will ultimately discourage employers from offering retirement plans altogether.

Finally, this legislation will help restore confidence in America's pension fund system.

A generation of American workers have enjoyed a safe and secure retirement. By passing H.R. 3762 today, we will ensure future generations enjoy the same safe and secure retirement.

WE THE PEOPLE—THE CITIZEN AND THE CONSTITUTION

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. CASTLE. Mr. Speaker, it is with great pride that I rise today to congratulate the young scholars of Lake Forest High School in Felton, Delaware who will represent my home state of Delaware in the We the People . . . The Citizen and the Constitution program. They are part of a group of 1200 students from across the country who will come to Washington, D.C. from May fourth to the sixth to compete in the national finals of this program. These young scholars worked diligently and persistently to reach the national finals and through this program will gain a deeper knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The names of the honored students are: Corinne Bartley, Codi Canasa, Jeffery Chambers, Nicole Cosey, Heather Crouse, Lena Ewing, Michael Field, Danielle Galyean, Davis Gannon, Rebecca Grevis, Darron Johnson, Katie Kindig, Andrea Lewis, Michelle Makdad, Kathryn McClister, Jennifer Petrucci, Jason Schulties, Warren Thomas Smith, Ann Marie Strope, Leah West, Ashley Wilson and Holly Wilson.

I would also like to extend my congratulations to their teachers, Mrs. Amy Reed-Moore and Ms. Betty Wyatt-Dix, who deserve much of the credit for the success of the team.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young students about the Constitution and the Bill of Rights. The three-day final competition they will participate in consists of hearings modeled after those in the United States Congress. The students made oral presentations before a panel of adult judges and testify as constitutional experts before a "congressional committee." A panel of adult judges represent various regions of the country and a variety of appropriate professional fields served on the congressional committees. These judges follow up the testimonies with a series of questions designed to test the students' depth of understanding and their ability to apply constitutional knowledge to given situations.

The We the People program is administered by the Center for Civic Education, and has provided curricular materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. This program has promoted civic competence and responsibility among young students as well as awareness for contemporary relevance of the Constitution and Bill of Rights.

The team from Lake Forest High School conducted much research in preparation for the national competition here in Washington, D.C. I congratulate them for their fine work that enabled them to come so far in this competition and to visit our nation's capital.

IN TRIBUTE TO LARRY BROWN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ENGEL. Mr. Speaker, to have a true community we must have a safe community. During the 1990s the rate of crime has been dropping to rates we haven't seen since the 1960s. For this we can thank the police officers of our communities who work hard and dangerous jobs so our lives will not be dangerous.

One such police officer is Larry Brown of the White Plains Police Department. He graduated from White Plains High School, where he excelled at track and field. He attended Bradley University and then worked at what is now Westchester Medical Center. After a short stint as a Corrections Officer he joined the police department twenty years ago.

Since then he has enjoyed a varied career in law enforcement working in the Detective Division, Records Division, and Warrants Division. He has done background checks and has assisted in recruitment for the Department. He currently works in the Patrol Division. He has also attended a number of training courses to better enable him to perform as a police officer. He has also received a number of citations and acknowledgments for his work.

For the past four years he has served as President of the Westchester/Rockland Guardians and represents that worthy organization at national conferences.

He is a member of the Union Baptist Church and the proud father of Komaphi, Shaahid, a sergeant in the U.S. Marine Corps, Allana, and Christina.

For his good work and leadership in the law enforcement community, we all owe him our thanks and I am proud to be able to honor him in this small way.

IN HONOR OF FATHER PETER SAMMON

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Ms. PELOSI. Mr. Speaker, I rise to honor the life and work of a remarkable man, Father Peter Sammon, who died peacefully on March 21, 2002 in San Francisco surrounded by loved ones. Father Sammon was an inspiration and a friend to so many people, and we are all forever grateful for his work. We will miss him terribly. The following are my remarks from his funeral on March 25th at St. Mary's Cathedral in San Francisco:

It is with great personal sadness and official recognition of their loss that I extend my deepest sympathy to Tom Sammon and his entire family. All who loved Peter thank you for sharing him with us and for giving him so much happiness.

To Sister Kathleen and Sister Lucia I extend condolences and appreciation to you for helping Father Sammon reach his fulfillment on earth and giving him the joy of a happy death. We can all hear him say: "Here I am Lord."

It should be a source of comfort to you at this very, very sad time that so many people mourn your loss and are praying for you. So many people were blessed by knowing Father Sammon. I want to express my appreciation for being allowed to bear witness to the life of Peter Sammon.

Throughout his life Father Sammon carried on the legacy established by his namesake the Apostle Peter whose mission was bestowed upon him by Christ himself when he said "Thou art Peter and upon this rock I will build my church." Peter Sammon was our rock and in his 50 years as a priest he continued to build Christ's Church. In doing so he touched so many lives. Whether as the Archdiocesan Director of Family Life counseling young couples, as the Chaplain of Newman Center at San Francisco State, or by forming the parish ministry with Presentation Sisters Kathleen and Lucia, he built the Church to do the Lord's work.

This was pioneering work, a priest working with the sisters to form a parish ministry and training leadership among the laity; this was groundbreaking. Peter Sammon was a pioneer who broke new ground but never left the ground broken.

He made the church the center of movements. Early on, he and Saint Teresa's Parish took up the cause of the Farm Workers and then the Salvadoran refugees. Four years and one day before his death, his friend and comrade in arms Jimmy Herman passed away. They were partners in many pursuits. We will all long remember their work together to turn back the ships carrying Salvadoran coffee, their refusal to unload the coffee. Fred Ross just reminded me this morning as we were crying of the sight of Father Sammon and Jimmy Herman on the docks refusing to unload the coffee from El Salvador.

We take pride, but we must remember, those actions took courage.

Father Sammon was our leader; he not only preached justice, he lived it. Injustice had an impact on Father Sammon that was palpable and he acted upon it. Whether in his leadership in the Sanctuary movement or working for immigrant rights or working for a living wage, Father Sammon always lived justice.

Father Sammon considered himself lucky to be the son of Irish immigrants. It was through his understanding of the courage and determination of his parents, who came to America as teenagers, met here and raised their wonderful family, that he understood the magnificent contribution that Immigrants make to our country.

Where some saw people in need, Father Sammon saw newcomers who constantly invigorate America with their courage, their hopes and their dreams. He saw their commitment to family values, to work and community. And he saw a spark of divinity worthy of respect in every one of them.

Peter brought to his struggles the vision, the knowledge, a plan of action and the ability to attract supporters to his causes. He was a true leader and a great politician. All who were blessed to know him learned from him—not only what to do but how to do it. I certainly did and I know I speak for others who were so blessed. Father Sammon challenged the conscience of our society. We look at his work with pride but must remember that it took tremendous courage.

The Bible tells us that to minister to the needs of God's creation is an act of worship, to ignore those needs is to dishonor the God who made us all. By that measure Father Sammon's entire life is an act of worship.

In his life Father Sammon worked on the side of the angels. Now he is with them. Thanks be to God.

IN HONOR OF GENEVIEVE KRUEGER, RECIPIENT OF THE 2002 McGROARTY POETRY AWARD

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Genevieve Krueger, who will receive the 2002 McGroarty Poetry Award at the Shouting Coyote Poetry Festival on April 20, 2002 at Verdugo Hills High School in Sunland Tujunga, in California's 27th Congressional District. Each year, this award is given to an individual who demonstrates extraordinary community service and tireless efforts toward the advancement of the literary arts.

Twenty-four years ago, Ms. Krueger began an out-of-print book search business. She knew that her love of reading and literature would serve her customers well as she searched the country for great works of art no longer in print. In doing so, she set herself out as a devotee of the process of good writing and the need to share that writing with the world. She is also an avid book collector, with a personal collection of more than 15,000 volumes, and volunteers her time with the Friends of the Library.

In 1984, she befriended a group enrolled in a poetry workshop at the McGroarty Arts Center in Sunland Tujunga, California. The class disbanded after several sessions, and, recognizing the need for writer collaboration, Ms. Krueger invited the group to her home. What began as a workshop became a weekly writers group and for sixteen years now, writers have been welcome at Ms. Krueger's home to share their thoughts and their work.

The group named themselves the Chuparosa Writers after the private home, Rancho Chupa Rosa, of California Poet Laureate, Congressman, dramatist, Los Angeles Times columnist, and historian John Steven McGroarty (1862–1944) and his wife Ida. Today, the private home is the McGroarty Arts Center and the annual McGroarty Poetry Award honors the legacy of John Steven McGroarty, a legacy that lives on in the work of the Chuparosa Writers and of Genevieve Krueger.

The Chuparosa Writers meet each Wednesday to share their work and foster the works of an ever-changing group of writers and poetry lovers. They have helped sponsor poetry contests for elementary schools, performed numerous poetry readings as individuals and as a group, taught poetry classes to schoolchildren, assisted in creating the Poet Laureate position for Sunland Tujunga and supported countless community endeavors.

Ms. Krueger eloquently states the purpose of the group: "We meet to share new discoveries, and work-in-progress. Through our meetings we stimulate new ideas and growth, and we hope to spread the message that writing is an important and enriching activity." For her commitment to bringing the arts to a wider audience, to the literary tradition of the Foothills and to new discoveries, I ask all Members of Congress to join me in congratulating Genevieve Krueger upon receiving the 2002 McGroarty Poetry Award.

BLACK LUNG BENEFITS SURVIVORS EQUITY ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RAHALL. Mr. Speaker, today I am introducing legislation aimed at providing equity in the treatment of benefits for eligible survivors of recipients of black lung benefits. Joining me in introducing this measure is the ranking Democrat on the Committee on Education and Workforce, GEORGE MILLER of California, and the gentleman from Pennsylvania, JOHN MURTHA.

By way of background, in 1981 the Black Lung Benefits Act was amended in several respects at the urging of the Reagan Administration. The driving motivation for this legislation at the time was to shore up the finances of the Black Lung Disability Trust Fund through which benefit payments are made to beneficiaries where mine employment terminated prior to 1970, or where no mine operator can be assigned liability.

After the enactment of this legislation, administrative actions and a number of extremely harmful court decisions made it extremely difficult, if not almost impossible, for those suffering from the crippling disease of black lung to qualify for benefits. However, today, a large number of the problems claimants faced have been remedied by a Clinton Administration rulemaking that was finalized on December 20, 2000.

Yet, two provisions of the 1981 Act in particular continue to be most troublesome, and largely impact, in a very adverse way, surviving widows of coal miners who die as a result of black lung disease.

As it now stands, due to the 1981 amendments, there is a dual and inequitable standard governing how benefits are handled for surviving spouses of deceased beneficiaries. In the event a beneficiary died prior to January 1, 1982—the effective date of the 1981 Act—benefits continued uninterrupted to the surviving spouse. However, if the beneficiary dies after January 1, 1982, the surviving spouse must file a new claim in order to try to continue receiving the benefits and must prove that the miner died as a result of black lung disease despite the fact that the miner was already deemed eligible to receive benefits prior to death. This is illogical, unfair and outlandish.

In addition, as a result of the 1981 law, there is also a dual and inequitable standard governing the basis by which a miner or his widow is entitled to benefits under the Act. For pre-1981 Act claimants, a rebuttable presumption of the existence of black lung disease is established if the miner worked for 15 years or more in underground coal mines and if over evidence, such as an X-ray, demonstrates the existence of a total disability respiratory or pulmonary impairment. This rebuttable presumption, however, does not apply to post-1981 Act claimants.

The legislation I am introducing today removes the requirement that a surviving spouse must refile a claim in order to continue receiving benefits. It also applies the rebuttable presumption of black lung disease for pre-1981 Act claimants to those filed after the effective date of that statute.

This is a fair and just proposal, and one which should have been enacted years ago. In fact, I have introduced various black lung bills since 1988. During the early 1990s the House of Representatives on two occasions passed reform legislation. Much of what was contained in these comprehensive reform bills was finally addressed by the Clinton-era rulemaking. However, the subject matter of the bill I am introducing today demands action by the Congress. I urge the leadership of this body to consider this matter, and to allow this bill to be acted upon this year.

IN RECOGNITION OF JAMES E. ROBINSON

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ENGEL. Mr. Speaker, the future of our country is indeed our children and a man being honored tonight, James E. Robinson, is someone who believes that helping them is the highest calling. James Robinson is a founder of the Martin Luther King, Jr. Youth Adults Club. In that capacity for the past 11 years he has worked with and inspired more than 500 young people.

Mr. Robinson also served as the Head Coach for baseball and junior varsity basketball at the Alexander Hamilton High School in Elmsford while also serving as Assistant Varsity Basketball Coach there. He has also worked with the young people at Mercy College while serving as Assistant Men's Basketball Coach.

But his community service is not limited to coaching our youth. He has served on numerous committees including the United Way Youth Advisory Council, the Westchester Community College Advisory Council, the Annual Martin Luther King, Jr. Breakfast Committee, and the African American Men of Westchester where he is chair of the Youth Committee.

Mr. Robinson is also co-founder and President of Fathers and Children Together (FACT), an organization of more than 70 fathers from nine different locales in Westchester.

He lives in Greenburgh with his wife, Yolanda, and their three children, Nicole, 8, and twins Jasmine and James, Jr. 6. He is someone whose gifts will keep giving to the community for many generations. For every child he helps will certainly go one to help others of their own generation and the next. We can truly say that he has made his community a better place, and for this we are all grateful.

TRIBUTE TO THE REV. DR. MARTIN KING JR. ON THE ANNIVERSARY OF HIS DEATH BY ALBERT CAREY CASWELL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying tribute to the memory of the late Reverend Martin Luther King Jr., who was assassinated thirty-four years ago on April 4, 1968. Dr. King's short life was spent and lost in the pursuit of justice and equality for all men, regardless of gender, creed or race. His life was a testament to the fact that we can effect profound changes in our laws and society through peaceful and non-violent means. Dr. King's spirit will forever live on in our collective continuous efforts to uphold human rights for all people, a cause that is particularly dear to my heart.

Mr. Speaker, I submit for the RECORD, a poetic tribute to Dr. King, composed by Albert "Bert" Carey Caswell. Bert Caswell received a Masters degree in education and taught science in our nation's public schools. He currently works as a tour guide at the United States Capitol. He is an enthusiastic guide in this great building, and he particularly enjoys the opportunity to provide tours for children from the "Make-A-Wish" Foundation, as well as all other children. He has also given tours for some of our country's fire fighters who suffered severe burns while saving lives and protecting property. When he guides visitors in our nation's Capitol, he also makes a point of sharing inspiring stories of Members of Congress who have overcome difficulties and hardships in life, to serve in one of the highest offices of trust and responsibility which the citizens of our land can offer.

A KING AMONG MEN

(By Albert Carey Caswell)

What is a king? But a man who sits upon a throne,
Who by birthright, bloodline and good fortune, is born of a royal home
As is so within our earthly zone,
While up in heaven real kings and queens, in our Lord's eyes are those who stand alone—
A man of peace, a man of love, who will lay down his life leaving all he loves—shall sit high atop our Lord's throne.

A day in August 1963,
As a "King Among Men" would write history
As our nation heard of this, his great dream to be.

Speaking to all
upon a mall,
of the dream he saw, as a nation awoke to freedoms call,
as heaven awaited him Godspeed.

His words now etched upon our minds,
To this day as we hear them tears we find,
Words ringing throughout time and history

On this great day of freedom and of peace,
The defining moment in a nation's civil rights movement to say the least,
As they traveled from far and wide,
To hear freedom's cry, from all across this countryside,
North, south, west and east.

For freedom rang out loud that day,
Yet, knowing he'd not see his children growing,
Stayed and still he spoke of peace.

In this our short lifetimes,
How is one to measure or define?
What is the true essence of man kind,
In this, his lifetime?

Men walk our earth, big and small,
Black and white, short and tall,
Rich and poor.
How then the more can one measure and define?
What is the true sum of a person's worth,
here upon mother earth?
The answer we find,
Within one's deeds of a lifetime.

Generations have come and gone,
As one in our hearts now lives ever on,
As all realize this the more as Martin is gone.

In this our sweet "country tis' of thee,"
A man rose up a king to be,
A true son of liberty
For his life's work lives on.

Reverend Dr. King,
As across this nation, let freedom ring,
As his courage and spirit would help to sing
A new day's dawn!

Equality for all, as he'd create,
As straight up to heaven for his life's work his fate
As heaven could not wait.
Martin's dream, a world devoid of hate,
Where black and white children would relate,
This clarion call his golden fate.
Now, up in our Lord's kingdom on high,
His place found in heaven so divine,
All because he preached love, not hate.

This man of God,
Who to our nation and to our world had so taught to all
Of love and freedom as he had preached.
A minister of God,
A reverend for the Lord, the prince of peace,
As out to all Martin, His envoy, had so reached.
His message strong, his message beautiful and sweet,
Non-violence in the fight for equality, as to all he'd beseech.

A beautiful man, a prince of peace, a Nobel Peace Prize he reached,
A heart of gold inside, as he battled all the lies.
An educated man, who's dream of justice for all was his life's plan.
His vision was not forsaken, even as he died
Traveling across our nation far and wide
To preach peace and love to all, he strived,
As one man helped turned the tide.

Marching north to south, hand in hand,
Praying and championing equality time and again,
All led by this courageous man
Freedom fighters, who upon buses chose
To stand tall against the racism they opposed.

As their courage would stand
In his heart a great burning,
His desire for equality and dignity for all were his life's yearning,
Spreading across the land.

Marching down city streets,
Armed with only courage,
As hate and bigotry they would meet,
So liberty could stand.
Beaten, bloodied and arrested time and again
His beautiful message they could not put to an end.
They tried to take his freedom away,
Inflicting pain in every way,

As his freedom train traveled far across our land.

Our nation torn, weary and worn,
Fighting in a far off war
As his message scored,
Was so simple and so very pure:
Nonviolence and dignity,
The love of fellow woman and man
And to be free. Justice our Lord's plan,
He helped insure.
Up in heaven on those dark days of hate,
Our Lord watched and stood proud of the freedom he'd create,
and his spirit endured.

Then that dreaded day,
As shots rang out in Memphis taking our breath away,
As a nation wept on her darkest day
As all who knew of his true worth,
Understood the great blessings to our mother earth
His life conveyed.

A monumental loss;
To our nation the greatest of all costs
Tears flowing,
As all knowing
A hero was lost this day.

We live in a far better world today,
All because of our great American hero,
This king among men who showed the way!
His way of love, his way of peace,
His road to equality beseeched,
Leading us to love and peace,
As the course he stayed.

Stop this day and look around,
Before you now as is found
Our far better world of now,
All for our children today.

Still, his great works are not done,
Look around you. The battle against racism is a long hard fought one.
Those seeds of freedom he had sown,
All planted by our great American hero, have grown, from his dream begun.
"I've been to the mountain top and I've looked down,"
A bright future for our children he found,
As he saw a rising sun.
"Free At Last" in the kingdom of our Lord.
Let it be told,
Where hearts of pure gold
Up to heaven shall surely pass,
Foreever upon this earth, this wonderful man in history shall come first
As "A King Among Men" as his dye is cast
In our Lord's eye he is "A King Among Men."
There in our hearts ever a hero and a true friend,
to worship from the past.

Today, walking with child in hand,
Respect and ever honor this blessed man
For our world, this hero would transcend.
His gift was great my friend,
As a far better world devoid of hate
From earth and heaven to our children he would send.
Upon a mall
Close your eyes and recall,
Listen still we hear his words of freedom ring
"I Have A Dream"—A King, Among Men.

To The Entire King Family and to Our Great American Hero, The Reverend Dr. Martin Luther King Jr, May Our Lord Bless you.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 91, on the motion to recommit with instructions on H.R. 3762, the Pension Security Act. Had I been present, I would have voted "no".

I was also unavoidably detained for rollcall No. 92. H. Res. 92, on final passage of H.R. 3762, the Pension Security Act. Had I been present, I would have voted "yea".

A PROCLAMATION HONORING ANNA RADU

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. NEY. Mr. Speaker, Whereas, Anna Radu was born on March 8, 1902; and

Whereas, Anna Radu is celebrating her 100th Birthday today; and

Whereas, Anna Radu, from Garbova, Romania, became a citizen of the United States of America on September 8, 1939;

Therefore, I join with the residents of the entire 18th Congressional District in congratulating Anna Radu as she celebrates her 100th Birthday.

HONORING STAN BLEDSOE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Stan Bledsoe on the occasion of his retirement as head baseball coach at Clovis West High School in Fresno, California. Clovis West, in conjunction with Clovis Unified School District, is dedicating and naming the baseball field at Eagle Stadium "Stan Bledsoe Field."

This 2001–2002 baseball season will cap Bledsoe's twenty-three year stint as head coach of the Eagles and thirty-two years of service coaching athletes and training coaches. There has been only one other head coach in the history of Clovis West. Stan has supported and been a mentor of the summer baseball program in the Clovis West area since its inception. His dedication to the athletes at Clovis West cannot be measured.

Coach Bledsoe has also been active in education and administration for the high school. He has been a valuable asset to the physical education department and has served in athletic administration for the past four years.

Mr. Speaker, I rise today to recognize Stan Bledsoe for his service to the Clovis West community and honor him as he retires as head baseball coach. I invite my colleagues to join me in thanking him for his dedication to education and athletics and wishing him many more years of continued success.

TRIBUTE TO HENRY PHILLIPS, U.S. MERCHANT MARINE

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. CALLAHAN. Mr. Speaker, I rise today to pay tribute to fellow Alabamian Henry Phillips, a merchant mariner, member of the Marine Engineers' Beneficial Association, and educator. This month, Henry will hang up his boiler suit one last time and retire after nearly 30 years of involvement with the U.S. Merchant Marine, most recently as director of the Calhoon MEBA Engineering School.

Henry is himself a 1972 graduate of the MEBA School. He is the first alumnus appointed director of the school, the country's premier institution of maritime continuing education. After graduation, Henry became a member of the Marine Engineers' Beneficial Association (MEBA), the nation's oldest maritime union. Henry began a long and rewarding career in the Merchant Marine sailing as chief engineer with a number of U.S. flag companies including Keystone Shipping, U.S. Lines, and most recently with Sea-Land.

In January 2000, Henry Phillips left the deck plates for good, having been appointed director of the Calhoon MEBA Engineering School in Easton, Maryland. Henry's combination of real world experience at sea and his participation in establishing the Calhoon School's instrumentation course in the 1990's prepared him for the responsibility and complexities of running a world-class maritime educational facility. The school, a joint labor-management operation, ensures that America's Fourth Arm of Defense—the U.S. Merchant Marine—is well stocked with professional engineers and deck officers in the event our country is in conflict.

Henry and his wife Margaret are residents of Daphne, Alabama. Both their children, Bubba (Henry, Jr.) and Elizabeth are attending college. Henry plans to return there, run a small business, and spend time with his family.

Both inside and outside the maritime community, Henry is known for his keen wit and humble manner. I had the opportunity to spend some time with Henry on a flight from Alabama to Washington earlier this year. We talked about the health of our Merchant Marine and its importance to our country's security. And of course we talked about retiring from the work we love and our eagerness to move back to Alabama to be with family and friends.

Henry rose to the pinnacle of his profession after a career spanning three decades of involvement in the Merchant Marine. He made lasting contributions to his union's school, improving the curriculum and enhancing its professional standing. Henry is an exceptional person and first-class marine officer. Mr. Speaker, my Congressional colleagues, please join me in thanking Henry Phillips for his service to America's Merchant Marine.

TRIBUTE TO THE UNIVERSITY OF CONNECTICUT NATIONAL CHAMPIONSHIP WOMEN'S BASKETBALL TEAM

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise to pay tribute to the 2002 National Collegiate Athletic Association (NCAA) Women's Basketball National Champions, the University of Connecticut Huskies. On Sunday, March 31, the Lady Huskies completed their perfect season with an 82–70 victory over the Oklahoma Sooners, finishing with a record of 39–0.

Of the five starters, four of them were seniors: Sue Bird, Swin Cash, Tamika Williams, and Asjha Jones. Over their four years at the University of Connecticut, the team had a record of 136–9, made three Final Fours, and won two National Championships. They were only the fourth team in women's college basketball history to complete a season undefeated, tying the record for the most wins in a season. The team had an average margin of victory of 35.4 points and never trailed in the second half of a basketball game.

Members of team won various awards this season. Senior Sue Bird won the Wade Trophy for National Women's Player of the Year, Naismith Player of the Year, and was selected for AP First Team All-America Honors. Swin Cash and sophomore Diana Taurasi were selected to the All-America Second Team, Asjha Jones made the All-America Third Team, and Tamika Williams received Honorable Mention All-America. Coach Geno Auriemma was selected as Naismith Coach of the Year and 2002 Russell Athletic/WBCA Division I National Coach of the Year.

Commentators for women's college basketball claim that this Husky basketball team is the best team in the history of women's college basketball. While the Huskies tend to shy away from that statement, opponents tend to agree with those in the media. I believe the ultimate compliment was paid to this team when Pat Summitt, coach of the Tennessee Lady Vols, an archrival of the Huskies, responded if she was relieved to see these four seniors graduating by saying: "[Geno's] done a great job with them and they're big play people all across the board. And what I really admire about this Connecticut team is how hard they play and how inspired they are in every possession. I did not recall seeing a player not play hard every possession. And that speaks for their character and what they brought to the court tonight against us. But I may go to the graduation and cheer. You think they'll let me go? I might be there."

I would like to extend my personal congratulations to the UConn Lady Husky basketball team. The entire State of Connecticut is proud of the Husky team, who has helped turn Connecticut into the center of women's college basketball. I would also like to extend my best wishes to the four graduating seniors, and I am confident that they will be successful in their future endeavors.

I am also submitting for the RECORD an article by Randy Smith of the Journal Inquirer, who captured the essence of the team and their outstanding coaches.

[From the Journal Inquirer, Apr. 8, 2002]

AWAY FROM ARENA, ALL BETS OFF FOR HUSKIES

(By Randy Smith)

There are many beautiful elements attached to the University of Connecticut women's basketball program, but none is more essential. That is the first stone upon which everything else has been built. When a young basketball player honors the game, she, in turn, honors herself and the uniform she wears.

As soon as players step over the lines and away from the arena, all bets are off.

UConn's undefeated national champions took swipes at one another and laughed their way around the streets of Hartford during a parade Saturday, witnessed by throngs of people estimated at 150,000. When Diana Taurasi egged on the crowd while coach Geno Auriemma was trying to speak at the state capitol, he wondered aloud if the WNBA could make an exception and draft Taurasi, say, in the next five minutes. The crowd booed.

The energy these people emit is contagious. They are constantly on the go. They smiled and waved and signed autographs and said thank you a million times. The spotlight agrees with them. Lord knows, they earned it. They played hard, had fun, and won 'em all.

Stop and think. When was the last time you did anything successfully 39 times in a row? I'm not sure if I could count from one to 39 successfully 39 straight times. I'm bound to skip, say, a 23.

The first thing Auriemma did, it's worth remembering, was thank his staff. Because of his position and the power of his personality, he is the main character in all of this, but couldn't be who he is or do what he does without a strong supporting cast. Associate head coach Chris Dailey has worked alongside him for 17 years. She is as demanding as he is, and sometimes, even more so. A diligent sentry who stands guard on the whole concept of "Connecticut basketball," Dailey is part-coach, part-educator, and part-den mother. Problems, big or small, go through her. Tonya Cardoza, in her eighth year, and Jamelle Elliott, in her fifth, are bright and tireless.

The closer one gets to the women's program, he is struck by two revelations: how good they are at playing the game of basketball and how much fun they seem to have together both on and off the court. The team's signature is a smile.

Auriemma hinted that Hartford's fourth parade in eight years—three for women's national champions and one for UConn's men—may not be the last.

"My guess is we might be here again down the road," he said.

If there is another shindig at the Capitol, organizers would be wise to get a smaller podium or a taller coach. The only people who could see Auriemma were behind him. Those in the bleacher seats probably thought they were listening to the voice of God, although chants of "Geno, Geno" indicated otherwise.

This year, he was Cortez in Mexico. Upon landing there, the 16th-century Spanish conqueror burned all ships to send a message to his troops that there was no turning back. In a town built, in large part, on remembering the Alamo, Auriemma instructed his team to remember St. Louis and last year's loss to Notre Dame in a national semifinal game. After eliminating Tennessee and reaching the national championship game, Auriemma delivered a Cortez-like message to his team in San Antonio.

"I told them about Mt. Everest," he said. "in the last 500 yards, everybody dies."

The thought made him roll his eyes.

"Man, you've got to keep coming up with things," he said.

Auriemma was guilty of coaches-speak when he said there was no pressure on UConn to win. Part of a coach's job is to absorb as much pressure as he can and prevent it from seeping into his team's locker room. Auriemma is good at it. Before the Tennessee game, he said, "I'm the most nervous man in America." Before meeting Oklahoma in the national title game, he openly worried that fate and the elements might be conspiring against UConn. He understood that there was only one way out for this senior-laden group. They had to win them all.

Knockers were everywhere, ready to pounce. Kelli Anderson wrote, "UConn is a perennial favorite that has won just one title in the last six years," in the March 18th edition of Sports Illustrated. How's that for revisionist history? Presumably, a half-dozen or more editors read the copy without bothering to change it. UConn had won two titles in seven years and now has won three titles in eight, finishing undefeated twice. The Huskies sure went from 1-of-6 to 3-of-8 in an awful hurry, didn't they?

Like most of his players, Auriemma enjoys his time on a national stage.

"We're ready, that's all I can tell you," he said upon arrival in San Antonio.

"Players decide games" and "I'm always amazed when players do what I tell them" were a couple of his other nuggets. He relishes his time with media and rarely holds anything back.

"My biggest strength is I give you guys a lot to write about and my biggest weakness is I give you guys a lot to write about," he said. "Like a lot of people, my greatest strength is my greatest weakness."

Connecticut state troopers shaded the rules by getting autographs at a third-floor press conference in the Capitol after the parade. Players signed the inside brims of their hats. If a chief back at the barracks asked the troopers to remove their hats to show him how they had spent their day, there would have been a whole of pump-faking going on.

Hartford police, meanwhile, walked the women's team from the capitol, underneath the Soldiers' and Sailors' Arch to the P–3 level of the Civic Center to watch the Phoenix WBCA All-America High School Game. Try as they did to sneak in the back door, the women were greeted by a standing ovation from more than 10,000 fans.

Applause wanes. Appreciation of a 39–0 national champion team never will. And neither will those jabs that seem to keep everybody in place and everything in its proper order.

"I've been around Geno for 17 years," Dailey said. "I don't think he's funny, charming, or good-looking. And you can quote me."

Nothing is sacred except the game.

44TH ANNUAL LOYALTY DAY

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today in support of our 44th annual Loyalty Day, which is celebrated on May 1. On this day, let us reflect with pride on our great country and remember with gratitude the contributions of the many loyal and courageous Americans; such as fire fighters, law enforcement officers, community service leaders, and military personnel who have given so much of themselves both at home and around the world to preserve our freedom.

Although we don't know the exact start of Loyalty Day, it did start in the 1930s as a counteractant of the May Day Communist exhibition. The Public Law 85–529 was signed by President Eisenhower in 1958 to officially commemorate this special day. Members of the Veterans of Foreign Wars thought that these "disruptive forces of the communism" needed to see that the loyalty of Americans could not be uprooted so easily. They decided that they would organize parades and ceremonies, with other patriotic organizations joining in. With an extensive letter-writing campaign, and the help of the speaker's bureaus the theme of loyalty of Americans began to mold into something. Plays and tours of our national shrines aided this. The motto is to instill the ideals of our founding fathers to "remain loyal to America". Indeed, it is a day; meant for making all of us in America feel proud of our country. The country to which we belong.

Join me and the members of The Veterans of Foreign Wars of the United States, George O. Breece Post 401 in recognition of Loyalty Day 2002.

UPPER MISSISSIPPI RIVER BASIN PROTECTION ACT OF 2001

SPEECH OF

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. NUSSLE. Mr. Speaker, I rise today in support of the Upper Mississippi River Basin Protection Act. This legislation takes a common sense approach to reduce nutrient and sediment loss in the Upper Mississippi watershed by coordinating existing public and private water monitoring initiatives. I believe that such a partnership promotes the river's health and is beneficial the communities and people of eastern Iowa.

Most of the farm families I represent live and make their living either along the Mississippi, or its many tributaries. Soil erosion is a problem for farmers by reducing long-term sustainability and income potential of their acres. It is my understanding that farmers in the Upper Mississippi River Basin lose more than $300 million annually in applied nitrogen to soil erosion. In addition, sediment fills the main shipping channel of the Mississippi that family farmers depend on to get their commodities to markets.

Farmers live close to the land, and are committed to being good stewards. This legislation helps farmers and local conservation groups assess where problems are occurring in their watershed, and how to efficiently and effectively solve the problem.

I believe this legislation is beneficial in mending our environment along the river, and better protecting it in the future. Sediment is a threat to the Mississippi's fish, birds, and other wildlife by filling wetlands. Sediment reduces wetlands'ability to be an adequate water filter and provide habitat to the creatures that live all along the Mississippi River. It is estimated that the Upper Mississippi contributes 31 percent of the nitrogen that impairs the water quality of the Lower Mississippi basin.

Part of the Upper Mississippi Wildlife Refuge is in my district. I believe this refuge is an important treasure for Iowa. What makes this area special is, of course, the unique wildlife that lives there. This legislation helps promote wildlife by monitoring and computer modeling data to ensure scientifically sound and cost-effective decisions in promoting water quality.

Additionally, a healthy Mississippi River is very important to the communities of eastern Iowa. The Mississippi is recognized throughout the United States and abroad as "America's River". The Quad Cities area is a popular destination of international travelers who want to see and touch the water. For the residents of the Quad Cities area, the riverfront is the center of social life, with a historic district, baseball diamond, and several annually held festivals.

The city of Dubuque boasts over one million visitors thanks to the Mississippi. This community has chosen to make its story of the river the cornerstone of its urban renewal with a million dollar investment in the revitalization of the riverfront. The America's River project and historic Port of Dubuque represent the community's dedication to growing its tourism industry.

Mr. Speaker, the Upper Mississippi's health and water quality essential to growing the economies of the larger river cities of Bettendorf, Davenport, Clinton, and Dubuque, and the picturesque river towns of Guttenberg, LeClair, Bellevue, and Marquette. All of these communities, along with farmers and conservationists, have invested much time and effort in promoting a clean river. I believe this legislation helps to insure these investments by coordinating the many interests of those living in the Upper Mississippi River Basin. Accordingly, I am a proud sponsor of this bill, and I urge my colleagues to join me in supporting this legislation.

HONORING SERGEANT WAYNE SEITA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Sergeant Wayne Seita for receiving the 2002 Police Personnel of the Year Award from the Sanger District Chamber of Commerce.

Sergeant Seita joined the Sanger Police Department on January 27, 1975, and was named permanent sergeant on July 1, 1990. Sergeant Seita's colleagues refer to him as a professional, moral, ethical and nonbiased person. His ability to maintain the work schedule for patrol, without any complaints, is enough to deserve a commendation alone. In May of 2000, Wayne was wounded while responding to a call of a wanted suspect with a firearm. Thankfully, Sergeant Selta was able to recuperate and return to work after a short time. Nothing could stand in the way of him protecting the citizens of Sanger and discharging his duties as a public servant.

Mr. Speaker, I rise today to congratulate Sergeant Wayne Seita for his dedication and contributions to the Sanger Police Department. I invite my colleagues to join me in thanking Wayne for his exceptional service to the community of Sanger and wishing him many more years of continued success.

IN RECOGNITION OF THE OPENING OF THE NORTHERN CALIFORNIA CONSULATE OF THE SLOVAK REPUBLIC

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the official opening of the Northern California Consulate of the Slovak Republic in Walnut Creek, CA.

The Slovak Republic became a free and independent Republic in January 1993, and in June 2001, opened their new embassy in Washington, DC. The Slovak people are determined in their quest for liberty, dignity, and cultural and economic independence.

The United States continues to be the beneficiary of the work, sacrifice, and patriotism of citizens of Slovak heritage, who have earned recognition and respect throughout our land, including the agricultural fields and the technological and academic centers in California.

Barbara Pivnicka, Honorary Consul of the Slovak Republic in northern California, was appointed in June 2001 by Eduard Kukan, Minister of Foreign Affairs of the Slovak Republic, with approval by the U.S. State Department, to establish a Consulate of the Slovak Republic in California.

I am pleased that the Honorable Martin Butora, Ambassador Extraordinary and Plenipotentiary of the Slovak Republic to the United States, and his wife, Dr. Zora Butorova, are visiting the San Francisco Bay Area this month for the purpose of officially opening the Consulate of the Slovak Republic in San Francisco.

A number of activities and celebratory events are taking place in recognition of the opening of the Consulate and the visit by the Slovak Ambassador, including a reception at the Fairmont Hotel on the day of the official opening.

It is an honor for me to welcome Ambassador Butora and Dr. Butorova to northern California, and to congratulate and welcome the Consulate of the Slovak Republic to northern California.

Mr. Speaker, I am pleased to recognize the efforts of the many Slovak and American citizens in making this opening possible. This Consulate will be a tremendous asset to people of the Slovak Republic and the United States.

UPPER MISSISSIPPI RIVER BASIN PROTECTION ACT OF 2001

SPEECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 3480, the Upper Mississippi River Basin Protection Act. I'd like to thank Mr. KIND, my colleague on the Upper Mississippi River Task Force for all his hard work on this legislation.

The Upper Mississippi River Basin has a significant problem with sediment, which has a variety of harmful effects. Sediment is directly linked to soil erosion, which is harmful to the family farmer. It creates a need for over $100 million each year in dredging of the main shipping channel of the Mississippi River. Sediment fills wetlands and impacts recreation and tourism on the Mississippi. While the problems of sedimentation are documented, there is inadequate scientific data on the amounts and sources of sediment and nutrients flowing into the River basin because local, state and federal efforts are not coordinated.

This legislation develops a coordinated public-private approach to reducing nutrient and sediment losses in the Upper Mississippi River basin. The bill establishes a water quality monitoring network and an integrated computer-modeling program using information gathered from existing federal, state and local programs. This data will provide the baseline numbers needed to make scientifically sound and cost-effective decisions.

Mr. Speaker, this is good legislation which will help alleviate the problems of sedimentation and nutrient loss that are common in the Upper Mississippi River Basin. I urge my colleagues to join me in supporting this bill.

TRIBUTE TO GIRL SCOUTS' 90TH ANNIVERSARY

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. CALLAHAN. Mr. Speaker, I rise today to celebrate the 90th anniversary of Girl Scouts USA. For ninety years, Girl Scouts has inspired girls with the highest ideals of character, conduct, patriotism and service that they may become happy and resourceful citizens. It helps both young girls and adults develop qualities that will serve them all their lives—like strong values, a social conscience and conviction about their own potential and self-worth.

Girl Scouts strengthen our country by developing future female leaders. They offer a broad range of activities that address today's interests and tomorrow's role as women. Girl Scouts learn a wide range of real life skills—first aid, resume writing, and managing money—as well as reap the benefits that are less quantifiable, including enhanced self esteem, greater confidence in their abilities, and the strength and conviction to lead and excel in their endeavors. All of this is accomplished while constantly striving to reach their three goals: values, leadership and diversity.

Girl Scouts USA serves over 2.7 million girls across the country. They are a shining example of what society can be if we focus on teaching values to future generations. I congratulate Girl Scouts on their 90th anniversary, thank them for developing solid citizens, and wish them well in the future.

TRIBUTE TO CORRINE GUNTHER

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to pay tribute to a truly outstanding individual, my constituent, Corrine Gunther of Morristown. On April 16, Corrine's friends and family will honor her contributions and accomplishments as The Zonta Club of Morristown presents her with the "Woman of the Year" award.

Corrine Gunther was born in Baltimore, Maryland. She went on to attend Oberlin College and obtained a degree in English and Anthropology. She used her education to become a teacher and taught first grade at a school in Long Island, where she also coached field hockey, lacrosse and basketball. Later, Corrine served as a Research Associate for a Federal grant at Fairleigh Dickinson University on a volunteerism in government project, and changed careers again to become Executive Director of the Visiting Health Service of Morris County where she served for fourteen years.

In addition to her professional accomplishments, Corrine has served her communities as a volunteer in a multitude of ways. Throughout her years of service she has served as the Chairman of the N.J. Home Care Committee for the White House Conference on Aging; as Vice Chairman of the Human Services Advisory Council; as a Board Member of First Call for Help, an information and referral service, and as a peer reviewer for the National Home Care Council. Corrine was also past President of NORWESCAP, an umbrella agency for five counties, overseeing 54 action service programs; past President of the League of Women Voters of the Morris Area and the Morris County League; and also as a charter member and past President of The Human Services Association of Morris County.

Corrine Gunther has been a member of The Zonta Club of Morristown for the last twenty six years and is a past President. Zonta International is a worldwide service organization of women executives in business and the professions working together to advance the status of women.

Mr. Speaker, I congratulate Corrine for all of her past achievements and hope my colleagues will join me in congratulating her on her honor, and all of the accomplishments and service she has performed throughout her life!

RECOGNIZING THE EMPLOYEES OF ARTHUR ANDERSEN

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to recognize the 26,000 employees of Arthur Andersen who are facing great uncertainty as the Department of Justice pursues its federal obstruction of justice charges. In the State of Connecticut, Andersen employs more than 500 and in my District, over 300 are employed in the Hartford office. These hard-working employees are facing the possibility of layoffs and general insecurity about the future of the company to whom they have dedicated themselves.

Walking around Capitol Hill, I have witnessed the sea of yellow shirts that signify the faithful Andersen employees who are pleading their innocence. I have met face-to-face with the Andersen employees in my District and I am impressed by their loyalty and resolve. These employees have done nothing but come to work everyday and perform their duties. Despite their uncertain future, they still do. I could understand why they might feel betrayed by a select few who made poor decisions in a city two thousand miles away. However, they still serve their customers with the same professionalism as they did before Enron became a household name.

I would like to offer my praise to Hartford's Andersen office for being a solid corporate citizen in our community. Employees proudly proclaim that they donated nearly $100,000 last year to the United Way, contributed to Hartford's "Dress for Success" program to provide professional attire to those moving from welfare to work, volunteered on two Habitat for Humanity projects, and gave $160,000 to local civic organizations. Their thankless contributions should now be recognized.

I wish that I could offer Andersen employees my assurances that their jobs will be safe and their company will rebound. However, I can offer my support and encouragement for work well done in good times and bad. I can offer my thanks for charitable contributions to our community. And I can ask my colleagues to join me in this endeavor and reach out to the innocent Andersen employees in their districts. Let them know that their hard work is appreciated and that their community will not abandon them during this difficult period.

HONORING BOB AND JOAN HINES

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Bob and Joan Hines for receiving the 2002 Mr. and Mrs. Farmer of the Year Award from the Sanger District Chamber of Commerce.

Bob received a degree in agronomy from California State University, Fresno, and became an agronomist for J.G. Boswell Company in 1957. He left J.G. Boswell Company in 1961 and became manager of the Clovis-Sanger Cooperative (cotton) Gin. He was chosen by the Agricultural Council of California to be "Co-op" Man of the Year in 1997. Mr. Hines also served as Director of both the Federal Farm Credit System and of the Allied Grape Growers.

Joan made contributions through her church as an elder, Sunday school instructor, and Youth Club Worker. She was a 4-H leader, a member of the Parents' Club, and of the PTA. Mrs. Hines is a charter member of Los Rancheros Valley Children's Hospital Guild, Clovis Branch, and of the Fresno Kings Cattle Women Organization. Both Joan and Bob have been citrus and grape growers along the Kings River and Trimmer Springs area near Sanger. Together, they have made enormous contributions to their community.

Mr. Speaker, I rise today to congratulate Bob and Joan Hines, for their dedication to agriculture and the community. I invite my colleagues to join me in thanking Bob and Joan for their tremendous community service and wishing them many more years of continued success.

PRESIDENT OF THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF CYPRUS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. PALLONE. Mr. Speaker, this week, we welcome a distinguished visitor to our nation's capital: the Honorable Demetris Christofias, President of the House of Representatives of the Republic of Cyprus.

Mr. Christofias began his trip to the U.S. late last week with a stop in New York, where he paid tribute to those who lost their lives in the terrorist attacks on September 11th. Visiting Ground Zero, where the World Trade Center had stood, Mr. Christofias condemned all terrorist attacks, and reaffirmed Cyprus' support in the fight against terrorism.

During his visit to Washington, Mr. Christofias will be meeting with Members of Congress, top Administration officials, other key policy makers, and leaders of the Cypriot-American community. As elected representatives who serve in this great Body, it is a privilege to receive visits from our counterparts serving in the legislative bodies of other countries—particularly when the visitor represents a country with which we enjoy very friendly relations, have so much in common and in which we have so many important interests.

Mr. Speaker, Representative Demetris Christofias was elected President of the House of Representatives on June 7, 2001. Based on the 1960 Constitution of the Republic of Cyprus, the President of the House of Representatives performs the duties of the President of the Republic in the event of a temporary absence or incapacity of the President. He is also President of the Executive Committee on Selection, and President of the Executive Committees of the groups representing Cyprus in the Inter-parliamentary Union and the Commonwealth Parliamentary Association. He is also a member of the National Council, a supreme advisory body to the President of the Republic.

Representative Christofias was first elected as a member of the House of Representatives in 1991, and was subsequently re-elected in 1996 and 2001. He was born on August 29, 1946, in the village of Dhikomo of the district of Kyrenia, an area under military occupation by Turkey since 1974. From a very young age, he has been active in political and civic organizations in Cyprus. He now lives in Nicosia and is married to Elsie Chiratou. They have two daughters and a son.

Mr. Speaker, the Republic of Cyprus is an important friend and partner of the United States. Our countries share a commitment to democracy, human rights, free markets and the ideal and practice of equal justice under law.

The Republic of Cyprus also stands with the United States and the rest of the civilized world in the war against international terrorism. Within hours of the terrorist attacks of September 11, Cypriot leaders expressed their strong condemnation of the acts, their solidarity with the American people, and their commitment to working with the United States in the ongoing campaign against terrorism on many fronts. Since then, Cyprus has taken many substantive steps as part of the coalition against terrorism, including giving blanket clearances for U.S. military aircraft to fly over Cyprus and use its airports, sharing intelligence with and providing legal assistance to U.S. agencies, and increasing security at seaports, airports and the American Embassy in Cyprus's capital, Nicosia. Cyprus has also implemented UN Security Council Resolution 1373 to freeze bank accounts and other assets of terrorists and their supporters, ratified and implemented the International Convention for the Suppression of the Financing of Terrorism, and is conducting investigations to determine if individuals or organizations named in President Bush's Executive Order hold assets in Cyprus, with a goal toward freezing those assets.

Mr. Speaker, the future for the Republic of Cyprus looks extremely bright. Cyprus is currently considered a leading candidate country to join the European Union in the EU's next round of enlargement. The United States has strongly supported Cyprus's EU bid. EU membership will bring significant benefits to both the Greek-Cypriot and Turkish-Cypriot communities, including new economic opportunities, access to new markets, a freer exchange of goods and services, balanced and sustainable development as well as the free movement of persons, goods, and services and capital.

But, regrettably, Mr. Speaker, despite its almost miraculous economic achievements, Cyprus must continue to endure the occupation of 37 percent of its territory by a hostile foreign power. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops. Nearly 200,000 Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country. Every year, on or about July 20, in what has become one of Congress's proudest traditions, Members of Congress rise to remember the anniversary of the Turkish invasion. Congress has also adopted Resolutions stating that the status quo in Cyprus is unacceptable, and calling for international efforts to resolve the Cyprus problem on the basis of international law. Administrations of both political parties have worked in support of the UN-sponsored peace process.

In recent months, hopes have been raised that a just and durable solution to the Cyprus problem can be reached. The President of the Republic of Cyprus, Glafcos Clerides, has been holding direct talks with the Turkish Cypriot leader, Rauf Denktash, since the beginning of this year. The third round of these talks has resumed this month, with the UN Secretary General's Special Adviser for Cyprus overseeing the negotiations. I am confident that the leadership of the Republic of Cyprus will continue to negotiate in good faith until a comprehensive settlement is reached, as they have tried to do all along. I hope the Turkish Cypriot leadership will respond by putting aside its unreasonable and unacceptable demands, and negotiate in good faith.

The United States has a significant security, economic and moral interest in seeing that a settlement is achieved. The U.S. also supports Cyprus's accession to the EU. Indeed, it is to be hoped that the ongoing EU accession process for Cyprus—which will continue to advance whether or not a comprehensive settlement is reached—will help to lead to a comprehensive settlement.

Last year, a bipartisan Resolution was introduced in the House expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes. That Resolution now has 73 co-sponsors, showing the strong support of this Body for Cyprus' accession to the EU.

Mr. Speaker, I hope that all of my colleagues will join me in welcoming Representative Christofias to our capital and to our country.

TRIBUTE TO RICHARD AND MARY HUNTER

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor and congratulate Richard and Mary Hunter on celebrating their 60th Wedding Anniversary this April 10, 2002. This loving couple has lived in my district for over sixty years. I admire their immense devotion to each other. They embody true love and respect for each other.

Mary and Richard met at the Philadelphia Frankford Arsenal in my district. Mary worked as an assembly line supervisor while Richard worked as an armorer under her direction.

Their love flourished and after two years of courtship they married on April 10, 1942. After 60 years of marriage, Richard believes that Mary is still his supervisor. Shortly after their marriage, Mary continued working at the Armory. Richard went off to serve as a radio technician in World War II and assisted in the liberation of several concentration camps in Germany.

Richard and Mary went on to have four children: Rick, Randy, Maryann, and Pat. By way of their children, Richard and Mary now have eleven grandchildren and six great grandchildren with another great grandchild on the way. I am proud to say that they are my constituents and to share their story with you. Richard and Mary are rare and special. They are living examples of endless and long-lasting love. I send them my tributes, my respect and my highest regards.

Mr. Speaker, our nation understands the value of strong families. Richard and Mary are an example to us all that love endures all things. I hope that my colleagues will join me in recognizing their successful marriage and their 60 year Anniversary.

IN OPPOSITION TO H.R. 3762, THE PENSION SECURITY ACT OF 2002

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MINK of Hawaii. Mr. Speaker, I rise in opposition to H.R. 3762, the Pension Security Act.

Enron employees lost over $1 billion in retirement funds. Congress needs to pass legislation to help prevent this from ever happening again.

Unfortunately, H.R. 3762 does nothing to protect pension plans. This bill fails to give employees the right to sit on pension boards and manage their own retirement assets. 29 Enron executives dumped $1.1 billion of their stock to avoid the losses faced by rank and file employees, but the bill fails to give employees notification when executives are dumping company stock. 85% of all employers with pension plans currently restrict their employee's ability to diversify, but the bill fails to allow employees to diversify their 401 (k) pension plans.

The Pension Security Act offers no protection for employees. It actually increases their risks. The bill will allow unqualified individuals to provide investment advice. These investment advisors may be connected with investment companies who benefit from the advice. Advisors should not receive financial rewards for recommending certain investments over others. This is a clear conflict of interest that will hurt an employee.

We should commit ourselves to giving employees the right to truly control their retirement plans and give them the legal mechanisms for punishing those responsible for negligence and fraud. We must modernize ERISA so employees can be made whole and help ensure that average employees and corporate executives abide by the same rules.

The Democratic substitute does this by toughening criminal penalties for fiduciaries who violate workers' pension rights. It prohibits executives from dumping stock if the company's rank and file employees are prohibited from selling their stock due to a lockout. The Democratic substitute gives employees the right to diversify company-matched stock after 3 years, and it provides for independent financial advice for employees when company stock is offered as an investment option under a retirement plan.

I urge my colleagues to vote for the substitute and against H.R. 3762.

IN HONOR OF THE 10TH MOUNTAIN DIVISION

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. CANNON. Mr. Speaker, I rise today to honor the United States Army 10th Mountain Division. This important division of infantry has always answered the call of our nation when we have been in need.

The 10th Mountain Division earned its fame during World War II, where it successfully captured several key German positions in Italy, including Reva Ridge and Mount Belvedere. In all, the division completely destroyed five elite German divisions, while suffering heavy casualties of 992 killed in action and 4,154 wounded. Training for these missions was done largely in Colorado and Utah's Park City Area.

Upon return from the war, many Veterans of the 10th Mountain Division entered private industry creating ski resorts, schools and magazines. Their love of skiing and its development in the Inter-Mountain West and specifically in Utah, contributed in a large way to Utah's effort to host the 2002 Winter Olympic Games.

Even today, the 10th Mountain Division continues to contribute to its country's security. Soldiers from the division were among the first to enter Afghanistan in an effort to search out Al Qaida strongholds and oust the Taliban Government.

The State of Utah has chosen to honor the 10th Mountain Division by naming a highway the 10th Mountain Division Memorial Highway. This section of road will be a testament to the scores of Utahns and others who have served their country in the Division.

Mr. Speaker, the men and women of the 10th Mountain Division have a tradition of heroism. I am proud to stand behind those who have served and those who are now serving a grateful nation.

TRIBUTE TO MR. ERNEST C. WITHERS

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. FORD. Mr. Speaker, I rise today to pay tribute to legendary photojournalist Mr. Ernest C. Withers. Born in Memphis, TN in 1922, Mr. Withers is renowned for his distinguished photographic record of the Civil Rights Movement in the South during the 1950's and 1960's. No other photographer created as complete a document of this movement as Withers did.

An important catalyst for the Civil Rights Movement, Withers helped to mobilize interest in the cause across the United States through his powerful images and writings. Withers often traveled with and photographed such legendary figures as Martin Luther King, Jr., Medgar Evers, Ralph Abernathy, and James Meredith. His unflinching visual records of these important individuals and critical events like the Montgomery bus boycott of 1955 and the assassination of King provide an insightful portrait of these landmark moments in American history.

During the struggle for civil rights, Mr. Withers photographed meetings, marches, sit-ins, and police crackdowns all across the South. As the movement erupted, Withers became fully engaged in capturing images which would appear in newspapers and magazines like Time and Newsweek, often uncredited. He noted, "I had a single sense of having to record what was going on. I look for things of time and value. None of my images deal in violence—they deal in time." Though he generally photographed without incident, at the funeral of Medgar Evers, highway patrolmen knocked his camera from his hands, destroying the film.

Because of his familiarity with the people and the geography of the segregated South, Mr. Withers was often the first or only photographer to capture momentous events as they unfolded long before the national press became interested.

Mr. Withers has photographed every major civil rights activist since the 1950's and said he could do an entire book of his photographs of Dr. King. The Massachusetts College of Art mounted an exhibition of Mr. Wither's civil rights photographs entitled "Let Us March On" that has toured the United States since 1992. He has photographed Memphis soul figures like Al Green, Isaac Hayes and Elvis Presley. He has photographed nearly every president from John F. Kennedy to Bill Clinton. He has also captured the innocence of Sunday school teachers, Little Leaguers, and waitresses in his photographs.

Furthermore, Mr. Withers has served his country and his community as an Army photographer in World War II and as one of the first nine African American police officers in Memphis.

Ernest Withers once said, "I was trained as a high school student in history, but I didn't know I would be recording the high multitude of imagery and history that I did record."

In 1998, Mr. Withers was inducted into the Black Press Hall of Fame. Please join me in honoring Mr. Withers as one of truly important and influential figures in our history.

IN TRIBUTE TO OUR FALLEN HERO: SHERIFF SAM CATRON OF PULASKI COUNTY, KENTUCKY

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ROGERS of Kentucky. Mr. Speaker, a dedicated public servant and a soldier on the front lines of the fight against evil has been struck down—taken from us in a senseless but premeditated act of political assassination in my home county this past weekend.

Sheriff Sam Catron of Pulaski County, Kentucky, was shot and killed Saturday, April 13, by a cowardly assassin who fired a high-powered rifle from a camouflaged vantagepoint estimated to be some 100 yards away. He was killed instantly and fell just steps from friends, family and his elderly mother, Jennie Rachel Catron, who had accompanied him to an outdoor candidates-night gathering and fish fry at a rural volunteer fire station.

By Monday, very efficient and capable state and local investigators had arrested the alleged assassin and two alleged conspirators, including one of the sheriff's opponents in his race for reelection.

A particularly cruel irony is that the Sheriff's father was gunned down by an assassin in similar fashion as Somerset (county seat of Pulaski County) Chief of Police 38 years ago. Both shootings were in the presence of the Sheriff's mother and the Chief's wife.

Pulaski County Sheriff Sam Catron won election on his first attempt for the office in 1984. He had previously served as chief of police in Ferguson, Kentucky, and as a deputy sheriff in Pulaski County. He was a member of the City of Somerset-Pulaski County Rescue Squad, an Eagle Scout and a Kentucky Colonel. Ray Stoess, the former executive director of the Kentucky Sheriff's Association, says Sheriff Catron was perhaps the best Kentucky sheriff of the last 30 years. A former Sheriff of the Year in Kentucky, he was considered one of the hardest-working law officers in the state, often staying on the road until the early morning hours answering calls from citizens and investigating crimes.

A licensed pilot, Sheriff Catron performed his own helicopter searches for marijuana, helped other departments track suspects with the use of his police dog and he was even known to keep firefighting equipment in his vehicle so he could lend a hand in any kind of emergency. Sheriff Catron had recently cooperated with John Walsh of the TV program America's Most Wanted in an effort to track down a man wanted by police in Eastern Kentucky. Ironically, that episode of the program premiered on national television this past Saturday night, less than two hours after Sheriff Catron was gunned down.

Sheriff Catron loved being the chief law enforcement official of our county. He was a very capable lawman. But he also performed thousands of kindnesses to the people he dearly loved. As such, Sheriff Sam Catron is an example of a law officer who lived to serve the people he represented. He worked tirelessly for the citizens of Pulaski County, who today have a heavy heart, yet they are now relying on their deep wellspring of faith, their abiding sense of community, their loving families and their inner strength.

The people are trying to heal in many ways, including the spontaneous display of brown and yellow ribbons—colors worn by the members of the Pulaski County Sheriff's Office who put their lives on the line each and every day.

But among the outpouring of heartfelt tributes, memorials and flowers, perhaps a hand lettered, red-white-and-blue sign spotted in the Pulaski County town of Ferguson said it best: "Goodbye Sammy. We will miss you, our friend."

IN HONOR OF MYRON McKINNEY

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. BLUNT. Mr. Speaker, I rise today to salute Myron McKinney on his 33 years of service to Empire District Electric Company. His exceptional career with Empire began on June 5, 1967 as a sales consultant and will end on April 30, 2002, as President and Chief Executive Officer of Empire.

Myron McKinney was the recipient of numerous awards, including Outstanding Citizen for 1999 by the Joplin Area Chamber of Commerce. He was also the Outstanding Alumnus in 1997 for Bolivar High School, and in 2000, was voted Outstanding Alumnus for Missouri Southern State College.

Myron McKinney has served the Joplin area for many years by volunteering countless hours for local service clubs and community boards. He is a former president and board member for the Joplin United Way and the Jasper County Association for Social Services. Mr. McKinney is a Missouri State Chamber of Commerce Board Member and a former president and board member for the Joplin Area Chamber of Commerce. He also served on the Joplin Business and Industrial Development as their chairman and board member. He is on the Freeman Hospital Board and served as chairman of the board for the Ozarks Public Telecommunications board. Mr. McKinney served as the chairman and board member for the Joplin Southern board and is a former board member of the Joplin Family Y.

Myron McKinney was born on September 9, 1944 in Santa Paula, California, to O.S. and Hazel McKinney. He grew up in Bolivar, Missouri, graduating from Bolivar High School in 1962 as the vice-president of his class. He attended Joplin Junior College and served as the president of the Student Senate and was the captain of the football team. He graduated from Southwest Missouri State University in 1967 with a Bachelors Degree in Business Administration. In 1964, he married Janet Manard. They have 2 daughters and one grandson.

Mr. Speaker, it is clear that the Empire District Electric Company will miss the exemplary leadership that Myron McKinney has provided. I would like to personally wish him well in this new stage of his life. I know that he'll continue his service to Southwestern Missouri and am certain that my colleagues will join me in honoring this remarkable man.

TRIBUTE TO FORMER CONGRESSMAN PHILIP RUPPE

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. KNOLLENBERG. Mr. Speaker, I rise today to pay tribute to former Congressman Mr. Philip Ruppe. I would also like to thank my colleague from Michigan for offering this resolution to pay tribute to a great man.

Philip Ruppe is a prime example of the outcome of hard-work and determination. Before serving his constituents for twelve years as their Representative to Congress, he was a successful banker. Before that, he defended our great nation and served in the Navy during the Korean War.

I have known Philip Ruppe for over twenty years and was active in supporting his campaign for the U.S. Senate in 1982. His passion for politics was only trumped by his loyalty to his constituents. He was the first Congressman representing the district to have district offices, no easy task considering the size of his district.

Because of his dedication and hard work, I wish to congratulate Phil on his lifelong achievements and wish nothing but the best in his future endeavors.

UNITED STATES TEXTILE INDUSTRY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. BALLENGER. Mr. Speaker, yesterday I introduced four measures which will help the United States textile industry in its efforts to compete on the global playing field.

Many American textile companies are fighting for their survival due to unfairly undervalued imports produced by low-wage foreign manufacturers. One competitive advantage that the U.S. industry still has is its productivity. The American textile industry is one of the most productive in the world, but American companies must constantly modernize to retain that edge.

Unfortunately, much of the machinery the American textile industry needs to compete is no longer produced here in the United States, so the industry must seek such equipment from foreign sources. However, they must still pay duties on those machines. At a time when our domestic industry is suffering its most severe economic crisis since the Great Depression, with hundreds of closed mills and nearly 70,000 jobs lost in the past year, it makes no sense to require companies to pay duties on equipment that is not produced domestically.

Some of our leading American textile companies have entered Chapter 11 of the Bankruptcy Code, others are experiencing substantial losses, and even some of those who are profitable are barely so. For these companies, if we suspend the duties, the money they could save when purchasing new equipment can be put to better use, and we could save more American textile jobs from being lost.

Congress has acted previously to suspend the duties on these particular machines, but that suspension has now expired. Accordingly, I am introducing legislation to temporarily suspend the collection of duties on these four types of machines that are no longer produced in the U.S.

The machines in question include certain ink jet and other textile printing machines, certain shuttle type power looms, and certain shuttleless power looms. The detailed description of these machines, including their Harmonized Tariff Schedule numbers, are found in the bills themselves. All four types of equipment are essential to various textile producers, large and small, throughout the United States.

I urge the Ways and Means Committee to act swiftly to approve these bills.

THE AMERICAN DREAM DOWNPAYMENT ACT

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ROGERS of Michigan. Mr. Speaker, turning the key in the door of your very own home for the first time is a thrill that few families ever forget. For generations, the ability to purchase your own home has symbolized the hard work, thrift and personal responsibility that embodies the American Dream.

For some, the idea of owning their own home is but a dream, an unattainable dream. Across our nation, families get up, go to work every day, and play by the rules; but, they find that the downpayment on a home is a hurdle that keeps them from making that important investment in themselves and their community. These are families who, after paying the rent, buying groceries, and meeting their children's needs, have a tough time saving enough money to get past the first step of home ownership—the downpayment and closing costs.

To help first-time, low-income families overcome those highest barriers to home ownership, I am introducing the American Dream Downpayment Act. This legislation will give effect to President Bush's proposal to help 200,000 low-income families achieve the dream of home ownership over five years.

The President's Fiscal Year 2003 budget request included $200 million in grants to assist first-time, low-income home buyers. As part of his call to expand home ownership opportunity, the Fiscal Year 2003 budget quadruples the President's Down Payment Assistance Initiative from its 2002 level.

In announcing the funds provided in the budget, Housing and Urban Development Secretary Mel Martinez said it best: "Opening the doors to home ownership to more and more Americans is one of this Administration's goals. The American Dream Downpayment fund will accomplish much more than that. By giving as many Americans as possible an opportunity to become stakeholders in their community, we believe it will help to stabilize some neighborhoods and completely revitalize others."

When I reviewed the President's budget, I knew this would be important for all Americans, especially families in Michigan's metropolitan areas such as Lansing, Flint and Detroit. In giving the President's proposal legislative effect, the American Dream Downpayment Act will provide communities throughout America with $200 million in annual grants in Fiscal Year 2003 thru Fiscal Year 2006 to help home buyers with the downpayment and closing costs, the biggest hurdles to home ownership.

Upon enactment, the American Dream Downpayment Act will be administered as part of HUD's existing HOME Investment Partnerships Program (HOME). HOME is a successful program that helps communities expand the supply of standard, affordable housing for low-income and very low income families by providing grants to states and local governments.

The flexible program will enable more than 400 local and state governments to help communities provide low-income families with rate reductions, closings costs and downpayment assistance. Specifically, the focus of the proposal is on low-income families who are also first-time home buyers. To participate, recipients must have annual incomes that do not exceed 80% of the area median income.

I believe that the American Dream Downpayment Act will help increase the overall home ownership rate in the United States, especially among minority groups who have lower rates of home ownership compared to the national average. For example, more than two-thirds of all Americans own their own home, while fewer than half of African-Americans and Hispanic families are homeowners.

I look forward to working with my House colleagues on a simple, but powerful, proposal to move more American families into their own homes—and making their American Dream a reality.

EQUAL PAY DAY—APRIL 16, 2002

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. BONIOR. Mr. Speaker, I don't need to tell you how far women have come in the workplace. Women now make up roughly half of all workers. They're breaking into traditionally male fields, from medicine to law enforcement. Women are attending professional and graduate schools at ever increasing rates. Yet, one thing holds women back—unequal pay.

Despite the fact that women's earnings have been growing faster than men's since 1975, women still make only 74 cents for every dollar men earn. More women than ever are participating in the workforce, yet minority women earn only 64% of what men earn. Despite all of these accomplishments, studies show that the pay gap in management positions is actually increasing. It is long past time to stop this wage discrimination.

Unequal pay hurts not just women, but entire families. Tragically, single mothers and their families have a poverty rate of roughly 28%. The number is as high as 40% for African-American single mothers and their families. We cannot sit idly by while families such as these fall deeper and deeper into poverty. These women and children all deserve an equal chance to be financially secure.

Income lost to the pay gap represents lost opportunities for these families. If women in my home state of Michigan earned as much as men, each family would see an income increase of $5000 per year—income that could offset some of the costs of child care, provide after-school music or athletic lessons, and could be put away to provide for education.

Pay Equity is something we need to work on everyday, not just on Equal Pay Day. We need to enact the Paycheck Fairness Act to provide solutions for women who are not earning equal wages for equal work. It's been 30 years since the passage of the Equal Pay Act, yet working women still suffer. I am committed to continuing the fight for equal pay until the gap no longer exists. This is an issue of equality, economic security and civil rights. We cannot rest until women are being paid what they deserve.

THE ALAMEDA CORRIDOR: A MODEL FOR PUBLIC WORKS PROJECTS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. HORN. Mr. Speaker, today, I want to pay tribute to one of the most successful public works projects in our nation's recent history. A $2.4 billion engineering masterpiece that will greatly bolster U.S. trade with Asia and Latin America and benefit our economy well into the future. The project, which covers a large portion of my district in Long Beach, California, is a 33-foot deep, 50-foot wide trench that allows freight trains to travel underground to and from the ports of Long Beach and Los Angeles to downtown Los Angeles.

The 20-mile long corridor eliminated more that 200 railroad crossings and erected 30 new bridges. It will provide residents and travelers throughout southern California with much needed relief from traffic congestion and air and noise pollution. The corridor also reduces travel time for trains by more than half—allowing for increased trade goods to flow in and out of the ports.

The Alameda Corridor celebrated its grand opening on April 12th. I joined with my congressional colleagues, Reps. DAVID DREIER and JUANITA MILLENDER MCDONALD, as well as my good friend Secretary Norman Mineta and many other public officials who contributed significantly to the project's completion on schedule and within budget.

Since planning for this project began in the eighties and continued throughout the early nineties, many hands contributed to its progress. But few were as instrumental in giving this project its wings. One of them was my predecessor, former congressman Glenn Anderson. He was chairman of the House Committee on Transportation and Public Works. He gave excellent support to the Alameda Corridor when he was in good health. Former Congressman, and now Secretary of Transportation Norm Mineta followed him as chairman and continued with strong support. And Gil Hicks, without question, is the visionary who started the ball rolling with the planning group.

I also want to mention another one of Norm Mineta's colleagues . . . Federico Pena, the former Secretary of Transportation. Without his judgement on putting up the money, nothing would have happened throughout the nineties. Other strong supporters were then Speaker Newt Gingrich, then Senate Majority

Leader Bob Dole, and then Governor Pete Wilson. Every one of them was very helpful. And particularly the Congressional delegation from Los Angeles County. We had all sorts of things going at that time. The County was experiencing deep unemployment at the time. With the end of the Cold War, the major airplane manufacturing firms, and hundreds of suppliers closing their doors. The C–17 was the only airplane under production. But Mayor Riordan of Los Angeles and Mayor O'Neill of Long Beach persevered. They both came to Washington on numerous occasions. They were always successful in garnering support from the White House. With these people oiling the wheels, a lot was accomplished by a lot of people. And the winds of trade from Asia and Latin America are moving up that corridor and democracy is thriving. I want to thank all these fine people for what they have done. This project would not have happened without their hard work. The Alameda Corridor will serve as a model for congested cities across the country for years to come.

BUSINESS INTEREST CHECKING FREEDOM ACT OF 2002

SPEECH OF

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. GONZALEZ. Mr. Speaker, H.R. 1009 contains a provision, Section 7, entitled Rule of Construction, regarding certain real estate escrow accounts. This provision is substantially the same as Section 7 of H.R. 974, the Small Business Interest Checking Act of 2001, which passed the House last year. The provision makes clear that the current treatment of certain services and benefits provided by banks in lieu of interest in connection with escrow accounts for real estate closing transactions remains the same. There are some minor technical changes to this section from H.R. 974. These changes make the provision more straightforward, and clarify the specific banking statutes to which this provision applies. This provision does not alter the current legal definition of interest or the legal treatment of real estate closing escrow transactions. It is my understanding that current Federal legal standards, including regulatory interpretations, regarding the definition of interest on deposits will continue to stand.

Currently, the Federal Reserve's Regulation Q provides that services and benefits can be given by banks in lieu of interest to depositors. The Regulation also specifically provides that the provision or the receipt of such services and benefits does not constitute interest. Such services and benefits include for example, free printed checks, safe deposit and night depository facilities, low-interest loans, and armored car services. In Texas, numerous small title agencies, underwriters, and attorneys benefit from these services. The average title agency in Texas is a small, locally based family businesses, usually employing no more than six or seven employees. These agencies are mainstays within their communities and provide service to individual customers who are purchasing homes. Maintaining the current regulatory interpretation of interest is important to the health of many of these businesses. In our nation's highly developed financial system, Federal banking law and regulations have operated to facilitate the smooth and efficient flow of real estate transactions and promoted American homeownership. I am optimistic that these services will continue to be provided in the current efficient manner when H.R. 1009 becomes law.

REGARDING THE INTRODUCTION OF DUTY SUSPENSION BILLS

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. LANGEVIN. Mr. Speaker, I rise today to introduce 13 bills to suspend the duty on the importation of products used by a manufacturer in my home state of Rhode Island. Several of these products are organic colorants used in manufacturing processes requiring unique characteristics beyond the mere addition of color. For example, some of the products are used in the manufacture of plastics; they combine the characteristics of stability in high heat as well as maintaining the color of the plastic for long periods of time. Others are used for automotive coatings, and they replace older colorants based on metals such as lead, chromium, molybdenum, cadmium and mercury.

Also among the products for which I am seeking temporary duty relief are colorants that can maintain their exact shade even when used in manufacturing processes exceeding 200 degrees centigrade. Other products are intermediate chemicals used in the manufacture of pigments.

The temporary suspension of duty on products imported into the United States is sound public policy so long as there is no domestic producer of the same products or directly competitive products. I have been assured there are no domestic producers of the 13 products for which I am seeking duty relief. Eliminating the duty on these products will allow the Rhode Island manufacturer to maintain its competitiveness in the international market. The products for which I am seeking duty suspension are manufactured overseas by the sister companies of the Rhode Island manufacturer. In addition, I was pleased to learn that the Rhode Island company invested several million dollars to expand domestic manufacturing capacity in Rhode Island for a product that formerly received a suspension of duty.

IN TRIBUTE TO MATTHEW AND MICHAEL FLOCCO

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to a son and his father who exemplify what is best about the United States of America. Matthew Flocco who died on September 11, 2001 in service to his country at the Pentagon, and his father, Michael Flocco, who has set an example for all Americans who love their family and their country.

On the reconstruction site at the Pentagon, Michael Flocco wears a hard hat displaying stickers that read "Pentagon Renovation Program" and "Proud to be a Union sheet metal worker." Known to his fellow sheet-metal workers as a gregarious character, Michael is part of a one thousand person team of faithful Americans working to reconstruct the Pentagon in the wake of the September 11th terrorist attacks.

But the events that led Michael to assignment at the Pentagon set him apart from the workers around him. In fact, for Michael Flocco, installing duct-work for the heating and air conditioning systems in the Pentagon is not just work, it is part of a healing process and a wonderful tribute to his son Matthew.

Michael and Sheila Flocco raised Matthew, their only child, in Newark, Delaware. Matthew, a quiet and reflective young man, was liked and respected by all who knew him. Matthew joined the United States Navy after graduating from high school in 1998.

Fully committed to serving his country, Matthew rose to the top of his Navy class in meteorology and was quickly spotted by an admiral who gave him an important assignment at the Pentagon. As an Aerographer's Mate Second Class, Matthew performed important duties at the National Ice Center for the Departments of Defense and Transportation. He used his expertise as a weather analyst to safeguard ships traveling in ice-covered waters.

But in a tragic twist of fate, this young American's bright future was cut short on September 11, 2001, during the terrorist attack on the Pentagon. Matthew was only 21 years old.

When the news of their only son's death reached Sheila and Michael Flocco, they were devastated.

But Michael, a third generation sheet metal worker, knew exactly what he had to do. Working on the construction of the new courthouse in Wilmington, Michael approached his superiors and requested a transfer to the Pentagon rebuilding project.

In January 2002, Michael pulled his 24-foot recreational vehicle into a Maryland R.V. park. Now, the man who lost his son less than ten months ago rises at 4:00 a.m. every day, throws on his brown jacket with "Floc," his nickname, scrawled in permanent marker on the back, and heads to work with one thing in mind. Michael Flocco is determined to, as he says, "fill that hole in the wall and fill that hole in my heart."

Michael plans to continue working on the rebuilding project through September 11th, 2002, a date that marks the one year anniversary of his son's death, as well as a formal reopening ceremony of the Pentagon. Michael Flocco's response to his son's death is an inspiration to every American.

Today we are here to pay tribute to a son and his father; We are here to recognize an outstanding example of dedication to the United States of America; We are here to honor the best character of Americans—refusal to be defeated in the face of tremendous adversity.

We are here today to dedicate this field, which forever will be a symbol of Matthew's love for baseball and love for America.

THE ONCOLOGY NURSING SOCIETY'S 27TH ANNUAL CONGRESS

HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. WICKER. Mr. Speaker, in 2002, more than 1.2 million Americans will hear the words "You have cancer." More than 500,000 Americans will lose their battle with this terrible disease. Oncology nurses are on the front lines in the battle against cancer. Every day, they see the pain and suffering caused by cancer. They understand the physical, emotional, and financial challenges that cancer patients face throughout their life.

The Oncology Nursing Society is the largest organization of oncology health professionals in the world with more than 30,000 registered nurses and other health care professionals. There are three chapters of the ONS in my home state of Mississippi located in Brandon, Ocean Springs, and Tupelo. These chapters provide important benefits and services to oncology nurses throughout Mississippi.

This week more than 5,000 oncology nurses from around the country have traveled to Washington, DC, to attend the Oncology Nursing Society's 27th Annual Congress. This year's theme is aptly titled "The Many Faces of Oncology Nursing." The attendees will increase their knowledge of the newest cancer treatments, learn the latest developments in cancer nursing research, and enhance their clinical skills. In addition, approximately 550 of these nurses, representing 49 states, will come to Capitol Hill to discuss issues of concern to oncology nurses. I encourage my colleagues to meet with these nurses and to listen to the expert advice of these expert health care professionals.

I commend the Oncology Nursing Society for all of its efforts and leadership over the last 27 years and I thank the Society's members for their ongoing commitment to improving the quality of care for all cancer patients and their families.

IN COMMEMORATION OF SMITHFIELD, NORTH CAROLINA

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. ETHERIDGE. Mr. Speaker, today I rise in commemoration of Smithfield, North Carolina. On April 23, 2002 Smithfield will celebrate its 225th Birthday. Smithfield is located in the heart of Johnston County in the 2nd Congressional District of North Carolina. Established on the banks of the Neuse River as the seat of Johnston County Government in 1777, it is one of the oldest towns in the United States.

Though Smithfield is a town with just over 11,000 residents, the residents carry themselves with a pride representative of the entire state of North Carolina. It is a community that supports traditional family values, southern hospitality and that offers a high quality of life. Into this inviting environment has come a myriad of large and small businesses, drawn by a dedication to hard work. The pride of the community is shown in the excellence of its school system—in its facilities, educators and students. An example of this excellence is Johnston Community College housed in Smithfield.

Smithfield is known worldwide for its ham and yams, and each year the town celebrates during the Ham & Yam Festival. The festival is held the first weekend in May each year, and features arts, crafts, commercial vendors, a carnival, dancing and youth activities. Smithfield's heritage is rich in Civil War and agricultural history.

The strong work ethic and dedication of the people of Smithfield has made Johnston County the number two county in the nation in growing flue-cured tobacco. Not only does Smithfield raise great crops but also great individuals. Among Smithfield's finest is Actress Ava Gardner. Ava Gardner grew up near Smithfield and is buried in Sunset Memorial Park. Today she is honored in a local museum celebrating her Hollywood career with more than 100,000 items.

Mr. Speaker in closing I will like to send my best wishes and gratitude to the people of Smithfield, North Carolina in wishing them a Very Happy Birthday! I know that our nation is stronger today because of their contributions.

MARY HILAND HONORED FOR 25 YEARS OF SERVICE TO THE PEOPLE OF SANTA CLARA COUNTY

HON. ZOE LOFGREN

OF CALIFORNIA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. HONDA. Mr. Speaker, today we rise to recognize the achievements of Mary Hiland, President and Chief Executive Officer of Alliance For Community Care of Santa Clara County. We would like to recognize Ms. Hiland's extraordinary and tireless efforts to the people of Santa Clara County and thank her for her 25 years of service in the nonprofit mental health field.

Mary Hiland served as President/CEO for the Alliance For Community Care from January 1977 to March 2002. One of the largest nonprofit mental health agencies in Silicon Valley, ALLIANCE was formed on January 1, 1997, through the merger of four nonprofit agencies. Under Ms. Hiland's leadership, the resulting new organization grew significantly. Today, ALLIANCE serves over 4,000 youth, adults and older adults affected by mental illness through a comprehensive array of in-home, crisis residential, vocational, outpatient treatment and rehabilitation programs.

Ms. Hiland's career in the nonprofit mental health field began after she graduated from San Jose State University with both a Masters degree in Social Work and Public Administration. In 1986, she joined the faculty of SISU College of Social Work part-time and taught courses in public policy and management. Her community service includes serving on several Boards of Directors, task forces, and participation in numerous committees. Ms. Hiland is past president both of the Association of Mental Health Contract Agencies and the Association of United Way Agencies. She currently serves on the Board of Directors of the California Council of community Mental Health Agencies and the Center for Excellence in Nonprofits.

Ms. Hiland was the recipient of the 1994 Soroptomist Woman of the Year Award for her advocacy for people with mental illness. In 1999, she received the National Society of Fund Raising Executive Spirit of Philanthropy award for her contributions in building a new United Way. In 2001, she was honored as a Community Champion for Mental Health and received the first Silicon Valley Excellence in Nonprofit Leadership Award.

We wish to thank Mary Hiland for her contributions to the field of mental health in Santa Clara County.

HONORING STEPHEN P. YOKICH, PRESIDENT OF THE UAW, ON HIS RETIREMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. DINGELL. Mr. Speaker, I rise today to recognize my good friend, Stephen P. Yokich, on the occasion of his retirement after nearly 35 years of dedication to the UAW, including his impressive two terms as President of the organization.

Steve is a natural born leader and has been a driving force within the UAW. He has played a leading role in re-energizing the labor movement, developing new strategies to address the challenges of the global economy, expanding the UAW's organizing activities, and cementing close ties with other major unions.

Steve's long and impressive career in the labor community began when he was appointed by UAW President Walter Reuther to the Region I staff in 1969. Since then, Mr. Speaker, Steve has worked to make the UAW the strong and diversified organization that it is today.

A former director of the UAW's Organizing Department (from 1983 to 1989), Steve has made organizing a top priority of the Union. An early advocate of diversifying the UAW's membership, he planned and directed the highly successful 1985 organizing drive that brought 22,000 State of Michigan employees into the UAW.

Mr. Yokich also has impeccable collective bargaining skills which were displayed on several occasions, including his 1999 and 1996 negotiations with the major automakers. Under Steve's leadership, the contracts achieved with the Big Three automakers in 1996 bolstered hallmark job and income security programs, and further expanded the widely respected "People Programs," that benefit members and their families.

In the weeks leading up to the traditional opening of contract talks with the Big Three in 1996, Yokich's bargaining innovation and savvy took the floor. He surprised the companies and industry observers by refusing to designate one company a "strike target." As he told the press, "Our members elected us to bring back agreements, not to go on strike."

Just a few days prior to contract expiration, Yokich announced that the Ford Motor Company would be the lead company for the Union's all-out settlement efforts. The results validated Steve's innovative new approach to auto negotiations. The Union gained wage and benefit increases in each year of the three-year Ford agreement, and greatly strengthened existing job and income security programs. Other key gains included: cost of living protection for retirees, health care improvements and the enhancement of many other programs.

Mr. Yokich made an historic breakthrough with the first company-paid tuition assistance for post secondary education of dependents of UAW members, as well as tuition assistance for retirees. Similar contracts then followed at Chrysler and General Motors.

Mr. Speaker, Steve has also been a forceful leader in bringing women and minorities into top UAW leadership positions. He has always been a strong believer that the UAW leadership must accurately reflect the make-up of the membership.

Mr. Yokich not only believed in diversifying the UAW, but he also fought for improvements in workplace health and safety and for education and training for UAW-represented workers and their families. Steve was widely praised for his pioneering role in developing Employee Assistance Programs to help workers with problems such as drug and alcohol abuse.

Steve has had a hand in virtually all facets of the UAW including the UAW's Agricultural Implement Department and the Skilled Trades Department. He is also a veteran political activist. Steve has coordinated and participated in numerous statewide and national campaigns.

As if all of the above was not an impressive enough list of accomplishments, Mr. Yokich is also involved in a wide range of labor, civic, and charitable organizations. He is a member of the NAACP and the Coalition of Labor Union Women (CLUW), and serves on the boards or steering committees of the Economic Alliance of Michigan, Michigan Blue Cross-Blue Shield, the Michigan Cancer Foundation, and the Father Clement Kern Foundation.

Mr. Yokich and his wife, Tekla, are the parents of two children, Stephen A. and Tracey, and have one grandson, Michael Stephen. Hopefully, his retirement will allow him to enjoy more time with his family, as well as devoting more time to golfing, hunting and fishing.

Mr. Speaker, as Steve leaves after nearly thirty-five years of dedication to the UAW, I would ask that all my colleagues salute him and his efforts on behalf of American workers.

JOHNSON COUNTY "MOVERS AND SHAKERS" RECOGNIZE YOUNG COMMUNITY VOLUNTEERS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. MOORE. Mr. Speaker, I rise today to take note of an upcoming event that will be held by the Volunteer Center of Johnson County, Kansas, to recognize local young people who have recently performed meaningful, voluntary community service in our local area.

Young people from Johnson County, ages 5 to 18, have been nominated by teachers, counselors, principals and nonprofit agencies to receive recognition for their community service efforts. The Volunteer Center of Johnson County is proudly hosting the second annual Movers and Shakers Recognition Event to honor these outstanding young residents of the Third Congressional District on May 7th. I am proud to report that volunteering has become a vital part of these children's education and I join with the Volunteer Center to recognize these dedicated, caring young people of Johnson County.

Annalisa Barelli, Shawnee Mission East;
Lindsay Barker, Shawnee Mission East;
Kim Beverlin, Shawnee Mission North;
Ariel Brody, Shawnee Mission NorthWest;
Kathleen Carey, Shawnee Mission East;
Stephanie Chen, Blue Valley NorthWest;
Jared Cole, Shawnee Mission East;
Kyle Douglas, Shawnee Mission West;
Abbigail Eli, Mill Valley High School;
Jeanne Firth, Shawnee Mission East;
Maxwell Fisher, Blue Valley NorthWest;
Sollie Flora, Blue Valley NorthWest;
Chelsea Fogleman, Olathe East;
Jennifer Gampher, Shawnee Mission West;
Stephen Green, St. Joseph Grade School;
Ashley Haddad, Shawnee Mission South;
Carolyn Hummel, Trailridge Middle School;
Elaine Jardon, Olathe East;
Ashley Johnson, Shawnee Mission NorthWest;
Brenden Konczal, Shawnee Mission West;
Lisa Kornfeld, Shawnee Mission West;
Bridget Mayer, Blue Valley NorthWest;
Kaley McManamon, Blue Valley High School;
Alicia McWhorter, Mill Valley High School;
Stephen Meeker, Shawnee Mission South;
Kathleen Murray, Blue Valley North;
Simin Nomani, Blue Valley North;
Katherine Pfeffer, Cure of Ars Catholic School;
Liz Pishny, Blue Valley High School;
Travis Preston, Shawnee Mission West;
Lauren Repine, St. Thomas Aquinas;
Julie Richerson, Trailridge Middle School;
Alix Santa Maria, Blue Valley Middle School;
Adam Schieber, Shawnee Mission NorthWest;
Danay Stanislaus, Olathe East;
Erika Swenson, Shawnee Mission South;
Shannon White, Blue Valley High School;
Kim Williams, Shawnee Mission South;
Matt Woehrle, Blue Valley High School;
Richard Zernickow, Shawnee Mission West.

HOUSE OF REPRESENTATIVES—*Wednesday, April 17, 2002*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHIMKUS).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *April 17, 2002.*
>
> I hereby appoint the Honorable JOHN SHIMKUS to act as Speaker pro tempore on this day.
>
> J. DENNIS HASTERT,
> *Speaker of the House of Representatives.*

PRAYER

The Reverend Norvel Goff, Sr., Pastor, Baber African Methodist Episcopal Church, Rochester, New York, offered the following prayer:

O God, our Heavenly Father, Almighty and Everlasting God, we come this day to thank You for last night's rest and early rising this morning. We come praying on behalf of and for the Members of Congress as they seek to know and to do Thy will for America and in the works of the House of Representatives.

O most gracious God, who knows the secrets of our hearts and the thoughts of our minds, we humbly beseech You as we pray for peace throughout the world.

We pray for our President of these United States of America, and the leaders around the world, that You will guide and direct them, that You would lead this world into a path of peace and happiness, truth and justice.

Direct us, O Lord, in all of our endeavors, that in You we may glorify Your most holy name. These and many other blessings we ask in Jesus' name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TIAHRT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TIAHRT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Minnesota (Ms. MCCOLLUM) come forward and lead the House in the Pledge of Allegiance.

Ms. MCCOLLUM led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING REVEREND NORVEL GOFF, SR., PASTOR, BABER AFRICAN METHODIST EPISCOPAL CHURCH, ROCHESTER, NEW YORK

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, today we opened this legislative day with a prayer from the Reverend Norvel Goff, Sr. I would like to take a moment to tell my colleagues and the country about Reverend Goff and the significant role he plays in my community.

Reverend Goff has served as pastor of Baber African Methodist Episcopal Church in Rochester since 1991. He has been an outstanding advocate in civil rights, economic justice, and peace issues in the Rochester community.

Reverend Goff is joined here today by his wife, Anna Marie, and his son, Norvel, Jr., who is a law student at Howard University; and they have a younger son, John, who is a student at Morehouse College in Atlanta.

Reverend Goff is a teacher, a lecturer, a writer and an outstanding orator. He has served on numerous community boards and committees in Rochester, including the Monroe County Public Defender's Advisory Board, the Community Energy Board, and Fleet Bank's Community Development Corporation Board.

Reverend Goff currently serves as the president and CEO of the Greater Rochester NAACP and is chairman of the Black Ministers Alliance in Rochester. Under his leadership, the Black Ministers Alliance founded the Footprints Program, which is a partnership with local banks that has provided more than $10 million in mortgages for first-time homeowners. The Rochester chief of police recently appointed Reverend Goff as the chairman of the Faith Community Subcommittee Initiative Against Illegal Drugs in Rochester.

Reverend Goff continuously displays extraordinary commitment to the children of the Baber African Methodist Episcopal community and to all the other children in Rochester. He serves as a mentor and encourages academic achievement among the area youth. Reverend Goff recognizes the children of his church who make the honor roll at a church service and takes the time to visit and have lunch with them at school and check on their progress.

Reverend Goff's accomplishments in the area of civil rights, business, community and religious affairs have earned him numerous awards, including the Annual Friends of Education Award from the Rochester City School District and the Winn Newman Pay Equity Award from the National Committee on Pay Equity.

Reverend Goff is truly a modern-day crusader for justice, and I am grateful for his valuable work in our community. I am pleased that the House of Representatives could have him lead us in such a powerful prayer.

CONGRATULATING J.R. UNITED INDUSTRIES AND COMPANY PRESIDENT SALO GROSFELD

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate J.R. United Industries and company president Salo Grosfeld for their involvement in an extraordinary back-to-school project.

Afghan Minister for Women's Affairs, Dr. Sima Samar, asked for help to send girls back to school in Afghanistan, for, you see, school uniforms are considered a luxury that few Afghan families can afford. But J.R. United, located in my congressional district, helped by providing sewing machines and fabrics through their commercial partners in Pakistan.

Salo Grosfeld and his company are giving children thousands of miles away something greater than just uniforms. They are giving them hope for a brighter future and a better life.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Please join me in congratulating Salo Grosfeld and J.R. United for their generosity to the children of Afghanistan. Thank you, Salo.

SPEAKING AGAINST CUT IN PAYMENTS IN LIEU OF TAXES PROGRAM

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to speak out against the administration's 21 percent cut of the Payments in Lieu of Taxes Program.

Many of our western States have substantial Federal land within their borders. On the one hand, these lands provide many opportunities for all Americans. But for local counties who are financially strapped, Federal lands mean the loss of a tax base.

To deal with this issue fairly and so that the Federal Government is a good neighbor, we pay a portion of the lost tax revenue. This is called Payments in Lieu of Taxes. It is a good program that should be fully funded, although it never has been. By cutting this valuable program, the administration is turning its back on many western counties.

I urge my colleagues to reject this unwise and unsound cutback.

MAKE CHILD PORNOGRAPHY ILLEGAL

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, the United States Supreme Court ruling Tuesday on the Child Pornography Prevention Act drew strong reaction, mostly negative, regarding the High Court. However, the ruling did receive some support from some in the adult movie industry.

"We are extremely disappointed with this decision," said the American Center for Law and Justice. The Supreme Court clears the way for pornographers to use the first amendment as a shield and gives them a green light to engage in this kind of Internet activity."

I say whether in movies or photographs, it does not make a difference whether or not the person engaged in sex is actually a child. If it looks like a child, is said to be a child, pedophiles have found their fix and their search for true child pornography will only be enhanced.

Attorney General Ashcroft said the ruling makes prosecution of child pornographers immeasurably more difficult. He offered to work with Congress on new legislation that could withstand the Court's scrutiny.

Mr. Ashcroft, I join you today in hoping we can craft a bill that meets the fitness test of the Supreme Court so we can rule this to be an illegal activity.

RESTORE FOOD STAMPS FOR LEGAL PERMANENT RESIDENTS

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, despite the calls from President Bush for efforts to provide legal permanent residents access to Federal nutrition programs, the House conferees on the farm bill have refused to budge. Now we hear today that the gentleman from Colorado (Mr. TANCREDO) has an amendment to instruct on the farm bill on this particular item.

There are too many cases of legal immigrant children suffering from hunger right here in our own backyards. These are legal residents. Their parents work hard, they pay taxes, they serve our country, they play by the rules; but they are unable to qualify for food stamps if they find themselves in that situation.

The reality is, and I will appeal to the Republicans, that we have over 62,560 military people right now that are legal immigrants; and as we well know, we have a lot of people in the military that also qualify for food stamps. This amendment would disqualify them from being able to have access to food stamps.

So I make the appeal and ask that we look at what the administration has been saying, that we ought to be providing for those services.

CELEBRATING THE PRODUCTION OF NEVADA'S 50 MILLIONTH OUNCE OF GOLD

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, Nevada's nickname may be the Silver State, but our State is diverse and has a wealth of many minerals, including many precious metals like gold, silver and platinum. In fact, only two countries in the world are ahead of Nevada in total gold production, South Africa and Australia; and only those two locations have ever achieved the same milestone which Nevada celebrated this week, the production of the 50 millionth ounce of gold.

Let me put this achievement in perspective. If 50 million troy ounces of gold were viewed as cube, it would be approximately 14 feet 2 inches square and weigh about 1,714 tons.

This achievement was produced by the Carlin Trend, located about 10 miles south of Carlin, Nevada, which produces nearly 4 million ounces of gold annually, contributing $1.8 billion to America's economy every year.

Congratulations to the hard-working men and women of the Carlin Trend on this accomplishment, and thank you to the mining industry for producing the minerals which allow us to live in and enjoy the 21st century.

DEFENDING LEGAL IMMIGRANTS

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I also rise in disappointment at the action that will take place today on the floor, and that is to instruct conferees on the farm bill to remove the provision of food stamps for legal immigrants.

We talk about legal immigrants. Let us really put a face to it. Let us look at who these people are. They serve in our wars; they are serving in the military. Many of them are grandparents, many are children. They are here legally. They are playing by the rules. Their families pay into the tax base.

The President has said he wants to honor them and give them food stamps; but his own party, the Republican Party, wants to take that away. We are sending mixed messages here, and I would hope we could unite around this whole concept of compassionate giving to people who earn their way here in the country.

I would ask that the conferees and everyone please take hold of this situation, address it, and help to feed the children, the hungry children, in our districts. Right now in my own district there are about 37 percent immigrant families. Of that, those kids do not have enough to have food on their table. They do not have cereal. They did not have a banana. They did not have milk today, like you and I may have had.

Let us make sure we do our best to defend those children.

FREE MARTIN AND GRACIA BURNHAM

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today marks the 326th day that Martin and Gracia Burnham have been held captive by Muslim terrorists in the Philippines.

Mr. Speaker, millions of Americans paid their dues on Tax Day this week, but Martin and Gracia have been paying the price for being Americans for over 10 months now. The Nation they love, however, is prevented from rescuing her children.

Martin's parents, Paul and Oreta, are patriotic citizens. They pay their taxes without complaining and trust the government will carry out its responsibility to protect and defend our citizens, all this despite the continued captivity of their son and daughter-in-law.

I must admit, as a patriot, as a taxpayer, as a representative of this government of the United States, I am frustrated. I call upon President Arroyo and the Philippine Congress to allow the American military to rescue our fellow Americans who are being held hostage. I request Secretary Powell, Secretary Rumsfeld, and President Bush, do not take "no" for an answer.

Let us rescue these Americans. I believe we have the resources to rescue Martin and Gracia, and it is our government's duty to do so. As always, I ask you to join me in prayer for Martin and Gracia and their loved ones, that this nightmare may soon be over.

PROTECT THE CLEAN AIR ACT

(Ms. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCOLLUM. Mr. Speaker, the current administration is proposing a rollback of what has been called the centerpiece of our environmental agenda. Instead of fighting hard to protect the Clean Air Act, this administration wants to eliminate clean air programs that control new sources of pollution and regional haze.

What does this mean? It means that harmful emissions released from these old power plants will continue to cause asthma attacks and increase hospital visits. Haze will continue to blanket our cities and continue to spread out, obscuring views at our national parks and monuments. It also means that companies that own and operate our oldest and dirtiest coal-fired power plants can continue to escape strict pollution controls.

We can do better. Monday is Earth Day, a time to celebrate past progress we have made in cleaning up our environment while leading our Nation to a cleaner tomorrow. It is not the time to eliminate tools that can help us clean our air.

□ 1015

HAPPY 100TH ANNIVERSARY TO J.C. PENNEY

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to celebrate a major milestone in the history of American business. This past Sunday, on April 14, J.C. Penney Company, whose Plano headquarters is located in my district, celebrated 100 years of serving American consumers.

J.C. Penney is a name that Americans know well, and most of us have shopped in a J.C. Penney store at some point. We have learned by experience to expect their superior value for our money. And a century of delivering on that promise has made J.C. Penney a trusted name among American retail institutions and hard-working Americans.

When James Cash Penney opened his first store on the Wyoming frontier 100 years ago, he had but one passion: to serve his customers to their complete satisfaction. That passion has been the enduring reason for his company's growth, survival and success, and also why J.C. Penney has helped millions of Americans raise the quality of their lives.

Trends may come and go; businesses like J.C. Penney, built on timeless values, endure.

I want to extend my sincere congratulations to the company for 100 years of performance.

CONGRESS MUST RESTORE FOOD STAMP BENEFITS TO LEGAL IMMIGRANTS

(Mr. REYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYES. Mr. Speaker, later today the House will debate a motion to instruct conferees on the Farm Security Act that seeks to prevent the restoration of benefits to legal residents.

Well, I am appalled that this motion is offered, given the bipartisan support to restore food stamp benefits to legal permanent residents. I am, however, not surprised that there are some still in this House who continue their anti-immigrant, anti-Latino and anti-family campaign.

Let me repeat, Mr. Speaker. We are talking about benefits to legal residents; legal residents who come to this country from all parts of the world.

Earlier this year we welcomed the administration's proposal to extend eligibility to legal residents who have lived in the United States for 5 years. We supported this proposal because it was simple and straightforward. The Senate has included the administration's proposal in its version of the farm bill, but efforts continue in conference discussions to undermine a fair and simple restoration of benefits for legal residents.

These efforts clearly undermine President Bush's own proposal for restoration of food stamps.

I hope that this Congress, Mr. Speaker, does the right thing and restores food stamp benefits to legal residents, and I also today ask President Bush to do more to convince his party that legal permanent residents deserve these benefits. It is long overdue, it is time, and it is the right thing to do.

MURDERERS, NOT MARTYRS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, tragically, Israelis and Palestinians are once again in a spiral of violence.

President Bush said recently that when a Palestinian girl kills herself in order to murder an Israeli girl of her own age, the future is dying. No boy or girl should ever have to die in a terrorist attack and no boy or girl should ever be misled by fanatics to go off on a suicide mission.

Mr. Speaker, too many Israelis and Palestinians have died and too many Palestinian kids have been turned into fanatics by the terrorists who have hijacked the Palestinian cause. As the President said, strapping a bomb around your waist and killing people is not an act of martyrdom, it is an act of murder.

Yesterday it was reported that the Saudi ambassador to Britain has written a lavish poem praising a young homicide bomber as "the bride of loftiness." He says, "The doors of heaven are opened for her."

Mr. Speaker, this is an outrage. Here is a leader, an ambassador no less, encouraging children to commit murder. There will be no peace in the Middle East until this kind of irresponsible rhetoric stops. The international community should condemn this kind of talk with a loud and united voice.

DEADLY NUCLEAR WASTE SHOULD NOT BE SHIPPED THROUGHOUT AMERICA

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, in the near future, the House will vote on House Joint Resolution 87 to determine if we are going to ship deadly, high-level nuclear waste through America's cities and towns, through our neighborhoods, and past our schools, hospitals and houses of worship. If you vote for this resolution, that is what you will be doing, sending over 100,000 massive shipments of highly radioactive waste through the communities you represent, shipments that would be rolling on our roads and our rails every day for the next 30 years.

A single accident would threaten the health of thousands, cost billions to clean up, and forever ruin property values. If you do not think this can happen and will, think again. Just follow the headlines of transportation disasters we see almost weekly. Someday, instead of gasoline or chemicals, the disasters will involve nuclear waste. Could you look at your constituents and their children and look them in the eye and tell them you voted for a resolution that allowed a massive catastrophe to ruin their lives?

Vote "no" on House Joint Resolution 87 for the sake of your families, the sake of your constituents.

MAKE THE BUSH TAX CUTS PERMANENT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, American families have recently completed the dreaded chore of preparing their tax returns, but this year, many found a bonus. The IRS reports that the average income tax refund is over $1,000, significantly higher than last year. What does this mean? Taxpayers are reaping the benefits of the Bush tax cut. Here in Congress, we should be proud of the cut that enables families to keep more of what they earn and for causing the economy to rebound as well.

But there is trouble on the horizon. Unless Congress takes action, this significant tax cut will expire in the year 2010 and our taxes will be raised.

It was over 2 centuries ago that Benjamin Franklin said, "Nothing is certain but death and taxes." While death and taxes may be certain, the death of this tax cut does not have to be.

Mr. Speaker, I urge my colleagues to act now to ensure that President Bush's tax relief is made permanent.

BENEFITS FOR LEGAL IMMIGRANTS AND PEACE IN THE MIDDLE EAST

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me quickly join in with my colleagues from California and Texas and others of goodwill to oppose the amendment that will be on the floor today to deny legal immigrants, individuals who are accessing legalization, accessing citizenship, paying taxes, but, most of all, giving of their lives so that we might be free. What a tragedy. How heinous. I ask my colleagues to vote enthusiastically against denying legal immigrants their rightful benefits.

Let me move very quickly to my disappointment with the media who has now assessed Secretary Powell's trip as a failure. The Washington Post: "Powell to end trip without a cease-fire. Sides failed to agree to talk." Electronic media reported "Powell's trip unravels."

Let me just simply say that peace is long-standing. It is not for the impatient. Our lives depend on it. This administration must continue to engage. We must provide a constructive proposal, we must help, in order to have peace in the Mideast.

Secretary Powell must return to the Mideast.

BUILDING ON PAST SUCCESSES TO CONTINUE WELFARE REFORM

(Mr. WICKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WICKER. Mr. Speaker, I want to take my 1 minute to talk about the Welfare Reform Act of 1996, one of the greatest public policy successes in half a century. This body will soon have the opportunity to continue the remarkable progress made over the past 6 years when we reauthorize the law.

Our Nation has seen a dramatic 56 percent drop in welfare caseloads as more families have broken the cycle of poverty and replaced welfare checks with paychecks. Welfare rolls are at their lowest levels since 1965, and more than 2 million children have been rescued from poverty, a remarkable success.

The reauthorization will allow us to build on the principles which have helped more Americans achieve self-reliance. It contains a strong work requirement, continues the focus on protecting children, and strengthening families, and gives more States flexibility.

Mr. Speaker, the emphasis on work and strengthening families in this new initiative represents a winning formula to put more needy Americans on the path toward a brighter future.

ENVIRONMENTAL ROLLBACKS BAD FOR THE ENVIRONMENT

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, despite the fact that a majority of Americans believe that we should do more, not less, to protect our environment, President Bush is pursuing several policies to roll back environmental progress.

Let us look at our national parks. Despite the clear evidence that snowmobile use is not compatible with the preservation and public enjoyment of Yellowstone, our world's oldest national park, the President is pushing to roll back a rule that would prevent snowmobile use there, a rule that the EPA said was among the most thorough and substantial scientifically based rules they had seen.

Right now, the administration and the Republican majority here is also trying to roll back a ban on personal watercraft like jet skis in our national parks, despite the clear indication from rangers that these have a negative effect on the enjoyment and preservation of the parks.

Mr. Speaker, our environment and our national parks belong to all of us, and we cannot let these series of environmental rollbacks ruin them for us.

HOUSE OF REPRESENTATIVES HAS BEEN PRODUCTIVE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, what do all these things have in common? Trade promotional authority, the energy bill, the job stimulus bill, the terrorist insurance bill, faith-based initiative; in fact, 51 bills all in common, plus 90 appointments for judges? What they all have in common is they have not been acted upon by the other body.

The American people elected a Republican House and we have been productive over here. Governors, CEOs, coaches, deserve to have their team in place.

We need the other body to act to put the administration's team in place and address the 51-plus bills that are in need of action.

POINT OF ORDER

Mr. FRANK. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman will suspend. The gentleman should not urge action in the other body. The gentleman may proceed.

Mr. STEARNS. Mr. Speaker, we need to expedite and to take the bills that were in the House and get them passed by the other body.

The American people want action by its elected officials here in Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members not to refer to action in the other body.

U.S. SUPREME COURT DECISION IS A CLEAR AND PRESENT DANGER TO OUR CHILDREN

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, Ludwig Koons still has not been returned from Italy where he was abducted by his pornographer mother.

What is in this morning's newspaper headlines? Supreme Court decides to strike down the Child Pornography Protection Act. This is a clear and present danger to children all over the world.

I am concerned that this decision will allow the manufacture, distribution, and possession of virtual child pornography. We will potentially see a rise in the exploitation of children. Child pornographic material, whether virtual or not, is used to lure and to exploit children. I am concerned about the onerous burden that this is going to place on prosecutors. Prosecutors will now have to prove the identity of the children who are being exploited.

Well, this is a difficult task. The Supreme Court sent a terrible message, one that is terrible to send to the pornographic community that this behavior is okay. We can be sure that the Congressional Caucus on Missing and Exploited Children will do everything within its power to right this wrong and to protect our children from exploitation, and we must bring Ludwig Koons home.

BIPARTISAN DENOUNCEMENT OF UNITED STATES SUPREME COURT DECISION INVOLVING CHILD PORNOGRAPHY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it should be obvious on the floor of the House today that the denouncement of yesterday's decision by the United States Supreme Court is truly bipartisan. As a father of three small children, I do rise to denounce this deplorable decision where the court struck down a 1996 Federal ban on computer-generated child pornography.

The court actually wrote that the law was not sufficiently precise and that the law does not make reference to any crime or the creation of any victims. The promotion and the creation of child pornography by definition creates victims, Mr. Speaker.

I call on my colleagues to move forward expeditiously to right this wrong in the law. While the court has given solace to child pornographers, some protection from the law of man, I would close with reflecting on the law of God to those out there who create this material. The Good Book says that if anyone causes one of these little ones to sin, it would be better for him to have a large millstone hung around his neck and that he would be drowned.

□ 1030

PASSAGE OF H.R. 476, CHILD CUSTODY PROTECTION ACT

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 476, the Child Custody Protection Act. H.R. 476 has two important functions. First, it works to make sure that valid parental notification laws will not be circumvented. Second, it secures the right of a parent to be involved in medical decisions regarding their minor daughters.

I think it is important to note that even abortion rights advocates, such as Planned Parenthood and the National Abortion Federation, all encourage minors to consult their parents before having an abortion. Not only can a parent provide the emotional and physical support that their daughter will need, but a parent also knows their daughter's medical history.

There is also widespread support for parental notification among the American people. A 1998 CBS New York Times poll found that 78 percent of those polled favored requiring parental notification.

I come from a State that requires parental notification. Yet, out-of-State clinics try to circumvent this law. It is not uncommon practice for clinics in New Jersey, a State without parental notification law, to advertise in Pennsylvania phone books. These clinics often go as far as to highlight the fact that they will perform an abortion without parental notification.

The passage of H.R. 476 effectively puts an end to this despicable practice. I urge my colleagues to support this legislation.

FOOD STAMP RESTORATION

(Mr. BACA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACA. Mr. Speaker, the Congressional Hispanic Caucus has been working hard to restore food stamp benefits to hard-working, tax-paying legal residents; I state, to hard-working, taxpaying legal residents. Unfortunately, the House amendment 2846 would leave thousands of legal residents, permanent residents, without food stamps. This amendment would discriminate against permanent legal residents.

This is a real problem for LPRs and their families. Thirty-seven percent of all children of immigrants live in families that cannot afford enough nutrition on a regular basis. Most immigrant families include at least one child that is an American citizen. These children go to school hungry because their parents cannot afford to pay for food stamps or apply for food stamps. How can these kids study and learn and concentrate in the classroom if they do not have enough to eat?

We talk about "leave no child behind." Well, we are about to do that, through this amendment. It is time for us to assure that all legal immigrants are eligible for food stamps. These are hardworking, legal permanent residents who currently cannot buy food stamps because they are not eligible for assistance under the basic nutritional program.

I urge the President that he must deliver on his promises to the Latino community. We need his leadership and inclusion, not false promises.

CHILD CUSTODY PROTECTION ACT

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 388 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 388

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 476) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, yesterday the Committee on Rules met and granted a closed rule for H.R. 476, the Child Custody Protection Act. The rule waives all points of order against consideration of the bill. It provides consideration of H.R. 476 in the House with two hours of debate, equally divided and controlled between the chairman and ranking minority member of the Committee on the Judiciary.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the Child Custody Protection Act is important to any parent who has a teenaged daughter. We all hope that our teenaged daughters have the wisdom to avoid pregnancy, but if they make a mistake, a parent is best able to provide advice and counseling. Also, more importantly, the parent knows the child's past medical history.

For these reasons, my home State of North Carolina, along with several other States, requires a parent to know before their child checks into an abortion clinic.

This law is needed because of stories chillingly similar to the story of a Pennsylvania mother and the tragic story of her 13-year-old daughter.

Several years ago, a stranger took Joyce Farley's child out of school, provided her with alcohol, transported her out of State to have an abortion, falsified medical records at the abortion clinic, and abandoned her in a town 30 miles away, frightened and bleeding. Why? Because this stranger's adult son had raped Joyce Farley's teenaged daughter, and she was desperate to cover up her son's tracks.

Even worse, this may all have been legal. It is perfectly legal to avoid parental abortion consent and notification laws by driving children to another State. In fact, many abortion providers in States where there are no parental consent laws actually advertise in the yellow pages in States where consent laws have been passed. It is wrong, and it has to be stopped.

The Child Custody Protection Act would put an end to this child abuse. If passed, the law would make it a crime to transport a minor across State lines to avoid laws that require parental consent or notification before an abortion.

Right now, a parent in Charlotte, North Carolina, must grant permission before the school nurse gives their child an aspirin. They have to call and give permission for their child to have an aspirin, but a parent cannot prevent a stranger from taking their child out of school and up to Maryland, for instance, for an abortion. It is total nonsense.

So let us do something to protect the thousands of children in this country. Let us pass the child custody Protection Act, and put a stop to the absurd notion that there is some sort of constitutional right for an adult stranger to be able to secretly take someone's teenaged child into a different State for an abortion.

I applaud my friend and colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), for continuously fighting this fight. I urge my colleagues to support this rule and to support the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose this closed rule and I oppose the bill that underlies it. The Committee on the Judiciary has handed us yet once again a bill that is blatantly unconstitutional and will never see the light of day because the Senate is not going to touch it.

The attempt here today is to interfere with the rights of American citizens to go from one State line across the other. It is never going to work. In addition, and the most surprising thing to me, is by a vote of 16 to 12, the rapist or person who commits incest has the right of court action if anyone interferes with a pregnancy that he has caused.

I think I need to say that again. A subcommittee of the Committee on the Judiciary voted 12 to 16 to protect the right of a rapist or someone committing incest, and give them the right of court action if anyone interferes with the pregnancy that they have caused, taking away all the rights of the child.

I want to reiterate again that abortion is legal in the country. To prohibit anyone's right to across a State line for a legal purpose in the United States is foolish on the face of it, and flies in the face of the freedom that we enjoy.

Are we going to put border crossings at the State lines? Are we going to stop people and check their cars and make sure that no minor is in there? Are we really willing to put people's grandmother in prison? Are we really willing to allow a rapist or someone who commits incest to go to court to sue if a pregnancy caused by their action ensues? Surely not.

But this bill, again, in addition to it being terribly bad policy and its flagrant unconstitutionality, is closed, so no one could even amend it. But frankly, I do not know why anyone would want to. It is hard to amend an unconstitutional bill in such a way that we could make it constitutional. But we are talking about a fundamental right here, not something superficial. This measure tramples that right by imposing substantial new obstacles and dangers in the path of a minor seeking an abortion.

It violates the rights of States. And this Congress has gone on record time after time after time believing States are far more bright than we are. If they should have the right to pass their own laws, this tramples on the rights of States to enact and enforce their own laws that govern conduct within their own State boundaries.

The assaults on the Constitution do not stop there. One fundamental principle of our Federal system is a State may not project its laws onto other States. Every citizen has a right to cross a border into another State, and it has been so since the founding of this Republic. But we can do it in favor of the laws of the State that we are visiting, as long as we do not infringe upon those laws.

This bill undermines this fundamental principle, saying that young women are bound by the laws of their home States, even as they traverse the Nation. On the face of it, that is absolutely foolish. Because something is legal in New York and illegal in another State, should all New Yorkers be allowed to go there and freely fly in the face of a law of the other State? Absolutely not. The Supreme Court has consistently held that States cannot prohibit the lawful out-of-State conduct of their citizens. That is a simple premise simply put, but it is absolutely one of the basics of our freedoms. Nor may they impose criminal sanctions on that behavior. That has been the law of this land for a long, long time, about 200 years, I suspect. This bill does exactly that, imposing criminal sanctions on what is literally a freedom for a United States citizen.

As Professor Lawrence Tribe of Harvard Law School and Peter Rubin of Georgetown University Center explained, the bill ". . . amounts to a statutory attempt to force the most vulnerable class of young women to carry the restrictive laws of their home States strapped to their backs, bearing the great weight of those laws like the bars of a prison that follows them wherever they go."

☐ 1045

Why is this body singling out young women for this treatment? I want to urge my colleagues to stop for a moment and think what are we doing here. We swore an oath to uphold the Constitution, but instead we are abandoning it, and indeed we are trashing it to satisfy some of the most extreme elements of the majority party.

Moreover, I want my colleagues to take a close look at this bill. As noted, it would criminalize the act to bring in the minor across State lines to obtain an abortion without parental consent, but the bill does not stop there. It goes on to provide prison time for grandparents or an adult sibling or members of the clergy who may have tried to help a minor obtain medical care and subjects them to civil action by a parent who may have raped and impregnated the minor. Even a cab driver, even a cab driver who drove this minor is subject to criminal penalty.

We had one amendment trying to remove that in the Committee on Rules and it was not allowed.

Let me put this another way: The bill allows the father who rapes or anybody who is carting this child, rapes or impregnates his minor daughter, to sue, to sue for damages. Can my colleagues imagine that? Do my colleagues want to go back home and tell people that that is what they voted for in the House of Representatives? It locks the victim of incest into requiring consent from an incestuous parent. That is the quality of the legislation we are considering today and the leadership ought to be ashamed.

Several amendments were offered in the Committee on Rules to address some of these egregious provisions, but none were allowed. The closed rule is a final slap in the face of our colleagues, and the victims of these crimes.

Vulnerable young women, deserve better. We all want active and supportive parents involved in their children's major decisions, but many young women have a justifiable fear that they will be physically abused if they are forced to disclose their pregnancy to their parent. Nearly one-third of minors who choose not to consult their parents have experienced violence in the family. Forcing young women in these circumstances to notify the parent of their pregnancies may only exacerbate the dangerous cycle of violence in these families.

This is the cruel lesson of one young Idaho teenager who was shot to death by her father after he learned she was planning to terminate a pregnancy caused by his act of incest. Shot to death by the man who had raped her. Despite our noblest intentions, Congress cannot legislate health and family communications.

The political cynicism this rule embraces today would be comical if young women's lives were not at stake. Congress once again is placing its political agenda ahead of a woman's ability to have access to safe and appropriate medical care.

As a Member of Congress and mother of three daughters and long-time advocate of women's health, I strongly believe that the health of American women matter, and I urge my colleagues to vote no on this rule and on the underlying bill. Please do not go home and say that we put the rights of the rapist or the perpetrator of incest above other citizens of the United States and tried to restrict their right to move across State lines.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DIAZ-BALART), who also serves on the Committee on Rules.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair would ask the visitors in the gallery to desist from conversations.

Mr. DIAZ-BALART. Mr. Speaker, I want to commend, first of all, the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the time and my dear colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN) for introducing and shepherding and leading the effort on this important legislation.

When I was listening to my distinguished friend on the other side of the aisle, I thought that at times she was referring to another piece of legislation. Twenty-seven States require parental notification, recognizing the need for parental involvement when daughters face the confusing and sometimes frightening reality of an unexpected pregnancy. Strangers should not be allowed to deprive parents from the right to at least try to protect their daughters from harm by taking these children to another State in violation precisely of the State laws that have been passed to protect the parents' rights and to try to protect the rights of their daughters.

What this legislation tries to do is to punish those who smuggle children across State lines to, in effect, dodge the home State laws which are designed to protect the health and safety of children and the rights of the parents. In essence, what we are trying to do today with this legislation is to protect as much as possible the States' rights to have their wishes, as made law by their legislatures, enforced. That is, in essence, what we are trying to do.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding the time to me, and I want to commend her on her extraordinary testimony. I think no one could have addressed more carefully and better the issues underlying this bill than she did. I do not want to repeat what she said. I just strongly endorse it and hope that our colleagues are listening and will oppose this bill.

I want to speak personally for just about a minute, Mr. Speaker. I am the mother of a 26-year-old daughter and a 17-year-old daughter. I am also the mother of a 28-year-old son and a 19-year-old son. I work very hard to earn their trust, and I try very hard to provide for them a moral framework in which they will make wise choices for their lives.

When I first learned about this issue some years back, my immediate instinct was to oppose the notion that parents could not or should not be consulted when a daughter makes a decision about an abortion, not just across State lines but in a State. I then consulted my own daughters and they said, Mom, we would talk to you, but think about all the kids who cannot talk to their parents.

Our colleague from New York has spelled out those circumstances. They are dreadful and shameful, and my view after consulting my own children is that for the children of others, we must stop this vicious legislation. For children of others, to make sure that in safety they can seek out their constitutional right to an abortion in an emergency, for the children of others who will seek adult consultation but possibly not from dysfunctional or evil parents.

Mr. Speaker, I urge support of the position of the gentlewoman from New York. I urge us to think about the children of others. I urge a no vote on this legislation.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of H.R. 476, the Child Custody Protection Act.

Unfortunately, we are hearing lots of dramatic stories about young women who may be victims of incest and young women who may be victims of other terrible crimes as a motivator for us to prevent what so many States think is important and what so many people think is important, and that is, that children and their medical care and their guidance be in the hands of their parents.

This bill would simply respect that. It would respect what 43 States have already done in requiring parental consent or notification before a young woman can receive an abortion. So this is not a dramatic change of any kind. In fact, this is something that would respect States' rights.

This bill has nothing to do with consenting adults who have made a decision about what to do with a pregnancy. It solely focuses on young girls who are the most susceptible to confusion and difficulty of making a decision on their own health care and decision about ending a pregnancy.

Most of these young women are not in situations that have been presented dramatically to us. As a State senator, I worked on legislation in Pennsylvania where parental consent requirements gained wide support, and I know that they have obviously gained wide support throughout the Nation because of those 43 States with such laws.

The Child Custody Protection Act would make it a criminal offense to transport a child across a State line to avoid parental consent for the purpose of having an abortion. That means a person who is not the parent is taking a child that is a minor across a State line to violate the law basically. I am not sure why anyone would support that, but unfortunately, many here today are.

It is important for us to stand up for families in the United States. It is important for us to stand up also for the rights of parents to be counselors to their children.

Some of the opponents have argued that our approach is wrong and these young girls who are involved in these tremendous life-altering decisions should be taken away from their parents, transported across State lines for a very serious medical procedure, without their parents notification consent, without any necessarily records of their health in the past. This defies all logic. It usurps parents' vital role, and I think it is playing a dangerous game with the lives of young girls.

These girls should not be whisked away from their problems. We should not be finding more ways for them to avoid getting help from their families. We should be focused on finding ways where we can help them and their families.

This bill would certainly lead us in that direction as 43 of our 50 States have already gone. It is not for the Federal Government to change that.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman from New York (Ms. SLAUGHTER) for yielding me the time, and let me add my appreciation as well for her very eloquent defense and advocacy for issues of choice and particularly her work in the Committee on Rules.

It is interesting that my colleagues speak about States' rights and are very apt to involve themselves in the rights of Oregonites who have supported euthanasia through State law, but yet the Federal Government and Republicans want to intrude upon those State rights.

On the other hand, in this instance, dealing with an individual's probable necessity to secure assistance somewhere, the child who may happen to be 16 or 17, this legislation that we have today undermines the very sense of privacy and the rights of a child to secure help from a grandparent, an uncle, an aunt or a sibling who is that child's confidante, who is able to take them somewhere to assist them in a choice that is intelligently made.

This has nothing to do with programs that deal with abstinence or deal with the issues of not engaging in premarital sex. This is not what this legislation is about, and I am very disappointed that the Committee on Rules would argue for a closed rule so that those of us who had amendments dealing with others who would give advice to our young people so that we would not have a murderous condition, a child losing their life because of a back room botched circumstance and procedure.

This is absolutely, I believe, without mercy because what it says is that if a child has someone that they are able to confide in and they can assist them in a very troubling time of their life, to make a choice about their body, an intelligent choice, comforted with the counsel of their religious person, and that particular individual that they have confidence in, they cannot do it.

This is a bad rule. I hope my colleagues will support the motion to recommit, and I would hope that we would be a consistent Congress. If we are fighting the Oregonites, and we are overlooking their State laws, then why are we now making a Federal law or insisting that we have to affirm Federal laws or State laws that intrude on the right to privacy?

Mrs. MYRICK. Mr. Speaker, I yield so much time as she may consume to the gentlewoman from Florida (Ms. ROS-LEHTINEN). She is the author of this legislation and we thank her for that.

Ms. ROS-LEHTINEN. Mr. Speaker, abortion is perhaps one of the most life altering and life threatening of procedures. It leaves lasting medical, emotional and psychological consequences and is so noted by the Supreme Court, particularly so when the patient is immature.

Although Roe v. Wade legalized abortion in 1973, it did not legalize the right for persons other than the parent or a guardian to decide what is best for our child nor did it legalize the right of strangers to place our children in a dangerous situation that is often described as being potentially fatal.

□ 1100

Mr. Speaker, my legislation, the Child Custody Protection Act, will make it a Federal misdemeanor to transport an underaged child across State lines in circumvention of State local parental notification or consent laws for the purpose of obtaining an abortion. It is very simple.

Last year in the 106th Congress, I introduced this legislation; and it passed the House with a vote of 270 to 159, almost a two-thirds majority.

In the 105th Congress, this legislation also passed with a vote of 276 to only 150 against. Significant support for this legislation is not surprising because according to Zogby International, 66 percent of people surveyed believe that doctors should be legally required to notify the parents of a girl under the legal age who requests an abortion.

In addition, a 1999 fact sheet created by the Planned Parenthood Federation of America, one of the most adamant opponents of my bill entitled, "Teenagers, Abortion, and Government Intrusion Laws" cites: "Few would deny that most teenagers, especially younger ones, would benefit from adult guidance when faced with an unwanted pregnancy."

Mr. Speaker, few would deny that such guidance ideally should come from the teenagers' parents. Parental consent or parental notification laws may vary from State to State, but they are all made with the same purpose in mind, to protect frightened and confused adolescent girls from harm. This historical legislation will put an end to the abortion clinics and family planning organizations like Planned Parenthood that exploit young, vulnerable, frightened girls by luring them to recklessly disobey State laws with advertisements such as the ones that we will show later today which shout: "No parental consent, no waiting period." The translation: do not worry about your parents. You are a mature 13-year-old, and you know best.

Our society is filled with rules and regulations aimed at ensuring the safety of our Nation's youth through parental guidance. At my alma mater, Southwest Miami High School, and in many of our schools, a child cannot be given an aspirin unless the school has been given consent by at least one parent or guardian. In some States, a minor cannot operate a vehicle until the age of 18. Most schools require permission to take minors on field trips; and in many schools, parents have the ability to decide whether or not to enroll their children in sex education classes.

In fact, a student cannot play football, soccer and even a noncontact sport such as chess without parental consent. Every one of these principles emphasizes that parents should be involved in decisions that can seriously affect our children. And the decision of whether or not to obtain an abortion, a life-altering, potentially fatal and serious medical procedure, should be no exception to these rules. Safety of our Nation's youth is precisely why over 20 States in our Nation have parental consent or notification laws on their books.

Most would agree that the violation or circumventing of any law should be punished. But by making the circumvention of State parental consent and notification laws a Federal misdemeanor, this legislation will do more than just uphold the laws of our country. It will give back to parents the right to be a parent. It will strengthen family bonds; and most importantly, Mr. Speaker, it will ensure that America's youth have a safer, healthier and brighter future.

Mr. Speaker, I thank the gentleman from Ohio (Mr. CHABOT) and the gentleman from Wisconsin (Mr. SENSENBRENNER), as well as the gentlewoman from North Carolina (Mrs. MYRICK), for their hard work on this legislation; and I thank the prolife caucus, the bill's 98 cosponsors, and all of the organizations which have supported H.R. 476 and have worked tirelessly to secure consideration today.

Today, as the House once again votes on this bill, I am hopeful that in reflection of the views of most Americans, the Child Custody Protection Act will pass once again. Passage of this bill will demonstrate our commitment, Congress' commitment to protecting both parents and children, and I ask that my colleagues vote in favor of this rule and later on for the bill itself.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, passage of this bill once again by this House, which we do every Congress, knowing the Senate will not even look at it, will once again demonstrate the conviction of the Republican leadership that this is a good subject to exploit politically; and that is all it will demonstrate.

Mr. Speaker, I will not talk too much about the merits of the bill right now; I will save that for general debate, but let me say a few things.

I am in my 10th year in the House. My first 2 years there was a Democratic majority, and the Republicans used to complain about closed rules. How dare the Democrats refuse to allow Republicans, or anybody else, to bring amendments to the floor.

Well, for the last 8 years, the Republicans have refused to allow amendments of any note to come to the floor on any bills except appropriations bills. Let us take this bill, for example. This bill, which ostensibly is designed to protect young women in situations where they are being lured across State lines by evil people to get them to have abortions without consulting their parents, which is an absurdity, but forget that for a moment, there were a number of amendments introduced in committee but not permitted on the floor, such as an amendment to say this bill should not apply if the person accompanying the minor across State lines was doing so because the reason the minor was pregnant was because she had been impregnated by her father.

Picture a situation where the mother is dead and the father is guilty of incest and rapes the daughter, and now he refuses permission for her to get an abortion, and we are going to prosecute her grandfather or her brother or sister for helping her to go to a State which has a more enlightened law and allows her to get an abortion that she wants because she is 17 years old, and she wants an abortion lest she bear a child fathered by her father in an act of incestual rape.

Maybe some people can come up with a reason against this amendment; I do not know. There are twisted minds in this world, but not to allow that amendment on the floor because they are afraid it will pass, they are afraid Members in this House will not have twisted minds and the amendment will pass?

The real purpose of this bill is not to protect women, girls 17, 16 years old, not to protect them in situations such as I have just mentioned, the real purpose of this bill is simply to cut away at the right to abortion to the extent possible without falling afoul of Roe v. Wade.

A second amendment not permitted on the floor is the amendment that would exempt clergy and grandparents and aunts and uncles from accompanying a person. I would simply point out also that even in committee the majority refused to allow amendments to be introduced by moving the previous question, an almost unheard of procedure.

Mr. Speaker, what is the Republican majority afraid of?

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would remind the House that the minority does have a motion to recommit, as always.

Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I rise today in support of the resolution and the rule that we have in front of us, and I would like to commend the sponsor of the legislation, the gentlewoman from Florida (Ms. ROS-LEHTINEN), for introducing the legislation. I am also proud to be an original cosponsor of this legislation.

This legislation makes it a Federal offense to knowingly transport a minor across State lines with the intent to obtain an abortion in circumvention of State law and parental consent or parental notification law. This legislation is specifically important in my district, which lies on the border between Illinois and Missouri, and has an abortion clinic nearby that serves people from both sides of the Mississippi River.

The problem is that Missouri has a parental notification law and Illinois currently does not. A young woman can cross the border into Illinois to have an abortion without the knowledge or consent of her parents.

I would like to relay a quick story. This is not a hypothetical story. This is a true incident which recently took place in Illinois because of Illinois' failure to have a parental notification law in place, and reported in the St. Louis Post-Dispatch, and I include the entire article for the RECORD.

In February of this year, a mother from Granite City got a call from her daughter's high school that her daughter had not shown up for school. After checking with friends, she learned her daughter was at a local clinic getting an abortion. The mother quickly ran over to the clinic to try to talk to her daughter. The woman was not allowed in the clinic to be with her daughter. When she contacted the police to help her, they told her there was nothing they could do. Instead, she had to sit outside the clinic and wait while her daughter underwent a major medical procedure.

How many Members here today would like to be sitting outside a hospital while their child underwent a medical procedure, prohibited by law from being next to them, from being able to care for them, from holding their hand to ease the pain? Any other operation, any other treatment, any other reason for a minor to be in a hospital or clinic would require that the parent be present and consulted. But not for an abortion.

We should strengthen and protect the family. We should also protect life, the life of the minor child and the life of her unborn child. In our Declaration of Independence it states we hold these truths to be self-evident that all men are created equal, that they are endowed by our creator with certain unalienable rights, and among these are life.

Mr. Speaker, let us protect life and strengthen families by supporting this rule and this legislation.

Abortion Clinic Blocks Mother From Daughter Inside; Girl Was 16; Granite City Police Say Law Gives No Voice to Parents of Minors

(By Colleen Carroll)

A woman who tried to enter a Granite City abortion clinic to see her 16-year-old daughter last week was stopped by clinic officials and police.

Granite City Police Chief David Ruebhausen said the woman was seeking entrance to the private Hope Clinic on Thursday morning when she went across the street to the Gateway Regional Medical Center and found one of his officers. Ruebhausen said she asked the officer to help her get inside the clinic. The officer called the station, and he was instructed not to bring the woman into the clinic. "Parental consent is not necessary," Ruebhausen said, explaining that the Illinois abortion law allows minors to undergo abortions without the permission or knowledge of their parents.

Ruebhausen said such incidents—of parents asking police to help them intervene in abortions or speak with their children who are inside abortion clinics—happen occasionally. But, he said, the law does not allow his officers to intervene on behalf of the parents. The woman could not be reached for comment.

A group of abortion protesters who were at the clinic Thursday morning said the woman told them that she had received a call from her daughter's high school alerting her to her daughter's absence. The woman then learned from her daughter's friend that her daughter was at the Hope Clinic, said Angela Michael, one of the protesters. Michael said the woman was not allowed into the clinic until several hours after she first requested to see her daughter. "I just stood there holding her and praying with her," Michael said. Hope Clinic executive director Sally Burgess said she would not comment on the cases of specific patients for legal and privacy reasons. She said uninvited visitors rarely come to the private clinic looking for patients during a procedure, "but it does happen." When it does, she said, "We're going to tell the patient what's going on." "We always encourage, our patients to talk to their parents," Burgess said. "But if the teenager is adamant, we're going to respect her privacy."

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume in response to the gentleman.

Mr. Speaker, I know of no Federal law that prohibits a parent from being with a child; but if this law passes, a grandparent could certainly be prohibited from doing this. Fortunately, we know this legislation is not going anywhere.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE), a member of the Committee on the Judiciary.

Ms. DEGETTE. Mr. Speaker, this bill is unconstitutional because it would restrict the movements of citizens across State lines for legal purposes. And I guess the previous speaker said our Constitution says all "men" are created equal; some Members do not think that young women should have those same rights. I think this bill would be struck down by a court for that reason.

But equally importantly and to the underlying bill, it is terrible public policy; and it is an ineffective attempt by Congress to control people's lives. Every parent in this Chamber feels the same way about his or her children. I also have two daughters. One of them is 12 years old, about to be going through the morass of middle school and high school. I love my children unconditionally, just like every other parent in this country; and when it comes to making big decisions, I would hope my children would come to me. I think that they would come to me. But sadly, this is not true for every young adult across this country. For myriad reasons, thousands of adolescents and young adults do not feel that they can turn to their parents with problems like an unplanned pregnancy. Victims of incest, victims of rape, child abuse victims, they have good reasons why they cannot go to a parent. Of course we should encourage teenagers to seek their parents' advice and counsel when facing difficult choices about abortion and other reproductive health issues. But folks, there is a reality in this country, and that reality is sometimes there are desperate kids who we need to help from making a bad situation even worse.

The government cannot mandate open and healthy family communication if it does not exist, and the fact of the matter is most young women considering an abortion do involve one or both parents. Let me say it again. Most young women in this country involve one or both parents when making this decision. But not everybody talks to their parents because not everybody can. It is these young women who most need the advice of a trusted family friend, a minister, a sympathetic grandmother.

When a young woman cannot involve a parent, public policies and medical professionals should encourage her to involve a trusted adult because the result of laws like this will be deaths from illegal abortions and unsafe abortions, and that is wrong.

Most major medical associations including the American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians, and the American Public Health Association all have long-standing policies opposing mandatory parental involvement laws for this reason.

□ 1115

Because of the dangers they pose to young women and the need for confidential access to physicians, the American Academy of Pediatrics and Society for Adolescent Medicine oppose this bill. We should, too. Oppose the rule. Oppose the bill.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, America is a wonderful and diverse country. We have people of every kind living here, who belong to different political parties and go to different kinds of churches. Likewise we have many kinds of families. But there is one thing just about every family has in common. Parents love their children. The job of a parent is to raise and nurture his or her child until that child reaches adulthood. The way parents do this is by setting rules and making decisions that will affect their kids for the rest of their lives. They teach values and principles. They teach their kids the difference between right and wrong. They teach them manners and pass on their faith to them. As a child grows and gets older, mom and dad begin to help their teenagers make their own responsible decisions. Eventually, when a person turns 18 or so, we treat them as an adult. Even the law recognizes that when a person turns 18, they can make their own decision about just about everything except perhaps purchasing alcohol. This is the way it is. This is the way it should be.

Mr. Speaker, my wife and I had three wonderful kids who long ago left the nest, who are now full grown and responsible adults. When they were little my wife and I did our very best to teach our kids the values that we had learned, that we had learned from our parents. Our greatest desire was that our own kids by the time they left home would be ready to make their own choices and not get themselves in trouble. I think most parents feel that way. Every parent wants their kids to be able to make good decisions. But until they are full grown, they want to be there to help them make the hard decision. And, if need be, to step in and prevent their son or daughter from making a bad decision they will regret for the rest of their lives.

Sometimes kids get into trouble. That is just the way it is. Parents should be there to help them learn the lessons that will keep them from getting into trouble again.

Mr. Speaker, this is not just a parent's right. It is a parent's duty. This bill was written to protect that right and that duty.

As you can see in this advertisement from the Yellow Pages in my district, abortion clinics go out of their way to advertise to girls that they do not need their parents' permission to have an abortion.

I am pro-life. We are not here today to debate pro-life versus pro-choice. We are here today to protect America's families. We are here today to guarantee the right of mom and dad to act as the legal, moral and ethical guardian of their children.

I served in the Pennsylvania legislature when we passed this parental consent law. In Pennsylvania, we require the consent of one or two parents. And in case there is a breakdown between the partners and child, we have a judicial bypass where the child can go confidentially before a judge to get a decision. This law was designed because of a case that occurred in Pennsylvania in 1995. At that time, a 12-year-old young girl was impregnated by an 18-year-old male. The mother of that boy took the 12-year-old girl to a neighboring State, New York, without her parents' consent or knowledge for an abortion, secretly. It is outrageous that in America, a stranger who does not know the child or her medical history can take that child out of State for a secret abortion.

I urge my colleagues to vote for this important bill and to show the moms and dads of America that Congress still knows what it means to be a loving, caring family.

In closing, if you look at the ads, this is taken from the Yellow Pages in the State capital of Harrisburg. It says, no parental consent, no parental consent. They are doing this in violation of our State law. I urge the adoption of the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this rule because it shuts out an opportunity to offer another side of the issue. The other side would address what is best for young women.

In an ideal world, teens talk to their parents if they find themselves in trouble. In fact, in an ideal world, our teens would not be having sex at all. But let us face it, that is not the world we live in. Many teenagers live in a world that is quite the opposite and they would do anything not to tell their parents about an unintended pregnancy, even if it means putting themselves and their life in jeopardy.

Make no mistake, I strongly support measures that help to foster healthy relationships between parents and their children. I would like to think that I had that kind of relationship with my own four children. But just because I consider myself an approachable parent does not give me the right, or anyone else the right, to assume that all teens find their parents approachable and understanding. Those out there who believe this is a good family-friendly bill are out of touch with reality. This bill is not going to encourage teens to talk to their parents and it is not going to curb abortion. Rather, this bill will encourage young girls who cannot or will not talk to their parents to seek unsafe, illegal abortions. For that reason alone, I cannot support this bill.

I urge my colleagues, vote responsibly. Oppose the Child Custody Protection Act.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentlewoman from New York for her leadership in opposition to H.R. 476. I associate myself with her remarks.

One of the most moving experiences of my life was when I met with the parents of Becky Bell, a 17-year-old who died from an illegal abortion after the passage in her State of parental notification laws. We have talked a lot about why children, why girls from families where there is violence and it is, according to the AAUW, about a third of the teens that do not involve their parents in the decision to make an abortion have already been victims of family violence and fear it will recur with the news of a pregnancy.

But I want to talk about the Bell family because this was in many ways the ideal family. That is what Karen Bell thought, that they were very close with their children, they were a middle-class family, everything was going great. She favored parental notification laws because she thought certainly Becky, if she had a problem, would come to her as she should, and everyone in this Chamber agrees that that is the way it should be, that children should go to their loving parents.

It did not quite happen that way. Becky, because she was so close to her parents, felt she could not disappoint them. She would not tell them. She ended up having an illegal abortion. As Becky Bell lay dying, holding her mother's hand, her mother said, "Becky, tell mommy what happened," and she would not. She would not. It was not until the death certificate was written, until the doctor said what was the cause of Becky's death. Karen would have done anything, paid the fee for her to go to another State, paid for the abortion, anything for Becky not to be dead. This is the reality of life in too many situations. Again, most girls tell their parents. Of course they do. And involve them. The vast majority do. We are talking about those who not only cannot because of violence, but often who will not.

The American Medical Association notes that, quote, the desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths. That is what we are talking about, life and death here, that this legislation, as well intended as it may be, is going to cause the death of some young women who feel, for one reason or another, that they cannot tell their parents.

We want them to go to a respected adult, to a relative, a grandparent and hope that they will and that those adults can provide the guidance and the care and take them to a place where legally and safely they can have the abortion that they need.

I urge a "no" vote on this bill.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. Davis).

Mrs. DAVIS of California. Mr. Speaker, I rise today to talk about the dangerous implications of H.R. 476. While we wish that every family engaged in open communication, we must recognize that the Federal Government is unable to mandate it. Studies show, and several speakers have mentioned this, well over 60 percent of young women do seek their parents' advice when making an abortion decision. But in situations where young women do not have supportive home environments or for whatever reason they are unable to approach their parents, they do often turn to another trusted adult figure, such as a relative or a teacher, for assistance. H.R. 476 would make this illegal.

If enacted, this legislation will require a young woman's State laws to travel with her wherever she goes. These laws would be her only companion during this stressful time. H.R. 476 may actually harm young women by compromising their access to health care services since providers would face the burden of determining their patient's State of residence and associated laws. Instead of ordering parental involvement, we should provide comprehensive reproductive health education to enable young people to make these good decisions.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. Scott), a member of the committee.

Mr. SCOTT. I appreciate the time from the gentlewoman from New York.

Mr. Speaker, I oppose the rule because it allows no amendments. There are several amendments that ought to be offered, that we ought to be able to consider. The bill prohibits anyone from transporting a minor across the State line for the purpose of obtaining an abortion if in fact the notification and parental consent laws were not complied with.

This obviously includes a taxicab driver who knows where the person is going by virtue of their address and during the conversation on the way before they cross State lines could clearly ascertain that the minor is being transported for the purpose of an abortion. He is not required to know whether or not the parental consent laws are complied with. He would have to ascertain by the fine print in the bill whether or not they have been complied with. Otherwise, he will be exposed to criminal and civil liability.

Even if a prosecutor refused to prosecute a taxicab driver for this fare, there are civil damages. Even the incest situation that the gentlewoman from New York indicated, the parents could sue the taxicab driver for civil damages.

Another is the fact that there is no exception for the health of the minor. The Supreme Court, on a number of occasions for the last 30 years, has said that any antiabortion legislation must have an exception for the health of the mother. This does not include a health exception. Perhaps with an amendment we could debate this situation but because it is a closed rule, we cannot. Because it is a closed rule and we cannot debate many important amendments, I oppose the rule.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I want to remind my colleagues who are probably in their offices, I know a lot are in markups and doing other things, that what is before us today is a restriction of American citizens to cross State lines, not just the case of what they call the minor child, but we are restricting the right of a grandparent, a clergy person, any adults, brothers, sisters, siblings, even cab drivers the right to carry people across State lines.

□ 1130

It is unheard of. I do not suppose any bill ever passed the House of Representatives saying we are going to restrict travel of American citizens for legal purposes. That is one of the most important issues here. Even when we talk about not being able to amend it, I do not know how you could amend it to make it correct, because, on the face of it, it is certainly most unconstitutional.

The second most egregious part of it personally is the fact, as I pointed out before, the Committee on the Judiciary by a vote of 16 to 12 voted to give a rapist or a person who commits incest the right of action against the minor child or anyone who tries to help the child get an abortion. In other words, protection of his work took precedence over the right of that minor.

There has been a lot of talk about 11- and 12-year-old girls being in that situation. Frankly, no 11- or 12-year-old girl should be giving birth. If this society allows it or even encourages it, there is really some debate we need to have on that.

The health of young people is very important to this House, and we have voted time and time again to try to talk about what we want to do for our children. But believe me, if the House of Representatives goes on record today saying that rapists and people who perpetrate incest have rights of action against anyone trying to help a minor child, and if it goes on record today saying that we have the right to restrict American travel of American citizens across State lines for legal purposes, we will be talked about for years to come as to whether or not we are really up to the job that we took when we raised our right hand and swore to uphold the Constitution of the United States.

Mr. Speaker, I urge a "no" vote on this bill today. I will not call a vote on the rule, but this underlying bill is something that is really quite remarkable in its unintelligence, and I really urge Members to vote "no" on it today.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 388, I call up the bill (H.R. 476) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 476 is as follows:

H.R. 476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Custody Protection Act".

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

"Sec.

"2431. Transportation of minors in circumvention of certain laws relating to abortion.

"§2431. Transportation of minors in circumvention of certain laws relating to abortion

"(a) Offense.—

"(1) Generally.—Except as provided in subsection (b), whoever knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the individual resides, shall be fined under this title or imprisoned not more than one year, or both.

"(2) Definition.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the individual, in a State other than the State where the individual resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the individual resides.

"(b) Exceptions.—(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

"(2) An individual transported in violation of this section, and any parent of that individual, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

"(c) Affirmative Defense.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the individual or other compelling facts, that before the individual obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the individual resides.

"(d) Civil Action.—Any parent who suffers legal harm from a violation of subsection (a) may obtain appropriate relief in a civil action.

"(e) Definitions.—For the purposes of this section—

"(1) a law requiring parental involvement in a minor's abortion decision is a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court; and

"(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

"(2) the term 'parent' means—

"(A) a parent or guardian;

"(B) a legal custodian; or

"(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides,

who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

"(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

"(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.".

(b) Clerical Amendment.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

"117A. Transportation of minors
in circumvention of certain
laws relating to abortion .... 2431".

The SPEAKER pro tempore (Mr. Simpson). Pursuant to House Resolution 388, the gentleman from Wisconsin (Mr. Sensenbrenner) and the gentleman from New York (Mr. Nadler) each will control 1 hour.

The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 476.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, H.R. 476, the Child Custody Protection Act, would make it a Federal offense to knowingly transport a minor across a State line with the intent that she obtain an abortion, in circumvention of a State's parental consent or notification law. Violation of the law would be a Class One misdemeanor, carrying a fine of up to $100,000 and incarceration for up to 1 year.

H.R. 476 has two primary purposes: the first is to protect the health and safety of young girls by preventing valid constitutional State parental involvement laws from being circumvented. The second is to protect the rights of parents to be involved in the medical decisions of their minor daughters.

There is widespread agreement that it is the parents of a pregnant minor who are best suited to provide her counsel, guidance and support as she decides whether to continue her pregnancy or undergo an abortion. A total of 43 States have enacted some form of a parental involvement statute. Twenty-seven of these States currently enforce statutes that require a pregnant minor to either notify her parents of her intent to obtain an abortion or to obtain the consent of her parents prior to obtaining an abortion. As these numbers indicate, parental involvement laws enjoy widespread public support as they help to ensure the health and safety of pregnant young girls and support parents in the exercise of their most fundamental right, that is, of raising their children.

Despite this widespread support, the transportation of minors across State lines in order to obtain abortions is, unfortunately, a widespread and frequent practice. Even groups opposed to this bill acknowledge that large numbers of minors are transported across State lines to obtain abortions, in many cases by adults other than their parents.

Following the 1994 enactment of Pennsylvania's parental consent law, abortion clinics in New Jersey and New York saw an increase in Pennsylvania teenagers seeking to obtain abortions. This is not a surprise, because just prior to Pennsylvania's law going into effect, counselors and activists in Pennsylvania met to plot a strategy to make it easier for teenagers to travel to neighboring States for abortions.

In one disturbing case, the operator for the National Abortion Federation's toll-free national abortion hotline went so far as to talk a Richmond, Virginia, area teenage girl through a travel route so that the girl could obtain an abortion in the District of Columbia.

This conduct is only aided by the dubious practices of many abortion clinics located in States lacking parental involvement laws. To gin up business, some clinics even advertise in the Yellow Pages directories distributed in nearby States that require parental involvement, advising young girls that they can obtain an abortion without parental consent or notification. Such ads only serve to lure young girls residing in States with parental involvement laws to these clinics, thus denying parents the opportunity to provide love, support and advice to their daughter as she makes one of the most important decisions of her life.

When confused and frightened young girls are assisted in and encouraged to circumvent parental notice and consent laws by crossing State lines, they are led into what will likely be a hasty and potentially ill-advised decision. Often, these girls are being guided by those who do not share the love and affection that most parents have for their children. In the worst of circumstances, these individuals have a great incentive to avoid criminal liability for their conduct given the fact that almost two-thirds of adolescent mothers have partners older than 20 years of age.

Parental notice and consent laws reflect the State's reasoned and constitutional conclusion that the best interests of a pregnant minor are served when her parents are consulted and involved in the process. States are free to craft their own parental notice and consent laws to allow a minor to consult a grandmother or other family member in lieu of parents, and a few States have in fact made such a choice. Most, however, have chosen not to allow close relatives to serve as surrogates for parents in the abortion context. If a young girl's circumstances are such that parental involvement is not in her best interests, grandparents and close relatives are free to assist the girl in pursuing a judicial bypass. Indeed, the United States Supreme Court has required judicial bypass procedures to be included in the State's parental consent statute.

As the U.S. Supreme Court has stated: "The natural bonds of affection lead parents to act in the best interests of their children." The decision to obtain an abortion is, as the Court also stated, "a grave decision, and a girl of tender years under emotional stress may be ill-equipped to make it without mature advice and emotional support."

In light of the widespread practice of circumventing validly enacted parental involvement laws by the transportation of minors across State lines, it is entirely appropriate for Congress, with its exclusive constitutional authority to regulate interstate commerce, to enact the Child Custody Protection Act.

This Chamber has twice approved this legislation, each time by an overwhelming majority. I encourage my fellow Members to again provide parents with this much-needed support and approve this important legislation.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to a bill which will have a catastrophic and cruel impact on young women and on the adults who care for them.

I think every Member of this House believes that a young woman with an unintended pregnancy should make any decision about what to do in that very difficult situation with her parents in the warm, loving environment of her family. In fact, in the majority of cases, that is precisely what happens.

Ideally, young women would not get pregnant at all. Ideally, they would not get raped by their fathers or step-fathers or boyfriends or mothers' boyfriends. Ideally, they would make mature and thoughtful decisions about when to become sexually active and to practice safe sex all the time, if they must practice sex at all. Ideally, all methods of birth control would be 100 percent effective. Ideally, when contemplating an abortion, young women would be able to confide in a loving parent who would assist them in making the right decision.

Unfortunately, we do not live in an ideal world; and Congress cannot legislate ideal circumstances where they do not exist.

Because we do not live in an ideal world, young women do get raped. Young women are the victims of incest. Young women often lack the maturity to make sensible judgments about sexuality. Young women often do not know how to avoid pregnancy, thanks in large part to the mindless resistance on the part of many of their elders to sex and contraception education. And sometimes they get pregnant, and they fear they cannot go to their parents without fear of violence.

This bill is not about strangers, as its supporters argue. This bill would make a criminal out of any caring adult who tried to help a young woman: a grandparent, an adult brother or sister, a clergy member, an aunt or an uncle. It would also allow a father who had raped his daughter to sue in law anyone who helped her deal with the consequences of his crime, because, in the words of this bill, his rights had been violated. Never mind that he raped the daughter and created the problem in the first place.

There are times when, in wishing for an ideal world, the murderous angels of our better nature do more harm than good. This legislation is a perfect example of that human failing. It does not make the problem go away. It does not provide assistance to these young women. It only makes it more likely that a 15- or 16- or 17-year-old girl will have to face the consequences of her elders' wrongdoing alone. There is no moral or reasonable justification for doing that.

We are told that States are required to have a judicial bypass available to a young woman who feels she cannot go to her parent, that a judge in those circumstances will exercise the judgment and permit her to have an abortion if the circumstances so indicate. The Supreme Court has required such a provision in State parental consent laws.

But the fact is, and this is no secret, in many communities the so-called judicial bypass is a sham. Judges with a strong ideological or religious opposition to the constitutional right to choose often simply will not grant that permission. In some small communities, the judge may know the parents, may know the young woman, or may even be her teacher or some other authority figure in her life.

To say that the judicial bypass will cure any ill parental consent laws may create is to ignore the realities of life; it is to pretend we live in an ideal world and to let these young women suffer the consequences when reality turns out to be more unpleasant.

We are also told that by going to court the police will become involved in any case of rape or incest. The reality is not nearly so simple. Seeking a judicial bypass does not mean the court will believe the young woman or involve the authorities. Sometimes knowing the authorities will become involved is enough to scare the young woman away from going to court in the first place. Of course, a counselor at a clinic may be better able to involve the authorities in a manner that is helpful and non-threatening to the young woman than is a judge who may suspect that a teenager is lying in order to get the abortion that she wants. Judicial bypass procedures neither guarantee, nor does its absence preclude, the involvement of the authorities.

As in the past two Congresses, we had hoped to offer amendments to make this unyielding legislation just a little more humane. We wanted to exempt grandparents, for example, so that if dad rapes the daughter and the mother is not coping with reality or is perhaps not alive, mom's mother can step in and take care of her granddaughter without facing a stretch in the Federal penitentiary and the threat of getting sued by the rapist. Unfortunately, even that modest effort to provide some ability for some adult close to the young woman to help her proved too much for the Republican majority, which will go to any lengths, no matter who gets hurt, no matter whose life is ruined, no matter who has to die, to pander to the extreme fringe of the anti-choice radicals.

Well, being pro-life and pro-family should mean caring about what happens to real people facing real and tragic crises. This bill is evidence, if such evidence is needed, that there are Members of this House who do not care if a young woman must face the most difficult moment of her life alone, even, as has been the case in the past, she must die to prove the majority's political bona fides.

□ 1145

She must die to prove the majority's political bona fides.

I would note one other thing. Quite a few States, my own State of New York included, have refused to enact, to enact parental consent laws. I was a member of the State legislature when we considered such legislation, and I can tell my colleagues that we rejected that law, that bill, because the realities of these situations convinced us that it would do more harm than good.

Now comes the party of States' rights in Federalism to tell us that they do not care what the people of our State think, they do not care what the legislature of New York and other States think, they are going to subject people who come to New York to the laws of their own States. They want to enact the 21st century version of the Fugitive Slave Act. They want to tell young women that they are the property, the property of their home States, and that they carry the laws of their home States on their backs if they go to another State which has a different view, and that they may not engage in perfectly legal activity if the law of the State from which they came makes it illegal there. This is unprecedented in any real way in American law, except for the Fugitive Slave Act.

In the Fugitive Slave Act, we told South Carolina that she could reach out her hand to people, to slaves who had fled from North Carolina and gone to New York or Pennsylvania where freedom prevailed and said no, you are not free under the laws of Pennsylvania and New York, you must carry the law of South Carolina with you and the people up in New York must drag you back to slavery. This bill says if a young woman, with the help of some friend or adult who wants to help her goes to another State, she is not free to have an abortion if she wants, if the law of that State permits it, because we will permit the law of the other State from which she came to follow her, to reach out the long hand of the other State and say, wherever you go, you are the property of this State.

We say, you cannot get the liberty to have the abortion you want in the other State that says you can, because we are going to drag you back and punish anyone who helped you go to that other State.

What kind of liberty is this? What kind of Federalism is this?

This is not only unconstitutional, it is an affront to the dignity and decency of every citizen of this country. It is an affront to the people of every State who have chosen not to enact the law that the majority wants to impose on them. If this Congress succeeds in doing this, it means that any State in the future will be able to reach across the country and control the lives of people in other States whom they own because they came from those States. It means that if you live in one State, even if you leave it and engage in a perfectly legal activity in another State, that first State can still punish you in that State.

There is nothing more offensive to the idea that we are a free people who can go wherever we want without the permission of the government, and help our neighbors, and follow the law than this bill. This is the third time we have considered this bill. Thankfully, it has never gotten close to passage by the other body. Despite the iron fist that rules this House and suppresses free debate and free ideas by not allowing amendments on the floor, I trust that this is the third time that the Congress disposes of this issue without sending it to the President.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from New York, my friend, has gotten carried away in referring to this bill as the 21st century version of the Fugitive Slave Act. First of all, let it be plain. This bill only involves a minor crossing State lines in order to evade a parental involvement statute. Nobody over the age of 18 is caught in by this bill whatsoever.

Secondly, since Roe v. Wade, abortion has been legal in every State in the country, so it is not a way to shut off access to abortions in any State. That has been settled law since Roe v. Wade. But the Supreme Court has also said that as long as there is a judicial bypass, parental involvement statutes are legal. So what is wrong with keeping the parents involved when a decision is made to give an abortion to a minor when the parents, by law, have to be involved when a doctor treats that minor for a hang-nail?

Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time.

As chairman of the Subcommittee on the Constitution, I will address some of the Constitution issues and the legal issues relative to H.R. 476.

Mr. Speaker, H.R. 476, The Child Custody Protection Act, is a regulation of interstate commerce that seeks to protect the health and safety of young girls, as well as the rights of parents, to be involved in the medical decisions of their minor daughters, by preventing valid and constitutional State parental involvement laws from being circumvented. As such, it falls well within Congress's constitutional authority to regulate the transportation of individuals in interstate commerce.

There is a solid body of case law which confirms that the authority of Congress to regulate the transportation of individuals in interstate commerce is no longer in question. Particularly instructive is the Mann Act, which flatly prohibited the interstate transportation of women for "prostitution" or for "any other immoral purpose." Upholding the Act, the Supreme Court held that under the commerce clause, "Congress has power over transportation 'among the several States,'" and characterized this power as being "complete in itself," and further held that incident to this power, Congress "may adopt not only means necessary," but also means "convenient to its exercise," which "may have the quality of police regulations."

Congress's commerce clause authority to enact H.R. 476 is not placed in question by the fact that it seeks to prohibit interstate activities that might be legal in the State to which the activity is directed. Application of the Mann Act has been upheld in the transportation of a person, for example, to Nevada, even though prostitution in Nevada is legal. And Federal prohibitions on the transportation of lottery tickets in interstate commerce as well as placing letters or circulars concerning lotteries in the mail, regardless of whether lotteries are legal in the State to which the tickets are transported, have also been upheld by the United States Supreme Court.

Rather than exercising its full authority under the commerce clause by simply prohibiting the interstate transportation of minors for abortions without obtaining parental notice or consent, H.R. 476 respects the rights of the various States to make these often controversial policy decisions for themselves, and ensures that each State's policy aims regarding this issue are not frustrated. Nothing in H.R. 476 affects the ability of minors residing in States that have chosen not to enact a parental involvement law, or where a parental involvement law is currently not in force, from obtaining an abortion without the knowledge of their parents. Thus, it will not supersede, override, or in any way alter existing State parental involvement laws.

Opponents argue that H.R. 476 violates the rights of residents of each of the United States and the District of Columbia to travel to or from any State of the Union for lawful purposes. First, it does not appear that the Supreme Court has ever held that Congress's power to regulate interstate commerce is limited by the right to travel. Even assuming, however, that Congress's authority under the Interstate Commerce Clause is limited by the right to travel doctrine, the Supreme Court recognized in Saenz v. Roe that the right to travel is "not absolute," and is not violated, so long as there is a "substantial reason for the discrimination beyond the mere fact that they are citizens of other States."

Congress obviously has a substantial interest in protecting the health and well-being of minor girls and in protecting the rights of parents to raise their children.

In upholding the constitutionality of parental notice and consent statutes, the United States Supreme Court has consistently recognized that "during the formative years of childhood and adolescence, minors often lack the experience, perspective and judgment to recognize and avoid choices that could be detrimental to them." Based upon this reasoning, the court has allowed the States to enact laws that "account for children's vulnerability" and to protect the unique role of parents. Thus, "legal restrictions on minors, especially those supportive of the parental role, may be important to the child's chances for the full growth and maturity that make eventual participation in a free society meaningful and rewarding."

Opponents of H.R. 476 also contend that its criminal intent requirement renders it unconstitutional. However, the bill's requirement that defendants "knowingly" transport a minor with the intent that the minor obtain an abortion prevents H.R. 476 from acting as a strict liability law. Although H.R. 476 does not require defendants to be aware that the conduct is criminal, a mens rea requirements still exists, since the defendant must intend or know what he or she is doing in a physical sense, apart from any knowledge as to its legality.

Furthermore, as the court has stated, "The State may, in the maintenance of a public policy, provide that he who shall do particular acts shall do them at his peril and will not be heard to plead in defense good faith or ignorance."

A stranger that secretly takes a minor across State lines for a dangerous medical procedure without ascertaining her parents' consent is certainly aware that he or she has acted, in some measure, wrongly. By finding the transporter liable when he "in fact" abridges a State law, H.R. 476 puts the transporter under a duty to ascertain parental permission before action is taken in order to guard against a possible violation.

At the heart of the debate surrounding the Child Custody Protection Act is a disagreement about whether common sense legislation should be enacted in order to preserve the health of pregnant young girls and support parents in the exercise of their most basic right. This debate has already been held in almost all of the Nation's State legislatures, 43 of which have reasonably concluded that parents should be involved in these decisions by their minor daughters. These laws have been validly enacted and Congress is well within its authority to ensure that the channels of interstate commerce are not used to frustrate the policy goals of these laws.

Thus, I urge my colleagues to support American families and vote in favor of this important bill.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this debate is not really about the parental consent, parental notification laws; those debates occur in State legislatures. This debate is whether Congress should attempt to give the power to one's State to export its law to another State by criminalizing crossing the State line to do something that is legal in that State with respect to abortion, and that, that is what makes this the 21 century Fugitive Slave Law, because the philosophy of the bill is we can control what our young people do wherever they do it, not in this State, but elsewhere. We can criminalize anyone helping to do something elsewhere.

The gentleman from Ohio (Mr. CHABOT) says criminal intent can be inferred, we know that. Well, the fact is, in some cases, it can. But let us assume that someone crosses the New York-Pennsylvania border, not necessarily because they want to cross a border, but simply because the nearest town with a clinic happens to be across the State border. The lines on the map are not lines on the street in front of you. You go to the nearest town, you help your young friend, your niece, your granddaughter, and it will be criminal, even if you had no intent to cross the State line, you were not even thinking about the States; it just happens that the nearest town is across the State line.

I would also like to ask the gentleman from Ohio to yield for a question, if he would, on my time. I will ask the gentleman from Ohio (Mr. CHABOT) a question, and then I will yield. The bill said, except as provided in subsection B, whoever knowingly transports an individual, et cetera, et cetera. What does the bill mean by transport? I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, could the gentleman from New York (Mr. NADLER) repeat the question?

Mr. NADLER. What does the bill mean by the word "transport"? Whoever knowingly transports an individual under 18, et cetera.

Mr. CHABOT. Mr. Speaker, will the gentleman yield on his time?

Mr. NADLER. I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, "transport" would be to take a person across a State line for the purpose of an abortion. It would not include a taxi cab driver, for example, if the taxi cab driver was not involved in a conspiracy to transport that person across the State line.

Mr. NADLER. Mr. Speaker, reclaiming my time, I did not ask what "knowingly" means, I asked what "transport" means. So in other words, if you take this person across State lines; now, what if she is 17 years old and she is driving, you are just accompanying her and holding her hand. Are you transporting her? I yield to the gentleman.

Mr. CHABOT. Will the gentleman yield on his own time?

Mr. NADLER. Yes.

Mr. CHABOT. Mr. Speaker, if the person has knowledge and conspires to transport a minor across the State line——

Mr. NADLER. Mr. Speaker, reclaiming my time, the gentleman from Ohio is not answering the question. Forget the knowledge question. Let us assume he has the knowledge. Transport. If the young 17-year-old woman who has a driver's license who wants to get an abortion asks her friend or her uncle or her aunt or her grandparent to accompany her, and she is driving, are they "transporting" her, under the meaning of this bill?

□ 1200

Mr. CHABOT. Mr. Speaker, if the gentleman will continue to yield, the gentleman says "she is driving." Who is he referring to?

Mr. NADLER. The 17-year-old who wants the abortion.

Mr. CHABOT. The gentleman is saying if the person who is going to get the abortion is driving the vehicle, would they themselves be responsible?

Mr. NADLER. No, would the person sitting in the seat next to them holding their hand be responsible?

Mr. CHABOT. If the gentleman will yield further, if a person is involved in a conspiracy to transport a person across State lines for the purpose of obtaining an abortion, and is doing that in violation of a parental notification law and is not the parent, then they would be involved and they would be responsible.

Whether it is a person accompanying, in my opinion, a person just accompanying would not be criminally responsible.

Mr. NADLER. So, in other words, the person, if a 17-year-old minor who wants to get an abortion asks her grandfather or her uncle or her brother or her friend who is 18 to accompany her across the State line to get the abortion, but she is driving, nobody has committed a crime? Is that what the gentleman is saying?

Mr. CHABOT. If the gentleman will continue to yield, the gentleman needs to read the language that is in the statute.

Mr. NADLER. I have read the language.

Mr. CHABOT. The language indicates if a person transports a person across the State line, then that person is responsible. It depends upon the level of their involvement.

Mr. NADLER. Mr. Speaker, I would tell the gentleman, I am not asking the level of their involvement. But reclaiming my time, the bill seems to indicate the opposite. Normally, when we say "transport," if I transport a box, I am driving the car and the box is on the seat or in the trunk. If I transport a person, I am driving the car, the person is in the car with me.

My question is, if the person who wants to get the abortion, who is 17 years old and has a driver's license, is driving the car across the State line and she has asked someone to go along with her and he knows the purpose, is that person guilty of transporting? Is that person guilty of knowingly transporting her?

The plain language of English would seem to indicate he is not transporting; she is.

Mr. CHABOT. Mr. Speaker, if the gentleman would yield again, since I have answered it four times, I would like to read the bill. The bill clearly says, "Except as provided in subsection (b), whoever knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the individual resides, shall be fined under this title or imprisoned not more than 1 year, or both."

Mr. NADLER. Reclaiming my time, I can read the bill, too.

Mr. CHABOT. I would suggest that the gentleman do that.

Mr. NADLER. Mr. Speaker, reclaiming my time, my point is, whoever knowingly transports. If the person who is getting the abortion is doing the driving, she is transporting. She is not subject to this bill. The person sitting next to her is not transporting her, under the plain English language.

I have read the definitions in the bill. There are definitions in this bill of other terms, but not of the term "transport." The plain English meaning is that if she is driving, no one is transporting her. She is transporting herself. So what this bill does is criminalize someone going with her, depending on who is at the steering wheel.

Now, I do not think that was the intent of the law, of the bill, but I think it is the clear meaning of the bill. I think it is just one more instance of how sloppily drafted, of necessity, this bill has to be because of the nature of it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN), the principal author of the bill.

Ms. ROS-LEHTINEN. Mr. Speaker, when asked, should a person be able to take a minor girl across State lines to obtain an abortion without her parents' knowledge, 85 percent of Americans answered no in a recent poll conducted by Baselice and Associates. Whether pro-choice or pro-life, Americans agree that an abortion can leave behind physical, emotional, spiritual, and psychological consequences.

Yet, advocates of the abortion industry continue to think that in the name of Roe v. Wade, parents need not be involved in a female's decisions, regardless of the fact that she may be a 12- or 13-year-old vulnerable, frightened, and confused young girl.

Where is the outrage on mass-marketed Yellow Pages advertisements such as the one right here to my side, which clearly solicits business from young, confused girls, shouting out "no parental consent"? These are from the Yellow Pages.

Why is it that some of our opponents are instead outraged by cigarette ads which some say target minors? Do opponents of this bill not believe that a child is not mature enough to choose not to smoke, but is mature enough to choose to have a potentially fatal, invasive surgical procedure?

The ads cry out, "Come over here. No parental consent." And it is a procedure, as we know, that has been linked to breast cancer, medical complications, and that has left many women barren for the rest of their lives. I call this hypocrisy.

It is parents who are aware of their daughter's medical history. They know the ways in which she may react to stressful situations, and they are best equipped to provide the necessary counseling and guidance. My bill, the Child Custody Protection Act, protects the inherent rights of parents, and upholds and enforces existing State laws without creating a parental Federal consent or notification mandate.

If parents have the right to decide a child's curfew and the right to grant permission for a date, they should certainly be enabled to exercise their inherent rights when making a life-impacting decision about a serious, complicated, and potentially life-threatening procedure. It defies common sense to remove parents from any medical decisions concerning their children, but especially one that has lifelong consequences, such as an abortion.

I urge my colleagues to give parents the right to protect and care for their own children. Let us enable children to receive the guidance they need and deserve. I urge my colleagues to vote for passage of H.R. 476, the Child Custody Protection Act.

I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership on this issue.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the previous speaker, the gentlewoman from Florida, showed us the horrible example of a perfectly legal ad in the Yellow Pages offering perfectly legal services in a State where it is legal to do so, as if there were something terrible about that.

I do not think it is terrible, I think it is praiseworthy. The fact is, there are many young women under the age of 18, maybe 17, maybe 16, who cannot go to their parents; who desperately need an abortion and cannot go to their parents for fear of violence or whatever. This ad says, "You can have help here." Nothing wrong with that.

Many young women justifiably feel they would be physically or emotionally abused if forced to disclose their pregnancies to their parents, unfortunately. Nearly one-third of minors who choose not to consult with their parents when contemplating an abortion have experienced violence in their family, or feared violence, or feared being forced to live at home.

We know of the case of Spring Adams, an Idaho teenager who was shot to death by her father, shot to death after he learned she was planning to terminate a pregnancy caused by his acts of incest with her. Do Members think she could have gone to him?

And we know that judges often will not grant permission to have an abortion because of their own personal opinions. One study found that a number of judges in Massachusetts either refused to handle abortion petitions, or focus inappropriately, inappropriately under the law, on the morality of abortion, which is none of their business to determine, except for themselves, because their duty is to exercise the judicial bypass guaranteed by the law of that State.

The American Medical Association has noted that because the need for privacy may be compelling, minors may be driven to desperate measures to maintain the confidentiality of their pregnancies. The desire to maintain secrecy against the parental notification and consent laws has been one of the leading reasons for illegal abortion deaths, deaths, since 1973. That is what we are dealing with here, young women who are so fearful of telling their parents, for whatever reason, that they would rather have a coat hanger abortion and have died as a result.

When the Subcommittee on the Constitution held hearings on this bill, we heard from an Episcopal priest, the Reverend Katherine Ragsdale, the vicar of St. David's Episcopal Church, who discussed the actual case of a 15-year-old girl who had been raped and had become pregnant. She could not go to her father, who would throw her out of the house, and she had no other family to turn to. Of course, if she did, this legislation would place those other relatives in legal jeopardy if they helped her.

Though they did not cross State lines, the Reverend Ragsdale drove the young woman to an abortion clinic, rather than allowing her to travel several hours alone by bus to and from the procedure. This is an act of kindness, not a criminal act. Reverend Ragsdale movingly described the pastoral counseling she provided to the young woman during the drive. This bill would make criminals of clergy providing this sort of pastoral care and guidance.

Reverend Ragsdale's observations at the subcommittee are worth repeating: "Mr. Chairman, you talked about all the reasons it is important for a girl to have parental involvement before a medical procedure, and you are absolutely right. If I thought that this bill would accomplish parental involvement, if I thought it would eliminate the kind of pain Ms. Roberts spoke about, this panel would be even more unbalanced than it is, because I would be on the other side.

"But it won't do that. This bill is not about resolving problems, this bill is about punishing people. While I understand that even the best of us have punitive impulses from time to time, we have no business codifying them in law. They are venal. They are beneath the dignity of any member of the human family."

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DELAY), the distinguished majority whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the Child Custody Protection Act is such a needed and necessary step because it closes a destructive loophole in parents' rights to protect their children from that lasting physical, psychological, and spiritual consequence that is caused from abortion.

As things stand today, the abortion industry actually uses "No parental consent required" as a marketing tool within neighboring States that empower parents to protect their children from abortions by requiring their prior approval. That is not just wrong, it is immoral.

The CCPA simply makes the act of transporting a minor across the State line for the purpose of performing an abortion a Federal offense. It places parents back in charge of their children, and it issues a warning to those who would actually insert themselves between parents and their daughters to encourage the single most horrendous and emotionally devastating mistake that young women are tragically permitted to make.

We know well that parents are in the best position as observers to counsel and advise their own daughters. The CCPA places those parents back in charge by closing a secret loophole. That loophole facilitates the anonymous destruction of innocent life, and it creates the lasting trauma that haunts every young girl who ends her baby's life.

I just beg the Members to vote yes on this bill.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for yielding time to me. I thank him for his voice, and I am saddened that we have this debate. The reason is because I believe my colleagues on both sides of the aisle are concerned about family and children and relationships.

I know, Mr. Speaker, that it is difficult for me to convince many of my colleagues on my view of the ninth amendment of the Constitution and the right to privacy and choice. I am an advocate of choice, but as I say that, I am an advocate of life. I encourage, in instances of the private decisions of a woman, that that woman has the right to make a choice with respect to her body between herself, her family members, and her spiritual leader.

This is a somewhat different debate. This legislation is called "the Child Custody Protection Act." It is a constitutional debate, because privacy is still an element, it is still an element of States' rights. It is interesting that my colleagues can come to the floor in one instance and promote up the value and the high virtues of States' rights, but at the very same time, we had a debate some few years ago in the same subcommittee on attacking various desegregation busing orders in various States, where we were trying as a Congress, the Republican majority, to eliminate those busing plans.

We have over and over again gone over legislation to deal with the rights of Oregon citizens who have themselves voted over and over again that they wish to make a decision, a personal decision, on their right to die.

I call that, if you will, the conflict of values and the conflict of standards in this House: What is good for the goose is not good for the gander. My way or the highway is the mentality of those who would ask us to not have legislation like this that would be sufficiently and openly bipartisan.

□ 1215

How do I say that? Many amendments were offered to suggest that teenagers who have come upon difficult times might find the need to consult with others other than a parent who would have been accused of incest or rape or that there might be instances of health issues that would be necessary for this particular teenager, possibly 16 or 17 years old, to consult with someone else.

The Republican majority had a closed rule and then again we come to the floor without giving this legislation a chance that it could have had with a bipartisan approach.

Let me cite for my colleagues, Mr. Speaker, possibly a startling number. More than 75 percent of minors under 16 years old already involved one or both parents in their decision to have an abortion.

It is really the obligation of Congress to confront a crisis. I know that we have differences on this question of choice. I will never get some of my good friends and colleagues to agree with me on this issue, and let me make it clear that I know that they fall on both sides of the aisle, but if we had worked on this legislation for the good of the child, to protect the child against rape and the incest that comes from a parental situation sometimes, if we had looked at the numbers and noted that more than 75 percent of a child already goes to that comforting parent but yet there are a percentage of those who do not. There are a percentage of those who do not know how to travel through the judicial system so they cannot use judicial bypass.

This legislation unfortunately, with all of its good intentions, will cause some damage, some danger and God forbid, loss of life to some young person who needs to have the guidance other than those parents, maybe a drug-addicted parent, maybe a parent suffering from their own ills and devils.

I would ask my colleagues to send this bill back ultimately so that we can reach a bipartisan approach. I would ask them to assess this on constitutional grounds and to realize that we cannot have a double standard. Today's State rights, tomorrow my rights.

Mr. Speaker, I stand in strong opposition to H.R. 476, the "Child Custody Protection Act" (CCPA) because it criminalizes any good faith attempt by a caring adult to assist a young woman in obtaining abortion services across state lines.

CCPA is simply another effort to undermine the right of choice for a young woman by imposing dangerous and unnecessary restrictions to abortion services.

This bill punishes adolescents by making it more difficult for them to safely access constitutionally protected abortion services. CCPA does not protect young women nor will it strengthen family ties. Rather, it will punish and endanger those women who cannot discuss unwanted pregnancy with parents by forcing them to travel to another state alone, seek an unsafe illegal abortion, attempt to self-abort, or carry an unwanted pregnancy to term.

This bill would make it more difficult for minors living in states with parental notification or consent laws to obtain an abortion by making it a federal crime to transport minors across state lines. More than 75 percent of minors under 16 years old already involve one or both parents in their decision to have an abortion.

In those cases where a young woman cannot involve her parents in the decision, there are others who would help by offering physical and emotional support during a time of crisis, confusion and emotional pain. A minor should be able to turn to a relative, close friend, and even clergy members for assistance.

Supporters of this bill claim that judicial bypass, a procedure which permits teenagers to appear before a judge to request a waiver of the parental involvement requirement, is a preferred alternative. However, many teens do not make use of it because they do not know how to navigate the legal system.

Many teens are embarrassed and are afraid that an unsympathetic or hostile judge might refuse to grant the waiver. Also, the confidentiality of the teen is compromised if the bypass hearing requires use of the parents' names. In small towns, confidentiality may be further compromised if the judge knows the teen or her family.

There are various reasons why a young woman could not go to her parents for guidance. Some family situations are not conducive to open communication and some situations are violent. For young women who need to turn to someone other than a parent, this law creates severe hardships.

The need to travel across state lines may be necessary in states where abortion services are not readily available. This bill would unduly burden access to abortion for young women who travel across state lines to obtain such services and who choose not to involve their parents.

In 1973, the U.S. Supreme Court, in Roe v. Wade, recognized a constitutional right to choose whether or not to have an abortion. The Court reaffirmed the right to choose in Planned Parenthood of Southeastern Pennsylvania v. Casey, holding that restrictions on this right are unconstitutional if they impose an "undue burden" on a woman's access to abortion. The right extends to both minors and adults, but the Court has permitted individual states to restrict the ability of young women to obtain abortions within that states' borders. Allowing a state's laws to extend beyond its borders runs completely contrary to the state sovereignty principles on which this country is founded.

It is unfortunate because family members such as grandparents and siblings should not be jailed for assisting a scared grandchild or younger sister in a time of need. Young women should be encouraged to involve an adult in any decision to terminate a pregnancy.

This bill would isolate young women from trusted adults by placing criminal sanctions on providing basic comfort and advice. Abortion is a highly personal and private decision that should be made by a woman and her doctor, without interference from the government. I urge my colleagues to please vote against this dangerous bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. ARMEY), the majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me the time.

Mr. Speaker, imagine a father who loves his daughter, pretty little 15-year-old girl, all the boys are crazy about her and so is daddy, but she has got a special boyfriend and daddy knows those two little ones are going to get into trouble. So in order to make sure that his daughter is safe, daddy piles the little 15-year-old boy that lives down the block about four blocks and piles him in a car and takes him to Arkansas to get a vasectomy. That way they could have safe sex, they could be politically correct, and they could be as active as they wanted to, and we would not have to bother their parents with any restraint or teaching or instruction or whatever. Daddy would just take care of it with a simple little harmless surgical procedure.

Who in this body would not be outraged? How far would that father get before the cops would nab him after that deal? How much crying and moaning before the hardship inflicted on that poor child boy would we hear from this body here?

I have got another friend who is a daddy. I love daddies. Daddies love their kids so much. I have got a friend who has got a 15-year-old son and he has got a 14-year-old girl for a beautiful little girl, but she has got bad need of dental work. Her parents do not get her dental work.

This papa loads that little girl up in the car and drives her to Oklahoma and see an orthodontist, pulls out her wisdom teeth, does other surgeries on her mouth. Who in this room is going to condone that? Is that acceptable? What right does that father have to take somebody else's child from Texas to Oklahoma to have her teeth pulled?

My colleagues would be outraged. My colleagues would bring the force of law on that person, but here we have people in this body, people in this body, so-called enlightened people, who believe in safe sex. Safe sex being a child does not get a serious disease or does not get pregnant. How about all the emotional stress, how about all the emotional trauma and so forth?

People in this body say, hey, here is the deal, we have got a 14-year-old son. He has got a 13-year-old girlfriend, they get reckless, they get careless, they get pregnant, just take that little girl, pile her in a car, take her to Arkansas for an abortion, and we will protect a person's right to take somebody else's child across the State line for a medical procedure that endangers her life and steals the life of an innocent baby. We will protect the person who does it. What kind of heinous law would we have? This is no, as we say in Texas, this is no thinkin' thing.

The most precious moment in any family's life, you get married and fall in love, you love one another and you get married and you some day come back from the hospital and you have got this very precious little bundle of joy in your hands and you look down on that little darling baby and you say this is my baby. All my life it will be me. I will pour my tears over this child. I will pour my heart into this child. I will say my prayers over this child. I will teach this child. I will hold this child. I will console this child. I will protect this child. If something goes wrong, my heart will break.

We would dare to leave any avenue in law that would allow somebody else to take that child across a State line for a life threatening surgical procedure that even if it inflicts no physical harm on the child will leave that child emotionally scarred for a lifetime? We would dare to leave that avenue for exploitation open?

I must say this, if my colleagues would vote no on this bill, then they are either without heart or without children.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

I have heart, I have children, or at least one child, and I will almost certainly vote no on this bill, and the gentleman has no right to cast aspersions on my motives or anybody else.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, this bill prohibits anyone from transporting a minor across State lines in order to obtain an abortion if the notification and parental consent laws have not been complied with.

There is nothing in the bill that prohibits a minor from crossing State lines herself to get the abortion. Nothing in the bill that would prohibit a parent to cross State lines with the minor and evade a State requirement that both parents be notified or consent. There is no prohibition so long as they go themselves and no one else transports them. This prohibits someone from accompanying the minor.

One of the things that we mentioned before was the amendment about taxicab drivers. If a taxicab driver knows that the minor is going to get an abortion and has not ascertained that the parental consent laws have been complied with, that taxicab driver is exposed to liability, both civil and criminal. So if the prosecutor is not going to prosecute the cab driver, the parent can sue the cab driver for damages.

This bill does not have a health exception and, therefore, has constitutional problems. The Supreme Court has frequently said that there has to be a health exception in any abortion legislation.

Finally, Mr. Speaker, I think we ought to strongly consider the precedents that we are setting. The possibility that we are prohibiting crossing State lines to do something which is legal in the State someone is going to.

Virginia prohibits casino gambling. We could, under this idea, prohibit people from crossing the State line, leaving Virginia to go to Las Vegas or Atlantic City to participate in something that is illegal in Virginia. Some States have lottery tickets. Others do not. Are we going to prohibit people leaving the State to go buy a lottery ticket in another State? Virginia used to prohibit shopping on Sunday. I suppose under this legislation we prohibit taking somebody across State lines to go shopping on Sunday if we still had those laws.

The idea that we are going to prohibit someone crossing State lines to do something that is legal in that State is a situation that I think we ought to seriously consider and reject. This bill will do nothing to limit minors crossing State lines to obtain an abortion. The minor can go by herself to obtain the abortion. All this bill does is prohibits anyone from accompanying them.

This bill does nothing to advance public safety, does nothing to reduce the abortions, and I think was counterproductive in that if the child is going to get an abortion and will get the abortion, it makes sense for them to be accompanied.

I would hope that we would reject the legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. HOSTETTLER), a member of the committee.

Mr. HOSTETTLER. Mr. Speaker, I thank the gentleman from Wisconsin, the distinguished chairman of the committee, for yielding me the time.

Mr. Speaker, I rise today to urge passage of this common sense legislation. I am disappointed that we even need to debate a bill that is designed to prevent people from circumventing State laws in order to abort a baby carried by a minor.

I do not think most of our constituents consider parental involvement in their children's lives a radical notion. I do not think most Americans consider parents to be the enemy of their children. I do think most parents desire to support and love their children through the most difficult circumstances they may face.

Under current law, any person in the world can take a pregnant girl into his car, drive her to another State and coerce her to get an abortion, all without her parents' knowledge or consent. That is a frightening and unacceptable scenario.

Why do we treat abortion differently than we do any other medical procedure? If, for example, a minor was taken across State lines to receive an appendectomy without parental consent, she would be turned back, and for the purpose of the gentleman from New York, the Fugitive Slave Act already applies to appendectomies.

If a school counselor or second cousin took a minor in for a tonsillectomy without the permission of the child's parents, they would be turned away. Once again, the Fugitive Slave Act, using as an analogy, already applies to tonsillectomies.

A schoolteacher cannot even take children to the local museum without their parents' permission, and yes, the Fugitive Slave Act already applies to museum field trips.

Opponents of this bill argue that an adult, even if he is a rapist or a child molester, should be allowed to transport a girl miles from her home, across State lines for the invasive surgical operation known as abortion. Since the Supreme Court created a right to an abortion out of thin air 29 years ago, our children have been susceptible to ideological predators who care more about their proabortion agenda than they do about frightened vulnerable girls.

The gentleman brought up the testimony of the vicar from Massachusetts, and I would like to return to that testimony. It has been discussed here that the people that are involved in this procedure are confidantes of the individual. According to the testimony of the one witness supplied by the minority, in her own words, she said this:

"I didn't know the girl. I knew her school nurse. The nurse had called me a few days earlier to see if I knew where she might mind find money to give the girl for bus fare to and cab fare home from the hospital. I was stunned. A 15-year-old girl was going to have to get up at the crack of dawn and take multiple buses to the hospital alone. The nurse shared my concern but explained that the girl had no one to turn to. She feared for her safety if her father found out, and there was no other relative close enough to help."

The vicar never testified that the father would have run her out of the house as the gentleman from New York earlier spoke. It was up to the nurse and the child who was under duress at this time to come up with this excuse, and the vicar used that opportunity to pray on the child's weakness and to move ahead with this.

Mr. Speaker, I ask my colleagues to remember that parents should ultimately be given this opportunity to have a decision in their child's most critical time in her life, should that ever happen.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman makes a nonsensical point. In that case, if the vicar had not traveled with the young woman, she would have traveled alone and gotten the abortion. That would have been preferable? In this case, the school nurse called in the vicar because the young woman had told her that she feared for her life or that she would run away from home if she had, that she could not under any circumstances, would not under any circumstances tell her parents but she would get the abortion.

So she called in the vicar, the vicar spoke with her, counseled her, and rather than let her go alone, helped her. This is not praying on the young woman. This is giving pastoral guidance and helping her.

Mr. Speaker, we are told that this bill is somehow constitutional, but the Supreme Court has clearly and consistently held that States cannot prohibit the lawful out of State conduct of their citizens if its lawful out of State nor may they impose criminal sanctions on this behavior as this bill does.

The court reaffirmed its principles in its landmark right to travel decision Saenz versus Roe. In its decision, the court held that even with congressional approval, California's attempt to impose on recently arrived residents the welfare laws of their former States of residence was an unconstitutional penalty upon their rights to interstate travel.

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The decision also reaffirmed that the constitutional right to travel under the privileges and immunity clause of Article IV of the Constitution provides a similar type of protection to a nonresident who enters a State with the intent eventually to return to her home State. This principle applies to minor's rights to seek an abortion on nondiscriminatory terms as well as through welfare benefits.

In Saenz, the court specifically referred to Doe v. Bolton, the companion case to Roe v. Wade, which established the right to abortion which held that under Article IV of the Constitution, a State may not restrict the ability of visiting nonresidents to obtain abortions on the same terms and conditions under which they are made available to lawful State residents. "The Privileges and Immunities Clause, Constitutional Article IV, section 2, protects persons who enter a State seeking the medical services that are available there." It is also clear that such protections will flow to minors given that Planned Parenthood v. Danforth, a 1976 decision, held that pregnant minors have a constitutional right to choose whether to terminate a pregnancy.

Mr. Speaker, it is clear this bill is unconstitutional as well as unwarranted as well as cruel.

SEPTEMBER 5, 2001.

To: United States House of Representatives Committee on the Judiciary, Subcommittee on the Constitution

From: Laurence H. Tribe, Tyler Professor of Constitutional Law, Harvard University
Peter J. Rubin, Associate Professor of Law, Georgetown University

Re: H.R. 476 and Constitutional Principles of Federalism

INTRODUCTION

We have been asked to submit our assessment of whether H.R. 476, now pending before the House, is consistent with constitutional principles of federalism. It is our considered view that the proposed statute violates those principles, principles that are fundamental to our constitutional order. That statute violates the rights of states to enact and enforce their own laws governing conduct within their territorial boundaries, and the rights of the residents of each of the United States and of the District of Columbia to travel to and from any state of the Union for lawful purposes, a right strongly reaffirmed by the Supreme Court in its recent landmark decision in Saenz v. Roe, 526 U.S. 489 (1999). We have therefore concluded that the proposed law would, if enacted, violate the Constitution of the United States.

H.R. 476 would provide criminal and civil penalties, including imprisonment for up to one year, for any person who knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion. . . [if] an abortion is performed on the individual, in a State other than the State where the individual resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law in the State where the individual resides.

H.R. 476, §2 (a) (proposed 18 U.S.C. §2431(a)(1) and (2)). In other words, this law makes it a federal crime to assist a pregnant minor to obtain a lawful abortion. The criminal penalties kick in if the abortion the young woman seeks would be performed in a state other than her state of residence, and in accord with the less restrictive laws of that state, unless she complies with the more severe restrictions her home state imposes upon abortions performed upon minors within its territorial limits. The law contains no exceptions for situations where the young woman's home state purports to disclaim any such extraterritorial effect for its parental consultation rules, or where it is a pregnant young woman's close friend, or her aunt or grandmother, or a member of the clergy, who accompanies her "across a State line" on this frightening journey, even where she would have obtained the abortion anyway, whether lawfully in another state after a more perilous trip alone, or illegally (and less safely) in her home state because she is too frightened to seek a judicial bypass or too terrified of physical abuse to notify a parent or legal guardian who may, indeed, be the cause of her pregnancy. It does not exempt health care providers, including doctors, from possible criminal or civil penalties. Nor does it uniformly apply home-state laws on pregnant minors who obtain out-of-state abortions. The law applies only where the young woman seeks to go from a state with a more restrictive regime into a state with a less restrictive one.

This amounts to a statutory attempt to force this most vulnerable class of young women to carry the restrictive laws of their home states strapped to their backs, bearing the great weight of those laws like the bars of a prison that follows them wherever they go (unless they are willing to go alone). Such a law violates the basic premises upon which our federal system is constructed, and therefore violates the Constitution of the United States.

ANALYSIS

The essence of federalism is that the several states have not only different physical territories and different topographies but also different political and legal regimes. Crossing the border into another state, which every citizen has a right to do, may perhaps not permit the traveler to escape all tax or other fiscal or recordkeeping duties owed to the state as a condition of remaining a resident and thus a citizen of that state, but necessarily permits the traveler temporarily to shed her home state's regime of laws regulating primary conduct in favor of the legal regime of the state she has chosen to visit. Whether cast in terms of the destination state's authority to enact laws effective throughout its domain without having to make exceptions for travelers from other states, or cast in terms of the individual's right to travel—which would almost certainly be deterred and would in any event be rendered virtually meaningless if the traveler could not shake the conduct-constraining laws of her home state—the proposition that a state may not project its laws into other states by following its citizens there is bedrock in our federal system.

One need reflect only briefly on what rejecting that proposition would mean in order to understand how axiomatic it is to the structure of federalism. Suppose that your home state or Congress could lock you into the legal regime of your home state as you travel across the country. This would mean that the speed limits, marriage regulations, restrictions on adoption, rules about assisted suicide, firearms regulations, and all other controls over behavior enacted by the state you sought to leave behind, either temporarily or permanently, would in fact follow you into all 49 of the other states as you traveled the length and breadth of the nation in search of more hospitable "rules of the road." If your search was for a more favorable legal environment in which to make your home, you might as well just look up the laws of distant states on the internet rather than roaming about in a futile effort at sampling them, since you will not actually experience those laws by traveling there. And if your search was for a less hostile legal environment in which to attend college or spend a summer vacation or obtain a medical procedure, you might as well skip even the internet, since the theoretically less hostile laws of other jurisdictions will mean nothing to you so long as your state of residence remains unchanged.

Unless the right to travel interstate means nothing more than the right to change the scenery, opting for the open fields of Kansas or the mountains of Colorado or the beaches of Florida but all the while living under the legal regime of whichever state you call home, telling you that the laws governing your behavior will remain constant as you cross from one state into another and then another is tantamount to telling you that you may in truth be compelled to remain at home—although you may, of course, engage in a simulacrum of interstate travel, with an experience much like that of the visitor to a virtual reality arcade who is strapped into special equipment that provides the look and feel of alternative physical environments—from sea to shining sea—but that does not alter the political and legal environment one iota. And, of course, if home-state legislation, or congressional legislation, may saddle the home state's citizens with that state's abortion regulation regime, then it may saddle them with their home state's adoption and marriage regimes as well, and with piece after piece of the home state's legal fabric until the home state's citizens are all safely and tightly wrapped in the straitjacket of the home state's entire legal regime. There are no constitutional scissors that can cut this process short, no principled metric that can supply a stopping point. The principle underlying H.R. 476 is nothing less, therefore, than the principle that individuals may indeed be tightly bound by the legal regimes of their home states even as they traverse the nation by traveling to other states with very different regimes of law. It follows, therefore, that—unless the right to engage in interstate travel that is so central to our federal system is indeed only a right to change the surrounding scenery—H.R. 476 rests on a principle that obliterates that right completely.

It is irrelevant to the federalism analysis that the proposed federal statute does not literally prohibit the minor herself from obtaining an out-of-state abortion without complying with the parental consent or notification laws of her home state, criminalizing instead only the conduct of assisting such a young woman by transporting her across state lines. The manifest and indeed avowed purpose of the statute is to prevent the pregnant minor from crossing state lines to obtain an abortion that is lawful in her state of destination whenever it would have violated her home state's law to obtain an abortion there because the pregnant woman has not fully complied with her home state's requirements for parental consent or notification. The means used to achieve this end do not alter the constitutional calculus. Prohibiting assistance in crossing state lines in the manner of this proposed statute suffers the same infirmity with respect to our federal structure as would a direct ban on traveling across state lines to obtain an abortion that complies with all the laws of the state where it is performed without first complying also with the laws that would apply to obtaining an abortion in one's home state.

The federalism principle we have described operates routinely in our national life. Indeed, it is so commonplace it is taken for granted. Thus, for example, neither Virginia nor Congress could prohibit residents of Virginia, where casino gambling is illegal, from traveling interstate to gamble in a casino in Nevada. (Indeed, the economy of Nevada essentially depends upon this aspect of federalism for its continued vitality.) People who like to hunt cannot be prohibited from traveling to states where hunting is legal in order to avail themselves of those pro-hunting laws just because such hunting may be illegal in their home state. And citizens of every state must be free, for example, to read and watch material, even constitutionally unprotected material, in New York City the distribution of which might be unlawful in their own states, but which New York has chosen not to forbid. To call interstate travel for such purposes an "evasion" or "circumvention" of one's home-state laws—as H.R. 476 purports to do, see H.R. 476, §2(a) (heading of the proposed 18 U.S.C. §2431) ("Transportation of minors in circumvention of certain laws relating to abortion")—is to misunderstand the basic premise of federalism: one is entitled to avoid those laws by traveling interstate. Doing so amounts to neither evasion nor circumvention.

Put simply, you may not be compelled to abandon your citizenship in your home state as a condition of voting with your feet for the legal and political regime of whatever other state you wish to visit. The fact that you intend to return home cannot undercut your right, while in another state, to be governed by its rules of primary conduct rather than by the rules of primary conduct of the state from which you came and to which you will return. When in Rome, perhaps you will not do as the Romans do, but you are entitled—if this figurative Rome is within the United States—to be governed as the Romans are. If something is lawful for one of them to do, it must be lawful for you as well. The fact that each state is free, notwithstanding Article IV, to make certain benefits available on a preferential basis to its own citizens does not mean that a state's criminal laws may be replaced with stricter ones for the visiting citizen from another state, whether by that state's own choice or by virtue of the law of the visitor's state or by virtue of a congressional enactment. To be sure, a state need not treat the travels of its citizens to other states as suddenly lifting otherwise applicable restrictions when they return home. Thus, a state that bans the possession of gambling equipment, of specific kinds of weapons, of liquor, or of obscene material may certainly enforce such bans against anyone who would bring the contraband items into the jurisdiction, including its own residents returning from a gambling state, a hunting state, a drinking state, or a state that chooses not to outlaw obscenity. But that is a far cry from projecting one state's restrictive gambling, firearms, alcohol, or obscenity laws into another state whenever citizens of the first state venture there.

Thus states cannot prohibit the lawful out-of-state conduct of their citizens, nor may they impose criminal-law-backed burdens—as H.R. 476 would do—upon those lawfully engaged in business or other activity within their sister states. Indeed, this principle is so fundamental that it runs through the Supreme Court's jurisprudence in cases that are nominally about provisions and rights as diverse as the Commerce Clause, the Due Process Clause, and the right to travel, which is itself derived from several distinct constitutional sources. See, e.g., Healy v. Beer Institute, 491 U.S. 324, 336 n. 13 (1989) (Commerce Clause decision quoting Edgar v. Mite Corp. 457 U.S. 624, 643 (1982) (plurality opinion), which in turn quoted the Court's Due Process decision in Shaffer v. Heitner, 433, U.S. 186, (1977)) ("The limits on a State's power to enact substantive legislation are similar to the limits on the jurisdiction of state courts. In either case, 'any attempt "directly" to assert extraterritorial jurisdiction over persons or property would offend sister States and exceed the inherent limit of the State's power.'").

The Supreme Court recently reaffirmed this fundamental principle in its landmark right to travel decision, Saenz v. Roe, 526 U.S. 489 (1999). There the Court held that, even with congressional approval, the State of California was powerless to carve out an exception to its otherwise-applicable legal regime by providing recently-arrived residents with only the welfare benefits that they would have been entitled to receive under the laws of their former states of residence. This attempt to saddle these interstate travelers with the laws of their former home states—even if only the welfare laws, laws that would operate far less directly and less powerfully than would a special criminal-law restriction on primary conduct—was held to impose an unconstitutional penalty upon their right to interstate travel, which, the Court held, is guaranteed them by the Privileges or Immunities Clause of the Fourteenth Amendment. See Saenz, 526 U.S. at 503–504.

Although Saenz concerned new residents of a state, the decision also reaffirmed that the constitutional right to travel under the Privileges and Immunities Clause of Article IV, Section 2, provides a similar type of protection to a non-resident who enters a state not to settle, but with an intent eventually to return to her home state:

> [B]y virtue of a person's state citizenship, a citizen of one State who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the "Privileges and Immunities of Citizens in the several States" that he visits. This provision removes "from the citizens of each State the disabilities of alienage in the other States." Paul v. Virginia, 8 Wall. 168, 180 (1869). It provides important protections for nonresidents who enter a State whether to obtain employment Hicklin v. Orbeck, 437 U.S. 518 (1978), to procure medical services, Doe v. Bolton, 410 U.S. 179, 200 (1973), or even to engage in commercial shrimp fishing, Toomer v. Witsell, 334 U.S. 385 (1948).

Sanez, 526 U.S. at 501–502 (footnotes and parenthetical omitted).

Indeed, Doe v. Bolton, 410 U.S. 179 (1973), which was decided over a quarter century ago, and to which the Saenz court referred, specifically held that, under Article IV of the Constitution, a state may not restrict the ability of visiting non-residents to obtain abortions on the same terms and conditions under which they are made available by law to state residents. "[T]he Privileges and Immunities Clause, Const. Art. IV, §2, protects persons . . . who enter [a state] seeking the medical services that are available there." Id. at 200.

Thus, in terms of protection from being hobbled by the laws of one's home state wherever one travels, nothing turns on whether the interstate traveler intends to remain permanently in her destination state, or to return to her state of origin. Combined with the Court's holding that, like the states, Congress may not contravene the principles of federalism that are sometimes described under the "right to travel" label, Saenz reinforces the conclusion, if it were not clear before, that even if enacted by Congress, a law like H.R. 476 that attempts by reference to state's own laws to control that state's resident's out-of-state conduct on pains of criminal punishment, whether of that resident or of whoever might assist her to travel interstate, would violate the federal Constitution. See also Shapiro v. Thompson, 394 U.S. 618, 629–630 (1969) (invalidating an Act of Congress mandating a durational residency requirement for recently-arrived District of Columbia residents seeking to obtain welfare assistance).

In 1999, this Committee heard testimony from Professor Lino Graglia of the University of Texas School of Law. An opponent of constitutional abortion rights, he candidly conceded that the proposed law would "make it . . . more dangerous for young women to exercise their constitutional right to obtain a safe and legal abortion." Testimony of Lino A. Graglia on H.R. 1218 before the Constitution Subcommittee of the Committee on the Judiciary, U.S. House of Representatives, May 27, 1999 at 1. He also concluded, however, that "the Act furthers the principle of federalism to the extent that it reinforces or makes effective the very small amount of policymaking authority on the abortion issue that the Supreme Court, an arm of the national government, has permitted to remain with the States," Id. at 2. He testified that he suppor6ted the bill because he would support "anything Congress can do to move control of the issue back into the hands of the States." Id. at 1.

Of course, as the description of H.R. 476 we have given above demonstrates, that proposed statute would do nothing to move "back" into the hands of the states any of the control over abortion that was precluded by Roe v. Wade, 410 U.S. 113 (1973), and its progeny. The several states already have their own distinctive regimes for regulating the provision of abortion services to pregnant minors, regimes that are permitted under the Supreme Court's abortion rulings. That, indeed, is the very premise of this proposed law. But, rather than respecting federalism by permitting each state's law to operate within its own sphere, the proposed federal statute would contravene that essential principle of federalism by saddling the abortion-seeking young woman with the restrictive law of her home state wherever she may travel within the United States unless she travels unaided. Indeed, it would add insult to this federalism injury by imposing its regime regardless of the wishes of her home state, whose legislature might recoil from the prospect of transforming its parental notification laws, enacted ostensibly to encourage the provision of loving support and advice to distraught young women, into an obstacle to the most desperate of these young women, compelling them in the moment of their greatest despair to choose between, on the one hand, telling someone close to them of their situation and perhaps exposing this loved one to criminal punishment, and, on the other, going to the back alleys or on an unaccompanied trip to another, possibly distant state. This federal statute would therefore violate rather than reinforce basic constitutional principles of federalism.

The fact that the proposed law applies only to those assisting the interstate travel of minors seeking abortions may make the federalism-based constitutional infirmity somewhat less obvious—while at the same time rendering the law more vulnerable to constitutional challenge because of the danger in which it will place the class of frightened, perhaps desperate young women least able to travel safely on their own. The importance of protecting the relationship between parents and their minor children cannot be gainsaid. But in the end, the fact that the proposed statute involves the interstate travel only of minors does not alter our conclusion.

No less than the right to end a pregnancy, the constitutional right to travel interstate and to take advantage of the laws of other states exists even for those citizens who are not yet eighteen. "Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights." Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52, 74 (1976). Nonetheless, the Court has held that, in furtherance of the minors' best interests, government may in some circumstances have more leeway to regulate where minors are concerned. Thus, whereas a law that sought, for example, to burden adult women with their home state's constitutionally acceptable waiting periods for abortion (or with their home state's constitutionally permissible medical regulations that may make abortion more costly) even when they traveled out of state to avoid those waiting periods (or other regulations) would obviously be unconstitutional, it might be argued that a law like the proposed one, which seeks to force a young woman to comply with her home state's parental consent laws regardless of her circumstances, is, because of its focus on minors, somehow saved from constitutional invalidity.

It is not, for at least two reasons. First, the importance of the constitutional right in question for the pregnant minor too desperate even to seek judicial approval for abortion in her home state—either because of its futility there, or because of her terror at a judicial proceeding held to discuss her pregnancy and personal circumstances—means that government's power to burden that choice is severely restricted. As Justice Powell wrote over two decades ago:

> The pregnant minor's options are much different from those facing a minor in other situations, such as deciding whether to marry . . . A pregnant adolescent . . . cannot preserve for long the possibility of aborting, which effectively expires in a matter of weeks from the onset of pregnancy.

Moreover, the potentially severe detriment facing a pregnant woman is not mitigated by

> her minority. Indeed, considering her probable education, employment skills, financial resources, and emotional maturity, unwanted motherhood may be exceptionally burdensome for a minor. In addition, the fact of having a child brings with it adult legal responsibility, for parenthood, like attainment of the age of majority, is one of the traditional criteria for the termination of the legal disabilities of minority. In sum, there are few situations in which denying a minor the right to make an important decision will have consequences so grave and indelible.

Bellotti v. Baird (Bellotti II), 443 U.S. 622, 642 (1979) (plurality opinion) (citations omitted).

Second, the fact that the penalties on travel out of state by minors who do not first seek parental consent or judicial bypass are triggered only by intent to obtain a lawful abortion and only if the minor's home state has more stringent "minor protection" provisions in the form of parental involvement rules than the state of destination, renders any protection-of-minors exception to the basic rule of federalism unavailable.

To begin with, the proposed law, unlike one that evenhandedly defers to each state's determination of what will best protect the emotional health and physical safety of its pregnant minors who seek to terminate their pregnancies, simply defers to states with strict parental control laws and subordinates the interests of states that have decided that legally-mandated consent or notification is not a sound means of protecting pregnant minors. The law does not purport to impose a uniform nationwide requirement that all pregnant young women should be subject to the abortion laws of their home states and only those abortion laws wherever they may travel. Thus, under H.R. 476, a pregnant minor whose parents believe that it would be both destructive and profoundly disrespectful to their mature, sexually active daughter to require her by law to obtain their consent before having an abortion, and who live in a state whose laws reflect that view, would, despite the judgment expressed in the laws of her home state, still be required to obtain parental consent should she seek an abortion in a neighboring state with a stricter parental involvement law—something she might do, for example, because that is where the nearest abortion provider is located. This substantively slanted way in which H.R. 476 would operate fatally undermines any argument that might otherwise be available that principles of federalism must give way because this law seeks to ensure that the health and safety of pregnant minors are protected in the way their home states have decided would be best.

In addition, the proposed law, again unlike one protecting parental involvement generally, selectively targets one form of control: control with respect to the constitutionally protected procedure of terminating a pregnancy before viability. The proposed law does not do a thing for parental control if the minor is being assisted into another state (or, where the relevant regulation is local, into another city or county) for the purpose of obtaining a tattoo, or endoscopic surgery to correct a foot problem, or laser surgery for an eye defect. The law is activated only when the medical procedure being obtained in another state is the termination of a pregnancy. It is as though Congress proposed to assist parents in controlling their children when, and only when, those children wish to buy constitutionally protected but sexually explicit books about methods of birth control and abortion in states where the sale of such books to these minors is entirely lawful.

The basic constitutional principle that such laws overlook is that the greater power does not necessarily include the lesser. Thus, for example, even though so-called "fighting words" may be banned altogether despite the First Amendment, it is unconstitutional, the Supreme Court held in 1992, for government selectively to ban those fighting words that are racist or anti-semitic in character. See R.A.V. v. City of St. Paul, 505 U.S. 377, 391–392 (1992). To take another example, Congress could not make it a crime to assist a minor who has had an abortion in the past to cross a state line in order to obtain a lawful form of cosmetic surgery elsewhere if that minor has not complied with her state's valid parental involvement law for such surgery. Even though Congress might enact a broader law that would cover all the minors in the class described, it could not enact a law aimed only at those who have had abortions. Such a law would impermissibly single out abortion for special burdens. The proposed law does so as well. Thus, even if a law that were properly drawn to protect minors could constitutionally displace one of the basic rules of federalism, the proposed statute can not.

Lastly, in oral testimony given in 1999 before the Subcommittee on the Constitution, Professor John Harrison of the University of Virginia, while conceding that ordinarily a law such as this, which purported to impose upon an individual her home state's laws in order to prevent her from engaging in lawful conduct in one of the other states, would be constitutionally "doubtful," argued that the constitutionality of this law is resolved by the fact that it relates to "domestic relations," a sphere in which, according to Professor Harrison, "the state with the primary jurisdiction over the rights and responsibilities of parties to the domestic relations is the state of residence . . . and not the state where the conduct" at issue occurs. See transcript of the Hearing of the Constitution Subcommittee of the House Judiciary Committee on the Child Custody Protection Act, May 27, 1999.

This "domestic relations exception" to principles of federalism described by Professor Harrison, however, does not exist, at least not in any context relevant to the constitutionality of H.R. 476. To be sure, acting pursuant to Article IV, §1, Congress has prescribed special state obligations to accord full faith and credit to judgments in the domestic relations context—for example, to child custody determinations and child support orders. 28 U.S.C. §§1738A, 1738B. These provisions also establish choice of law principles governing modification of domestic relations orders. In addition, in a controversial provision whose constitutionality is open to question, Congress has said that states are not required to accord full faith and credit to same-sex marriages. Id. at §1738C.

But the special measures adopted by Congress in the domestic relations context can provide no justification for H.R. 476. There is a world of difference between provisions like §§1738A and 1738B, which prescribe the full faith and credit to which state judicial decrees and judgments are entitled, and proposed H.R. 476, which in effect gives states statutes extraterritorial operation—by purporting to impose criminal liability for interstate travel undertaken to engage in conduct lawful within the territorial jurisdiction of the state in which the conduct is to occur, based solely upon the laws in effect in the state of residence of the individual who seeks to travel to a state where she can engage in that conduct lawfully.

The Supreme Court has always differentiated "the credit owed to laws (legislative measures and common laws) and to judgments." Baker v. General Motors Corp., 522 U.S. 222, 232 (1998). For example, while a state may not decline on public policy grounds to give full faith and credit to a judicial judgment from another state, see, e.g., Fauntleroy v. Lum, 210 U.S. 230, 237 (1908), a forum state has always been free to consider its own public policies in declining to follow the legislative enactments of other states. See Nevada v. Hall, 440 U.S. 410, 421–24 (1979). In short, under the Full Faith and Credit Clause, a state has never been compelled "to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate." Pacific Employers Ins. Co. v. Industrial Accident Comm'n, 306 U.S. 493, 501 (1939). In fact, the Full Faith and Credit Clause was meant to prevent "parochial entrenchment on the interests of other States." Thomas v. Washington Gas Light Co., 448 U.S. 261, 272 (1980) (plurality opinion). A state is under no obligation to enforce another state's statute with which it disagrees.

But H.R. 476 would run afoul of that principle. It imposes the restrictive laws of a woman's home state wherever she travels, in derogation of the usual rules regarding choice of law and full faith and credit.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, imagine as a parent the shock and profound sorrow upon learning after the fact that some adult stranger deliberately kept the parents out of the decision-making process and took an underaged girl for a secret abortion in another State. Imagine the feelings of helplessness, hopelessness, and violation that you would feel when your extremely vulnerable daughter, perhaps confused, frightened and even numb, was whisked away to an abortion mill by a stranger to pursue the violent death of her baby.

Her baby, your grandchild, dead in a sneaky scheme deliberately contrived to deceive the parent about what was really going on, perhaps scarred for life by the unpardonable intervention of the adult stranger who acted as a parental surrogate. If there are complications, severe bleeding, perforated uterus, emotional or psychological aftermath, do not expect any help from the stranger; but of course a parent would be there to help, to love and to nurture and to heal. It is both a parental moral duty and legal duty, but it is really out of deep love. A parent would sacrifice thier own life for their daughter and be there; the stranger would not.

It would not take very long to ask, Mr. Speaker, did the meddling stranger tell her that abortion has significant physical and emotional consequences? Did the stranger inform her that it might increase her risk of breast cancer?

A 1994 study by cancer researcher Janet Daling of the Fred Hutchinson

Cancer Research Center indicated if a girl under the age of 18 has an abortion, the risk of breast cancer increases by 150 percent. If she or any member of her family has any history of breast cancer, that first abortion means that her risk of breast cancer skyrockets to 270 percent. Dr. Daling's National Cancer Institute-funded study comports with more than two dozen similar studies showing the abortion-breast cancer link.

Mr. Speaker, we can take it to the bank: neither the stranger nor the abortionist himself informed her of this long-term, deleterious consequence.

Mr. Speaker, it is tragic beyond words that the abortion rights movement not only promotes mutilations, dismemberment and chemical poisoning of children by abortions, they further destroy the family by invading the sacred space between parents and their teenage daughters. The so-called choice to mutilate, dismember and chemically poison little children is unconscionable. Currently even a 14-year-old, often with the assist from a stranger, has an unfettered and secret right in many States to have her baby destroyed in a horrific procedure. I urge my colleagues to wake up. Abortion is violence against children. Enabling a stranger to facilitate a minor's secret abortion only adds abuse to abuse. •

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman states his views of abortion. There are clearly differing views. We are not going to settle them in this debate today. He thinks it is a cruel procedure. Some of us think it is a procedure which in many cases is unavoidable. But in any event, the Supreme Court of the United States says it is the right of a woman to choose if she wishes, and she should be counseled as to the consequences and so forth; but it is her choice.

But this bill before us has nothing to do with that, except for the fact it is simply another step in the attempt to in any way possible reduce abortions in any way possible to hamstring the exercise of the constitutional right of women to choose within the limits of what the Supreme Court has said.

The real interest in this bill is not to protect young women who may be helped by a grandfather or a brother or a sister or a clergy person in doing something which she is determined to do. In the case we talked about before, she would have done it anyway; but at least she had someone to help her along and give her counseling and hold her hand. The intent of this bill is to try to stop her from having an abortion because the people in this House have determined that they are right and she is wrong and she should not be able to have an abortion.

Forgetting that question, the real question in this bill is: Can the Congress of the United States say to a young woman, she is the property of the State in which she lives, and she must carry around on her back the law which it enacted which tells her that she cannot do something even if she goes to another State where she can do it?

The plain meaning of the Constitution, and the Supreme Court has reaffirmed that, is that Congress cannot do that. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. That was enacted after the Civil War because of the Fugitive Slave Act, because South Carolina should not be entitled to tell an escaped slave in New York, although New York does not permanent slavery, South Carolina's laws do, and we are going to extend our law here and drag the slave back and force the slave into our laws of slavery.

Mr. Speaker, Congress cannot do the same thing. Congress cannot say to a young woman that we are going to force her to obey the law of her own State, we are going to criminalize someone who attempts to help do something that is perfectly legal in New York or some other State because it is not legal where she came from; and I cited the Supreme Court decisions before, which are recent Supreme Court decisions.

We cannot look at the interstate commerce clause. Women are not objects of commerce. I hope the majority is not telling us that women are objects of commerce under the meaning of the interstate commerce clause, that Congress can regulate interstate commerce. Women are citizens of the United States and people, not subjects of commerce. We said in the Norris-LaGuardia Act that labor is not to be considered a commodity in Congress, nor should women be, nor will the Supreme Court support that, nor is this bill constitutional.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise of course in support of H.R. 476, the Child Custody Protection Act. Unfortunately, in May of 2000, Florida's parental notification laws were challenged in circuit court and a permanent injunction was granted. So we in Florida are very much involved with this debate. To give amnesty to those who manipulate State laws by crossing into States without parental notification laws, in my opinion the people who support this bill, it is irresponsible and a misguided use of the law.

When we talk about this law, we are talking about safety here. To leave parents out of such a serious decision for the child with potentially long-term medical, emotional and psychological consequences is to jeopardize the health of the child. So when we talk about the Fugitive Slave Act or we talk about commerce, we are missing the point. We are talking about safety.

To leave parents out of this decision for minors, in my opinion, is irresponsible. Some seem to suggest that most parents are not being reasonable but their primary concern is their teenaged daughter. One study has shown that up to two-thirds of the school-aged mothers were impregnated by adult males. These men could be prosecuted under State statutory rape laws, giving them a strong incentive to pressure the young woman to agree to an abortion without involving her parents.

Let us put this into perspective. A child must have parental consent to be given an aspirin. Should the child want to go on a field trip, parental consent is required. Play in the school band, parental consent. Cosmetic ear piercing, that requires parental consent. Why? Because they are concerned about safety for fear that the girl may contract dangerous infections.

Here we have advertising to minors that they can cross State lines, but surely the gentleman from New York would not support advertising of cigarettes to minors to allow them to smoke, so this kind of advertising should be prohibited; and obviously we should prohibit allowing young minors to go across State lines.

Parents know what is best for their daughters' medical condition and can best help their daughters in times of need. I ask my colleagues to support this bill and pass it.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, cigarettes are harmful to one's health and may kill one. They are certainly much more harmful than marijuana or some of the other drugs which are prohibited by law; and maybe cigarettes ought to be prohibited by law, and certainly that kind of advertising should be prohibited by law.

Abortions are not in the same category. Abortions will not kill the woman. They are not generally harmful to her health. In fact, the statistics are that it is more dangerous to carry a pregnancy to term than it is to have an abortion because a larger percentage of women die from complications of child birth than from complications from abortion. I am certainly not arguing for abortions for that reason, but I am saying that we cannot say that abortions are life threatening, although demagogues do say that.

Mr. STEARNS. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Florida.

Mr. STEARNS. But the gentleman would agree that advertising to minors to allow them to go across State lines for an abortion is wrong?

Mr. NADLER. Mr. Speaker, I would not agree that it is wrong. An abortion is a legal medical service, and in some States it is legal to do without parental consent. And there are some young women, some young women, who fear for their lives if they have to tell their parents, and cannot tell their parents, and desperately need an abortion, and will get the abortion by coat hanger at this risk to their life. It is better in that case to know that they can get a safe abortion in a safe medical procedure across State lines rather than resorting to the coat hangers.

Mr. Speaker, many speakers on the other side have talked about people who prey on young women, who have an ideological desire to promote abortions. I do not know of anybody who has an ideological desire to promote abortions. I know of people who have ideological desires to let women have abortions if they want to. I do not know of anybody who desires to promote abortions as a good thing, in and of themselves.

Putting aside, we are talking about evil people who will prey upon young women and take them across State lines for the reason of getting an abortion for some nefarious motive.

□ 1245

If that is the true purpose of this bill, I would want to know, on their time, why the majority would not permit amendments on the floor to exempt the grandparent or the sibling, the brother or sister. What are they afraid of? Are they afraid that the logic of that amendment is so strong even for people who might support this bill that it might pass? Why would they not even permit amendments in committee? Why was it so necessary to call a halt by moving the previous question before Members had returned to the committee from a vote on the floor? What are they afraid of, a little logic and common sense?

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise in support of the Child Custody Protection Act, a commonsense piece of legislation that would prohibit unscrupulous third parties from taking minors across State lines for abortions to circumvent parental consent and parent notification laws. Mothers have previously testified before State legislatures and Congress about the horror of finding out that their young daughters had obtained secret abortions and of having to pick up the pieces of the emotional and physical consequences. As a mother of two, it is very disconcerting to me to know that the parent-child relationship could be undermined in such a manner.

As pointed out earlier, studies have shown that most school-age mothers are impregnated by adult men, with the median age of the father being 22 years old. Thus, many of the third parties taking minors across State lines are older boyfriends who obviously have a very personal interest in the young girl obtaining an abortion and in keeping it secret from her parents.

Congress must ensure that State laws designed to protect the integrity and sanctity of the parent-child relationship are not undermined. I consequently urge my colleagues to support passage of this legislation.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume. I would simply point out that in such cases, those people, those males, can be prosecuted for statutory rape, and probably should be. This bill does not add or detract anything from them.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the gentleman for yielding.

I would like to expand on his point, just to reinforce a point that I think is being lost in this debate. I indicated that Congress usually rises to the occasion to respond when there is a crisis, when we find that the law is being violated and being ignored, the laws of particular States who may have these laws regarding parental consent.

I also noted that we probably will not get our friends and colleagues all to agree with us on the question of choice, but I have already said that more than 75 percent of minors under 16 already involve one or both parents in the decision to have an abortion. What about the individual, however, that is living on their own, that has been raped by a close family member, whose parent may be in some condition that they are not able to give counsel?

And we now are intruding upon the right to travel, the constitutional right of choice on this particular minor who cannot consult with a loving grandmother, a loving spiritual leader, a loving sibling who can provide such assistance to them. It is clear in Planned Parenthood of Southeastern Pennsylvania v. Casey, holding that restrictions on this right are unconstitutional if they impose an undue burden on a woman's access to abortion. And the right extends to both minors and adults.

It is also clear in the constitutional decisions of the Supreme Court that there are rights that minors have and though we recognize the validity and the stand of parents, I too am a parent and would hope that I am always in a position to counsel with my two children, encourage that. But we are also trying to save lives and avoid the very example that my colleagues were speaking to, boyfriends taking them across State lines if that is the case, when these amendments dealing with special friends, special relatives in a relative position were not allowed.

And so we have a situation where, as I said, it is a double standard on States rights. We now want to intrude our Federal process on States that do not have these laws and, therefore, we are violating constitutional rights of minors which do exist. I think we are going too far with this legislation.

Mr. NADLER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, one of my commitments as a Member of Congress is to protect the rights of the traditional family. The family is the building block of society and parents must have the ability to know where their children are going and be able to protect them.

I am a proud cosponsor of this bill. It prohibits transporting an individual under the age of 18 across State lines to obtain an abortion. It is wrong that a child can legally be taken across State lines without parents' or guardian's knowledge for an abortion. A medical procedure of this magnitude with such serious implications for physical health of the girl and moral and emotional fabric of the entire family must be a family decision. Young girls today are exposed to many forces but the forces that should have the most strength in their lives, both morally and legally, should be their parents, not the government and not strangers.

I have seen the phone book ads marketing out-of-state abortions and safe abortions to minors. It is truly sickening to think that my daughters may grow up to one day be told by the abortion industry that abortions are as easy to receive and as safe as taking candy. I have heard the doomsday tales of children afraid to tell their parents they are pregnant but nothing could possibly be scarier for these young girls than having someone they barely know escort them to a place they have never been to have major surgery that ends a life.

Opponents of this bill are saying a parent can know where their child is except when she is receiving an abortion. That makes no sense whatsoever. Whose child is it, anyway?

By passing the Child Custody Protection Act, Congress will take a clear stand against the notion that the U.S. Constitution confers a right upon strangers to take one's minor daughter across State lines for a secret abortion even when State law specifically requires the involvement of a parent or judge in the daughter's abortion decision.

I strongly urge my colleagues to support this bill.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the imagery used by speakers in favor of this bill, indeed the language of the bill itself prohibiting someone from transporting a minor across State lines, evokes the image of a helpless young child being dragged against her will or being taken to another State. The fact is that a young woman old enough to get pregnant is in her teens, with a very few exceptions, and in this situation, one would hope that she would ask her parents' permission, and I am sure the daughter of the previous speaker would, and that the decision would be made between the two of them. But I do not think a woman of 16 or 17 years old, who is pregnant, who for whatever reason, because she was made pregnant by her father or her stepfather, because she is terrified, for whatever reason cannot, refuses to tell them, and gets her, even a boyfriend or a clergy person or her brother or sister, a grandmother, that is not an exploitative thing. They are helping her. She would probably or might very well do it herself, alone. Even the wording of the bill "transport." Someone sitting and holding her hand as she drives the car is not transporting her. They are giving her moral help in a difficult procedure.

People may not like abortions. They may think it is a terrible thing. They are entitled to their opinions. But a young woman may be terrified of giving birth. She may be terrified of the responsibility of a child. She may have her reasons and the Supreme Court says the Constitution gives her the absolute right to choose. This bill simply tries to make that right to choose impractical insofar as possible and therefore it is not only unconstitutional, it is wrong. This bill would criminalize the acts of persons who might be exploitative, but it would also criminalize the acts of people who are simply trying to be helpful and supportive of a young woman in distress, and that is wrong.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Speaker, by passing the Child Custody Protection Act today, Congress will take a clear stand against the bizarre notion that somehow the United States Constitution confers a right upon strangers to take one's minor daughter across State lines for a secret abortion, even when a State law specifically requires the involvement of a parent or judge in the daughter's abortion decision.

It is amazing to me that a child cannot get aspirin from a school nurse without parental consent but can cross State lines to get an abortion without the consent of their parents. There are school counselors who set up out-of-state abortions for minor students to hide this life-changing decision from the girls' parents. There are even sexual predators who would take their victims across State lines to destroy evidence through an abortion in a State without parental notice laws.

Mr. Speaker, as the father of two young daughters, I cannot understand how anyone can defend the right of an adult to take a child across State lines to have an abortion without the parents knowing. To me when that happens, both of the victims are children. When governments undermine families, it tears at the very fabric of our culture and supports a culture of death rather than a culture of life.

This bill closes a loophole that skirts State laws requiring parental notification. Twenty-seven States, including South Dakota, recognize the value and need for parental consent when a minor is seeking to obtain an abortion, and another 16 States require parental notification.

Mr. Speaker, there are many injustices in the world, but can you put yourself in the position of a parent who sends her young daughter to school and later in the day finds that a stranger has taken your 13-year-old daughter into another State to have an abortion? This is currently legal in the United States and that is why we need to pass the Child Custody Protection Act to stop it.

Mr. Speaker, as a strong supporter of the sanctity of human life and parental rights, I am proud to vote for this legislation and I urge my colleagues to do the same.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

The protestations of people on the other side about strangers transporting minors across State lines would be somewhat better heard if they had not refused amendments to exempt non-strangers.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. BARCIA).

Mr. BARCIA. I want to thank the gentleman from New York for yielding this time even though we happen to be viewing this legislation differently.

Mr. Speaker, I rise in support of H.R. 476, the Child Custody Protection Act, and would like to thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for her tireless efforts to bring this important legislative effort to the floor for consideration.

In light of all that has happened recently, our Nation has had a growing concern about the moral fabric of our society. We have felt an increasing need to do everything that we can to protect our children as they are our most precious resource. We must provide them with a safe environment so they can thrive as they move into adulthood.

One of life's harsh realities is that some young women become pregnant at too early an age. H.R. 476 does not terminate a person's right to an abortion but does provide important protections for young children who become pregnant. H.R. 476 will make it illegal for any person to transport a minor across State lines in order to circumvent State laws to obtain an abortion without first consulting a parent or judge. It will make it a Federal crime if an individual knowingly evades the laws of their State to seek an abortion for any mother 17 years of age or younger. It is most often an older male who preys on a young girl, impregnates her, and then takes her illegally across State lines to have an abortion without the knowledge and consent of her parents.

We should all find this manipulative behavior disgusting and disheartening. Not only is this a crime for an older male to be sexually active with a young girl, but it can be dangerous for that child to receive an abortion. Only a parent knows their child's health history, including allergies to medication. A parent should be informed and the older male should be prosecuted.

Laws in an increasing number of States, now numbering more than 23, including my home State of Michigan, require parental notification or consent by at least one parent or authorization by a judge before an abortion can be performed. This legislation will not mandate parental consent in the States which do not currently have parental consent laws but will protect those in States which do require parental consent.

Many of my colleagues are concerned that this bill will prohibit young girls from confiding in a close family member or friend if they feel they cannot talk to their parents. That is absolutely wrong. There is a provision in H.R. 476 which will allow a judge to relieve the parental notification requirement in certain circumstances.

I urge my colleagues to support H.R. 476, which will support the rights of States to protect the relationship between parents and children and ensure the safety of young girls who are in unfortunate circumstances.

□ 1300

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE), a member of the committee.

Mr. PENCE. Mr. Speaker, I thank the chairman for yielding me time and commend his leadership and that of the gentlewoman from Florida for her visionary leadership on this legislation. I do rise today in support of the Child Custody Protection Act.

Today, Mr. Speaker, the House will determine who it serves. I am a pro-life Member of this institution, but I would offer respectfully today that this is not a debate about the right to have an abortion. It is about the right to be a parent. And we will decide today in the

Congress whether or not we will serve the beleaguered parents of the United States of America, of whom I am proudly one, or whether we will serve the interests of the abortion lobby.

As a father of two daughters I can tell you, we live in a society today where parents are expected to be actively involved in the lives of our children. When a child commits a crime, the first question we hear is, why were the parents not aware? We are bombarded with antidrug advertisements commanding parents to ask their children questions, no matter how intrusive, to know where they were and when they were there. But for some inexplicable reason today we are debating whether parents should have the right to know if their daughter is considering an abortion, a decision that even pro-life and pro-abortion opponents agree will have lifelong consequences.

Mr. Speaker, this is even more outrageous when you consider that my children cannot even attend a field trip at school or even take an aspirin without my or my wife's consent. Are we willing to stand here today and say that the life and death decision that we debate pales in comparison to taking an aspirin?

Last week, Mr. Speaker, I took my children, two of them, one daughter and one son, to get braces. In addition to the extraordinary ordeal and the wires and the pain and the anxiety, we spent about an hour filling out consent forms for this 5- and 6-year procedure. Why in the world would we not have parental consent for even a more extraordinary procedure, invasive, that is an abortion?

Mr. Speaker, I urge all of my colleagues to choose life, cast a vote in favor of parental rights, and support the Child Custody Protection Act.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume to close for our side.

Mr. Speaker, there really are, I suppose, in summation, two things to say about this bill: one is that parental consent bills in general, although the providence of the States, in our opinion, are very ill-advised, because although we all would wish that young women who are pregnant and are contemplating an abortion would consult with their parents, and certainly most do and should, there are those situations where a young woman feels she cannot, where she is afraid of the violent reaction the parent might have, where a parent may have been abusive to her, where the pregnancy may be the result of rape or incest on the part of the parent, and we should recognize reality and understand that a parental consent and notification bill in no circumstances makes no sense, and it is certainly not in the best interests of the young woman; but that is a matter for the State legislatures.

The second thing to say about this bill is that none of that, none of the question of the validity or the intelligence or the desirability of a parental consent and notification bill, is before us. Those are State legislative decisions, and quite a few legislatures have passed those decisions, have passed such bills; and others have refused to do so.

The bill before us has nothing to do with that. The bill before us has to do with trying to criminalize someone who accompanies a young woman from one State to another, knowing that she is going to get an abortion legally in that State.

The proponents of this bill are trying to use the power of the Federal Government to impose the laws of one State in the jurisdiction of the other State.

The proponents of this bill are trying to place on the back of a young woman from one State the burden of the law of that State, to carry it around wherever she goes, to another State where the law is different. We do not have the constitutional power to do that. In a Federal system we do not have the right to do that.

I referred earlier to the Fugitive Slave Act because it was the last major attempt in this country to do that, where some of the Southern States said if a slave flees or goes to a State which does not recognize slavery, that person still is a slave, despite the laws of that State, and the Federal Government will enable the State to exercise its long arm and bring him back to bondage in the State that allows slavery.

Here this bill says that the Federal Government will use its jurisdiction to try to prevent a young woman from doing a perfectly legal act, because the State she came from does not regard it as a legal act; to force that young woman to carry the burden of the law she disagrees with from her home State to another State. This bill is unconstitutional for that reason and obnoxious for that reason.

This bill also would send grandmothers and ministers to jail, grandmothers and ministers who know the situation, who judge that the young woman cannot, as she judges, go to the parent, because they know there has been a rape, they know there has been incest, or they know there is family violence involved, they know the situation of the family.

In plenty of families it is perfectly fine to have parental consent. But by drawing a bill that says all families, no matter what, you are plainly putting many young women at risk of injury or death. But, again, that is a State legislative matter. What this bill says is that ministers and grandmothers and brothers and sisters of a young woman whose life would be at risk perhaps, they cannot help her when she needs help on penalty of going to jail. This bill will not bring families together; but it may, in such circumstances, tear them apart.

On all these grounds, Mr. Speaker, I say, let the States make these decisions, as they are allowed to do under the Constitution. Let us not butt in the Federal Government, as we are not permitted to do under the Constitution, and as good judgment should indicate we should not do in any event.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, listening to the gentleman from New York the last hour and a half, he seems to be making two points. One is that this bill requires that the parental involvement laws of a minor's State of residence carry along with the minor if they are brought across the State line into a jurisdiction that does not have a parental involvement law, and that this is some new notion in American jurisprudence and in our history of Federalism.

Well, the gentleman from New York, he and I carry the burden of our respective State income taxes with us to the work that we do here; and as most people know, New York and Wisconsin's State income taxes are quite high, and we have to pay those State income taxes as residents and as representatives of the States for the work that we do at our Nation's Capital.

The other thing is that it is somehow cruel and unconstitutional to force the involvement of parents where the parental involvement acts have been held constitutional by the Federal courts.

Now, a constitutional parental involvement act is not cruel; it is loving. It is not unconstitutional, because the courts have already said it is not unconstitutional. So to merely cross the State line for the purpose of evading a constitutional parental involvement act is not unconstitutional in and of itself, because Congress has got the exclusive right to regulate interstate commerce under the United States Constitution.

For all these reasons, this is a good bill. The House should pass this bill today, like it has done in the two previous Congresses.

Ms. BALDWIN. Mr. Speaker, this bill would make the tragic situation of teen pregnancy even worse.

I believe that adolescents should be encouraged to seek their parent's advice when facing difficult circumstances. And when young people do go to their parents in trying times, most often their parents offer love, support, direction and compassion. Most young women do turn to their parents—even when faced with something as emotional and private as pregnancy. Even in States without "parental consent" laws, the majority of pregnant teenagers do tell their parents.

Unfortunately, though, there are times when a pregnant teenager cannot go to her parents. This is precisely the time when they most need the involvement of a trusted adult. But, under this bill, if an adult assists a young woman by traveling with her across states lines to seek an abortion, the adult becomes a criminal. It does not matter if the adult is her sister, brother, grandmother, or minister—they would still be criminals in the eyes of federal prosecutors. In my home State of Wisconsin, we take into account the fact that young people sometimes cannot turn to a parent and must turn to other trusted adults in trying times—in Wisconsin young women may obtain consent from grandparents, adult siblings, or another "trusted adult."

Crossing State lines to obtain an abortion is not uncommon. Women usually seek care in the medical facility that is closest to their home, but, due to lack of facilities in many areas, the closest facility may be across a State border. In Wisconsin, 93 percent of counties do not have an abortion provider, so the nearest facility for women in these counties may be in Minnesota or Illinois. Congress has not made it illegal to cross state lines to buy guns, or gamble, or participate in any other legal activity, why should we make an exception here?

What if the teenager has been subject to physical or sexual abuse by one of her parents? What if the pregnancy is the result of incest? There is no exception in this bill for minors who have experienced physical or sexual abuse in their home. Nor is there an exception for a young woman who might be subject to grave physical abuse if she confided to her parent or parents.

Mr. Speaker, we all want children to confide in their parents, we all want a society with strong families. But let us not forget those children in our society who are victims of incest or physical abuse. Let us encourage them to reach out to an adult rather than deal with a crisis pregnancy alone.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 476, the Child Custody Protection Act. This bill would make it a federal crime for a person, other than a parent, to transport a minor across state lines for an abortion unless the minor had already fulfilled the requirements of her home state's parental involvement law. This bill would deny teenagers facing unintended pregnancies the assistance of trusted adults, endanger their health, and violate their constitutional rights. This flawed legislation is dangerous to young women and should in fact be called the "Teen Endangerment Act."

Minor women who seek abortions come from a wide variety of religious, cultural, socioeconomic, geographic, and family backgrounds, and seek abortions for an equally wide variety of reasons. In 86 percent of counties nationwide for example, the closest abortion provider is across state lines.

Data shows that the majority, 61 percent, of minors willingly involve their parents in their decision to have an abortion. Many that do not wish to involve their parents make that decision because of a history of physical abuse, incest, or the lack of support from their parents. Parental involvement laws cannot and do not open lines for healthy, open family communication where none exist, and they can put a minor in danger of physical violence. When a young woman does not have the ability to involve a parent, public policies and medical professionals should encourage her to involve a trusted adult, such as a grandparent. Instead of giving young women this alternative, this bill does the exact opposite. If passed into law, it would create havoc by potentially allowing grandma to be prosecuted and jailed for traveling across state lines to obtain needed reproductive health services for her granddaughter.

While proponents of this bill will argue the alternative to parental consent is a judicial bypass, this simply is not an option for many teenagers. Many judges never grant bypass petitions, and many teenagers have well-grounded fears of being recognized in a local courthouse and/or of revealing their personal intimate details in a potentially intimidating legal process. Moreover, many states with parental involvement laws do not provide a procedure for ruling on a minor's right to an out-of-state abortion. Besides, in many states judicial bypasses are available only in theory and not in practice.

Rather than tell their parents, some teenagers resort to unsafe, illegal, "back alley" abortions or try to perform the abortion themselves. In doing so, they risk serious injury and death, or in some cases, criminal charges.

In my home state of California, a minor who wishes to obtain an abortion may do so without any legal requirements that she involve her parents or that she seek a court order exempting her from forced parental involvement requirements. This bill will override California's law for some minors obtaining abortions in California by requiring enforcement of other states' laws within California's borders. States such as California are most likely to be visited by minors in need of abortions. These states will bear the burden of having their medical personnel and clinic staff subject to potential liability from a number of complex provisions regarding conspiracy, accomplice and accessory liability.

While this bill raises many obvious concerns, it also tramples on some of the most basic principles of federalism and state sovereignty. A core principle of American federalism is that laws of a state apply only within the state's boundaries. This bill would require some people to carry their own state's laws with them when traveling within the United States. Allowing a state's law to extend beyond its borders runs completely contrary to the state sovereignty principles on which this country is founded. Gambling for example is allowed in Nevada, but not California. If Congress enacts this legislation, it would be similar to making it a federal crime to spend a vacation in Las Vegas.

Abortion should be made less necessary, not more difficult and dangerous. A comprehensive approach to promoting adolescent reproductive health and reducing teen pregnancy should require comprehensive sexuality and abstinence education as well as access to contraception and family planning services. I urge my colleagues to oppose this legislation.

Ms. WATERS. Mr. Speaker, I rise in opposition to this closed rule on H.R. 476, the misnamed Child Custody Protection Act. By rejecting all amendments, the Rules Committee has shut out Members from debate on important amendments.

I had offered an amendment in Judiciary Committee, and again to the Rules Committee, that would carve out an exception to the prohibitions of H.R. 476. Under my amendment, those prohibitions would not apply in cases where the minor child's pregnancy was caused by sexual contact with a parent, step-parent, custodian, or household or family member. This closed rule, however, makes it impossible for any Member to vote on this valuable amendment.

Sadly, some pregnancies result from unwanted sexual contact. Adding to that horror is the fact that many families are unable or unwilling to deal with the realities of the situation. A mother may choose not to believe that the child's father or step-father could have done such a horrible thing. She may even share the child's confidences with the very person who committed the deed—thus potentially putting the child at greater risk.

Let me tell you about the tragic case of Spring Adams, a 13-year old sixth grader from Idaho. She was impregnated by her father's acts of incest. When he learned that she was planning to terminate a pregnancy caused by those acts, he shot her to death.

My amendment to H.R. 476 addresses this problem. When the child in such a situation turns instead to a grandparent, adult sibling, boyfriend, or religious leader, we should let her do so. And we should let them help her. Otherwise, we will find young girls, impregnated by relatives on household members, seeking to deal with it in any way they can—whether they do so by traveling alone to another state for the procedure, or take care of it through a self-induced or illegal, back-alley abortion.

Unfortunately, the closed rule we have before us means that none of my colleagues can address this problem with H.R. 476. Instead, these children, who have been victims of incest or nonconsensual sex with a household member, will be forced to confide their pregnancy to the person who violated them. We should not demand that of the child.

I urge a rejection of this rule that blocks valuable amendments from an overly harsh bill. Vote "no" on the rule.

Mr. TERRY. Mr. Speaker, I rise today in support of H.R. 476, the Child Custody Protection Act.

Twenty-seven states, including my home state of Nebraska, have laws requiring that a parent receive notification or give consent before their young daughter can have an abortion. These laws are designed to honor the rights of parents and protect young girls from being sexually exploited or injured. Unfortunately, they are often circumvented by the widespread practice of taking young girls across state lines to receive an abortion, a practice which is utilized by sexual predators.

In one example, a 12-year-old girl was taken to an out-of-state abortion clinic by the mother of the man who had raped and impregnated her. This young girl's mother learned what had happened only when her daughter returned home with severe pain and bleeding that required medical attention. H.R. 476 would help prevent such terrible situations by making it a Federal crime to dodge a parental involvement law by transporting a minor to an out-of-state abortion provider.

If a teenage girl needs permission to take an aspirin at school, her parents should certainly be notified about her receiving a potentially-harmful medical procedure. Loving guidance and support from parents is also crucial for young women facing the difficult situation of having a child out of wedlock. Even the abortion provider Planned Parenthood acknowledges on its website that, and I quote, "Few would deny that most teenagers, especially younger ones, would benefit from adult guidance when faced with an unwanted pregnancy. Few would deny that such guidance ideally should come from the teenager's parents."

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 476 to protect the rights of parents, to protect the rights of states, and most importantly, to protect young girls from sexual predators.

Mr. WELDON of Florida. Mr. Speaker, I rise today to give my support to H.R. 476, the Child Custody Protection Act, of which I am a cosponsor. This important legislation protects our daughters from being transported across state lines to be subjected to abortion, an invasive medical procedures, without the consent of their parents. Thirty-six states have parental consent laws in place to ensure that young teenaged girls do not undergo an abortion without their parent's consent. As a medical doctor I understand the physical and emotional ramifications of abortion. If parental consent is required for a child to receive an aspirin in school or to take a field trip, how much more critical is parental consent for an abortion?

Moms and Dads should play a critical role in these kinds of decisions. It is simply not acceptable for third parties with their own agenda and interests to circumvent the role of parents, particularly when the state of residence has reinforced these rights for parents. All to often third parties such as sexual predators and abortion providers take advantage of these girls for their own purposes, and the parents are left to deal with the consequences. When the long-term repercussions such as medical complications and depression set in, old boyfriends and abortion companies are not there for the child, instead the parents are left to suffer as they watch their daughters suffer.

Last September Eileen Roberts whose daughter was a victim of a non-parent assisted abortion, testified before the House Judiciary Committee about the horrors of this practice. She stated:

> I am horrified that our daughters are being dumped on our driveways after they are seized from our care, made to skip school, lie and deceive their parents to be transported across State lines whether that distance be two miles or 100 miles. Where are these strangers when the emotional and physical repercussions occur? They are kidnapping another young adolescent girl and transporting her for another secret abortion, and thus the malicious activity occurs over and over. When will this activity stop? When will those responsible for these secret abortions be held accountable for the financial costs of emotional and physical follow-up care from a disastrous legal abortion?
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> I am reminded of the many young adolescent teens, especially Dawn from New York, whose parents were notified in time to make funeral arrangements after their daughter's legal abortion. Mrs. Ruth Ravenell and her husband were awarded $1.3 million dollars by the State of New York for the wrongful death of their 13-year-old daughter. Mrs. Ravenell, shared with me and the Senate Education and Health Committee in Richmond, VA that she sat in the hospital before her daughter died, with her hand over her mouth to help keep herself from screaming.

Eileen Roberts, whose daughter was encouraged by her boyfriend, with the assistance of an adult friend, to obtain a secret abortion without telling her parents. Eileen's daughter suffered from depression, medical complications, and sever pelvic inflammatory disease which caused the family terrible pain and suffering and cost $27,000 in medical bills.

Mr. Speaker, we must take action to protect our children from these attacks on the family. We must protect girls from being coerced to have an abortion without even their parents' knowledge. Children should not be transported across state lines for major medical procedures with the express intent to circumvent the laws and parental involvement. H.R. 476 will preserve the right of parents and will protect our children.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the bill.

The legislation we are considering today would prohibit anyone—including a step-parent, grandparent, or religious counselor—from accompanying a young woman across State lines for an abortion.

This is a dangerous, misguided bill that isolates our daughters and puts them at grave risk. Under this legislation, young women who feel they cannot turn to their parents when facing an unintended pregnancy will be forced to fend for themselves without help from any responsible adult. Some will seek dangerous back-alley abortions close to home. Others will travel to unfamiliar places seeking abortions by themselves.

Thankfully, most young women—more than 75 percent of minors under age 16—involve their parents in the decision to seek an abortion. That's the good news. And as a mother and a grandmother, I hope—as we all hope—that every child can go to her parents for advice and support.

But not every child is so lucky. Not every child has loving parents. Some have parents who are abusive or simply absent. Now, I believe that those young women who cannot go to their parents should be encouraged to involve another responsible adult—a grandmother, an aunt, a rabbi or minister—in what can be a very difficult decision.

Already, more than half of all young women who do not involve a parent in the decision to terminate a pregnancy choose to involve another adult, including 15 percent who involve another adult relative. That's a good thing. We should encourage the involvement of responsible adults in this decision—be it a stepparent, aunt or uncle, religious minister or counselor—not criminalize that involvement. Unfortunately, this bill will impose criminal penalties on adults—like grandmothers who come to the aid of their granddaughters.

I am a grandmother of six—and I believe grandparents should be able to help their grandchildren without getting thrown in jail. As much as we might wish otherwise, family communication and open and honest parent-child relationships cannot be legislated. When a young woman cannot turn to her parents, she should certainly be able to turn to her grandmother or a favorite aunt for help. Unfortunately, this legislation tells young women who cannot tell their parents: don't tell anyone else.

Parental consent law do not force young women to involve their parents in an hour of need. We know that it can do just the opposite. Indiana's parental consent law drove Becky Bell away from the arms of her parents and straight into the back alley. Parental consent laws don't protect our daughters—but they can kill them. They don't bring families together—but they can tear them apart. And so I ask, why can't we do more to bring families together, and to keep our people safe?

I firmly believe that we should make abortion less necessary for teenagers, not more dangerous and difficult. We need to teach teenagers to be abstinent and responsible. And we need a comprehensive approach to keeping teenagers safe and healthy. We do not need a bill that isolates teenagers and puts them at risk. I urge my colleagues to vote no on this legislation.

Mr. PAUL. Mr. Speaker, in the name of a truly laudable cause (preventing abortion and protecting parental rights), today the Congress could potentially move our nation one step closer to a national police state by further expanding the list of federal crimes and usurping power from the states to adequately address the issue of parental rights and family law. Of course, it is much easier to ride the current wave of criminally federalizing all human malfeasance in the name of saving the world from some evil than to uphold a Constitutional oath which prescribes a procedural structure by which the nation is protected from what is perhaps the worst evil, totalitarianism carried out by a centralized government. Who, after all, wants to be amongst those members of Congress who are portrayed as trampling parental rights or supporting the transportation of minor females across state lines for ignoble purposes.

As an obstetrician of more than thirty years, I have personally delivered more than 4,000 children. During such time, I have not performed a single abortion. On the contrary, I have spoken and written extensively and publicly condemning this "medical" procedure. At the same time, I have remained committed to upholding the constitutional procedural protections which leave the police power decentralized and in control of the states. In the name of protecting states' rights, this bill usurps states' rights by creating yet another federal crime.

Our federal government is, constitutionally, a government of limited powers, Article one, Section eight, enumerates the legislative area for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the federal government lacks any authority or consent of the governed and only the state governments, their designees, or the people in their private market actions enjoy such rights to governance. The tenth amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Our nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently.

Nevertheless, rather than abide by our constitutional limits, Congress today will likely pass H.R. 476. H.R. 476 amends title 18, United States Code, to prohibit taking minors across State line to avoid laws requiring the involvement of parents in abortion decisions. Should parents be involved in decisions regarding the health of their children? Absolutely. Should the law respect parents rights to not have their children taken across state lines for contemptible purposes? Absolutely. Can a state pass an enforceable statute to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions? Absolutely. But when asked if there exists constitutional authority for the federal criminalizing of just such an action the answer is absolutely not.

This federalizing may have the effect of nationalizing a law with criminal penalties which may be less than those desired by some states. To the extent the federal and state laws could co-exist, the necessity for a federal law is undermined and an important bill of rights protection is virtually obliterated. Concurrent jurisdiction crimes erode the right of citizens to be free of double jeopardy. The fifth amendment to the U.S. Constitution specifies that no "person be subject for the same offense to be twice put in jeopardy of life or limb . . ." In other words, no person shall be tried twice for the same offense. However, in United States v. Lanza, the high court in 1922 sustained a ruling that being tried by both the federal government and a state government for the same offense did not offend the doctrine of double jeopardy. One danger of the unconstitutionally expanding the federal criminal justice code is that it seriously increases the danger that one will be subject to being tried twice for the same offense. Despite the various pleas for federal correction of societal wrongs, a national police force is neither prudent nor constitutional.

We have been reminded by both Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese that more federal crimes, while they make politicians feel good, are neither constitutionally sound nor prudent. Rehnquist has stated that "The trend to federalize crimes that traditionally have been handled in state courts . . . threatens to change entirely the nature of our federal system." Meese stated that Congress' tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington.

The argument which springs from the criticism of a federalized criminal code and a federal police force is that states may be less effective than a centralized federal government in dealing with those who leave one state jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of state sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow states to exact judgments from those who violate their state laws. The Constitution even allows the federal government to legislatively preserve the procedural mechanisms which allow states to enforce their substantive laws without the federal government imposing its substantive edicts on the states. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one state to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon states in working with one another rather than relying on a national, unified police force. At the same time, there is a greater cost to state autonomy and individual liberty from centralization of police power.

It is important to be reminded of the benefits of federalism as well as the costs. There are sound reasons to maintain a system of smaller, independent jurisdictions. An inadequate federal law, or an "adequate" federal law improperly interpreted by the Supreme Court, preempts states' rights to adequately address public health concerns. Roe v. Wade should serve as a sad reminder of the danger of making matters worse in all states by federalizing an issue.

It is my erstwhile hope that parents will become more involved in vigilantly monitoring the activities of their own children rather than shifting parental responsibility further upon the federal government. There was a time when a popular bumper sticker read "It's ten o'clock; do you know where your children are?" I suppose we have devolved to the point where it reads "It's ten o'clock; does the federal government know where your children are." Further socializing and burden-shifting of the responsibilities of parenthood upon the federal government is simply not creating the proper incentive for parents to be more involved.

For each of these reasons, among others, I must oppose the further and unconstitutional centralization of police powers in the national government and, accordingly, H.R. 476.

Mr. WATTS of Oklahoma. Mr. Speaker, I rise to support a common-sense bill to empower parents and protect children. The Child Custody Protection Act is first, last and always about the youngest and most vulnerable members of our society.

Girls under the age of eighteen should be protected from people who set out to break a state's law—especially when the decision is one that can never be reversed.

States have wisely enacted parental consent and notification laws to ensure mothers and fathers are fully involved in their children's lives. Just as they have control whether or not to permit an aspirin to be dispensed to their son or daughter in school, the parent-child relationship must not be undermined on the subject of abortion.

There is an abundance of evidence from the Yellow Pages to prove abortion clinics advertise to minor girls. "No parental consent needed" caters to the out-of-state girl who is often scared and confused. Children should not have their parents' counsel replaced by the phone book.

I commend the sponsors and supporters of this legislation—both Democrat and Republican—and urge passage of the bill.

Ms. BROWN of Florida. Mr. Speaker, I rise today in strong opposition to this bill. While the other side likes to call this bill the Child Custody Protection Act, I have named it the Rapist and Incest Perpetrator Protection Act. This bill does not protect girls and their families. This bill protects the rights of those who rape and molest young girls by forcing these vulnerable girls to gain permission from the very person who has committed this awful crime to exercise her constitutionally protected right.

The fact is that over 60 percent of parents now are already involved in this important decision of their daughters' lives. But if a parent is the perpetrator of a crime against these girls, and she turns to a grandparent or a teacher or a religious leader for help, that grandparent or religious leader can be dragged off to jail for doing what is right.

Under this bill, if a man from my state of Florida helped his younger sister across state lines to Georgia because she feared telling her abusive parents or because the clinic in Georgia was actually closer and more convenient, this older brother could be charged with a felony. Not only that, but anyone who knew that he helped her could be charged as a co-conspirator. The receptionist at the clinic who gave directions from Florida could be charged. The person performing the intake interview or counseling who knew of her Florida address would be charged. If they spent the night at an aunt's house in Georgia, that aunt could also be thrown in jail.

This is wrong. This bill is wrong. The government cannot mandate healthy and open family communications where it does not already exist. If passed into law, this bill will cause many young women to face very important decisions alone, without any help. I urge Members to vote overwhelmingly against this bill.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of the Child Custody Protection Act. This parental rights legislation prohibits the transportation of a minor across state lines to obtain an abortion if the requirements of a law in the state where the individual resides requiring parental involvement in a minor's abortion decision are not met before the abortion is performed. Twenty-seven states require parental consent or notification of minors seeking to abort their babies. It is a shame that as we are working to promote parental involvement, their rights are being activity circumvented.

News reports and published studies reveal that large numbers of minors are crossing state lines to obtain abortions, and many of these cases involve adults rather than parents transporting the minors. This is especially worrisome when the pregnancy is a result of statutory rape. Not only are our daughters being preyed upon by older men, but they are further psychologically damaged by having to obtain an abortion without even the support of their parents. A California study found that two-thirds of the girls were impregnated by adult, postschool fathers with a median age of 22. It is estimated that 58 percent of the time girls seek an abortion without parental knowledge, they are accompanied by their boyfriend. Even those of you who support the supposed "choice" to abort babies cannot be in favor of the intimidation of teenage girls by older males.

The Child Custody Protection Act is not a federally parental involvement law; it merely ensures that state laws are not evaded through interstate activity. It does not encroach upon state powers, but reinforces them. Pennsylvania is one of the states with parental notification requirements. The Pennsylvania appeals court noted, "although a parent's right to make decisions for her child is tempered in the instance of abortion, at least in Pennsylvania that parent has the legitimate expectation that procedural safeguards designed to protect the minor will be observed." Parents in Pennsylvania and 27 other states need our help to guaranteeing that these laws are upheld.

Parental rights protect not only parents but minors as well. We have all read numerous studies indicating the benefits of parental involvement in a child's education. Parental involvement and guidance in life is even more critical. Pregnancy is a life changing experience, especially for teenagers, and we should not further distance them from their parents at a time when they need as much support and love as they can get. We cannot allow parental rights to be bypassed. I encourage my colleagues to join me in support of the Child Custody Protection Act.

Mr. BLUMENAUER. Mr. Speaker, I am disappointed that today we will vote on H.R. 476, the so-called "Child Custody Protection Act." This anti-choice bill would dangerously criminalize help from relatives and close friends who assist young women struggling with the most difficult personal challenges.

I wish that every child was in a loving family that they could turn to first. The facts are, however, that many young women do not have that type of relationship with their parents and in too many cases we have seen the actual problem caused by abusive close family members.

People who would deny women reproductive choice have altered their tactics to chip away at women's reproductive freedoms; this is one of the most insidious examples. This bill would limit the choices for the most desperate women and is part of an overall anti-choice strategy that I reject.

Draconian measures like H.R. 476 often have unintended consequences that can lead to desperate actions with dire consequences for the mental health and physical well-being of our nation's young women.

Mr. CONYERS. Mr. Speaker, I rise in strong opposition to H.R. 476, the Child Custody Protection Act because the bill is unconstitutional, dangerous, anti-family, and incredibly broad.

1. The bill is blatantly unconstitutional in at least three respects:

First, the bill violates minors' due process rights by increasing their risk of physical harm. This violates the principles of Carey v. Population Services, where the Supreme Court held that a state may not seek to deter sexual activity by "increasing the hazards attendant on it."

Second, H.R. 476 contains an inadequate exception to protect women's lives, and it does not have any exception to protect a woman's health—in clear violation of Planned Parenthood v. Casey.

Finally, the bill violates the Privileges and Immunities Clause by denying citizens the right to travel freely and enjoy the legal rights of citizens of other states. In violation of these principles of federalism, the bill saddles a young woman with the laws of her home state no matter where she travels in the country.

2. The bill is also dangerous because it takes away from young women safe alternatives to parental involvement—such as turning to close relatives, close family friends, and religious counselors—and replaces them with life-endangering ones, such as hitchhiking, self-induced, or back-alley abortions. If you don't believe me, ask Becky Bell's family. She died from a back alley abortion as a result of Indiana's parental consent law when she was afraid of confiding in her family.

The bill will inevitably lead to increased family violence. We know that one-third of teenagers who do not tell their parents about a pregnancy have already been the victim of family violence. We also know that the incidence of family violence only escalates when a teenage daughter becomes pregnant. This bill will only exacerbate those problems.

3. In addition, the bill is anti-family because it will turn family members into criminals. In a state that requires the consent of both parents, a single parent who takes a child across state lines would be subject to criminal charges, even if the other parent was estranged or their whereabouts were unknown. Grandparents would also be subject to prosecution, even if they were the child's primary caregiver.

4. Finally, the legislation is incredibly broad. Supporters of this bill claim to be targeting predatory individuals that force and coerce a minor into obtaining an abortion. However, the net cast by this bill is far broader and far more problematic. Under the legislation, anyone simply transporting minor could be jailed for up to a year or fined or both. Any bus driver or taxi driver unaware that the young woman has not engaged a formal parental involvement process could conceivably be sent to jail under this prohibition. The same applies to emergency medical personnel who may be aware they are taking a minor across state lines to obtain an abortion, but would have no choice if a medical emergency were occurring.

What we have is yet another shortsighted effort to politicize a tragic family dilemma that does nothing to respond to the underlying problem of teen pregnancies or dysfunctional families.

I urge the Members of vote "no" on this simple-minded, dangerous, and misguided legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). All time for debate has expired.

Pursuant to House Resolution 388, the bill is considered read for amendment, and the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. JACKSON-LEE of Texas. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. JACKSON-LEE of Texas moves to recommit the bill H.R. 476 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 4, after line 7, insert the following:

"(3) The prohibitions of this section do not apply with respect to conduct by an adult sibling, a grandparent, or a minister, rabbi, pastor, priest, or other religious leader of the minor.

Ms. JACKSON-LEE of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes in support of her motion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was just listening to a discussion that reminded me that we have come repeatedly to the floor to discuss this issue, and I do not intend by this motion to recommit any of the debate that has preceded us to diminish the consciousness and the sense of dedication and commitment that our colleagues have when they come to the floor of the House; but I believe that it is extremely important that this Congress, this House, reach to their higher angels, and understand that there are people who suffer every day, whose lives may be different from those of us who have spoken today.

I have heard women in this debate mention their family members, their children and the relationships they have. I have a 22-year-old daughter and 16-year-old son, and we work very hard to keep the lines of communication open, being there for them. If they were talked to by someone else, they might say on some things I want to not speak to parents who are loving and nurturing, of which my husband and myself believe that we try to be. I could not give you a response. I know what we try to do as a family.

But even in the instance where we try, what about the reality of life? What the majority is doing today, Mr. Speaker, is ignoring their own proposition, which says we have a responsibility to protect a child from someone who may be putting his interest ahead of the child's at a most vulnerable time. Those are words by the majority leadership. Yet this bill does that. It takes the political and moral views of the majority and imposes them on young women who may not feel the same way.

This motion to recommit says this. This is a motion to recommit that no one should oppose, and that is that the prohibitions of this section do not apply with respect to the conduct by an adult sibling, a loving sister or brother, a loving grandparent, a minister, rabbi, pastor, priest or other religious leader of a minor.

Mr. Speaker, life is real; and I do not know if many of you are aware of lives that young people live. Thirteen-year-old Anita lives with her grandmother, Joy, who she calls Momma. After noticing that Anita had become withdrawn and observing changes in her sleeping and eating patterns, Grandma Joy, Momma, suspected that Anita was pregnant.

At first Anita denied she could be pregnant. Joy finally got Anita to open up, and Anita revealed, Mr. Speaker, that she had been raped. Anita could not stop crying, shaking and vomiting as she told Joy the story; and she told Joy that she did not want to have a baby, because Anita was 13 years old.

Anita was raped. Anita was not engaging in frivolous sex. She was raped. Fortunately, Joy and Anita do not live in a State with parental consent, because Anita's mother is a drug addict, Mr. Speaker. She is part of America's society, but she is not a mother who is able to counsel with this young girl.

Had Joy and this mother lived in another State, this young girl, who had already been so traumatized by rape, would have further been harmed by parental involvement, but even more so harmed by this Federal law that would keep Momma, Momma, who this little girl lives with, from taking her to a place of safe haven, where they might have consulted with their religious leader, and little Anita to be able to rebuild this young girl's life. Raped.

This bill does not answer the health of the child. This bill does not confront the reality of American life, where children live in homes where there is no parent. This bill does not confront the constitutional rights of children and choice and the right to privacy.

This motion to recommit, Mr. Speaker, is a fair motion. How can anyone in this body vote against a grandparent, a loving adult sibling, a minister, a rabbi or pastor or priest or religious leader who would guide and consult with the family? These are the very same rights and privileges that we give to all who claim to live in the bounty of this land.

□ 1315

This is tragic. It is well known that young people live alone as well, like the one I mentioned, April, the single mother, 16 years old, of a 2-year-old child and whose stepfather abused her and, therefore, no relationship with the natural mother.

We are denying the privileges of a familial situation, and I would ask my colleagues who value this legislation as family values, where is your heart to match the family values? Where is it reasoned that you would deny that grandmother and that adult sibling and that ministerial or that religious leader from helping to protect the constitutional rights that exist?

Mr. Speaker, I ask my colleagues to instruct by a motion to recommit this bill to go back and be able to emphasize family values for real, with a heart.

Mr. Speaker, I am very disappointed. Here we are, adult legislators who raise families and promote family unity. But yet this bill before us alienates young adolescents from their families and people that care about them.

H.R. 476, the Child Custody Protection Act, would criminalize anyone transporting a minor across state lines if this circumvents the state's parental involvement laws.

While I strongly oppose this bill, I offered amendments in Committee that would have at least given a young woman the support of a family member or clergy person during this time. Except that the Democrats were not allowed to offer any amendments to soften the effects of this family-destructing bill. Amendments were the only chance for this bill to assure that the young woman who decides to get an abortion, for whatever reason, has the support of a loving family member or respected member of the clergy. She should not do it alone when she can't. The Majority said that "very often, parents are the only ones that know their child's psychological and medical history. Not consulting with parents can lead to health and safety risks." On the contrary, this bill is detrimental to young women's health.

First of all, legal abortions, particularly early in pregnancy, are very safe—safer than carrying a pregnancy to term. Secondly, studies demonstrate that minors are capable of making competent medical decisions without parental involvement. Further, states that do not permit minors to consent to abortion do permit them to consent to childbirth. If the true purpose of this bill is to protect children rather than to impose another obstacle on young women's right to choose, this anomalous result would be resolved here today.

The Majority continues by saying, "We have a responsibility to protect a child from someone who may be putting his interest ahead of the child's, at a most vulnerable time." This is what this bill does. It takes the political and moral views of the Majority and imposes them on young women who may not feel the same way. If we are concerned about promoting healthy family communication and family values, we will not accomplish that with this bill. Many young women who feel they cannot seek the counsel of their parents turn to other trusted family members when they face a crisis pregnancy. As a matter of fact, one study found that 93% of minors who did not involve a parent were accompanied by someone else in the reproductive health facility.

This bill would criminalize the conduct of a grandmother who helps her granddaughter in time of need. Aunts, uncles, and other trusted family members would face imprisonment if they accompany a young relative across state lines without complying with her home state's parental involvement law. This bill would isolate young women from supportive and protective family members rather than uniting families.

If my colleagues on the other side of the aisle really believe in family unity and cared about their health, then they would have been amenable to the amendments that we attempted to make in order.

That is why I am offering this motion to recommit. Our ultimate goal is to provide access to health care that is in the best interest of the adolescent. This bill prohibits that. My motion is to send this back to the House Judiciary Committee and report back exempting adult siblings, a grandparent, or a religious leader who helps a young woman in this situation. These are adults who care for adolescents and would offer assistance when confiding in their parents is not feasible. My colleagues on the other side say that this bill protects minors who cannot tell their parents because minors can appear before judges and bypass any parental involvement law. Judicial bypass procedures often pose formidable obstacles to young women facing crisis pregnancies. Some anti-choice judges routinely deny minors' petitions.

For example, a judge in Toledo, Ohio, denied permission to a 17-year-old woman—an 'A' student who planned to attend college and who testified that she was not financially or emotionally prepared for motherhood at the same time. The judge stated that the young woman had "not had enough hard knocks in her life."

Mr. Speaker, if we really care about the health and well-being of our young citizens, then we must send this bill back.

Mr. CHABOT. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, these individuals that are referred to in this motion to recommit, siblings and grandparents and religious leaders, ministers, that sort of thing, do not have the authority now to authorize any medical procedures for a minor child or to counsel or guide that child as she makes important medical decisions. So why should the fundamental rights of parents to consult and advise their pregnant daughters be thrown aside, only in the context of abortion?

The purpose of this bill is to ensure that the rights of parents to be involved in their daughter's abortion decision is not interfered with. Judicial bypass procedures contained in all parental notice and consent statutes allow a pregnant minor in some circumstances to obtain an abortion without having notified or gained the consent of her parent or legal guardian in cases of sexual abuse or incest and those types of things, for example. Those who want to add these exemptions have a fundamental problem with the underlying State laws that only provide parents a right to consent to or receive notice of this procedure. The inclusion of these individuals is a matter for each individual legislature to decide, not Congress.

The purpose of H.R. 476 is to enforce State laws as they are. If extended family members or religious leaders are truly interested in the best interests of the pregnant young girl, they will encourage and support her as she takes the difficult step to either inform her parents or guardian about her pregnancy, or to pursue a judicial bypass. It is certainly not in the best interests of a pregnant young girl for anyone, including a religious leader or extended family member, to assist her in evading the laws of her home State and secretly transporting her miles away from those who love her most in order to undergo a potentially dangerous procedure that carries with it serious medical consequences, serious long-term consequences.

Parents are in the best position to make decisions about their minor children. Parents have their children, they love their children, they nurture their children, they care for them. They are in the best position, not anybody else.

For these reasons and others, I urge my colleagues to vote against this motion to recommit.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong opposition to this motion.

I would remind my colleagues that this motion offered by the gentlewoman from Texas (Ms. JACKSON-LEE) is essentially the same as the one that was offered back in 1999, and it was defeated by this body 164 to 268. This motion again seeks to cut out the parent. And the parent, as the gentleman from Ohio (Mr. CHABOT) just pointed out—not the religious leader, not some grandparent, not a sibling that happens to be an adult—is the legal guardian. If there is a problem, if there is some kind of injury that results as a result of that abortion, who is responsible? It is not going to be the brother or the sister. It is certainly not going to be the grandparent. It will be the parent. We should not cut the parent out of parental involvement by refusing them consent or knowledge about an abortion.

Mr. Speaker, this legislation has been very carefully crafted by the gentlewoman from Florida (Ms. ROS-LEHTINEN) and members of the Committee on the Judiciary. This is a killer motion, and I hope it will be defeated.

The SPEAKER pro tempore (Mr. LINDER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage, followed by a 5-minute vote, if ordered, on approving the Journal.

The vote was taken by electronic device, and there were—yeas 173, nays 246, not voting 15, as follows:

[Roll No. 96]

YEAS—173

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kaptur
Kennedy (RI)
Kilpatrick
Kind (WI)
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—246

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauzin
Terry
Thomas
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Bartlett
Clement
Clyburn
Dingell
Hastings (FL)
Jones (OH)
LaTourette
Miller, George
Pryce (OH)
Ryan (WI)
Taylor (MS)
Taylor (NC)
Thornberry
Traficant
Watt (NC)

□ 1344

Messrs. KILDEE, RAHALL, ORTIZ, McNULTY, BILIRAKIS and STUPAK changed their vote from "yea" to "nay."

Mr. GILMAN, Ms. SANCHEZ, and Messrs. GREENWOOD, SHAYS, and FORD changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Mr. LANGEVIN. Mr. Speaker, my vote was recorded incorrectly on the motion to recommit on H.R. 476. My vote would be a "no" on the motion to recommit.

The SPEAKER pro tempore (Mr. LINDER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 260, noes 161, not voting 13, as follows:

[Roll No. 97]

AYES—260

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Bishop
Blunt
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Langevin
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Mascara
Matheson
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—161

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Blagojevich
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Castle
Clay
Clayton
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Engel
Eshoo
Evans
Farr
Fattah
Filner
Foley
Frank
Frost
Gephardt
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kaptur
Kennedy (RI)
Kind (WI)
Kirk
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—13

Barcia
Callahan
Clement
Clyburn
Dingell
Dunn
Hastings (FL)
Jones (OH)
LaTourette
Pryce (OH)
Thornberry
Traficant
Watts (OK)

□ 1354

So the bill was passed.

The result of the vote was announced as above recorded.

Stated for:

Mr. CALLAHAN. Mr. Speaker, on rollcall No. 97, I was unavoidably detained. Had I been present, I would have voted "aye."

Mr. WATTS of Oklahoma. Mr. Speaker, my vote was not recorded on the Child Custody Protection Act, vote No. 97. I ask that the RECORD reflect that had my vote been recorded, I would have voted "aye."

Mr. BARCIA. Mr. Speaker, due to an unavoidable conflict I was unable to cast a vote on rollcall No. 97, question: on passage of H.R. 476, the Child Custody Protection Act. I ask that the RECORD reflect that if I were able to cast my vote it would have been "aye."

Ms. KILPATRICK. Mr. Speaker, I inadvertently voted "yea" on final passage of the Child Custody Protection Act (rollcall vote 97) when I meant to vote "no."

THE JOURNAL

The SPEAKER pro tempore (Mr. LINDER). Pursuant to clause 8 of rule XX, the pending business is the question on agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KENNEDY of Minnesota. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 361, noes 51, not voting 22, as follows:

[Roll No. 98]

AYES—361

Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Castle
Chabot
Chambliss
Clay
Coble
Collins
Combest
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler

Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stark
Stearns
Stenholm
Stump
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—51

Aderholt
Baird
Blagojevich
Bonior
Borski
Brady (PA)
Brown (FL)
Capuano
Condit
Costello
Crane
DeFazio
Delahunt
English
Filner
Fossella
Green (TX)
Gutknecht
Hefley
Hilliard
Jackson-Lee (TX)
Kennedy (MN)
Kucinich
Larsen (WA)
Lewis (GA)
LoBiondo
McDermott
McNulty
Meek (FL)
Menendez
Miller, George
Moore
Oberstar
Olver
Pallone
Peterson (MN)
Sabo
Schaffer
Schakowsky
Strickland
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Weller
Wicker
Wu

NOT VOTING—22

Abercrombie
Ballenger
Carson (OK)
Clayton
Clement
Clyburn
DeLay
Dingell
Doggett
Frelinghuysen
Greenwood
Hastings (FL)
Jones (OH)
LaTourette
Nethercutt
Pryce (OH)
Rush
Smith (MI)
Solis
Thomas
Thornberry
Traficant

□ 1402

So the Journal was approved.

The result of the vote was announced as above recorded.

□ 1403

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. DOOLEY of California. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 2646 tomorrow.

The form of the motion is as follows:

Mr. DOOLEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 (an Act to provide for the continuation of agricultural programs through fiscal year 2011) be instructed:

(1) to agree to the provisions contained in section 335 of the Senate amendment, relating to agricultural trade with Cuba.

PERMISSION FOR SPEAKER TO POSTPONE FURTHER CONSIDERATION OF MOTION TO INSTRUCT ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that during consideration of the motion to instruct offered by the gentleman from Michigan (Mr. SMITH), the Chair may postpone further consideration of the motion to a time designated by the Speaker.

The SPEAKER pro tempore (Mr LAHOOD). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. SMITH of Michigan. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SMITH of Michigan moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 (an Act to provide for the continuation of agricultural programs through fiscal year 2011) be instructed—

(1) to agree to the provisions contained in section 169(a) of the Senate amendment, relating to payment limitations for commodity programs; and

(2) to insist upon an increase in funding for—

(A) conservation programs, in effect as of January 1, 2002, that are extended by title II of the House bill or title II of the Senate amendment; and

(B) research programs that are amended or established by title VII of the House bill or title VII of the Senate amendment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. SMITH) and the gentleman from Arkansas (Mr. BERRY) will be recognized for 30 minutes each.

The Chair will also announce that at 2:45 we will conclude temporarily the business of the House. So if we are not finished, we will come back to it.

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent to yield half of my time to the gentleman from Michigan (Mr. BONIOR) for purposes of control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SMITH of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are talking about this afternoon is should we have payment limitations on farm subsidy programs. We have a situation in law now that allows a loophole so there are no payment limitations in terms of price support programs. Just to be somewhat specific, we have loan deficiency payments, we have marketing loans, and there are limits on those marketing loans and those LDPs, loan deficiency payments.

However, once that maximum is reached, there is a loophole. There is an end run that can be achieved by farmers, and that is through the nonrecourse loan where they can either forfeit the nonrecourse loan where they give the government possession of that particular crop and they keep the money. The money they keep is exactly the same subsidy benefit as they would have achieved through a marketing loan or a loan deficiency payment.

So what we have ended up with is many farmers getting millions of dollars in payments, and let me say why I think this is so important that we have some limit on these payments. This is doing farmers ill-will throughout the United States. We have had a lot of publicity on these millionaire farmers getting all of this money from government subsidy programs. We have had all of this publicity on landowners getting subsidy payments, sometimes in the millions of dollars; and not only does that affect what happens to farm programs here at the Federal level, but it also affects the reaction of local municipalities when they are discussing property tax and State laws that might help farmers. There is a negative image because of the publicity and because of the fact that a lot of these huge landowners and megafarms are getting megabucks.

With that, Mr. Speaker, I would strongly suggest that we move ahead and unanimously support this motion to instruct that says we should go ahead with the Senate version of payment limitations in their part A of the bill, and that we should use some of that money for expanding agricultural research programs and increasing conservation programs.

Mr. Speaker, I reserve the balance of my time.

Mr. BERRY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I particularly appreciate one more opportunity to come before this House and talk about the fabulous job that the American farm does every day and has done since the beginning of this great Nation. I am always amazed and surprised at the people that some way or other have gotten the idea that the best way to keep the American farmer down on the farm is to starve him to death.

I hear people come to the floor and talk about millionaire farmers. I see these stories in the paper that talk about all of the payments that these farmers get, and I am intimately familiar with some of these situations. These stories are simply not true. They have payment limits imposed on them, and they comply with the payment limits. In the end what happens is under the current system the American farmer is the most productive, the most incredible production machine that there has ever been in the history of the world.

At the same time, for good reasons I am sure that the Members that are proposing that this amendment be accepted and that this instruction be made, they have good intentions. They mean well. They think that they are doing the right thing. They just simply do not understand what it takes to produce the food and fiber for this country, and a good portion of the rest of the world.

If our farmers are taking advantage of the farm programs as they exist today and as they have been proposed by the House of Representatives in the bill that we passed, if they are doing such a terrible job of taking advantage of the U.S. Government, why are they going broke every day? Why does every farmer in the First Congressional District feel like they are just about to lose everything they have? Why does no one want to get into the business? Why do the children not want to get into the business? The list of things that indicate that American agriculture is threatened and our ability to feed this Nation and to clothe this Nation without importing monstrous amounts of food and fiber, why is that threatened if things are going so well and these farmers are being so well taken care of by the government?

Another problem that I have with this motion to instruct, Mr. Speaker, is that it is an obvious attack on women. It would provide that a woman could only draw a small fraction of what a payment limit is, but a man can draw a lot more. Over four times as much. That is just simply unfair.

I cannot imagine that this House or this Congress would be willing to promote such an idea and take advantage of the great women that have worked right along with their husbands to build American agriculture into what it is today. That is something that I find absolutely offensive, and I cannot believe that we would disenfranchise one more time in this country the American woman that has worked so hard on the family farm.

It creates a situation where a family would be better off if a man and wife were divorced. It would put people in a position where they would have to make that decision. All of these things are part of what is bad about this bill. I urge this House to think about it very carefully.

Mr. Speaker, we talk a lot today about national security. Over and over, every day we hear about national security on this House floor, in the Senate, from the White House. All of the media is full of national security issues. We all are very aware of the problem we have because we have to import too much oil from offshore.

We are in danger of creating that same situation if we allow this motion to instruct to become part of the farm bill. We are creating a situation where the American farmer simply could not have the safety net they need to stay in production in times like this when prices are low, the value of the dollar is so high that they are almost held out of the export market.

Mr. Speaker, I urge Members to vote "no" on this motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Michigan (Mr. SMITH) for raising this important issue today. I appreciate his leadership on this, as well as those who worked very hard on this last fall: the gentleman from Wisconsin (Mr. KIND), the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. BOEHLERT), and the gentleman from Maryland (Mr. GILCHREST).

The problem with this farm bill is that it would reward the largest corporate farmers with $120 billion in Federal handouts; yet it will provide less than a third of that for conservation.

Now, back in 1930, 70 percent of Federal support for agriculture went to conservation because we realized we were losing our topsoil and our prime agricultural land. Today's threats are no less real than when there were dust storms. The threats today of overdevelopment and sprawl are real. In Michigan, we continue to lose 68 square miles of prime agricultural land every year. That is the size of two townships in our State. We are going to lose our agricultural base at this rate. Large unchecked combine animal feeding operations in the southwestern part of our State are raising serious environmental health and safety concerns. Sediment from agriculture is a major source of pathogens and other contaminants in our drinking water.

All we have to do is remember what happened a few years ago in Milwaukee, Wisconsin, where pathogens got into the drinking water; 104 people died in Milwaukee, Wisconsin, as a result of that. The system that we live in in the Great Lakes cannot take it; but it is not too late to turn this around.

We can keep our family farmers in business and protect our water and our wildlife habitat and our environment. Voting for this motion to instruct will begin shifting our priorities and getting us moving in the right direction again. Our motion will take some of the funds from commodity payments and funnel them into conservation programs and research.

If we take this simple step, we could help smaller family farmers keep their land in farming, and we can protect our environment at the same time. We need to put more money into farm land preservation programs. This will help States protect farm lands from overdevelopment. We need to provide financial incentives to finance purchasing development rights so that farmers can afford to keep their lands in agricultural production and not sell off to developers. We need to put funding into the wetlands reserve program to protect wildlife habitat, and ensure that wetlands are there to filter bacteria and pollutants long before they enter our lakes and rivers.

□ 1415

Mr. Speaker, they are the natural barriers of filtration. They are the filtration. We cannot build anything better than what nature gives us. It is in our own economic interest to encourage farmers to set aside these wetlands.

We need to put funding into the environmental quality incentive programs that help us protect our water quality from nitrates and pathogens. In our State, we use 250,000 tons of nitrate a year that run off our farms, into our waters, and cause algae and seaweeds to grow at such a rapid rate that it chokes off our canals, our lakes and our streams. And then we have the problem of pollution and trapping of sewage in our lakes and streams causing closings of businesses. We know the cycle there. Pathogens like cryptosporidium pose a human health risk and even can cause death, as I have mentioned in Milwaukee. So this is very serious stuff.

Providing farmers incentives to reduce their use of nitrates and use alternatives to pesticides are commonsense steps that we can take to protect our water quality and to protect our health. If we do not take these steps, Mr. Speaker, we are going to pay for them later. We will not have enough farmland to grow enough food to feed our population. We will have to increase costs for roads and sewers and police and fire protection in areas where growth and development occur. Our urban cores will continue to lose population and the tax base leading to an inability to fund adequate services.

You can see all of this happening and all of this coming. All you have got to do is open your eyes and look around and see all the big box department stores, the strip malls and the golf courses in our part of the State.

My wife and I did a walk around our district a few years ago. We were out in the country. I have a lot of agriculture in my district, Mr. Speaker, as does the gentleman from Michigan (Mr. SMITH). We stopped by a farmer working in the field just to chat with him. He was eating his lunch. He had an orange in his hand. He took that orange, he had his hand around it, and he said, "See where my thumbnail is around this orange? That's what's left of our prime agricultural land on the planet today." We are losing it an alarming rate. We have got to get back to the conservation, to deal with the basic levels of conservation in order to preserve it for tomorrow.

I want to thank my colleague the gentleman from Michigan (Mr. SMITH) for introducing this motion to instruct. It is a very important motion. The Senate has acted, I think, quite well and honestly in moving in this direction. The House needs to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Michigan. Mr. Speaker, I yield myself 35 seconds.

Let me react to the agricultural leader from Arkansas, that the people that are offering this amendment do not understand farm programs, and I would just suggest, I have been a farmer all my life, a director of the Michigan Farm Bureau. I understand farm programs. To respond to your question why are farmers going broke, it is because Federal agricultural programs encourage more production, and that more production comes from the largest farmers. This amendment helps the smaller farmer. It limits the amount of subsidies that can go to those huge megafarms.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I speak on behalf of the motion to instruct conferees on the section of the farm bill dealing with payment limitations. I commend the objectives of the Grassley amendment in the Senate and I believe we should encourage Members of the House serving on the farm bill conference to accept the language as it was adopted in the Senate version.

The Grassley amendment would place a cap of $275,000 on the amount that could be received in Federal farm support payments in a year. This is in contrast to the House bill and the Senate bill as it was introduced. Both pieces of legislation would have actually increased the cap from the current level of $460,000.

During the previous House debate on the farm bill, I did not support an amendment which dealt with only one aspect of the problem and which would have left the increase in the cap to $550,000 intact. I believe, however, that the comprehensive approach of the Grassley amendment is a more balanced and fair way to address the growing problem.

I have on many occasions commended Chairman COMBEST and Ranking Member STENHOLM for the civil and nonpartisan fashion in which they have conducted their approach to the House farm bill. That has been in sharp contrast to the sometimes bitter process in the other body. However, in this instance, the Grassley amendment was passed with a bipartisan coalition of 66 Senators. I believe the provision would be a positive addition to the final farm bill product and in the best interests of Iowa farmers.

Mr. BERRY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I agree wholeheartedly with the gentleman from Michigan that there should be some reform of payment limitations. I do not think anyone disagrees with that. However, I do rise to oppose the motion.

I would like to point out to the gentleman from Michigan that the House version of the farm bill does increase conservation payments by 80 percent. EQIP, which addresses primarily clean water, clean air standards, is increased by 600 percent, from $200 million to $1.2 billion. Also, research is substantially increased, both versions, the House and the Senate. So I believe that those issues are being addressed.

What I would like to point out is that the House Committee on Agriculture went through a 2-year process in formulating this farm bill. They had 47 hearings all around the country. It was a bipartisan bill. It was passed by a large majority on the House floor, 291–120. The other body, I think, has worked hard but primarily has done a bill within the last couple of months. It has been somewhat of a rushed process, I think most people would agree, and so therefore I am a little bit reluctant to accept the other body's version without careful thought, without making sure we have really understood fully what the circumstances are and what the repercussions might be.

Currently the conferees are working hard. It is a complex issue. I am confident they will reform the payment limitation process. I would like to see them given the opportunity to work through the process. I think this is very important.

The Environmental Working Group and their Web site that oppose the payments that farmers have received I think has led to a great deal of misunderstanding throughout the country. We have seen editorials, we see public opinion and all of these things that seem to be very much against commodity payments. However, I would like to point out that the payments that are posted on those websites do not constitute profit. People see a $500,000 payment and they assume that the person receives a $500,000 profit. Many people that I know who are receiving fairly large payments are still operating in the red. In my area of the country, almost every farmer will tell you that without farm payments, they would go under very quickly. Bankers will tell you that. It is not just farmers. So it is important that this is something that we understand the nature of it. The Web site has been very divisive. We lost 1,000 farmers in the State of Nebraska last year. So if it was such a windfall, it certainly would not reflect in that type of a figure, of 1,000 farmers in a relatively small State populationwise.

I would like to just amplify what the gentleman from Arkansas mentioned earlier, which I think a lot of people do not think about. In the European Union, the average payment to farmers is $300 per acre. I have been to Brazil recently. Many people have who are interested in agriculture. You can buy very good agricultural land, equivalent to what we would pay $3,000 an acre for, for $100 to $500 an acre. The labor cost over there is 50 cents an hour on the average. And so we are asking our farmers to compete with the European Union where the subsidy is $300 per acre, we are asking them to compete with Brazil where the cost of land is very low, they can produce two crops, the topsoil is 50 feet deep and they have no labor cost and no environmental cost. So I am saying that the $38 an acre that we have been paying our farmers is not badly spent.

The last thing I would mention was, I think, in some congruence with what the gentleman from Arkansas was mentioning. That is, that about 15 or 20 years ago, we found that we could buy petroleum from OPEC for $10 a barrel. And so we were glad to oblige them. As a result, we have shipped our petroleum industry overseas. We quit exploring, we shut down much of our production, many of our refineries, and so now we find ourselves all of a sudden almost 60 percent dependent on foreign oil. We are in a situation where everyone realizes that all we have to do is light the tinderbox in the Middle East and we have got a real problem. We can do the same thing to agriculture. We can do it very easily. We can say we are going to just forget about these commodity payments, they are evil, they are large, only rich guys get them. Most of the people that I know are not rich people that are receiving these.

And so I am not arguing that we do not need reform. I agree totally that we do. I am just saying, let us take this thing and think it through. Let it go through the process and let us not just automatically accept the other body's view of what needs to happen because I have great confidence in the conferees that we have working at it right now.

Mr. SMITH of Michigan. Mr. Speaker, I would like to welcome to our Chamber Senator GRASSLEY. He is the sponsor of the Grassley-Dorgan amendment.

Mr. Speaker, I ask unanimous consent that his statement be inserted into the RECORD at this point in the testimony.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman should not refer to the presence of a Senator. House rules do not provide for a Senator's statement to be inserted in the RECORD except as authorized by clause 1 of rule XVII.

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent that the statement be inserted under my name.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SMITH of Michigan. Mr. Speaker, with us is Senator CHUCK GRASSLEY of Iowa, one of the sponsors of the Senate payment limitation amendment. These are his comments during debate on the Senate bill amendments for payment limits to the largest farms.

Mr. President, I stand before you today to offer one the most important amendments for the family farmer we have ever considered. There have been a number of important amendments already considered during the farm bill debate, and a couple have been adopted, but if we are truly sincere about improving this farm bill for the family farmer we have a golden opportunity in front of us right now.

The farm bill reported by the Senate Agriculture Committee fails to adequately target assistance to family farmers and will disproportionately benefit our nation's largest farms. In fact, this farm bill unnecessarily increases the payment limitations established in the Freedom to Farm Act which allowed an individual to receive nearly a half million dollars through subsidy payments.

Moreover, the Committee bill fails to address the use of generic commodity certificates which allow farmers to circumvent payment limitations. In recent years, we have heard news reports about large corporate farms receiving millions of dollars in payments through the use of generic certificates. Generic certificates do not benefit family farmers but allow the largest farmers to receive unlimited payments.

I am pleased to join my colleagues, Senators Dorgan, Johnson, Hagel, Lugar, Fitzgerald, Ensign, Durbin, and Wellstone in support of this amendment to establish reasonable payment limitations. Our amendment would more effectively target the assistance provided by this legislation to small and medium-sized family farms.

Senator Dorgan and I have worked together to make this amendment what it is right now. Without Senator Dorgan's efforts we would not have the broad, bi-partisan coalition supporting this amendment we currently enjoy. I know how hard Senator Dorgan has worked in his own caucus to generate support for this vital issue and how crucial his input was in the drafting process and I appreciate his efforts.

With that said, let's talk about the specifics of the amendment. Our amendment would limit direct and counter-cyclical payments to $75,000. It would limit gains from marketing loans and LDPs to $150,000, and generic certificates would be included in this limit. The amendment would also establish a combined payment limitation of $275,000 for a husband and wife.

Americans recognize the importance of the family farmer to our nation and the need to provide an adequate safety net for family farmers. In recent years however, assistance to farmers has come under increasing scrutiny. Critics of farm payments have argued that large corporate farms reap most of the benefits of these payments. This amendment will fix that problem.

In addition, we will apply the savings provided by this limitation against other significant problems our producers currently face plus agriculture research, crop insurance, Beginning Farmer Loans, and food stamps. In fact, we put a large share of the savings in the Food Stamp Program.

This amendment would increase Food Stamp spending by $810 million over ten years. The amendment would improve the current proposal to increase and improve the standard deduction, help provide more assistance to families that pay large portions of their income on rent and utilities and make it easier for more people to participate in food stamp employment and training program by lifting the cap on transportation reimbursements.

Senator Dorgan and I have chosen to spend a significant portion of the savings in this amendment on Food Stamp programs. We feel strongly that these dollars are well spent. For instance, we are trying to help low-income families by not making them choose between eating or paying the heat bill.

I know that this issue is very important for my colleagues from the Northeast, but this is an issue that all senators from seasonally cold weather areas should be concerned. Many low-income families spend large portions of their income on shelter expenses. As families struggle to pay for their housing, they will face problems paying for food, which can have an adverse effect on family members, health and children's development.

My amendment would eventually eliminate the arbitrary cap set on the shelter deduction which currently has the effect of treating some money that a family must spend on housing costs as available to meet its food needs. There isn't anyone that can say that we are not doing the right thing by fixing this problem. Even if the rest of this amendment wasn't as popular as it is, my colleagues should support it because of the inclusion of this provision.

We will also extend eligibility for Loan Deficiency Payments (LDP) to farmers who produce a contract commodity on a farm not covered by a Production Flexibility Contract (PFCC). The Agricultural Risk Protection Act of 2000, which we passed into law last year, furnished LDPs to farmers who produced a 2000 crop contract commodity on a farm not covered by a PFC.

In Iowa there are 6200 farms that do not participate in the farm program. Non-participating farms are classified as farms not enrolled in 1996 at the beginning of the program, or farms that changed hands during the farm bill that were not properly re-enrolled.

Not all of the 6200 non-participating farms will choose to use and benefit from an LDP, but for the family farmers in Iowa who are not in the program, guaranteeing close to $1.78 on corn and $5.26 on soybeans is significant assistance.

With the record low prices Iowa producers have experienced recently, I think that the federal government should do everything it can to keep producers on the farm. This by no means solves all their problems, but it helps and it's something we should have done for these individuals on a permanent basis when we provided a one-year opportunity for participation in the LDP program last year.

In addition, we extend eligibility for LDPs to farmers who have lost beneficial interest in their commodity. We previously passed a similar one-year extension in the Agricultural Risk Protection Act. This is only meant to extend this opportunity until the 1996 farm bill comes to an end.

I would like to commend Senate Roberts for his leadership on this issue. In June, he introduced stand-alone legislation to address this issue and has clearly been the leading advocate on this issue in the Congress.

Mr. President, I will conclude my remarks by stating again that I feel strongly the Agriculture Committee bill fails to effectively address the issue of payment limitations. Therefore, I urge my colleagues to support this amendment which will help to restore public respectability for federal farm assistance by targeting this assistance to those who need it the most.

This amendment has been endorsed by 35 groups. That list includes the California Institute for Rural Studies, California Sustainable Agriculture Working Group, Center for Rural Affairs, Church Women United (NYS), Community Alliance with Family Farmers (CA), Community Food Security Coalition, Environmental Working Group, Evangelical Lutheran Church in America, Illinois Stewardship Alliance and the Kansas Rural Center.

Land Stewardship Project (based in Minnesota), Michael Fields Agricultural Institute (WI), Michigan Agricultural Stewardship Association, Michigan Integrated Food and Farming Systems, Minnesota Project, National Family Farm Coalition, National Farmers Union, National Grange, National Campaign for Sustainable Agriculture and the National Catholic Rural Life Conference.

NOFA—NY, North Dakota Council of Churches (Rural Life Committee), Northern Plains Sustainable Agriculture Society, Ohio Citizen Action, Ohio Ecological Farm and Food Association, Rural Advancement Foundation International (USA), Rural Coalition, Rural Roots (ID), Sustainable Agriculture Coalition and the Union of Concerned Scientists.

United Methodist Church (General Board of Church and Society), Washington Sustainable Food and Farming Network, Washington Tilth Producers, Western Sustainable

Agriculture Working Group, Center on Budget and Policy Priorities, America's Second Harvest, Food Research and Action Center and Bread for the World.

This is no time to be making backroom deals or playing games. This is going to be our one shot at this issue and we all know it. Look at what we have already accomplished on the Feingold/Grassley amendment limiting mandatory arbitration and the Johnson/Grassley amendment banning packer ownership. Senators Feingold and Johnson knew those were important issues to family farmers and helped me to offer amendments in a bipartisan fashion.

It's time to do the right thing again, support payment limitations and support the family farmer. Help Senator Dorgan and I restore integrity to the programs, reduce pressure on rents and land prices, dampen overproduction, raise farm income, and help maintain family farms and the culture that surrounds our rural communities. In addition, we will be funding additional nutrition crop insurance research and development, and ag.

Mr. BONIOR. Mr. Speaker, I also would like to welcome the distinguished gentleman from Iowa whom I had occasion to serve with in this body and appreciate all his good works.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. I appreciate the gentleman's courtesy in allowing me to speak on this motion.

Mr. Speaker, it is hard to imagine anyplace outside of the Beltway where having a subsidy of $275,000 limit is starving people to death. Yes, it is possible that people in this current system are involved with slowly spiraling down into greater and greater debt. Overproduction, my colleague from Michigan talked about that, where we are encouraging people to plant crops, overproduce, driving down the cost and leaving the problem either for the individual to bear the burden or for the taxpayer. There is a better way.

There is the opportunity here with this motion to instruct for us to be able to deal with how we spend the money more wisely. There is no reason that we cannot help producers around the country do things that will make a difference to help them stay in business. It is expensive to be able to comply with water quality, to be able to change some agricultural practices. There are people that are being driven around the country into subdividing farms because of market pressures. We can have money for conservation payments, for purchase of development rights, to be able to help them stay in business.

The current system, with its lavish spending, is not stopping the loss of farms. We just heard in Nebraska, a thousand farms went out of the hands of family farmers. We are having a system now without the limitation that it drives the incentives toward larger and larger activities, more and more overproduction for a few commodities, and then in my State where there are row crops, where there are specialty crops that do not get the help, there are people that are literally bulldozing orchards because they cannot afford to maintain it. This is goofy.

We should go along with this motion to instruct to be able to have the support for the Senate efforts for conservation. Remember, on this floor earlier, my colleague from Wisconsin, there was a broad cross-section, the gentleman from Maryland (Mr. GILCHREST) and others, had a strong showing, there is a strong basis of support for increasing conservation payments, limiting commodity. It narrowly was defeated here. It was passed in the Senate. That is no justification for the conferees to dramatically cut back on conservation payments.

What we are going to face here as we continue to have celebrity farmers from Beverly Hills to Houston to Denver in the last 5 years got over a half billion dollars, we can crank down on that. We have the wherewithal to be able to limit payments to families. We do not have to be discriminating against one sex or the other. We can make sure that we are going to be able to have the help to the people who need it the most. But $17.1 billion for conservation programs means that people are going to be lining up, they are not going to get the money that they want, we are still going to lose family farms, and the taxpayer will pay the bill.

Mr. SMITH of Michigan. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding time. It is interesting to hear this debate, to hear the other side say, "Well, nobody's getting payments over $275,000. That's just a myth. That's just something we hear out there that's in the press. Nobody really does that."

If that is the case, then why oppose this motion? I commend the gentleman for bringing it forward. In my view, we ought to get back to the Freedom to Farm Act of 1996. We ought to be moving in the other direction. That is my position. But this motion makes what I believe is an obscene farm bill just a little more palatable. I would urge support of it and encourage the other side, hey, if it is true that nobody is receiving these payments, that if Scottie Pippen who makes $18 million a year posting up for the Portland Trail Blazers is not making another $150,000 digging postholes apparently around his Arkansas farm, if that is not the case, then, hey, support the motion.

□ 1430

It is not going to hurt anybody. But if it is the case, then, by golly, we ought to put a stop to it. With that, I urge support for the motion.

Mr. BERRY. Mr. Speaker, I yield myself 1 minute to respond to the gentleman from Arizona.

This particular motion to instruct would actually help the Scottie Pippens of the world. It would add more money to that program.

I would also add at this particular time, I stand by my statement that the people that support this motion to instruct do not understand agriculture and the high-technology business that it is today. It will be a long time before anybody can positively change my mind on that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, I thank the gentleman from Arkansas for yielding me time.

Mr. Speaker, I rise today to oppose this motion to instruct. This same motion, as a resolution, was voted down by a vote of 238 to 187 simply under a different name. Here we go again.

Our farm families need a new farm bill. I am a member of the Committee on Agriculture. I come from a district in south Arkansas where agriculture is a huge part of our economy, and I can tell you that our farmers need a new farm bill. They do not need it today, they do not need it tomorrow, they needed it last year. And this body in this very Chamber approved a good farm bill last year. Now it is stuck in conference, gutted with amendments that will totally destroy farming in America and farming in Arkansas as we know it today.

We already have payment limits. And for the gentleman that mentioned we need to go back to the days of the Freedom to Farm bill, that is what we are living under now; and we have fewer farm families today than ever before.

It is pretty obvious to me that the majority of those who passed Freedom to Farm simply did not get it; they did not understand farming in rural America. In fact, it should have been renamed, Freedom to Fail, because that is exactly what has happened. We have lost many good farm families because of that so-called Freedom to Farm bill passed back in 1996. It was so horrible, that is why we are here 1 year early trying to pass a new farm bill.

We already have payment limits. Our farm families are also small business owners, and they make decisions based on land, crops, equipment, loans, employees, based on the current payment limits, based on the farm bill. To change those rules for them will require many of them to file bankruptcy, laying off 10 or 12 employees.

I recently was at the annual Watson Fish Fry in Watson, Arkansas; and a gentleman came up to me, a grown man, with tears in his eyes, as he talked to me about how, just that morning, he had filed bankruptcy and laid off 10 employees, eight of whom had been working for him for over 20 years.

Mr. Speaker, we have a farm crisis in America.

I recently called another farm family to tell them I was sorry to learn that they were forced to sell; and when I reached the gentleman, guess where he was? He was at another farm family's auction, and that was the morning after the Senate amendment was put on the farm bill reducing payment limits. And guess what? Overnight the price of farm equipment at auctions dropped 35 percent.

I was not real good at math, and you do not have to be to understand this: our farm families used to get $8.50 a bushel for rice. Today they are getting $1.50. Cotton, it costs them 60 cents to grow it. If they are getting 30 cents today, they are doing good.

Our farmers do not want to be welfare farmers. They do not want to be insurance farmers. They simply need a basic safety net to help them survive when market prices are down and when our government does crazy things like imposing sanctions and embargoes on them.

The sanctions and embargoes against Cuba, that happened the year I was born, 40 years ago. Cuba is still getting rice. They are just not getting it from Arkansas farmers; they are not getting it from American farmers. They are getting it from China. They want to buy our rice. They can get it in 4 days as opposed to a month.

Our government does have a duty and an obligation and a responsibility to these farm families to assist them when market prices are down, when we are using them as a weapon. We have a strong defense in this country, and we need to make it stronger. We have watched what the military might of this country can do in Afghanistan and around the world. When we want to punish someone, let us help them using our military, but let us stop turning our farm families and their crops into a weapon.

The issue of payment limits, let me tell you that if you take a look at it and you hear the talk that, well, we need to reduce payment limits so we will quit overproducing, I cannot believe that anyone would think that we are overproducing in a world where people go to bed every single night hungry. People are starving to death.

We need fair trade. We need to remove sanctions and embargoes. We need to open up these markets. If we do that, we will not be overproducing; and if we do that, the prices will go back up at the market, and these farm families will not need our help. But as long as we stand in their way of doing what they do best, and that is feed America and feed much of the world, then, yes, they need our help, they need a new farm bill. They do not need this motion to instruct.

Mr. BONIOR. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Wisconsin (Mr. KIND), who has been a great leader on this issue.

Mr. KIND. Mr. Speaker, I thank my friend from Michigan for yielding me this time and the leadership he has shown on this issue, as well as my friend, the gentleman from Michigan (Mr. SMITH), for the courage to bring this motion forward.

I along with Representatives BOEHLERT, DINGELL and GILCHREST, helped assemble a coalition last fall, Mr. Speaker, a bipartisan coalition, an urban-suburban-rural coalition, offering to do basically what this motion to instruct suggests, and that is taking a look at the current subsidy program, the income support program that exists in this country, and seeing if there was a way of moving some of the subsidy payments from the biggest of the big producers in this country, the upper 2 percent, over 97 percent of the farmers in this country would not have been affected by the conservation title amendment that many of us offered last fall, and see if we can move some of these limited, precious resources into other areas to benefit all family farmers in all regions of the country.

It did pull up a little bit short. We had 200 votes. Nevertheless, I think it was a strong showing of the need for this type of new approach in agriculture policy.

This motion today is about developing a sensible and sustainable farm policy for all of our family farmers, but also for our communities. This motion is not about attacking family farmers. This motion is not about attacking the women in this country. It is about good economic policy, because right now we are operating under a perverse economic farm policy, one that pays more money to big producers based on how many acres they plant and how much they produce in a certain category of crops.

This distorts the marketplace. This encourages production, not based on market price and what the market can bear, but, rather, based on the government paycheck. And we are seeing this across the country throughout all of our districts.

I still have roughly 10,500 family farms in my congressional district alone in the State of Wisconsin. We have roughly 60,000 family farms in Wisconsin. This motion to instruct would affect 14 farms in my State; and yet, because of the way the farm bills in the past have been produced, where 90 percent of farm bill funding goes to a few producers, producing the, quote-unquote, "right commodity crop," it distorts the marketplace. It encourages overproduction and oversupply, and then a plummeting of commodity prices as we have seen over the last few years, and then either farmers having to file bankruptcy and forced out of business, or for there to be farm relief bills, multi-billion farm relief bills coming before Congress every year to do something about it.

I would submit that a farm policy that only provides income support payment to just 30 percent of the farmers and misses 70 percent of the rest of the producers we have in this country is no safety net at all.

This motion really gets to the fairness issue of what we can do with the limited resources we can devote to help our farmers in this country, but in a fair and equitable manner, so all of our family farms in all regions of the country can participate.

A great State like California, the largest agriculture-producing State in the Nation, and if it was a separate country would be one of the top producing countries in the world in agriculture, gets 3 cents on the dollar because they are not producing the right crop in California.

What would this motion to instruct do? It would take the savings between the 275,000 cap, as we are recommending, from the $550,000 that passed out of the House, and apply those resources in voluntary and incentive-based conservation programs so we can not only provide economic assistance to family farmers who want to participate, but also encourage better watershed management, quality drinking supplies and the protection of wildlife and fish habitat.

Anyone who does not think that sound, sustainable conservation practices should not be a major part of farm policy in the 21st century has not been looking at the type of issues I have seen in regards to quality water issues, which is going to be one of the predominant issues facing this Nation in the next 100 years. There is a way for us to be able to assist in that great endeavor, in that great challenge that we all face.

The other part of the motion would devote resources to important agriculture research programs so we can talk about value added and creating wealth within the agriculture industry, rather than the proposed 40 percent cut in agriculture research spending that is currently being proposed in the conference committee.

So, again, I commend my friend, the gentleman from Michigan (Mr. SMITH); my friend, the gentleman from Michigan (Mr. BONIOR), for offering this motion to instruct; and I would recommend to my colleagues to support this motion and send a message to the conferees that this is the direction we need to move in in farm policy in our Nation.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would announce that the gentleman from Michigan (Mr. SMITH) has 9½ minutes remaining, the gentleman from Michigan (Mr. BONIOR) has 2 minutes remaining, and the gentleman from Arkansas (Mr. BERRY) has 14½ minutes remaining; and that pursuant to the previous order of the

House of today, further proceedings on this motion are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 41 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1711

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. HART) at 5 o'clock and 11 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO H.R. 580, FAIRNESS FOR FOSTER CARE FAMILIES ACT OF 2001

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–412) on the resolution (H. Res. 390) providing for consideration of the Senate amendment to the bill (H.R. 586) to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. BACA. Madam Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct the conferees on H.R. 2646. The form of the motion is as follows:

Mr. BACA moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 2646, an Act to provide for continuation of agricultural programs through fiscal year 2011, be instructed to agree to provisions contained in section 452 of the Senate amendment, relating to restoration of benefits to children, legal immigrants who work, refugees, and the disabled.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

The SPEAKER pro tempore. The pending business is the further consideration of the motion to instruct conferees on the bill, H.R. 2646, offered by the gentleman from Michigan (Mr. SMITH).

The Clerk will rereport the motion.

The Clerk read as follows:

> Mr. SMITH of Michigan moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 (an Act to provide for the continuation of agricultural programs through fiscal year 2011) be instructed—
>
> (1) to agree to the provisions contained in section 169(a) of the Senate amendment, relating to payment limitations for commodity programs; and
>
> (2) to insist upon an increase in funding for—
>
> (A) conservation programs, in effect as of January 1, 2002, that are extended by title II of the House bill or title II of the Senate amendment; and
>
> (B) research programs that are amended or established by title VII of the House bill or title VII of the Senate amendment.

The SPEAKER pro tempore. When proceedings were postponed earlier today, the gentleman from Michigan (Mr. SMITH) had 9½ minutes remaining; the gentleman from Arkansas (Mr. BERRY) had 14½ minutes remaining; and the gentleman from Michigan (Mr. BONIOR) had 2 minutes remaining.

Mr. SMITH of Michigan. Madam Speaker, I ask unanimous consent that the time of the gentleman from Michigan (Mr. BONIOR) be returned to my time to be yielded to the gentleman from New York (Mr. HINCHEY) upon his arrival.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1715

Mr. SMITH of Michigan. Madam Speaker, I yield myself such time as I may consume.

Just to review from where we were an hour ago, I think it should be made clear to all of our colleagues and the American public that the purpose of subsidies since the beginning, since back in the 1930s when we tried to make sure that the agricultural industry was going to survive, the purpose has been to protect family farmers. Unfortunately, over the years, we have had programs that made it tough for any farmer to survive, because part of the farm policy in this country has been to encourage a little more production than what we need.

The effect of that increased production a little over and above the current market demand meant that prices tended to stay down. So there was an attempt, of course, to keep those prices somewhat low for consumers and what happened in the evolution and the pressures that were put on farms in the United States over these years was that the small farmer was backed up against the wall, the medium-sized farmer felt like if he added a few more acres, then he might be able to send his kids to the same music lessons and schools and have the same benefits as their country cousins, so that medium-sized farmer said, "Look, well, I'll buy some more land, I'll spend a couple of hours extra a day and try to make it."

What we have done is had programs that encouraged larger and larger farms. That is part of the reason that we have this motion to instruct today, is to give a little greater relative advantage to the smaller farms by, in effect, saying all of your production is going to be eligible for the price support payments that we have in farm programs.

Where the big, larger farms, the very big farms, we are saying, there is going to be a limit to how much of your commodity that you produce that is going to be eligible for this price protection. Therefore, it is going to have the effect on these larger farmers to think twice about what the market price is going to be if there is no support subsidy price.

The gentleman from Arkansas (Mr. BERRY) and I, we both want to have a situation where we expand markets, where we have better farm prices and hopefully the kind of farm prices that the support payments that are guaranteed in this farm bill will not even be applicable because that is what we are looking at, is better farm commodity prices to keep more farmers in business.

Unfortunately, today about 82 percent of all of our farm subsidies go to just 17 percent of the farms. By providing unlimited subsidies, we have encouraged huge corporate farm operations to get bigger and bigger, squeezing out family farmers. With this we have encouraged excess production that has tended to reduce prices paid to farmers.

That is why I think it is so important that we have some kind of price limit, that somehow, someway, someplace, whether it is a limit of $275,000 as suggested by the Senate or maybe a half a million, but it is bad for farmers, it is bad for the support they get from the American people to have these exorbitant millions of dollars given to some of these megafarm operations.

Madam Speaker, I reserve the balance of my time.

Mr. BERRY. Madam Speaker, I yield myself such time as I may consume. Once again, I want to say how much I appreciate the opportunity to stand before this House and proclaim what a wonderful job and what an extraordinary thing the American farmer is. I know the gentleman from Michigan is a good fellow. I know he means well. He does not intend to hurt anyone. And I have great respect for him. Unfortunately, I would have to say that he just simply does not understand the food production system in this country and as hard as I have tried to explain it, we still seem to be hung up on this issue.

Let me just tell you what would happen if this motion to instruct were honored by the conferees. We would resurrect the marriage penalty, something we did away with last year. A divorced couple would be eligible for $175,000 more in government subsidies than a married couple. It discriminates against women. It disenfranchises women. Women would get one-fifth of what a man gets when they qualify for farm programs. There is nothing right about that. But one of the worst things it would do, and I cannot imagine that the people that wrote this really knew what they were doing when they wrote it, it would basically impose the death tax.

POINT OF ORDER

Mr. SMITH of Michigan. Point of order, Madam Speaker.

The SPEAKER pro tempore (Ms. HART). The gentleman will state his point of order.

Mr. SMITH of Michigan. Was that a derogatory remark towards the Senators that wrote this language in the farm bill and is that appropriate in the Chamber?

The SPEAKER pro tempore. Members are reminded not to make improper references to the Senate.

Mr. BERRY. Madam Speaker, if I may reclaim my time, I do not remember saying anything about the Senate.

But having dealt with that issue, it resurrects the death tax. In the First Congressional District of Arkansas, people work hard. They save their money. They try to accumulate a small farm. They are able to do that in some cases, and they have been able to do it in the past 60 to 70 years because we had a good, strong farm program. And they pass it on to their widow. That land takes care of that widow until she is gone from this earth. If this motion to instruct were honored by the conferees, we would lose that ability for the widow to benefit from farm programs, because they would not be eligible anymore the way this is written. That is the reason I question the way it was written.

It has been said over and over today that these farm programs cause overproduction. I would try to explain one more time the only reason we need to have farm programs and a safety net for our farmers in this country is to ensure the adequate production of food and fiber so that the American people do not have to depend on production offshore to get enough to eat. If this program is so bad, why do we not have a great accumulation?

We do not have overproduction today. I would also make the point to have enough to eat, you have to have too much, because there is no way to gauge accurately how much crop to plant so that you produce exactly so much that the American people have enough and that they have a reasonably priced food supply and a safe food supply.

What the people that support this motion to instruct do not understand is, if this were allowed to stand, if the conferees accepted this, it would be a dramatic move toward bad conservation, it would cause even more consolidation. The consolidation of American agriculture has not been driven by farm programs. It has been driven by technology. It just simply does not take as many people to produce a pound of food anymore than it did 50 years ago. That has changed. It takes a lot more equipment. It takes more expensive equipment. That is what is driving the consolidation of American agriculture.

We have heard people talk today about how bad conservation needs to be dealt with, and I agree with that. But the fact is poor folks have poor ways. When our farmers are nearly broke, they cannot take the necessary conservation measures that they would like to take and that they know they need to take in some cases.

They are forced to take bad shortcuts. They are forced to do things that they do not even want to do in an attempt to be an efficient producer. Over and over again, we have heard that these payment limits that have been talked about so much, and the fact is we have payment limits today. We have had payment limits since 1985. This is not something new. We have complied with those laws all along.

We will comply with whatever law is written and whatever the House and Senate come out with for a farm bill, out of the conference committee with. But the fact is, that has nothing to do with the size of the farms. What we are talking about here is penalizing the most efficient producers in the world, the people that are really, really good at what they do, we are talking about making it much more difficult for them.

We have to have a safety net, as I said, because it is a national security issue to have enough food supply within our own country. If we do not have a safety net in times like this when the value of the dollar is so high that it takes American producers out of the market through no fault of their own, it is not because of overproduction. It is because the value of the dollar is so high that you can go to Argentina or Brazil and buy half, again, as much product as you can in the U.S. for the same amount of money.

When our farmers are caught in that situation, they have to be protected. This is the only way we have of doing that. That is why we need a farm bill. That is why you have to have payment limits set at least high enough so that you can have an economically viable unit and so that that producer can be economically efficient enough to be the provider of the cheapest food and fiber supply in the history of the world.

I would also point out that if this motion to instruct conferees were passed, it would ignore that there is a lot more to farming and to being a successful farmer and a successful producer than just sitting on a tractor. It would be denying benefits to farmers who may not labor but handle finances and risk management. It would create a situation where it would be very difficult for some of our producers because they do not spend all their time in the field. It would put in question almost any producer. I think one thing that has been missed by the upper Midwest is that the rules that this would put in place for many producers of corn and soybeans in the Midwest, especially the ones that use no-till technology, would not even qualify themselves if they were required to put in a thousand hours before they were eligible.

Many of those producers that this bill is intended to help very likely would not qualify under these rules. I think that they need to be studied much more carefully before we even think about adopting these.

There are many things that have been said that just simply are inaccurate. I would go back to my original statement. The people that support this motion to instruct simply do not understand the food and fiber production system in this country, and they certainly do not appreciate the incredible productivity of the American farmer.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of Michigan. Madam Speaker, I yield myself such time as I may consume. Let me just say that a Senate that quite often is partisan in trying to come to agreement overwhelmingly supported this idea of some kind of a payment limitation. The gentleman from the other side of the aisle suggests that this kind of a limitation hurts a lot of the hard-working family farmers. Let me just report to you the following information that comes from the Congressional Research Service, prepared by Jasper Womach, Agricultural Policy Specialist. The report calculates how many acres of the different commodity crops would have to have been grown to reach the $150,000 limit that we put in this suggestion of instructing conferees.

Allow me to go down through them. Wheat based on the price of wheat last year, you would have to exceed 60,000 acres of wheat. Corn, it would take over 27,000 acres of corn to get close to the $150,000 limit. Soybeans, it would take over 5,000 acres of soybeans to get close to the $150,000 limit.

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Cotton, it would take 11,000 acres of cotton to reach the $150,000 limit. Rice, it would take over 2,600 acres of rice to reach the $150,000 limit.

Let me stress this: whether it is 27,000 acres of corn or whether it is 2,600 acres of rice, we are dealing with an average commercial farm operation in the United States of 460 acres. So I think suggesting that this measure has a limit or cap on anyone except the very, very large farmer is not being fair in terms of communicating what this legislation does.

Let me just suggest that you may have heard from some of the big international commodity traders or farm groups in opposition to this idea; but make no mistake about it, they do not speak for the majority of farmers and ranchers in the United States. Here is how I would back up that statement.

Last year, 27 of the Nation's land grant colleges from all of the Nation's regions came together to poll their farmers and ranchers on their opinion of the farm bill. On the issue of farm payment caps there was enormous consensus, and that was, nationwide, 81 percent of the farmers and ranchers agreed that farm income support payments should be limited and targeted more to the small farms.

With that, Madam Speaker, I will reserve the balance of my time for a comment or reaction from the gentleman from Arkansas.

Mr. BERRY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as I have already said repeatedly this afternoon, we already have limits. No one disagrees with that. I guess what we are having a problem agreeing on is what defines a small farmer.

I can tell you that when combines cost $250,000 to farmers, when tractors cost anywhere from $100,000 to $250,000, when everything else that we use is in the same price range, it does not make any difference what a group of people that come together and declare that they think there needs to be a limit applied to some of these things, it does not matter whether they think there should be a limit or not. It becomes a matter of economic reality that we have to deal with those high prices of our production input. It does not matter where that takes place, whether it be in the upper Midwest, or in the mid-South, where I come from.

I would also make the point that the numbers that have just been put out here are just a part of the story. I do not think that the $150,000 on loan deficiency payment has been in question. I think it has been in everybody's bill, and I certainly do not have any problem with it. But, as I said, that is only a small part of the story.

I would go back to what I said in the beginning a few minutes ago. To run the risk of disqualifying a widow that very likely is something over 70 years old and disenfranchising her just because she is not physically able anymore to manage her property and she is not going to be able to take advantage of the estate that her husband passed on to her, to run the risk of doing something like that I think is shameful; and I think it is terrible that that was put into this bill that way.

Now, the gentleman from Michigan has said that there is no question in his mind that everybody that was involved in this knew what they were doing, and I will take him at his word. I would make the point that if you look at the entire bill, what this limit really does in California, a cotton farmer would hit the limit at 355 acres. In Georgia, a cotton farmer would hit the limit with 682 acres. So that is a considerable difference from the numbers from the CRS that were just put out a few minutes ago.

I also think that we cannot stress enough the fact that this particular motion to instruct and the amendment that it supports disenfranchises women. I have never understood, I still do not understand, I do not think I will ever understand, why we would treat women differently under a farm bill than we do men.

I can tell you that until the time when I came to Washington, D.C., my wife and I were full partners in my family farm. She was every bit as much responsible for any degree of success that we had. She worked just as hard as I did, and she was not entitled to anything.

Now, this bill corrects that a little bit, makes it so she is entitled to one-fifth of what I would be entitled to. But why would we want to intentionally disenfranchise women and create a situation where the widows in farm country that were left with a nice farm to help take care of them the rest of their days and have a decent standard of living would be disenfranchised to the point where they would lose the benefits that helped them have a decent standard of living? I just simply do not understand why we would want to do that.

I would also once again emphasize that the whole purpose of a farm bill and a safety net for our agriculture producers is to ensure that we have adequate production and processing capacity in this country, to be sure that we are able to feed ourselves for a reasonable portion of our disposable income. That is an incredibly important part of our national security.

Over and over and over again we stand on this floor and belabor the point that we have not taken care of business as far as our energy supply is concerned, and I hear them talk about overproduction and I hear them talking about big farmers taking advantage and big farmers getting too much.

We are talking about doing something in a farm bill that would severely damage the most incredibly successful production system that has ever existed in the history of the world. The United States farmer, the American farmer, has done the greatest job of producing a commodity of any industry that has ever existed, and very likely ever will exist; and we are talking about a system that has worked, a system that has served the American people so well. In my part of the country they have a saying, "If it ain't broke, don't fix it." Well, this ain't broke, and it does not need to be fixed.

I agree, there should be limits; but they should be set at a level where our producers can have an economically viable unit, and where they can have the opportunity to be successful and to do so well what they do best.

Mr. SMITH of Michigan. Madam Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore (Ms. HART). The gentleman from Michigan has 5 minutes remaining.

Mr. SMITH of Michigan. Madam Speaker, I would like to correct the gentleman from Arkansas when he states that this proposal limits the participation of retired farmers or retired farmers' spouses or widows of retired farmers. The Senate proposal provides exemptions. For example, retired farmers and widows of farmers can have their labor and management requirements met by a relative. If you have additional sons or relatives on the farm, if they are actively participating, they are also eligible for the $150,000.

I think we should remind everybody that up until the last 2 years, the limit on LDPs and marketing loans was $75,000. The year before last, because prices were so low, we upped that to $150,000. We are facing a situation now where when we passed this bill through the House, unfortunately, in the bill we passed through the House it was stated that there were limits on commodity loan payments, marketing loan payments.

Technically that is true, but it is not totally honest, as I pointed out, because there was a loophole, and the loophole was the ability of farmers to use certificates and forfeitures.

So they went and got a non-recourse loan. They were given the lending money. They gave title of that commodity to the government. Then, if they wanted the same benefits as a loan deficiency payment or a marketing loan, they simply kept the money and told the government to keep the commodity.

Moreover, this bill fails to address the use of generic commodity certificates that I think are so important, and that is why we are suggesting to this body that we look very closely at closing this loophole and not hoodwinking the individuals and people that might think there is some kind of a limit simply because there is a limit on part of that price support payment.

Farmers are going broke. We need help to the smaller family-sized farms. When I say smaller family-sized farms, maybe it is 1,000, 2,000, 5,000, 10,000 acres; but it is not the 80,000 acres, it is not the 100,000 acres, where land bearers have these lands, they have tenants, where they can divide up this money. That is why we have these press reports of these enormous amounts of millions of dollars that some of these farmers and farm operations were receiving, is because of that particular loophole.

Madam Speaker, in closing let me say that we often hear that farmers and ranchers are too independent to agree on anything, but on this issue there is remarkable agreement. We have a list of 32 farm and rural-related organizations that have endorsed this effort to instruct conferees, and we are proceeding with a "Dear Colleague" tonight. We will hand it out tomorrow when we vote.

We have to start asking ourself, when is enough enough? How long will the American public put up with programs that send out billions of dollars to the biggest farm entities? All this does is damage our ability to help people we originally intended to help, the small, average, medium-size farms, and even now the larger family-size operations.

Look back at the intent of our first farm bills. We have never intended to subsidize every single acre of every single bushel. We need to move back closer to having the marketplace be part of that decision on how much of what crop a producer produces. So to say to these giant farm operations that we are going to subsidize you at a level that is going to protect however many bushels or pounds that you produce of whatever commodity, then we encourage that additional production.

I say one of the effects of this kind of limitation is to have that big farmer think twice and look at the marketplace, look at the demand, and put some effort into expanding our international markets, expanding our ability to sell our products in foreign lands.

So I would ask, Madam Speaker, that we support this effort to have some kind of a limit on payments. I am so convinced, spending my life in agriculture and as a farmer, that if we continue to have this bad publicity of these huge million-dollar payments, I think we are going to, if you will, jeopardize the future of farm programs.

This bill also says let us make a greater effort in conservation and in agricultural research that can help all farmers.

Madam Speaker, I include the following for the RECORD.

The following table, prepared at your request, shows the number acres it would take to reach $150,000 if LDPs were made based upon actual past marketing loan prices and season average farm prices.

ACRES NEEDED TO RECEIVE $150,000 IN LDP BENEFITS BASED ON SEASON AVERAGE PRICES

Commodity crop year	Average yield (units/acre)	Marketing loan (price $/unit)	Season ave. price ($/unit)	Hypothetical LDP pmt. ($/unit)	Acres for $150,000 in LDPs (acres)
Wheat (bu):					
2001/02 Forecast	40.2	$2.58	$2.80	−$0.22	na
2000/01 Estimate	42.0	2.58	2.62	−0.04	na
1999/00	42.7	2.58	2.48	0.10	35,129
1998/99	43.2	2.58	2.65	−0.07	na
Corn (bu):					
2001/02 Forecast	138.2	1.89	1.90	−0.01	na
2000/01 Estimate	136.9	1.89	1.85	0.04	27,392
1999/00	133.8	1.89	1.82	0.07	16,015
1998/99	134.4	1.89	1.94	−0.05	na
Sorghum (bu):					
2001/02 Forecast	59.9	1.71	1.85	−0.14	na
2000/01 Estimate	60.9	1.71	1.89	−0.18	na
1999/00	69.7	1.74	1.57	0.17	12,659
1998/99	67.3	1.74	1.66	0.08	27,860
Cotton (bu):					
2001/02 Forecast	706	0.5192	0.3140	0.21	1,035
2000/01 Estimate	632	0.5192	0.4980	0.02	11,195
1999/00	607	0.5192	0.4500	0.07	3,571
1998/99	625	0.5192	0.6020	−0.08	na
Rice (cwt):					
2001/02 Forecast	64.29	6.50	4.20	2.30	1,014
2000/01 Estimate	62.81	6.50	5.61	0.89	2,683
1999/00	58.66	6.50	5.93	0.57	4,486
1998/99	56.63	6.50	8.89	−2.39	na
Soybeans (bu):					
2001/02 Forecast	39.6	5.26	4.25	1.01	3,750
2000/01 Estimate	39.6	5.26	4.54	0.72	5,261
1999/00	36.6	5.26	4.63	0.63	6,505
1998/99	38.9	5.26	4.93	0.33	11,685

The calculations in this table assume LDPs are made on the difference between the marketing loan price and season average price. In practice, farmers are able to choose the day to receive the LDP. Years where the season average price is above the marketing loan price, payments are not applicable. Estimated prices are from USDA, World Agricultural Supply and Demand Estimates, April 10, 2002. Forecast prices for 2001/02 are mid-points of forecast price ranges.

Senators Grassley and Dorgan want to help the family farmers! The fact is, so does the Senate. In a body that exhibits a lot of partisan disagreement, the amendment for payment limitations showed a large bi-partisan support! Quotes follow:

"When is enough enough? How long will the American public put up with programs that send out billions of dollars to the biggest farm entities?"—Senator Charles Grassley (R–IA)

"Many of the benefits provided through current ag programs are being funneled to large, non-family agriculture corporations while family farmers are being shortchanged. That's just plain wrong."—Senator Byron Dorgan (D–ND)

"The amendment would remove the loopholes that allow a handful of large farmers to receive unlimited payments . . . without real payment limitation reform, we will continue to weaken the same farmers we claim we want to help."—Senator Chuck Hagel (R–NE)

"This is a modest amendment. I stress 'modest.' . . . there were 98,835 recipients of farm subsidies in Indiana during [1996–2000]. There are 6, out of 98,000, who would be affected by this amendment."—Senator Richard Lugar (R–IN)

"I am very pleased that we were able to pass this important payment limitation amendment."—Senator Tom Daschle (D–SD)

Mr. BEREUTER. Madam Speaker, this Member rises in strong support of the motion to instruct conferees on the issue of payment limitations which the distinguished gentleman from Michigan (Mr. SMITH) has offered.

It is clear that strong payment limitation language would improve the integrity of the farm program payments and help to retain public support for these programs essential to rural areas. Making this change will also help prevent the overwhelming consolidation of farms that has resulted in a decrease in small- and medium-sized family farm operations. The savings achieved from this provision could then be directed to other worthwhile agricultural programs.

A survey conducted by 27 land grant universities found that 81 percent of the agricultural producers across the country supported placing limits on support payments thereby directing dollars to where they are actually intended. Furthermore, a 2001 General Accounting Office report found that in recent years, more than 80 percent of farm payments were made to large- and medium-size farms. In 1999, for instance, 7 percent of the nation's farms—those with gross agricultural sales of $250,000 or more—received about 45 percent of the payments. With Congress facing so many spending priorities, we must demonstrate to our constituents that we are using taxpayers' money more efficiently.

It is important to note that this motion to instruct expresses support for redirecting these funds to agricultural research and conservation. Our choice is clear—we can continue to funnel millions of dollars to some of the wealthiest farms or we can make an investment in the future of agriculture which will benefit all producers and all Americans.

Mr. Speaker, this Member strongly supports the motion to instruct and encourages his colleagues to vote for it.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. SMITH).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SMITH of Michigan. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

BUSH ADMINISTRATION FOREIGN POLICY

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. FRANK. Mr. Speaker, it is becoming sadly clearer that the Bush administration foreign policy consists of a successful military victory in Afghanistan, in a bipartisan fashion, with the military it inherited from Bill Clinton, but a series of muddles, mistakes, and errors elsewhere.

Most recently, we had the administration outrageously both incompetent and insensitive with regard to democratic values with regard to Venezuela. There was a coup in Venezuela against a president for whom I would not have voted and who I would wish would be voted out of office, but the notion that it is okay for America to disregard our supposed commitment to democratic values because we do not like the president who was elected is unfortunate, and it is even worse when it is done in such an incompetent fashion.

Our administration was congratulating the victors in this coup long after it became clear that the coup had not become successful. Someone said in the French revolution that something was not just a crime, but was a blunder. From the standpoint of defending democracy, the Bush administration in Venezuela managed to do both.

I include for the RECORD a very interesting article from the Washington Post of April 16, entitled "U.S. Seen as Weak Patron of Latin Democracy," as well as a very good article on the same day, April 16, from the New York Times by Paul Krugman. They both document the extent to which we both fail to defend our values, and even do that in a wholly incompetent fashion.

The articles referred to are as follows:

[From the New York Times, Apr. 16, 2002]

LOSING LATIN AMERICAN

(By Paul Krugman)

Many people, myself included, would agree that Hugo Chávez is not the president Venezuela needs. He happens, however, to be the president Venezuela elected—freely, fairly and constitutionally. That's why all the democratic nations of the Western Hemisphere, however much they may dislike Mr. Chávez, denounced last week's attempted coup against him.

All the democratic nations, that is, except one.

Here's how the BBC put it: "Far from condemning the ouster of a democratically elected president, U.S. officials blamed the crisis on Mr. Chávez himself," and they were "clearly pleased with the result"—even though the new interim government proceeded to abolish the legislature, the judiciary and the Constitution. They were presumably less pleased when the coup attempt collapsed. The BBC again: "President Chávez's comeback has . . . left Washington looking rather stupid." The national security adviser, Condoleezza Rice, didn't help that impression when, incredibly, she cautioned the restored president to "respect constitutional processes."

Surely the worst thing about this episode is the betrayal of our democratic principles; "of the people, by the people, for the people" isn't supposed to be followed by the words "as long as it suits U.S. interests."

But even viewed as realpolitik, our benign attitude toward Venezuela's coup was remarkably foolish.

It is very much in our interest that Latin America break out of its traditional political cycle, in which crude populism alternated with military dictatorship. Everything that matters to the U.S.—trade, security, drugs, you name it—will be better if we have stable neighbors.

But how can such stability be achieved? In the 1990's there seemed, finally, to be a formula; call it the new world order. Economic reform would end the temptations of populism; political reform would end the risk of dictatorship. And in the 1990's, on their own initiative but with encouragement from the United States, most Latin American nations did indeed embark on a dramatic process of reform both economic and political.

The actual results have been mixed. On the economic side, where hopes were initially highest, things have not gone too well. There are no economic miracles in Latin America, and there have been some notable disasters, Argentina's crisis being the latest. The best you can say is that some of the disaster victims, notably Mexico, seem to have recovered their balance (with a lot of help, one must say, from the Clinton administration) and moved onto a path of steady, but modest, economic growth.

Yet economic disasters have not destabilized the region. Mexico's crisis in 1995, Brazil's crisis in 1999, even Argentina's current crisis did not deliver those countries into the hands either of radicals or of strongmen. The reason is that the political side has gone better than anyone might have expected. Latin America has become a region of democracies—and these democracies seem remarkably robust.

So while the U.S. may have hoped for a new Latin stability based on vibrant prosperity, what it actually got was stability despite economic woes, thanks to democracy. Things could be a lot worse.

Which brings us to Venezuela. Mr. Chávez is a populist in the traditional mold, and his policies have been incompetent and erratic. Yet he was fairly elected, in a region that has come to understand the importance of democratic legitimacy. What did the United States hope to gain from his overthrow? True, he has spouted a lot of anti-American rhetoric, and been a nuisance to our diplomacy. But he is not a serious threat.

Yet there we were, reminding everyone of the bad old days when any would-be right-wing dictator could count on U.S. backing.

As it happens, we aligned ourselves with a peculiarly incompetent set of plotters. Mr. Chávez has alienated a broad spectrum of his people; the demonstrations that led to his brief overthrow began with a general strike by the country's unions. But the short-lived coup-installed government included representatives of big business and the wealthy—full stop. No wonder the coup collapsed.

But even if the coup had succeeded, our behavior would have been very stupid. We had a good thing going—a new hemispheric atmosphere of trust, based on shared democratic values. How could we so casually throw it away?

[From the Washington Post, Apr. 16, 2002]

U.S. SEEN AS WEAK PATRON OF LATIN DEMOCRACY

(By Karen DeYoung)

The Bush administration said yesterday that its policy toward the dizzying events in Venezuela had been fully in tune with the rest of the hemisphere, and that it will continue to work with its Latin American partners to preserve Venezuelan democracy and justice.

"We'll be guided by the Inter-American Democratic Charter," said State Department spokesman Philip Reeker, referring to the Organization of American States' seven-month-old agreement to condemn and investigate the overthrow of any democratically elected OAS member government and, if necessary, suspend the offender's membership.

But much of the rest of the hemisphere saw the administration's response to the last five days in Venezuela in a somewhat different light. In the view of a number of Latin American governments, they were the ones who rose to defend democracy, while the United States came limping along only when it became clear late Saturday that the Friday morning coup against Venezuelan President Hugo Chavez had only temporarily succeeded.

"The United States handled it badly, as is its wont," said a former Mexican official with close ties to the government of President Vicente Fox. U.S. policy, he said, is "multilateralism a la carte and democracy a la carte."

A senior administration official yesterday repeated denials of allegations by Chavez supporters that the United States had encouraged the coup, although he acknowledged that U.S. officials had met with a number of Chavez opponents. "They came here . . . to complain and to inform us and to tell us about the situation," he said. "We said we can't tell you to remove a president or not to remove a president . . . we did not wink, not even wink at anyone."

Few Latin American officials appeared to believe the United States was involved.

But they expressed a rueful lack of surprise at what they saw as the administration's failure, despite President Bush's frequent statements on the importance of hemispheric relations, to publicly oppose it once it happened.

Instead, diplomats concentrated on what the Latin Americans had done themselves, saying they were pleased that the OAS, a plodding, historically powerless body that has long been dominated by Washington, had actually managed to convene an emergency meeting on Saturday, adopt a strong resolution condemning both the coup and the violence that led up to it—apparently instigated by Chavez backers—and dispatch its secretary general on a fact-finding mission to Venezuela.

They were pleased that, despite their near-universal dislike of Chavez, a left-leaning populist who has irritated or worried most of them, they had defended democratic principles that have been so often violated in many of their own countries.

"It's an example of how it should work," said a diplomat who asked not to be named.

As recently as Friday, President Bush hailed the Democratic Charter in the White House's annual Pan-American Day proclamation, calling it an antidote to terror. The charter was approved by the 34 OAS member nations in Lima, Peru, on Sept. 11, the day of the terrorist attacks in New York and Washington. Secretary of State Colin L. Powell attended the gathering, but had to leave early to attend to more pressing matters in Washington.

The charter put more teeth in an earlier OAS democracy declaration signed in Santiago, Chile, in 1991. It was invoked on a number of occasions by President George H.W. Bush, and by President Bill Clinton, when unconstitutional actions threatened the governments of Peru, Paraguay, Guatemala and Ecuador over the last decade. The current Bush administration has referred to the documents as symbols of the democracy that now prevails in all but one nation in the hemisphere, Cuba.

Yet the first time elected governance was interrupted under Bush's watch, his administration punted. Last Friday, South American presidents attending an unrelated meeting in Costa Rica broke off to sign a resolution condemning the apparent coup that had overthrown Chavez that morning and invoking the Inter-American Democratic Charter. As they were composing the document, White House spokesman Ari Fleischer was announcing in Washington that Chavez had provoked the crisis and resigned. "A transitional civilian government has been installed," Fleischer said. "This government has promised early elections." There was no mention of the Democratic Charter.

Most member countries have ambassadors at OAS headquarters here in addition to their envoys to the U.S. government. But while the OAS prepared Friday afternoon to convene an emergency meeting required under the charter, the Bush administration summoned all the hemisphere's bilateral ambassadors to a State Department briefing. According to several participants, Assistant Secretary Otto J. Reich told them the United States did not approve of coups and had not promoted this one, but that Chavez had it coming.

When the OAS meeting began Saturday morning, a Caracas businessman was occupying the presidential palace. Roger Noriega, the U.S. ambassador to the OAS, took the floor to chastise member states for being less concerned about Chavez's anti-democratic behavior over the past 24 months than events of the last 24 hours.

But as the day wore on, Venezuela's new president started taking some anti-democratic actions of his own, dissolving the National Assembly, shutting the Supreme Court and voiding the constitution. Chavez supporters flooded the streets.

"As it started to unravel," a diplomat said, "the United States became less and less eager to try to lead" the debate.

When Sunday morning found Chavez back in power in Caracas, Latin American governments hailed it as a victory for democracy. White House national security adviser Condoleezza Rice told NBC's "Meet the Press" viewers that she hoped Chavez had learned his lesson.

At the State Department, Reeker described the Venezuelan situation as "fluid," and said the administration was continuing to monitor it. The important thing, he said, "is the mission of the OAS. We want the OAS and the Democratic Charter that countries of the region signed up to play an important role in this process."

DOOLITTLE'S RAIDERS REUNION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WILSON of South Carolina. Mr. Speaker, this week marks the 60th anniversary of the famous Tokyo raid conducted by Doolittle's Raiders, highlighted by a reunion of this courageous contingent being held in Columbia, South Carolina. General Woody Randall and hundreds of dedicated volunteers have organized a week-long tribute to our Raider heroes.

The Raiders were assembled in the aftermath of Pearl Harbor, and trained at Columbia Army Airfield by the visionary General Jimmy Doolittle for their courageous service, which was crucial to raise America's shocked wartime spirits. The raid had profound strategic consequences for America's ultimate victory.

South Carolina is especially proud of native son First Lieutenant William G. Farrow of Darlington. Lieutenant Darrow was one of eight members of Doolittle's Raiders who were captured by the Japanese. He endured 6 months of brutal torture and deprivation before being executed at age 25. Lieutenant Farrow's ultimate sacrifice will never be forgotten, and his influence continues with his authorship as a student at the University of South Carolina of "An American Creed for Victory."

As we honor Doolittle's Raiders for their courageous sacrifices for our Nation during World War II, it is my hope that Lieutenant Farrow's patriotic words will inspire all generations of Americans to serve their country with pride and honor.

The document referred to is as follows:

Farrow's Creed

After Raider Lieutenant William Farrow's execution on October 15, 1942, his mother found this list in a trunk belonging to him. President Franklin D. Roosevelt touted the list as an example to the Nation. It was printed in newspapers and church bulletins coast to coast.

MY FUTURE (LATER CALLED "AN AMERICAN'S CREED FOR VICTORY").

First, what are my weaknesses?

(1) Lack of thoroughness and application.

(2) Lack of curiosity.

(3) Softness in driving myself.

(4) Lack of constant diligence.

(5) Lack of seriousness of purpose—sober thought.

(6) Scatter-brained dashing here and there and not getting anything done—spur-of-the-moment stuff.

(7) Letting situations confuse the truth in my mind.

(8) Lack of self-confidence.

(9) Letting people influence my decisions too much. I must weigh my decisions—then act.

(10) Too much frivolity—not enough serious thought.

(11) Lack of clear-cut, decisive thinking.

Second, what must I do to develop myself?

(1) Stay in glowing health—take a good, fast one-hour workout each day.

(2) Search out current, past and future topics on aviation.

(3) Work hard on each day's lessons—shoot for an "A."

(4) Stay close to God—do His will and commandments. He is my friend and protector. Believe in Him—trust in His ways—not in my own confused understanding of the universe.

(5) Do not waste energy or time in fruitless pursuits—learn to act from honest fundamental motives—simplicity in life leads to the fullest living. Order my life—in order, there is achievement, in aimlessness, there is retrogression.

(6) Fear nothing—be it insanity, sickness, failure—always be upright—look the world in the eye.

(7) Keep my mind always clean—allow no evil thoughts to destroy me. My mind is my very own, to think and use just as I do my arms. It was given to me by the Creator to use as I see fit, but to think wrong is to do wrong!

(8) Concentrate! Choose the task to be done, and do it to the best of my ability.

(9) Fear not for the future—build on each day as though the future for me is a certainty. If I die tomorrow, that is too bad, but I will have done today's work!

(10) Never be discouraged over anything! Turn failure into success.

□ 1745

SPECIAL ORDERS

The SPEAKER pro tempore (Ms. HART). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SUPREME COURT RULING THREATENS OUR CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. JEFF MILLER) is recognized for 5 minutes.

Mr. JEFF MILLER of Florida. Madam Speaker, 20 years ago, the Supreme Court recognized the compelling State and national interest in protecting American children, declaring that child pornography is barred from first amendment protection. Since that time, Congress has worked consistently to protect against the exploitation of our children, a charge that has become increasingly difficult in the computer age.

Yesterday, the court struck down Congress's attempt at a legislative crackdown against computer-age child pornography, calling it a threat to free speech. Justice Kennedy's broad language sends a disturbing message. The high court in our land apparently places a higher premium on the expression of pedophiles than on ensuring the psychological, emotional, and mental health of our country's children and society as a whole.

Child pornography is a highly organized, multi-million dollar industry in this country, involving the exploitation of thousands of children and youth in the production and distribution of pornographic materials. In 1996, Congress addressed the mushroom effect of high-tech kiddie porn by passing the Child Pornography Prevention Act. The law broadened the scope of the definition of child pornography to include computer-generated issues. Computers are increasingly being used to alter innocent pictures of children to create visuals of those children engaging in sexual conduct. This type of child pornography invades the child's privacy and reputational interests. Images that are created showing a child's face on a body engaging in sexually explicit conduct can haunt the minor for years.

As articulated by the court's dissenters, The Child Pornography Prevention Act prohibition of virtual child pornography was tailored narrowly enough to pass constitutional muster. It is clear that the Act merely extends existing prohibitions on child pornography to a class of computer-generated pictures that may be easily mistaken for actual photographs of real children. Yesterday, the court turned its back on its long-standing recognition of the government's compelling interest in protecting American children. That interest is promoted by Congress's efforts to ban virtual child pornography. Such images whet the appetites of child molesters who may use the images to seduce young children.

Anger to children who are seduced and molested with the aid of child sex pictures is just as great when the child pornographer or child molester uses visuals of child sexual activity produced wholly or in part by electronic or computer means, as when molesters use images of actual children engaging in sexually explicit conduct.

Despite the Supreme Court's decision, Congress is not required to, nor will it wait, on harm to our children before legislating against it. I echo Attorney General John Ashcroft's disappointment in the ruling and that child pornographers and pedophiles can find little refuge in the court's decision. Ensuring enforceability of our American child pornography laws is indeed a compelling one, and the Child Pornography Prevention Act is an important tool in fighting child sexual abuse.

We will continue to fight to ban expression which is used by sex abusers to act in deviance with children and which desensitizes the offenders themselves to the pathology of sexual abuse and exploitation of children. The First Amendment does not protect the panderer.

OPPOSING THE ADMINISTRATION'S PROPOSED WORK REQUIREMENTS UNDER TANF REAUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON of California. Madam Speaker, I rise to strongly oppose the President and Republican leadership proposals for TANF reauthorization. On February 26, the administration announced an agenda for welfare reform to strengthen families and help more recipients work towards independence and self reliance. In keeping with the principles outlined by President Bush, the gentleman from California (Mr. HERGER), chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, introduced H.R. 4090, the Personal Responsibility, Work, and Family Promotion Act of 2002 on April 9. On that same day, the gentleman from California (Mr. MCKEON), chairman of the Subcommittee on 21st Century competitiveness of the Committee on Education and the Workforce, introduced H.R. 4092, the Working Towards Independence Act.

Let it be known, Madam Speaker, none of these proposals will strengthen families, move families towards self reliance and independence, or reduce poverty. To the contrary, the proposed changes to welfare will erode the successes of the past and severely limit the States' flexibility.

The Republican bills, while largely similar in most respects, promote increased work requirements, introduce an acceleration in the number of families in specified work activities, and devote $300 million a year to marriage and family formation. The problem with these proposals is that States are expected to make sweeping changes to their programs and move more welfare recipients into work with the current level of funding. Flat level funding will erode the States' ability to provide services such as child care, transportation, vocational training, skills, and barrier assessments, all of the important ingredients of work promotion, poverty reduction, and self-sufficiency.

Recent analyses have indicated that these proposals will cost the States $15 billion over the next 5 years. Any plan must avoid imposing unfunded costs upon the States that could lead them, shift resources away from low-income working families in order to finance new requirements.

Furthermore, 41 governors from the States, both Republican and Democratic, have voiced their concerns about the fundamental changes proposed in these bills. A new 40-hour work requirement would be an enormous burden on the States, and the new rules would be far too rigid. These proposals decrease State flexibility, one of the champion successes of the past legislation that enabled States to move families off of welfare.

In addition to these concerns, the 40-hour work week is counterproductive and makes no sense, given the rules and limited flexibility. If TANF participants work off their benefits in a work fair or community service job, and if their job is valued or paid at State minimum wage rates, these individuals would earn their benefit in fewer hours than the required 24 hours.

Let me give my colleagues an example. In California, my constituents would work off their benefits in just 19.3 hours in a work fair or community service job. These individuals would then face noncompliance and sanctions. This is true in 26 other States as well. If, on the other hand, a welfare recipient finds an unsubsidized job at a minimum wage, they would earn too much money to qualify for the benefits and would move into a class of the working poor. The proposals really do not add up.

In addition to this dilemma, the proposals do not account for the large number of families needing child care or transportation in order to work. By demanding increased work requirements and an acceleration in the number of families in specified work activities, the demands for child care and transportation will only increase. Flat level funding will not suffice.

The need, in closing, for child care has increased by 21 percent over the past few years.

Madam Speaker, we need to relook at these proposals, for they simply do not add up.

UNITED STATES SHOULD STAND WITH ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I rise today in support of our friend and ally, Israel, for celebrating the 54th Independence Day for the State of Israel. It is important at this time that we stand with our friend and ally, Israel.

There is a famous story that Davy Crockett told. It is in the book "Three Roads to the Alamo." Davy Crockett got into an argument and then there was a brawl afterwards. One of his friends did not help him out and Davy Crockett got kind of beaten up in the brawl. He asked his friend afterwards, how come you did not help me? His friend said, well, it was really controversial and it was kind of a difficult decision, and I was not sure if I wanted to back you up. He said, hey, you do not need friends when everybody is in agreement with you. You do not need friends when everybody thinks what you are doing is wonderful. You need friends when you are in a fight and there is a question over the principles.

We are not the government of Israel. It is a difficult time for Israel. They made some decisions to go after terrorists that were attacking their right to exist, just like we have gone after terrorists that are attacking our right to exist. Whether or not I would have done the completely same methods that Israel has used, I do not know. I think so, but I am not the leader of Israel. Ariel Sharon is the Prime Minister of Israel and the leader of Israel, and I believe it is important that we stand with them.

One of the debates when I have been in the Middle East is whether or not Israel has displaced the Palestinians. Any student of history, even somebody who has not focused on history, realizes that there has been a conflict, basically, an eternal conflict over who was where. But when the Jews were dispersed around the world and others moved in does not mean that when the Nation of Israel was created in 1948, that suddenly the people who were displaced at that point had any more of a legitimate claim, even in a secular way, than the people who were moved out and dispersed before that.

It is important that we recognize that that is an independent state of

Israel. When we met with Dr. Arakat and the Palestinians in Jericho, Dr. Arakat was promoting that they needed a contiguous state, a Palestinian state. Part of the argument that I had was why should we trust you when you still have it in your Constitution that Israel does not have the right to exist. Conflict erupted, verbal conflict in the meeting, because he said that that was not politically possible. But why should Israel trust the words of the Palestinian Authority if they do not grant their right to exist?

Part of the problem is, as we have seen multiple times there, when we pushed and western powers pushed Israel to back off the Golan Heights, people can look right down on Israeli citizens and shoot down on them that the reason that they cannot have a contiguous state is that there is not much water in that area.

□ 1800

The reason they cannot have a contiguous state is there is not much water in that area. They have water pipes going through. If those things are controlled by people committed to their destruction, they cannot exist as a state.

Furthermore, we have a longtime moral and secular argument about whose capital Jerusalem is. It is a shrine to many nations. We have some conflicts that are not easily reconciled. Israel, unless they have the flexibility to take out the terrorists, will not exist as an independent state. So we can commemorate the independence of Israel, but unless they can make sure they have a water supply that comes, unless they make sure people are not shooting down on them from the heights, people who can hide in terrorist camps, they cannot exist and have an independent state.

Furthermore, we have a lot of whining about how Israel treats the Palestinians. It is tough. Quite frankly, I might handle some of these things slightly differently. But we know this for a fact, Palestinians can become citizens in Israel. They can vote in Israel, in the Israeli elections. They can own property in Israel.

But when we go to the Arab countries around Israel, they treat the Palestinians like dirt. They cannot own land. They cannot vote. They are a homeless people. They only want to put the Palestinians in the Israeli territory, but they will not give any flexibility to these poor people in their countries. Why is it totally Israel's burden to give up their land to make themselves unsafe because Jordan, Kuwait, Bahrain, Saudi Arabia, and Syria do not want the Palestinians in their country?

These borders have been fungible for thousands of years. To argue that the Palestinians' border should be precisely right here, the Arab countries need to show some real concern; not just lip service on what Israel's obligation is to the Palestinians, but what their own obligations are to help these poor homeless people.

The big conflicts in the Middle East are not going to be between Israel and the Palestinians. There are other conflicts far broader with bigger countries. Israel clearly needs to come to peace with their Palestinian neighbors. They have much more, and long-term, in common than they do with Iran and Iraq, and other greater sources of conflict in that region.

But ultimately, Israel must have the right to exist. People have to be able to go to a bar mitzvah, to a pizza place, to move around in a shopping center, to go to the synagogue, without being in fear of being terrorized and blown up. They have to be able to live in their houses without people shooting down on them from the mountains, or from planes overhead.

It is important on this Independence Day that we show courage and stand with our friend and ally, Israel, as they stood with us.

THE IMPORTANCE OF SOCIAL SECURITY TO ALL AMERICANS, AND ESPECIALLY TO WOMEN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from California (Ms. MILLENDER-McDONALD) is recognized for 60 minutes as the designee of the minority leader.

Ms. MILLENDER-McDONALD. Madam Speaker, tonight many of the Democratic women come to the floor to speak on issues that were raised during the recess when we visited with the women members and women constituents in our districts.

Because I represent the caucus chair on the Democratic side, I have been asked to speak at a lot of organizations to talk about where we are going in terms of Social Security. Madam Speaker, tonight we will try to see whether we can find some sense of where Social Security is going, and in fact speak about the vital importance of Social Security to all Americans, but especially women and minorities and persons who suffer from disability.

At the present time, it is a lightning rod here in the House, and it incites strong responses. That is what the women across this Nation are asking. We recognize that the administration and the majority here in this House have proposed to privatize Social Security, which has created a firestorm of controversy. This proposal, if enacted, would create the possibility of individuals to invest in the stock market through personal accounts.

Now, women whom I have spoken with certainly say that this will not benefit them at all, and they believe that a proposal such as this is a bad idea, and reckless public policy.

So the Democratic women have grave concerns about the implications of privatizing Social Security for the following reasons: Women constitute the majority of Social Security beneficiaries, equalling approximately 60 percent of the recipients over the age of 65. Roughly 72 percent of beneficiaries above the age of 85 are women. So as a matter of necessity, 27 percent of women over 65 count on Social Security for 90 percent of their income. These are reasons why they cannot see anything that will drive funding from a pot that they perceive will give them the benefits that they sorely need in the event of the death of their husbands.

Privatization of Social Security will be devastating because women earn less than men, and they count upon Social Security's progressive benefit structure to ensure that they have an adequate income upon retirement. Women are also less likely to be covered by an employer-sponsored pension plan. Hence, Social Security makes up a larger portion of their retirement income, and in many instances, it is their only source of income.

So in the context of Social Security, women are also affected by other factors, which include living 6 to 8 years longer than men and having to stretch their retirement savings over a longer period of time. Furthermore, Madam Speaker, women lose an average of 14 years of earnings due to time out from the work force. We recognize what that is: from raising children to taking care of ailing parents. In most cases, a lot of women have to take care of sick husbands.

So because women generally experience a higher incidence of part-time employment, many of them have less of an opportunity to save for retirement, thus relying completely on Social Security to subsist.

There are also some startling economic realities that Americans need to be informed about relative to privatizing Social Security. Privatization would result in a drawdown of over $1.2 trillion from the Social Security and Medicare trust funds over the next 10 years to finance individual accounts, thereby increasing the long-term deficit of Social Security by 25 percent.

Furthermore, privatization efforts will not restore long-term solvency to the trust fund, and will result in reduced benefits for women, the elderly, and minorities who benefit from the progressive structure of the Social Security system. In fact, Madam Speaker, one plan put forward by the President's Commission on Social Security would reduce benefits to all recipients by 46 percent. Benefits for future retirees would be tied to growth in prices, rather than wages.

Now, under this scenario, retirees would not be able to maintain the standard of living in retirement that they earn during their working years. The combined effort of the proposed changes would mean benefit cuts of 30 percent for a worker retiring in 2075.

A very important fact, Madam Speaker, that is not being touted by advocates of privatization is that although investing in individual accounts is voluntary, benefit cuts would apply to everyone. Current reality makes it abundantly clear that it is foolheaded to trust a universal defined benefit and totally portable system to the variances of the stock market.

If we want a glimpse of the future, we need to look no further than the Enron situation to get a glimpse of what might loom on the horizon if we allow Social Security to be privatized.

As Democrats, we believe in supporting and protecting the interests of all American workers. Therefore, we cannot and must not allow privatization to become a reality. We are duty-bound to preserve Social Security into the future. Privatizing Social Security and raiding its trust fund would be unfair and irresponsible.

As leaders of this House and as women representatives of constituents who have so much at stake regarding Social Security, we are compelled to tell Americans the truth about proposals to privatize Social Security.

My colleagues and I will be vigilant in our efforts to raise national awareness about the crisis our Nation will face if we adopt a policy of privatizing Social Security. The women around the country are watching very closely to see what this House does with reference to benefits of Social Security and putting them into, whether it is voluntary or mandatory, privatizing accounts. They recognize that this trust fund was set there for the purpose of making sure that their retirement benefits be given to them, and to allow them to do what they want to do with it.

We can ill afford to speak on behalf of the women of this country, and certainly can ill afford to take their money that they have put in for their benefits and to even suggest that there be individual accounts through a privatized type of system.

Madam Speaker, we all know that women are hamstrung in trying to find the benefits and the financial wherewithal to support themselves upon retirement. To even suggest the privatization of any types of trust funds of Social Security and Medicare would be devastating to women of this country. We will continue to keep them posted, as they will continue to watch us in this House as we move into the realms of reforming Social Security.

I am happy tonight to be joined by women of this House on the Democratic side who will speak tonight on this issue, and to raise the awareness of what is at stake if in fact the trust fund is raided and the Social Security funding is put into any privatization account.

We have with us the gentlewoman from Florida (Mrs. THURMAN), who is a point person and the expert on Social Security. She comes with a wealth of knowledge, and is the leader, with all of us, on the issue of Social Security.

Madam Speaker, I yield to the gentlewoman from Florida (Mrs. THURMAN).

The SPEAKER pro tempore. The Chair will reallocate the balance of the time, approximately 50 minutes, to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Madam Speaker, I thank the gentlewoman for those wonderful remarks, but most of all, I think that we appreciate her leadership on women's issues, and bringing us here together tonight to talk about these important issues.

Madam Speaker, I know the gentlewoman from California talked already about some of the statistics, but I have to say that the thing that we most need to remember is that Social Security is so important, and why is it important. So repeating these statistics I think is probably good for all of us to continue to keep in our minds why we will fight so hard to keep this safety net.

Remember that women rely more on Social Security income than men. About two-thirds of all the women 65 and older get at least half their income from Social Security. For one-third of these women, Social Security makes up 90 percent or more of their income.

Women live longer than men. We all know that women live longer than men, approximately 7 years longer, so fully 72 percent of Social Security recipients over 85 are women, and on average, women over age 85 rely on Social Security, again, for 90 percent of their income.

Traditional Social Security continues to pay benefits as long as the beneficiary is alive. However, in talking about private accounts, women risk exhausting their savings in their most vulnerable years because they are not lifelong.

Women take time out of the work force to care for children and elderly parents. This is a big issue for families. This is not just about women at this point, it is about families, because in fact we take that time out of our work life to care for what we have been asked to do, which is our children and our elderly parents.

So, because of that, we rely more heavily on our husband's Social Security benefits. Over 60 percent of women on Social Security receive spousal benefits, while only 1 percent of men receive such benefits. So, again, listen to this: Over 60 percent of the women on Social Security receive spousal benefits, with only 1 percent of men receiving that same benefit.

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So it is important to preserve the traditional Social Security for women. Unlike private accounts, Social Security is automatically adjusted for inflation, and for women who live longer lives, private accounts run the risk of being worth less due to inflation or devalued accounts.

Let us talk a little bit about privatization. Seems to be what everybody is running from now. There was something in the newspapers today that actually talked about that, and I only bring this up because I think it is important that, there are new polls out and focuses that are designed to prepare for an election year and they are saying you cannot attack, you cannot talk about privatization. So people are running from that.

The fact of the matter is it has been a key cornerstone in many of the discussions that have gone on up here, to the point that there was a commission, a presidential commission, and it was stacked in the favor of those people who believed in privatizing.

I have to say, after what we have seen with the economy over the past year, we do not want our seniors to have to rely on an unstable market for their retirement. With privatization, the potential is too great for retirement savings to vanish in a weak economy.

The President, in his guidelines for the Social Security Commission, stated that any proposal they create must not invest Social Security dollars in the stock market. He also stated that the Social Security payroll taxes must not be increased. However, the President wants people to be able to use a portion of their payroll taxes for investing in stocks.

So what happened? The Commission recommended three options for reforming Social Security. What they all had in common was all three options diverted at least some percentage of payroll tax to private accounts.

Listen to these numbers. Diverting as little as 2 percent of payroll taxes to private accounts, which the Commission recommended as much as 4 percent, would result in a loss to the trust fund, the Social Security trust fund, of $1.1 trillion over 10 years. Diverting just 1 percent, well, does not take much to figure out, would result in a loss of $558 billion over 10 years.

What we need to remember here is that that money is already designated to pay for benefits for future retirees. One option in the Commission's work said, and the Wall Street Journal wrote this, benefit options would be changed in so many ways that grandma's head would spin.

The President's guidelines leave us only one option for supporters of privatizing Social Security, cut senior's Social Security benefits. Today, again, in this very same article that I talked about earlier where there are new polls in focus, we have to promise not to raise the retirement age and pledge not to touch the benefits of current and soon to be retirement. Guess what? In what we have been talking about and what has been the options, the fact of the matter is that is the one way we could do it.

So, one, we have to dip into the trust fund or we have to cut senior Social Security benefits. Why in the face of a recession and the impending retirement of baby boomers would we be taking the money to be paid to future retirees and gamble on it? With lower economic projections and money going to support other important efforts, it becomes even more important to oppose the privatization of Social Security.

Currently, Social Security, as I said, helps women. It helps minorities and it helps the disabled. It would be impossible to protect disability and survivor benefits for these groups in a private account system. Benefits for spouses and children could not be protected in such a system.

So I would also say to my colleagues that there are women across this country, and us in this Congress, who have gathered to do these special order speeches, are not only women against the privatization proposal, but quite frankly, there is a letter that was put out April 9 of 2002 by a group of women, 150 women's organizations signed a letter to Congress against the three privatization options earlier this month, and this was put together by the National Council of Women's Organizations.

Tomorrow, we are going to be doing or trying to make tax cuts permanent. Well, I would just want to say that we should not be spending Social Security on anything other than Social Security. This is something that almost every Member of Congress, Democrats and Republicans, agreed to do last year by overwhelmingly passing the lock box for Social Security and Medicare. Unfortunately, the Social Security trust fund would lose two-thirds of its surpluses under President Bush's budget, and the Congressional Budget Office projects that $740 billion of this money would be used to fund things other than the Social Security benefit, such as what we are going to be talking about tomorrow, which is the tax cuts.

The nonpartisan Center on Budget and Policy Priorities, and I thought this was an interesting piece of information and certainly something to think about, estimates that the size of the tax cut is more than twice as large as the Social Security financing gap. So we could be fixing Social Security by using these resources instead of doing what will probably pass the House tomorrow.

I would just say I think we need to make sure that our seniors continue to remain secure in their retirement. Women who live longer and take more time off from work to care for loved ones would be hurt by the President's privatization proposals.

In summary, I have to say the privatization of Social Security cannot be ignored as an issue of great national concern. The effect privatization would have on women and seniors in general is alarming. Reducing Social Security benefits for women who typically rely more heavily on Social Security than men is not the way to go.

Mr. Speaker, I will be leaving, but I would like to turn the additional part of this hour over to the gentlewoman from California (Ms. WATERS).

The SPEAKER pro tempore (Mr. BROWN of South Carolina). The Chair will reallocate the balance of the time, approximately 40 minutes, to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise tonight to highlight the importance of Social Security. Social Security is important to millions of people, but it is particularly important to women and I think that it is so very, very important that we as women in the Congress of the United States pay very special attention to what is happening to Social Security.

I would like to thank my colleague the gentlewoman from California (Ms. MILLENDER-MCDONALD) for organizing this hour for us to talk about Social Security. It is very important that we talk about it, and particularly because we will have a vote tomorrow to make the tax cuts permanent.

We take Social Security for granted. Many people think, well, it has been there for a long time and it will always be there, and most people know that Americans depend on the fact that Social Security will be there for them in retirement.

The poverty rate for Americans age 65 and older is 1.2 percent. The poverty rate for elderly women is almost 12 percent, nearly double that of men. While this number is tragic, it could be worse. Without Social Security, over half of all women aged 65 and older could be poor. According to the National Women's Law Center, the average monthly benefit for a widow is $775. For about two-thirds of women, this is half of their monthly income. For nearly half of women 85 years of age and older, it is 90 percent of their income.

The reality is that of all the people that Social Security lifts out of poverty, three-fifths are women. Social Security is an extremely important program. On average, women live 5 to 7 years longer than men. In addition, because women are more likely to stay home while raising children, they work less than men and often have smaller pensions and other retirement savings to help them through their twilight years.

Social Security allows these women to live in a secure and comfortable retirement. However, Social Security is on shaky grounds. By 2017, Social Security will begin to pay out more than it takes in. The program will continue its important role for another 24 years after that, until 2041, before it becomes completely empty. Then recipients will only be able to receive 72 percent of their promised benefits or will be subject to either a tax increase or delay of the retirement age.

Despite the obvious importance to women, the Bush administration and the Republican leadership have shown they have no plan to preserve Social Security. In fact, over the next 10 years the Republican budget spends nearly all of the Social Security surplus, completely throwing away any opportunity to strengthen the program.

Despite voting six times to preserve the Social Security surplus, the Republican budget will spend 86 percent of those funds. In January 2001, the Federal Government was expecting a Social Security surplus of over $3 trillion, but today, we are operating on a $1.6 trillion deficit, a reversal of over $4.5 trillion.

The Republican party can no longer be called the party of fiscal discipline. It is obvious that we need an open discussion on the best way that we can return Social Security to firm financial standing.

Lately, the debate has been hidden by smoke, mirrors and budget gimmicks. We cannot protect our seniors if we resort to these budget games. Far too many individuals, men and women, black, white and Hispanic, depend on it to allow them to retire in relative comfort.

The longer we put this off, the more severe the problem and the more difficult it will be to fix.

So I urge my colleagues, both Democrat and Republican alike, but particularly my friends on the opposite side of the aisle, to get real about Social Security and let us talk about how can we make tax cuts permanent and stop this drain, and at the same time, preserve Social Security. It cannot be done and I think we need to face up to it. Now is the time to do it.

Again, we must share with the American public that Social Security is not guaranteed if we continue down the road that we are going. As a matter of fact, it will put many, many people in this country in great jeopardy.

Ms. JACKSON-LEE of Texas. Madam Speaker, I join with my colleagues to emphasize that Social Security must be preserved, and not privatized, for the sake of women and children.

Social Security in America's most comprehensive and important family protection system. It provides not just retired worker benefits, but also important benefits for elderly and surviving spouses as well as for disabled workers and their dependents and the young surviving children of workers who die before retirement.

Several months ago, the President's Commission on Social Security's final report failed to advance the cause of Social Security reform. Of three plans put forward by the Commission, not one achieves the goal to "restore fiscal soundness" set out by the President by closing the gap in the program's solvency over the next 75 years.

Each of the proposals put forward by the Commission require specific, massive cuts in defined benefits—even for those who do not opt for the voluntary accounts. The Commission should consider ways to encourage workers to invest and save more. Unfortunately, this Commission was limited only to the option of investment accounts to be carved-out of the revenue currently earmarked for defined benefits.

Although Social Security is gender neutral, it matters more for women for four reasons:

First, women live longer than men. In 2000, a 65-year old woman was expected to live an additional 19 years, almost four times more that a man of the same age. A longer life expectancy translates into a greater need for retirement resources and more secure sources of income. Social Security provides guaranteed life benefits and full annual cost-of-living adjustments.

Second, women spend fewer hour and fewer years in the paid workforce than men. Although the percentage of women ages 25 to 65 participating in the labor forced increased sharply, women's workforce experiences still differ from men. Women, on the average, accumulate fewer hours of paid employment than men over their lifetimes because they are more likely to hold part-time jobs or more likely to be "contingent" workers. Social Security provides vital protections such as spousal benefits, exspouse benefits and full benefits calculated using only a 35-year work history.

Third, women are paid less than men. According to the U.S. Census Bureau, women earn 72 cents for every dollar that men earn. The situation is even worse for women of color. Half of all year-round, full-time African—American women workers earn less than $25,142 per year, and the median for Latinas was $20,052.

Women are concentrated in low-paying jobs. Roughly 62% of women workers earn less than $25,000/year, compared with less than 42% of men who work. Social Security provides progressive benefits that replace a higher portion of preretirement income for low-income workers.

Fourth, women are more likely to be widowed than men. Longer life expectancy, combined with the fact that women, on average, marry older men, means that most women die unmarried. More than one-half of women ages 65 and older are unmarried. Three-fourths of unmarried Americans ages 65 and older are women. And four in five nonmarried older women are widowed. Social Security is the one source of retirement income that guarantees benefits to widows. The elderly survivor program is especially important to women.

We cannot jeopardize the solvency of Social Security because a strong Social Security is critical for older women. Today, 60 percent of all Social Security recipients are women. Of recipients over age 85, nearly three-quarters are women. These women rely on Social Security for nearly 90 percent of their income. Without Social Security, over half of elderly women would be poor. If elderly women cannot rely on Social Security when they retire, they will need greater financial assistance from their middle-aged children.

For elderly people of color and women, the challenges confronting the Social Security system are cause for alarm, because elderly African-American and Hispanics rely on Social Security benefits more then elderly Whites. According to the National Committee to Preserve Social Security and Medicare, from 1994–1998 African-Americans and Hispanics and their spouses relied on Social Security for 44 percent of their income while elderly Whites received 37 percent of total income from Social Security. And, 43 percent of elderly women received their income from Social Security during the period 1994–1998. This fact is important because on average, Social Security payments replace 54 percent of women's lifetime earnings in relation to men, coupled with the fact that women tend to live longer than men, which results in us receiving more benefits for a longer period of time.

Today, Social Security works in ways that are important to women because of their different life experiences. The administration's proposals threaten the guarantees that make the current Social Security system so beneficial for women. We must work together to protect the future of women and children.

Ms. WATERS. Mr. Speaker, I yield back the balance of my time.

ENERGY INDEPENDENCE FOR THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise today to talk about the important issue of energy independence for the United States.

We have seen very clearly since the developments of 9/11 that we have significant foreign policy complications emerging from the development of Muslim fundamentalists, extremist violence in the Middle East, and of course, we have seen the tremendous tensions that have been raised in recent months within the area of Israel and Palestine and the tremendous conflicts, and in particular, the very, very difficult situation of the suicide bombers who are blowing themselves up in cafes and restaurants and killing innocent men, women and children, in many instances, leaving often dozens of people severely maimed and deformed.

What is particularly disturbing is to read news reports that one of our supposed allies in the region, Saudi Arabia, has actually been paying the families of these suicide bombers, essentially aiding and abetting the commission of these horrific acts of violence against innocent civilians by these suicide bombers.

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Mr. Speaker, the situation that exists today is that the United States is dependent on foreign oil for about 50 percent of our energy requirements. I believe for us as a Nation that is an intolerable situation and that we need to take stock of this.

The President put forward a very positive proposal to open up for drilling the Arctic National Wildlife Refuge and pursue a host of additional reforms that we passed out of this House and the other body is taking up, and I applaud the other body for finally getting to the issue. I believe we need a more aggressive proposal to reduce our dependence on foreign oil, specifically Middle Eastern oil over the next 10 to 15 years. What I put forward is that we begin an aggressive program using every tool that we have available in our research and development budgets, in our Tax Code, to do things to make electric vehicles more attractive for people to purchase, to develop alternative energy sources.

We have a tremendous potential with wind energy, with solar energy. Indeed, I sit on the Committee on Science and Technology, and we have held hearings on the concept of space-based solar power, energy that can be collected by satellites from space and beamed to the Earth, energy that can be collected from the surface of the Moon and beamed to the Earth.

The potential for fusion energy is another great area where we should be investing more. We in the United States need to embark in the months, weeks, years ahead on an aggressive proposal to reduce our dependence on foreign oil and specifically Middle Eastern oil. I believe many of our so-called allies in the Middle East are not allies at all. They are working directly contrary to the interests of the United States and, really, democratic nations all over the world. We should be about the business of moving any dependence we may have on those nations; and the best way to secure that for our future and the future of our children is to develop these alternative energy sources so that we as a culture and society can deal with those countries on a more even basis.

It is very obvious to me when we look at what is going on in Europe that the European community is collectively too dependent on Middle Eastern crude. I believe we in the United States could end up in the same way in the next 10 to 20 years; and, therefore, I believe we need to develop these alternative energy sources, and we need more conservation. This should be a long-term project over the next 5 to 10 years where we employ every tool available to us so we are no longer importing oil.

Not only do I believe this would be good for our foreign policy positions, I believe it would be good for peace throughout the world. I think it would be good for peace in the Middle East; and certainly it would be good for our domestic economy, our balance of payments. I implore the House of Representatives, particularly those who serve on the Committee on Science and Technology, those who serve on the Committee on Energy and Commerce, the Committee on Appropriations, to collectively come together in the weeks and months ahead and develop a cogent solution to deal with this pressing problem.

WELFARE REFORM

The SPEAKER pro tempore (Mr. BROWN of South Carolina). Under the Speaker's announced policy of January 3, 2001, the gentleman from South Carolina (Mr. WILSON) is recognized for 60 minutes as the designee of the majority leader.

Mr. WILSON of South Carolina. Mr. Speaker, over the next couple of weeks we will have a very rewarding experience explaining to the American people the success of welfare reform by the law that was passed in 1996, but also we will have an excellent opportunity to show how rewarding the reauthorization will be as proposed by President Bush.

I am a newcomer myself to Congress. I was sworn in 17 weeks ago today after a special election on December 18. This follows 17 years that I had the privilege to serve in the State Senate of South Carolina. I am honored to be on the Welfare Reform Task Force. I was appointed by the majority whip, the gentleman from Texas (Mr. DELAY). I am on the task force to study and promote welfare reform. It is a particular honor for me because there are only two freshmen on the task force, myself and the gentlewoman from Pennsylvania (Ms. HART). I am certainly with a quality crew serving on that task force.

My education in the area of social services, I give credit to my wife, Roxanne. She served for 14 years on the welfare board in our county, the Department of Social Services in Lexington County; and in that capacity I learned first hand of the great work of professional social workers working with persons who needed financial assistance, the problems of elder care and foster care, child care; and I learned firsthand that we have got the best people working to promote services to the people of our country.

Additionally, I have a legislative background in the State Senate of South Carolina, and it is very similar to what is going on here in Washington, D.C. Back in 1995, I was honored to be the chairman of the General Committee of South Carolina in the State Senate. At that time people were questioning what the General Committee was. I knew first of all it had jurisdiction over the National Guard; and as a member of the National Guard, I was happy to serve. But I found out later that "general" meant any specific item or agency that did not pertain to specific other committees ended up in the General Committee. That was wonderful for me because the Department of Social Services came under their jurisdiction.

So I was in place to work in South Carolina for the development of the Family Independence Act, along with David Beasley and our lieutenant governor, Bob Peeler; and I also worked with such distinguished persons as the gentleman who is the Speaker pro tempore tonight, the gentleman from South Carolina (Mr. BROWN), who was chairman of the Committee on Ways and Means in the House of Representatives in South Carolina.

We were able to put together a very similar welfare bill and legislation in South Carolina as has been enacted nationally, and there has been a remarkable record of success. The landmark welfare reforms of 1996 on the Federal level has focused on moving recipients from welfare to workfare. The 1996 reforms replaced guaranteed cash assistance with a work requirement. And when I say work, what I am talking about are jobs and education, training and giving persons the opportunity to be fulfilling citizens in our country. It has meant jobs, and it has meant education.

So when we hear the discussion of welfare reform, that is what we are largely discussing. The best characterization that I have read of the success of the 1996 bill was in the Carolina Morning News, which is the Savannah Morning News edition of the low country of South Carolina for Beaufort County, Jasper County, Sun City, for Blufton and Hilton Head Island.

The editorial last month said the 1996 welfare reform bill passed by a Republican Congress and signed by President Clinton stands as one of the great social policy successes of the last 50 years. It was to the cycle of dependency on the dole what the collapse of the Berlin Wall was to communism, both literally and symbolically.

As we over the next couple of weeks discuss welfare reform, it is wonderful to really make it personal, and that is by having success stories brought to our attention.

Mr. Speaker, I yield to the gentleman from Florida (Mr. WELDON) to review several success stories.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding, and I commend him for his leadership on this. He is newly elected to the House, and he is doing an outstanding job of bringing attention to this very important issue. I first came to this body in 1994. At that time what I had heard from the constituents in my district and people all throughout the State of Florida was what a terrible disaster the welfare system was, locking millions of Americans in a cycle of poverty that they were literally unable to escape from.

In the county that I live in, we had chronically 2,500 people on welfare. With the passage of welfare reform, that number has been reduced to 400 people, an 80 percent reduction. These kinds of reductions were seen all over the country. Millions of Americans have been able to move successfully from welfare to work.

Surprisingly, now that we are in the place where we need to reauthorize this legislation, there are some Members who want to turn the clock back and look at the tremendous success of welfare reform and say it was a failure and we need to go back to the old ways. I want to talk about a couple of people. The gentleman's point about making this personal is important, so I want to talk about two Floridians who made the transition.

Sha-Tee Bonner entered the welfare transition program in October 1999, and was immediately assigned to Job Search, something that would not happen before. She would be locked in welfare. Now under the program, the reform program, she is immediately assigned to Job Search. In November 1999, she became employed at Hollywood Video and began earning enough money to end her cash assistance. Sha-Tee continued to work until she received employment at the Dunes Hotel in March 2001 as a guest service representative. Since working at the Dunes Hotel, she has received pay raises and much praise from her supervisor. In August of 2001, Sha-Tee began the criminal justice technology program at Pensacola Junior College. Her employer at the Dunes Hotel is willing to work around her school schedule because of her outstanding employment at the Dunes.

Mr. Speaker, here is a person who previously had been locked in welfare dependency. People are saying she is an outstanding worker. Sha-Tee believes that the responsibility of raising two daughters as a single parent has made her even more determined to make it through the tough times. She believes that self-sufficiency is an ongoing process. I agree. During the rough times, Sha-Tee and her two daughters lived with her grandmother. Recently, Sha-Tee has moved out to her own apartment and has purchased her own transportation. Pensacola's local Society for Human Resources Management recently honored Sha-Tee for being one of the welfare participants of the year. The award is presented to former welfare participants who have been successful in transitioning to the work environment.

Stephanie Paige entered the welfare transition program in April of 2001 with several barriers to self-sufficiency. She was a 20-year-old single mother of one child. She had already earned her GED, but had no vocational or college education. She was fortunate enough to have a car, but no insurance. In addition, she had several medical problems, one of which required her to undergo surgery in July 2000. Also in that same month, her 4-year-old son had surgery.

The Jobs Plus One-Stop staff in Crestview assisted Stephanie in developing a career plan that would allow her to achieve self-sufficiency for herself and her child. With guidance and support, the One-Stop staff were able to offer her financial assistance through supportive service funds to get the initial insurance set up for her car, after which she has been able to maintain the monthly premium. They were also able to help her purchase appropriate clothing for job placement.

Stephanie was initially placed in a community service work site so she could gain job skills. She worked at the Salvation Army in Crestview, Florida, from June through December of 2001. Her work site supervisor was very pleased with her and reported she was a hard worker. Here we go again. Someone who had previously been locked in poverty is now being described as a hard worker. It has been in those people over the years; we just never had a system that unlocked it.

In November, while voluntarily continuing to put in hours at the work site, she also enrolled in a CNA class at Crestview Nursing Home. Between August and September 2001, Stephanie earned a total of $225 in incentive payments for her performance and progress. On December 1, Stephanie passed her CNA exam, and 4 days later she obtained employment with Parthenon Healthcare of Crestview, earning $6.25 per hour. Her temporary cash assistance was closed on January 1, 2002, because her income was high enough that she no longer needed cash assistance. She receives transitional services in the form of subsidized child care and transportation assistance that allows her to maintain her employment.

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Stephanie continues to enjoy her work and has plans to pursue a nursing career.

Mr. Speaker, these are two human beings that have been converted over from being dependent on a failed and broken system to being self-sufficient. Most importantly, more important than anything else, more important than the tax money that is saved is these women are setting an example for their children that there is a value to work, there is a dignity and pride that comes with it. For those reasons, I strongly support reauthorizing our welfare reform package with no watering down amendments that would turn the clock back.

I again applaud the gentleman from South Carolina for his leadership on this very important issue.

Mr. WILSON of South Carolina. We certainly appreciate the gentleman from Florida's hard work for the people of Florida, a proven story of success in yourself.

Mr. Speaker, one of the most beneficial acts that you can have as you serve in the State legislatures is to travel around the country and meet persons that you recognize right away or superstars in terms of future legislative activity. I was very fortunate to have met a State legislator from Pennsylvania. I was so pleased to learn of her election to Congress. I am very pleased to yield to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. I thank my fellow former State Senator. I think we are really well equipped as those who worked on the State level to implement the 1996 welfare reform to do what we are as we are part of the working group on the reauthorization of the welfare reform on the Federal level.

I thank the gentleman for his kind words and for his work on the task force and also for giving me a few moments to talk about some of the things that have been happening in my area regarding the success stories, as the sign says, replacing welfare checks with paychecks, but also replacing broken spirits with very strong spirits, a lot of moms who are going to be great leaders and examples to their children.

Those reforms have helped so many men and women get off the welfare payroll. We hear the statistics, but it does help, as the gentleman before me said, to hear the real story. One example I have is a woman I met during our time during the district work period named Michelle who was unfortunately left alone by her husband with her two small children. Obviously she had been a stay-at-home mom but was forced to go and find a job and also a new home.

If that did not present her with enough challenges, her parents were also diagnosed with serious illnesses. Michelle moved in with them to take care of them in addition to also caring for her own children. Welfare for her was the only lifeline she had to get her from day to day. But she had a greater future in mind for her family. Fortunately, she did what a lot of welfare recipients are now doing as a part of the normal regimen, taking classes, getting a job. She did both. That was 4 years ago. I am happy to report that today, Michelle does have full employment and she is helping others who are in a similar position to the position she was in.

She is now a case manager for the Lawrence County Social Services Organization. She took her skills, those she knew from her daily experiences and also those she acquired as a student while still receiving welfare. She uses those skills daily to help others who are going through the same difficulties that she faced. She is one of the great success stories, and now Michelle is going to help create a lot more success stories.

There are other organizations aside from those who are paid within the system that help us make a difference. Especially after the welfare reform law, there were a number of community organizations that stepped up to the plate. One I work with very closely called HEARTH, which stands for Homelessness Ends with Advocacy, Resources, Training and Housing, they have helped so many, mostly women, mostly victims of domestic violence, because they help provide some support via housing for these women as they again continue to struggle and move forward.

The first one I would like to tell you about is Cindy, who came to HEARTH's facility called Benedictine Place with four small children. She wanted to provide a better life for them and for herself but she had been a victim of domestic violence and her self-esteem was certainly not at its highest. One of her sons did not want to live in a shelter. Unfortunately he did go to live with his father, but the other three stayed with Cindy and helped Cindy as she helped them to get a new view on life.

While receiving her benefits, Cindy went back to school. She had some nurse's training from the past, but she knew she needed to update her skills. She took that opportunity, she finished her training and she was eager to get her children established. She got her degree, she got a job, she found a safe place to live. She is now working and is a supervisor at the hospital where she works as an RN. Her oldest daughter said it best to her recently. She said, "Thank you for making anywhere we lived a home." That statement made the struggle worthwhile for Cindy because it could not have been easy. We all know that.

But we know that for Cindy and for Cindy's children, there is a much better future. Not only is she a valuable and contributing member to society, but she is returning the favor to other members of her community by helping them as much as they helped her.

Finally, the last example I want to share with you is of a woman named Jackie. Jackie was in a very poor situation. She did not have any transportation. She had small children as well and needed some support. Obviously the welfare system did help keep her going. But once again, she now said that it was a huge adjustment, but she has now moved into the workplace, she is making enough now to actually rent a house, purchase a car. She has a job with full benefits. Jackie says it is much better for her. She loves going to work each day. She has given back as much as she can. She is now very pleased to be a taxpayer, as she said, instead of a burden on all the other taxpayers.

Granted, welfare has its place. Otherwise, we would not be considering reauthorizing welfare. But it is meant to be and has through these women been shown to be a very successful means for transitioning. These are women who have had hope. They have had influence from others who have maybe shown her an example, taken time with her as well as wonderful caseworkers who have done a wonderful job.

Over the break, I had a round table meeting with a number of caseworkers and those who work in the system, as well as some who have gotten through the system and several who are currently on welfare and trying to work their way off, whether they are receiving education, working part-time and moving in the direction of independence. It was a really inspirational meeting, partially because the first woman I spoke of, Michelle, was part of the round table is now a caseworker with Lawrence County Social Services, but partially because I saw the faces of some very strong people whose spirits had once been broken but who are now very much recovered, very much moving forward, and very much an inspiration to the rest of us. They show us just how much people can do if we give them the right tools to move forward. I would like to thank the gentleman from South Carolina (Mr. WILSON) for the opportunity to talk about these women and there are so many others.

I have several other examples I am not going to go into, but they are examples of all the people and put faces on all the people across the country who have benefited because of the changes. I certainly am very happy to be here and to be here now at the Federal level when we can reauthorize welfare reform and encourage both education and work and make sure that these families are on the way to a very prosperous and successful future, along with a great example for their children.

Mr. WILSON of South Carolina. I thank the gentlewoman from Pennsylvania. Again we appreciate her great service to the people of her district and the enthusiasm that she obviously has for the people of Pennsylvania.

Mr. Speaker, another treat that I have run into by being here in Congress and meeting the Members of Congress is to be reassured as to the competence level on both sides of the aisle of people who serve here in Washington. Not only the competent, but very thoughtful. One of the most thoughtful to me was the gentleman from Mississippi (Mr. WICKER).

I yield to the gentleman from Mississippi.

Mr. WICKER. Mr. Speaker, I want to thank my colleague from South Carolina for those very kind and overly generous words. Like my colleague from South Carolina and the gentlewoman from Pennsylvania who just spoke, I was a member of the State Senate. I served for 7 years in that body until I was fortunate enough to be elected by the people to come here to Washington. During a portion of that time, Mr. Speaker, I served as chairman of the Public Health and Welfare Committee in the State Senate in Mississippi, and so I share some of the same experiences that the two previous speakers have had. I think I can attest, Mr. Speaker, to the difficulty we had at the State level prior to 1996 in enacting meaningful welfare reform at that level. God knows we tried and we tried to do our best, but we did not have the flexibility that we needed and that the 1996 Act has brought. We were forced into going individually on a case-by-case, law-by-law basis to the Federal Government for what we called a waiver, and hoping that we could get the department, in both Republican and Democrat administrations, to agree to those particular waivers. It just simply did not give us the flexibility that we needed.

Also, I can tell you, Mr. Speaker, that there was not the solid commitment to a work requirement prior to the 1996 Act. And so I am so very, very proud that at least three of us and many more have been able to come from the State level where we made a gallant attempt to come here to Washington, D.C. Of course I got here with my friend from Florida who spoke earlier with the class of 1994.

We worked real hard for 2 years. I am just so pleased to talk about the progress that we have had. One of our most prominent colleagues from that class is the chairman of the Republican Conference, the gentleman from Oklahoma (Mr. WATTS). He has made the statement ever since we arrived in town that we need to measure welfare reform successes differently. We do not need to measure the success of welfare reform by how many people we can get onto the program, how many people we can get onto the rolls.

Quite to the contrary, Mr. Speaker. We need to measure the success by how many people we have been able to move off the welfare rolls into meaningful employment. Indeed, to move them from the welfare rolls to the tax rolls.

I spoke in my 1-minute address earlier this morning about some statistics that I am very, very pleased about concerning the 1996 Act. There has been a 56 percent drop in welfare caseloads nationwide. Just think about that, Mr. Speaker. Over half of the caseloads, gone, a tremendous measure of success. The lowest levels of welfare rolls since 1965. Two million children, children, rescued from poverty whose moms and daddies are now enjoying the benefits of a paycheck and the good life that we seek here in the United States of America. And, of course, the lowest child poverty levels in many, many years.

So I am pleased at the statistics that we can cite, and those statistics are real and they are meaningful. But I am also so pleased that my colleagues tonight have done, as the gentleman from Florida (Mr. WELDON) stated, reduce it to human terms and tell individual facts about individual American citizens who have benefited from this excellent piece of legislation. And so when I heard that a number of my colleagues were going to present success stories, naturally, Mr. Speaker, I went back to my local welfare office to ask how the TANF program, the Temporary Assistance to Needy Families Program is doing back on the local level where I was able to work with them as a State legislator and certainly now continue to be interested.

And so I was pleased, also, to receive story after story and example after example of ways in which this legislation has benefited individuals on the human level. Some of these recipients did not mind if I used their names, but I thought I would make up a pseudonym for them just for their own privacy. One young woman, I will call her Sara, became a single mom while attending one of our community colleges in northeast Mississippi. Knowing that she needed to complete her education in order to provide for her daughter, Sara enrolled in the TANF program and received help with expenses involving the raising of a child while going to school full-time.

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She went to school full-time while working full-time for the community college in the work-study program. After completing community college, Sarah commuted to one of our fine 4-year universities in north Mississippi where she continued her work-study. The TANF program enabled her to focus on the future by paying for transportation costs to and from school and for her daughter's day care expenses.

Now, listen to this, Mr. Speaker. Sarah received her degree, a master's in instructional technology in the year 2000. With this post-graduate degree, this former welfare recipient was able to find a job quickly and become self-sufficient, and I can now report with pleasure that she is the technology coordinator for one of our very fine local school districts in the public school system in northeast Mississippi.

We can all go on and on with these excellent examples of the way this program has worked.

I will simply mention Sandra, the mother of a child with spina bifida, who was able to go on the TANF program and is now a clerk at an equipment store in her local hometown.

I will mention Betty Ann, the mother of four, who for a time had to go on the TANF program, but now is working full-time at the Old Miss law school.

Then there is Jane, who was forced to leave her husband of 11 years because of some domestic abuse allegations, but has now, after being on the TANF program, been able to get back onto her feet, move out of public housing and into her own home.

Then finally there is Marie, the mother of two young sons, a welfare recipient who was able to go back to school and is now a registered nurse. Success story after success story, whether you take it at the individual level or the overall statistical level.

I simply would add this, and then I will yield back to the gentleman from South Carolina with my appreciation for his good leadership on this matter.

More work does need to be done, and it gets harder and harder. If this had been an easy matter, we would have been able to resolve it in the 30 years when we were pretty much going down hill in the welfare area. We need further encouragement of work. We have learned in the past 6 years of welfare reform experience that making work pay is an integral part of actually moving people into a meaningful life. So we need to further encourage work when we are considering the reauthorization of this legislation.

We indeed need to expand State flexibility more so than we have already done. I have already mentioned the importance of having that and giving our State legislators, who, after all, are closer to the people, the opportunity to fit their local needs into an overall Federal program, and then to promote marriage.

I think the statistics more and more become overwhelming that a stable marriage, to the extent that the Federal Government can encourage stable, voluntary, safe marriages, that marriage is the best antidote for welfare problems.

So, I just would say, Mr. Speaker, it is a pleasure for me to talk about success, to talk about our determination in this House of Representatives to make the system even better, and once again to thank my very capable new colleague from South Carolina for his hard work in this regard.

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentleman very much, and thank you for your thoughtful service for the people of Mississippi and all of America.

Mr. Speaker, as we discuss the success stories of welfare reform, as the gentleman from Mississippi (Mr. WICKER) pointed out, you can also look at the facts that confirm the success.

Most important to me, I have got four children, would be to point out that child hunger has been reduced nearly half since 1996. The 4.4 million children who could have been in hunger and were in 1996, that has been reduced to 2.6 million in 1999. That is just an extraordinary achievement for the children and the young people of the United States.

Additionally, I would like to bring to your attention what the gentleman from Mississippi has already referred to, that with the implementation of welfare reform there has been a reduction of nearly half of the number of persons who are on welfare. Beginning in 1996, there were 4.4 million families that were in the welfare system. Currently, that has been reduced, due to the work of the professional social workers of our country, to 2.1 million families.

The number of individuals receiving cash assistance has decreased by 56 percent. The number of families, as I indicated, has decreased and dropped from 4.4 million in 1996 to 2.1 million in 2001.

Welfare rolls have fallen 9 million, from 14 million recipients in 1994 to just 5 million recipients today in the United States.

Welfare caseloads have not been this low since 1968. Child poverty rates are at their lowest level since 1978. African American child poverty rates in poverty among children and female heads of families are at their lowest level in history.

Another fact: at 11.3 percent, the overall poverty rate in 2000 was the lowest since 1974. A fact that we can all appreciate, because of what this means again for children, the rate of births to unwed mothers has leveled off; 2.3 million children have been lifted out of poverty.

Another fact: child support enforcement, making parents pay for child care, is up by more than 210 percent.

Another fact: the number of children living in single parent homes has declined, while the number of children living in married-couple families has increased, especially among minority families.

Another fact: since 1996, nearly 3 million children have been lifted out of poverty.

Finally, another fact: before 1996, recipients stayed on welfare for an average of 13 years and few worked; but that is changing, because people are getting jobs. They are having opportunity. They are leading fulfilling lives.

I over the last couple of weeks have continued a practice that I have done in my prior service in the State Senate of visiting the Department of Social Service offices; and in the past several weeks, I have visited Allendale County in South Carolina. The director is Ms. Lee Harley-Fitts. I met with Mr. Fred Washington of Beaufort County, the Director. I went by and met with Bernie Zurenda of the Hampton County Department of Social Services. I met with Mr. Bill Walker of the Lexington County Department of Social Services. And I was very pleased to meet with Ms. Richelynn Douglas of Richland County, which is the capital of South Carolina.

In each case I met with the social workers, and I delivered to them letters of appreciation for what they had done to create the extraordinary and historic social development of the change in welfare in the United States. It is these people who are frontline, and I had a wonderful time going by and visiting with them.

Additionally, by telephone I worked with our State director, and this is bipartisan. She is, of course, a member of the cabinet of our Governor, Ms. Libla Patterson. It just is heartwarming to see these people on the front line working so hard and so enthusiastically at the office in Lexington.

I will never forget that the intake persons who worked there are called cheerleaders; and in fact, that is what they do. When people come in, they cheer the people up. They tell the people who are applying for TANF that they can achieve, that they can have jobs created.

Another office had pictures on the wall of success stories right there in the office. As the people would come in, of course, they would be down and out, discouraged; but they could look around and see pictures of people who had succeeded.

I, too, as my colleagues, have run into specific situations; and in the interest of protecting privacy, I would like to read statements from persons who have truly benefited from the reforms of welfare in the United States that we need to continue, as the President has proposed.

Robin, who currently now works at the Sunshine House Daycare Center, says that "DSS builds your ammunition to get a job. The classes made me feel better about myself. They inspired me to get a job. Now I feel on top of the world."

We have, as was indicated by the gentleman from Mississippi, situations where people have gone back to college. We have Melissa, who is currently at Benedict College in South Carolina. It is one of the largest Historically Black Colleges in the United States with 2,900 students. I was there last week with President David Swinton; and I was happy to be there with my special assistant, Earl Brown, who is a very proud graduate of Benedict College.

Melissa says, "I used to think badly about DSS, but DSS has helped me with bus tickets, a check, class, helped me when I thought I couldn't make it through. They even helped me move, with Christmas presents. DSS made me do things myself. I have a job now and I can go higher. I want to apply for a promotion and go back to adult education. I know now that I can make it."

There was Kimberly. Kimberly currently works with Scientific Games in Columbia, South Carolina. "I feel 100 percent better since getting a job. I no longer have to struggle. Now I only have to work. I am no longer living day by day and worry if my food runs out.

Now I have my own transportation. DSS helped me with financial and moral support. They helped with my resume, even faxed it, and they told me to write thank you notes. I am thankful I have a job."

Then there was Christy. She currently works for a billing service in Lexington. "I have accomplished a lot with the help of DSS. I feel independent and self-sufficient. Getting a job has changed my outlook on life. I was in a slump, without transportation. Now I have a car that I bought with my taxes. DSS helped enable me to provide more for my kids with less assistance."

These success stories are just so heartwarming, and they remind me over and over again of how important it is here in Congress to work for the principles to make the changes that can make it possible for people to have jobs and change welfare in our country.

Currently, there are four principles that the Republicans have adopted and are using. First of all, it is to promote work, to strengthen the path toward independence on the State and Federal level. What that has meant is that we are very supportive of education programs, of training programs. We all understand that we need to provide quality child care, that we need to provide health care for the children for the persons who are on temporary relief. We need to provide for work to be proactive in regard to transportation, and even relocation assistance, if necessary, to move to locations voluntarily where jobs may have better pay and be more prolific.

A good example on transportation in our State is that we were confronted with an extraordinary dilemma when we adopted welfare reform, and that is that persons could not qualify because they had excess assets if they had a vehicle which was worth more than $2,000, so the vehicle they had to own had to be $2,000 or less.

In looking at this, we received information from both sides, Democrats and Republicans, that made it real clear. There was one outstanding feature of a vehicle that is worth $2,000 or less: it does not work. The other feature is it would take an extraordinary amount of money to promote the fixing of the vehicle. So we changed that to where persons could have a car that was worth $10,000.

A second principle is improving child well-being and lift more children out of poverty. We have done that through working for stronger support enforcement for child support. Persons are required now to maintain current child support.

Third, we are promoting healthy marriages and strengthening families. This, of course, was referred to by the gentleman from Mississippi. Even the Washington Post has identified that this is a very legitimate concern in an editorial on April 5 promoting marriage in our country, because we already know that the prior welfare laws were ones that promoted breaking up of families and of marriage. So the penalties of marriage have been done away with.

The fourth point of the Republican principles and initiatives for welfare reform are to foster hope and opportunity, boosting personal incomes and improving the quality of life.

□ 1915

Of course, to me, that also means that we have tax incentives for persons to hire, persons who were formerly on welfare, but also tax reductions. In fact, tomorrow, I am really looking forward to being here to vote to make permanent President Bush's tax reductions. That is money in the pockets of either the persons who are newly employed or in the pockets of all Americans so that we can employ more people. It is jobs. So when we hear about tax cuts and providing for incentives by reducing the taxes, think again of how that directly relates to creating employment in jobs.

As I indicated a few minutes ago, one of the key people who has meant so much to me is the former chairman of the Committee on Ways and Means of the South Carolina House of Representatives, and he is here tonight. At this time I would like to yield to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I thank the gentleman. It certainly was a pleasure serving with the gentleman in the State legislature. We were confronted with this same idea back, I guess in the early 1990s, and people said it would not work. People have been caught in this web of successive generations, caught in the web of welfare, and we felt like we wanted to give them an opportunity. I am pleased to have been a part of that and of having the privilege of working with the gentleman from South Carolina (Mr. WILSON). I am certainly so grateful to have the gentleman up here in Washington so that we can renew that same concerted effort to try to make a difference. I think we did back then, and I think this is a good program here.

Mr. Speaker, I rise again in support of welfare reform legislation. As we continue to help people bridge the gap from welfare to work, it is crucial that we not lose sight of the need for further reform. Our welfare system still suffers from decades of mismanagement and unnecessary growth. It is incumbent upon us to further the improvements enacted by Republicans 6 years ago. In shortening the welfare rolls, we strengthen the backbone of working people. By helping hard-working Americans to find jobs, we restore dignity to deserving citizens. The success of our system is measured by the success of working Americans. Six years ago, Republicans took a great first step towards improving welfare. However, we cannot afford to stop short. We must walk the extra mile.

Mr. Speaker, I urge my colleagues to support further welfare reform. The American people must come before petty politics.

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentleman from South Carolina (Mr. BROWN). I appreciate the gentleman's hard work, both in our State and now here in Washington to promote welfare reform.

Mr. WICKER. Mr. Speaker, would the gentleman yield?

Mr. WILSON of South Carolina. I yield to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank the gentleman. The previous speaker, the gentleman from South Carolina, mentioned bridging the gap, and that is really what the TANF program is all about, the Temporary Assistance to Needy Families.

The problem with the old system is that the gap was so long, so large, it seemed that we never built a bridge over it and we never got to the end result of actually moving these American citizens from the welfare rolls of receiving a check from the taxpayers on to the job rolls. So that is one of the really excellent things about this new approach and the reason that we need to work harder to reauthorize it and make it work better.

But Mr. Speaker, it takes leadership and it takes a bit of courage to effect change in this city of Washington, D.C., and in this Federal Government. There is a certain amount of inertia there.

Whenever we try to do something bold, as this Congress did back in 1996 in passing welfare reform, the opponents always try to bring out what I call the "parade of horribles," all of the terrible things that are going to happen to our fellow citizens if we do this sort of thing. I can recall the stern warnings that we received from some of our friends, the opponents of this legislation, when we were considering it back in 1995 and then in 1996. As the gentleman knows, it was vetoed by the Clinton administration first before we were able to finally push it through in 1996.

But among the opponents of this legislation, Mr. Speaker, one person said, and I quote, "The people who do this will go to their graves in disgrace." Well, certainly, that is a charge that we had to face, and any time we have the possibility of new public policy, we know that it might fail, but we knew in our hearts that it would succeed, and we certainly do not believe that we will go to our graves in disgrace. I think the author of that remark, Mr. Speaker, probably would not want to come forward and take ownership of that particular quote.

Another said, "In 5 years time, you will find appearing on your streets abandoned children, helpless, hostile, angry, awful; the numbers we have no idea." I am almost sorry that the gentleman from South Carolina took the last poster down because, of course, it showed not only a more than 15 percent cut in welfare rolls, but also approximately a 50 percent reduction in childhood hunger and childhood poverty.

Just a third quote from this "parade of horribles" that we had back in 1995 and 1996. One member of the other body said, and I quote, "The central provision of this law, the 5-year cash benefit limit, would be the most brutal act of social policy we have known since the reconstruction."

Well, indeed, we were able to look past those unfounded charges and move toward really one of the tremendous success stories, I think, of the last 50 years. I am just so pleased to have been a part of it. I want to commend the leadership of the House of Representatives and of the Senate back during those days of 1995 and 1996 who had the courage to withstand these sorts of unfounded charges, move the bill through time and again, past a veto on two occasions, and on to the desk of the President where it was finally signed into law. We have seen the great results of it.

So once again, we may find ourselves in that sort of debate. I do not know, Mr. Speaker, what exactly we will be hearing from the opponents of this approach. But I dare say that we may have to, once again, show some courage. This time, though, we will be able to point to the great successes that we have had.

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentleman. I appreciate the gentleman bringing that to our attention. We indeed do have something positive this time to show a proven record of success.

Mr. Speaker, I am very honored to in Congress serve adjacent to the gentleman from Georgia (Mr. KINGSTON), from the very historic City of Savannah, which is practically becoming the sister cities of the communities that I represent in Hilton Head Island, so we like to claim that we represent very similar and wonderful, positive communities, and at this time I yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman north of the Savannah River in South Carolina for his time. I wanted to talk a little bit about what the gentleman from Mississippi (Mr. WICKER) was talking about in the 1996 session when we took on the historic welfare reform bill, and as he said, change is difficult in Washington. In fact, I think it was Ronald Reagan who said "If you don't believe in resurrection, try killing a Federal program." That seems to be the case with change often as well; it is just impossible.

We were accused of pushing women and children on the street and turning our back on the poor, some very tough rhetoric that did not match the goals of what we were trying to accomplish, but nonetheless, at the end of the day, we had a bipartisan bill. President Clinton signed it into law. Since that time, out of 15 million people who were on welfare, 9 million are now working and independent. It is a great success story, from anybody's point of view.

Now, with change in Washington, it is an uphill battle, and now it is time to go back into that bill again and say, okay, what is working and what is not working?

I remember in 1996 talking to a welfare caseworker and he was telling me the situation of a family where there was a young woman, a young lady, and she was living with a man who was not her biological father because her biological father was in jail. Her biological mother had shot another man, and she was also in jail, and just a broken family situation. The young woman, 16 years old, in 10th grade, and they were worried that she was going to drop out of school, perhaps get pregnant, follow in some traps. She was in a very, very high-risk, critical stage in her life.

Then, her sister, who was 13 and in the eighth grade, they said, we have to keep her mainstreamed. So one of them we have to have some proactive handholding and the other one, we just have to have some steady guidance. But the problem is, as their welfare caseworker, he said, I cannot do anything about it, because we have one group that handles teen health care issues, another group that handles transportation, another group, another agency, I should be saying, that handles public transportation, and another one that handles public housing, and everything was compartmentalized.

With welfare reform, one of the great advantages was flexibility, so they could go into a family like this and work on the whole family needs, not just piecemeal, to what the human being needed. So I think that welfare, there is a tough side of it, but there is a love side of it, and it is an example of tough love.

When I look at legislation that we passed during the 10 years that I have been in Congress, I have to say this is truly one of the more profound pieces, because of the 9 million people that it had a positive effect on. If the gentleman would continue to yield, I have a true story of a woman in my district who lives in Brunswick, Georgia, and I am going to call her by her first name only. Mary is a single mother of three children. She had not worked in over 10 years when she was enrolled in the TANF, Temporary Assistance to Needy Families, Work First Employment Services Program. Now, Mary had a history of substance abuse and a history of receiving public assistance. She had attempted several job readiness workshops and job search activities without any success.

When the Ready to Work Substance Abuse Day Treatment Program began in Glynn County through the Gateway facility, Mary was the first referral to the brand-new program. During the next several months, she had spotty results with the program. In fact, she relapsed with her drug problem and spent some time in jail. But she also became involved in drug court and was required to continue her participation in ready to work.

So instead of just saying, well, that is okay, we tried, what this welfare reform bill said is, you know what? We are going to keep working with you until we get it right. We are not going to give up on you, and we are not going to allow you to give up on yourself. So Mary persevered. After returning to the program, she became very involved in it and completed it successfully. She was assisted by the program after that in getting her first job, and now, although she has had some problems, as any parent would have, as any single parent would have, she is still working, she is drug-free and alcohol free, and she actually has been speaking to substance abuse groups about her own experience.

So she is one of the 9 million success stories that is out there. So I want to say it is just something that we can all be very, very enthusiastic about. Democrat, Republican, rural or urban, big city, it does not matter; we should all share in this.

□ 1930

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentleman. Again, I am very honored to serve in the same community with the gentleman, Hilton Head Island. Of course, the gentleman and I are looking forward to the Heritage Golf Classic this weekend, which even relates to the issue at hand, Mr. Speaker, in that in terms of welfare reform, the jobs that are created.

The Heritage Golf Classic will generate $56 million to the hospitality industry of the low country of South Carolina and Georgia, and then it will create a thousand jobs. So we are grateful for the Heritage Golf Classic that is under way right now.

Mr. KINGSTON. Let me say this: Anything we can do to get jobs in this area is part of the welfare reform issue. So whether the paycheck comes from South Carolina or from the State of Georgia, it is good for our area and good for our people.

Mr. WILSON of South Carolina. And that includes Newport and Jasper, too.

Mr. WICKER. Mr. Speaker, will the gentleman yield?

Mr. WILSON of South Carolina. I yield to the gentleman from Mississippi.

Mr. WICKER. Mr. Speaker, of course, we are here tonight talking about the success of one single piece of legislation, the 1996 Welfare Reform Act. We are indeed proud, and I think we have the individual stories to back it up, as well as the overall data. But it is all about job creation and moving people from welfare to a meaningful job, and meaningful participation in the American way.

Some people have said, "Well, Congressman, you have a lot of success stories. But actually, I think we could attribute that to the booming economy, not to the Welfare Reform Act."

I think, actually, the statistics show and the experts have told us that a good portion of this success that we have been talking about so proudly tonight does come from the Welfare Reform Act of 1996. But also, I am happy to take credit, as a Member of this Congress for the last 7½ years, for the good economy that we have had, for the most part.

Now, we have had a business downturn, which we are going to have in a free and open and market-driven economy. We are going to have that sort of thing. But I am proud of the tax reform and the tax reductions that I have twice been able to participate in as a Member of the United States House of Representatives. I am proud of the tax reduction that we enacted last year, the fact that we sent tax rebate checks back to millions of Americans to the tune of $40 billion, at a time when the economy was just beginning to slow down and we needed a boost there.

So to the extent that our policies in this Republican House of Representatives for the past 7½ years have contributed to a booming economy, certainly I want to give that credit, too, in creating the atmosphere for job expansion. So I think that goes hand-in-hand with welfare reform, it goes hand-in-hand with the job creation parts of our tax reduction bills.

I think at this point, let me just see if I can conclude my part of this special order, if my friend will permit, and he is standing by, I think, with a very important chart that my colleagues are able to look at.

Mr. Speaker, I hope that the American people will contact us, will contact me and our colleagues on both sides of the aisle, both houses of this Congress during the coming days of this welfare reform debate, and let us know if they support the concepts that my friend has right beside him, there.

Would they like their Member of the House of Representatives to vote for a piece of legislation that promotes work, something that has been the very foundation of this country for over 200 years, to strengthen the path towards independence for families, independence from the need to receive a welfare check from the government?

Secondly, I hope our constituents will talk to all of our colleagues, Mr. Speaker, about the importance of improving child well-being. We have lifted over 2 million children out of poverty as I said earlier tonight. Let us lift 1 more million children out of poverty. Let us let that be our bold goal in this debate.

Thirdly, it would be to promote healthy marriages and strengthen families. I hope we will hear from our constituents and from our fellow Americans about that, Mr. Speaker.

And then, finally, the fourth Republican principle of welfare reform: fostering hope and opportunity to boost personal incomes and improve the quality of life, and permit more of our fellow American citizens to grab hold of that great American dream.

I hope we will hear from our constituents. I hope we will have a healthy debate among our fellow Americans on the floor of this House. I look forward to it.

Once again, I thank my colleague, the gentleman from South Carolina, for his excellent leadership in this regard.

Mr. WILSON of South Carolina. Mr. Speaker, I thank my colleague, the gentleman from Mississippi (Mr. WICKER). I appreciate his input.

As I conclude, we have been going over success stories, and my colleague, the distinguished gentleman from the Third District of South Carolina (Mr. GRAHAM), had submitted a success story that he wanted to be known by people of the United States. And I can identify with that, because I have been a volunteer with Habitat For Humanity.

This is about Contessa from the Third District of South Carolina. "When I was on welfare, I forgot that I was a valuable person, that my life mattered. I really did not have the proper esteem when I was on welfare. Things are so much better now that I am employed and my self-esteem has improved."

A former welfare recipient, Contessa, like thousands of other Americans, has made the transition from welfare to work. Hired as a receptionist who was told that "There is little chance of opportunity for you," Contessa has continued to move up, and today is a paralegal at a prominent law firm in neighboring Greenwood.

One of the dreams that she has achieved is the ownership of her home. That is the American dream. Contessa has taken that bold step forward. I end with this quote: "I have now purchased a home through the Home Authority Stepping Home Program, where a portion of your rent goes into an escrow account for the downpayment on a home. Becoming a homeowner really changes your whole outlook, as does the change from welfare to work."

I would like to thank my colleagues who have participated tonight. We look forward to the discussion about the creation of jobs, the creation of opportunity with the welfare reform reauthorization.

THE MIDDLE EAST CONFLICT AND THE STATE OF ISRAEL

The SPEAKER pro tempore (Mr. SULLIVAN). Under the Speaker's announced policy of January 3, 2001, the gentleman from Florida (Mr. DEUTSCH) is recognized for 60 minutes.

Mr. DEUTSCH. Mr. Speaker, I join with a group of colleagues, and I hope and expect more to join us as the evening progresses, to talk a little bit about the conflict in the Middle East, but also to talk about the Middle East and talk about the state of Israel.

In Israel today, it is Israel Independence Day, the 54th anniversary of the modern state of Israel. I am joined this evening on the Republican side. Sharing the time with me is the gentleman from Georgia (Mr. KINGSTON), as well as a number of colleagues, Democrats and Republicans.

I mentioned the 54th anniversary of the creation of the modern state of Israel, and there is a time line that is relevant that hopefully all Americans have a perspective of, because I think the time line gives us a sense of the issues that Israel is dealing with today.

There has been continuous Jewish occupation in the land of Israel from historical times, from the start of the common era, from the time of Jesus. In 1917, though, in terms of the modern state of Israel, the Balfour Declaration by Great Britain was issued. As this map shows, it was a mandate that the League of Nations had given to the British empire at that time. Saudi Arabia did not exist.

I think one of the best charts that I have seen, presented by the gentleman from New Jersey (Mr. ROTHMAN) when we did a special order last week, was talking about the years the different countries were created. Saudi Arabia was a group of nomadic tribes at this time, and Egypt did not exist as a modern country. It was part of the British mandate. Iraq was part of the British mandate. Syria was part of the French mandate.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. DEUTSCH. I yield to the gentleman from Georgia.

Mr. KINGSTON. It is not shown on the gentleman's map, but I think it is important to point out that Iran did not exist, either. That was ancient Persia at that time.

Mr. DEUTSCH. Absolutely correct. I think it is important just in terms of the issue of why is Israel there as a modern state. I keep referring to it as the modern state of Israel.

The British in 1922 actually divided the mandate that they had along the Jordan River, so there is a line straight from the Jordan River. On the eastern side, they created trans-Jordan, and on the western side, Palestine. Now, trans-Jordan has become modern-day Jordan, and Palestine, let me shift the map and get to what really is the next map, was a partition plan of the United Nations in 1947.

I think this is also a significant map for people to understand and actually to look at, as well. It is significant for a number of reasons. It is significant because, first of all, the Jews that lived in Israel at the time accepted that map. The Arabs that lived in Palestine did not. In fact, in 1947 or 1948 when the British withdrew from Palestine and Israel declared independence 54 years ago, five surrounding Arab countries and their armies, Egypt, Jordan, Syria, Lebanon, and Iraq, invaded.

The Israelis were outnumbered five to one at that point in time, basically with no outside direct support, and the United States obviously, as most people know, recognized Israel as soon as it declared its existence, but this boundary was accepted by the Jews in the state of Israel. In terms of the five countries that invaded and the Arabs that lived in Palestine, they did not accept the partition.

Let me just follow up with another map, which is a map of Israel today. The significant part of this map, in a sense, is from the last map to this map is four wars: 1948, 1956, 1967, and 1973. The areas in the West Bank and Gaza and the Golan Heights were acquired by Israel in 1967.

Again, the history of that point in time I think is also very significant. It is significant because it was not a war that Israel sought, it was a war of defense. I think what is also significant, just to understand the context, the historical context, is that the area of the West Bank and Gaza, which effectively, I think, all parties now understand will in fact become a Palestinian state at some point in time, when those areas were controlled by Jordan and Egypt, neither Jordan nor Egypt wanted there to be a Palestinian state. There could have been a Palestinian state at any point in time between 1948 and 1967 if Jordan, Egypt, or the Palestinians in that area would have agreed to a Palestinian state living side by side with the state of Israel at that point in time.

A significant thing happened in 1974, and really, under the American auspices, the American involvement, in terms of the peace process that really began in 1974. But the real significant event in modern times, or prior to this year, is 1977 when Anwar Sadat visited Jerusalem and made a clear show to the Israeli people of his commitment towards peace. If there were any two peoples who were as diametrically opposed, who had fought very vicious, competitive wars with each other, the Egyptians and the Israelis were those two people.

As we know, under the guidance of President Jimmy Carter, Sadat and Prime Minister Menachem Begin signed the Egyptian treaty at Camp David in 1979. Just moving forward past 1979, I think there are some interesting dates. As opposed to Anwar Sadat, Chairman Arafat's actions in 1982, because of terrorist attacks on Israel at that time, Israel invaded southern Lebanon. In fact, what happened was Arafat ended up getting expelled from southern Lebanon to Tunisia. The Israeli troops remained in the security zone for a period of time.

In 1991, as the chart points out, Chairman Arafat supported Saddam Hussein in the Gulf War. In 1994, another positive step occurred in that King Hussein and Prime Minister Rabin signed the Israel-Jordan peace treaty with President Clinton.

In 1997, the Hebron Accords were signed; in 1999, the Wye River Accords; and in 2000, the Camp David attempt by President Clinton had its auspices. Again, as we know, the offer that was on the table of 97 percent of the West Bank, parts of Jerusalem, significant parts of Jerusalem, an independent Palestinian state, was rejected by Chairman Arafat.

□ 1945

I give this as a historical background, and I look forward to my colleagues' statements.

So I would yield first to my colleague sharing the time who has taken a leadership roll and serves on the Subcommittee on Foreign Operations, Export Financing and Related Programs, the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Florida for yielding the time and also for organizing this special order, because I do think it is extremely important that we in America set an example and let it be known worldwide that we stand behind Israel's right to defend herself, and we truly believe that the time for that statement is now on this day of Israel's independence of 54-year anniversary.

Just to think about a nation of 5 million people compared to America, 281 million, we are a little less than 60 percent the size of Israel, and on that horrible day of September 11, when 3,000 Americans were killed, that equivalent to Israel would be about 50 people, and last month alone Israel lost that many. So she has the right to defend herself.

Mr. DEUTSCH. Mr. Speaker, reclaiming my time for one second, I am going to grab a chart, if I can, which is showing the numbers. Actually in the month of March alone it was not 50. It was 150 Israelis that got killed. So in fact, in the month of March, just this past month Israel sustained the equivalent of three 9/11s, and I think if we can just imagine what the United States, God forbid, that would have occurred to us, what we would do, I think the world has seen what we did with one 9/11.

Mr. KINGSTON. Absolutely, and when one considers that the attacks are so random, in a coffee house, in a theater, in a crowded street, anywhere there is a group of people, the whole nation is truly under attack. It is not just the people in the Gaza, the West Bank, but it is anywhere.

I have a number of folks on my side of the aisle who want to speak, and I wanted to yield a few minutes to them if that is appropriate.

Mr. DEUTSCH. Mr. Speaker, I think we have a lot of Members here this evening. I think what I would like to do, normally in special orders we do not limit time, but maybe if we could limit time to 5 minutes per Member and have a discourse.

If I could yield to the senior Member in this Chamber right now, one of the senior members on the Committee on International Relations, and there is no gentleman who is a more significant leader in terms of his record, in terms of peace in the Middle East, the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I thank the gentleman very much for yielding to me. It is very good to be here with all of my colleagues, and I do not have a prepared comment. I just want to make a few points and then yield back to my friend from Florida and the others who took this special order.

First, to thank the gentleman for taking this special order. I am getting a lot of comments from my colleagues in this Chamber, I am getting a lot of mail and phone calls from my constituents who are watching television, who are seeing pictures and reading stories and are very distressed by what they have seen in these past few weeks, and I thought it would be good to come back to a couple of very basic points.

For me, as a Member of Congress, one of my priorities is to work for the survival and the security of the State of Israel, and I say that and I do that with no embarrassment because I very much believe that that position is a position that is strongly in the interests of the American people, and I think that as we look at the context of this conflict, some of the points illustrated by the gentleman from Florida with his maps remind us of several critical points.

The first point is that every single time that the people of Israel have been presented with an option which involves compromise on their part and the hope and promise of peace, they have chosen that option rather than pushing for maximalist demands and a continuation of conflict.

It started in 1948 with the partition plan sponsored by the United Nations where Israel and the people of Israel accepted far less than they hoped to get in that partition plan, and as the gentleman from Florida pointed out correctly, the Arab neighbors of Israel rejected that partition plan and went to war.

It occurred again in the wake of Anwar Sadat's statement that he would make peace with Israel if they would withdraw from all the territory that they had occupied as a result of the 1967 and 1973 wars. Within an instant, Israeli public opinion rallied around the call by this courageous leader of Egypt for peace and set through a process to withdraw from the entire Sinai peninsula, to uproot settlements and to pull back just in the hope that they could engage in a lasting peace with the country of Egypt.

It occurred again in 1993 in the context of Oslo where all Israel got for all the compromises that they agreed with and the process that they agreed to go through and the compromises that they subsequently made, all they got was the promise that the dispute between Israel and the Palestinian peoples would be resolved through negotiations, there would be an end to terror and that a series of steps would be taken, all of which involved Israel withdrawal, Israel retreat, and in the context of Oslo, the Israeli government did things that they had indicated they would never do.

They indicated a willingness to negotiate with Yasser Arafat, a position no Israeli government had ever taken before. They indicated a willingness to recognize the PLO as the organization representing the Palestinian people. They agreed to Yasser Arafat's return to the Palestinian areas, first the Gaza, then to Jericho and finally the headquarters in Ramallah.

They agreed most incredibly to the arming of 50,000 Palestinian police under the direction of the Palestinian Authority to maintain order as they pushed out of every area of major Palestinian population and, again, without even getting into the details of the willingness of Israel, to opt for withdrawal from the Golan Heights in the context of trying to get a peace with Syria or their unilateral withdrawal from southern Lebanon, notwithstanding the continued barrage that Israel was facing from Hezbollah forces, supported by Syria and Iran, against not only their Armed Forces, but against the civilian population of northern Israel.

Finally, with the offer Ehud Barak made in the American-mediated Camp David process where a whole series of positions that no one ever thought they would see a leader of Israel offer were made at that table, only to be spurned by the Palestinians.

For a long time, 20 years now, I have believed that in the context of obtaining this peace and the right solution, there would have to be compromise. I want a Jewish homeland and I want it to be a democracy, and if for no other reason than the demographic facts, I recognize that in a context where Israel's survival and its security could be maintained, there would need to be land, but I believe that that is the position of the vast majority of the people of Israel as well as the vast majority of American supporters of the state of Israel.

So when we see the present images and the consequences of the Israeli effort to deal with the sources of terror that have taken so many lives, the homicide bombings that have continued relentlessly, the clear unwillingness, notwithstanding his words of Chairman Arafat to end terror as a tool of the efforts to provide for the aspirations of the Palestinian people, the uncovering of the documents that indicates top Palestinian authority approval for the funding of explosives and bombs and weaponry of very significant magnitude.

This is no longer the intifada of 1988 and 1989, an intifada of stones. This is of mortars and explosives and bombs and rockets. When we see all of that, when we learn that as a result of the Israeli efforts, dozens of bomb factories have been uncovered, huge caches of weapons have been uncovered, all to be used notwithstanding the promises under Oslo and the commitments made to try and settle this issue through force, I think my colleagues have to understand that context to understand what Israel feels it needs to do.

Mr. DEUTSCH. Mr. Speaker, reclaiming my time, this is actually a list of weapons that were uncovered or captured by the Israelis since April 1 in their incursions into places like Jenin and Ramallah, and it is an amazing list from April 1. Weapons obviously in violation of Oslo agreements and sniper weapons, telescopic rifle weapons, bomb factories, things that there were agreements not to have, to prevent from having, and in fact, the question which is really raised is why did the Israelis even incur the incursions into these areas. The Israelis, I do not think, want to be there anymore than the Americans want to be in Afghanistan.

Mr. BERMAN. Mr. Speaker, that illustrates the point I was making, and I will just conclude because we have some very knowledgeable people on the floor tonight to speak to this issue, and to say that I ask my colleagues and I ask those people who care about Israel's survival and security, to understand the context in which this present incursion is taking place, the critical importance of it being completed in a fashion that enhances survival, and understand that when presented with a true opportunity for a true peace, be it with the Palestinians or a comprehensive peace, I have no doubt that the Israeli people and its government will be able to make the compromises necessary to make that happen.

Mr. DEUTSCH. Mr. Speaker, I would yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Florida and I would ask him to yield to the gentleman from Mississippi (Mr. WICKER).

Mr. DEUTSCH. Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. WICKER. Mr. Speaker, I thank my friend from Florida for taking out this special order. I understand actually we will be back to back, two special orders tonight, and I wanted to come down to the floor, Mr. Speaker, because it is important that this special order be bipartisan, and it is important that the clear message go out, not only to our colleagues, but to everyone around the world within the sound of our voices, to make it clear that on a bipartisan basis, Republicans, Democrats, the House and the Senate, this Nation supports the country of Israel, the only really true democracy in the region, a steadfast friend and ally of the United States for over half a century, and that message needs to be stated in unequivocal bipartisan terms in this House of Representatives tonight.

I am so glad and encouraged, my colleague from California mentioned that there are a lot of knowledgeable people about this issue. I do not know that I would count myself as one of the overly knowledgeable people among my colleagues, but I have been to Israel, and I have studied the history, and I am very, very pleased that my friend from Florida started out his remarks with a very detailed history of the region. Because of the importance of the first map that he brought forward, Mr. Speaker, I wanted to bring it over to my side of the aisle, and once again, point out to my colleagues a bit of the history of the area.

I think there are some people watching this issue around the Nation and also around the world who might believe or have us believe that somehow the lines of the nations were drawn and set in concrete back during the time when the super powers of this world decided to impose an Israeli state or a Jewish state upon the region, and that everybody was all set and we kind of came in with Israel and upset the apple cart there in the region.

As this map demonstrates, nothing could be further from the truth. Back during the time of the British Mandate, 1920, post-World War I, as this map indicates, there was no Lebanon. Syria was part of the French Mandate. Iraq was part of the British Mandate. Saudi Arabia was not yet recognized as a Nation at the time, and we had this area that is described here as Palestine or the British Mandate, and then my friend from Florida described how that was divided by the very tiny Jordan river.

If my colleagues have ever been to Israel, they know it is just really not much more than what we would call a small creek where I come from, but it was divided there into Trans-Jordan, which later became the nation of Jordan.

So everything was in flux at the time the country of Israel was being anticipated there.

□ 2000

They have a right to exist. The international community has recognized for over half a century that Israel has a right to exist, and we need to acknowledge right here on the floor of this House of Representatives that our friends, the Israelis, are under attack at this very moment, have been since a year and a half ago, and their very existence is being challenged by those who would like to wipe them off the face of the Earth.

Mr. Speaker, we need to make the strong statement on a bipartisan basis that this country is going to resist those terrorists who would not even acknowledge the right of Israel to exist as a nation.

I am happy to stand with Republicans and Democrats tonight on that principle. Israel is a democracy. Israel has become a thriving economic miracle in the desert over the past half century, and they are due a lot of credit. They have been our friend and we have been their friend, when this country has needed it and when Israel has needed it.

If there is one signal that we need to send as a matter of foreign policy, it is that this Nation is steadfast in supporting its friends, and we count Israel as among those friends. I appreciate my colleagues acknowledging that while Israel has a right to exist, there will be a Palestinian state under the right conditions, and that compromises will have to be made. But tonight we are making the strong statement of support for Israel.

Mr. KINGSTON. Mr. Speaker, I meant to point out that the gentleman from Mississippi (Mr. WICKER) as a member of the Committee on Appropriations has supported consistently economic and military aid to Israel.

Mr. DEUTSCH. Mr. Speaker, I yield to the gentleman from New York (Mr. ISRAEL) who, before he was in Congress, was intimately involved in issues regarding the Middle East.

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for his leadership on this critical issue in helping Congress recognize and helping the American people recognize one fundamental and indisputable fact: Israel is the only democracy in the Middle East, and a strong Israel means a secure America.

About a year ago I had an opportunity to meet with the King and Queen of Jordan, King Abdullah and Queen Rania, and with other Members of this body we sat at a table and asked the King when would there be peace in the Middle East. He talked about his hopes for peace in the Middle East.

He said when my father used to meet with the President of Syria, they would talk about violence and rivalry and conflict. But when I meet with the new young president of Syria, we talk about how we are going to modernize our financial services industries and how we are going to get the Internet into every household in our country.

He said as a new young generation of leaders take shape in the Middle East, there will be peace; and since then, thousands of Palestinians and Israelis have lost their lives.

I have come to the sobering conclusion that King Abdullah is right, that peace is a generational issue, and that is a fundamental part of the problem. The gentleman has talked about this and taken the leadership on this issue. The fact of the matter is that all of the diplomatic accords, the peace treaties, the Camp Davids, the Wye Rivers, the Madrids, the Oslos, the grip and grins, all of the diplomatic treaties in the world are not going to be successful as long as a young generation of Palestinians in second grade classrooms are taught that there is no alternative to the destruction of Israel and the destruction of the United States.

Think about it. What possesses 15 young Saudis to board American planes and destroy and murder thousands of New Yorkers, and take their own lives in the process? What possesses young children in the Middle East to strap explosives to their chests and blow up pizza parlors and bar mitzvahs and Passover seders, and elderly people and children and women?

Mr. Speaker, what possesses them, they are being indoctrinated in their classrooms and not educated. Let me share some specific examples. They are taught hatred in the text "Modern Arab History and Contemporary Problem Part 2," which on page 49 teaches Palestinian children that Zionism is "a political, aggressive and colonialist movement, which calls for judaization of Palestine by the expulsion of its Arab inhabitants."

They are taught in the book "Our Country Palestine" by a banner which appears on a title page of volume 1 reading, "There is no alternative to destroying Israel."

Mr. Speaker, they are taught in the text "Our Arabic Language for 7th Grade Part A," in which one exercise for students reads as follows: "Subject for your composition: How will we liberate our stolen land? Make use of the following ideas: Arab unity, genuine faith in Allah, most modern weapons." That is on page 15.

In Syria, fourth grade textbooks label Zionism a colonial analogue of Nazism. A tenth grade textbook labels Jews "a menace that should be exterminated." The fact of the matter is this: for as long as children are not taught science but are taught hatred, are not taught math but are taught destruction, are not taught technology but are taught how to strap bombs to their chests and blow up innocent civilians, for as long as they are not taught literacy and job creation and job expansion, and not given the tools to expand the middle class and bring prosperity into their own communities, for as long as those lessons of hatred are taught, there will not be peace in the Middle East.

I am a strong supporter as a Democrat of this administration's policies in Afghanistan, and I am hopeful that the administration will also realize that our allies, our so-called allies in the Middle East have to be judged not by meetings with Arafat, not by treaties, not by cease fires, but what they achieve in second grade classrooms. That will be the measure of success, and that should be the obligation of our Arab allies in the Middle East.

Mr. DEUTSCH. Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON) knowing that he is going to introduce the gentlewoman from Florida (Ms. ROS-LEHTINEN). I believe there is no one in this Congress who is more personally committed to Israel's survival than her, and I have traveled to Israel with her and I have seen her action, her feeling. And especially from someone with her background who knows what terrorists have done and can do throughout the world.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for those comments because I think as an American of Cuban descent, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is in a unique position as the gentleman said to have dealt with many of these issues that are difficult in a changing nation and changing people, and terrorism and assaults to a different part of the globe.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman, and it was my great privilege to be on a trip to Israel with my dear colleague from Florida. We certainly had an insightful look at the military operations, the anti-terrorists and intelligence operations. There is a lot that is going on and a lot of positive things that are going on in Israel right now. It is a shame that the economy is suffering so much because of the terrible acts of the PLO against the peaceful Israeli people.

It is with great honor that I join all of my colleagues here today in celebrating Israel's independence day. This day marks the establishment of the State of Israel, a day when a people found a homeland and fulfilled their destiny. On this day we stand with the people of Israel to celebrate the memory of all who lost their lives to achieve Israel's independence and those who continually work to ensure its existence.

As the State of Israel faces enduring changes and challenges, it is our moral obligation to pay homage to their continual struggle for full recognition and render our unequivocal support to our only democratic ally in the Middle East, and that is Israel.

The United States has a shared tradition of democracy with Israel, creating a long-standing history of mutual support and enduring friendship which has helped us overcome many difficult moments.

As Israel has always stood by our side before the international community, at the U.N. and at the region, we must now ensure that our friend feels that support throughout these turbulent times in her history.

While Israel engages in rooting out terrorism at home, it has encountered nothing but distorted criticism around the world. As we stand here, such actions are taking place at the 58th session of the United Nations Commission on Human Rights. Day after day, item after item, debate after debate, Israel is berated and targeted by some of the world's most repressive regimes. It has been particularly troublesome to see the U.N. High Commissioner for Human Rights, Mary Robinson, engage in this process referring to well-known terrorist organizations as humanitarian or human rights entities, legitimizing their violence against the peaceful Israeli people rather than providing a balanced and objective presentation of the situation on the ground.

Such behavior does not further the goal of peace and only serves to undermine the great efforts by President Bush, Secretary Powell and others to secure an end to the current violence.

Throughout, the United States has spoken clearly and loudly to ensure that the principles of justice and fairness are upheld, to ensure that Israel could be heard, and that the truth, not hyperbole and not incendiary rhetoric, would guide the actions of the international community.

Mr. Speaker, the struggle for democracy and the protection of civil liberties is a difficult one which the Israeli people have endured and have embraced.

Like them, my native homeland, the Cuban people are still struggling for the same, as the gentleman from Florida (Mr. DEUTSCH) pointed out, the similarities between those two states.

Ironically, today, April 17, also marks the anniversary of the failed Bay of Pigs event to bring freedom and democracy to Cuba. After that ill-fated moment in Cuban history, the terrorist regime in Havana went on to provide training camps for Israel's enemies and sent Cuban soldiers to fight against Israel during the Six Day War. They did so because the Six Day War, according to Cuba's then U.N. ambassador, Ricardo Alarcon, was an "armed aggression against the Arab people by a most treacherous surprise attack in the Nazi manner."

Mr. Speaker, 7 years later Yasser Arafat was enthusiastically received in Havana and given Castro's foremost decoration, the Bay of Pigs Medal.

These are just some of the bonds that the United States and Israel share, a history, a struggle, a commitment to freedom, to democracy, which have forever intertwined our destiny. May this anniversary of Israeli Independence Day mark an end to violence and to the suffering on all sides and usher in a new era of peace, stability, security and hope. May that be the case for all of us.

Mr. Speaker, I thank the gentleman for his time. I also had the pleasure to visit Israel with the gentleman from Virginia (Mr. CANTOR), who will speak shortly; and he has been to Israel many times, and it was our pleasure to tour many of those sites of destruction with him, if that can be said to be a pleasure. It was a very moving time in Israel's future and in Israel's presence, to be there where those terrorist acts took place and to lay a wreath in memory of the fallen civilians and soldiers who have given so much so that their homeland could remain free. I thank the gentleman, the gentleman from Florida (Mr. DEUTSCH), for the time, as well as the gentleman from Georgia (Mr. KINGSTON).

Mr. DEUTSCH. Mr. Speaker, I thank the gentlewoman. Again, the commitment of the gentlewoman from Florida (Ms. ROS-LEHTINEN) is so heartfelt and so real. For all Israelis who met her, I believe they felt that at the same time.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. ROTHMAN), who has proven himself as perhaps the most articulate Member of Congress in giving a historical and complete perspective, and those comments come from members of my immediate family.

□ 2015

I can even say that those comments come from members of my own immediate family.

Mr. KINGSTON. If the gentleman will yield, I have to say that my mother, who is certainly my biggest fan, told me after last week's special order that she thought the gentleman from New Jersey (Mr. ROTHMAN) did a much better job than I did.

Mr. DEUTSCH. I did not want to mention which member of my family, but it was as close as your mother as well.

I yield to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. I thank both the gentlemen, my friend from Florida (Mr. DEUTSCH) and my dear friend from Georgia (Mr. KINGSTON).

Mr. Speaker, thank you for allowing us to have this time tonight to further discuss this issue with our colleagues in the House and those watching at home.

Today we celebrate two anniversaries, one a very happy one, and one a very, very sad one.

The happy one first. Here is the nation of Israel, this orange little sliver on the coast of the Mediterranean Sea. Tiny little Israel. I know on maps on television, sometimes you see just a little portion and you think Israel is this huge country. Take a look, my colleagues and friends. This is Israel. This is Saudi Arabia. This is Iraq, Syria, Egypt here, Iran here, Oman, Yemen, Kuwait. Do you see how small Israel is compared to the rest of the Persian and Arab world? Absolutely tiny, is it not? They are outnumbered more than 30 to one.

Today is the 54th anniversary of Israel's founding. How did Israel come to be founded? A long time ago, Turkey in the Ottoman Empire, the Ottoman Empire of Turkey was aligned with Germany in World War I. When the Germans lost World War I, despite the help of their friends in the Ottoman Empire, the Ottoman Empire lost all its territory to the Allies, the Americans, the British and the French. The Ottoman owned much of the Middle East, including this whole area. The British were given control of what is now Israel and Jordan, the French were given Syria and Iraq, the English were given Egypt and Saudi Arabia.

A lot of people say, well, maybe Israel is some new country and that it just started in the 20th century after World War I but, hey, those Arab nations and the Persian nation of Iran, they must have been around for centuries. So Israel must be some stranger to the region, some interloper. Nothing could be further from the truth.

Saudi Arabia used to be called Arabia, until the English gave it to the Saud family in 1932, and then it became Saudi Arabia in 1932. Iran, established in 1925. Iraq, established 1932. Syria, established 1946. Lebanon established 1943. Egypt 1922. Jordan 1946. Israel 1948. So they were all established about the same time.

Israel since it was founded in 1948, recognized by the League of Nations as the Jewish homeland, the British said they wanted it to be a Jewish homeland after World War I in the Balfour Declaration, the League of Nations said it should be a Jewish homeland. The United Nations in 1948 said it should be a Jewish homeland. So when all these other countries were created, they created the country of Israel in 1948. Happy anniversary, happy birthday, Israel, America's best friend, most strategic ally in the Middle East. America's forward battleship of military intelligence, cultural values, democracy.

What is the sad anniversary that we celebrate today? A year before 1948, there was another offer made. You notice you do not see Palestine or the Palestinians on this map of the Middle East. But was there ever a country called Palestine? Never ever in the history of the world. Was there ever a kingdom called Palestine? Never ever in the history of the world. Were there ever people who called themselves the rulers of the Palestinian people? Never ever in the history of the world, until Yasser Arafat came along, almost at the end of the 20th century.

The anniversary that is so sad is that in 1947, a year before the United Nations decided to create the Jewish homeland of Israel, they had already divided their mandate and created Trans-Jordan with two-thirds of the land that they were going to give to the Jews, they took two-thirds of it away and created Trans-Jordan, which is now Jordan.

Two-thirds of the land they were going to give to the Jews. Did they give it to the Palestinians, or the local inhabitants in Jordan? No, they gave it to the Hussein family who came from Arabia and they put them in power in Trans-Jordan. Anyway, they did that in 1946.

Anyway, in 1947, the United Nations says, "Let's have two states. We took two-thirds of the land away we were going to give to the Jews, let's take the third we were going to give to the Jews and divide that in half." And they said, "Let's make Palestine," the area in gray, which goes from the top here of the present State of Israel all the way near to the bottom. Jerusalem was not to be Israel's capital as it is today. It was to be an international city. The yellow here and here and here was to be Israel.

What did the Jews say when they were presented in 1947 by the U.N. with this two-state solution? The Jews said, yes, we will, even though we were supposed to get all of Jordan and all of this, you took two-thirds of the land away for Jordan and you want to divide this land in half, okay. We just want a homeland. And we will take half, the half that you have set forth.

What did the Palestinians and the whole Arab world say in 1947 when they were offered a Palestinian state? They said, no, we don't want to live next to a Jewish state even though there is no other Jewish state in the world, let alone in all of Arabia. Look at little tiny Israel. They said, We don't want to live next to a Jewish state, and they said no. So a year later, the U.N. said, okay, then we will make the whole thing the Jewish homeland, the state of Israel.

And what happened in 1948, the anniversary of independence for Israel we celebrate today? All of the armies surrounding Israel, Egypt, Jordan, Syria, Lebanon and Iraq invaded in 1948. They told their Arab brothers and sisters who were living inside the land, "Leave. Flee. We'll drive the Jews into the sea. You'll have the whole thing to yourself. You won't have to have a two-state solution. It will all be yours." A miracle happened. The scrawny bunch of Jews that were there with no arms but only the will to fight defeated all of those armies. The 800,000 people, the Palestinians who left, were they absorbed by the surrounding Arab countries and welcomed in brotherhood and sisterhood? No. They were kept, these refugees from 1948, in squalid refugee camps. That was 55 years ago. They have still kept them there.

By the way, in 1948 when Israel was established, in 1948, do you know how many Jews were expelled from the Arab world? The same number. 800,000 Jews from all over the Arab world, and there were Jews living in those lands for centuries. When Israel was recognized as a state by the U.N., as the Jewish state in 1948, 800,000 Jews from the region were expelled and thrown out of their countries and they made their way to Israel.

What did Israel do? Did Israel put them in refugee camps, squalid little camps to fester and be betrayed for 55 years? No. Israel said, you are our brothers and sisters, even though your lands were dispossessed and you were thrown out of lands where you have lived for centuries, we will take you in and make you our citizens and take care of you. Meanwhile, the Palestinians still rot in their refugee camps their Arab brothers and sisters have kept them in all over the Middle East.

What happened next of significance? In 1967, all the Arab nations surrounding Israel invaded Israel again. They said to their Palestinian brothers and sisters, "Don't worry, we'll drive the Jews into the Mediterranean Sea. You'll get that Palestinian state. You won't have to live next to the Jews." In 1967, another miracle. Jews, outnumbered again, they survived.

And what happened in 1967 after the war of defense, Israel said, "You know what, we want to live in peace, Palestinians. Let's negotiate so you can have your own state." What did the Palestinians say in 1967 after they had rejected statehood in 1947? They said, "We won't live with you. We don't want a two-state solution."

The next significant event, not 1967, 1973, all the Arab armies around Israel again, 1973, invade Israel, they are going to drive the Jews into the sea. What happened then? Another miracle, the Jews survived.

Go back to the year 2000. Bill Clinton brings Yasser Arafat and Prime Minister Barak from Israel to Camp David where Prime Minister Barak says, "You know what, we're going to try again, Palestinians. We're ready to give you your own state on the West Bank and the Gaza. We're ready to give you your capital in Jerusalem, two-thirds of East Jerusalem." They are willing to give the Palestinians 97 percent of what they wanted or what they said they wanted. Remember, for the first time in human history a losing army, who lost four wars, gets offered 97 percent of what it tried to get illegitimately.

What did Yasser Arafat say to such an offer in the year 2000 at Camp David? He did not say a word. Not only did he not accept the deal of 97 percent, he did not even present a counteroffer. He left the negotiations, went back to his home in Gaza and ordered the suicide bombing to begin, still in the belief, 55 years later, after an offer of a Palestinian state for the third time, if he had to live next to a Jewish state of Israel, he did not want the deal. Get rid of Israel altogether or no deal. He did not care if his Palestinian people suffered or not, how many children he sent to die with bombs strapped to their back, how many hundreds of thousands of Palestinian refugees now multiplied in numbers over 55 years were going to rot in Palestinian refugee camps around the Middle East. He did not care. He would not live in peace next to the Jewish state of Israel.

That is where we are today, except they intensified their suicide bombings so that the Israelis have lost the equivalent in American people, given the difference in population, small Israel and big United States, of about 25,000 people in the last 18 months. Can you imagine, God forbid, if America lost 25,000 people to terror in the last 18 months, what we would do? That is what Israel is doing now, going into the areas controlled by Yasser Arafat, getting his weapons, getting his explosives.

Did the Israelis who have a great Air Force and all kinds of bombs drop bombs and destroy these villages entirely, men, women and children without regard? No. Could they have? Of course. They said, "We won't kill innocent civilians, even though they are killing ours." So they sent Israeli troops one by one, door by door to get specific terrorists. That is a democracy, with a moral sense, a moral code. And the number of civilian casualties in the Palestinian areas were minimized. Even though in America when we went into Afghanistan, unfortunately there were quite a lot of civilian casualties, but we did the same thing, tried to minimize them as well.

What is left for us now? What is left for us now is to have the Israeli people root out, as President Bush said, bring to justice, or to bring justice to those who have slaughtered their babies in school buses, in nursery schools, in pizza parlors, in cafes, on the streets and supermarkets.

□ 2030

Twenty-five thousand, the equivalent of American lives in the last 18 months alone. Yet the Israelis get the ammunition, the terrorists, put them in jail, get the explosives, clean up the area, and, then, finally, hope that the Palestinian people will finally accept an offer that they have rejected since 1947: accept your own state next to the Jewish State of Israel. Have your people live in peace and prosperity. Just say you will live in peace.

Mr. DEUTSCH. If the gentleman would try to wrap up, we will have some more time. I know there are a couple of other gentlemen.

Mr. KINGSTON. If the gentleman will yield, I will certainly say we will be honored to yield to the gentleman more time when we have it, which will be in a few minutes. If I do not, my mother will kill me; and I understand that Mr. DEUTSCH's dad might get a little irritated himself. You are going to conclude, but you are not going to leave.

Mr. ROTHMAN. I will not leave.

Any nation that has said to Israel we are ready to make peace with you, Israel makes peace with them. Even a nation that attacks Israel and Israel defends itself, Israel gives back the lands. It happened to Egypt when they said they would make peace. It happened to Jordan, who invaded Israel several times and lost. They finally made an agreement, King Hussein and the Israelis. Now they live in peace.

What we need is a Palestinian leadership who wants to live in peace with the Jewish State. If they cannot do it, the Arabs and the Persians, the Iranians, they are not Arabs, they are Persians, so they tell me, and I accept their great culture, should have the Palestinian people take yes for an answer, and, after 55 years of rejecting statehood, accept statehood for themselves and for America's number one strategic ally in the Middle East, the only democracy in the Middle East, little tiny Israel. For Israel's sake, for the Palestinian people's sake, for the world's sake.

Mr. DEUTSCH. Mr. Speaker, reclaiming my time, I thank the gentleman. Again I would hope that the gentleman can continue to stay in the Chamber.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman, and again want to commend the gentleman from New Jersey (Mr. ROTHMAN) on his excellent job, as usual.

I would ask the gentleman from Florida to also yield the floor to a very strong pro-Israel advocate who is also a freshman this year, the gentleman from Virginia (Mr. CANTOR).

Mr. DEUTSCH. Mr. Speaker, I yield to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, I thank my colleague from Georgia for his leadership on this issue and certainly my colleague from Florida for his steadfast leadership and for the incredible wealth of knowledge of my colleague from New Jersey. I thank him as well.

It really is an honor for me to be here and to address this body on such an occasion. We stand here to congratulate and join in celebration with the people of Israel on the 54th anniversary of the creation of the Jewish State of Israel.

It is particularly apt that we are here as this country of ours, the United States, is picking itself up, putting things back in order, from the horrific terrorist attacks on September 11 that killed thousands of innocent Americans. On that day we realize that we shared a common enemy with the people of Israel, an enemy that is as despicable as any we have seen in our land, one that is after our way of life, our freedom of choice, and our faith in our creator.

Mr. Speaker, the State of Israel grew out of the ashes of the Holocaust, a time in which the Jewish people suffered under an evil and a systematic wickedness that killed 6 million innocent people. To this day, Mr. Speaker, the people of Israel continue to endure the wrath and hatred of so many of its neighbors, as has been pointed out by my colleagues this evening.

The people of Israel continue to endure on a daily basis what the people of our country endured on September 11. The atrocities, the death, the carnage that they must face on a daily basis brings us here this evening in solidarity.

This great country, the United States of America, was founded on the principle that all men are created equal, that they are endowed by their creator with certain unalienable rights, and among these are life, liberty and the pursuit of happiness.

As the legacy of those great 18th century Virginians who put forth those principles, we stand here tonight united in saluting our brethren in the State of Israel, those individuals who never cease to assert their right to a life of dignity, freedom and honest toil in their national homeland.

SUPPORTING ISRAEL'S RIGHT TO DEFEND ITSELF

The SPEAKER pro tempore (Mr. AKIN). Under the Speaker's announced policy of January 3, 2001, the gentleman from Georgia (Mr. KINGSTON) is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, I thank the Speaker for recognizing me and want to immediately recognize my friend from Florida (Mr. DEUTSCH). We are doing this hour on a bipartisan basis tonight. The subject will continue as it did the past hour on our support for Israel's right to defend itself.

With that, let me yield to me friend, the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, again, I appreciate this. I know in the last hour several additional colleagues have joined us, and I look forward to hearing from them over the next hour.

One colleague who has been very patient is one of the most knowledgeable Members in the Congress on the Mideast, again someone who has been active in Middle Eastern issues and concern far before he entered the Congress, the gentleman from New York (Mr. WEINER).

Mr. KINGSTON. Mr. Speaker, I yield to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I want to thank the gentleman from Florida and the gentleman from Georgia for once again organizing this.

There is a period of time between the commemoration of the anniversary of the Holocaust and this period where we commemorate this evening the birth of the State of Israel, and those two things, of course, are inextricably linked. We have heard over the course of the last hour an extraordinarily well-detailed, particularly by my friend from New Jersey, a detailed history of the last 44 years.

I would like to spend just a moment talking about some of the ways we, in our rush for the 24-hour news cycle, our rush to try to understand things in 2-minute blurbs, have drawn many of the wrong conclusions about events going on today in the Middle East.

One of the things that is frequently pointed to as a source of the problem that we currently face in the Middle East, people have pointed to the current leadership of Israel, Ariel Sharon, the Prime Minister, and said it is his intransigence that has led to the explosion of violence.

Well, to say that ignores the fact that in fact this intifada began shortly after Camp David II, on September 29, 2000, a good 4 months before Sharon would even take office. Prime Minister Barak, the person who was at Camp David who had made the extraordinary concessions that we have heard about this evening, it was he, perhaps the most flexible, some in Israel almost say too flexible, leader of Israel, that was in power at the time that this explosion of violence began.

Second of all, the notion that Ariel Sharon's government and the people of Israel are not willing to enter into an agreement to end the violence is not true. The Mitchell Plan, which was a very long period of time headed up by former Senator Mitchell, included very difficult concessions for Israel, including things such as they had to withdraw from settlements.

Israel has accepted it. It is the Palestinians that have said they will not. Why will they not? Because the first element of the Mitchell Plan is there has to be a cessation of violence and then a cooling off period, a reasonable first step toward any peace plan. It is the Palestinians that have rejected it.

Then came the Tenet Plan, where the CIA Director went there to try to negotiate steps again to cool down the violence. It was Israel who said we will agree to the Tenet Plan. We will agree to loosen up the restrictions at the border crossings, to allow commerce to move more freely, if the Palestinians agree to stop the terrorism. Again, it was Israel who accepted and it was the Palestinians who said no.

So this idea that the present Government of Israel has been inflexible, intransigent, and that is what has led to the violence, is simply not.

Second of all, there have been some terrible images on television about the events that have gone on in the Middle East and the efforts by the Israelis to crack down on terrorism.

I would say at the outset, Mr. Speaker, no war is civilized. Whenever you are engaged in a war, it is going to produce some unwanted fatalities; it is going to produce some images that are most troubling, particularly to those of us in a peace-loving nation.

But unlike the way other wars have been prosecuted, unlike the way we, for example, in Afghanistan waged the war at Tora Bora, from the safety of the skies, if you look at how the Russians waged war against Grozny, where there is not even a single building left standing in Grozny now, Israel made a different and arguably the most compassionate decision they could that they were going to go into places like Ramallah, go door by door, house by house, looking for people who had made it their business to go into discoteques and to go into Passover seders with human bombs laced with nails and ball bearings and blow innocent civilians up.

And what has been the result? Some people say why Ramallah? What is it about that town that has made it the subject of these house-by-house searches?

There have been 35 terrorist attacks originating from that city alone in the last 18 months; 417 Tanzim, all elements of the Fatah movement controlled by Yasser Arafat, these are the people he has on the speed dial of his phone, have been operating out of Ramallah.

This is a place where two IDF reserve soldiers in October of 2000 who accidently took a wrong turn, and, just so you understand, these are reserve soldiers, these are 18- and 19-year-old boys, who were serving their mandatory service in the military, took a wrong turn and were lynched and hung from a Ramallah police station that Israeli dollars paid to build.

All of these things went oncoming from Ramallah. The Jerusalem cafe attack that killed 11 people and wounded 50 took place in Ramallah. Well, door to door the Israelis have been going, trying to find those that would do harm to their people.

I would read a quote from Secretary Rumsfeld talking about the necessity to sometimes go and get terrorists before they come and get your people. This is what he said on February 4, 2002:

"We have no choice. It is physically impossible to defend at every time, in every location, against every conceivable technique of terrorism. Therefore, if your goal is to stop terrorism, you cannot stop it just by defense. You can only stop it by taking the battle to the terrorists where they are and going after them."

I would argue, Mr. Speaker, that it is the Israelis that are the foremost practitioners today of that, the Bush Doctrine.

Finally, there have been perhaps some very troubling images of violence taking place around the Church of the Nativity, the birthplace of Jesus Christ. I have to say something very honestly. If there were Israelis inside that church surrounded by Palestinian suicide bombers, there would not be a moment of hesitation on the part of the Palestinians to go in, regardless of the destruction to the church.

Not the case with the Israelis. And if you question what I say, Joseph's Tomb, a historic and important monument of the Jewish people, destroyed in October of 2000. An ancient synagogue in Jericho, torn to the ground also in October of 2000. You did not hear the type of protestations we hear now.

Yet what are the Israelis doing? Day in, day out, soldiers, sometimes in the pouring rain, encircling the Church of the Nativity, trying not to do any harm to that location. In the meantime, the terrorists are within. The Israelis are waiting, and they are going to continue to wait until they emerge.

Finally, let me conclude the way I began, and I thank the gentleman from Georgia and the gentleman from Florida once again. There is an inextricable link between the history of Israel, the history of the Jewish people, and their birth as a state.

On Saturday, April 13 in the New York Times, a gentleman named Daniel Gordis wrote about what it is like to live in Israel right now and what it is like to be celebrating Yom HaAtzmaut, which is the Hebrew word for the commemoration of the birth of Israel, and Yom HaShoah, which is the commemoration of the HaShoah.

□ 2045

And he concludes his article, and I would like to quote, and I will insert the entire article in the RECORD. "On Tuesday night, my 12-year-old son, Avi, told me about a Yom Hashoah class discussion about whether the Holocaust could happen again, a session he said he found stupid. Why, I asked? Because, we have a strong Army, he answered. America is our friend, and look out there now. We take care of ourselves."

"The next morning I watched him head off on his bike to school with pride, security and confidence. That is a lot more than Jewish kids in Europe had a few decades ago, a lot more than some Jewish kids have in Europe this week. That is why we need this country. That is why we will fight to keep it."

[From the New York Times, Apr. 13, 2002]

NEEDING ISRAEL

(By Daniel Gordis)

Tuesday was Yom Hashoah, Holocaust Remembrance Day, an agonizing day. In the afternoon, at work, we gathered in a circle while some colleagues quietly read the names of relatives who had been exterminated by the Nazis. Some had long lists; one even brought pictures. During the ceremony, word spread that a group of Israeli Defense Force soldiers—13, it would turn out—had been killed in an ambush in Jenin. Another, in Nablus, fell to friendly fire.

It is hard to describe what 14 soldiers means in this small country. People make frantic calls to find out where their husbands and fathers are. Then the hourly news announces to the entire country the location and time of each funeral. At such moments it feels that living here makes one part of an extended family. No one in that family wants this war. But very few people here think we can do without it. Israelis understand why we're fighting. We also know why our soldiers are dying. There are significant pockets of armed resistance in the Jenin camp, but there are also lots of civilians. So we can't just bomb from the skies. We send soldiers house to house, only to watch as Hamas fighters use those same civilians as shields. On Tuesday we paid a heavy price.

We had 14 funerals because we won't fight this war the way the Russians fought in Grozny or the way the United States fought in Afghanistan—from the safety of the skies. Hardly a building in Grozny was spared in the bombing; the Russians knew the price they'd pay if they tried to fight on the street. If Israel hit a hospital from the skies the way that the Americans did not too long ago in Afghanistan, just imagine the world's reaction.

Palestinians say we won't let their ambulances in Jenin. Yet two weeks ago Israeli soldiers stopped a Palestinian ambulance with a child in the back on a stretcher, and under him soldiers found an explosive belt. Palestinians say that we're not letting them clear their dead from the streets. The Israeli Army claims that's a lie, that the Palestinians are leaving the bodies there intentionally for good footage on CNN. Who's telling the truth? I don't know.

Last week, when the siege around the Church of the Nativity began, many Israelis understood why we couldn't just shoot our way in, but the frustration was palpable. If it had been Israelis in a church, or a synagogue, and Palestinians on the outside, how long would the siege have lasted? Everyone here knows the answer. When the Palestinians burned down the synagogue at Joseph's tomb in October 2000, the Vatican didn't speak up. When they later destroyed an ancient synagogue near Jericho, European liberals didn't lose sleep.

The siege outside the church began in foul weather. According to reports on Israeli radio, some soldiers stood for hours in the driving rain, making sure that none of the armed Palestinians inside would escape. All that afternoon, the residents of Bethlehem pointed at the rain and shouted: "Get out of here. We hate you. The world hates you. And look, even the heavens hate you."

Maybe the world does hate us for having the audacity to protect ourselves, for meaning it when we say "never again." Maybe the world is secretly delighted that no war can be made to look civilized, so the Europeans and the Palestinians can point their fingers at us and say, "See, they do it, too." Then maybe what they did won't seem so horrific, so unforgivable.

One thing important to Jews is remembering. We won't forget the 20th century and the world's complicity, and when we recall this week, in which we buried 14 of our sons, brothers, husbands and fathers who didn't have to die except for our decision to do this fighting the hard way, we'll remember the world's double standard.

On Tuesday night, my 12-year-old son, Avi, told me about a Yom Hashoah class discussion about whether the Holocaust could happen again—a session he said he found "stupid." Why? I asked. "Because we have a strong army," he answered, "America is our friend, and look out there now—we take care of ourselves."

The next morning I watched him head off on his bike to school, with pride, security and confidence. That's a lot more than Jewish kids in Europe had a few decades ago. It's a lot more than some Jewish kids have in Europe this week. It's why we need this country. And it's why we'll fight to keep it.

"We have no choice. . . . It is physically impossible to defend at every time in every location against every conceivable technique of terrorism. Therefore, if your goal is to stop [terrorism], you cannot stop it just by defense. You can only stop it by taking the battle to the terrorists where they are and going after them."—U.S. Secretary of Defense Donald Rumsfeld, February 4, 2002.

Mr. WEINER. Mr. Speaker, in this great House, we have always stood shoulder to shoulder from all parts of this country, Democrat and Republican alike, strongly allied with the democracy in the Middle East, Israel, and with God's good graces, I hope we stand with her for at least another 44 years.

Mr. DEUTSCH. Mr. Speaker, I know I had chills up my spine as the gentleman was speaking, he spoke so forcefully on the issue.

I yield back to the gentleman from Georgia, but knowing that he is going to introduce the gentleman from Florida, I would say of the gentleman from Florida (Mr. DIAZ-BALART), I think he stands almost alone in this Chamber, but clearly in a unique position, as someone who is incredibly insightful about world events and incredibly insightful about the evil that exists in the world, incredibly insightful about what can be done to fight that evil, and, in fact, has unfortunate personal knowledge of it because of his background and his family's background. He has traveled to Israel with me on at least 1 occasion, and I have seen his personal involvement, his personal connection to the struggle of the people of Israel. I am just very proud that he is with us this evening on this Special Order.

Mr. KINGSTON. Mr. Speaker, I certainly agree with those comments. The gentleman from Florida has been a true human rights leader, not just for his part of the globe, but for the entire world.

Before I yield the floor to him, though, I wanted to say something about what the gentleman from New York (Mr. WEINER) was saying in terms of the little boy on the bicycle leaving with pride that Israelis could defend themselves and having so much more spirit than maybe generations before him on another continent.

When I was in Jerusalem several years ago going through the Holocaust Museum, certainly, one cannot go through a Holocaust Museum without having some emotional twisting in your stomach, in your heart, and just kind of a cascade of different thoughts go through your mind, but one of the more optimistic things that I saw was actually at the end of the Museum, there were some soldiers who were going through the museum.

It happened that most of these soldiers were Israeli soldiers who were women. As the gentleman from Florida knows, they are armed most of the time, and it is almost a militia in that everybody is in the Army at some point in their lives. These young women were walking around in the museum, very casually, very focused on the museum, yet they all had strapped to them M–16s. I thought, that is a very symbolic message for anybody going through the museum, that it is the intention of modern day Israel to never let that sort of thing happen to them again.

So as we as America look at the things in the Middle East, perhaps we do not appreciate the fervency which the Israelis have in terms of fighting for their independence here on Independence Day of their continued statehood because they have been through so much to get there. They cannot retreat at this point. I wanted to make that point based on what the gentleman from New York (Mr. WEINER) had said.

Now, having taken up some of the time of the gentleman from Florida (Mr. DIAZ-BALART), I wanted to ask the gentleman to do something that he never does here, and that is to tell us a little bit about his personal past. The gentleman from Florida (Mr. DEUTSCH) has touched on it, but I think that it qualifies the gentleman from Florida (Mr. DIAZ-BALART) to speak on the subject based on the gentleman's family situation. If the gentleman does not mind revealing some of that to us, I think it would be very helpful.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman from Georgia, and also my good friend from south Florida. It is a privilege for me, and I consider it a true honor, to be here this evening in solidarity with Israel.

I have been an admirer for many years of the Jewish people. The gentleman from Georgia (Mr. KINGSTON) pointed out and talked a little bit about my background. My family had to leave the country that I was born in, Cuba, where I am in the fourth generation of, in this instance, Cuban American, fourth generation in our family of public service which began in Cuba when my great grandfather and his brothers began fighting for independence there. And then my grandfather, after independence, became a lawyer. He was a country lawyer in eastern Cuba and was the lawyer for the Jewish community in Banas, in eastern Cuba.

There was a very vibrant Jewish community in Cuba before the arrival of communism, a very vibrant, growing, prosperous, hard-working, honorable Jewish community in Cuba. Many of them are in south Florida today, and the gentleman from Florida (Mr. DEUTSCH) and I have the privilege of knowing them and working with them and really the honor of their friendship.

What always amazed me about the Jewish people, having lost the country of my birth to totalitarianism, and having lived and seen my country of birth live through 43 years of totalitarianism, and as a child, having been in exile, a refugee from that totalitarianism, and having seen what 43 years means in the life of human beings; 43 years in the life of a human being, in the life of a family, are many years.

Obviously, in the life of a people, 43 years are but a point of reference. But having seen that the Jewish people were forced out of their homeland and that somehow, due to an extraordinary and admirable love of their country and their nationality and their families and their traditions and their origins and their customs and their religion, and much faith and, above all else, perseverance, perseverance, the Jewish people managed to remain a people, to survive during 1,800 years of exile, and then to finally, after 1,800 years of exile, to be able to return to their homeland and establish a modern-day nation state, that is something that I have always been in awe of and I admire deeply.

So tonight, we stand here in this great Congress saluting the people of Israel on the 54th anniversary of the establishment of their modernization State after 1,800 years of exile. And after the 1,800 years of exile, when the Jewish people were able to return to their homeland and establish the modern State of Israel, the reality of the matter is that there has been too much violence and war and suffering and pain that the Jewish people have had to suffer, and we see it to this day.

So this evening, not only do I consider it an honor to be here saluting and a privilege to be here saluting Israel because of and in commemoration of her 54th anniversary as a modernization State, but also I stand tonight in solidarity with the Jewish people, their right to live freely, their right to live as an independent, sovereign, democratic state, and their right to live in peace. So my hopes and my prayers go out to the Jewish people with a fervent wish for peace and also with a fervent statement of solidarity and support.

One of the reasons why I have found it such an honor to be a Member of this Congress for the last 10 years is that one of the issues that join us, one of the issues that unite us, whether we are Republicans or Democrats or conservatives or liberals, is our support for that friend of the United States, that democracy in the Middle East that is facing so many challenges, perhaps more challenges now than ever before, in some ways. So I respect the decisions of the sovereign democratic state of Israel. I, as a Member of this Congress, support and will continue to support Israel, and that, above all else, obviously in addition to my expression of solidarity and admiration for the Jewish people and for Israel, is what I wanted to do this evening.

Mr. KINGSTON. Mr. Speaker, we thank the gentleman for sharing that very personal, very, very credible testimony.

Mr. Speaker, our next speaker is a gentleman, and we have had a good mix of people tonight. We have had Jewish, Christian, Democrats, Republicans; we have had Members that are Cuban Americans originally, and now we have a gentleman from Indiana (Mr. PENCE), who actually represents a district that does not have a single synagogue in it, and yet he stands 100 percent behind Israel's right to defend herself. I think it is just important that as we look at this, there are a lot of other Members in this 435-person body who have the same sentiments that those of us who have been here tonight have been expressing, and yet, for one reason or another, they are not with us tonight physically, but they certainly are with us in spirit. It is a great representative sampling.

Mr. DEUTSCH. Mr. Speaker, if the gentleman will yield, I would point out that we literally, across the country, we have had Members throughout America today speak from the heart about what their connection and their hopes and their prayers are this evening.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentleman from Georgia (Mr. KINGSTON) and the gentleman from Florida (Mr. DEUTSCH) for putting this Special Order together.

As the gentleman from Georgia shared, I am a Christian, a conservative, and a Republican, in that order. My faith trumps my philosophy, and my philosophy trumps my partisanship, and it is from my faith and from my philosophy, as it is I believe for many Christian Americans, that I believe a passion to this issue. Not just during the present impasse have I been an advocate for Israel, but for many, many years in and out of public life in central Indiana, I have, Mr. Speaker, been an advocate of the dream that is Israel.

□ 2100

And it is a dream. I scarcely let a day go by that I do not pray for the peace of Jerusalem. I pray for security within her citadels, not just for the Jewish people there, but for the people of every race and every creed who convene there.

But when I say that Israel is a dream, I do not say that lightly, Mr. Speaker. Today, if I am pronouncing it right, we celebrate Israel's Independence Day, Yom HaAtzmaut. It is the 54th anniversary of an extraordinary occasion in human history.

It was an occasion when, while it was done under the rubric of the United Nations and under the color of international understandings, let there be no mistaking it, the people of the United States of America, by their beneficence and good will toward a people, 6 million of whom had been slaughtered by the Nazis in Central Europe, chose to use their power in the world to replace this displaced people in their historic homeland.

Never before, Mr. Speaker, does history record an occasion where a nation was born in a day until, in 1948, Israel, largely through the generosity of the people of the United States of America, was born. And it was in every sense a dream. It was a dream, as the gentleman from Florida (Mr. DIAZ-BALART), just shared, a dream of some 1,800 years of a people that never gave up on a vision, that never gave up on the idea of returning home.

So as we think of the reasons why the United States of America should stand with Israel, Mr. Speaker, it begins with the fact that America established Israel in 1948 in her homeland. More than any other Nation, she is our ally. She is our friend in so many ways. We are the mentor, she is the mentee.

We entered into a partnership with Israel in 1948 which, Mr. Speaker, at the risk of becoming passionate and emotional, a partnership that could never be described as America becoming an honest broker, sliding to the middle of the table. From 1948 forward, America had one place at the table, and it was standing like a protector and a provider over the right shoulder of Israel.

So we stand with her because we were there in the beginning. We stand with her because she is our ally. But we also stand with Israel today because she is in trouble. She is beleaguered. Eighteen months of random violence since the Intifada began in the year 2000, and 400 citizens killed, thousands injured, millions distressed. Israel is ground zero in the war on terrorism. What better time to define the metes and bounds of our relationship and our alliance than when our friend is in her darkest hour?

I have been grieved, Mr. Speaker, by the ambiguity of U.S. policy, particularly during recent days. It seems to me America should stand, as we do, astride the world as the lone superpower, with our arms quietly folded, with a tear in our eye for the suffering of all of the people of the region, but we should stand quietly while our friend does what needs to be done to end the murdering in their own streets.

So America should stand with Israel because she is our ally from her beginning, and because she is distressed; also, because she is the only democracy in the Middle East. I have this idea, Mr. Speaker, that the people of the Middle East, as Prince Hassan of Jordan describes it, the people who live in the arc of crisis from India to the West Coast of Africa, are a people capable of democracy and self-government and civil liberties.

I believe in that dream. And Israel, as she did in 1948, rose out of the dust of the Middle East and established that the dream of democracy born on our shores in 1776 is not an American dream, it is a dream of all peoples of the world. With this, I close and yield back to more eloquent colleagues.

As I said in the beginning, Mr. Speaker, I come from a Christian and a conservative perspective, and I believe that our administration and the leaders of our government would do well to reflect, yes, on the passion of elected leaders from the Jewish community at all levels of government in America, but let them also reflect on the people of Christian faith in America who cherish the dream of Israel, as the Bible says, as the apple of God's eye.

Because I believe it was from the hearts of people in the heartland of America, places like the little buckboard churches that dot the landscape of my eastern Indiana district, it is the people that fill up those churches on Sunday morning and Sunday night and Wednesday night who give me, as I travel my district, time after time standing ovations when I say America must have one position, and that is to stand with Israel, unambiguously.

And it is those people who believe in that simple principle, that part of our prosperity, part of our own destiny, is tied up in the belief that whoever blesses Israel will be blessed, whoever curses Israel will be cursed. Let it ever be that our government expresses the love that believing Christian Americans have for Israel, that believing Jewish Americans have for Israel. Let this American government always stand for that dream and that passion.

Mr. KINGSTON. I thank the gentleman for those passionate, very good, very clear words and that good message. Mr. Speaker, I yield to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I thank the gentleman for yielding. This has been an evening where we have tried to elaborate on a couple of different themes.

From a historical perspective, this is Israel's Independence Day, but also we try to share information, both with those viewing and with other colleagues.

I think one of the questions which is a basic question is why are the Israelis presently making incursions into towns like Ramallah and Bethlehem and Nablus and Jenin.

I think one of the things, and I put this map back up just, again, to give a perspective which many, or in fact most, Americans have, but it is a perspective to think about, that the entire state of Israel is about the size of New Jersey. In fact, my congressional district, the northern border of my district is the Palm Beach County of Florida; the southern border of my district is Key West, Florida. In fact, the length of my district is longer than the length of the state of Israel.

The reason I mention that is just the size. If people have been to Israel, and especially for the first time, the thing that I think is so striking, besides the incredible sense that history is reality, that we can be on the steps Jesus walked on, or we can see the wall of the temple, or we can see the city of Jericho, and look out where Moses was not able to enter the promised land but actually see the mountains, besides the historical reality of the sites of the country is the size of the country.

People talk about neighborhoods like Ilo or Pisgot sev as if they are far away. They are Jerusalem. Those are neighborhoods that are being shot at. Just the country itself, the area between Natana and the West Bank is 12 miles. Twelve miles in my district would be the equivalent of from the city of Fort Lauderdale to north Miami Beach, from Fort Lauderdale to Dade, distances which people of south Florida can appreciate how small they are.

But again, why did Israel make those incursions? They made those incursions really because of the chart on the left, and also I am going to change charts and add an additional chart which we had showed earlier. What Israel's people had suffered, not just over the last 18 months but disproportionately over the last several months, is hard for us to comprehend the level, again, based on the size of the country.

One of the phenomena of 9/11, the attack on the World Trade Center, the Pentagon, and the plane that crashed in Pennsylvania, is most Americans in a sense were not just affected, but directly affected. Most of us know someone personally that had a tragedy that occurred, and we have seen it. We have literally felt it.

It is hard for us to contemplate what it would mean, again, with the comparable numbers of seven 9/11's in America, literally seven 9/11's, almost on a daily basis not being able to go to the grocery store or to have a celebration, a bar mitzvah or a wedding without an incredible concern of a violent attack.

The suffering, the direct acts of terrorism that Israel had been facing, were unprecedented for any nation, for any nation. And can we expect any nation to do nothing?

In the previous special order, I talked about two watershed events that occurred as recently as 3 months ago, 12 weeks ago. One was the Karine-A, the ship that the Israeli commandoes commandeered, and it had over $20 million of sophisticated weapons from Iran that the Palestinian Authority bought.

Now, originally, Chairman Arafat denied any involvement with that ship. His only plausible deniability, in a sense, was he was not on the ship. But let me be specific. It has been discussed in the public domain at this point.

Both the Americans and the Israelis had direct knowledge of Chairman Arafat's personal involvement in the purchase of those weapons. Again, as has been discussed in the public domain, Colin Powell called up Chairman Arafat and said to him, why did you do this? These weapons were not rifles, they were mortars, sophisticated mortars, sophisticated weapons. We have seen pictures of them and a listing of those weapons.

Chairman Arafat's response to Colin Powell was, what weapons? What ship? I had nothing to do with it. But again, as I said, in the public domains, the Israelis and the Americans were aware of what occurred. Colin Powell said to him, we are going to show you the evidence. The evidence was presented to him. Yet, he then still said, what involvement? What ship?

If we think about that, how could we expect to have any negotiations, any relationship, any prospect for a final status with someone who outright lies to us when we know that that person is lying? That is number one.

The second incident over the last 12 weeks, which was really a watershed incident, was a sniper attack on the Israelis at a checkpoint, the Israeli soldiers. About six Israel soldiers were killed in a matter of a couple of minutes.

For anybody who has been in Israel, or just again, the map of the small size of Israel, once that occurred, those sniper attacks, those sniper rifles could shoot several miles, so with a line of sight in the building we are in now, if someone was on the roof of this building with a sniper rifle, they could shoot literally, God forbid, someone standing in the driveway of the White House over a mile away.

Now, once that occurred and no one was trying to prevent that, after those incidents occurred, the Israeli government decided to go into some of these communities and literally go house to house and wall-to-wall to do what no one else was trying to do: to stop the terrorism that was affecting their people and killing their people on almost a daily basis. That is exactly what the Israelis were doing; no less, no more than America did and America must do in response to the attack on us on 9/11.

I think that is what the previous speaker talked about, the ambiguity issue. There is united 100 percent support in the United States of America for President Bush's efforts on the war on terrorism, for the efforts of the American men and women who are fighting that war in Afghanistan. And we are 100 percent, there is no daylight between any of the 435 Members of this Chamber on that issue, because we understand and we agree completely with the President's assessment of that threat to America, and we agree with the assessment of the threat to America from Iraq and from Syria, from North Korea, in terms of terrorism and weapons of mass destruction.

We will do everything we can as a society and as a nation to prevent those things from happening. We will do anything. I think those people understand that, because we have shown that we will do anything.

☐ 2115

There is no question that what is happening in Israel is a level of terrorism unprecedented for a country. Can we expect the Israelis to do anything less than us? Can we expect them to do anything? Can we ask them to do anything less than us? If anything, what we should be doing is praising them for those efforts, supporting them for those efforts because those acts of terrorism must end.

Those acts of terrorism, again, I think as has been pointed out by my colleagues, are not just acts of terrorism against Israel. Make no mistake about it. Those acts of terrorism are not just acts of terrorism against Israel. They are acts of terrorism against the United States of America, and when a bomb goes off in an Israeli pizzeria, an Israeli cafe, an Israeli banquet hall, the perpetrators of that action are as much trying to kill civilians in Israel as they are trying to destroy the United States of America, and what our actions should be as a society and as a country should be to prevent that from happening because if we do not prevent it there, I think unfortunately it is only a matter of time till it comes here.

So we are brothers and sisters with the people of Israel in this area. We are fighting together this war of terrorism, and we should not be trying to stop it. We should be trying to help it for it to come to a successful conclusion.

Mr. KINGSTON. Mr. Speaker, I now yield to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to build on what my colleagues have been talking about for the last several minutes. When the gentleman from Florida (Mr. DEUTSCH) mentioned that there were the equivalent of seven September 11's in Israel in the last 18 months, that is true, but it would be seven September 11's, not in a country as big as America, but in a land and a State the size of New Jersey, seven September 11's, God forbid, within the size of the State of New Jersey.

By the way, just to remind everybody, look at how the sliver that Israel is along the Mediterranean. When we compare it with Egypt and Jordan and Saudi Arabia and Iraq and Iran, all over here, Israel's infinitesimal. Syria, Turkey, a sliver.

For the last 54 years, Israel has been America's number one ally in a very hostile region. More importantly, Israel has been America's number one ally in an extraordinarily strategic region for the United States. As I said and as has been referred to before, Israel is America's battleship of democracy in a sea of totalitarians, dictators and murderous thugs. Saddam Hussein, Syrian dictator, the mullahs, the religious councils in Iran who overrule their own democracy, the slaughter that goes on by Lebanon which is now occupied by 45,000 Syrian troops. The world does not say a peep.

Does America's best friend for the last 54 years, Israel, by the way, who has the best voting record at the United Nations in support of the United States than any country in the Middle East and all of Europe, America's best friend, state of Israel, do they ask America to go fight Israel's battle? Have they asked for a single American soldier? No, they never have.

They did not in 1948 when all the surrounding armies invaded Israel. They did not in 1967 when all the surrounding Arab armies invaded Israel, saying to their people we are going to drive the Jews into the sea. They did not in 1973 when all the surrounding armies invaded Israel, and they have not asked for it now, despite the seven 9/11s of terrorism in the last 18 months alone.

Israel does not want special treatment. Israel wants to be considered like all the other Nations of the world which it is. It certainly has all the legitimacy of any other nation in the Middle East. Israel, recognized by the United Nations in 1948, all the major countries of the world agreeing, the Jewish state shall live. As they agreed Saudi Arabia should live in 1932, as Jordan should be created in 1946, as they said that Egypt should be recognized in 1922, as Syria recognized in 1946, as Iraq recognized in 1923, Iran recognized in 1925 and Lebanon recognized in 1943, so too Israel should be and was recognized in 1948.

So Israel's no youngster. It is celebrating its 54th birthday. What is left? Why is there still violence?

Well, the Palestinian people and their leaders, ever since 1947, when they were offered half of the State of Israel, with the Jews having the other half in 1947, a two-state solution offered by the United Nations under U.N. Resolution 181, in 1947, they were offered half of Israel. They rejected it, as they rejected Israel's offer of a two-state solution in 1967, as they rejected the offer of Israel for a two-state solution in the year 2000 at Camp David.

Mr. KINGSTON. Mr. Speaker, reclaiming my time, I have Mr. DEUTSCH's chart of some time, and what I thought I would do since it ties in with what my colleague is saying, I was going to go down some of these dates.

Mr. ROTHMAN. That would be great, if I could finish my line of thought.

Mr. KINGSTON. Mr. Speaker, what I would like the gentleman to do is as I call these out, maybe underscore and give some of his knowledge.

Mr. ROTHMAN. That is kind of the gentleman to say. I am going to finish my point, which is it breaks my heart, breaks the Israeli's people's heart. It would break any person's heart who has any shred of decency that the Palestinian leadership has turned down statehood for themselves and their people since 1947, offered it in 1947, 1967, and 2000. Does not it break my colleague's heart, that they condemn their own men, women and children to live in statelessness because they do not want to live next to the Jewish state recognized by the U.N., albeit the tiny little Jewish state in a sea of Arab Nations, Muslim Nations and Persian Nations?

Breaks my heart and so we plead for the Palestinians to get themselves a leadership that will, as Egypt did and as Jordan did, say they will live in peace with the Israelis for good, as their neighbor and they will have their own state and peace, accept as their own state that has been offered since 1947, as we say take yes for an answer. The Palestinians will never drive America's best friend Israel, will never drive the Jewish state into the sea, never.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman and I wanted to, having grabbed the gentleman from Florida's (Mr. DEUTSCH) chart a second ago, I wanted to go ahead and resubmit this for the RECORD. As maybe as I will read some of these key dates, anything the gentleman wants to add, I will go slowly, but I thought it would be good if we had it on the comments the gentleman from New Jersey (Mr. ROTHMAN) was making.

The history of Israel, 1917, the Balfour declaration.

Mr. ROTHMAN. Mr. Speaker, that is when England said after World War I, we want to, just as we are giving Arabia to the Saud family and we are giving Jordan to the Hussein family and creating all these countries, we think there should be a Jewish homeland in this area of the world, which the British owned by virtue of getting it as in the spoils of war after World War I, taking it from the Turks.

Mr. DEUTSCH. If I can just add, I think one of the important things to note from an historical basis is that at no time during that 1,800-year exodus was there not a Jewish presence in the area of Palestine or what has become the modern state of Israel.

Mr. KINGSTON. That is good to point out. 1922, the British divide the mandate of Palestine.

1947, the U.N. passes Resolution 181, the partition plan.

Mr. ROTHMAN. Mr. Speaker, that is what we were just talking about, the 1947 partition plan that the Palestinians and the Arab world rejected when Israel would have been divided in half, half Palestinian, half Jewish, with Jerusalem as an international city. They rejected it. They thought they would just drive the Jews in the sea and have it all.

Mr. KINGSTON. The 1948, Ben Gurion declares Israeli independence, five surrounding Arab nations attack.

1956, the Sinai campaign.

Mr. ROTHMAN. Mr. Speaker, by the way, the Sinai campaign refers to the fact that in 1967, the surrounding Arab nations went to war with Israel again.

Mr. DEUTSCH. Mr. Speaker, if the gentleman would yield, I would appreciate it.

This is a copy of a letter that the Israeli troops in some of the locations the Palestinian Authority uncovered arjons. These are people who are saying these are not accurate documents. I think that is hard to believe and not credible at all in terms of where they have been found and the authenticity of them. In fact, this particular one I do not think is even being challenged at this point in time.

The reason I think it is significant, tied directly into the comments just being made about 1947 is what is Chairman Arafat's goal or the goal of the Palestinian authority. Is it peace with Israel or the eradication of Israel? I think why this particular letter is so significant is that it is a letter to the Arabs who live in Israel.

Israel is a Jewish state but has a significant population of nonJews who are treated as equal citizens with equal rights, but what is significant is that this is a letter to the Arabs who live in Israel that was circulated amongst the group in Israel, literally calling for a war, a violent war within Israel proper today, not in the West Bank, not in Gaza.

So I think that from the perspective of the Israelis and I think the real question, this is concrete specific, in

Arabic to Arabs, what Chairman Arafat's goals are, not an independent Palestinian state living side by side with Israel, but literally the eradication of the state of Israel.

Mr. ROTHMAN. Mr. Speaker, I think that is a wonderful document that demonstrates why for 55 years now, ever since 1947, the Palestinians still believe they will destroy Israel and not have to share this with Israel, but imagine if it was 55 years after the American revolution and people came to war against us for four times. We would say do you not get it.

One last thing, the Church of Nativity is being surrounded by Israelis because there are 200 terrorists in there. They have offered the Palestinian terrorists in the Church of the Nativity either surrender and come to trial with international observers of the trial or we will let you go into exile in another country. These Palestinian terrorist extremists are so radical they want to rather die or kill Israelis or destroy the Church of the Nativity rather than go into exile or to seek to go before an international trial.

Mr. KINGSTON. Mr. Speaker, I wanted to also submit for the record an editorial written by William Daugherty, who is actually a former CIA employee who was one of the Iranian captives in 1979. He lives in Savannah, Georgia, works for Armstrong Atlantic State University, but he had this letter in the Savannah Morning News, and I thought it was very good to remind Americans, and I am going to read a lot of this.

It is going to take a few minutes, but he was just saying that we are focusing on the PLO as anti-Israeli force only and what Dr. Daugherty says is, yet they have killed Americans. The first American to be killed by a PLO-sponsored group was Shirley Anderson June 17, 1969. Since then the PLO groups have murdered more than 60 Americans and wounded at least as many. Among the dead were two ambassadors, an Olympic athlete, tourists, business persons and students.

PLO groups under the control of Arafat or his subordinates were the Black September, Force 17 and the Palestine Liberation Front. Black September was especially close to Arafat, existing as a front for Arafat's own mainstream Fatah, led by one of his closest lieutenants.

Then in this letter, I will not read all the umbrella groups that the PLO, as an umbrella group for a number of different so-called liberation groups, but the Palestinians on one occasion resorted to contracting out terrorists attacks, notably when three members of the Japanese Red Army under the auspices of the PFLP carried out a deadly assault in the arrival area of Lod Airport outside Tel Aviv; 26 were killed and 78 wounded, the citizens of America being the majority.

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"Americans were murdered in numerous other ways by PLO members. Eight were killed when their Swissair jet was blown up en route to Tel Aviv; others died in bus and car bombings or were shot. Especially shocking were the ax-murder of a student (1975) and the brutal murder of Leon Klinghoffer, a wheelchair-bound elderly tourist on the hijacked *Achille Lauro* (1985). But despite knowing the identities of at least some of the perpetrators, and almost always the organization that they belonged to, few have ever been arrested and none extradited to the United States."

The reason that I thought Mr. Daugherty's letter is important is that this group, led by Arafat, has been around terrorizing lots of people for a long time, and it has not been confined to Israelis.

REMEMBERING THE MANY AMERICAN VICTIMS OF ARAFAT'S TERRORIST NETWORK

It is worthwhile to remember that the Palestinian Liberation Organization, under Yasser Arafat, has been a terrorist organization for nearly 35 years, and that it and its subordinate groups have murdered a significant number of Americans during that time.

Yet not only have the tragedies been forgotten and the perpetrators mostly unpunished, Arafat, has been accorded head of state status by many "civilized" nations, admitted as an Observer to the United Nations, and permitted an office down the street from the White House. Leaving aside for now any "blame" for contemporary Middle East history, a review of terrorism against Americans by the PLO will help Americans at least partially to understand why Arafat has not been and cannot be a partner for peace.

The first American to be murdered by a PLO-sponsored group was Shirley Anderson on June 17, 1969. Since then, PLO groups have murdered more than 60 American citizens and wounded at least as many. Among the dead were two ambassadors, an Olympic athlete, tourists, business persons and students.

PLO terrorist groups, under the control of Arafat or his chief subordinates were Black September, Force 17, and the Palestine Liberation Front. Black September was especially close to Arafat, existing as a front for Arafat's own "mainstream" Fatah, and led by Salah Khalaf (Abu Lyad), his closest lieutenant. Other groups existing under the PLO umbrella with responsibility for American casualties were the Popular Front for the Liberation of Palestine, The Democratic Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine-Special Command.

The Palestinians upon occasion further resorted to "contracting out" terrorist attacks, notably when three members of the Japanese Red Army, under the auspices of the PFLP, carried out a deadly assault in the arrival area of Lod Airport outside of Tel Aviv; 26 were killed and 78 wounded, the majority American citizens.

Americans were murdered in numerous ways by PLO members. Eight were killed when their Swissair jet was blown up enroute to Tel Aviv, others died in bus and car bombings or were shot. Especially shocking were the ax-murder of a student (1975) and the brutal murder of Leon Klinghoffer, a wheelchair-bound elderly tourist on the hijacked Achille Lauro (1985). But despite knowing the identities of at least some of the perpetrators, and almost always the organization they belonged to, few have ever been arrested and none extradited to the United States.

Perhaps if European countries had fought Palestinian terrorism in its early days as strenuously as they did their own domestic terrorism, the Middle East might be different today, with the PLO a legitimate organization headed by a Palestinian willing to live in peace with Israel. A few countries did fight the terrorists, particularly Great Britain and Germany. But others—France, Austria, Italy, Greece—not only did not pursue Palestinian terrorists, they either made deals to avoid acts of terrorism on their own soil or simply caved in without pressure, afraid of retaliation.

Rather than treat deaths caused by Palestinian terrorists as criminal murder, they viewed these abominations merely as "political acts" by "freedom fighters," and therefore excusable.

Best known is the Achille Lauro event and the murder of passenger Klinghoffer. The terrorists, led by Arafat protege Abu Abbas, surrendered to the Egyptians who, rather than prosecute them as required by the international law, sent them on their way to Tunis—headquarters of the PLO at the time—in an Egyptian jet.

U.S. Navy aircraft intercepted the jet and forced it to land in Italy. Immediately behind was a transport with America's elite Delta Force, to take custody of these terrorists. Surrounding the jet with the terrorists, Delta then discovered that it was surrounded by Italian military forces. A firefight between allies seemed imminent, as the Italians refused to turn over the murderers.

Eventually, four lesser terrorists were indicted by Italy (and treated with leniency), while Abbas and his second in command were spirited away to Yugoslavia and thence to Tunis.

Elsewhere, France made deals with the deadly Abu Nidal Organization (not a PLO group, to be sure) to avoid terrorism on its territory; and when the ANO set off car bombs in Paris that killed and maimed several hundred French citizens, the Socialist government of Francois Mitterrand still kept its end of the bargain.

There are numerous other examples of Europeans aiding Palestinian terrorists, many almost beyond comprehension (France refused to arrest the mastermind of the Munich massacres and instead provided him protection). But had a Europe, united by revulsion at foreign-inspired terrorism, viewed murder for what it was—a criminal vice political act—and proceeded to work to eradicate it (while concurrently working with legitimate Palestinian groups to achieve a peace with Israel), the past 30 years might have been much different.

Instead, the leader of the PLO continues to kill and maim while hiding behind the facade of statesmanship. It is time to remember the Americans who became victims of this terrorist and the dancing in the streets.

Mr. DEUTSCH. Mr. Speaker, I think that is an incredibly important statement because what we have acknowledged today is that Chairman Arafat not only was a terrorist in the incidents the gentleman was describing in the 1960s, 1970s and 1980s, but literally into the 21st century. And one of the things that has been uncovered, again, are internal documents of the Palestinian Authority off of hard drives of computers so it is not credible that this is not authenticated, real information. These are copies which literally have Chairman Arafat's signature. These are two that are available, and these are specific requests of payments for terrorists, for people who are engaged in specific acts of terrorism. From the bar mitzvah ceremony, there are specific names of people and specific amounts that Arafat personally signed and approved, $600 per person.

The other chart is a list of 10 people, specific terrorists; and what is interesting, the gentleman that sent the letter was just captured by Israelis, and he viewed himself as working directly for Chairman Arafat. So the terrorism that is described is not terrorism of 5 years ago or 5 months ago. The dates are interesting, September 19, 2001, and this is January of 2002.

The Arafat era is over, and I think there has to be an acknowledgment by the United States that that era is over. We have said repeatedly we cannot negotiate with terrorists, and that in fact is what Mr. Arafat is. We cannot negotiate with him. He cannot be a leader. He cannot be a partner. The Palestinian people have a right to choose their leader, but that leader cannot be a terrorist if they expect to be a state.

Mr. ROTHMAN. Mr. Speaker, it breaks our hearts for the Palestinian people that they have refused to elect leaders who will deliver them a Palestinian state.

Mr. DEUTSCH. Mr. Speaker, it is not that they have not, but they have not been given a choice. One of the things that has been pointed out on this floor is that Chairman Arafat was supposed to be the leader, and he was elected in 1996, but that term expired in 2000. In 2000, there was supposed to be an election that he did not allow to take place.

Mr. ROTHMAN. Mr. Speaker, the question is what should Israel be doing now. Israel is doing now what the United States is doing now: protecting its people from terrorists, and bringing justice to them or bringing them to justice, until these people either will say we will live in peace with you, or they will be so disabled by our military that they no longer threaten our men, women and children. That is what Israel is doing.

Israel, which has tremendous military intelligence-sharing with the United States for 50 years, and provides us with great military advantage in the Middle East, only one of many reasons they have been our best friend and remain our most important strategic ally in the whole Middle East for the last 55 years.

Mr. DEUTSCH. Mr. Speaker, tomorrow evening I am going to have the opportunity to have an interactive town meeting that will be available for people not just in Florida, but through satellite coordinants throughout the country. If people have questions, the former American ambassador, Martin Indyk, will be there. The e-mail address to ask questions is FL20townhall@mail.house.gov. The 800 number is 1-800-931-1303. The satellite coordinants can be acquired through our Web site. I welcome those comments.

Mr. KINGSTON. Mr. Speaker, in closing, while the background of this conflict is somewhat complicated, the moral dimensions are very, very clear-cut. We have one side that sends soldiers to wipe out suicide bombers; the other side that sends suicide bombers to wipe out guests at bar mitzvahs. We have one side that publishes maps showing how an Israel and Palestinian state can co-exist; the other side publishes a map which says Israel does not even exist now. One side apologizes when its explosives kill wives and children of killers it targeted; the other side targets wives and children. One side was grief-stricken on September 11 and declared a national day of mourning; and the other side danced in the streets and distributed candies in celebration. One side has never deployed a suicide bomber in its 54 years of existence; the other side has deployed more than 40 in the past 12 months alone.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLYBURN (at the request of Mr. GEPHARDT) for today on account of official business in the district.

Mr. LATOURETTE (at the request of Mr. ARMEY) for today on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. MILLENDER-MCDONALD) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Ms. WATSON of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. LANTOS, for 5 minutes, today.

(The following Members (at the request of Mr. JEFF MILLER of Florida) to revise and extend their remarks and include extraneous material:)

Mr. KNOLLENBERG, for 5 minutes, April 24.

Mr. JEFF MILLER of Florida, for 5 minutes, today.

Mr. HORN, for 5 minutes, April 24.

Mrs. MORELLA, for 5 minutes, April 23.

Mr. KIRK, for 5 minutes, April 24.

Mr. SWEENEY, for 5 minutes, April 24.

Mr. WELDON of Florida, for 5 minutes, today and April 18.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, April 18.

Mr. SOUDER, for 5 minutes, today.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Thursday, April 18, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6214. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Change in Disease Status of Austria Because of BSE [Docket No. 02-004-1] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6215. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Change in Disease Status of Finland Because of BSE [Docket No. 01-131-1] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6216. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Importation of Horses, Ruminants, Swine, and Dogs; Inspection and Treatment for Screwworm [Docket No. 00-028-2] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6217. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Citrus Canker; Removal of Quarantined Area [Docket No. 02-018-1] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6218. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports [Docket No. 01-125-1] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6219. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Origin Health Certificates for Livestock Exported From the United States [Docket No. 99-053-2] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6220. A letter from the Secretary of the Navy, Department of Defense, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

6221. A letter from the Deputy Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John L. Woodward, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

6222. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of General Thomas A. Schwartz, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

6223. A letter from the Under Secretary, Department of Defense, transmitting a letter regarding the status of the Department's report for purchases from foreign entities for FY 2001; to the Committee on Armed Services.

6224. A letter from the Special Counsel, Office of Special Counsel, transmitting the Annual Report of the Office of Special Counsel (OSC) for Fiscal Year (FY) 2000, pursuant to 5 U.S.C. 1211; to the Committee on Government Reform.

6225. A letter from the Chairman, United States Postal Service, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6226. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Tipton Airport, Fort Meade, MD [Airspace Docket No. 01-AEA-26FR] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6227. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Beebe Memorial Hospital Heliport, Lewes, DE [Airspace Docket No. 01-AEA-24FR] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6228. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class D Surface Area at Indian Springs Air Force Auxiliary Field; Indian Springs, NV [Airspace Docket No. 02-AWP-2] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6229. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes, Model MD-88 Airplanes, and Model MD-90-30 Series Airplanes [Docket No. 2001-NM-114-AD; Amendment 39-12647; AD 2002-03-06] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6230. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Britten-Norman Limited BN-2, BN-2A,BN-2B, BN-2T, and BN2A MK. III Series Airplanes [Docket No. 2001-CE-31-AD; Amendment 39-12645; AD 2002-03-04] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6231. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines [Docket No. 98-ANE-66-AD; Amendment 39-12649; AD 2002-03-08] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6232. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-2B19 Series Airplanes [Docket No. 2001-NM-155-AD; Amendment 39-12655; AD 2002-03-14] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6233. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-400 Series Airplanes [Docket No. 2001-NM-140-AD; Amendment 39-12653; AD 2002-03-12] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6234. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3-60, SD3-60 SHERPA, and SD3-SHERPA Series Airplanes [Docket No. 2001-NM-143-AD; Amendment 39-12654; AD 2002-03-13] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6235. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328-100 and -300 Series Airplanes [Docket No. 2001-NM-185-AD; Amendment 39-12656; AD 2002-03-15] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6236. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Honeywell International Inc. (formerly AlliedSignal Inc. and Textron Lycoming) LTS101 Series Turboshaft and LTP101 Series Turboprop Engines [Docket No. 2000-NE-14-AD; Amendment 39-12650; AD 2002-03-09] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6237. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 050 Series Airplanes [Docket No. 2001-NM-332-AD; Amendment 39-12660; AD 2002-04-03] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6238. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 F4-605R Airplanes [Docket No. 2000-NM-390-AD; Amendment 39-12659; AD 2002-04-02] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6239. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9, DC-9-80, and C-9 series airplanes; Model MD-88 airplanes; and Model MD-90 airplanes [Docket No.97-NM-298-AD; Amendment 39-12658; AD 2002-04-01] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6240. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes [Docket No. 2001-NM-203-AD; Amendment 39-12663; AD 2002-04-06] (RIN: 2120-AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6241. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting the Commission's recommendations on the study regarding the use of the physician geographic adjustment factor for adjusting per resident payment amounts for differences among geographic areas in the costs related to physicians training; jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 390. Resolution providing for consideration of the Senate amendment to the bill (H.R. 586) to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes (Rept. 107-412). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself, Mr. MICA, Mr. OBERSTAR, Mr. QUINN, Mr. LIPINSKI, and Mr. CLEMENT):

H.R. 4466. A bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003, 2004, and 2005, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BLUMENAUER:

H.R. 4467. A bill to provide for the duty-free entry of certain tramway cars for use by the city of Portland, Oregon; to the Committee on Ways and Means.

By Ms. DEGETTE (for herself and Mr. SHAYS):

H.R. 4468. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Mr. GREEN of Wisconsin:

H.R. 4469. A bill to provide for the duty-free entry of a certain Liberty Bell replica; to the Committee on Ways and Means.

By Mr. HERGER (for himself, Mr. TANNER, Mr. PORTMAN, Mr. FOLEY, Mrs. JOHNSON of Connecticut, Mr. WELLER, Mr. COLLINS, Mr. MCINNIS, Mr. CRANE, Mr. HOUGHTON, and Mr. LEWIS of Kentucky):

H.R. 4470. A bill to amend the Internal Revenue Code of 1986 to expand the depreciation benefits available to small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. LINDER:

H.R. 4471. A bill to suspend temporarily the duty on certain high tenacity rayon filament yarn; to the Committee on Ways and Means.

By Mr. LINDER:

H.R. 4472. A bill to suspend temporarily the duty on certain high tenacity rayon filament yarn; to the Committee on Ways and Means.

By Mr. LINDER:

H.R. 4473. A bill to suspend temporarily the duty on tire cord fabric of high tenacity rayon filament yarn; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 4474. A bill to amend the Internal Revenue Code of 1986 to exclude income derived from certain wagers on horse races from the gross income of a nonresident alien individual; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 4475. A bill to amend the Internal Revenue Code of 1986 to promote the economic recovery of the District of Columbia; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS:

H.R. 4476. A bill to expand the availability of oral health services by strengthening the dental workforce in designated underserved areas; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER (for himself, Mr. HYDE, and Mr. SMITH of Texas):

H.R. 4477. A bill to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism; to the Committee on the Judiciary.

By Mr. SESSIONS:

H.R. 4478. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Federal Republic of Yugoslavia; to the Committee on Ways and Means.

By Mr. UDALL of Colorado:

H.R. 4479. A bill to authorize the Small Business Administration and the Department of Agriculture to assist farmers and ranchers seeking to develop and implement agricultural innovation plans in order to increase their profitability in ways that also provide environmental benefits, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER:

H.R. 4480. A bill to make local governments eligible to apply for and receive grants under the DNA Analysis Backlog Elimination Act of 2000, and for other purposes; to the Committee on the Judiciary.

By Ms. MCKINNEY:

H. Con. Res. 380. Concurrent resolution expressing the sense of the Congress regarding women with bleeding disorders; to the Committee on Energy and Commerce.

ADDITION SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 122: Mr. SHAW and Mr. DELAY.

H.R. 144: Mr. BLUMENAUER.

H.R. 236: Mr. CUNNINGHAM.

H.R. 510: Mr. GORDON, Mr. TERRY, and Mr. BISHOP.

H.R. 634: Mrs. JO ANN DAVIS of Virginia, Mr. FORBES, and Mr. WILSON of South Carolina.

H.R. 745: Mr. LAMPSON.

H.R. 875: Mr. BARRETT.

H.R. 997: Mr. MCGOVERN.

H.R. 1011: Mr. VISCLOSKY, Mrs. MCCARTHY of New York, and Mr. WICKER.

H.R. 1108: Mr. RAHALL.

H.R. 1143: Mr. THOMPSON of California, Mr. GRUCCI, and Mr. BISHOP.

H.R. 1184: Mr. SANDERS, Mr. ENGEL, Ms. BROWN of Florida, Mr. TOWNS, and Mrs. CHRISTENSEN.

H.R. 1201: Ms. RIVERS.

H.R. 1212: Mr. HAYES.

H.R. 1296: Mr. REYNOLDS.

H.R. 1360: Mr. MENENDEZ, Mr. DOYLE, Mrs. LOWEY, Mr. LARSON of Connecticut, Mr. SHAYS, Ms. MCKINNEY, Mr. BLAGOJEVICH, Mr. KLECZKA, Ms. SOLIS, Mr. RANGEL, Mrs. NAPOLITANO, and Mr. DICKS.

H.R. 1452: Mr. CONYERS.

H.R. 1462: Mr. WALDEN of Oregon.

H.R. 1488: Mr. WEXLER.

H.R. 1522: Ms. WOOLSEY, Mr. SANDERS, and Mr. COYNE.

H.R. 1581: Mr. LUCAS of Kentucky, Mr. TAUZIN, and Mr. GOODE.

H.R. 1613: Mr. ISRAEL.

H.R. 1642: Mr. GUTIERREZ and Mr. WEXLER.

H.R. 1724: Mrs. WILSON of New Mexico.

H.R. 1733: Mr. SANDERS and Mr. LYNCH.

H.R. 1822: Mr. BARRETT, Mr. HALL of Texas, and Mr. MASCARA.

H.R. 1948: Mr. HEFLEY.

H.R. 1983: Mr. SAM JOHNSON of Texas.

H.R. 2001: Mr. WALSH.

H.R. 2143: Mr. BISHOP and Mr. LINDER.

H.R. 2161: Mr. DINGELL.

H.R. 2211: Mr. RANGEL.

H.R. 2316: Mr. CULBERSON, Mr. ROYCE, and Mr. ADERHOLT.

H.R. 2405: Ms. MCKINNEY.

H.R. 2482: Mr. BOSWELL.

H.R. 2521: Mr. BISHOP.

H.R. 2527: Mr. MOLLOHAN and Mrs. NAPOLITANO.

H.R. 2623: Mr. BISHOP.

H.R. 2624: Mrs. LOWEY and Ms. LOFGREN.

H.R. 2636: Mr. BISHOP.

H.R. 2663: Mr. ISTOOK and Ms. WOOLSEY.

H.R. 2683: Mr. PAUL, Mr. BRYANT, Ms. ROS-LEHTINEN, Mr. SESSIONS, and Mr. INSLEE.

H.R. 2953: Mr. CALVERT and Mr. MEEKS of New York.

H.R. 2982: Mr. SHERMAN, Mrs. CHRISTENSEN, Mr. HOLT, Mr. DOOLEY of California, Mr. MOORE, Mr. BISHOP, Mr. TAYLOR of Mississippi, Mr. BLUNT, Mr. TOM DAVIS of Virginia, Ms. SCHAKOWSKY, Mr. EDWARDS, Mr. CARSON of Oklahoma, Mr. FARR of California, Mr. HONDA, Mr. CARDIN, Mr. ABERCROMBIE, Mr. CHAMBLISS, Mr. THUNE, Mr. SKELTON, Mr. KIND, and Mr. CULBERSON.

H.R. 3066: Mr. SAWYER.

H.R. 3109: Mr. MASCARA, Mr. KENNEDY of Minnesota, and Ms. MCCOLLUM.

H.R. 3135: Mr. BROWN of South Carolina, Mr. COOKSEY, Ms. HART, Mr. SCHAFFER, Mr. WILSON of South Carolina, Mrs. CHRISTENSEN, Mr. FORBES, Mr. MCHUGH, Mr. SHIMKUS, Mr. TANCREDO, Mr. WELDON of Pennsylvania, Mr. HEFLEY, Mr. NEY, Mr. SESSIONS, Mr. SIMMONS, and Mr. VITTER.

H.R. 3183: Mr. HEFLEY and Mr. SHOWS.

H.R. 3231: Mr. RYAN of Wisconsin.

H.R. 3238: Mr. PAYNE.

H.R. 3244: Mr. EVANS, Mr. LUCAS of Kentucky, Mr. MALONEY of Connecticut, Mr. GEORGE MILLER of California, Mr. MOLLOHAN, Mr. MURTHA, Mr. OXLEY, Mr. WELDON of Pennsylvania, Mr. BARRETT, and Mr. COX.

H.R. 3258: Mr. CALVERT.

H.R. 3273: Mr. GANSKE.

H.R. 3292: Mr. MOORE.

H.R. 3296: Mr. BLUMENAUER.

H.R. 3335: Mr. FALEOMAVAEGA.

H.R. 3424: Mr. BALLENGER, Mr. UDALL of Colorado, Mr. ENGEL, Mr. DAVIS of Illinois, Mr. PLATTS, Mr. QUINN, Mrs. LOWEY, Mr. SOUDER, Mr. SHOWS, Mrs. CHRISTENSEN, Mr. THOMPSON of Mississippi, Mr. BLUMENAUER, Mr. ISTOOK, Mrs. THURMAN, Mr. SWEENEY, Mr. HANSEN, Mr. FLETCHER, Mr. DELAHUNT, Mr. DINGELL, Mr. ORTIZ, Mr. DICKS, and Mr. WALDEN of Oregon.

H.R. 3430: Mr. RODRIGUEZ, Mr. STENHOLM, Mr. ROTHMAN, and Mr. BISHOP.

H.R. 3443: Mr. BISHOP.

H.R. 3482: Mr. SESSIONS and Mr. GALLEGLY.

H.R. 3535: Mr. PITTS, Mr. SMITH of Michigan, Mr. TANCREDO, and Mr. TOOMEY.

H.R. 3561: Mrs. THURMAN.

H.R. 3581: Mr. LARSEN of Washington.

H.R. 3585: Mr. FRANK and Mrs. MINK of Hawaii.

H.R. 3741: Mr. BISHOP.

H.R. 3764: Mr. MALONEY of Connecticut.

H.R. 3777: Mr. HOEKSTRA, Mr. SCHAFFER, and Mr. OWENS.

H.R. 3799: Mr. GOODLATTE.

H.R. 3831: Mr. TANCREDO, Mr. HOSTETTLER, Mr. PASTOR, Mr. BOUCHER, Mr. STENHOLM, and Mr. GIBBONS.

H.R. 3962: Mr. JONES of North Carolina.

H.R. 3974: Mr. LAMPSON.

H.R. 3990: Mr. MCGOVERN.

H.R. 4002: Mrs. JONES of Ohio.

H.R. 4008: Mrs. MORELLA and Ms. SLAUGHTER.

H.R. 4013: Mr. WELDON of Florida, Mr. HOEFFEL, Mr. LANTOS, Mr. STUPAK, Mrs. MINK of Hawaii, and Mrs. KELLY.

H.R. 4017: Mr. SHOWS.

H.R. 4018: Mr. COOKSEY, Mr. KILDEE, Mr. STENHOLM, and Mr. PASTOR.

H.R. 4027: Mr. HERGER.

H.R. 4032: Mr. MCGOVERN, Mr. OWENS, Mr. STARK, Mr. BALDACCI, Mr. ENGLISH, Ms. MCCOLLUM, Mr. FOLEY, Mr. LARSEN of Washington, Mr. DAVIS of Illinois, Ms. KILPATRICK, Ms. CARSON of Indiana, Ms. HARMAN, Mr. GEORGE MILLER of California, Ms. SANCHEZ, Ms. JACKSON-LEE of Texas, and Ms. BALDWIN.

H.R. 4069: Mrs. JOHNSON of Connecticut, Mr. LANGEVIN, Ms. KAPTUR, Mr. OWENS, Mr. ABERCROMBIE, Ms. WATSON, and Mr. FROST.

H.R. 4071: Ms. SCHAKOWSKY.

H.R. 4073: Mr. PAYNE, Mr. GILMAN, Mr. ROHRABACHER, Mr. WOLF, Ms. ROS-LEHTINEN, Mr. PITTS, Mr. TANCREDO, Mr. DINGELL, Mr. DIAZ-BALART, Mr. HILLIARD, Mr. BLUMENAUER, Mrs. NAPOLITANO, Mrs. CLAYTON, Mr. MEEKS of New York, Mr. BERMAN, Mr. SANDERS, Mr. KING, and Mr. MCHUGH.

H.R. 4087: Mr. TOOMEY, Mr. DEMINT, Mr. CHABOT, Mr. ISSA, Mrs. KELLY, Mr. THUNE, and Mr. FERGUSON.

H.R. 4093: Mr. SERRANO.

H.R. 4108: Mr. TIBERI.

H.R. 4447: Mr. SHAYS.

H.R. 4448: Mr. SHAYS.

H.J. Res. 29: Ms. WATERS, Mr. DAVIS of Illinois, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mr. THOMPSON of Mississippi, Mr. HILLIARD, and Ms. LEE.

H.J. Res. 31: Ms. WATERS, Mr. DAVIS of Illinois, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mr. THOMPSON of Mississippi, Mr. HILLIARD, and Ms. LEE.

H.J. Res. 40: Mr. LARSEN of Washington and Mr. INSLEE.

H.J. Res. 83: Mr. MASCARA.

H.J. Res. 85: Mr. EDWARDS.

H. Con. Res. 296: Mr. GREEN of Wisconsin.

H. Con. Res. 301: Mr. SHUSTER and Mr. FORBES.

H. Con. Res. 346: Ms. DELAURO.

H. Con. Res. 351: Mrs. CAPPS.

PETITIONS, ETC.

Under clause 3 of rule XII,

55. The SPEAKER presented a petition of the City of Tamarac, Florida, relative to Resolution No. R-2001-333 petitioning the United States Congress to express condolences on behalf of all Tamarac residents to the families of victims of the September 11th terrorist attacks; expresses support to the citizens of New York in their rebuilding efforts; expresses confidence in the Nation, President Bush, the administration and the United States Congress in their war against terrorism; and encourages the citizenry to bind together in the promises for the future of this Nation; which was referred jointly to the Committees on the Judiciary and Government Reform.

SENATE—*Wednesday, April 17, 2002*

The Senate met at 10 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, it is with reverence and commitment that we address You as Sovereign of our lives and of our Nation. Our forefathers called You Sovereign with awe and wonder as they established this land and trusted You for guidance and courage.

We thank you that in 1787, at a pivotal moment at the Constitutional Convention, Benjamin Franklin's convictions led him to rise and speak these now-famous words to George Washington: "I have lived, sir, a long time, and the longer I live the more convincing proofs I see of this truth: that God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? I believe that without His concurring aid we shall succeed no better than the builders of Babel. We shall be divided by our partial local interests; our projects will be confounded . . ."

Lord, it is with the same emphatic certainty that we echo his words of dependence on You and we ask, Sovereign Lord, that You would help us realize Your best for America. In Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 17, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, under the previous order, the Senate will shortly begin a vote on a nomination of Lance M. Africk to be United States district judge for the Eastern District of Louisiana. Following that vote, the Senate will resume consideration of the energy reform bill, the ANWR amendments now pending. Cloture was filed yesterday evening on each of the ANWR amendments. Therefore, there will be votes on these cloture motions this coming Thursday.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under a previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF LANCE M. AFRICK, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to vote on Executive Calendar No. 760, which the clerk will report.

The legislative clerk read the nomination of Lance M. Africk, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Minnesota (Mr. DAYTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. DAYTON) would vote "aye."

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. THOMPSON) is necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

(Rollcall Vote No. 69 Ex.)

YEAS—97

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—3

Byrd
Dayton
Thompson

The nomination was confirmed.

The PRESIDING OFFICER (Mr. BAUCUS). The motion to reconsider is laid upon the table.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senator from Vermont, Mr. LEAHY, be allowed to speak for up to 5 minutes, followed by Senator MILLER from Georgia for 10 minutes, followed by Senator ROBERTS from Kansas for 10 minutes.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Pennsylvania, Mr. SPECTER, be recognized for 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, reserving the right to object, my concern

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

is we have pending a cloture vote tomorrow at some time. I have no objection to accommodating my colleagues to speak this morning, but I wonder if we could get some idea as to how to proceed so that this would not take away from the time before the proposed cloture vote. I have no idea what time it would be.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Alaska, the majority leader said that people can talk tonight as long as they care to talk. He has not yet decided what time the cloture vote will be in the morning, but there should be time to talk in the morning also.

Mr. MURKOWSKI. Then, I would simply appeal to the majority leader, who I see is on the floor, to allow us an additional time from whatever his time may be, which we do not know.

But to extend the courtesy, I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I put our Members on notice, we have probably 15 Members who want to speak today. So I suspect we will be in rather late this evening.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I modify my request, that after the Senator from Vermont and the Senator from Pennsylvania and the Senator from Georgia and the Senator from Kansas have all spoken, that we go back on the bill, and that I be recognized to speak at that time on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

NOMINATIONS

Mr. LEAHY. Mr. President, I thank my colleagues for their unanimous and positive vote on the last nominee. I will bring everybody up to date.

Today, the Senate is voting on the 44th judicial nominee to be confirmed since last July when the Senate Judiciary Committee was reassigned new members in connection with the reorganization of the Senate after the shift in majority. The confirmation of Judge Africk will be the third district court judgeship we have filled in Louisiana and the seventh judgeship filled overall in the Fifth Circuit since July, including the first new judge for the Fifth Circuit in seven years. In fact, it was this Senate's confirmation of Judge Edith Brown Clement last fall that created this vacancy, which we are now proceeding to fill without delay.

In the past few months, the Senate has also confirmed Judge Kurt Engelhardt and Judge Jay Zainey to fill vacancies on the District Court for the Eastern District of Louisiana. The Senate has confirmed Judge Michael Mills to fill a vacancy on the District Court for the Northern District of Mississippi. The Senate has also confirmed Judge Philip Martinez to fill a vacancy on the District Court for the Western District of Texas and Judge Randy Crane to fill a vacancy on the District Court for the Southern District of Texas.

Of course many of the vacancies in the Fifth Circuit are longstanding. Judge Clement was confirmed to fill a judicial emergency on the Fifth Circuit. Judge Martinez and Judge Crane likewise filled what had been judicial emergencies. These many vacancies and emergencies are the legacy of the years of inaction. For example, despite the fact that President Clinton nominated Jorge Rangel, a distinguished Hispanic attorney, to fill a Fifth Circuit vacancy in July 1997, Mr. Rangel never received a hearing and his nomination was returned to the President without Senate action at the end of 1998. On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill a vacancy on the Fifth Circuit but that nominee never received a hearing either. When President Bush took office last January, he withdrew the nomination of Enrique Moreno to the Fifth Circuit. The Senate has moved quickly to confirm Judge Armijo in New Mexico and Judges Martinez and Crane in Texas, who were among the very few Hispanic judicial nominees sent so far by this Administration to us.

The Senate received Judge Africk's nomination the last week in January and his paperwork was complete on March 6. Judge Africk was scheduled for the very next confirmation hearing on March 19. He has been serving as a federal magistrate in the Eastern District of Louisiana for more than a decade. Judge Africk is a member of the Federalist society and a registered Republican. His confirmation, along with that of Judge Clement, Judge Wooten in South Carolina, Judge Mills in Mississippi, Judge Caldwell in Kentucky, Judge Granade in Alabama, Judge Hartz to the Tenth Circuit, and so many others, shows that the Senate has been very accommodating to this Administration's conservative nominations.

The Senate is making progress on judicial confirmations. Under Democratic leadership, the Senate has confirmed more judges in the last nine months than were confirmed in four out of 6 full years under Republican leadership. The number of judicial confirmations over this time—44—exceeds the number confirmed during all 12 months of 2000, 1999, 1997 and 1996.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed. Some like to talk about the 377 judges confirmed during the Clinton administration, but forget to mention that more than one-third were confirmed during the first 2 years of the Clinton administration while the Senate majority was Democratic and Senator BIDEN chaired the Judiciary Committee. The pace of confirmations under a Republican majority was markedly slower—especially in 1996, 1997, 1999, and 2000.

Thus, during the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past nine months in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path.

I ask myself how Republicans can justify seeking to hold the Democratic majority in the Senate to a different standard than the one they met themselves during the last 6½ years. There simply is no answer other than partisanship. This double standard is most apparent when Republicans refuse fairly to compare the progress we are making with the period in which they were in the Senate majority with a President of the other party. They do not want to talk about that because we have exceeded, in just 9 months, the average number of judges they confirmed per year.

They would rather unfairly compare the work of the Senate on confirmations in the past 9 months to a period more than twice as long, the work of previous Senates and Presidents over entire 2-year Congresses. They say it is unacceptable that the Democratic-led Senate has not yet confirmed as many judges in nine months as were confirmed in 24-month-periods at other times. I would say it is quite unfair to complain that we have not done 24 months of work on judicial vacancies in the little more nine months we have had since the Senate reorganized. After all, we have already topped their efforts for 12-month periods and are still hard at work.

These double standards are wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

Republicans have been imposing a double standard on circuit court vacancies as well. The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the Courts of Appeals. This is a case of the arsonist coming forward and saying: We need a better fire department around here. Look at all these buildings that are burning down. All these vacancies were there because Republicans refused to hold hearings on the Court of Appeals nominees. We are now holding such hearings.

The Democratic majority in the Senate has more than kept up with attrition and we are seeking to close the vacancies gap on the Courts of Appeals that more than doubled under the Republican majority.

Just this week, the Senate confirmed Judge Terrence O'Brien to the United States Court of Appeals for the Tenth Circuit by a vote of 98 to zero. His confirmation was the eighth circuit court nominee to be confirmed in the little more than nine months since I became Chairman this past summer.

We have already confirmed eight Court of Appeals nominees and held hearings on 11 Court of Appeals nominees. In comparable periods at the beginning of the Clinton administration, with a Senate majority of the same party as the President, the confirmations numbered only two and hearings were held on only three. In the comparable period during the administration of George H. W. Bush, within the first 10 months the Senate had confirmed only three Court of Appeals judges and had hearings on only four.

The facts on what Republicans are now calling the judicial vacancies crisis in our Courts of Appeals are important and startling. The Republican majority assumed control of judicial confirmations in January 1995 and did not allow the Judiciary Committee to be reorganized after the shift in majority last summer until July 10, 2001. During that period, from 1995 through July 2001, vacancies on the Courts of Appeals more than doubled, increasing from 16 to 33!

When I became chairman of a committee to which members were finally assigned on July 10, we began with 33 Court of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, five additional vacancies have arisen on the Courts of Appeals around the country. With this week's confirmation of Judge O'Brien, we have reduced the number of circuit court vacancies to 30.

Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there are now 30 vacancies—that is more than keeping up with the attrition on the Circuit Courts. Since our Republican critics are so fond of using percentages, I will say that we will have now reduced the vacancies on the Courts of Appeals by almost 10 percent in the last nine months. In other words, by confirming three more nominees than the five required to keep up with the pace of attrition, we have not just matched the rate of attrition but surpassed it by 60 percent.

While the Republican Senate majority increased vacancies on the Courts of Appeals by over 100 percent, it has taken the Democratic majority nine months to reverse that trend, keep up with extraordinary turnover and, in addition, reduce circuit court vacancies by almost 10 percent overall. Alternatively, Republicans should note that since the shift in majority away from them, the Senate has filled more than 20 percent of the vacancies on the Courts of Appeals in a little over 9 months. This is progress. Rather than having the circuit vacancy numbers skyrocketing, as they did overall during the prior 6½ years—more than doubling from 16 to 33—the Democratic-led Senate has reversed that trend and the vacancy rate is moving in the right direction, down.

That is not to say that our job is completed, but a fair review of our efforts should acknowledge the progress we have made. It is not possible to repair the damage caused by longstanding vacancies in several circuits overnight, but we are improving the conditions in the 5th, 10th and 8th Circuits, in particular. The confirmation of Judge O'Brien this week made the second judge confirmed to the 10th Circuit in the last 4 months.

With this week's vote on Judge O'Brien, in a little more than nine months since the change in majority, the Senate has confirmed eight judges to the Courts of Appeals and held hearings on three others. In contrast, the Republican-controlled majority averaged only seven confirmations to the Courts of Appeals per year. Seven. We have confirmed eight circuit judges and there are almost 3 months left until the 1-year anniversary of the reorganization of the Senate and the Judiciary Committee and we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors. The Senate in the last nine months has confirmed as many Court of Appeals judges as were confirmed in all of 2000 and more than were confirmed in 1997 or 1999, and eight more than the zero from 1996.

Overall, in little more than 9 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a Committee hearing and Committee vote from the Republican majority, which perpetuated longstanding vacancies into this year. Vacancies continue to exist on the Courts of Appeals in part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Court of Appeals during the entire 1996 session.

Despite the new-found concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate in the 107th Congress last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of circuit and district vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate and held that hearing on the day after the Committee was assigned new members.

That initial hearing included a Court of Appeals nominee on whom the Republican majority had refused to hold a hearing the year before. We held unprecedented hearings for judicial nominees during the August recess. Those hearings included a Court of Appeals nominee who had been a Republican staff member of the Senate. We proceeded with a hearing the day after the first anthrax letter arrived at the Senate. That hearing included a Court of Appeals nominee. In a little more than nine tumultuous months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations—including 11 circuit court nominees—and we are hoping to hold another hearing soon for half a dozen more nominees, including another Court of Appeals nominee. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. The Republican majority never held 16 judicial confirmation hearings in 12 months.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in Committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny Committee consideration of judicial nominees. We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope and intend to continue to hold hearings and make progress on judicial nominees in order to further the administration of justice. In our efforts to address the number of vacancies on the circuit and district courts we inherited from the Republicans, the Committee has focused on consensus nominees for all Senators. In order to respond to what Vice President CHENEY and Senator HATCH now call a vacancy crisis, the Committee has focused on consensus nominees. This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our Nation.

The committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senator GRASSLEY, Senator LOTT, Senator SPECTER, Senator ENZI and Senator SMITH from New Hampshire—five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May 2001. Each of the previous 43 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the Committee.

The confirmation of Judge Africk makes the 44th judicial nominee to be confirmed since I became chairman last July, and I hope to confirm our 50th nominee by the end of this month. I am extremely proud of the work this committee has done since the change in the majority. I am proud of the way we have considered nominees fairly and expeditiously and the way we have been able to report to the Senate so many qualified, non-ideological, consensus nominees to the Senate.

Mr. HATCH. Mr. President, I supported the nomination of Lance Africk to be U.S. District Judge for the Eastern District of Louisiana.

I have had the pleasure of reviewing Judge Africk's distinguished legal career, and I have concluded that he is a fine jurist who will add a great deal to the Federal bench in Louisiana.

Judge Lance Africk has an impressive record in the private and public sectors. Upon graduation from the University of North Carolina School of Law in 1975, Judge Africk clerked for the Louisiana Fourth Circuit Court of Appeal before joining the New Orleans firm of Normann & Normann as a civil attorney. In 1977, he moved to the Orleans Parish District Attorney's Office in New Orleans and became director of the Career Criminal Bureau, where he prosecuted criminal cases. From late 1980 to mid-1982, Judge Africk worked in private practice, representing plaintiffs and defendants in personal injury cases and serving as corporate counsel. In August 1982, he joined the U.S. Attorney's Office in New Orleans as an assistant U.S. attorney and served with distinction as chief of the Criminal Division until 1990. As a State and Federal prosecutor, Judge Africk became an expert in drug and public corruption matters. During his legal career, he tried to judgment or verdict approximately 40 cases. Since 1990, Judge Africk has served as U.S. Magistrate Judge for the Eastern District of Louisiana, bearing responsibility for often complex civil and criminal matters assigned from the U.S. District Court.

I have every confidence that Lance Africk will serve with distinction on the Federal district court for the Eastern District of Louisiana.

Ms. LANDRIEU. Mr. President, I am proud that the Senate today confirmed Lance Africk for Federal District Judge for the Eastern District of Louisiana. Again, I must commend President Bush for this nomination. He has chosen an exceptional man with a fantastic reputation for the Federal Bench.

I cannot say enough about Lance. Lance brings over 25 years of legal experience to this job, and for the past 12 years, he has served as the U.S. Magistrate for Civil and Criminal Matters. His commitment to community and country has permeated his career as an Orleans Parish District Attorney, a United States Attorney and most recently as a Federal Magistrate. I know that he looks forward to continuing his service. He presents a true model of honor and professionalism to the bar.

Numerous letters of support have poured into my office praising Lance's qualities. Everyone who has ever talked to me about Lance has used the same words: fair, courteous, and intelligent. Not only does Lance possess these values, but he has instilled them in his family. His wife Diane and his four children mean the world to him and inspire his service. Today's action in the Senate only confirmed what I and everyone in Louisiana already knew; that Lance Africk will be an asset to the Federal Judiciary.

We need more people like Lance Africk on the Federal Bench. He is a true patriot who desires to serve his country to the best of his ability. He recognizes the importance of our judicial system and has dedicated his life to the system of laws that makes our country so unique. It is for these reasons that I wholeheartedly supported his nomination and am elated by the action of the Senate today.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Georgia.

TEACHERS

Mr. MILLER. Madam President, I am at heart a teacher. Perhaps it is genetic, for I am the son of teachers. Whatever its source, a commitment to education runs deep in my soul. That is why, when I was Governor of Georgia, I chose to focus on education, for all our other challenges have at their root the same solution: Children who are loved and children who are educated.

I believe education is everything. It is the educated individual who makes this Nation stronger. It is the educated individual who adds to its wealth, protects against enemies, carries forward its ideals and faith.

The Latin phrase "alma mater" means "nourishing mother." That is a pretty good description of what our schools should be for our children.

Within those schools, all education starts with the teacher standing at the head of the child's classroom. Teachers are the world's most noble creatures, engaged in the world's most noble profession. Teachers are the architects who guide and shape the building of young lives. Teachers are the ones who call forth the best from our children and inspire them to reach new heights. Teachers, I think we would all agree, are the key ingredient to improving education.

So if we are to build a first class education system in this country, we must be able to attract and hold on to good teachers. Right now, we are losing that battle. We are losing that fight badly.

Last year we set a new standard in Federal aid for education with the passage of President Bush's far-reaching education reform bill. But while we have made big strides in Federal funding for education, we still have not touched teacher salaries at the Federal level.

I would argue that teacher pay is the most important area of all education. Yet our teachers work in sometimes deplorable conditions and for little pay. Public school teachers in America today make an average of $43,335 a year. One would assume that about half of the States have teacher salaries above the national average and the other half have teacher salaries below that level. But actually, only 12 States, plus the District of Columbia, have salaries that are higher than the national average. The other 38 States are below the national average. In fact, the dollar gap between the lowest and the highest average salaries varies greatly from a low of $30,265 in South Dakota to a high of $53,281 in New Jersey.

Sadly, our teachers have even lost financial ground over the past few years.

In the past decade, teacher salaries rose only one-half of 1 percent when inflation is taken into account. In many States, teachers actually lost ground to inflation.

Today in this Nation, teacher salaries account for a smaller proportion of total education spending than they did 40 years ago. In 1960, the average education expenditure devoted to teacher salaries was 51 percent. Today it is 36.7 percent, the lowest percentage since records have been kept.

As a result, many of the best and brightest of our young people today steer away from the classrooms to join the ranks of better paying professions. It has become clear that unless we in Congress take some drastic action, and take it soon, this disparity will only get worse because on the horizon ominous storm clouds loom darkly. We must hire 2 million more teachers in the next decade to keep up with new students who are entering our schools. Where are we going to get all those new teachers? Where?

Enrollment at our colleges of education is down 30 percent. Among those who are willing to try teaching, 40 percent leave the profession before the end of their fifth year. In some States, almost 20 percent leave after just 1 year. Most, of course, leave to pursue better paying careers. And who can blame them? It is a hollow message when we constantly tell our teachers how invaluable they are and then pay them so little.

What can we do, and what can we do quickly, to stop this brain drain from our schools? How can we make teaching more competitive with better paying professionals? I will tell you how we could have an immediate effect. Let our teachers keep more of their hard-earned money.

I will be introducing a bill to give our teachers an immediate pay raise in the form of a tax cut. Simply put, teachers would keep more money in their pocket each payday and send less of it to the IRS. They need this money back home more than we need it up here. And I guarantee you they will spend it more wisely than we will. Hard-earned money always goes further in a household than it does in a rathole. I call it the Thank You Teachers Tax Cut. Here is how it would work.

It would include every full-time teacher, public and private, in every prekindergarten and K through 12 classroom. This tax cut would start immediately and would increase the longer the teacher stayed in the classroom.

Teachers with fewer than 5 years in the classroom, about 900,000 teachers, would get a tax cut equal to one-third of their Federal income tax. Teachers with 5 to 10 years of experience, also about 900,000 teachers, would get to keep two-thirds of what they would normally pay in Federal income tax. Teachers with more than 10 years' experience—about 1.8 million teachers—would have no Federal income tax at all for as long as they stayed in the classroom.

The Thank You Teachers Tax Cut would mean immediate pay raises of between 5 and 15 percent. It would put more money into teachers' pockets each and every payday. It would immediately give some equity to this noble profession. But it would be more than just more money. It would be a tangible show of our respect and our gratitude to this profession that is all too often taken for granted.

So it would be a huge tax cut, more than $16 billion a year at a minimum—probably more, according to my very rough math. But when we are talking about a projected budget for 2003 of $2.085 trillion, $16 billion is not even 1 percent of that budget. Don't tell me we cannot tighten our belt that little to help our teachers.

We all know our teachers are not paid adequately. They are not in my State and they are not in your State. Some need more help than others. Mississippi has the lowest average salary for teachers in the South and South Dakota has the lowest paid teachers in the Nation. I would plead for the leaders of both parties in this Senate to support this tax cut.

I also think our Nation's Governors would like this proposal for two reasons: First, it does not interfere with the States' rights to set teacher salaries. But it does boost the bottom line for every State's teachers, and that is what is important.

Our Governors will also like it because today, and especially in the next few years, that Pacman called Medicaid is going to gobble up State revenues as never before. I warn you, that will leave a much smaller pot of money available at the State level for teacher pay raises.

I realize there are shortages in other important professions that have low salaries and bad working conditions, and I have great sympathy for those workers, too. But the long-term security of this Nation is wrapped up in our schools, and that is why this tax cut for teachers is such an important one now.

This tax cut is a chance to really help our children by making sure we put good teachers in their classrooms and keep them there. It is also a chance to help our deserving teachers. It is the fastest, surest way to put more money into their pockets immediately.

Finally, this is a chance for the Senate, for the entire Congress, to say thank you to our teachers.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

THE FARM BILL

Mr. ROBERTS. Madam President, thank you very much. This is one of those speeches I had not intended to make. I have to make it, but I would just as soon not make it.

I rise today to provide a few comments on the situation we are facing regarding the farm bill and the possibility of an assistance package this year. My colleagues are working very hard in the conference. I don't mean to perjure anybody's intent. These are friends of mine, and I know we have strong differences of opinion. But we are in pretty rough shape for the shape we are in, in farm country, and we need assurance that there will be an assistance package as of this year.

For several weeks now, I have been warning that we need to either get a farm bill finished and apply it to this year's crop or pass an agriculture assistance package, and then pass a new bill that goes into effect for the 2003 crop. The thinking behind that is it is better to pass a good bill than simply disagree on a bad bill and try to expedite that.

Prior to the Easter and Passover recess, I introduced an assistance package that I said was a placeholder if a bill could not be passed almost immediately after the recess period. Well, it is now April 17. We still have not passed a bill. In fact, the negotiations did break down yesterday, unfortunately.

It seems clear that a bill will not be passed as of this week. Madam President, the clock, if not expired, is certainly ticking. It is the 11th hour and 59th minute. It is time for us to admit what farmers and ranchers already know: It is too late to pass a bill that applies to this year's crop.

Consider these facts:

The 2002 wheat crop was planted last fall and harvesting in the far southern region will begin next month.

Several crop reports in recent days have said that 9 percent of the Nation's cotton crop is planted, including 37 percent in Arizona, 35 percent in California, and 13 percent in Texas, with the rest of the States starting to plant.

Corn planting is 59 percent complete in Texas; 25 percent in Tennessee; 3 percent in North Carolina; 26 percent in Missouri; 17 percent in Kentucky; and in Kansas—yes, we grow cotton—11 percent.

Another article said corn planters were already in the field in eastern Iowa. And 43 percent of the sorghum crop is planted in Texas and 18 percent in Arkansas. Rice: Texas, 85 percent planted; Louisiana, 69 percent; 10 percent in Arkansas.

Our producers and our bankers, lenders, must make planting and lending decisions. We cannot continue this game of Charlie Brown, Lucy, and the football. This will not work in farm country.

Our producers have been told that the bill could be completed prior to Christmas, the bill could be completed right after the first of the year, the bill would be completed by Easter, and the bill would be completed by April 15.

Quite frankly, we have people who crawl out of train wrecks faster than the farm bill conference is proceeding in regard to the tough amendments they must reconcile. My producers do not believe any predictions they hear at this point. They now need to make decisions forced by their lenders.

I want to make it clear to colleagues that if we pass a new bill for this year's crops, we are setting ourselves up for another disaster or supplemental bill this fall—even after spending $73.5 billion in new funding for agriculture. Unfortunately—and this is the one I want all farmers, ranchers, and agribusiness to pay attention to—you are going to discover that in both House and Senate farm bill proposals, there will be no supplemental AMTA statement, no market loss payment in September, as producers have grown accustomed to.

Instead, under the countercyclical proposals in the two bills, producers and farmers could receive a portion of their countercyclical payment for wheat in December, while other crops would receive no assistance until next spring.

To put it another way, none of this countercyclical assistance, after all the talk we have heard in the last years as to the current farm bill—about the lack of a safety net and the need for countercyclical assistance—none of this assistance for the 2002 crop will even go out until the spring of 2003. When farmers discover this, there is going to be an outcry. That is why, in a recent poll, 70 percent of the farmers said about the supplemental in this crop bill: Put the new farm bill under 2003.

We are receiving indications that any agreement on the farm bill will include much higher loan rates—most likely at the expense of direct payments or the countercyclical payment.

It was 97 degrees in Dodge City 2 days ago. That is pretty hot for Dodge. Nearly 50 percent of our Kansas wheat crop has been rated at below favorable conditions and getting worse. My producers who may have no crop to harvest—and that is the condition in Texas, Oklahoma, Kansas, and Nebraska, moving north—will gain nothing from higher loan rates. Loan rates don't help if you don't have a crop.

This is a blueprint for disaster. We cannot continue down this path. It appears the farm bill will not be completed this week. We still have 8 or 10 contentious amendments. They probably should not be part of the commodity title.

I am putting colleagues on notice that as soon as the procedural situation allows, I will either ask unanimous consent that S. 2040—the supplemental bill I just referred to, which I previously introduced—be pulled up and, hopefully, passed by the Senate or I will offer it as an amendment to any bill under consideration by the Senate.

Madam President, it didn't have to go down this road. I hope my Senate colleagues serving on the conference—good men and women all—can reach some accommodation by the end of this week and break this logjam or we are going to have to go this route because we will be in a world of trouble in farm country. We already are.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

SECRETARY POWELL'S MIDEAST TRIP

Mr. SPECTER. Madam President, I have sought recognition to comment briefly on the trip to the Mideast by Secretary of State Colin Powell.

At the outset, I compliment President Bush for his initiative in sending Secretary Powell to the region, and I compliment Secretary Powell for his strenuous efforts, even though they have not achieved a cease-fire. As I listened to Secretary Powell on his live newscast this morning at about 7 a.m. eastern standard time, it seemed to me that his trip was worthwhile and progress had been made, although it is difficult to quantify progress in the Mideast because of the difficult and complex problems that are faced there.

I believe Israel has acted in self-defense in moving into Palestinian territories. It is the fundamental duty of a nation to protect its citizens. When Israel has been faced by almost daily suicide bombings, that action is necessary, as viewed by the Israeli authorities.

The President did call upon Israel to withdraw several days ago—almost 2 weeks ago—and Israel has to make its judgments and decisions as a sovereign nation. I do not think it should be viewed as a rebuke to President Bush that Prime Minister Sharon and the Israeli Cabinet saw it differently. President Bush made the judgment call he did as he saw the interests of the United States and the interests of the world community. I am sure he was considering Israel's interests in that mix. However, the judgment is up to Israel as a sovereign nation. It is understandable that when they have virtually daily suicide bombings, they see it differently so as to protect their citizens.

This morning, Secretary Powell referred to an international conference, and it is my hope that such a conference would be convened at an early time. It is my view that the so-called moderate Arab States have to become involved, representing Palestinian interests, because of the difficulties of relying upon anything Chairman Yasser Arafat has to say.

On March 26, 2002, I visited Israel and talked to General Zinni, Prime Minister Sharon, and Chairman Arafat. On that day, the three were in agreement that they were very close to coming to terms on the so-called Tenet plan on security arrangements. The very next day there was a suicide bombing in Netanya at the Passover seder killing 27 Jews at prayer and wounding approximately 200 others. The whole situation has deteriorated.

In the intervening three weeks, evidence has come to light, purportedly bearing the handwriting of Chairman Arafat, that he personally was involved in paying terrorists. I have asked the State Department for an analysis and the verification that, in fact, it was Arafat's handwriting, but on this state of the record, it appears that was the case.

It is no surprise that Yasser Arafat is a terrorist. He was involved in the murder of the United States charge d'affaires in the Sudan in 1974. He was involved with the murders of Israeli athletes. He was involved with the murder of Leon Klinghoffer who was pushed off the *Achille Lauro*. It was hoped that a new page had been turned with the Oslo agreements.

I was present on the White House lawn on September 13, 1993, when Arafat was honored at the White House. I had grave reservations about seeing this known terrorist honored at that time, but I watched as President Clinton put his left arm around Arafat and his right arm around Prime Minister Rabin, and the two shook hands. Then, Foreign Minister Peres shook hands with Arafat. It seemed to me that if the Israeli leaders were prepared to shake Arafat's hand, where Israel had been the principal victim of the terrorism, that was something we might move ahead with and try to deal with Arafat.

I have had occasion to talk to Chairman Arafat on a number of occasions over the years. Again, when I met with him on Tuesday, March 26, I urged him to make a clear-cut, definitive statement denouncing terrorism and denouncing suicide bombings. Chairman Arafat said he would, but of course he has never done so.

It is a very difficult call to have U.S. negotiators or the Secretary of State or anyone meet with Arafat because of the outstanding evidence that he is still involved in terrorism, but that is a call the Secretary of State had to make, and I respect that. It seems to me that if the peace process is to go forward, it is very difficult for Arafat to be a major player or a major participant because he is, simply stated, untrustworthy.

When Prime Minister Rabin made the famous statement that we have to negotiate with our enemies, we have to make peace with our enemies because we do not need to make peace with our friends, that set a parameter in a statesmanlike way for the necessity for Prime Minister Rabin to deal with Chairman Arafat and for us and others to have had talks with him. However, on this state of the record, where it appears that Arafat has been paying terrorists recently, it seems to me very hard to conduct negotiations with Arafat on the expectation that his commitments will be observed.

We do have moderate Arab leaders. We have King Abdullah of Jordan, a man in his late thirties, heir to King Hussein's good work. We have King Mohamed of Morocco, another able young man in his late thirties who has the potential for leadership. We have President Mubarak of Egypt. It seems to me that those are the leaders who ought to be convened.

It would be my hope that Saudi Arabia would play a constructive role in a peace conference. The Saudis came forward with a proposal which had merit because it was the first time the Saudis have said they would normalize relations with Israel if Israel would recede to the pre-1967 borders. I do not think it is possible to recede to those borders, but there had been negotiations between Israel and the Palestinians on borders, and I think an accommodation would be worked out. However, when the Saudis agreed to normalize and the Syrians agreed with that, that was a significant step forward.

Candidly, it was a major disappointment to see Saudi Arabia have a telethon for the Palestinians and raise, according to press reports, some $92 million. Where was their telethon for the American victims from September 11th? We know that of the 19 terrorists involved, 15 were from Saudi Arabia, and then Osama bin Laden is a Saudi. It would be my hope that we could expect something more from Saudi Arabia.

As we look forward, I was pleased to see Secretary of State Powell say today that Assistant Secretary Burns will remain in the region, that General Zinni will be there to carry on his role, and that CIA Director George Tenet may be going in the near future to work out security arrangements so that there is an active role by the United States.

I urge the administration to move forward on a conference which would be at the ministerial level, in a sense making the move for Foreign Minister Peres to be the negotiator for Israel; a conference which hopefully would omit Arafat; a conference which hopefully would have Jordan, Egypt, Morocco, and Saudi Arabia as principal participants to be guarantors representing the Palestinian efforts and making arrangements which could be relied upon and could be carried out.

It is very important, in conclusion, that the process be continued. When Secretary Powell went to the Mideast, he undertook very substantial risks. Everyone cannot hit a home run every time they go to bat, but I think the Secretary did a good job and made a constructive step. Now it should be carried forward with a peace conference attended by other Arab leaders.

I thank the Chair and yield the floor.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The PRESIDING OFFICER (Mr. EDWARDS). The Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Schumer amendment No. 3030 (to amendment No. 2917), to strike the section establishing a renewable fuel content requirement for motor vehicle fuel.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self-determination of the Inupiat Eskimos, and to promote national security.

Stevens amendment No. 3133 (to amendment No. 3132), to create jobs for Americans, to strengthen the United States steel industry, to reduce dependence on foreign sources of crude oil and energy, and to promote national security.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

AMENDMENTS NOS. 3132 AND 3133

Mr. BINGAMAN. I thank the Chair.

Mr. President, I welcome a chance to speak about the pending amendments. There are two amendments that have been proposed related to ANWR:

A first-degree amendment by my friend Senator MURKOWSKI relates to the proposal to open ANWR, the Arctic National Wildlife Refuge area, to drilling, and the second-degree amendment by Senator STEVENS proposes to do that but also proposes a major relief program related to the U.S. steel industry primarily. I will try to talk about the ANWR-related provisions of the bill, and particularly the energy aspects of those today.

I oppose opening the Arctic National Wildlife Refuge to oil and gas development, and there are many reasons why. Some of those reasons relate to the energy security issues with which we are trying to deal. Some relate to environmental concerns. I am strongly committed, as I believe most Members of this body are, to our Nation's energy security, and the energy bill we have put forward tries to emphasize domestic energy supply and the importance of energy in national security.

However, developing the oil and gas resources in this Coastal Plain of the Arctic Refuge, this area known as the 1002 area, is simply not a necessary component of a progressive energy policy for this country. The development of the Coastal Plain has been debated in this country and in this Congress for nearly 40 years. Experts still disagree about the actual reserve potential.

In May of 1998, the Geological Survey released new estimates of oil in the refuge. In that analysis, the USGS's mean estimate of economically recoverable oil on Federal lands within the 1002 area was from 3.2 to 5.2 billion barrels, and that was assuming a price of $20 to $24 per barrel using 1996 dollars. Today the United States consumes about 19 million barrels of oil each day, almost 7 billion barrels of oil each year.

We have a chart I will put up which I think begins to make that point. As this chart indicates, production from the Arctic Refuge would not contribute significantly to solving this problem. I will make the point by reference to this chart.

Domestic oil production, as shown on this chart, has been declining since 1970 and continues to decline today. That is this green line toward the bottom of the chart. Total oil demand, on the other hand, in the United States has been going up and is expected to continue going up. This chart goes from the year 1950 to the year 2020. We can see demand continuing to go up.

This middle line is transportation demand, and one of the points this chart makes is that total oil demand is driven directly by transportation demand.

I think people can see that pretty readily. This little red line down in the right-hand side is domestic oil production with ANWR. So we can see that domestic oil production, although it continues to decline, would uptick. For a period starting at about 2012, we would see an increase in domestic production under ANWR, if ANWR was open to development. It does not reverse the long-term trend, which is less U.S. production, more imported oil, but for a relatively short period, considering our Nation's history, we would see an increase in domestic production.

The estimate we have from the Energy Information Agency is we would see about a 2 to 3 percent of oil demand in a given year coming out of the ANWR production at the peak of that production. The Energy Information Agency assumes it will take 7 to 12 years before we have any production from ANWR.

We had a hearing in our Energy Committee. We invited representatives of some of the major oil companies that have interests on the North Slope, and the representative from ExxonMobile was asked that very question: How long will it take to bring production to market if we go ahead and enact legislation? His estimate was 10 to 12 years. He said: Assuming there are no legal problems that need to be overcome, it would take as few as 8 years; more likely, it would take something in the range of 10 years.

According to the Energy Information Agency, peak production would not occur for nearly 20 years after initial production. So development would not address the near-term prices or shortages with which people are faced.

The figures the Energy Information Agency has given me indicate their estimate is 54 percent of the oil we consume, as of January, was imported oil. That is why I believe clearly we need to address the problem. We need to try to pass comprehensive energy legislation. As I said before, though, opening the Arctic Refuge is not the answer to this dependence on foreign oil.

The recent report that the Energy Information Agency came out with has a quotation in it that I think is very important. This is on page 6 of a report that the Energy Information Agency issued in February of 2002. That was 2 months ago. They say:

> The increase in ANWR production would lead to a decline in the U.S. dependence on foreign oil for the 2002 referenced case. Net imports are projected to supply 62 percent of all oil used in the United States by 2020. Opening ANWR is estimated to reduce the percentage share of our imports to 60 percent.

I will put this second chart up to make the point very graphically. What the Energy Information Agency is telling us is there will be less need for us to import oil if we open ANWR, and that reduced need for imports would come in about 2012. It would be about 2 percent. Instead of importing 62 percent of our oil in the year 2020, we would be importing 60 percent of our oil in the year 2020.

The other thing the Energy Information Agency says, which I think is very instructive, if we carry their projections out—and these are all their projections; this is technically recoverable oil from ANWR as they see it—if these are carried out, by the year 2026 those two lines come together again and we are back in a situation where we are as dependent on foreign oil in the year 2027, for example, as we would have been absent any drilling in ANWR.

By the year 2030, their projection is we are going to be 75-percent dependent upon imports for our oil if ANWR is open for drilling and we are going to be 75-percent dependent upon imports of foreign oil if ANWR is not open for drilling. So from their perspective, if we look at a 28- or 30-year timeframe, they see absolutely no difference in the extent of our dependence whether we open ANWR or we do not open ANWR.

Another point I think is important to make is this focus on developing the Arctic Refuge has drawn attention away from real opportunities we do have to enhance our domestic energy production and reduce our reliance on imported oil and help us attain energy security. Let me mention some of these opportunities from which I think we have had our attention deflected.

First is the development of the abundant gas resources on other parts of the North Slope that are already open for development, coupled with the construction of a natural gas transportation system, a pipeline to bring that gas from the North Slope down to the lower 48. I will speak some more about each of these in a moment.

A second opportunity I think we have not given enough attention to is that production from the National Petroleum Reserve, Alaska. This is a highly prospective area for recent oil and gas leasing activity, and it is one where I think we have great potential to produce additional oil.

A third opportunity is new production from lands already under lease that are not being developed. There are many such lands offshore Louisiana, Texas, and Alabama, and we need to give more focus to how we incentivize production out of those areas. Fourth is the reliance on other forms of energy. We have been trying to make that point throughout the debate on this energy bill.

Long term, if we are going to avoid the projection on this chart, which is that we will be 75-percent dependent upon foreign sources of oil by 2030, we have to find alternative sources of energy as a substitute for this imported oil. That needs to be a very high priority for our research and development effort and for the provisions we have in this bill.

I believe the most important energy issue in Alaska is not the Arctic Refuge—although hearing the debate one would think that was the central issue as to whether we did what should be done to meet our energy needs in the future. The most important issue is Arctic gas. The North Slope of Alaska contains rich supplies of natural gas. There is more than 32 million cubic feet of natural gas immediately available in existing oil fields in the Alaskan North Slope. The total natural gas estimates are in the area of 100 trillion cubic feet. We do not need new legislative authority in order to produce this gas.

However, currently, the natural gas that is produced with oil on the North Slope is being reinjected because there is no transportation system, there is no pipeline with which to bring that gas from the North Slope to the lower 48. Congress dealt with the issue in 1976 when it enacted the Alaska Natural Gas Transportation System Act. Responding to the energy crisis of that decade, Congress called for the immediate construction of a gas transportation system and an expedited process for accomplishing that goal. Due to changed economics, due to other intervening factors, there have been more than two decades that have passed and we still do not have any pipeline. We do not have any kind of transportation to bring that gas to the lower 48.

The energy bill pending in the Senate tries to address the issue. The House-passed bill does not try to address the issue. This bill does. We would increase the supply of domestically produced natural gas to U.S. consumers by expediting the construction of the Alaska natural gas pipeline. It provides for streamlined procedures for permits, for rights-of-way and certificates needed for the U.S. segments of the pipeline, as well as financial incentives to reduce the risks of the project.

We have had a lot of discussion about jobs as part of this debate about ANWR. This natural gas pipeline I am talking about, which is distinct from ANWR, the natural gas pipeline creates more than 400,000 new jobs. This is in contrast to the Congressional Research Service estimate of 60 to 130,000 jobs that would be created by opening the Arctic Refuge.

Senator **REED**, who chairs the Joint Economic Committee, released a new report last month estimating that opening the Arctic Refuge results in the creation of 65,000 jobs nationwide by 2020, an employment gain of less than one-tenth of 1 percent of the U.S. workforce as a whole. Building the pipeline would not only create thousands of new jobs but also provide a huge opportunity for the steel industry. The project requires up to 3,500 miles of pipe, 5 million tons of steel. The Senate bill encourages the use of North American steel and union labor in the construction of the pipeline. The total cost of the pipeline would be in the range of $15 to $20 billion. I strongly support going forward with that and putting whatever we can in this legislation to encourage its construction.

In addition to these enormous supplies of natural gas from existing oilfields, there is another substantial opportunity to obtain additional oil and gas from the Alaska North Slope. This is the National Petroleum Reserve, Alaska. We have a chart that shows something of which most Americans are not aware. The map shows a large area, the National Petroleum Reserve, Alaska (NPRA), which is the orange area on this chart. It is a very large area. This is the Arctic National Wildlife Refuge and includes the 1002 area. There are 23 million acres of public land in the NPRA. It is approximately the size of Indiana. It was created to secure the Nation's petroleum reserves. It is administered by the Bureau of Land Management which, in 1999, offered 4 million acres in the northeast portion of the NPRA. They offered 4 million acres in that area for leasing. The result was very successful. It was a very successful lease sale. There was a high level of industry interest, with over $104 million in bonus bids for 133 leases on 867,000 acres in this NPRA area.

Exploration drilling has occurred. The industry has made major finds. A second lease sale is scheduled to take place in June of this year in another part of the National Petroleum Reserve, Alaska. The planning is also being undertaken to open additional portions of the NPRA after the sale that takes place in June. This is an opportunity that does not require any change in the law in order for drilling to go forward. As the map indicates, there are vast areas of Federal and State land on the North Slope that are already open to oil and gas leasing and development. The yellow portions on the chart are already under lease.

In addition, under the current 5-year leasing plan, the State of Alaska plans an aggressive leasing program in the areas between the NPRA and the Arctic National Wildlife Refuge.

Not only do I believe these parts of the North Slope other than the Arctic Refuge can contribute significantly to meeting our oil and gas needs, there are Federal lands currently under lease elsewhere that are also not being produced. Let me show a chart with our Outer Continental Shelf off the coast of Texas, Louisiana, and Mississippi. This chart shows 32 million acres in the Outer Continental Shelf that have already been leased by the government to oil companies for exploration and development that have not yet been developed. We do not need to pass a law in order to have drilling in those areas, either.

In addition to my belief there are many other good opportunities to increase domestic oil and gas production, and I mentioned some here, I am particularly concerned this controversy about the Arctic Refuge diverts attention from an important underlying goal which we need to have in this bill, and that is to diversify our energy mix.

What we are trying to do in the bill to support more research and development, to support development of alternative sources of energy, in the long run will do more to solve our national energy problems than what we have done so far.

I will comment for a minute on the issue of CAFE standards because that has come into the debate in various ways. I will show another chart that shows why, in my view, we should have gone ahead and required higher CAFE standards for vehicles. This chart shows a blue line, which is net imports of oil, given current law. The green line indicates net imports if we open ANWR to drilling. It shows the amount required to be imported for a period of 20 years is reduced under that scenario. Then if we had net imports with CAFE, had we raised the CAFE standards, we would see that net imports would not only be more than the imports would be in the case of drilling in ANWR but they would stay lower. That is the advantage of it. In the case of drilling in ANWR, you have a relatively short-term benefit which goes away once the oil is used up. In the case of CAFE standards, you have a continuing benefit for the indefinite future.

I do think we need to revisit that issue. I hope we can. I hope we can get some support from the administration to do something more significant.

I received a letter—I know my colleague, Senator MURKOWSKI, had it printed in the RECORD yesterday afternoon—from Secretary of Energy, Spencer Abraham, our former colleague, for whom I have great respect. He was citing the various things he is doing as Secretary of Energy to help us reduce our dependence on foreign oil. I gather he sent this letter to all Members of Congress. He said:

> I will be meeting this week with the American Automobile Association—AAA—to identify ways to encourage Americans to drive smarter, to prepare their cars to operate more efficiently to save fuel and money.

I am not opposed to him meeting with the AAA to encourage Americans to drive smarter, but that is not an adequate response to the energy challenges this country faces. We need to do better. This administration should be supporting increased CAFE standards. It should be supporting provisions of this bill to encourage efficiency in the use of energy and not just depend upon Americans to drive smarter.

You can put a little more air in your tires. You can, perhaps, get your car tuned up. But the truth is, if the car is manufactured to run at 12 or 14 miles per gallon—14 miles for each gallon that you buy—you cannot do a whole lot to solve that problem.

I know there are others who want to speak. There will be opportunities later for me to add to my comments. Let me conclude by saying that opening the Arctic Refuge is not, in my view, good environmental policy. More importantly, it is far from necessary as part of a national energy policy. Oil and gas development on the Coastal Plain of the Arctic National Wildlife Refuge does little for our Nation's energy security. If you take the long-term view, which is 2030, it does nothing to deal with our energy security needs.

It is a diversion from the efforts we should be taking as a country to address the important subject of energy, a subject that is crucial to our economy, to our way of life and our future. I urge my colleagues to join me in the effort to oppose opening this area for drilling.

I believe Senator BREAUX was expecting to speak at this time in favor of one or both of the amendments, so I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I am pleased to follow the distinguished chairman of the Energy Committee. Although we differ on the conclusion, I certainly have the utmost respect for the good work he has done in bringing this bill to the floor, along with the Senator from Alaska, Mr. MURKOWSKI, in an effort to try to develop something we do not have in this country and that we desperately need, and that is an energy policy that is good for America.

The energy policy we have—or probably do not have—is probably good for OPEC but it is not good for America. Why do I say it is good for OPEC? Because the facts are that we import about 57 to 58 percent of the oil we use in this country. It comes not from America, not from allies in Canada, or good friends in Mexico, but about 58 percent of the oil and gas we use in this country for everything we need, from agriculture to cars and trucks to our residences being heated in the winter and cooled in the summer—that 58 percent of the oil and gas we need for all those services which are critically important to the United States and every citizen of this country does not come from America. It comes from countries where, if people in this country did what they did in their country, they would go to the penitentiary.

What am I talking about? Every few weeks people in OPEC, the sheiks and the people who control the energy in those countries, meet in fancy resort hotels around the world, they meet in secret, and they determine how much they are going to price the oil that America has to buy. They regularly and openly fix prices. If companies that are providers in this country did that in America, they would go to the penitentiary. That is clear. It is illegal. Yet we as a nation have accepted that policy on the part of the principal supplier of oil for our country.

We do not control our destiny; we do not control our future, as long as we rely on people who fix prices to provide this country with the ingredients we need to be a strong and secure and prosperous nation. That has to come to an end.

It is not going to be easy. There is not one answer. There is a multitude of answers which we have to incorporate in an energy bill which is balanced, which provides help and assistance for new forms of energy, for alternate forms of energy.

I voted for $6 billion worth of tax incentives for new forms of energy. Many people in Louisiana think it is ludicrous that I am doing that. When I talk about wind power and chicken manure being converted into energy, people in my State say: What are you doing? Why don't you try to encourage oil and gas production? I say: Yes, that is important, but alternative sources of energy are also important.

The point I make about where we get our energy supplies is just this simple. If we were dependent for, say—think about it—58 percent of the food we eat in this country, suppose it came from a foreign source which was not very dependable. People would be marching in the streets in Washington, saying you have to stop that policy. It is insane. We can't depend on foreign countries for our food. It is essential to our national security. You cannot allow a policy which gets agricultural products from countries on which we cannot depend. People would march in the streets—and rightfully so.

That is exactly what we do when it comes to energy. We are satisfied. We are fat, we are happy, until they turn the faucet off just a little bit. It happened in 1973 and it brought this country to our knees. We had long lines at filling stations. We had lack of supplies. We had people getting in fights trying to buy gasoline so they could take their children to the doctor and to school and run commerce in this country. We saw what they could do. At that time we were probably 30-percent dependent on imported oil. Today it is about 58 percent. We look around the world and the circumstances today are much worse than they were in the 1970s.

There has been an attempted coup in Venezuela, which is one of our largest suppliers. The President of that country is in bed with Castro and Libya and Iraq, and we are dependent on them for much of the energy supply in America. Purchase of it comes from Louisiana where we refine it in Lake Charles. Is that a secure source? Of course not. They just had a revolution. The guy they kicked out is back. He is not particularly a friend of the United States when he is giving oil to Cuba at discounted prices and threatens to cut it off to us at any moment.

Getting oil from Iraq, is that a stable source? The Middle East situation today is as volatile as it has been in generations.

So the point I would make to start this discussion is we, in these United States, have to be more reasonable, more balanced in how we approach the solution. There is no absolute, safe method of achieving energy independence that doesn't have some risk. Let's admit that up front. That is, of course, true.

But we have a policy in this country when it comes to oil and gas. Think about it. You could not drill offshore anywhere on the east coast, from Maine to Key West. It is all locked in—or, rather, locked out from any development, although there are potential reserves in those areas that are substantial.

If you look on the west coast of this country, you can go all the way from Washington State down the west coast, all the way down to Mexico and you cannot have any new leasing in any of those areas whatsoever. We did that because Republican administrations and Democratic administrations, Republican Congresses and Democratic Congresses, have taken all those areas and said: Don't do it here. Not in my backyard. The problem is the backyard is the entire west coast of the United States. Don't do it in my backyard on the east coast. The problem is it is the entire east coast of America.

Some have said, and some of the environmental groups have said, "Do it off Louisiana," as if we were not important from their perspective, and as if we didn't have some of the most valuable resources in terms of wetlands, fin fish, birds, oysters, shrimp, and all of the fur-bearing animals that we have in the very fragile wetlands where we lose 25 square miles a year because of erosion. But they are saying: Do it there. We are doing it there. We will continue to do it there because we believe this is a national issue and we should make our contribution towards energy security. We have done it for 60 years off our coast and on our shores. There have been mistakes. There have been problems, but we have learned from those mistakes. And today it is much more secure than bringing oil in rusty-bucket ships that leak and spill oil on the oceans of this country. Less than 2 percent of the oil that finds its way into the oceans of America and the world come from offshore development. Most of it comes in tanker discharge, industrial runoff, and other sources, and natural seepage, but not from offshore production activities—less than 2 percent, according to the National Academy of Sciences. I think we have shown it can be done safely and in a fashion that protects the environment.

There is no place I would rather fish in America than the Gulf of Mexico. We have literally hundreds and hundreds of platforms that have wells, exploration wells, and production wells that produce natural gas and oil for the rest of this country. We have a pipeline system that takes natural gas and sends it to Chicago, New York, New England, or to the west coast, and all over this country, coming from one particular source in the gulf where there is a 60-year record of it being done safely. Despite that, when we tried to have additional leasing in the gulf, Congress tried to stop that even.

President Clinton, to his credit, proposed a compromise called lease sale 181 in the Gulf of Mexico. To my regret, the Bush administration cut that by two-thirds. It was a proposed lease sale that was two-thirds less than President Clinton had proposed in the Gulf of Mexico. And this Congress tried to eliminate it completely because they did not want it in their backyard.

From where is it going to come? From where is it going to come, if not from a domestic source right here in this country where we have shown we can do it safely, in a secure fashion, and in an environmentally sensitive fashion? I think there are many parts of the country that are doing their share.

The concept that because it is a wildlife refuge and somehow we are not supposed to be able to do anything on it other than look at caribou is ridiculous. Here are the wildlife management and wetland management districts around the country where we have production already. There are 9 facilities in Texas and 12 in Louisiana. Every single wildlife refuge in Louisiana—which has some of the best in the world, the best in the country, and which has more wildlife features and more fragile ecology than the North Slope—12 separate production facilities on wildlife refuges, one of them owned by the Audubon Society, which has production on their own refuge from which they get royalties, strongly support it, but nowhere else.

I think it has been shown that, in fact, you can have production, if it is done properly and in a sensitive fashion—and in wildlife refuges, as well as in areas that are not. It can be done. It has been done and it has been done safely.

This is an example of the type of facility in Louisiana. Look at how small of a print that is. In Alaska, there are 19 million acres in ANWR. When we are talking about reserving a portion of that 19 million acres, which is less than the size of Dulles Airport, to do one type of operation, of course, it makes an imprint. Is it huge? Of course not. Is it dangerous? Of course not. Can it be done safely? The answer is yes. History has shown us that it can be done in an environmentally safe fashion. We would not need that, if we were not importing 58 percent of our oil from countries that are not safe and not reliable.

If we had enough energy production from other sources, then we would not need to do it in the wetlands because we would have more than we needed right here in this country. But that is not the case when we are importing 58 percent from places that fix prices and which have us literally over a barrel when it comes to having enough energy to run the cars, to run industry, and agricultural entities in this country. We can't afford not to look at developing it here in this country. That is the point I would make.

There are some who say we will have a problem with the caribou up there. Caribou aren't endangered. They are like a bunch of cows. There are more of them now than there were years before. In addition to that, we are not damaging the lifestyle of caribou by having some energy development in the same area they happen to be walking through once or twice a year.

Some say: You can't do anything up there because of the caribou. They have nice pictures of caribou. They say: Don't do anything to damage the caribou. The caribou are more plentiful in that part of the country than they were in Prudhoe Bay. They are doing quite well, thank you very much.

For those who said, "Well, you are going to interfere with their lifestyle," look at this photograph. These are not dummies that somebody put out on the North Slope. The Senator from Alaska knows that area quite well. It is his State. These are living, breathing, multiplying caribou within a stone's throw of a production facility in Alaska. Does this look like the caribou lifestyle is being interfered with? Does it look as if they are not happy and content, grazing near the pipeline and production facility?

Some will make the argument you can't do it because the caribou walk across this area twice a year, they might calve, and it might disrupt their lifestyle.

Importing 58 percent of our energy is disrupting the lifestyle of Americans, and it is threatening the security of the United States.

We don't want to get into another Afghanistan or have the Middle East shut off the oil supply to this country or ask how we are going to defend ourselves and be protectors of the world when we are buying oil from people who have turned against us because of conflicts with Islamic portions of this world.

We have to be secure. We have to be confident that we can depend on energy. We ought to do whatever is necessary to produce it in this country instead of bending over on our knees saying, please, OPEC, don't disrupt our energy supplies; please, OPEC, don't charge us too much; please, please, please.

You can't say that when you don't have someone to back it up. What are we going to do? Threaten not to buy their oil? We do not have that luxury because we are not doing enough to produce energy right here in America.

For those people who say, "Don't drill in ANWR," get off the caribou argument. They made that argument about the Prudhoe Bay pipeline; it was going to kill all of the caribou; they will move somewhere else; they weren't going to have calves. That has not proven to be correct by one iota. The caribou are there and they are thriving. That simply, in my opinion, is not a legitimate argument as to what we should be looking at. We should be looking at it from the standpoint of safety and making sure it has the utmost of environmental equipment that is needed to make sure it can be done safely. I would suggest that it doesn't matter how we protect it. It is a lot safer than importing energy that we are bringing in by tankers from around the world.

Some have said that in order to get this measure passed we have to sweeten the pot for some of the steelworkers who lost their jobs. I am not for that. That is not what the issue should be.

Some have said maybe our friends in the Middle East and the Israelis will help and maybe we can get enough votes to pass this measure. It should pass on its own.

I would vote for trying to get something good from the standpoint of energy security. It should pass or fail on its own merits. We ought to be able to look and decide whether it is a good idea.

When I was back in the House in the 1970s, we wrote the Alaska Lands Act. We looked at this area. We set aside the Arctic National Wildlife Refuge with 19 million acres with the clear thought that we ought to take a small portion of it and look to see whether we could possibly do more for energy. The USGS tells us that it equals a 30-year supply of oil coming from Saudi Arabia.

Some say there isn't much up there. We will not know until we take a look. The USGS tells us that it is potentially a 30-year supply—the equivalent of what we get from Saudi Arabia. That is not insignificant. That is a huge amount. Some say it is a 1-day supply. It is 1 day if we cut off all other sources. If you look at it from the standpoint of potentially how much is there, a 30-year potential is very significant considering what we get from Saudi Arabia.

We may not get this thing done. We may continue to say: Don't do it in my backyard; don't do it on the east coast, don't do it on the west coast, don't do it in the Gulf of Mexico, don't do it—don't, don't.

But my point is simply this: If not there, where? For somebody who thinks it is better to import it from the Middle East rather than produce it in our country with our own people running the program and with our environmental laws in effect, I suggest that is not a good tradeoff.

This amendment should pass. We should go about the business of bringing energy security to this country.

I yield the floor.

Mr. MURKOWSKI. Mr. President, will the Senator yield for a question?

Mr. BREAUX. I would be happy to yield.

Mr. MURKOWSKI. I ask the Senator from Louisiana: Some people have suggested that the better answer is, rather than opening ANWR to drilling, we should simply concentrate on the Gulf of Mexico and put up every possible lease sale. I think that lease sales are already taking place in 2,000 to 3,000 feet of water. And the industry has had a very successful effort in producing there. It requires a great deal of technology.

But I wonder if the Senator from Louisiana believes this is a better solution than exploration in other areas of the country, where States such as Louisiana or Alaska want the development to occur?

Mr. BREAUX. From a selfish standpoint, I could say: Don't do it anywhere else. Just do it in Louisiana. It creates jobs. It creates income. And it creates infrastructure. We are happy to support that activity. If I looked at it from only a parochial standpoint, I would say: Only do it in the Gulf of Mexico. Don't do it anywhere else. But that is not in the best interest of the country.

You have to do it in the gulf, but you have to do it in other places where oil may be present. One of the most promising and potentially the largest supplies, other than the Gulf of Mexico, is, in fact, the Arctic National Wildlife Refuge.

So if you look at it as national policy, it is not enough that Louisiana and Texas do it. Other States have to be involved; and ANWR is one of those sites. We cannot keep saying "don't do it here" and "don't do it there" and "don't, don't, don't." The fact is, we ought to do it where we can find available energy. I would say ANWR is one of those.

Mr. MURKOWSKI. I wonder if the Senator would show us that particular chart because I think it depicts the statement that has been made continually: "Well, not in my backyard."

Mr. BREAUX. That is it. It is easy to say: Don't do it in my own backyard. I want to be with environmentalists. And that is fine, but at some point you have to say: We have to have a balanced program.

I talked to some environmentalists about ANWR, and I said: I tell you what, what if we limit it to 1 acre? Would you be satisfied if we only did it on 1 acre in Alaska? The answer was: No. The fact is, they don't want to do it on 1 acre or 20 acres. They just don't want to do it because it becomes a symbol of what they stand for. And I understand that.

But we are in a crisis in this country. I am saying you have to have a balanced approach. This is what has occurred around natural gas, the cleanest burning fuel, the least threatening in this country. People don't like nuclear because it is dangerous. Natural gas is dangerous. They don't like coal because it is dirty. Natural gas is the cleanest fuel we have.

Look at what has happened. As I show you this on the map I have in the Chamber, this area is subject to no restrictions. You cannot drill for potentially 21 trillion cubic feet of natural gas on the west coast because it is all blocked off. There are 31 trillion cubic feet of potential natural gas reserves on the east coast. You cannot drill a well anywhere there.

There is lease sale 181, which we just fought in this Congress, where people want to say: Don't do anything here. There are 24 trillion cubic feet of potential natural gas reserves, and Florida is importing over 90 percent of the gas they use from other sources. They do not produce but a trickle of their gas in Florida. They import over 90 percent, and they say: Don't do it off my pretty beaches. Don't do it off my million-dollar houses. Go do it somewhere else. There isn't anyplace else.

The only place we are doing it is shown here on the map. So look at the interior of the country. We have more places where you can't look for oil and gas than you have where oil and gas potential exists.

Mr. BINGAMAN. Would my friend from Louisiana yield for a question?

Mr. BREAUX. Sure.

Mr. BINGAMAN. I don't want to argue with the Senator's basic point. I am in general agreement with him, that we ought to be drilling some places where we are not drilling today. But the chart the Senator has seems to indicate you are not drilling in northwestern Mexico. That is one of the largest gasfields in this country, the San Juan Basin. We are drilling at an amazing rate up there. I support the drilling that goes on there, by and large.

I do not know about all the rest of the Rocky Mountain region, if that map is intending to indicate you cannot drill in it. But an awful lot of our State is being drilled in, and appropriately so.

Mr. BREAUX. I just say, referring to the map, the access restrictions I am talking about on the coast clearly are a total prohibition. And this is a total prohibition. This has restrictions on access to those areas. For some of these areas, it should be.

But what we are talking about today is not access restrictions to ANWR; we are talking about a total prohibition on ANWR. That is not access restrictions. That is a lot further.

If we want to pass a bill that says we are going to carefully coordinate how you can get into that area, how you can exit that area, what you can do in that area, that is one thing; but the legislation we have in the current law of this country is: no access. That is not access restrictions; that is totally no access to areas that have potentially huge amounts of energy.

Again, I would say, don't do ANWR if we don't need it. But anytime this country is importing 58 percent of our energy, I would suggest we need it. Are we importing 58 percent of our energy because we like to do that? Of course not. We are over a barrel paying OPEC prices, which they fix every 6 weeks.

I think, if we are going to have a national energy policy, everybody has to come to the table, not just half of the equation.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me begin, if I may, by first of all saying it is my intention to answer each and every one of the assertions just made by the Senator from Louisiana and the Senator from Alaska. There is ample proof that those of us who oppose drilling in the Arctic Wildlife Refuge are strongly in favor of drilling in many other parts of this country and are strongly in favor of a policy which keeps the United States on the cutting edge of energy production.

In a few moments I will show how we are producing extraordinary amounts of natural gas, almost all the coal we consume, huge amounts of oil and other sources of energy, and, in fact, we are building new powerplants all across this country.

None of us are standing here with our head in the sand arguing that we should not continue to produce energy. Moreover, I think the arguments made underscore the fundamental difference in the approach by those of us who believe there is a different energy future for the United States that does not require us to do injury to something we have set aside for a purpose.

Beginning with a Republican President, and going through a series of Presidents over the last 25, 30 years, there has been an honoring of an ethic in the United States that suggests that the concept of a preserve should be exactly that.

My colleague, a moment ago, said: What would happen if we said, drill in only 1 acre? Well, everyone understands that if you begin with 1 acre, it does not stay at 1 acre. It will progress. The first acre is the violation of the notion of set-aside. The first acre is the violation of the concept of pristineness. The first acre is the destruction of the concept of an arctic wildlife refuge that is absent any kind of industrialization.

My arguments against drilling in ANWR are not based on the caribou. That was a wonderful picture, a great discussion of caribou, but that is not the principal argument here. It is interesting, however—and I will show, a little later, that our own Fish & Wildlife Service—I have heard my colleagues referring to radical environmental groups. The people who are cautioned against this are the administration's own functionaries who worked on this for years. The Fish & Wildlife Service finds there would be problems with respect to the ecosystem. The U.S. Geologic Survey has serious questions with almost all of the numbers that have been put forward by the proponents.

So I begin at the beginning. I want to try to lay a record out here that I think is clear and, I hope, understandable and, I hope, in the end, compelling about why it is inappropriate to drill in the Arctic Wildlife Refuge. But I do want to say, the two visions are different visions of the energy future of our country.

I honor what the Senator from Louisiana said. He is a strong advocate for his State. He is a terrific Senator. And he is right, we do need to do more drilling. I am in favor of more drilling. We should do more drilling in the deep water Gulf of Mexico, which Lord John Brown, the CEO, chairman of British Petroleum, says is the most significant oilfield unexploited in the world, which is where at least British Petroleum would like to put its energy, its efforts, not in ANWR.

But let's begin at the beginning.

Our colleagues have come to the floor and suggested to our fellow Senators that this is the first time in history that a "national security" issue has been filibustered.

First of all, one could make a serious argument about the degree to which this is, in fact, a national security issue. But I will accept the question of how much oil we import. The question of American dependency on oil is legitimately a concern of the United States. But it is not addressed by drilling in ANWR, No. 1, and, No. 2, the record shows clearly that this is not the first time such an issue has been filibustered.

If ANWR is important to the energy national security of the United States because it would affect how much oil might be available or how much oil we are importing, then CAFE standards are equally a national security issue for our country. In fact, CAFE standards are a far better response to national security because even the oil companies will tell us they can't produce oil from ANWR for anywhere from 7 to 10 years.

When my colleagues come to the floor of the Senate and suggest to us that the crisis in the Middle East is a reason to drill in ANWR, that is a misleading argument because no oil will flow from ANWR, given the permitting, lawsuit, developmental processes, as I will show later, until from 7 to 10 years from now. And you don't even get to the peak production until somewhere, perhaps, around 2020.

That said, if you put CAFE standards in place, you would have a much faster response to the oil. You would get 1 million barrels saved in a decade, and that would grow exponentially. In ANWR, as you drill, you lose the oil. You reach a point of peak production, and then it starts to go down. But if you put CAFE standards in place, it grows and grows through the years. So in fact, CAFE standards result in three times the savings of ANWR.

I don't want to get into a CAFE standards argument. That is not why I am here. But CAFE standards is as much a national security issue for the United States as the question of whether or not we drill in ANWR. I will show later how ANWR doesn't even affect the total amount of oil on which we are dependent except for this tiny little sliver that is barely discernable on a graph.

The point is, our colleagues have suggested this is the first time. I want to say this because the accuracy that disappears in this process is very important. The fact is, in the 101st Congress, second session—I was a member of that Senate; I remember the vote—we had a motion to invoke cloture on the Motor Vehicle Fuel Efficiency Act. It failed. In other words, it was filibustered. It was filibustered, and 42 Senators managed to prevent us from passing the effort by Senator Richard Bryant of Nevada to have CAFE standards, which is a national security issue.

Among those Senators who voted to continue the filibuster and not allow us to put CAFE standards in place were both Senators from Alaska and the Senator from Texas, who have asserted that we must allow a straight vote on ANWR. Let's dispense with the national security argument, and there is further reason to dispense with it because of the amount of oil we have in the Arctic Wildlife Refuge.

I want to show this chart. This is the world supply of oil production versus the Arctic Wildlife Refuge. If the Presiding Officer is having trouble seeing ANWR, that is because here it is. It is this yellow line at the very bottom of the chart versus all the oil production of the world.

The United States of America only has 3 percent of the oil reserves of the world, including ANWR, including the Gulf of Mexico, our national monuments, all of our oil. Every single year, the United States of America uses 25 percent of the world's oil. I don't know any child in school who can't quickly figure out that if we only own 3 percent but we use 25 percent of the world's production, we have a problem.

We have a serious problem.

You can't drill your way out of this problem. If you drill all the oil in ANWR, you still face a fundamental issue which is the United States of America is overly dependent on foreign oil and is growing more and more so.

In 1973, when we first met the cartel's oil crisis, we had a dependency on foreign oil of about 35 percent. Yet we responded, supposedly, with CAFE standards, with more production. Today, we are about 55 or 56 percent dependent on the rest of the world. And in the next few years, we will grow to 60 percent. Does anybody in their right mind believe if we depend today on foreign oil for 60 percent of our oil, that ANWR, which is only a fraction of the 3 percent that we possess, somehow has the ability to make a difference to the United States? The answer is no. No, you can't. You just can't squeeze that enough.

So there are two competing visions here: A vision of the status quo, a vision that is similar to the one that is reflected in a willingness to avoid doing anything about global warming, even though every scientist says global warming is a problem; a willingness to ignore the need to be involved in the realities of science versus our desire just to go along the way it is and not upset the equilibrium in any way whatsoever.

The fact is that about 70 percent of America's oil use goes to transportation. When I hear my colleagues talk about our terrible dependency on the Middle East for oil, ANWR doesn't end the terrible dependency on the Middle East for oil. I just heard the Senator from Louisiana say: Gosh, it would be great if we could vote in a way that we are not the hostages of Middle Eastern countries that can cut off our oil.

Well, yes, it would be great. But voting for the Arctic Wildlife Refuge doesn't do that. It leaves you still 60-percent dependent on foreign oil. And any cartel, any terrorist, any country that wants to hold the United States hostage will hold us hostage until we liberate ourselves from our oil gluttony, dependency, whatever you want to call it.

Those two visions are the vision of the status quo over here, and a vision over here of those who believe there is a different energy future for the United States.

I quickly say as an outline, my sense of that energy future for the United States begins with four important principles. Those principles speak directly to what the Senator from Louisiana just said about whether we are willing to drill.

No. 1, absent an exhaustion of remedies and a life-threatening threat to the United States, absent that, the United States should do nothing that doesn't make economic sense. Principle No. 1: It makes economic sense to do what we choose to do absent some life-threatening challenge that is coming down the road.

Principle No. 2: We should commit ourselves again, given the same caveat, absent a threat that we have just got to respond to, we should commit ourselves that the choices we make do not diminish the quality of life of any American at all. So it makes economic sense. We don't diminish the quality of life. We can make those choices now.

Principle No. 3: All of us who are opposed to the Arctic Wildlife Refuge must have the courage to stand up and say we are going to be dependent on oil still for 30 to 50 years or more in this country. It will take that long to make the energy transition, to make the transportation transition. And what we must do is put in place a set of policies that begin to accelerate our capacity in an economically viable way to begin to make that transition to this new energy future.

That is alternatives and renewables and the hydrogen fuel cell and hybrid cars and a host of other things.

I don't know why my colleagues are so pessimistic about America's capacity to meet a challenge through the skill and creativity of our entrepreneurs.

When we put our entrepreneurial skill and energy to work in the United States of America, there is nothing we can't do. We have proven it—when we went to space. We proved it in the Manhattan Project when we needed to create a response to the terror of the Axis Powers and win World War II. We have proven it time and again.

I believe that just as President Kennedy put a challenge to the country saying we are going to go to the Moon in 10 years—not knowing, incidentally, if we could in fact get there, not knowing if it was in fact achievable, but telling America that the reason we are going to do this is because it is difficult. And we did it.

In 1990, when everybody said, oh, it is going to cost $8 billion to reduce the amount of sulfur in our air as part of the Clean Air Act and we cannot do it in that time period, what happened, Mr. President? We did it faster than we ever thought we would or could, and we did it for a cost not of $8 billion, or for $4 billion, which the environmental people thought it would cost; we did it for $2 billion, and we did it faster.

The reason we did that was that no one was able to factor in the exponential benefits of technology, the rate at which one technological discovery spurned the next technological discovery. The way, in fact, that the serious commitment of the United States could do it invited private capital markets to make the decision that, hey, that is worth the investment. It is the old field of dreams: Build it, and they will come. We decided we were going to build it, and they came, and we did it faster.

My colleagues are very pessimistic about the ability of the United States to bring online all of these other capacities to do these things more efficiently, cleanly, and effectively, and we can create tens of thousands, millions of jobs in this country, putting people to work in production for other parts of the world that also have the same demands and needs.

Again, I repeat, we cannot drill our way out of America's energy challenge. We have to invent our way out of this challenge. We should begin now to encourage the greatest laboratories, our universities, our venture capitalists, the private sector, in the strongest way possible to begin to move us to this new energy future where America is not dependent upon these other countries.

I am particularly sensitive when I hear my colleague say we don't want our young men and women sent off to these countries and put at risk. Let me tell you, I think one of the things I have fought for as hard as anything in the Senate is common sense about how we wage our wars and where and when we put people at risk.

Mr. President, this is a false promise to America. The sons and daughters of America are more at risk every day that we remain prisoners of this equation where more than 45 percent of the world's oil supply is in Saudi Arabia. There is nothing we can do about that. We don't have as much. No matter what we try to do, we won't be able to repeat it. Moreover, the amount of oil in ANWR will not affect the price of oil globally at all. It doesn't create the kind of independence we want.

This is a statement of Lee Raymond, chairman and chief executive officer of ExxonMobil Corporation. He is in the oil industry. He knows what he is talking about:

> The idea that this country can ever again be energy independent is outmoded and probably was even in the era of Richard Nixon. The point is that no industry in the world is more globalized than our industry.

That is a chief executive of an oil company.

Whether or not we do ANWR with respect to price is also critical. The first President Bush said:

> Popular opinion aside, our vulnerability to price shocks is not determined by how much oil we import. Our vulnerability is more directly linked to how oil dependent our economy is.

President Bush is correct. Nothing about drilling in the Arctic Wildlife Refuge fundamentally alters the dependency of the United States. No one in the industry will suggest that, even at its best amount of oil, the Arctic Wildlife Refuge makes anything but a few tiny percentage points, in the low single digits, of difference on a 60-percent dependency on foreign oil.

Even if you drill in the Arctic Wildlife Refuge, you cannot affect the energy price. Alaska Governor Tony Knowles said:

> Evidence overwhelmingly rejects the notion of any relationship between Alaska North Slope crude and West Coast gasoline prices.

Great Britain is entirely energy independent, fuel independent. They have their own North Sea oil. But Great Britain, despite the fact that it has a 100-percent capacity to supply its oil, is subject to the same price increases and the same price shocks as other countries in the world. ANWR, with its tiny little percentage, is not going to affect that.

Let me deal with another issue if I may. I have enormous respect for Senator MURKOWSKI and Senator STEVENS. They are friends. They have been my colleagues a long time, and they are fighting a fight in which they believe. They particularly believe in it for their State. I think every one of us in the Senate accepts responsibility for helping States that have difficulties making up revenue differences. That is why we have a Federal system in this country. We help farm country for different things at different times. I am certainly always prepared to try to be of assistance to the State of Alaska in ways that it needs it.

One of the Senators, or both, has spoken about Senator Tsongas a number of years ago. None of us could comment on what was or was not said between Senators. I accept what Senator STEVENS says. All I know is that Senator Tsongas was asked point blank in 1992:

> Do you believe that the Alaska refuge should be opened to drilling in 1992?

Here is what the Senator said:

> Absolutely not. I believe we should prevent exploitation and devastation of this national treasure. To address our energy needs, we should promote maximizing energy efficiency, renewable resources, and our plentiful natural gas reserves.

Once again, I cannot go back in history to a time when I wasn't here. But I do know that Paul Tsongas, as late as 1992, was opposed to drilling and certainly had no sense of any commitment he had made at that point in time in that regard.

In this debate, as I mentioned a moment ago, I want to deal with the question of production. The Senator from Louisiana asked: What are we going to do? Where are we going to produce our energy? He asked legitimate questions, such as: If we are not going to do it here, how do we do it there, and so forth.

Let me clarify this for the record. The proponents of drilling in the Arctic Refuge want to cast those of us who don't want to do it as somehow antienergy production. As I have just described, I have a vision—and I think others share it—of huge energy production for the United States of America. We cannot grow our economy if we don't grow our energy production. We want to grow our economy, and we want the jobs that come with it. We need the strength for our Nation. Of course, we have to expand our energy production. Here is where these debates always somehow get dragged down, because people want to go to the places—I don't know, for sort of a debate advantage or political advantage but not where the truth is.

This debate is not about whether or not we need to expand our energy. This debate is over how we expand our energy. How do we do it? Do we do it in ways that we know violate the air, leave toxic waste sites, tear apart the health of our fellow citizens, that pour particulates into the air so we have more emphysema, more lung disease, more cancer or do we try to use the ingenuity God gave us to go find the cleaner, more thoughtful technologies that make a difference in the long-term future of our country and indeed the planet?

That is the choice. Once again, I say there are those who want the status quo where they think all we do is drill oil, and there are those who believe there is a different energy future for the country.

Let me point out, America produces almost all the coal that we consume, and the tax package that is in this energy bill, if we pass it, promotes clean coal—clean coal.

America produces about 85 percent of the natural gas that we consume, and this energy bill includes a provision to federally subsidize the construction of the massive gas pipeline to carry the estimated 35 trillion cubic feet of natural gas from the North Slope of Alaska to the lower 48 States.

Those who argue that we are coming to this energy unconscious ignore the fact that in this very bill, there is a provision to build a pipeline from Alaska to the lower 48 States so we can burn clean energy in an intelligent way.

We hear that those of us opposing the development of ANWR are even against electricity production. Wrong again. In New England alone we have built 12 new powerplants in the past 2 years. We have put more than 3,500 megawatts online, another 12 new powerplants are under construction and will come online in the next 2 years, putting an additional 6,300 megawatts online. There has been no opposition to these projects.

We produce a significant amount of oil in America. We do not produce all we consume, as I have just described, and that will never happen without some extraordinary introduction of efficiencies and alternatives. I have explained why, and I do not have to go back over that, but we remain one of the largest oil producers in the world today. I say this because given the debate in this Chamber, Americans might believe the only oil in the Nation is somehow underneath the Arctic Wildlife Refuge and we are preventing the only oil in the Nation from being drilled. That is just not true.

According to the Energy Information Administration of the United States, we are one of the top oil producers in the world today. In 2001, the United States produced roughly as much oil on a daily basis as Saudi Arabia and the former Soviet Union, which is about 8 to 9 million barrels a day.

America produced more than twice as much oil as Iran, more than three times as much as Iraq, more than three times as much as the United Arab Emirates, and more than three times as much as Canada. The idea that we have blocked all the oil development is absolutely ridiculous, faced with those statistics.

I want to talk about the Gulf of Mexico. Ask an oil company executive privately right now—and some of them have gone on record publicly—whether they really want to dig in Alaska. The answer is sometimes no, or it depends. Oil companies are holding 7,000 leases today for deepwater exploration in the Gulf of Mexico and not using most of them. The reason they have not drilled in the Gulf of Mexico where they already have the permits is because they have waited for the price of oil to go up because that helps the economics.

The fact is, if tomorrow the United States were cut off, it would not be only Alaska we would look to; it would be the Gulf of Mexico; it would be other oil supplies of the United States to which we would look.

According to the Minerals Management Service, there are between 16 and 25 billion barrels of economically recoverable oil in the central and western Gulf of Mexico. That depends on the price, as I will explain in a moment.

Economically recoverable oil is different from other categories of oil that are in the ground and available. "Economically recoverable" reflects what you can get at the current cost of oil.

One of the interesting points is most of the studies of our colleagues who come in here and say we ought to do this and create 700,000 jobs and so forth are based on a completely false price for oil, not the price we have today.

Development in the Gulf of Mexico has accelerated. According to the Minerals Management Service, 42 new deepwater fields have come online since 1995. Production is expected to climb from under 1 million barrels per day in 1995 to as much as 1.9 million barrels per day 3 years from now.

The Gulf of Mexico reserves are so promising that Lord Brown, whom I mentioned earlier, the CEO of British Petroleum, calls them some of the most promising reserves in the world. He was asked where the most important place to find oil is in the United States. He was asked this in an interview by "60 Minutes" a couple of months ago. Here is what he said:

> The deep water Gulf of Mexico, part of the United States, is probably one of the greatest new oil provinces in the entire world.

Let me highlight some of the production that is underway in Alaska because it has been suggested that somehow we are shutting down Alaska's capacity to pump oil.

Last May, the State of Alaska completed a lease sale of 950,000 acres on the North Slope. It is the largest lease by any State in history, and they have announced another 7 million acres will be put up for lease in the coming years.

The State of Alaska has scheduled 15 oil and gas leases on 15 million acres.

In 1999, the Bureau of Land Management held a lease sale of 4 million acres in the National Petroleum Reserve, Alaska. It is in the process of re-leasing 3 million acres and other plans and it has announced a third lease sale of a planning area of 10 million acres.

In April of 2001, BP, Phillips, and ExxonMobil predicted that there is at least 7.8 billion barrels of oil to be developed on the North Slope of Alaska.

In many ways, the Arctic Wildlife Refuge represents our God-given natural strategic petroleum reserve. If, indeed, 20 years from now none of these things I have predicted happen, if we are so backed up in a corner, if technology does not come through, if we do not do our work, then at least we might have had the wisdom to have held on to this God-given strategic petroleum reserve, rather than going for it right now at a time when it is not necessary and in demand.

Let me speak to some of the important issues that I think have to be clarified as part of the record.

No. 1, how much oil is in Alaska? We hear of different amounts of oil that we could find there. There are very different estimates. Some people say more than 16 billion barrels; some say far less; some argue not enough to make development economically viable. That is not where I am. I am not trying to go to either extreme, and I think those who only go to the extremes do a disservice to the debate.

I would like to present what I think is the amount of oil that could be technically recovered, and that is the amount of oil that could be extracted using today's technology without any consideration of cost. Of course, we know cost is a consideration, but I am going to deal with it technically.

I have heard this reference continually to radical environmental groups. I do not think the United States Geological Survey is a radical environmental group. They say there is a 95-percent probability that at least 6 billion barrels of oil are technically recoverable. There is a 5-percent probability that at least 16 billion might be technically recoverable. The mean, or the most likely outcome, is that 10 billion barrels of oil are technically recoverable.

The second question is then, How much is economically recoverable? This is an estimate of how much oil you could produce at a certain price of oil. That number matters actually much more than the technical reserves because oil companies simply do not produce oil they cannot bring to the market profitably.

According to the U.S. Geological Survey, again, if oil is priced at $25 a barrel, then there is a 95-percent chance that 2 billion barrels are economically recoverable. There is a 5-percent chance that 9 billion barrels are economically recoverable.

A mean chance, or the most likely outcome, is 5 billion barrels are economically recoverable. I might add, these numbers are taken straight from the Congressional Research Service briefing on the Arctic Wildlife Refuge, and the cost estimate is directly from the Energy Information Administration reported by CRS.

It is difficult to estimate how much oil might be in the refuge. There are complicating factors, but for the claim to keep coming at us that the refuge is going to produce 16 billion barrels and to make all the arguments dependent on that is not to do justice to the probabilities I put forward and to the realities of oil exploration. The claim is not only unrealistic, it runs counter to what proponents claim to be the leading reason for drilling, because the leading reason for drilling is that it is going to produce for us cheap oil.

If it is going to produce cheap oil, you diminish the amount of recoverable oil because the economics do not work. So if you are driving the price down—you cannot get caught in this argument and have it both ways.

I also want to highlight the important difference between what is called in-place oil, technically recoverable oil, and economically recoverable oil. I know this is a little arcane, but I want to do it because I want the record to reflect this is not about caribou alone, it is not about some "not in my back yard." This is about clear science, economics, oil policy, national security policy, energy policy, and the long-term interests of our country.

The fact is these definitions are vital to understand and to weigh the choice we have. On Alaska's North Slope, near Prudhoe Bay, there is a field called West Sak. In 1989, Arco estimated the West Sak field held as much as 13 billion barrels of oil in place, with another 7 billion listed as potential. Estimates published in the Society of Petroleum Engineers placed the estimate at more than 30 billion barrels of oil in total. But the Alaska Department of Natural Resources estimates that only 370 million barrels of oil, less than 2 percent of the oil in that reserve, will be produced through the year 2020.

Why? Because that is all that is economically recoverable. This is Alaska itself telling us it is limited because of the price. It is not enough to say there is oil in the ground. We have to understand how much one can get out, at what kind of price, and what is realistic. We are going to hear that with emerging technologies and still-to-be-invented technologies, the amount of economically recoverable oil might rise. I concede that. That is true. That is a positive thing, if it happens in the future. But it is also true that the amount of economically recoverable oil may be less and the price may go down.

Why may it go down? Because a whole bunch of people are already starting to push that technology curve in the alternatives, and if suddenly someone comes in with the capacity to do the hydrogen fuel cell or other things, the entire transportation mix and dependency of the United States changes, the demand curve goes down, and the price goes down, and far less oil will be recoverable.

On March 10, 2002, the New York Times published a story with the following headline: "Oil Industry Hesitates Over Moving into Arctic Refuge." The article highlights why the oft-repeated claim that the refuge will produce 16 billion barrels of oil is simply inaccurate, and I share this quote: "Big oil companies go where there are substantial fields and where they can produce oil economically," said Ronald Chappell, a spokesman for BP Alaska, which officially supports the area and drilling. He continued: "Does ANWR have that? Who knows?"

That is the conclusion of the company; not 16. Who knows?

The article continues: There is still a fair amount of exploration risk here. You could go through 8 years of litigation, a good amount of investment, and still come up with dry holes or uneconomic discoveries, said Jerry Kepes, the managing director for exploration and production issues at the Petroleum Finance Company, which is a Washington consulting firm for oil companies. Quote: It is not clear that this is quite the bonanza that some have said.

So we have to weigh, do we take this not quite so clear bonanza and destroy an Arctic wildlife refuge, for which some people have disrespect but, as I will show, I think is a concept that captures the imagination of many Americans and is worth preserving.

This article says a great deal about how little oil might be in the refuge, and it stands in stark contrast to some of the claims we have heard in the press and in the Senate about the 16 billion. An article in the Washington Post examines some of the competing claims over the refuge oil potential. It said as follows:

> How much oil is out there? No one knows for sure. But the environmental movement's favorite statistic is a USGS estimate that the Coastal Plain contains 3.2 billion barrels of economically recoverable oil at the current price of $20 per barrel, about what the Nation uses in 6 months.

I will concede in the last few days the price of oil has gone up a little bit. That figure probably goes up with it, and of course that is true. But Senator MURKOWSKI wrote a letter to the Post that the USGS actually estimates 10.3 billion barrels of economically recoverable oil. The truth, according to the USGS, that conducted this study, is they have said directly Senator MURKOWSKI is wrong in stating that figure and the environmentalists are right, and that is a quote from the USGS.

To lay it out, proponents of drilling are regularly exaggerating the production by as much as 200 percent. Likewise, some of the opponents of drilling sometimes underestimate production by as much as 40 percent, assuming that oil costs less than $20 per barrel.

In my estimation, the most reliable prediction is that the refuge might produce about 5 billion barrels of oil over its productive lifetime, and that is if oil is priced at about $25 per barrel. I should add that the Energy Information Administration predicts oil will be at about $22.50 per barrel, not $25 per barrel. So, again, 5 billion barrels may be somewhat high.

What would it mean if one were to find 5 billion barrels in the Arctic Wildlife Refuge? That is the next thing we ought to try to measure. A lot of promises have been made by the other side. They have suggested it is a solution to oil shortages, heating oil shortages, high gas prices, electricity brownouts, unemployment, national security. It is even being tied to specific conflicts and incidents around the globe. Someone might believe, listening to this, that the Arctic Wildlife Refuge is the magic elixir that is going to cure most of the ills we face. But the fact is, if one is simply an oil company and they are looking to drill some oil, that can be a lot of oil. It is money, money in the pocket, profits; no question about it. I acknowledge that.

That is not what we are measuring. We are not an oil company. We represent the people of the United States of America, and our country has to weigh that potential 5 billion barrels and what it means in the Arctic Wildlife Refuge to the curves we displayed earlier that show our dependency on foreign oil, 70 percent of which goes into transportation, which mandates that we begin to deal with a whole different set of energy choices for our country.

There is another issue we need to think about with respect to this. We need to think about how much oil is going to be produced not in the total lifetime but on a daily basis because that is what affects supply. This number helps us understand what the real impact of the Arctic Wildlife Refuge might be. Once again, the proponents of the drilling, from the White House to the Senate, have exaggerated those estimates more than they have even exaggerated the overall recoverable oil.

We have heard that the refuge oil is, as I said, a solution to a whole bunch of problems, such as the California electricity crisis. I showed the quote where Alaska Governor Tony Knowles responded it will not have any impact at all on California. The refuge, as I said, will not produce oil for 7 to 10 years. That means if you open the refuge today, you are not going to see oil until about 2012, maybe a couple of years earlier.

The relevant agencies of our Government and the industry itself have said this 10-year figure is about the average; maybe 7 to 10, but they bank on about 10. The Energy Information Administration says 7 to 10 years. The Congressional Research Service says 10 years. The industry's own economic analysis produced by WEFA Economic Forecasters, which I should add is wildly optimistic about every aspect of oil drilling, predicts it will take 10 years for the oil to begin flowing. That is from the group that produced most of the studies on which they rely. They say 10 years.

Asked in a Senate hearing how long it will take, the president of the exploration of production for ExxonMobile said:

> In the normal process we would probably allow 3 to 4 years for the permitting which would put you in the 10-year range.

Let's end these arguments that this is the cure to the Middle East crisis today, or that this is somehow going to prevent a young American man or woman in uniform from having to go over and defend an oilfield next year, the year after, or the year after that. The United States, even if we drill in the Arctic National Wildlife Refuge, is still so dependent on foreign oil now, until we change our overall energy mix, America's youth will be at risk to protect America's dependency.

We have heard a lot of talk about jobs, how many jobs will be created, what this will do. We have even heard that the Arctic Wildlife Refuge drilling is the solution in place of the stimulus or part of the stimulus during the course of last year, and it will produce an immediate impact. It is interesting to note Secretary of the Interior Gale Norton has been sent around to a bunch of press events in Missouri, Arkansas, Indiana, and New York as a representative of the Federal Government—incidentally, the agency charged with managing our public lands—and she has been promising the drilling of the Arctic Wildlife Refuge creates 700,000 jobs across the Nation. Secretary Norton's tour, No. 1, is a political tour, not the management of our lands. And oil drilling in the Arctic Refuge does not create 700,000 jobs.

That claim comes directly from a study that has been universally discredited. It is a bogus study.

First of all, the 700,000 job claim is for 1 year in about 2015. Yet you never hear the Bush administration mention that. Not only is the 700,000 number a wild exaggeration, but it doesn't represent the startup and decrease with respect to jobs in this particular effort. Moreover—and here is the most important thing, much more important than anything else with respect to the study—the claim is based on a 12-year-old study produced by WEFA Economic Forecasters, paid for by the American Petroleum Institute. According to that API study—this is their study—drilling in the Arctic Wildlife Refuge produces zero jobs for the next 4 years; zero jobs according to their own analysis.

There is a choice. We can invest in the pipeline for natural gas which could immediately produce jobs, or we could drill immediately in other areas where we know we already have permitting and the ability to drill. That would be a more immediate job production than this. It is interesting, you would have to wait until 2007 for the jobs to be produced.

I highlight a couple of the technical inaccuracies of this study which has been thrown around so much. The Center for Economic Policy and Research assessed that study and made the following points.

No. 1, according to Energy Information Agency estimates, the API study overstates oil production in the refuge by a factor of 3. Adjusting the projections to keep them in line with the EIA estimates reduces predicted job creation by more than 60 percent. The API study assumes other oil producers, especially OPEC, do little to increase production and bolster oil prices. Adjusting other production to keep them in line with conventional estimates reduces the job creation by another 40 percent. The API study assumes the economy will be far more affected by a drop in oil prices than is reasonable to expect and substituting a more reasonable estimate lowers the projection by about 75 percent.

As I have said, that study was written 10 years ago. So we can test some of the assumption and predictions easily. The study was based on oil costing more than $45 per barrel in the year 2000. Let me repeat: Here is a study that they are still using, they still come to the floor to say creates a lot of jobs, that, in fact, predicted a price of oil double what the price of oil is today, which increases the recoverable oil and changes the entire economics. Oil back then was $25 per barrel.

Here is another example. The study assumes that when Arctic oil flows, the world market for oil will be 55 million barrels per day. The world market today is already more than 70 million barrels a day, and it will be much higher by the time the production occurs. When the wrong and, frankly, stretched assumptions are corrected in the API study, the job estimates fall to 50,000 nationally. To put this in perspective, that is fewer jobs than what our economy generated in an average week over the years 1997 through the year 2000. That is what our economy is capable of doing in any week if our economy is moving in the right direction.

I will read from an Associated Press article published in March a remarkable story that shows that while President Bush's Cabinet Secretary, Gale Norton, tours the Nation promising America 700,000 jobs, the people who supported the API study are distancing themselves from it because it is faulty. Here is what the article reports:

> The authors of the 1990 study no longer work at the company [that prepared it], according to a spokesman who acknowledged it was "a bit out of date." "We would not come up with the same numbers today," said Mary Novak, an economist and managing director.
>
> Some of the assumptions made more than a decade ago "are suspect, and you might underline suspect," says Roger Ebel, a global energy expert for the Center for Strategic and International Studies.

And he has been involved in the Arctic Wildlife Refuge drilling debate.

The Congressional Research Service has looked at this question and assessed how many jobs might be created from drilling in the Arctic Wildlife Refuge. Its report also casts doubt on the API study. CRS said the following.

First, if the economy is operating at full employment, jobs created by drilling in the refuge would come at the expense of an equal number of jobs in the rest of the economy. In other words, if we pull this economy out of recession and get ourselves to full employment, drilling is not going to create any additional jobs.

That is the Congressional Research Service; it is not me. I am quoting the Congressional Research Service.

Second, job creation from drilling in the Arctic Refuge may be as little as 8 percent of API's claims. The Congressional Research service gives a range of between 60,000 and 130,000 jobs. Again, when the economy was expanding in recent years, it created that many jobs in 3 weeks.

Third, should oil prices drop, which CRS describes as uncertain, any employment gain from that drop would be offset by harm to oil producers not operating in the refuge, who would then conceivably reduce their operations and workforce, impacting suppliers and local economies in other ways.

Let me turn to a question of price. Jobs is not the only expanded, exaggerated component of the argument. Another is the question of how, if we develop in the refuge, we will lower the price of oil and gasoline, heating fuel, diesel, all the products we produce from oil. When we examine the facts which I went through a bit earlier, the fact is, the price of oil now is not going to be affected by what happens in the Arctic Wildlife Refuge because, as we have seen, you have to be, first of all, certain about the amount of oil it will produce; and, secondly, there are three different assumptions to make about the oil from the refuge. You could use the exaggerated peak production, you can use the 1 million barrels a day you hear about from the President and from other supporters, or you could use the mean production, which is about 660,000 barrels for 1 year, in the year 2020; or you could use an average production over the life of the refuge, which is about 360,000 barrels of oil.

I say the reason we might use any of these is that none of them, even the overblown 1 million barrels a day, will have any impact on oil prices whatsoever. Use any one you want, it does not matter, because the bottom line is that you cannot affect the price even on the day of the Arctic Wildlife Refuge's largest production of oil. Here is why.

Central to the idea that the refuge will lower oil prices is the notion that the United States of America, in our production, drives oil prices. It does not, and it will not. It cannot. The price of oil is set in the global market. According to the Energy Information Administration, the world market for oil in 2020 will consume 119 million barrels per day. Refuge oil, for that single peak year of 2020, would amount to between .25 and 1.17 percent of the entire global consumption. That is simply not enough, under economic models of anybody anywhere. No economic model would suggest that .25 to 1.17 percent of the total production has the ability to affect that global oil price. The fact is that the average production, probably at around 360,000 barrels, is much less than peak production, and we all know that is not going to have the ability to affect the price. So this argument is incorrect.

What about independence from imported oil? I talked about that. I do not want to repeat all of that now. But the bottom line is there is not one single day in which the Arctic Wildlife Refuge production will replace Saudi imports. It just doesn't amount to that. These are not my numbers, these are the numbers that come from the Congressional Research Service.

I should point out the technical estimate is not a likely outcome. It is not the economic estimate. I use it to make the point that using only the highly optimistic, greatest potential, you still do not have the ability to affect the total of the Saudi imports.

The false promises go way beyond Saudi Arabia. As we have heard them say over and over again, ANWR will ensure energy independence; it will reduce our dependence on imported oil. Nothing we have heard has revealed anything except that promise is completely inflated and unrealistic because of the relationship of the amount of oil there to the global supply.

The report from the Energy Information Administration was requested by Senator MURKOWSKI. This report, requested by Senator MURKOWSKI, says if you accept the EIA's reference case for oil imports and the mean estimate for refuge oil production that is the most likely outcome, oil imports will drop from 62 percent to 60 percent for 1 year, about 2020. Every other year, imports will be higher. This is, again, the Energy Information Administration in response to Senator MURKOWSKI.

So the President of the United States and other proponents have told America they have a plan for the Nation, a plan to ensure energy independence, to protect our national security. They back up the plan with a lot of talk about national security. They have insisted we attach ANWR to the Department of Defense authorization bill last year because it was an urgent matter of national security. They hold press events with big pictures of Saddam Hussein. When two servicemen died in duty to our Nation, they suggested it was about the Arctic Wildlife Refuge and that was related because we do not drill in the Arctic Wildlife Refuge.

Their plan, this master plan that will ensure energy independence, is simply without validity. Under no economic model whatsoever, under no supply and demand curve, no way whatsoever can 3 percent supply the needs of 25 percent and growing. It just does not happen. So we need to vote accordingly here in the Senate.

The fact is that 20 years from now, we will import 60 to 62 percent of our oil from foreign countries. Nothing we do, absent inventing alternatives, is going to diminish that. If we drill in the Arctic Refuge, we are not going to stop importing oil from Saudi Arabia. Nobody suggests that. We are not going to stop importing it from any of these other nations we are concerned about ultimately.

So I think it is clear that the flow of money to terrorists is not going to stop. If we drill in the Arctic Wildlife Refuge, it is not going to suddenly make peace in the Middle East. If we drill in the Arctic, our forces are not suddenly going to come home. There is going to be no change in deployment; There will be no change in what we may have to do with respect to Saddam Hussein, which we ought to do anyway, regardless what happens in the ANWR.

Will a single soldier, marine, or sailor today in harm's way come home if we make a decision to drill? The answer is no. We should not. We should terminate this notion that somehow fools people that that is, indeed, what is at stake here.

I want to correct one thing I said a moment ago. The CAFE standards would not begin immediately. Earlier I misspoke when I said that. The CAFE standards take some time to ramp up and take effect. But had we put that into effect in 1990, we would today, in the year 2002, be saving 1 million barrels of oil per day, which is close to the amount we import from Iraq. That represents the Iraq figure.

I have spoken almost entirely about energy policy. It is my own belief that this is sort of the critical moment in the life of the United States, in our lives, to make a choice about our future. Are we going to just kind of keep going down the road where we pretend to ourselves that just drilling for oil is the solution? Or do we begin to force the transition?

In the 1930s, many parts of America did not get electricity. They could not get it. But Roosevelt and others decided it was critical for the development of our Nation, for our Nation's future economy, and for our well-being, for kids to be able to have schools with lights, to have power and so forth in their homes—that we got that electricity out into the rural and poor communities. So what did we do? The Federal Government spent several billion dollars to subsidize, to make sure we put that electricity out.

In the same way, the Government must today make a decision about the well-being of our country. Are we better off continuing down a road where we already know we have oil we can drill in Alaska and the North Slope? I have described how much we are drilling, how much has been leased and put out for lease already. We already know we have 7,000 leases in the Gulf of Mexico. We can go down there and continue that process. But are we going to make the decision as a country to begin to embrace a future that is a different mix of fuels for transportation and begin to legitimately end our dependence on foreign oil?

The only way to change our dependence on foreign oil is to change the way we propel our motor vehicles. Transportation consumes 70 percent of the oil we use. I said this at the outset, and I want to repeat these principles. Not one of these choices we make for our energy future should be done if it doesn't make economic sense. We do not have to lower the quality of life for Americans. We have to recognize we are going to drill for 30 to 50 years and we have the places we can do that. Finally, most of the gains in the near term, in terms of fuel use and our dependency, are going to come from efficiencies in the current regime. Those efficiencies come from hybrids, new technologies, alternatives, renewables, et cetera.

Those are the principles that must guide us. But I do not want to leave out what I think is a critical component of this argument that should not be diminished. It does not deserve to be derided in the way it has been derided by some of our colleagues, with respect to what this refuge means in terms of the environment.

Some who want to industrialize the Arctic Refuge call it a barren wasteland. It has been described as hell. It has been described in many different ways, but I think those descriptions reveal more about a point of view and the value than it does about the Arctic Wildlife Refuge.

There are those on the opposite side of this debate who may look at the refuge and only see beauty in an oil rig, and they may only see the foregone profit of conservation. But those views do not reflect the science, and I don't believe they reflect the best instincts of Americans.

Let me read some of the more objective descriptions of ANWR's environmental value to America today and to future generations. The Arctic National Wildlife Refuge is one of the great untouched lands remaining in America and on the northern continent. Its ecological value is unlike any other in the Nation and in the world.

> The Congressional Research Service describes the refuge as follows: "The portion of Alaska's North Slope between Prudhoe Bay and the Canadian border represents this country's largest, most diverse remaining example of a largely untouched arctic ecosystem. . . . The apparently hostile nature of the area belies its national and international significance as an ecological reserve. It protects a virtually undisturbed, nearly complete spectrum of arctic ecosystems, and is one of the last places north of the Brooks Range that remains legally closed to development."
>
> In 1959, the Fish and Wildlife Service wrote: "The great diversity of vegetation and topography . . . in this compact area, together with its relatively undisturbed condition, led to its selection as the most suitable opportunity for protecting a portion of the remaining wildlife and its frontiers. That area included within the proposed range is a major habitat, particularly in summer, for the great herds of arctic caribou, and countless lakes, ponds, and marshes found in this area are nesting grounds for large numbers of migratory waterfowl that spend about half of each year in the rest of the United States; thus, the production here is of importance to a great many sportsmen. . . . The proposed range is restricted to the area which contains all of the requisites for year round use. The coastal area is the only place in the United States where polar bear dens are found."
>
> The Department of Interior found in 1987 that "the Arctic Refuge is the only conservation system unit that protects, in an undistributed condition, a complete spectrum of the arctic ecosystem in North America." It described the 1002 area as "the most biologically productive part of the Arctic Refuge for wildlife and is the center of the wildlife activity. . . . The area presents many opportunities for scientific study of a relatively undisturbed ecosystem."

Let me repeat that the Fish and Wildlife Service is not a radical environmental group. Frankly, I am tired of people who refer to this sort of radical environmental component when our own agencies—the Fish and Wildlife Service and Interior—are telling us, don't disturb this.

This is what the Fish and Wildlife Service says:

> The closeness of the Brooks Range to the Arctic Ocean in the Arctic Refuge creates a combination of landscapes and habitats unique in North America. The area has exceptional scenic, wildlife, wilderness, recreation, and scientific values. The Arctic National Wildlife Refuge is the only protected area in the Nation where people can explore a full range of arctic and subarctic ecosystems.
>
> The Refuge includes alpine and arctic tundra, barren mountains, boreal forests, shrub thickets, and wetlands. The coast has numerous points, shoals, mud flats, and barrier islands that shelter shallow, brackish lagoons. The tundra is typically a layer of peat overlain by a carpet of mosses, sedges, and flowering plants. Spruce, poplar, and willow trees shade the south slope valleys.
>
> Continuous summer daylight produces rapid but brief plant growth. Underlying permaforst and low evaporation cause many areas to remain wet throughout the summer. These factors, along with shallow plant roots and a slow revegetation rate, result in a fragile landscape easily disturbed by human activities.

Why would we violate the concept of a pristine area? Why, when oil is available in all these other areas we talked about, is there such a compelling interest in destroying that area at this point in time?

The Fish and Wildlife Service has inventoried some of the refuge's environmental qualities. They include:

> Eighteen major rivers; arctic tundra, the Brooks Range, boreal forests, and a full range of arctic and subarctic habitats; the Brooks Range of mountains rise only 10–40 miles from the Beaufort Sea on the coastal plain; the greatest variety of plant and animal life of any conservation area in the arctic; more than 180 birds from four continents have been identified in the Refuge and its coastal plain is a major migration route; Peregrine falcons, endangered in the lower-48 states, thrive in the Refuge; it is home to 36 species of land mammals; it protects the calving ground of the Porcupine caribou herd, the second largest herd in North America; it is home to black, brown and polar bears; 9 marine mammals live off its coast; 36 fish species live in its rivers and lakes; there are more than 300 archaeological sites; and, there are no roads, trails or developments. Wilderness prevails.

That is the question before the Senate, whether this is a valuable wilderness. People say it is only going to be a small imprint; it is only going to be a few pipes and a few roads. The fact is, experience has shown us that is not an accurate description of what happens.

William O. Douglas, the former U.S. Supreme Court Justice said.

> This is the place for man turned scientist and explorer; poet and artist. Here he can experience a new reverence for life that is outside his own and yet a vital and joyous part of it.

Cecil Andrus, the former Secretary of the Interior, said:

> In some places, such as the Arctic Refuge, the wildlife and natural values are so magnificent and so enduring that they transcend the value of any mineral that may lie beneath the surface. Such minerals are finite. Production inevitably means changes whose impacts will be measured in geologic time in order to gain marginal benefits that may last a few years.

Congressman Morris Udall said,

> It is a whole place, as true a wilderness as there is anywhere on this continent and unlike any other that I know of.

President Jimmy Carter has written,

> Having traveled extensively in this unique wilderness, I feel very strongly about its incredible natural values." . . . "I have crouched on a peninsula in the Beaufort Sea to watch the ancient defensive circling of musk oxen who perceived us a threat to their young. We sat in profound wonder on the tundra as 80,000 caribou streamed around and past us in their timeless migration from vital calving grounds on the coastal plain. These phenomena of the untrammeled earth are what lead wildlife experts to characterize the coastal plain as America's Serengeti.

We have heard that drilling will not take place on the entire Refuge. Rather it will take place only on the refuge's coastal plain, the so-called 1002 Area. So I want to talk some about the 1002 Area and why it should be protected. It is not a complicated issue. The coastal plain is a special place even within the environmental treasure of the refuge, and it is the place where oil exploration is likely to do the most damage to the Refuge.

The Department of Interior found in 1987 that the

> 1002 area is the most biologically productive part of the Arctic Refuge for wildlife and is the center of the wildlife activity. . . . The area presents many opportunities for scientific study of a relatively undisturbed ecosystem.

The Fish and Wildlife Service has said that

> The Coastal Plain of the Arctic Refuge, the part of the Refuge being considered for oil drilling, is the most biologically productive part of the refuge and the heart of the refuge's wildlife acivity. Opening the Arctic Refuge to oil development would threaten the birthing ground of thousands of caribou and important habitat for polar bears, swans, snow geese, muskoxen and numerous other species.

I repeat that the U.S. Fish and Wildlife Service is charged with the responsibility for making those judgments.

A group of more than 500 ecologists, biologists, resource managers, and other experts from around the country have assessed the scientific literature and the importance of the Coastal Plain. They made the following conclusion:

> Five decades of biological study and scientific research have confirmed that the coastal plain of the Arctic National Wildlife Refuge forms a vital component of the biological diversity of the refuge and merits the same kind of permanent safeguards and precautionary management as the rest of this original conservation unit. In contrast to the broader coastal plain to the west of the Arctic Refuge, the coastal plain within the refuge is much narrower. This unique compression of habitats concentrates the occurrence of a wide variety of wildlife and fish species, including polar bears, grizzly bears, wolves, wolverines, caribou, muskoxen, Dolly Varden, Arctic grayling, snow geese, and more than 130 other species of migratory birds. In fact, according to the Fish and Wildlife Service, the Arctic Refuge coastal plain contains the greatest wildlife diversity of any protected area above the Arctic Circle.

Scientists with the National Audubon Society studied how oil development might impact the millions of birds that migrate through the Coastal Plain to locations throughout the lower 48 States, South America, and even Africa. They concluded that:

> The Arctic Refuge, including its coastal plain, has extraordinary value as an intact [intact] ecosystem, with all its native birdlife. The millions of birds that nest, migrate through, or spend the winter in the refuge are a conspicuous and fundamental part of the refuge ecosystem.

Obviously, this is a special place. Those who deride it as simply a barren wasteland, better for oil drilling than anything else, I think do a disservice to the conservation ethic, the preservation ethic, and to the value of the ecosystem itself, which has been preserved for a purpose.

But let me just point out how drilling would, in fact, impact this special place I have described. This is the last thing I will do before yielding.

We hear people argue that oil drilling will do little or even no harm to the Coastal Plain ecosystem. But, unfortunately, the evidence from decades of oil exploration in other areas of Alaska shows otherwise. It simply tells a different story. The history speaks.

The Fish and Wildlife Service has examined that question and concluded the following:

> All reasonable scenarios for oil development on the coastal plain of the Arctic Refuge envision roads, drilling pads, long pipelines, secondary or feeder pipelines, housing, oil processing facilities, gas injection plants, airports and other infrastructure. In addition, the U.S.G.S. 1998 assessment found that oil in the Arctic Refuge appears to be spread out in several pools rather than in one large formation like Prudhoe Bay, making it harder to minimize the development "foot print."

A group of more than 500 ecologists, biologists, and resource experts wrote the following:

> The Interior Department has predicted that oil and gas exploration and development would have a major effect on water resources. Fresh water already is limited on the Refuge's coastal plain, and direct damage to wetlands will adversely affect fish, waterfowl, and other migratory birds. These potentially disruptive effects to fish and wildlife should not be viewed in isolation, however. . . . We urge you to protect the biological diversity and wilderness character of the coastal plain of the Arctic National Wildlife Refuge from future oil and gas development.

I want to summarize a briefing provided to the Senate by the Wildlife Society of America. The society was founded in 1937. It is an international, nonprofit, scientific and educational association dedicated to excellence in wildlife stewardship through science and education. Its membership is comprised of research scientists, educators, communications specialists, conservation law enforcement officers, resource managers, administrators, and students from more than 60 countries.

What makes their briefing so important is that it addresses both the scientific evidence and the erroneous information that has been widely circulated by the industry and by drilling proponents. Let me address the scientific first. I will read from their position on the refuge.

In September of 2001, the Wildlife Society released its official position of petroleum exploration and development in ANWR. It was prepared and approved by the Alaska chapter of the Wildlife Society. They object to oil development on the Coastal Plain for the following general reasons:

> The adverse effects of petroleum development on some wildlife species at existing North Slope oil fields have not been avoided.
>
> The unique aspects of wildlife resources in the environment in the Arctic Refuge Coastal Plain are such that mitigation of the impacts of oil development is questionable.
>
> The long-term, cumulative effects of petroleum extraction on fish and wildlife resources are unknown.
>
> There is substantial scientific merit in maintaining part of Alaska's Arctic Coastal Plain in an undeveloped state for long-term studies of the effects on fish and wildlife resources of climate change in the Arctic.

The statement continues:

> The Alaska Chapter's position statement committee was composed of federal, state, industry, and university wildlife biologists, including caribou experts—all from Alaska. In developing the position statement, the committee accounted for all available data relating to wildlife resources and oil development, whether the data supported or opposed drilling. Most committee members have had extensive experience working in northern Alaska and used this experience to formulate their recommendations.
>
> The Wildlife Society advocates using sound biological information in policy decisions. The Society desires that all scientific aspects of the ANWR issue, including the uncertainty permeating the issue, be considered openly, as the final policy is developed. Careful analysis is extremely important at this time, because not only are the wildlife impacts of oil extraction uncertain, but numerous other issues—such as the amount of recoverable oil, the potential energy benefits from it, and the prudence of drilling in the Refuge—are still under debate.

The society provided additional important details to support its conclusion. Let me say very quickly what they said:

> Development of the Coastal Plain's petroleum resources could have serious, long-term impacts to caribou and other wildlife resources of the Arctic Refuge.
>
> With present knowledge of the fish and wildlife resources of the Arctic Refuge and of the functioning of arctic ecosystems, and considering available information on the impacts of current and ongoing petroleum development in Alaska's North Slope oil fields, the primary biological concerns of the Alaska Chapter of The Wildlife Society regarding oil and gas development in the Arctic Refuge include:
>
> Potential impacts on the Porcupine Caribou Herd that migrates to the Coastal Plain of the Arctic Refuge;
>
> Potential impacts on muskoxen that inhabit the Coastal Plain of the Refuge year round;
>
> Potential impacts on polar bears that use the Coastal Plain in [that period of time]. . . .
>
> [As well as] the effects of disturbance on up to 500,000 adult snow geese that migrate through the Coastal Plain;
>
> The dewatering of streams and lakes during exploration and production activities. . . .
>
> Alterations of shoreline ecosystems for the construction of causeways, drill pads, and other petroleum-related facilities. . . .
>
> The unknown, long-term, and cumulative effects of development on ecosystem processes critical to long-term viability and integrity of the arctic environment.

Based on studies in existing areas of oil development in the North Slope, they believe petroleum development on the Arctic Wildlife Refuge would inevitably result in loss of wildlife habitat and probable declines in some wildlife populations.

Many times throughout this debate, people have pointed to the development of the central and western portions of Alaska's North Slope, particularly Prudhoe Bay. They say this proves that the oil companies can develop the refuge without harming the environment. Well, no one is going to dispute that wilderness goes on forever in every place. But you cannot put an oil drilling complex in a wilderness area and call it wilderness. You just can't do it. You are either going to decide you are going to have some area set aside as pristine wilderness or you are not. That is part of what this debate is about, in conjunction with the question of timing.

Maybe in the United States of America, somewhere down the road, our backs will be up against the wall, and maybe we will not have made good economic decisions, maybe we will not have developed the technologies we need. Maybe somewhere down the line other nations all gang up, and they will not supply us, and the United States may be stuck in a position, and this tiny bit of oil will make a difference, and the United States at that point might decide it wants to make that choice.

But there is nothing in the economics, there is nothing in the current global situation, there is nothing in the amount of oil that can be found, there is nothing in the economically recoverable oil that suggests that that kind of difference is worth this choice at this time, particularly when there is so much in the way of oil alternatives in the Gulf of Mexico, natural gas alternatives, and continued drilling in Prudhoe Bay, the North Slope area.

But the record of Prudhoe Bay itself is not quite as pristine as they want to suggest it is. Oil development on the North Slope has resulted in 500 miles of roads, more than 1,100 miles of pipelines, thousands of acres of facilities spread out over 1,000 square miles, 3,800 exploratory wells, 170 exploratory drill and drill pads, 22 gravel mines, 25 processing plants for oil, gas, and seawater, 56,000 tons of nitrogen oxides, which contribute to smog and acid rain, which is twice as much as is emitted by the city of Washington, DC. Our Nation's Capital emits less global warming gas than drilling in Prudhoe Bay.

Nearly 400 spills occur annually on the North Slope's oilfields; roughly 40 toxic substances, ranging from waste oil to acids, have been spilled. As much as 6 billion gallons of drilling waste have been dumped in 450 reserves pits. Three class I injection wells have been constructed and injected with more than 325 million gallons of waste. Thirty class II injection wells have been constructed and injected with more than 40 billion gallons of waste.

Several experts have examined the impacts of oil development in Prudhoe Bay on the environment and what it might mean for the oil development of the Arctic Refuge. Again, the U.S. Fish and Wildlife Service says:

> Air and water pollution and contaminated sites continue to be a serious problem in Prudhoe Bay and are inevitable with any oil development. Many gravel pads on the North Slope are contaminated by chronic spills. In addition, hundreds of oil exploratory and production drilling waste pits have yet to be closed out and the sites restored. More than 76 contaminated sites exist on the North Slope and contractor performance has been spotty.
>
> Prudhoe Bay is a major source of air pollution and green house gas emission among the Arctic Coastal Plain. Prudhoe Bay facilities annually emit approximately 55,000 tons of nitrogen oxide which contributes to smog and acid rain. North Slope oil facilities release roughly 24,000 tons of methane. Industry has numerous violations of particulate matter emissions and has opposed introduction of new technology to reduce nitrogen oxides and requirements for low sulfur fuel use.

That is our own Fish and Wildlife Service.

A group of more than 500 ecologists, biologists, and resource experts wrote Congress saying:

> Based on our collective experience and understanding of the cumulative effects of oil and gas exploration and development on Alaska's North Slope, we do not believe these impacts have been adequately considered for the Arctic Refuge, and mitigation without adequate data on this complex ecosystem is unlikely. Oil exploration and development have substantially changed environments where they have occurred in Alaska's central Arctic. Since the discovery of oil at Prudhoe Bay in 1968, the U.S. Fish & Wildlife Service estimated about 800 square miles of Arctic habitats have been transformed into one of the world's largest industrial complexes. Oil spills, contaminated waste, and other sources of pollution have

> had measurable environmental impacts in spite of strict environmental regulations. Roads, pipelines, well pads, processing facilities, and other support infrastructure have incrementally altered the character of this system.

The Wildlife Society, the Alaska chapter, believes that "petroleum exploration and development are not warranted on the Coastal Plain of the Arctic National Wildlife Refuge," which they have deemed, as I mentioned earlier, a critical area for the abundance and diversity of wildlife.

We also need to look at the issue of compliance. This is particularly true when oil production starts to decline, as it will. There is a curve here. Let me share it with you. I have the chart in the cloakroom. Maybe we can get it in a minute.

The point of the chart is to show that obviously, like any finite resource, as you begin production, you begin slowly. You build up. You build up to a peak. And then, of course, since there is only so much there, you begin to come down. What often happens in this debate is we wind up with peak production day being the amount of oil that is thrown around, whereas you have to work up to that and then come down.

If you were to compare that to what would happen, for instance, with CAFE standards, CAFE standards don't go up and down, CAFE standards continue to accrue as you go forward. Every day in the future, you will be grabbing X amount of carbon dioxide, sulfur dioxide, and so forth, out of the atmosphere and recapturing it or preventing it from going in.

You can actually save three times as much fuel as the peak production day. You save three times as much foreign dependency by putting CAFE standards in place as you would drilling in the Arctic Wildlife Refuge.

When oil exploration is over, when the companies don't want to invest any more money in the project, what is the commitment to clean up? All over this country—the Presiding Officer's State of New Jersey—there are unfunded liabilities in toxic sites where the companies don't clean them up. We have just seen this administration seek to change the "polluter pays" principle which, incidentally, is a tax on the American citizen. I don't know if people are focused on that right now. Maybe it is worth a moment. When you undo "polluter pays," as the principle that has guided our cleanup in America of our toxic sites, then the question is, Who pays? The average taxpayer is going to pay. The Federal Government is going to have to dump that money in if the "polluter pays" principle is not there. That is a tax increase on Americans. It is the Bush environmental tax on Americans.

By ending "polluter pays," we are now going to turn, and either nobody cleans it up—which is what is happening right now because we are not putting the money into Superfund—or the taxpayer across the country pays.

That is the problem in Alaska, too. Who is going to clean up in the end? What is the State pristineness? Can you ever restore pristine? The answer, I think most people know, is no.

In the year 2000, BP Alaska reached agreement with the Environmental Protection Agency to pay $7 million in civil and criminal penalties and $15 million to carry out a nationwide environmental management system. BP was sentenced in Federal court in February 2000 to pay $500,000 in criminal fines and $6.5 million for failing to report illegal hazardous waste disposals on the North Slope.

From 1993 to 1995, employees of a contractor up there illegally discharged hazardous substances, including solvents, waste paint, paint thinner, waste oil containing lead and toxic chemicals such as benzene, toluene, methylene chloride, by injecting them into wells. They failed to report the illegal dumping as required by law.

The Wall Street Journal, in a series of investigative stories, has documented widespread problems at other facilities on the North Slope. On April 12, 2001, they reported:

> Days before Interior Secretary Gale Norton's much-publicized tour of Alaska's Prudhoe Bay oilfields last month, state inspectors made a startling discovery: almost a third of the safety valves tested at one drilling platform failed to close.

The story continues:

> . . . technicians say they have complained for years about the integrity of the industry's "friendlier technology." Some technicians who operate machinery—which proliferates on Prudhoe Bay and could be replicated in the wildlife refuge—are so understaffed and lacking in routine maintenance that they are leak-prone and vulnerable to explosions.

On April 26, 2001, the Wall Street Journal reported:

> About 10 percent of the safety shut-off valves in BP Amoco entire drilling operation on Alaska's Western Prudhoe Bay failed to pass state tests during the first quarter. . . .

On November 9, 2001, the Wall Street Journal reported that an internal report revealed "widespread operational problems at its giant oil field in Prudhoe Bay"—that they were widespread operational problems. Investigators found large and growing maintenance backlogs on fire and gas detection systems and pressure safety valves. The report concluded:

> The systems are old, portions of them predate current code and replacement parts are difficult to obtain.

Let me close by saying I have made it clear in my comments that those of us who oppose the Arctic Wildlife Refuge do not oppose drilling.

We embrace drilling in many parts of our country as an ongoing need for 30 to 50 years of this country's future. We will remain oil dependent, despite even our best efforts, if we were to make our best efforts. I have suggested that we need an organizing principle for our energy future that does what makes economic sense. We should not make choices that don't make economic sense, and we do not have to lower the quality of life of any American.

We heard debate on the floor of the Senate a few weeks ago about what kind of cars people were going to be "forced" to drive. No American is ever going to be forced to drive any kind of car if we do what we need to do with respect to the future. If you want to drive a big SUV or a huge truck to take your kids, to soccer games, go ahead, absolutely. I think most soccer moms in America are outraged that cars get as little mileage for the gasoline as they do. They would love to pay less when going to the gas station to fill up.

All of that technology is available to us to allow people to drive the car of their choice that is more efficient. There are many choices available to us. We can drill in those 7,000 leases in the deepwater drilling of the Gulf of Mexico. I have gone through the long list of the Arctic leases that were available that were put out last year. The largest oil and gasoline lease in the history of our Nation, just over a year ago, was 950,000 acres on the North Slope. They have scheduled 15 oil and gas leases on 15 million acres now. The third lease sale of a planning area of 10 million acres is coming right down the road.

We don't need to drill in the Arctic Wildlife Refuge and destroy the concept of a pristine refuge in order to accomplish our goals of, in fact, being independent or improving the national security of our country. That is really the choice here, for all of us in the Senate: Whether we will respect this concept until we find 15, 20, 30 years from now that we leaders of the country have not made wise choices with respect to the alternatives and renewables, alternative means of propelling our automobiles.

I was just out at the National Energy Alternative Renewable Energy Lab in Colorado meeting with Admiral Truly. They are doing extraordinary work. They say if the United States were to put in more effort and ratchet up our research on alternative propulsion, alternative heating, and other mechanisms, we could significantly advance the curve in this country.

We have not been serious about that. The only thing we appear to be serious about thus far is continuing the dependency that has put us into this problem in the first place.

So I hope my colleagues will take advantage of this vote, which represents an opportunity to suggest that our value system in this country, and our sense of economics, and our sense of security are well-grounded and well-placed with respect to the Arctic Wildlife Refuge.

I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have listened with great interest to the Senator from Massachusetts. He is a friend. I have visited his home and I have great love for his wife. I find it very interesting that the Senator from Massachusetts has discussed about every other creature of the world but has never talked about the people of the Arctic Slope. He never talked about the Eskimo. In fact, despite repeated requests to go to the area, he has never been there. He has never been there. As a concept, I find it hard to understand my friend's continued reference to the "wilderness area" and drilling in a "wilderness area."

The 1½ million acres of the Arctic Coastal Plain is not a wilderness area and was never designated as a wilderness area. Drilling there would not be drilling in a wilderness area. It is unfortunate that the Senator, and others, continue to say that because it represents a breach of faith.

Paul Tsongas, in fact, did offer four amendments to the 1980 act. One of them he withdrew. It was on the Coastal Plain. There was a compromise on the Coastal Plain. I, too, am sad that Senator Paul Tsongas and Senator Scoop Jackson are not here because, were they here, they would say a deal is a deal.

We passed out the letter that Senator Jackson authored with Senator Hatfield, which is on every Senator's desk, which says:

> One-third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Actions such as preventing even the exploration of the Arctic Wildlife Refuge, a ban sought by one amendment, is an ostrich-like approach that ill-serves our Nation in this time of energy crisis.

That is the letter signed by Senators Jackson and Hatfield in 1980.

Fair is fair. I will talk about the senatorial courtesies and the prerogatives of the past. Right now I want to answer my friend. At one time during his comments he said British Petroleum does not seek to explore in ANWR. Am I hearing right? There has been no such announcement by British Petroleum. It is one of the major producing entities in the North Slope now and, as far as I know, it has never been the concept of seeking the right to proceed with the commitment to explore the 1½ million acres covered by the section 1002 in the 1980 act.

The Senator talked about jobs. That is wonderful. We like that. The Senator talked about drilling in the Gulf of Mexico, and he wants to develop the National Petroleum Reserve of Alaska. He has had that opportunity since he has been in the Senate. Nobody has proceeded at all with that. We have tried to get that done. We have not been able to do it. It is like the rest of Alaska. People say it is wilderness because it is undeveloped. It is not wilderness in the legal sense, unless it is classified as "wilderness."

So far as I know, it is not possible for that statement to be made on the floor of the Senate—that we would drill in wilderness if we were to drill in the 1002 area of the Arctic Coastal Plain.

The Senator from Massachusetts belabored, I think, the CAFE standards concept. It would be three times the savings, he says, of ANWR. Well, ANWR doesn't persist in savings; ANWR is production. Beyond that, CAFE standards deal with gasoline. We are dealing with oil. Mr. President, 44 percent of a barrel of oil becomes gasoline; 56 percent is refined for other products. You can have all the CAFE standards you want. If you want the other products, you have to refine a barrel of oil. There is too much talk here about gasoline being oil. One time the Senator from Massachusetts said 70 percent of the oil goes into transportation. That is not so at all. Maybe 70 percent of the gasoline goes into transportation, but it is not oil. In fact, the bulk of the oil goes for a lot of things, including home fuel, jet fuel, kerosene, and lubricants. I wonder how far our aircraft would fly if we stopped refining a barrel of oil to get jet fuel. You would still have the part of the barrel that would make gasoline.

I remind those who are looking at this chart that these are items made from oil—from toothpaste to deodorants, footballs, lifejackets, pantyhose, lipstick, dentures, and they all come from a barrel of oil.

Mr. KERRY. Will the Senator yield?

Mr. STEVENS. I did not interrupt the Senator.

Mr. KERRY. Does the Senator want to have a dialog?

Mr. STEVENS. I will have a dialog when the time comes.

Mr. KERRY. I thank the Senator.

Mr. STEVENS. A real problem is the people who really take advantage of the Nation when we are evenly divided, the minority of the population—2 percent—which represents these radical environmentalists. The Democratic Party sees fit to seek to win elections by preventing us from proceeding with the prospect of discovering oil on the Arctic Plain, but it has not been a traditional position of that party because, obviously, the two people who reserved this area were, in fact, Democratic Senators—Senator Jackson and Senator Tsongas. They were Democratic Senators. They entered into a commitment with us that this area would be explored, and if it proved to be not a situation where irreparable harm would occur on the Arctic Plain, this area would then be faced with a request from the President and the Secretary of the Interior to proceed with oil and gas leasing.

Oil and gas leasing is prohibited at the present time. We know that. It is prohibited by law. The 1980 act prohibited oil and gas leasing in this area until the procedure is followed. This is the procedure. It has taken us 21 years to get to this point.

This is the "Arctic National Wildlife Refuge Coastal Plain Resource Assessment Recommendation to Congress and Legislative Environmental Impact Statement" required by the law of 1980. It demonstrates that there would be no irreparable harm to this area if oil and gas leasing would proceed.

I have some real problems with what is going on here. I want to talk about them at length later. I understand the Senator from Texas wishes to speak, so I will be glad to yield to her when she is ready.

These people, the Eskimos, the Inupiats who live on the North Slope, seek this decision by Congress. They want this area to be explored. Their schools, their roads, and their future depend upon jobs. This is their area. They believe it can be done safely. They even own some of the land up there.

Mr. President, did you know they are prohibited from drilling on their own land, land they received from the Federal Government in settlement of their claims? There is no question—no question—that these people want to proceed.

The Senator was referring to this land as wilderness. Those people live right there. This is the village that is within what the Senator from Massachusetts calls wilderness. This is not wilderness. This is the home of the Inupiat people, the Eskimo people of Alaska.

There are some Alaska Natives who live on the South Slope who really are part of the Canadian Indian nation known as Gwich'ins. They oppose this. We know that. They are probably up in the galleries now. They oppose it, but the Alaska Eskimos do not oppose it. They live there, and they want this development. They want to see it developed.

The first time I went up to the North Slope, it was a very sad visit. It was back in the fifties. I tell you, they had a very small runway. Wiley Post crashed just north of there. We landed at this little village in which the people lived in terrible circumstances and conditions. They had no modern conveniences at all. I invite you to go up and take a look at Barrow—five-, six-, eight-story buildings with elevators, beautiful schools, a wonderful airport, tremendous people enjoying their lifestyle. They like the Arctic. That is their home. They like their opportunities now to have their feet in both the present and the past. They are wonderful people. They make tremendous citizens of the United States, and there is no question they want to proceed.

I have a letter that went to Senators DASCHLE and LOTT in April of this year from the Kaktovic Inupiat. This is a photograph of some of their children. They say they want the promises given to them. They want this area open. They are the only residents of the 19.6 million acres that were recognized within the boundaries of that refuge. They own some of the land. They own 92,160 acres of the land, and they are currently prohibited by the Federal Government from drilling on their land because of the situation in the 1002 area.

They were told to wait until the approval was given by Congress to proceed in the whole area. They seek—and I hope before we are through, we will recognize their request—to use their own lands to determine whether or not beneath those lands there are oil and gas resources. That is another matter we will go into.

They say:

> We don't have much, gentlemen, except for the promises of the U.S. Government that the settlement of our land claims against the United States would eventually lead to control of our destiny by our people.

That is denied now by the opposition of the majority party to this amendment that is before us.

We believe this will be the largest oilfield on the North American Continent, somewhere in excess of 40 billion barrels of oil. We do not build paved roads; we build ice roads in these areas. It is true that on State lands, where Prudhoe Bay was discovered—those are State lands—they are subject to the construction of roads by the permission of the State of Alaska. It is an entirely different situation than being within the 1002 area which is subject to total control by the Federal Government.

The House has already limited the use of this 1002 area, 1.5 million acres, to 2,000 acres of surface—2,000 acres out of 1.5 million acres. That is what we are being denied the right to use.

I do believe it is unfortunate that we have the concepts now of so many people who enjoy life and make so many studies from afar. They are making studies from all of these scientific organizations that are supported by these environmental organizations. I am going to talk about those later, Mr. President. I see two other Senators are in the Chamber.

Mr. WELLSTONE. Mr. President, I will be pleased to follow the Senator from Texas. I ask unanimous consent that I follow the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, with the understanding I may resume the floor later this afternoon, I will yield the floor to these Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. The Senator from Texas will speak, and then the Senator from Minnesota follows; is that correct?

The PRESIDING OFFICER. That is correct.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Alaska. In fact, I thank both Senators from Alaska for leading this very long fight to open up a very small portion of their State for the purpose of exploring and drilling to make America more stable in this crisis in which we find ourselves.

I want to go back over what is in the Murkowski-Breaux amendment because I think if you listen to some of the debate, you will be confused.

First, the key provision is a provision I put in this amendment early on that says the President must find that it is in our national economic and security interest to drill in ANWR. The President must consider the impact on increasing the independence we would have on foreign imports for our basic energy needs in this country.

This amendment limits the size of production to 2,000 acres, and in that 2,000 acres it is confined to a part of the Arctic National Wildlife Refuge that is plain. There are no trees and wilderness in this part of ANWR. We are talking about drilling on 2,000 acres in an area the size of the State of South Carolina, where there are no trees whatsoever.

In addition, I think it is important to note that we have limited in this amendment when they can drill. They can drill between November and May, when the land is frozen. There would be ice roads and ice runways. The footprint on the land would be minimal to none because they would be using the ice roads rather than driving on the land.

In addition to that, the caribou, which is an animal that mates throughout the Arctic National Wildlife Refuge, mates during the summertime. There would be no drilling in the summertime. Any argument that this might in some way disrupt caribou mating is not a valid argument at all.

There would be 1.5 million more acres of real wilderness that would be designated as wilderness where they could not drill—this is in addition to ANWR in exchange for opening this nonwilderness area of the Coastal Plain.

It is a balanced amendment. The environment is protected. It is very important that we look at the environmental safeguards America would put on drilling in ANWR to assure that we will have environmental standards.

This same reserve may well be drilled in Russia which is very close to Alaska, as we all know. About 20 miles separates them at their closest point.

They could drill right across the coast from Alaska, and we do not know what their environmental safeguards would be. We certainly would not have control over them, and that would affect the Alaska coastline even more because we would not have control of the way Russia might decide to drill. They might not decide to drill only in the winter. They might not decide to put any limitations on the kinds of ships that would come in and out of the water. I think that maintaining control is the better environmental argument.

ANWR would produce at least a million barrels a day. That is about the amount we import from Iraq every day. The percentage of the U.S. oil needs that would be met by ANWR is nearly 5 percent. We consume 20 million barrels of oil a day. We import 12 million of those barrels. We are right at 60 percent of our needs every day having to be met by imports. Our ANWR production would make up for 8 to 10 percent of our current imports.

I heard the Senator from Massachusetts say this is going to be a drop in the bucket for our energy needs; that this really gets us nowhere. So why would we do it?

We would do it because we need to do everything we can to maintain our own stability and to look to ourselves for our economic and security needs. I would rather be looking at American jobs with American resources, American production and American control than to say 60 percent imports for our needs is OK. I especially think that the argument falls flat when we realize that the 60 percent includes some of America's known worst enemies, such as Iraq. Iraq has threatened America before; so have some of the other countries from whom we import oil. Then there are countries with whom we have great friendships, such as Venezuela. They also send us about a million barrels a day but they are in upheaval. There are strikes and the government is in a very precarious situation. So while we would certainly count Venezuela as a friend, they are not as reliable right now as we need to have.

I think we need to look at this whole ANWR issue in light of the circumstances. I have always felt that America needed an energy policy that depended on our own resources. Today, it is no longer an option. It is no longer a matter of good public policy; it is a necessity. It is a matter of national security that we control our own economy.

If countries, that would do us harm, could say "we will stop exporting oil to America and shut down their factories, keep them from being able to drive to work, shoot the prices so high the airline industry starts to crater," then are we not going to beat them from within? Maybe we do not have to beat them from without because if their economy starts sinking we are going to win. Of course, they are right.

If we allow that to happen, we are not responsible stewards of our country.

Iraq has, in fact, said they are going to stop exporting oil that could come to America. With Iraq using this as a weapon, and other countries possibly doing the same, or deciding that perhaps they cannot export any more because of their internal situations, then what are we going to do if we have not planned ahead?

The Senator from Massachusetts says we should conserve our way out of the crisis, but let's look at that. The 10 most fuel-efficient automobiles in America make up 1.5 percent of the automobile sales in America. In America, we have long distances to drive. In America, people have big families, and we know a heavier car is safer than a small car. So it would seem the Senator from Massachusetts would demand that people have only the choice of an unsafe car, that is not the one they want for their families, as a way to become more stable in our economy.

I fundamentally disagree with him that this is the right approach. I think we need to look to our own resources as part of a balanced package that would keep our country strong.

I think we should have incentives for more fuel-efficient automobiles, so that if people make that choice of their own free will, and if that meets their family's needs, they would be able to do that and maybe even get a tax credit for it. I think we need to look for alternative forms of energy. I think we have walked away from nuclear powerplants, which are known to be the most clean and effective ways to produce electricity. I think there are new things we will be able to find in the future, such as ethanol, hopefully, becoming more reasonably priced; other forms of wind energy that certainly could produce electricity, not in the great amounts we need at this time, but I think Americans are ingenious and we will find other sources. But that should not be all we need to do.

We need to have a balanced plan that also allows us to produce the amount of energy we would need to keep our country strong. The major sources of oil in this country are ANWR and the Gulf of Mexico. We are drilling in the Gulf of Mexico, but we have not yet found the technology to go as deep as we would need to go in parts of the Gulf of Mexico to tap the added resources that might be available there. We do however certainly have the capability to look to that resource as well. In the Senate bill, we do not try to help get the Gulf of Mexico oil. No. The House bill allows us to continue the royalty help that we give for deep drilling in the Gulf because it is more expensive and takes more research and exploration.

Senator Bennett Johnston of Louisiana passed a royalty relief bill that takes the first part of oil royalties from deep well drilling in the Gulf. It abates those royalties in order to create an incentive for companies to add that expense of drilling in that deep Gulf area. That credit lapsed and is no longer in effect. The House energy bill puts that back in play.

We should do that. That is a valid incentive because it would produce more oil in the Gulf.

In the Senate bill, there is very little about production, aside from the marginal well tax credits which were my in bill. I have fought for the marginal well tax credits for a long time. I am pleased that they are in the bill because the marginal well tax credits could help the marginal, small, little bitty wells to give them a floor so that anyone willing to go in and tap a site, that would produce only 15 barrels a day or less, would be able to withstand the falling prices. A number of those small wells were closed when oil was $11 a barrel a couple of years ago and they haven't been reopened because of the instability of the prices.

If all the small wells are drilled and producing, we do have that credit in this bill which will equal the amount we import from Saudi Arabia. It is a significant amount. It takes 500,000 wells to do it. These are generally small businesspeople. That is good.

Other than that, there is nothing in this bill that speaks to production. The House bill has the incentives for deep Gulf drilling, which I think is very important and I certainly hope will come out of the conference report if we can pass the bill before the Senate.

The House has ANWR, which the Senate does not, and about which we are fighting and talking today. ANWR is a significant addition to our own national stability. The ability to control our destiny rests in ANWR and deep Gulf drilling. When you put those together with increasing nuclear capabilities, clean coal burning, wind, and other forms of renewables, a balanced package of conservation and production includes ANWR and the deep Gulf incentives.

As we debate this, I hope some of our Members, who have said they are very concerned about drilling in ANWR, will look at the facts: ANWR has no trees in the part we will drill, it would only be done in the winter when you use ice roads and ice runways so there is no footprint on the land, where it would not hurt the environment, but, in fact, would be severely restricted by environmental concerns.

If we are going to have affordable, reliable, and clean energy, we must have a balanced package. Not to pass a bill that gives the amount we import from Iraq and Saudi Arabia and Venezuela is hardly worth the effort because it wouldn't give enough stability to control our own destiny.

It is essential we pass a bill that allows America to control our economy and will produce American jobs. We are talking hundreds of thousands of jobs. That, in itself, helps stabilize our economy. That is why the Teamsters Union and the building and trade unions have been so helpful in this effort. I have never seen a union so committed and so sincere and work so hard as the Teamsters to try to keep these jobs in America. We have lost many jobs, thousands of jobs, since September 11.

These are good-paying jobs that would become available if we drill in ANWR and in the deep Gulf—not only the jobs on the rigs themselves, but all of the companies that produce the pipe, all of the companies that produce the oil-well supplies.

It would be a huge boost to our economy. However, most importantly, it would stabilize our economy from oil price spikes that will hurt our airline industry, that will hurt our factories, that will hurt profitability and start causing more layoffs if we do not get control.

I thank my colleagues for finally allowing this amendment to come forward. It is our responsibility to pass this amendment for the limited exploration in ANWR with the environmental safeguards and with the very specific times that assure we would not have a footprint on the land. This is our responsibility. It is a national security issue. It is an economic issue. If we don't look out for America, who will? This is the Senate of America and we must look out for the people, for the jobs, for the security of our country. That is what we have been elected to do. It is our job and it is time to step up to the plate and do the right thing for the people who have put their trust in us.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Nevada.

Mr. REID. I have spoken with the two managers of the bill. I would like to propound a unanimous consent request that Senator WELLSTONE be recognized for 20 minutes, Senator LIEBERMAN for 20 minutes, Senator BOND for 20 minutes, and Senator LOTT for 10 minutes, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. WELLSTONE. Madam President, when I first came to the Senate, my first year here in 1991, I think with Senator LIEBERMAN and Senator BAUCUS, we started a filibuster against well drilling in ANWR. We succeeded. I am proud to be part of this effort as well.

With all due respect, as I listen to some of my colleagues speak, they make the case we need to do this for our own national security; we need to do this for energy independence; we need to do it for our consumers. I think it has precisely the opposite effect.

We are talking, altogether, the equivalent of what the United States consumes for 6 months. We are talking about oil that is not recoverable for another 10 years. And we are also talking about continuing to barrel down this oil path, this fossil fuel path, which is destructive to our environment.

I am an environmental Senator from the State of Minnesota. I am concerned about global warming. In many ways, it is not our future. There is a different future.

I come from a State, for example, a cold weather State at the other end of the pipeline. When we import barrels of oil or MCFs of natural gas, we export billions of dollars. Last year our energy bill was between $10 and $11 billion, but we have wind, biodiesel and ethanol, biomass electricity, saved energy, efficient energy use, and clean technology and small business. There is another direction that we can go. There is simply no reason to destroy a pristine wildlife refuge. There is no reason to do this environmental damage.

One of the most moving meetings I ever had was with the Gwich'in people who live on the land. They made the appeal to me as a Senator out of their sense of environmental justice not to let this oil drilling go forward.

This whole idea of energy independence for America, based upon another idea that we drill our way to independence, makes no sense. The United States of America has 3 percent of the world's oil reserves, but we use 25 percent of the world's supply. Saudi Arabia has 46 percent of the world's supply.

On each point, I take my colleagues to task. I don't think we get more energy independence from this. I don't think we get lower prices for consumers. I don't think we do better for our environment. Frankly, this proposal represents not a big step forward but a big leap sideways, at best.

On the jobs count, we can go back and forth and back and forth. Senator KERRY spoke; Senator LIEBERMAN will speak. I know what the American Petroleum Institute has said about the jobs. I also know when we look at the Congressional Research Service, which we all look to as an independent research organization, we are talking about 60,000 jobs.

If you move down another path where you are not so dependent on big oil and where you really look at renewable energy and saved energy, it is much more labor intensive, it is much more small business intensive. It creates many more jobs, and it is much more respectful of the environment. It keeps capital in our communities. That is the marriage we ought to make here on the floor of the Senate. We don't need to be doing the bidding of these big oil companies any longer.

In part 2 of my presentation—I will stay under 20 minutes because there are many Senators who want to speak—I want to turn my attention to a portion of this amendment, the second-degree amendment, which purports to address the very serious problem of legacy costs of steelworkers or, in my State, taconite workers—that is to say, people who are retired and who are losing their health care benefits and their insurance benefits.

We need to respond to this pain. I am a part of a real effort, a bipartisan effort with Senator ROCKEFELLER and Senator SPECTER, to deal with legacy costs and to provide the help to people. This amendment on this bill is not authentic. It is not a real effort. In many ways I cannot think of an amendment I am more in opposition to because I think, frankly, it takes advantage of the pain of people and the hopes of people, it is an amendment that does not do the job.

Why in the world are we now being told on the floor of the Senate the only way we can get relief to thousands of steelworker retirees around the Nation, where their health benefits and their life insurance is in jeopardy, is by tying it to what the oil industry wants to do in Alaska? I would like to know who made that linkage, and how anyone can argue that is the only way we can help steelworkers, retired steelworkers, or, for that matter, whether or not this, in fact, is even a real effort.

Let me explain. The amendment does not deliver on the promise. Senators come out here and say the only way we can do this is from the royalty from the oil drilling. The Senator from Alaska says the legacy costs could be as high as $18 billion. I think the costs are about $14 billion over 10 years. Drilling in ANWR cannot produce those kinds of Federal revenues. This amendment dedicates much of the ANWR revenue to other purposes.

According to the Congressional Budget Office, nonpartisan CBO, less than $1 billion of the revenue from ANWR is going to be available, in this amendment, to pay for steelworker legacy costs over 10 years. In other words, less than one-tenth of what the CBO says we need to cover these legacy costs for steelworkers, for the taconite workers who are the steelworkers in northern Minnesota—less than one-tenth of what we need is covered by this amendment. And that presupposes the House Republican leadership would sign onto it—they have not—and that this administration would sign on to it. They have not.

So what we have here is a little bit of sleight of hand, where you get oil drilling for ANWR in the House bill—it is in there—and in the Senate bill. You get less than one-tenth of what we need for legacy costs. That is all you get. But you do not have any prior agreement from the House Republican leadership, and they take it out in conference. You do not have any prior agreement from the White House. They take it out in conference.

I have to tell you, this is in many ways this amendment tells a horrible story. The steelworkers, hard-working people—the range has seen tremendous pain. LTV workers are out of work. This doesn't help people out of work now who are also losing their health care benefits. But for retirees, it says we can help you, but the only way is if you go along with what the oil industry wants, and if you look at the fine print, you find out this doesn't meet more than one-tenth of the cost.

Where is the commitment from the White House? Where is the commitment from the Republican leadership? I tell you what, we will bring a bill out to the floor which will cover legacy costs. Then all Senators get a chance to vote on it. Then we can decide who wants to provide the help to people.

By the way, it is also help to an industry that simply is not going to be able to compete without our doing so.

I want to say, the second-degree amendment—it is so interesting. I have another piece here. There actually will be no oil produced on lease on the Coastal Plain which will be imported except to Israel. There is even language of oil for Israel. Oil for Israel, legacy costs for steelworkers—although not really. It is not real. But this seems to me to represent the old politics where you are trying everything to get the votes. You do not know what else to do so you start adding on all these other amendments, and you think you can buy off this group of people or buy off this vote or get this vote or get this vote.

I am a Senator from Minnesota. I want to make the final distinction between a real effort and my position on ANWR so it is clear. I am opposed to the oil drilling. I led a filibuster when I first came here. I am opposed to it now. I will vote against oil drilling in ANWR, period.

The second distinction, I am for a real effort to deal with the legacy costs of retired steelworkers. We have to. I am working with a bipartisan group of Senators who are equally committed.

If we want to talk about what kind of revenue we are going to need, it is going to be, over 10 years, about $14 billion. There is less than $1 billion revenues from actually ANWR revenues to cover the legacy costs. That doesn't do the job.

The steelworkers know this and they have said so. We don't need to be doing the bidding of the oil companies to help the steelworkers. We can do that on our own. We can do that right here on the floor of the Senate.

When we bring the legislation out, it will be a tough fight. I do not know where the administration will be. Frankly, I think we need their commitment first because if we do not get their commitment first, we will never be able to provide it. It will be $14 billion over 10 years. We have to do it for the industry, for this industry to have a chance, an industry that is so important to the national security of our country. This is a national security question. But we also have to do it to make sure we get the help to people who have worked so hard all their lives.

Where is the administration on this? I have not heard the administration commit itself to anywhere close to the amount of revenue we are going to need to cover legacy costs. The silence of the White House on this question is deafening. The silence on the part of the House Republican leadership is deafening. And the effort to have an amendment attached onto this amendment which purports to help taconite workers on the Iron Range but which really does not—as opposed to the real effort and the real fight which we will make—troubles me.

There are too many people and too much pain. People are hurting. We should not be playing around with this.

The second-degree amendment deserves to be defeated. The underlying amendment deserves to be defeated. I urge my colleagues to vote against cloture, and I believe we will have a strong vote against cloture.

I yield the floor.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank my friend and colleague from Minnesota for what is, for him, a characteristically truthful, passionate, and in some senses, courageous statement. But it is typical of his service here. I thank him and all the others of our colleagues who have joined in this filibuster to stop the drilling for oil in the Arctic Refuge.

I must say for myself, in the 13 years now that I have been in the Senate, I cannot remember the last time I said I would participate or proclaim to participate in the leadership of a filibuster. But I have done that in this case because I remember what Senator BYRD instructed us on some time ago—that the purpose of the filibuster, which is to say the requirement for a supermajority to proceed with 60 votes, is to prevent us from allowing the passions of the moment to sweep through Congress and become law and do lasting damage to America's values and interests.

If there ever was an example of how the temporary passions of a moment, if responded to in law, could do permanent damage to our great country, its values, and interests, quite literally, then this debate over the drilling in the Arctic National Wildlife Refuge is exactly that.

I rise to oppose the amendments before us and oppose the motion for cloture. This proposal has been before us for a long time. I remember discussing it in my campaign for the Senate in 1988. It has risen and fallen over the years, but the basic heart of it remains wrong. It is to develop one of the most beautiful places in America, the Coastal Plain of the Arctic Refuge, known as the American Serengeti, inhabited by 135 species of birds and 45 species of land animals. The Plain crosses all five different ecoregions of the Arctic.

To take this magnificent, unspoiled piece of nature and develop it for what? For a very small amount of oil no sooner than a decade from now, which will not do what all of us say we want to do, which is to break our dependence on foreign oil. And it will provide no price relief to American consumers of gas and oil.

The fact remains that drilling in the refuge would not produce a drop of oil for a decade—far beyond the time of the current crisis in the Middle East which some have tried to use to gain support for this proposal to drill; and, even then, after the decade, far too little to change in any meaningful way our dependency on foreign oil.

Even if we did allow the drilling for oil in the Arctic Refuge, this administration's own Energy Department concluded that drilling in the Arctic Refuge would only reduce our dependence on oil by 2 percent 20 years from now. That is in the year 2020 or thereabouts. We would depend on foreign sources of oil for 60 percent of the oil we use instead of 62 percent. Is that 2 percent worth destroying this beautiful piece of America?

The fact is, even if the oil were coming out of ANWR, notwithstanding suggestions to the contrary, it would be priced at world prices. So there wouldn't be any relief given to America's consumers if we allowed the drilling for oil. No, the only way for us to remove our economy from the troubles in the Middle East that are going on now or that may go on in years ahead is to end our dependence on foreign oil.

As my colleagues have said over and over again, we don't have much oil left within American control and within America's land—3 percent of the world's reserves of which we use 25 percent every year. It is just not there. Therefore, if we want to break our dependence on foreign oil, as mighty a nation as we are militarily and economically, if we want to truly remain strong and invulnerable to pressure from nations that are weaker than we are but have oil within their land, then we have to break our addiction on oil. We have to develop new sources of energy. We have to conserve more. We have to use the gifts of ingenuity and technology that have created so many miracles in our time to help us power our society and our economy in a way that is not only cleaner than oil but, most important to the moment, is within our control and our possession. Surely, we can do it.

As part of doing this, I say, as so many others who oppose drilling for oil in the Arctic Refuge have said, we are not opposed to all development of America's energy resources. Far from it. While we must move beyond our dependence on fossil fuels, we cannot do it immediately, requiring us to continue to pursue supplies of oil, and particularly to pursue supplies of fuel. In fact, may I say as a Democrat that I am proud that the Clinton administration actually leased more land for energy development than either the Reagan or previous Bush administrations.

But those decisions were evaluated, such as the decisions we shall make and should make in the future, which is to determine the environmental impact of that exploration—to hold the test up. How much energy will we get? What damage will it do to our environment? By that test, the Arctic Refuge does not pass.

Let me show my colleagues a map of the North Slope of Alaska. Here is this very small area of the Coastal Plain. That is what our colleagues from Alaska want to be able to drill. Compare it to all the rest of this that is now open and, in many cases, already leased for oil exploration. This is a very small part of that area. There is very active exploration and drilling going on in the rest.

We are not asking to take out every possibility of development in enormous swaths of land. The fact is, companies have made promising new discoveries at the locations in blue that I have just indicated. For example, last winter Phillips announced major discoveries of three significant oilfields in the National Petroleum Reserve in Alaska. The oil companies have plans to drill up to 59 exploration wells over the next 5 years. None of that is going to be affected by our desire to stop these amendments, which aim to get into that last very special and important area to preserve.

What about that small green section in the corner of the map that I pointed to? The so-called 1002 area of the Arctic Refuge is the small biological heart of the ecosystem. Again, we are not asking for the entire North Slope to be protected. We only ask for the small piece of land that serves as the most essential and vital habitat in the region. Much to the contrary of what has been argued, the area is not even the most promising of the North Slope for exploration for oil.

Let me quote from comments of an oil industry consultant in a recent New York Times article:

> There is still a fair amount of exploration risk here: You could go through eight years of litigation, a good amount of investment, and still come up with dry holes or uneconomic discoveries.

Listen to the comments of a spokesman for BP Alaska:

> Big oil companies go where there are substantial fields and where they can produce oil economically. Does ANWR have that? Who knows?

We owe it to the American people to determine whether the measure before us is responsible and responsive to our energy needs or whether it is simply a distraction that threatens to bring down the 400-plus pages of good energy policy contained in the underlying bill.

To determine that, I think we need only to ask a very businesslike, very American question: What do we gain and what do we lose? I can tell you what we would gain in less than a minute. It would take days to catalog what we would lose. We are prepared, if necessary, to take those days to stop this authorization to drill in the Arctic Refuge.

What we would gain I have talked about. It would take at least 10 years, and then there would be, at best, a 6-month supply of economically recoverable oil—a yield that would be spread over 50 years.

What are the costs? The visible damage would be substantial: an environmental treasure permanently lost, hundreds of species threatened, international agreements jeopardized, oil spills further endangering the Alaskan landscape, and an increase in air pollution and greenhouse gas emissions.

The unseen damage of drilling would be just as real: a nation—our Nation—lulled into believing it has taken a step toward energy independence, when it has done no such thing; a nation believing it is extracting oil using so-called "environmentally sensitive" methods when it will not—all in all, the American people misled in both meanings of that term, not appreciating the reality, and also a failure of leadership by those of us who are privileged to serve here in Washington.

Finally, this plan would violate some of our most treasured American values. I speak particularly of the values of conservation. This plan presents a false promise of job creation, a false promise of economic stimulus, a false promise of energy independence, and a false promise of environmental sensitivity.

The first claim my colleagues make is that drilling in the Arctic is a necessary part of a balanced, long-term energy strategy. But, I say respectfully, calling drilling in the Arctic Refuge part of a strategic energy plan is like calling oil a beverage. It is literally and figuratively hard to swallow.

This ill-considered plan will do nothing to wean us from our dependence on foreign oil. But we do have such a proposal which would take aggressive and strategic steps in pursuit of new sources of energy and better conservation; and that is the underlying bill fashioned by Senator BINGAMAN, Senator DASCHLE, and others working with them. It would provide us with the resources we need in the short term by measures such as expediting the natural gas pipeline from Alaska and providing the resources necessary to process the many lands already leased for exploration.

I want to share with my colleagues a few words on the question of the effect that drilling in the Arctic might have on jobs because that is an argument that has been made.

Drilling in the Arctic Refuge will actually create fewer jobs than dozens of the smarter alternatives that would create new industries using American technology that will be encouraged by the underlying bill. The much quoted study claiming that the Arctic drilling would result in 750,000 jobs has since been widely discredited. Even its authors have acknowledged its methodology was flawed.

The real job creation figure, in my opinion, is much closer to 45,000. Those jobs are short term, most of them in construction, as opposed to the permanent jobs that would be created by new energy industries, new energy technology industries created all over America.

In order to try to settle this question, the Joint Economic Committee looked at the question and found that the proposal would result in modest employment gains, peaking at an estimated 65,000 new jobs nationwide in the year 2020. That would be an increase in projected employment by less than one-tenth of 1 percent over that time—certainly nothing to sacrifice a national treasure for, particularly when we have so many better, new energy alternatives that will create so many more longer lasting jobs.

I would like to say a word about the oil prices impact from drilling in the Arctic because American consumers are sensitive and, appropriately, accustomed to being concerned about the effect of world political and economic events on oil pricing and gasoline pricing and may be deceived into thinking that if we drill for oil in the Arctic Refuge, we will be protected from international oil price fluctuations.

Drilling would have no impact on U.S. oil prices, even under the inflated estimates for petroleum potential that are cited by drilling advocates because the price of oil is determined by broad, global supply and demand, not by the presence or absence of an individual oilfield.

Let's look, for example, at the case of Prudhoe Bay. In 1976—the year before the largest oilfield ever discovered in North America entered production—a barrel of West Texas Intermediate crude oil sold for $12.65 and standard gasoline averaged—I take a deep breath here—59 cents a gallon. That was 1976.

Two years later, with Prudhoe Bay now adding more than 2 million barrels a day to domestic supply, in 1978, West Texas Intermediate crude had increased by more than 15 percent to $14.85 a barrel and gasoline averaged 63 cents a gallon. It went up. During the next 2 years, as Prudhoe Bay production increased, oil prices also skyrocketed to $37.37 per barrel, while gasoline nearly doubled to $1.19 a gallon—all because of world oil prices.

This obviously does not demonstrate a relationship between Alaskan oil and gasoline prices that will be paid around the world.

In closing, I want to get back to what this all says about our values and the choices we have to make. The question is, Are we willing to destroy a habitat that is home to so much beauty and wildlife and deprive future generations of visiting and experiencing this magnificent part of our country in return for what will slightly—2 percent out of 62 percent—reduce our dependence on foreign oil two decades from now and will not affect the price the American people will pay for gasoline and oil?

I think the answer has to be no. Wilderness and the oil industry cannot peacefully coexist, certainly not in this case. So we are forced to make a choice. I have made mine. I believe the American people agree. Why? Because conserving our great open spaces is fundamentally an affirmation of our core American values. Conservation is not a Democratic or Republican value; it is a quintessentially American value.

What lesson does it teach the generations that come after us if we go ahead with this terrible mistake of drilling in the Arctic Refuge? That we, as Americans, did not value our national heritage? That we did not conserve it for future generations of Americans? That we sold it for, essentially, effectively, the equivalent of a barrel of oil?

The ethic of conservation tells us it is not only sentimentally difficult to part with beautiful wilderness, it is practically unwise, because in doing so we deny future generations a priceless piece of our common culture.

Let me close with the words of a great President, a great American, a great conservationist, and a great Republican, Theodore Roosevelt. In 1916, he said this:

> The "greatest good for the greatest number" applies to the number within the womb of time, compared to which those now alive form but an insignificant fraction. Our duty to the whole, including the unborn generations, bids us [to] restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wildlife and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose, and method.

That is a quote from the great T.R.

They live and breathe with as much wisdom today as they did in 1916. In addition to all of the pluses and minuses and balances and statistics, they are the ultimate reason why we should reject these amendments to allow for the drilling for oil in the Arctic Refuge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I rise today to discuss what I think is one of the most important issues our Nation faces, and that is national security.

Yes, this is an energy bill. More specifically, we are talking about an amendment to drill for oil in a small remote region of Alaska. What does that have to do with national security? Let's set the stage because the facts are getting lost in some wonderful rhetoric that takes me away in a dream world. I don't recognize the place I know as Alaska when I listen to it.

We have tried to put out the facts. I have heard other things that are not quite so factual. Just as a beginning, over the next 20 years, U.S. oil consumption is projected to grow even after factoring in a projected 26-percent increase in renewable energy supply, which we strongly support, and a 29-percent increase in efficiency. Some people think that is outrageous. Some people have a terrible guilt trip that the United States uses so much oil we don't have enough, so we ought to give up.

Drilling in ANWR reasonably could almost double our reserves. The United States has about 22 billion barrels of proven reserves, 3 percent of the world's reserves. ANWR could hold 16 billion barrels of oil more. That is almost doubling. It is adding 16 to 22 billion in our reserves.

We use oil. There is no question about it. We have 5 percent of the world's population. We use 25 percent of the world's oil. But we also produce 31.5 percent of the world's total economic output. We are more efficient than the world as a whole, and we produce food and medicine and goods to improve the lives of Americans and people around the globe.

Let's be serious. When we are talking about the fact that we use oil, yes, we do. There is no question about it. We need to make sure we have adequate oil reserves.

We just heard some information from the Energy Information Administration that is a little outdated. There is more recently a letter of March 22 to Senator MURKOWSKI from Mary Hutzler, Acting Administrator for Energy Information. I ask unanimous consent that a copy of the letter and the addendum be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, March 22, 2002.

Hon. FRANK H. MURKOWSKI,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: Enclosed is a response to your March 21, 2002, request for more information from our Service Report, "The Effects of the Alaska Oil and Natural Gas Provisions of H.R. 4, and S. 1766 on U.S. Energy Markets." The information provided relates to an increase in U.S. oil production, a decrease in net petroleum imports, and the change in net import expenditures across the range of cases explored in the Report.

The projections show that all of the increase in U.S. oil production from opening the Arctic National Wildlife Refuge (ANWR) to oil development comes from increased Alaska production, rather than lower 48 production, regardless of the size of the oil resource assumed to be contained in ANWR. The size of the resource assumed to be in ANWR also has an effect on imports. The larger the ANWR resource base, the greater is the reduction in petroleum imports. Reductions in net expenditures on imported crude oil and petroleum products range from $5.7 billion in the low ANWR resource case with a reference case oil price path to $18.3 billion in 2020 (in 2000 dollars) in the high ANWR resource case with a high world oil price path.

If you have further questions, please contact me on (202) 586-6351.

Sincerely,

MARY J. HUTZLER,
Acting Administrator,
Energy Information Administration.

Enclosure.

ADDENDUM TO THE EFFECTS OF THE ALASKA OIL AND NATURAL GAS PROVISIONS OF H.R. 4 AND S. 1766 ON U.S. ENERGY MARKETS

This addendum responds to a March 21, 2002, request from Senator Frank H. Murkowski for more information from the Energy Information Administration's Service Report, "The Effects of the Alaska Oil and Natural Gas Provisions of H.R. 4 and S. 1766 on U.S. Energy Markets." This addendum provides projections on the increase in U.S. oil production, the decease in net petroleum imports, and the change in net petroleum expenditures across a range of cases.

All of the increase in U.S. oil production from opening the Arctic National Wildlife Refuge (ANWR) to oil development comes from increased Alaska production, rather than lower 48 production, regardless of the size of the oil resource assumed to be contained in ANWR. In 2020, the increase in total domestic production ranges from 500,000 barrels per day in the low resource ANWR case to 1.43 million barrels per day in the high resource ANWR case (Table 1A). In 2020, ANWR is projected to increase U.S. oil production by 8.9 percent in the low resource case, compared to 25.4 percent in the high resource case, compared to the Annual Energy Outlook 2002 (AEO2002) reference case.

The size of the resource assumed to be in ANWR also has an effect on petroleum import reductions. The larger the ANWR resource base, the greater is the reduction in petroleum imports. In 2020, the reduction in net imports of crude oil and petroleum products is projected to range from 450,000 barrels per day in the low ANWR resource case to 1.39 million barrels per day in the high ANWR resource case, compared to the AEO2002 reference case. More than 80 percent of the import reduction is from lower imports of crude oil, as opposed to product imports.

When combined with a high world oil price path, the opening of ANWR has a similar impact on oil import reductions to the opening of ANWR in a reference case (Table 2A). In the high world oil price cases with mean and high ANWR resources, import reductions in 2020 range from 780,000 to 1.32 million barrels per day more than the high world oil price case without ANWR. In the high ANWR resource case with high world oil prices, oil consumption is reduced by half a million barrels per day and about 70 percent of the import reduction is from lower imports of crude oil.

Reductions in expenditures on imported crude oil and petroleum products range from $5.7 to $16.0 billion compared to the reference case in 2020, depending on the amount of resource in ANWR (in 2000 dollars). Like the volume changes, more than 80 percent of the reduction comes from lower crude oil imports. In the cases which assume the opening of ANWR and high world oil prices, expenditures on oil imports are $11.2 billion to $18.3 billion lower than the high world oil price case without ANWR. The impact on expenditures is greater in the high world oil price cases, because of higher oil prices.

Mr. BOND. They take a look at the estimates for oil produced at ANWR. And obviously, since it hasn't been drilled, we can only estimate. If it is not there, they won't drill. So this effort is all in vain, but I believe our U.S. Geological Survey and the other scientific experts have a pretty good idea.

On average, if you take in the high and the low, U.S. Geological Survey says there would be an increase of domestic production by about 14 percent. If you assume the high case, there could be an increase of 25 percent of domestic production. And when you have this kind of production, this is what it means for us.

People say that is not much oil. In Missouri, 71 years of consumption could be sustained by that; or Connecticut, 132 years; Minnesota, 85 years. To say that is not significant misses the picture very badly.

What would be our dependence upon foreign oil? Well, without ANWR in 2020, the energy outlook is that 66.7 percent of our crude oil would come in from abroad. If you take the medium case, the medium production case, it would drop that to 62.2 percent. That is a 5-percent or 4-percent reduction. If it is the high case, it would go down to 58.7 percent, an 8-percent decline.

Those percentages make a huge difference. They make the difference between whether we have a situation where we can manage it in tight consumption or whether we are up against the wall.

The 1.5-million-acre Coastal Plain, called the 1002 area, of the 19.6-million-acre Arctic National Wildlife Refuge, is one of the best places to look for the oil that America needs. When large chunks of Alaska were set aside in 1980, they saved a small 1.5-million-acre Coastal Plain out of 19.6 million acres. Why did they save it?

Well, we have the letter of July 3, 1980, from Senator Hatfield and Chairman Henry Jackson. They were right when they wrote this in 1980. They said:

> One-third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Action such as preventing even the exploration of the Arctic Wildlife Range, a ban sought by one amendment, is an ostrich-like approach that ill-serves our nation in this time of energy crisis.

"Ostrich-like approach," those are the words of Chairman Jackson. He said: This is an energy issue. It is a national defense issue. It is an economic issue. It is not just an easy vote you can throw away and get some greenie points. Chairman Jackson concluded:

> It is a compelling national issue which demands the balanced solutions crafted by the Energy and Natural Resources Committee.

The only regret I have today is that the Energy and Natural Resources Committee did not have an opportunity to craft a bill because I am confident that they know the energy situation. And they would have said that this is a necessary step.

The Energy Department said: The Coastal Plain is the largest unexplored, potentially productive onshore basin in the United States. The USGS estimates there are up to 16 billion barrels of recoverable oil, enough to offset Saudi imports for 30 years.

The 1002 area is not a beautiful piece of America. Congress set it aside for oil exploration. The people who talk about this give these word pictures of a magnificent forest. I don't think they have been there. When I go back home, I ask anybody: Have you been to the North Slope? Do you know what it looks like?

They tell me: No.

I kid my colleagues from Oklahoma that it is as attractive as a frozen Oklahoma. Nobody I know has refused to drill for oil in Oklahoma because of its pristine beauty. I have been there. I have swatted away the mosquitos.

This is what it looks like in the winter. My good friend, the senior Senator from Alaska, refers to it as the proverbial Hades. It is quite a few degrees colder.

When I have been there in the middle of July, it has gone up to 38 or 39 degrees, and there are those hardy souls who work out there in shirt sleeves, 39 degrees, because it is a heat wave.

This is the best we can show you. This is what the 1002 area looks like. That is Kaktovik in the background. Look at this magnificent beautiful piece of Alaska. Look a little flat? Look a little same? It is. But it has its own beauty. It really does.

One of the beauties is it has caribou and wildlife and birds, and they thrive up there. Here is a picture of drilling in Prudhoe Bay. This is Prudhoe Bay. If you can't see very well what it is, all these are caribou. The caribou herds thrive. The drilling does put permanent structures in there. But the temporary rock and gravel roads make a great place for caribou to calve. And the birds are there and the other wildlife is there.

Somebody said we are going to destroy this great swath, this beautiful natural reserve in Alaska. Are we talking about the same thing? We are talking about 2,000 acres, roughly 3 square miles, out of the Coastal Plain of 30,600 square miles. That is less than the size of Dulles Airport and the State of South Carolina. It is 3 square miles out of 30,600 square miles. This was in the area consciously set aside, on a bipartisan basis, because Chairman Jackson and the people on the Energy Committee then realized that this was where we were going to have to get our natural resources.

What would happen if we drilled and they found oil? It would mean 700,000 jobs would be created across the United States—not from a Government make-work program, but from private investment.

Wildlife habitat will be protected under the world's strictest and most environmental standards. To drill out there, you have to take all the equipment in, in the midwinter on ice roads, when it is 100 to 200 degrees below zero. That is so cold that I cannot even think about it. But you do that so you don't disrupt the land.

The caribou herd in and near Prudhoe Bay's oilfield is five times larger than when development began. It is five times larger. Prudhoe Bay is producing 20 percent of our Nation's oil production.

Now, let me say one other thing. As a result of my personal visit up there, the people who live there, the indigenous people, the Native Alaskans, the people who live in the region, they understand that this is the way they can improve their lives. They can make a positive economic contribution to the welfare of this Nation and benefit from it. They begged us to allow them to go ahead and develop a resource that will not interfere with their fishing and their hunting and the wildlife around them.

I heard it said that it would be 10 years before we got any oil. Well, it depends on how much Congress delays it, how many lawsuits. Perhaps as soon as 3 years after the first lease sale. There has already been discovery on State lands of an oilfield that extends under the Coastal Plain. We know it is there, just not how much. If the Congress were serious about it and we said we want to develop this in an environmentally sound manner and do it quickly, we could get it online.

Contrary to a myth that many on the other side have spread, and as my friends from Alaska pointed out, we are not exporting the North Slope oil. None has been exported since May 2000. The average well at Prudhoe Bay produces over 550 barrels per day, more than 45 times the 12.5 barrels of oil produced per day by the average oil well in the United States. If the oil in ANWR is locked up, a lot of wells will have to be drilled to replace it, or we will be back in the situation in which we found ourselves several weeks ago.

By a very significant majority, 63 Members of this body, said we want to continue to be able to give American consumers the choice to drive SUVs, light pickup trucks, or vans. We ordered the Department of Transportation to use the best scientific and technological information available to push for increased oil and petroleum efficiency, gasoline combustion efficiency, and do everything we can to increase the efficiency. But don't force unrealistic standards that merely require us to move down to smaller and smaller cars until we are driving around in golf carts. If we are going to continue to supply the energy needs that my colleagues who voted with us on the CAFE amendment said we are going to need, we need the oil coming from ANWR. This is absolutely essential for our economy, for the sound development, the business of industry, and, most of all, to supply the transportation needs of our families.

For each dollar of crude oil and natural gas brought to the market, there will be $2.25 of economic activity generated through the economy. The actual impact of the ANWR oil could be anywhere from $270 billion to $780 billion. These are all good economic arguments. But this is not the only question.

Keeping the oil production in the United States means we are buying less oil from overseas. We keep our domestic dollars at home. These are U.S. dollars not going to foreign countries, with leaders who may be on a mission to destroy our entire existence.

If that was too subtle for some colleagues, let me explain it. Just last week, we watched Iraq announced a month-long oil export embargo to protest Israel's response to the terror campaign. Some argue that Iraq only produces 1.5 billion barrels a day, roughly 4 percent of world production. We are told Saddam Hussein is only supplying 8 percent of U.S. imports. It ought to be time that we tell the American people this country can not and should not maintain that level of dependence on Iraqi oil.

Last year, we paid Saddam Hussein $6.5 billion. Does that sound like good policy? Do the American people really want to continue any efforts to benefit a tyrant such as Saddam Hussein, who continues his reckless oppression of his own people while threatening the security of the world with the development of weapons of mass destruction?

Madam President, let me answer that question emphatically. The United States must not continue this type of dependence, resulting in billions of dollars going directly to one of this century's most demented and ruthless rulers. The time has come for the United States to develop its own ability to produce oil and petroleum so we don't have to depend on him.

I commend President Bush for his actions in the Middle East, and I fully support him in the efforts to defend our national security. If it should occur one of these days in the near term when the President, we would hope in consultation with this body, deems it necessary, for the protection of peace and safety in the world and our own security, that we take on Saddam Hussein and his tyrannical regime once again, we must not be held hostage by the fact that they are supplying us oil. Right now, they have us over the oil barrel when we have oil and petroleum products in the United States we can develop to maintain our security.

Drilling for oil in Alaska is not just a good, sound option, it is a necessity. We must decrease our dependence on foreign oil every way we can. As I said a couple weeks ago, the Senate wisely adopted reasonable, scientifically based mandates to increase our automobile fuel usage. The CAFE provisions mandate an increase in standards that will help reduce our dependence. We provide incentives for alternative fuels such as electric power, solar-powered vehicles, and other provisions that include the use of biodiesel in bus fleets and school bus systems.

Yes, we must have renewables. Last week, the Senate voted in opposition to an amendment by my colleagues from California and New York that would have undermined the renewable fuels standards. I applaud my colleagues for opposing that effort because renewable standards are one important part of our energy policy. We need to make every effort to decrease our dependence on foreign sources of oil.

I urge my colleagues in the strongest possible way to support the efforts of the Senators from Alaska. I have been there. I have gone with them to visit this region. I have seen the oil exploration underway. I have seen the wildlife running on those plains.

Madam President, when they finish, there will not be any signs of development, and it will still be a barren, mosquito-filled plain in the summer, with its natural attributes and an absolutely hideously cold winter, and the wildlife, the birds, and the fish that thrive up there will continue to thrive. We are not destroying anything.

Even if they were going in to burn and turn it upside down, we are talking about 2,000 acres—2,000 acres, just a little over 3 square miles out of 30,600 square miles. There is no way anybody can legitimately say we are going to No. 1, destroy anything, because we are not destroying it. It is not a pristine wilderness that will not survive the drilling. We have shown how it can be done, and we are only talking about a thumbnail size out of the entire area.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator's time has now expired.

Mr. BOND. Mr. President, I thank you for that good news, and I urge support. I ask my colleagues to support the Senators from Alaska.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I rise in support of the amendment that has been offered by Senator MURKOWSKI to allow for exploration in this area known as ANWR, the Arctic National Wildlife Refuge. Also, it is very reasonable to pursue what will happen with the funds we would get as a result of opening up this wildlife area. It is important that we look at this issue in the most serious way.

I just got off the phone with the President's National Security Adviser, Condoleezza Rice, talking about the situation in the Middle East. I appreciate the fact Secretary Powell has been there and has been meeting with the interested parties trying to make some progress in that very difficult situation. I am satisfied that we have a better feel now of what can be done, that progress was made in dealing with the situation on the northern border of Israel. But the fact is, we still have a very volatile situation in the Middle East, one that could cause disruptions in a number of ways from that region of the world.

The oil from Saudi Arabia comprises about 25 percent of the oil the world gets. We have had threats from Saddam Hussein. There is no question in my mind that he would use any tool of destructive capability he could find, including cutting off the oil that comes from Iraq.

I still agree very strongly with Senator MURKOWSKI that it is impossible to explain why we would be getting oil directly or indirectly from Iraq, refining it, and then sending it back to the region to be used in our planes to patrol the region to keep Saddam Hussein and the Iraqis under control.

The oil supply in the world is not in a stable situation. We saw this past week in Venezuela a change in Government, and then the former Government was back in place. This is a country we depend on. I believe the third largest amount of oil we get comes from Venezuela.

The point is, we are in danger. Our national security and our economic security could be threatened by the instability in the world, by the uncertainty or the unreliability of the sources of this oil and gas. If we start losing part of it or large portions of it, we could be in a very difficult situation very soon.

We need a national energy policy. We need additional production, and I predict today that if we do not take advantage of the oil we know exist in ANWR, in that northern extremity of Alaska, we will have some very bad situations evolve in the next few months, or in the next couple of years. I do not want to say I told you so, but when the gasoline prices go up, when supplies cause dislocation, when we have rolling brownouts, it will be traceable right back to this body and to this vote.

We need to understand this is for real. We need our own domestic energy supplies, and all the supplies that might be available. We should make better use and more use of nuclear power, but we have people who do not want nuclear power. They do not want to have a nuclear waste repository. We should make use of hydropower more, although in some areas there are people who do not want hydropower because it might adversely affect some species.

We need additional oil and gas, but yet we have people in America who do not want to have exploration off the east coast, the west coast, the gulf coast, and now in the northern part of Alaska.

We need to make greater use of coal. We can have clean coal technology that allows us to have the benefit of this source of energy without being a problem for the environment. Again, a lot of people oppose that.

What do they propose doing? How are we going to have the energy we need to fuel the growing economy we all want in America? I think we should do all of these things, and that is my problem with this bill. This bill has a lot of conservation incentives and alternative fuels. We have the tax bill that came out of the Finance Committee. There is a large amount of tax incentives for hybrid sales in automobiles, and to encourage getting these marginal wells back in usage. We have all of that in the bill but not what we need for energy production.

The point that is so critical to me—this map I am sure my colleagues and the American people have seen. The area we are talking about is an extremely small portion on the Arctic Ocean, and the people of the region and the Senators and Congressmen of the State want this to happen. We are being told we cannot do that.

We are being told by people from States in the furthest extremities of the eastern part of the United States: We do not think this should happen in this area.

Whatever happened to Senatorial courtesy and trust? For years as a Member of Congress in the House and Senate, I put my greatest reliance—although I reserve the right to make up my own mind—but I put an awful lot of reliance on the Senators and Congressmen from the States.

When I had the Congressman from North Dakota say to me and others: Yes, the Garrison Diversion is something we want—a lot of environmentalists said we should not have the Garrison Diversion—I took the word of then-Congressman, now-Senator DORGAN about the need for and the justification for the Garrison Diversion.

We have had lots of debates in years gone by about water supply in Arizona. I did not have a Mississippi dog in that fight. I did not know all the ramifications of the argument. Who did I rely on? I relied on the word of the Congressmen and the Senators and the people in the local region.

Why are we not doing that now? Two of the most effective, most respected Senators in this body, the Senators from Alaska, Mr. STEVENS and Mr. MURKOWSKI, are pleading with us to give them the opportunity to do this in a safe, reliable, affordable way in a very small region.

We have the letter from the Alaska Natives who live in this area asking us to support opening of ANWR, and basically pleading with us to give them an opportunity. The people who live in the region want it. They know it can be done safely. They know it can be done in a way that would benefit the people economically. I am really at a loss for words to explain why this should not be done.

There is a national movement of some kind by various groups saying we must not let this happen, but when it comes to dealing with energy independence, when it comes to dealing with the likes of dictators in Iraq such as Saddam Hussein, when it comes to creating new jobs, this is the thing to do. It is supported by labor unions. The people who would be involved in transporting the supplies, the people who would be involved in building the pipelines, they are for this.

For those who are worried about the environment, I have never seen a project that has stronger environmental rules that would have to be enforced than any project I know of, and they have narrowed the area. They have offered to put more land in pristine reservations. Everything possible has been done to make it possible for us in the United States to get the benefit of this exploration and this pipeline and the supply we would get from it.

So when we look at our current situation, relying on 60 percent foreign oil for our energy needs, when we look at the instability in the world, in several countries where we rely on the oil they produce, and then when we look at the benefits we get economically, and the jobs, this is legislation we clearly should pass.

An energy policy without ANWR is not complete. In my own case, I have spoken about the ability to explore in what is known as the Destin Dome in the Gulf of Mexico, close to where I live. I want it because we need it. I know it can be done in an environmentally safe way and in a way that will not be damaging to the fish in the Gulf of Mexico, and yet we had a tremendous debate in the Senate about opening up even a part of that area. Yet those of us who live there, the Senators from Alabama and Mississippi, although not the case with the Florida Senators, were saying: This can be done, and we need to do it.

I believe a map speaks a million words in explaining what is involved. So I thank Senator MURKOWSKI for his diligence. He has tried every way in the world to make sure the American people understand the importance of this, that they understand this could be done in a way that would benefit America with probably somewhere between half a million and 735,000 new jobs, that it would reduce our dependence on foreign oil.

Some people said if we started today, we would not get it online for months, perhaps years. Eventually we are going to have to do this. The time will come when America is going to have serious energy problems and we are going to have to go where we can get energy the quickest, and one of those places is this particular area on that northern slope of Alaska.

So I wanted to come and add my support for this effort. I do not know how in the world we can justify not being for this. I believe President Clinton vetoed this effort in 1995, and yet the Congress has passed this several times over the last 20 years. I believe that is correct information. We should do it once again.

I urge my colleagues, if they are undecided or if they have been leaning the other way, think about it again. The situation has changed. The need for this oil and the gas that might be involved has changed since this debate began. I would not want to be a Senator who voted no on this 6 months from now, because we could be having huge problems. This could be a vote that would haunt us forever. I do not mean that as a threat, I mean it as a plea. We need this.

The Senator from Louisiana and I are very closely situated to the Gulf of Mexico. We know we can get oil and gas with the technology now available. That technology is so sophisticated. one does not just take a potshot down and hope they hit. When they look at the charts, they know exactly where the little shelves are. They can go right to where the oil is.

Some of the best fishing I have ever experienced in my life was around the oil rigs off the coast of Louisiana, not far from the Chandelier Islands. I know the area. I have been there. I have not been to ANWR.

Senator MURKOWSKI and I will have to debate where fishing is the best. He has tried to take me to Alaska, but I said: "Isn't it very cold up there? Isn't it a pretty barren area?" I would rather go where there are palm trees or oil rigs already in place.

I say to my colleague from Alaska, I really appreciate the job he has done. I am going to work with him to the very last minute to see if we cannot do what is right, not just for the Senator from Alaska, not even just for Alaska. This is for America. If we are from some remote State, for us to say this little piece of 2,000 acres cannot be used to produce oil and gas is irresponsible, in my opinion, when you look at what we are faced with in terms of threats around the world.

I urge my colleagues to pass this. Let us get a good energy bill for the good of our country.

Mr. MURKOWSKI. Will the leader yield for a question?

Mr. LOTT. I am happy to yield.

Mr. MURKOWSKI. Does the leader know what the temperature is outside today?

Mr. LOTT. In Washington, DC, I think it is approaching 95. What is the temperature on the northern slope of Alaska?

Mr. MURKOWSKI. I was hoping the minority leader would respond by asking me a question. Having been there exactly a year ago today, with Senator BINGAMAN, who left his gloves at home and we had to find a pair of socks for him—we later found him a pair of gloves—and Gale Norton, Secretary of the Interior, it happened to be 77 below zero in Barrow. That gives some idea of the contrast between Washington, DC, and Alaska.

Mr. LOTT. In April it is still that cold?

Mr. MURKOWSKI. It was that particular day a year ago today. So I think that is a little reference to the harshness of the environment up there.

Mr. LOTT. Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KAKTOVIK INUPIAT CORPORATION,
Kaktovik, AK, April 17, 2002.

Hon. TOM DASCHLE,
Hon. TRENT LOTT,
U.S. Senate,
Washington, DC.

DEAR SENATORS DASCHLE AND LOTT: The people of Kaktovik, Alaska—Kaktovikmiut—are the only residents within the entire 19.6 million acres of the federally recognized boundaries of the Arctic National Wildlife Refuge (ANWR). Kaktovikmiut ask for your help in fulfilling our destiny as Inupiat Eskimos and Americans. We ask that you support reopening the Coastal Plain of ANWR to energy exploration.

Reopening the Coastal Plain will allow us access to our traditional lands. We are asking Congress to fulfill its promise to the Inupiat people and to all Americans: to evaluate the potential of the Coastal Plain.

In return, as land-owners of 92,160 acres of privately owned within the Coastal Plain of ANWR, the Kaktovik Inupiat Corporation promises to the Senate of the United States:

1. We will never use our abundant energy resources "as a weapon" against the United States, as Iraq, Iran, Libya and other foreign energy exporting nations have proposed.

2. We will not engage in supporting terrorism, terrorist States or any enemies of the United States;

3. We will neither hold telethons to raise money for, contribute money to, or in any other way support the slaughter of innocents at home or abroad;

4. We will continue to be loyal Alaskans and proud Americans who will be all the more proud of a government whose actions to reopen ANWR and our lands will prove it to be the best remaining hope for mankind on Earth; and

5. We will continue to pray for the United States, and ask God to bless our nation.

> We do not have much, Gentleman, except for the promises of the U.S. government that the settlement of our land claims against the United States would eventually lead to the control of our destiny by our people.
>
> In return we give our promises as listed above. We ask that you accept them from the grateful Inupiat Eskimo people of the North Slope of Alaska who are proud to be American.
>
> Most respectfully and sincerely,
>
> FENTON REXFORD,
> *President.*

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I wonder why they call it barren.

Mr. President, I am going to propound a unanimous consent request momentarily, but I do want to get the attention of the minority leader for 1 second. I am going to have my colleague and friend, JOHN ENSIGN, speak to Senator LOTT based upon the speech Senator LOTT just gave. When the Senator talked about senatorial courtesy and how we should give deference to what Senators from a State want, I want Senator ENSIGN to talk to Senator LOTT about Yucca Mountain because it would seem fair to me, using the analogy that has been stated for drilling in Alaska, the same should apply to Nevada. But we will see.

Mr. LOTT. Will the Senator yield?

Mr. REID. I will be happy to.

Mr. LOTT. I am always delighted to talk to Senator REID and Senator ENSIGN. I think maybe the RECORD will reflect in the past that I did listen very closely to some of his pleas. But we will have a chance to debate that another day.

Mr. REID. Mr. President, I have spoken to the two managers. I have visited with virtually everybody in the Chamber. The staff has visited with various other staff members. We have 11 Senators who have indicated a desire to speak on this matter, which works out so each side goes back and forth, and the time almost works out perfectly also.

I ask unanimous consent that Senator DURBIN be recognized for 20 minutes; following Senator DURBIN, that Senator BURNS be recognized for 15 minutes; following Senator BURNS, Senator CANTWELL be recognized for 15 minutes; next, Senator VOINOVICH for 20 minutes; Senator LANDRIEU for 30 minutes; Senator FEINGOLD for 20 minutes; Senator DOMENICI for 15 minutes; Senator DORGAN for 20 minutes; Senator CRAIG for 30 minutes; Senator GRAHAM for 30 minutes; and then Senator NICKLES is the last speaker who I have been told wishes to speak, and there would be no time limit on him.

Mr. MURKOWSKI. Reserving the right to object, I want to work with the majority whip. Senator STEVENS is going to want to speak and does not want to be limited to any time commitment.

Mr. REID. No problem.

Mr. MURKOWSKI. I am also going to reserve my right to extend my remarks. I do not want this list to exclude other Members who may be wanting to speak. In the interest of time, I am quite willing to proceed with the list as given, subject to the gentlemen and ladies who are in the Chamber currently looking for recognition.

Mr. REID. I also ask unanimous consent that following Senator NICKLES, Senator STABENOW be recognized for 10 minutes.

Mr. MURKOWSKI. It is the understanding, Mr. President, that we will go back and forth.

Mr. REID. The consent I propounded does that. The time works out quite closely, also.

Mr. MURKOWSKI. I reserve the right of Senator STEVENS to come in to this sequence if it is necessary. I assume Senator BINGAMAN will reserve that right for himself, as I will, and the majority leader would, as well.

Mr. REID. I certainly think the two managers of the bill should be able to say whatever they believe is appropriate during this debate. But so we have some understanding, until we get this agreement, there is no extended remarks of the two managers. We get this done and Members can speak as long as they wish.

Mr. MURKOWSKI. Reserving the right to object, I reserve that for Senator STEVENS because he is in a hearing and he may want to come back. I ask unanimous consent he be allowed to come into the sequence which would involve an interruption.

Mr. REID. I think that is fair.

Mr. MURKOWSKI. Senator BINGAMAN and I work well together.

Mr. REID. Mr. President, I again propound the request, with the exception of Senator STEVENS, who is involved elsewhere. If he wishes to speak, he will be allowed to speak at the appropriate time for whatever time he desires.

Mr. MURKOWSKI. We would like to have a copy of the list because there are two lists working.

Mr. REID. We will get that to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, if I am not mistaken, I am the first Senator under the unanimous consent request. I thank the Senators from Nevada and Alaska.

This has turned out to be a historic debate about energy in that we have spent more time on it than any other issue I can remember since I have come to the Senate in the last 5 or 6 years. It is important we do spend the time, because if the issue is energy security and energy independence, we see on a daily basis why it is not only timely, but absolutely essential for our national security.

We followed the issues in the Middle East for many reasons. There are those who feel a special attachment to the nation of Israel and the alliance of the United States with that nation. There are those who follow it for many other reasons. Let's be honest. One of the reasons we consistently look to the Middle East is because it is a source of energy for the United States. We were involved in a war a little over 10 years ago, the Persian Gulf war, because of the invasion of Kuwait by Iraq. President Bush's father made it clear at the time this was about energy, about oil.

Time and again, the United States focuses its attention on the world because of our dependence on other countries for the oil and gas they send to our shores. It is an essential part of our economy, an essential part of our daily lives. We Americans are very happy and comfortable with our automobiles and trucks. We like that part of being in America. However, it has a price. It has a price not only in maintaining the vehicle but a price in terms of our relationship with the world.

The purpose of this energy bill is to talk about how we establish some energy independence and energy security, how we make the right decisions today so we can say to our kids and our grandchildren, in the year 2002, we took a look at the world and said: We will change a few things in the United States so we don't end up totally dependent on some foreign country for our energy, so that your life and your economy is going to be less dependent on what happens in Saudi Arabia or the gulf states or any other part of the world.

That is as noble an aspiration as could be asked for in political life. It generated, thanks to the leadership of Senator BINGAMAN of New Mexico, this lengthy tome of suggestions for change when it comes to energy in America. What is curious is the administration, President Bush, Vice President CHENEY, and others, came up with their own plan. That plan was fraught with controversy and political intrigue. At one point, we asked a very simple question of the administration: With whom did you meet? Which corporations and companies and associations did you meet with to draw up your energy plan for America's future?

To the surprise of this Senator, and many others, Vice President CHENEY basically said: That is none of your business. We are going to put together our plan and submit it to you. We hope you like it, but you don't have a right to know with whom we consulted.

In the meantime, the Government Accounting Office has taken the administration to court to produce the names of the people with whom they worked. A court in the District of Columbia ordered the disclosure of some of the names. To the surprise of virtually no one, the major groups that wrote the administration's policy were the oil and gas companies, the energy companies. They are the ones that put it together. Yes, there was an invitation for an environmental group to drop by and say, hello, have a sandwich, and leave, but the substantive work and the appointments were with the energy companies. It is reflected in the administration's approach.

Why are we debating the Arctic National Wildlife Refuge? Frankly, for reasons it is hard to explain, it is the centerpiece of the George W. Bush administration's energy plan for the future of America. We have spent more time talking about that tiny piece of real estate in Alaska than many other issues that do bear on the importance of energy security.

One would be led to believe, if one didn't know the facts, that if we could just drill in the Arctic National Wildlife Refuge, if we could scatter that Porcupine caribou herd, put up our pipeline and drill, America could breathe a sigh of relief. We finally found the oil we need for the next century.

Nothing could be further from the truth. That is why you have to ask yourself, if this is not the answer to our energy prayers, why are we spending so much time at this altar? We are spending more time debating the Arctic National Wildlife Refuge than many other critically important elements of our energy security.

It has a lot to do with the group that put together the administration's energy plan. Let's be honest. These oil companies own the rights to drill the oil. If they can get into this wildlife refuge, if they can drill, they will make some money out of it. It is part of business. It is a natural part of the free market economy. It isn't about energy security. It is about these oil companies and their rights to drill and make a profit.

Let me tell you what that means in real terms. Here is a report, not from a left-wing group but from the Energy Information Administration, part of the Department of Energy for the George W. Bush administration. Here is what they have said about the Arctic National Wildlife Refuge:

> Net imports are projected to supply 62 percent of all oil used in the United States by the year 2020. Opening the Arctic National Wildlife Refuge is estimated to reduce the percentage share of net imports to 60 percent.

So if we give to those oil companies the right to move into this wildlife refuge, the right to drill in territory and land which we have set aside and held sacred now for over 40 years, what does America get as part of the deal? A net reduction in our dependence on foreign oil by the year 2020 from 62 percent of all the oil we use to 60 percent. The estimates are all of the oil taken out of the Arctic National Wildlife Refuge over a 10-year period of time would amount to 6 months' worth of energy for the United States.

Why, then, if that is what we are talking about, is this the centerpiece of the administration's policy? It goes back to the point I made earlier. It is the centerpiece of their policy because the people who wrote the policy, the special interest groups that sat down and crafted the policy, have another agenda. It isn't energy security; it isn't energy independence. It is about profitability.

Look at the impact of ANWR on net imports. The green line is net imports with ANWR; the blue line is net imports otherwise. They are almost indistinguishable. The chart says the same thing that President Bush's Department of Energy has already said.

So we find ourselves in the position of debating this issue. When President Eisenhower created the Arctic National Wildlife Refuge—and I might remind people, President Eisenhower was not viewed as some radical environmentalist—he was following in a long line and a long tradition in America where Presidents of both political parties took a look at their heritage, America's lands, and said: There are certain things which we want to honor, respect, and not exploit.

They took a tiny piece of real estate in one of the most remote parts of America, in this new State of Alaska, and said: This piece we will protect as a wildlife refuge.

For over 40 years, President after President, Democrat and Republican, respected that—until today. Today we have an argument from this President and his supporters in Congress that it is time for us to move in and start to drill.

I suggest to my colleagues that the Arctic Coastal Plain we are discussing is a unique natural area, one of America's last frontiers. These precious lands will be part of our legacy for future generations. Before we cavalierly say to these oil companies: pull in the trucks, pull in the rigs, and start drilling, we ought to step back and reflect as to whether or not this is sensible or responsible. I do not believe it is.

In this energy policy we have brought to the floor, there are a lot of suggestions about reducing our dependence on foreign oil. There was one that came to the floor for debate and a vote a week or two ago which went to the heart of the issue. Of all the oil we import to the United States today from overseas, 46 percent of it goes for one purpose—to fuel our cars and trucks. That is right. Forty-six percent of all the oil coming to the United States goes to fuel our automobiles and trucks. That number is supposed to grow to almost 60 percent in a few years. In other words, our demands for more vehicles to be driven on the highway as we want is going to increase our dependence on foreign oil.

Doesn't it stand to reason that part of any responsible energy bill would talk about the fuel efficiency of the cars and trucks that we drive?

Not in the eyes of the Senate. We had a vote to put a new fuel efficiency standard on the books and it lost 62 to 38. The Big Three automakers and their supporters came to the Senate and said: We do not want you to improve the fuel efficiency and fuel economy of vehicles in America.

The Senate said: You are right. We are not going to touch it.

Why is that significant? It is significant for this reason. Look at what would happen here in terms of the billions of barrels of oil we would have saved just by increasing the fuel efficiency of cars and trucks in America. If we had gone up to 36 miles a gallon by 2015, with 10-percent trading of credits back and forth, the red line shows we would be saving somewhere in the range of 14 billion barrels of oil cumulative; at 35 miles per gallon, you see the blue line is higher because it is at an earlier date that it is implemented.

You have to scroll down here, if you are following this, and look down low and see what the ANWR means in comparison. It is this line here at the bottom, barely over 2 billion barrels of oil in the entire history of drilling in the Arctic National Wildlife Refuge.

This Senate rejected real savings when it came to fuel efficiency and fuel economy. We rejected that. We rejected it, incidentally, because the Big Three in Detroit and their lobbyists in Washington effectively lobbied the Senate.

But today we are being asked to go ahead and drill in the Arctic National Wildlife Refuge, a refuge that has been set aside for 40 years, and we know it doesn't even hold a candle to the savings enhanced fuel efficiency would generate in terms of our energy dependence.

The lesson and the moral to the story is there are a lot more lobbyists for the oil companies than there are for the Porcupine caribou that live in the Arctic National Wildlife Refuge. That is the bottom line. There are not a lot of people out there with antlers, waiting in the lobby, but there are a lot of folks with Gucci loafers on, and they are waiting to tell us: Don't touch the Big Three when it comes to the fuel efficiency of vehicles.

I think it is shameful to think that between 1975 and 1985 we passed a law that doubled the fuel efficiency of cars to a level of about 28 miles per gallon, and that we have not touched that issue for 17 years. That tells me we have been derelict in our responsibility. If we really cared about America's independence and security, we would be focusing on fuel efficiency, fuel economy of the cars and trucks we drive. But this Senate walked away from it and said, no, we don't want any part of that debate. We are with the

Big Three. We are with the special interests. Instead, let's figure out how we can drill in the ANWR.

That is not the only thing we have ignored. Renewable energy sources, what are those? Those are the ones that are not expended such as fossil fuels. Once you burn the tank of gas, it is gone into the atmosphere. We get the energy out of it and leave the pollution. Renewable energy sources, such as wind and solar energy and hydrogen cells and those sorts of things, fuel cells, all of those have the potential of environmentally friendly sources of energy. How much do we in the United States today rely on that kind of renewable energy to generate electricity? To the tune of about 4 percent of our total, about 4 percent.

Some of us said: Why don't we take on, as a challenge to America, increasing our dependence on renewable environmentally friendly energy sources such as wind power and solar power and fuel cells and hydrogen power? Let's increase the renewable portfolio standard to 20 percent over a 20-year period of time. Senator JEFFORDS of Vermont offered that. I cosponsored it. It is not an unrealistic goal. The State of California currently relies on renewable energy sources for more than 10 percent of its electricity.

We can, as a nation, do it, reduce dependence on foreign energy. But this Senate said no because the oil companies, the special interests out in the lobby, in their three-piece suits, said: No, we are not interested in that. We don't own the wind. We don't own the Sun. We own the oil. We own the gas. Stay dependent on that, America.

So we have a modest goal of increasing our use of renewable energy from 4 percent to 8 or 10 percent. At a time when we are dealing with an energy bill, I think we are suffering from anemia. We are afraid to step out and do what is necessary to make America less dependent on foreign fuel.

Drilling in the Arctic National Wildlife Reserve is the answer to every lobbyist's prayer. But, honestly, it is not the answer to America's prayer. America is praying this Senate comes to its senses, that we understand we can make and must make bold and important decisions today. If we say to the Big Three, you have the wherewithal and the technology to produce a more fuel-efficient vehicle so we can still move our kids to soccer games and be safe on the road, they can do it. We issued that challenge before and they did it. They didn't like it. They resisted it.

In 1975, when we increased fuel efficiency, the Big Three said that was impossible. Double fuel economy in America? Let me tell you what is wrong with that idea: Technically impossible; the cars will be so small they will look like gocarts, they will not be safe, Americans won't drive them, and you are going to drive jobs overseas. That was the argument in 1975.

Guess what. We ignored them, passed the law, and none of those four things happened. By 1985, we doubled fuel economy and none of those things happened. So in the year 2002, when we get in the same debate about fuel efficiency, what did the Big Three say? Technically, it's really impossible, Senator, for us to improve fuel economy. The cars will be so tiny they will be like gocarts. People won't like them. They won't be safe. And people are going to buy cars from overseas. The same arguments, the same empty arguments. It shows an attitude of some of our manufacturers in this country which in a way is embarrassing.

Why is it when it comes to the new generation of vehicles on the road, the hybrid vehicles getting 50 or 60 miles a gallon, they all have Japanese nameplates on them? I don't get it. This is the greatest country in the world, with the strongest military in the world, the best schools in the world, the best engineers in the world. Yet when it comes to automobiles, we are satisfied with the bronze medal every day of the week. Frankly, the Senate has not stepped up to its responsibility in adding the provisions that are necessary to make sure our energy independence is established.

We want energy security but not at the expense of America's last frontier. If we are serious about energy security, we have to reduce oil consumption in the vehicles in our country. A comprehensive, balanced energy policy will provide for oil and gas development in environmentally responsible areas—not the Arctic National Wildlife Refuge.

We can establish conservation measures. We can cut down on our energy consumption. We owe that not only to ourselves but to our children.

As James E. Service, a retired vice admiral of the Navy, wrote in a recent Los Angeles Times op-ed:

> National security means more than protecting our people, our cities and our sovereignty. It also means protecting the wild places that make our nation special. Drilling the Arctic National Wildlife Refuge . . . just doesn't make good sense or good policy.

He said that on January 14 of this year.

But someone before him really set the tone for Congress to think about it. His bust is out in our lobby. His name was Teddy Roosevelt. As Vice President, he presided over this Senate. He is the one who really told America to be mindful of the heritage you leave. I quote him:

> It is not what we have that will make us a great nation; it is the way in which we use it.

Teddy said that almost 100 years ago. On this vote, we will find out whether the Senate remembers Roosevelt's advice to our Nation.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

Mr. BURNS. Mr. President, I think if we have learned one thing from this exercise on energy legislation, it is that we found trying to mark up a bill on the floor of the Senate is pretty difficult. I was reminded that back in 1992 we almost did the same. We didn't have quite the spirited committee action on energy, but we still got into the same kind of a bind when it came to the floor. Maybe it doesn't make a lot of difference.

I would like to remind my colleagues that today we should be talking about a policy we can shape to take us into the future. We are not only dealing with the acute situation we find ourselves in today, but where we want to be in 20, 30, 40, or 50 years from now. What do we do about new technologies, and which technologies are able to be developed in that time? That question indicates to me we have a great deal of flexibility to allow those new technologies to evolve and be used as soon as they are developed. Whatever we do in Government mandates, therefore we should make sure they are not frozen in place. We should allow those new ideas to grow.

Market forces will dictate more in the way of conservation than any mandate by the Federal Government has ever done.

Let me remind you that if gasoline goes to $2 a gallon, you are still spending more money for the water you buy in that filling station than you are for the gasoline. You will start looking for conservation practices in the things you do in your traveling habits.

Fossil fuel has been the primary fuel of our economy since the turn of the last century. For over 100 years it has served us well, and it could for the next hundred. However, it should not be the only fuel we use in our everyday lives.

New technology has moved us to unlimited use of renewables and different sources in the evolution of conservation technology and practice. We know the present conditions and situations. We should deal with them and decide what our policy will be after resolving this acute situation. The condition we find ourselves in today is about energy security. To those who would use the flimsy argument saying we should use less and produce less, I say there is another one that is acutely in our makeup; that is, energy security is economic security is national security. What direction that takes us in is very important. Our challenge should be that debating this bill will take us beyond that situation. The world condition is at hand, and it should be dealt with right now.

I have iterated many times that we are still dependent on fossil fuels. The switch from those fossil fuels is a process that will take a long time, and it will be very expensive.

What is at stake here? Let us look at the real facts instead of the misinformation that is floating around this town. Let me remind you that the American people know what is at stake, and they are not comfortable with the facts they are given. They are equally uncomfortable with what is happening on the floor of this Senate.

I have one simple question: Why are we importing oil from Iraq? Agreed, they are allowed to sell oil under the U.N. resolution. The income derived from those sales is to be used to buy food and medical supplies for the citizens of Iraq. If Saddam Hussein sells us anywhere from 650,000 to 850,000 barrels of oil a day, and also sells some oil on the black market, what is he doing with that money? Where do you think it goes? I will tell you where it doesn't go. It doesn't go to the citizens of Iraq. He buys arms and technology to equip his army and support terrorist activities around the world. In fact, we are told that Iraq is paying $25,000 cash to any family who loses a suicide bomber. That is going way over the line.

From the Gulf, we import about 10.8 million barrels of oil a day, and 1.5 million barrels comes from Saudi Arabia. Nearly a million barrels come from Iraq.

Let us take a look at this tiny little spot called the Arctic National Wildlife Refuge. Keep in mind that when it was created, this little area was set aside for oil and gas exploration and production. That is the reason it was set aside—not the whole Arctic Plain, but just that little footprint of 2,000 acres or less.

Conservative estimates put the total production at about 1.35 million barrels a day. That would replace 55 years of oil from Iraq and 30 years of oil imports from Saudi Arabia.

The reserves in ANWR are estimated to be 10 billion barrels. That is a conservative estimate.

Remember how we underestimated Prudhoe Bay. It has produced nearly 20 percent of our domestic production in the last 25 years.

Since 1973, domestic production has decreased by 57 percent. We are only producing about 8 million barrels a day, and we are using 19 million barrels a day.

Anybody who doesn't understand that didn't take basic math in the same grade school where I went to school, which is a little country school.

We hear every day on the floor of the Senate that we should be concerned about our balance of payments. We should be concerned about it. Last year alone, we sent $4.5 billion to Saddam Hussein's Iraq for his oil.

As I said, energy security is economic security is national security.

This has a job impact. We heard all kinds of estimates. But we know this won't happen without the effort of labor. Yesterday, if you had stood with the heart and soul of the labor folks in this country and heard their arguments that this should happen, then you would understand why the Nation supports the development and exploration of this tiny spot.

We have people living in Montana who work on the North Slope. We have had since the first day they started production up there. They jump on airplanes, spend a couple of weeks, and come home for a week. It is important to my state. If Prudhoe were built today, the footprint would be around 1,500 acres—64 percent smaller than it is. ANWR will impact 2,000 acres out of 1.5 million acres on the Coastal Plain.

I have been up there. I have seen the Porcupine caribou herd. It has grown about three times in size during the last 20 years. That is where they calve. They don't stay there all winter. They are a migrating herd. Nothing has kept them from migrating. The people who live in that area depend on that herd. That is a source of food supply for them. When they migrate, that is when they get their winter stores. They don't have grocery stores like we have down here. They don't want anything to happen to that herd. I don't think they are going to mislead us on how that herd will be impacted.

Oil and gas production and wildlife have successfully coexisted in the Alaskan Arctic for over 30 years. The figures bear that out.

Despite what is told and the misinformation that flies around here, the folks on the Coastal Plain support this by 75 percent. They understand what the revenue does. They understand that it provides a government service which is demanded by them. That is even taking into account the money that it pumps into the National Treasury. Anybody on the Budget Committee around here would understand that also.

I know how this impacts a State represented by two Senators who have stood in this Chamber and have fought for their people every day. It is like us going to southern Illinois and saying: You can't have any more oil production down there. But they can't say it because there are no public lands. But in Alaska there are, and that is the difference. Withdrawal of public lands from any exploration of natural gas in the States of Montana, Wyoming, Colorado, and some in New Mexico, has cost the American people 137 trillion cubic feet of natural gas. And that is going to be the fuel that produces the electricity of the future. We think it is for "the environment," when it could be lifted, produced, and moved with hardly a disturbance to any of the surface of our land.

And, yes, you are going to see natural gas turn up as a transportation fuel.

What we are doing in this argument defies common sense. These are the facts. They should not take away from our investment into new technologies and our determination for conservation. I will not let anybody else redefine the word "conservation" because it is defined as a wise use of a resource. We should move forward on R&D into new technologies. Even coal—and Montana is the "Saudi Arabia" of the coal reserves in this country—it is there, it is handy, it is affordable, and it is ready for use.

Our investment in fuel cell technology will be an important part of our energy mix, and we should not depart from its development. I will tell you what fuel cells do. Fuel cells are to the electric industry what the wireless telephone is to the communications industry. They are safe, clean, and now we have a chance to make it affordable. We should continue our work in that area.

But, in the meantime, let's do what common sense tells us to do: Let's use that little footprint afforded to this country for the production of energy because energy security is economic security, is national security.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, seeing no other Senator seeking recognition, I would like to take just a few minutes to share with you a chart that has already been identified on a couple of occasions but I think needs a little further identification.

As I show you on this map what happened to Alaska in 1980. The ANILCA land law was passed, and our State was, in effect, gerrymandered by Congress.

I want you to look at all those stripes across an area that is one-fifth the size of the United States because it is entirely the Tongass—this area in southeastern Alaska where our capital, Juneau, is located—Ketchikan, our fifth largest city; Wrangell; Petersburg; Sitka; Haines; Skagway—this is a national forest. There are 16 million acres in that national forest. The only thing they forgot is people lived in the forest. The communities were there. The assumption was that there would be no real justification for the State selecting land there. It was not even an issue in statehood in 1959.

The reason it was not an issue is there was an assumed trust between the people of Alaska and the Congress of this country that those people could live in that forest, they could make a living off the renewability of the resources, the fish and the timber.

Previous to statehood, the Department of Interior ran the fisheries resources of Alaska. They did a deplorable job. They figured that one size fits all. We actually had our fishermen on self-imposed limits.

My point in showing you this detail is this is what happened to Alaska.

Rather than have a resource inventory of those areas that had the capability for minerals, oil and gas, timber, and fish, there was an arbitrary decision made. It was a cut deal by President Carter. As a consequence, these areas of Alaska were withdrawn. They are wilderness or refuges or sanctuaries, but they were all withdrawn from development.

I want you to take a closer look at the map because here is where the real influence of America's extreme environmental community entered into this national effort.

You notice here on the map, clear across where the Arctic area comes into play, this is the general area of the Arctic Circle. There is only a little tiny white spot that was left for access, if you will. And the access we have from the Arctic, from Prudhoe Bay, is through that little area where we have this red line, which is the pipeline that brings 20 percent of America's total crude oil to market in Valdez.

They tried to gerrymander, if you will, the designation of land in this State by closing access. We have this huge area out by Kotzebue that is mineralized. They closed that off. This did not happen by accident. This was a cut-and-dry deal in 1980. Now we are living with it today.

I recognize my good friend from Ohio is in the Chamber, so I will be very brief in making this point because I am going to be making several points throughout the remainder of the day.

We have heard quotes from Theodore Roosevelt by some of the speakers. I would like to ask just for a brief reflection on another quote in 1910. Theodore Roosevelt said:

> Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land, but I do not recognize the right to waste them or to rob, by wasteful use, the generations that come after.

Let's look briefly at the record. I am referring to the administration of Jimmy Carter in 1980, and the Alaska National Interest Lands Conservation Act. I quote from President Carter's remarks on signing H.R. 39 into law, December 2, 1980. I quote former President Carter:

> This act of Congress reaffirms our commitment to the environment. It strikes a balance between protecting areas of great beauty and value and allowing development of Alaska's vital oil and gas and mineral and timber resources.

Our timber resources are totally tied up. We do not have the availability of developing them. As a matter of fact, there is more wood cut for firewood in the State of New York than we cut commercially. We have lost our pulp mills under the previous administration. We have lost our saw mills.

So as President Carter indicated, it allows development of "Alaska's vital oil and gas and mineral and timber resources." It is a promise that has been broken. He further states:

> A hundred percent of the offshore areas and 95 percent of the potentially productive oil and mineral areas will be available for exploration or for drilling.

I can tell you, you cannot get a permit offshore, you cannot get a permit on the Arctic Ocean to drill today. Go down to the Department of Interior and try it.

Lastly, I am going to refer to that same meeting, December 2, 1980, and the remarks of Representative Udall of Arizona.

His conclusion was:

> I'm joyous. I'm glad today for the people of Alaska. They can get on with building a great State. They're a great people. And this matter is settled and put to rest, and the development of Alaska can go forward with balance.

That is a pretty strong statement. The citizens of the territory of Alaska bought that. Of course, we were a State at that time in 1980. We bought it, we believed that we could get on with the development of our State. The ability to get on with the development of Alaska was the ability to penetrate the mentality of the Congress and any given administration on the right that we have, as American citizens, to develop our State.

We have been, for all practical purposes, eliminated. Because every time we want to do something, we have to cross Federal land. We don't even have access to our State capital. These were promises made to the people of Alaska. These were promises that have not been kept by the Federal Government.

As we debate the area, the 1002 and ANWR, again, I ask both Republicans and Democrats to recognize, it is not a wilderness. It has never been a wilderness. It is a refuge. The Senator from Louisiana has charts that show us what has happened in refuges. We have oil and gas exploration in them all the time.

This was reserved for Congress. Only Congress can open it. But for those who think it is an untouched, spectacular area, there are people who live up there. There is the village of Kaktovik.

Let's put this discussion in real terms. We are fighting for the rights we thought we had obtained when we became a State, the right to responsibly develop the State. This chart shows oil and gas production in refuges around this country. Don't tell me that somehow we are doing something wrong by trying to open a refuge in the Arctic.

We will have a lot more to say about this. I did want to address the inconsistency and the broken promises that have been made and the fact that our small delegation, Senator STEVENS and I and Representative YOUNG, feel very strongly, as do the residents of Alaska, that this trust has been broken.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today in support of permitting oil exploration in the Alaska National Wildlife Refuge. Permitting oil production in ANWR will help ensure that the United States is better able to meet our growing energy needs in an environmentally sound manner, create and retain hundreds of thousands of jobs, boost our domestic economy, and protect our national security.

America's need to continue to fuel our economic recovery and guarantee future success will require us to produce ever greater amounts of energy to keep up with the demand.

You can see from this chart, according to the Department of Energy, we have a huge gap between our domestic energy production and our overall energy consumption right now. What's more, between now and 2020, we will have to increase energy production by more than 30 percent just to keep up with growing demand.

This looming energy crisis requires us to enact a comprehensive energy policy, the likes of which we have never had before in this country: a policy that harmonizes energy and environmental policies, acknowledging that the economy and the environment are vitally intertwined; a policy that won't cause prices to spike, hurting the elderly, the disabled and low-income families as we experienced in the winter of 2000–2001, particularly in the Midwest; a policy that won't cripple the engines of commerce that fund the research that will yield future environmental protection technologies, technologies that can be shared with developing nations that currently face severe environmental crises; and, most importantly, a policy that protects our national security and prevents market volatility by increasing domestic energy production.

The current situation in the Middle East and the resulting price increases we have seen at the pump give us a taste of how badly we need an energy policy and how much we need to turn towards domestic sources to meet that goal. However, as we rely on our own strengths for the answers to the coming energy crisis and though we are blessed with large reserves of oil, natural gas, coal, nuclear fuel, as well as access to renewable sources of energy, we must remember that no single source of domestic energy is sufficient to meet all our Nation's energy needs. That means we have to broaden our base of energy sources and not put all our eggs in one basket.

If we were some other nation, diversifying our energy supply might be a great challenge, but God has blessed the United States of America with resources to solve this problem. Conservation has proven successful in reducing energy demand. So often people say: We aren't doing enough to conserve. We are. By incorporating technology breakthroughs into the production of energy-efficient automobiles, high-efficiency homes, more efficient appliances and machinery, conservation has succeeded in saving us millions of dollars while simultaneously improving our environment.

Let's look at this chart. According to the 1995 DOE report, the most recent data available, from 1972 to 1991 the United States saved more than $2.5 trillion through conservation. That is a lot of foreign oil that we didn't have to buy. It is safe to say that we have saved much more money since then, underscoring that conservation efforts deserve our continued attention.

We currently rely very little on renewable sources of energy. In fact, wind and solar together make up less than one-tenth of 1 percent of our current total energy production. Additionally, they are expensive and heavily subsidized. In fact, the average cost per kilowatt hour of electricity from a newly installed windmill is 5 cents compared to 2 cents per kilowatt from a coal-fired facility.

On top of this, wind and solar cannot be stored, creating reliability problems and making it difficult to spread our costs out predictably over time.

Currently, total renewables production, which includes geothermal, solar, wind, hydro and biomass, reaches only 8 percent of our overall domestic energy production. We should work to increase that, however, since these forms of energy are environmentally friendly and because they can help reduce our reliance on foreign energy sources. However, we also must be realistic about our challenge. Because renewables make up such a small piece of our overall energy picture today, they don't have the capacity to meet our needs in the timeframe we are facing. A sudden, forced shift in these sources would severely strain their underdeveloped capacity, causing shortages and price spikes that would hurt our economy.

For example, the requirement in the Daschle bill that utilities generate 10 percent of their electricity from renewable sources of energy is estimated to increase the cost of electricity nationwide by 5 percent and a whole lot more in a State such as Ohio. Just as we develop new sources of electricity generation, we should continue to encourage development of new energy sources for transportation.

In the 1970s, the United States recognized the need for diverse energy supply by expanding the use of natural gas, coal, nuclear, hydropower, and other renewables, and decreasing the use of oil for non-transportation uses. In 1978, non-transportation uses of oil in this country accounted for almost 50 percent of our oil consumption. Today, these non-transportation uses account for about one-third of our oil consumption.

Though home heating oil use remains high in certain regions of the country, particularly in the Northeast, consumers have increasingly sought other sources such as natural gas to heat their home. In addition, oil-fired powerplants are virtually nonexistent today in the United States. Crude oil prices and policy priorities encouraged substituting oil with other fuels for our non-transportation needs, but oil products still make up 95 percent of the energy used for transportation in the United States.

This number will not decrease unless fuel cells and hybrid vehicles become more economically viable. But their day is coming. In fact, in a recent meeting I had with General Motors executives in Detroit, I was told that the company sees fuel cell technology becoming a viable power source in the next 10 to 15 years. We are talking reality. It is not science fiction to think that our children and grandchildren will see a time when the roads are traveled by cars that run on hydrogen and give off only water.

An amendment from the Finance Committee will help encourage the development of these new technologies, providing an estimated $2.1 billion in tax incentives for the use of alternative vehicles and alternative motor fuels.

We are doing a lot right now to try and move away from the use of oil in this country and bring down our demand for it through research, incentives, and many other things. Encouraging these new fuel sources is worthwhile, but until they become more widely adopted and cost effective, we will need to continue relying on oil to move people across town and across the country and to move raw materials and finished goods.

As I have mentioned, much of this oil comes from foreign sources. We must increasingly compete against other nations for this oil. As demand grows in response to the expanding world economy, the world economy is growing. For example, at one time, China produced enough oil to meet their domestic needs and still have some left over to export. Today, they import oil.

What if there was an opportunity in the United States to greatly reduce our dependence on foreign oil by using domestic sources of oil? Fortunately, with the amendment offered by Senator MURKOWSKI, we have that opportunity. For over 40 years, Congress has debated whether or not to develop the Arctic National Wildlife Refuge, or ANWR. Senator STEVENS' words yesterday were eloquent and very informative on the history of ANWR. I suggest that those who did not hear the Senator, take the time to read his remarks in the CONGRESSIONAL RECORD. His remarks should help them to make a better decision on this amendment.

As Senator STEVENS reminded us, this debate is about our national and economic security, but, sadly, the reality of ANWR has always been misconstrued and used as a political tool. I have to say, those who are opposed to allowing a small portion of ANWR to be used to help meet our energy needs have done an admirable job in trying to sway public opinion. Unfortunately, they have incorrectly painted this as a wholesale abandonment of the Alaskan wilderness.

Thus far, they have had vast success in muddying the facts. Today, though, I will make clear what ANWR is, what we are talking about, and what limited, precise oil exploration in ANWR means for our Nation.

Created in 1960, ANWR was expanded to 19 million acres in 1980 by the Alaska National Interest Land Conservation Act. While designating 8 million of the original acreage as wilderness, Congress treated the 1.5 million acres of ANWR's Coastal Plain very differently. I am sure Senator STEVENS may remind us again, but back in 1980 Congress debated the same subject. At that time, Mark Hatfield, the ranking minority member and Henry Jackson, Chairman of the Energy Committee, wrote a letter urging their colleagues to support exploration in ANWR because, and I quote:

> One-third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Actions such as preventing even the exploration of the Arctic Wildlife Range, a ban sought by one amendment, is an ostrich-like approach that ill-serves our Nation in this time of energy crisis.

They also said that the issue:

> . . . is not just an environmental issue, it is an energy issue. It is a national defense issue. It is an economic issue. It is not an easy vote for one constituency that affects only a remote, faraway area. It is a compelling national issue which demands the balanced solution crafted by the Energy and Natural Resources Committee.

I agree with the points raised in this letter. This is a national security issue as well as an economic security issue. When President Carter signed the Alaska National Interest Land Conservation Act in 1980, he stated this legislation:

> . . . strikes a balance between protecting areas of great beauty and value and allowing development of Alaska's vital oil and gas and mineral and timber resources.

Section 1002 of the Act mandated a study of the Coastal Plain, or 1002 area, and its resources. After almost 7 years of researching the wildlife and the impact of oil development, the study recommended full development and described the area as "the most outstanding petroleum exploration target in the onshore United States."

The report recommended full development of this area while also stating that it is the most biologically productive part of ANWR. This means that in

1987, when the report was issued, it was believed that proper environmental steps, combined with technology, which is now 15 years old, would not significantly harm the wildlife.

However, the report did say that if the entire area were leased and oil were found, then there would be major effects on the wildlife. But no one here is talking about that. We are talking about 2,000 acres for oil exploration—2,000 acres out of 1.5 million acres. That is less than one-half of 1 percent of the total area.

This is one of the biggest misrepresentations about this debate. The entire area of ANWR's Coastal Plain is about the size of the State of South Carolina. To the casual observer, he or she thinks drilling means drilling throughout the entire refuge, but it is really just a 2,000-acre site. That is about the size of Dulles International Airport. If you look at this map, you can see just how small the area is compared to the vast wilderness of the Alaska wilderness and ANWR.

The two major concerns of the ANWR debate—and the issues that divide the two sides—are the environment and oil. While we know a lot about the wildlife and impact of oil development, we only have estimates about oil because the prohibition on drilling prevents a definitive answer to the question.

We know that the central Arctic caribou herd has grown from 3,000, when development began at Prudhoe Bay, to as high as 23,000 caribou. We know that development on Prudhoe Bay, which was discovered in 1967, would be 64-percent smaller if built today. We know that a drill pad that would have been 65 acres in 1977 can be less than 9 acres today. We know that Alaskan oil companies now build temporary ice pads, roads, and airstrips instead of using gravel. We know that the pictures in the commercials and magazines refer to ANWR as "America's Serengeti." They must not be talking about the Coastal Plain, for this area is a winter wasteland, where temperatures regularly reach 70 degrees below zero for 9 months of the year, with 58 consecutive days of darkness.

We also know that the Coastal Plain is along the same geological trend as the productive Prudhoe Bay, and it is the largest unexplored, potentially productive onshore basin in the United States. But nobody knows for sure what is under there because we are prohibited from finding out.

In addition to the initial 1987 report, the Department of the Interior has issued assessments in 1991, 1995, and 1998 based on updated data from the U.S. Geological Survey. According to the USGS, it is estimated that the Coastal Plain holds between 5.7 billion and 16 billion barrels of recoverable oil, with an expectancy of about 10.3 billion barrels. The Coastal Plain can hold more than that, though. For example, the North Slope, was originally thought to contain 9 billion barrels of oil, but it has produced 13 billion barrels to date.

What if there isn't any oil? We know that technology is so advanced for Arctic drilling that there can be hardly, if any, environmental damage from exploratory drilling. For example, an exploratory well drilled in 1985 in the area adjacent to the Coastal Plain did not affect the wildlife. If the area does have as much oil as estimated, the benefit could be great. To put the numbers in perspective, Texas has proven reserves of 5.3 billion barrels. There is a 95-percent chance that ANWR will yield more oil than all of Texas and a 5-percent chance that there is three times as much oil as in Texas.

One of the half-truths being spread by those opposed to this amendment is that there is only 6 months of oil in the Coastal Plain. This is misleading because it assumes no other sources of oil—no imports, no other domestic supply—except from ANWR. The real truth is that, according to the Department of Energy, ANWR's oil supply would last between 30 to 60 years.

Last week, Iraq, one of the "axis of evil" nations, announced a suspension of oil exports. Iraq supplies more than 9 percent of the 8.6 million barrels of oil we import every day. It is a longstanding U.S. policy not to allow oil to be used as a political weapon. We cannot be held hostage to external interests or pressures. Iraq's embargo last week shows there are some countries that still think they can apply pressure in this manner.

I am not upset at the fact Iraq shut its spigot because I have little doubt we will make up whatever dropoff occurs from other sources. Frankly, I think it is incredible that we send $24 million a week and $4.5 billion a year to a nation that is clearly an enemy of the United States and over which our military flies regular combat missions. It doesn't make sense.

Iraq's action puts the embargo card back on the table as a weapon to try to shape American opinion and Government policy. Who is to say other leaders in the Middle East might not take the same step in the future? We know who they are today. But who are they going to be tomorrow, particularly in light of growing Muslim extremism. Some of my colleagues may say since all our oil does not come from the Middle East, we can look to other nations. That is true, and one such supplier, Venezuela, is currently undergoing political and labor strife which has a tremendous impact on its oil industry. Indeed, reports by Venezuela's Industrial Council earlier this week indicated that 80 percent of the country's oil industry has been shut down. When Chavez retook the Presidency, oil prices went up almost 5 percent out of fear he will keep a tight rein on the production volume.

It is not out of the question to say our Nation may once again face the long lines we experienced during the 1973 oil embargo. You would have thought we would have learned our lesson and worked to develop other oil. However, we have seen our oil imports rise from 35 percent in 1973, and we are now at 58 percent. We have made very little progress in achieving our energy independence in the nearly three decades since the 1973 embargo.

We had the chance to make significant progress in 1995 when the Senate approved exploratory drilling in ANWR. Unfortunately, President Clinton vetoed the bill. Had he not, the Energy Information Administration estimates that oil could have been flowing to us by as early as next year.

When ANWR is developed, the Energy Information Agency projects that peak production rates could range from 650,000 barrels to 1.9 million barrels per day. The lowest of this estimate would replace the 613,000 barrels per day we imported from Iraq in 2000. The highest estimate would replace 76 percent of the 2.5 million barrels a day we import from the Persian Gulf in 2000.

It is very simple: We need to break our dependence on unreliable foreign energy sources. If the enemies of America are willing to take out the World Trade Center and the Pentagon, does anybody doubt that if they had a chance to impact our energy supply, they would do it?

Shouldn't we be able to at least find out how much oil is in ANWR especially with this commonsense environmentally sensitive amendment? The amendment includes many environmental protections, such as seasonal limitations, reclamation of land to its prior condition, use of the best available technology—including ice roads, pads, and airstrips for exploration, and more.

Our dependency on foreign nations also threatens our economic security. Price shocks and manipulation from OPEC between 1979 to 1991 are estimated to have cost the U.S. economy about $4 trillion, while petroleum imports cost the United States more than $55 billion a year and account for over 50 percent of our trade deficit.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. VOINOVICH. I ask unanimous consent for 3 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 3 additional minutes.

Mr. VOINOVICH. Mr. President, development of the Coastal Plain will bring up to $350 billion into the U.S. economy and create up to 735,000 jobs at home. In my state of Ohio, the number of jobs created is estimated at 52,000 for the petroleum industry and 31,000 for other jobs, such as oilfield and pipeline equipment manufacturing, telecommunications and computers, and engineering, environmental and legal research. These are real jobs for the people in my State, in spite of the fact we are so far away from Alaska.

The economic impact for oil development in Alaska is not a surprise; we are experiencing it even today. It has meant a great deal to our State and to many other States.

I also wish to point out that we have the support of Alaska's citizens and elected officials. We have heard from both of Alaska's U.S. Senators. We have heard from the Inupiat Eskimos who live and own 92,000 acres of Coastal Plain. Twenty years ago, they were opposed to this, but now are for it.

We cannot continue to rely on unstable foreign sources to meet our energy needs. The events of September 11 made it clear who our enemies are, yet we continue to do business with them and support their terrorist activities by buying oil from them. We know we have the resources domestically to reduce our addiction to foreign oil. Now is the time to tap them.

This amendment is economically sound, it is environmentally responsible, and it responds to our long-term national security needs. It is my fervent hope that my colleagues will recognize these facts and support this amendment to allow for oil exploration in ANWR, just as they did in 1995 and 1980.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I ask unanimous consent to speak for 7 minutes prior to the Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 7 minutes.

Ms. CANTWELL. Mr. President, I rise today in opposition to this amendment, which would open up the Arctic National Wildlife Refuge to oil development. I believe drilling in ANWR is a short-term, environmentally unconscionable fix that fails to address our Nation's real malady: Our dependence not just on foreign oil, but our overdependence on oil itself.

I believe there is no way to justify drilling in ANWR in the name of national security. Oil extracted from the wildlife refuge would not reach refineries for 7 to 10 years and would never satisfy more than 2 percent of our Nation's oil demands at any one time.

Thus, it would have no discernable short-term or long-term impact on the price of fuel or our increasing dependence on OPEC imports. Put another way, the amount of economically recoverable oil would temporarily increase our domestic reserves by only one-third of 1 percent, which would not even make a significant dent in our imports, much less influence world prices by OPEC.

An "ANWR is the Answer" energy policy fails to recognize the fundamental truth: we cannot drill our way to energy independence.

The United States is home to only 3 percent of the world's known oil reserves, and unless we take steps necessary to increase the energy efficiency of our economy and, in particular, the transportation sector, this Nation's consumers will remain subject to the whims of the OPEC cartel. To suggest that drilling in the Arctic is the answer is to ignore the facts and creates a complacency that truly jeopardizes our economic and energy security.

Furthermore, I believe the recent U.S. Geological Survey report on the biological value of the Arctic National Wildlife Refuge Coastal Plain and the impacts of oil and gas development on resident species reinforces what many of us have argued from the beginning. Drilling in the Arctic represents a real and significant threat to a wide range of species including caribou, snow geese, musk oxen, and other wildlife. This report represents sound science. It was peer reviewed and summarizes more than 12 years of research.

In stark contrast, the Department of the Interior's recent release of a new two-page memo, which purports to examine the impacts of "more limited drilling" in 300,000 acres of ANWR, was prepared in 6 days. One report, 12 years of research; the other report, just 6 days.

Essentially, in this report the administration decided to dispute its own scientists and say drilling in ANWR was acceptable. I disagree with that.

Rather than drilling in ANWR, I believe our task is to craft a balanced policy that will permanently strengthen our national security and energy independence. We need an energy policy that endows America with a strong and independent 21st century energy system by recognizing fuel diversity, energy efficiency, the great assets that distributed generation will create in the future, and environmentally sound domestic production as a permanent solution to our Nation's enduring energy needs. We are making some progress on these goals within this bill.

Obviously, one of the most important provisions the Senate has thus far debated involves the expedited construction of a natural gas pipeline from Alaska's North Slope to the lower 48 States. There are at least 32 trillion cubic feet of natural gas in existing Alaskan fields, and building a pipeline to the continental United States would create thousands of jobs, provide a huge opportunity for the steel industry, and help prevent our Nation from becoming dependent on foreign natural gas, from many of the same Middle Eastern countries from which we import oil.

It is very important that we make this investment in new natural gas and in job development. Adopting energy efficient technologies can significantly advance our national and economic security. For example, a Department of Energy report, and these are amazing figures, but this Department of Energy report stated that automakers commonly use low-friction tires on new cars to help them comply with fuel economy standards. However, because there are no standards or efficiency labels for replacement tires, most consumers unwittingly purchase less efficient tires when the originals wear out, even though low-friction tires would only cost a few dollars more per tire and actually would save the average American driver about $100 worth of fuel over the 40,000 mile life of the tires.

Fully phased in, better replacement tires would cut gasoline consumption of all U.S. vehicles by about 3 percent, saving our Nation over 5 billion barrels of oil over the next 50 years, the same amount the U.S. Geological Survey says can be recovered from ANWR.

Unfortunately, I also believe we have thus far missed the single most important opportunity in this bill for truly enhancing our nation's energy security and minimizing our foreign oil dependence. That is, we have missed the opportunity to put in place real and meaningful CAFE standards, which would increase the efficiency of our Nation's vehicles and decrease our foreign oil dependence. I continue to believe the only way to permanently ensure our Nation's security is to look beyond 19th century policies that continue our country's reliance on extraction and combustion of fossil fuels.

Now is the time to launch the transition to a new, 21st century system of distributed generation based on renewable energy sources and environmentally responsible fuel cells. Imagine today if a significant portion of American homes and businesses produced their electricity from these renewables.

I think about the last crisis in the 1970s when our overdependence on foreign oil and high prices changed the dynamic in how many homes were heated with oil and made significant reductions. Our country needs to make those same changes today.

These are policies that will make our energy system truly secure and independent. I agree our national security depends in part on the United States becoming less dependent on foreign energy resources, and that we must develop more domestic supplies and a better balance of renewable energy that will also make us less dependent on nonrenewable fossil fuels. It would be a mistake to look at this ANWR debate in only one way, and to not invest in our country's new sources of energy. Therefore, I cannot support this amendment, and I urge my colleagues to oppose it in the name of national security, to move ahead onto new energy sources and a 21st century energy policy.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I ask unanimous consent to speak for 30 minutes as allocated under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, with all due respect to my dear friend and wonderful colleague from Washington, I rise to oppose the position she has outlined and to support the amendment by the Senator from Alaska. I think it is very important for us to spend time on this issue. One of the previous speakers said: Why would we spend so much time on this issue? Why would the Senate, all 100 Members of the greatest deliberative body in the world today, spend so much time on this issue?

The answer is because this is not a small matter. This is not an insignificant debate. This is not a minor point. This is a major point in the debate on the future of this Nation and in what our energy policy is going to look like and how we can strengthen and improve upon it.

It is said that beauty is in the eye of the beholder. But given what I have heard in this Chamber, I say that balance must be in the eyes of the beholder as well because those of us both for and against this amendment continue to say we are for a balanced policy. Yet we argue the different aspects of what balance really is. So I am going to give it one more shot by saying what I think balance is.

The Senators from Alaska have done a magnificent job of making clear that we are not for drilling everywhere; we support a balance.

When this area was created, the areas in dark yellow, light yellow and green, there was a balance in the creation of this piece of land, land that is as large as the State of South Carolina. Here we have a balance: part of a refuge set aside for wildlife of all kinds, and a small part where we could drill. Why would we want to drill here? Because it is the largest potential onshore oilfield in the entire United States. It is not a minor field. It has major resources of oil potentially, as well as gas. So a balance was struck. A deal of sorts was created.

We said let's set aside a huge piece of land for a refuge, for a wilderness area, and then let's set aside a part of it to drill.

The reason I feel so strongly about opening this section of ANWR to drilling—and it took me a while to come to this position because I have heard a lot of other arguments—is because of this precedent I feel this will set. If we overturn the original dual intent of ANWR and block all drilling there, where will we stop? Instead of adding to production in the United States, either on our shores or off of our shores, we keep taking places off of the map for production. We are not going in the right direction, and we need to change course. That is why this is so important.

I have said this 100 times. The Senator from Alaska has said it, the senior Senator from Louisiana did a magnificent job of saying it this morning, but let me also quote from a person we all respect—both Democrats and Republicans—Richard Holbrooke, whom we know well. I would say there would be no disagreement in this Chamber that this man is an expert in international relations and national security policy. I will read what he said in February this year:

> Our greatest single failure over the last 25 years—

Not one of our great failures, not something that we should have done a little better—

> was our failure to reduce our dependence on foreign oil—which would have reduced the leverage of Saudi Arabia.

Why does he say this? Because of headlines such as these: "Suicide Bomber Kills 6 as Powell's Talks Begin," "Chavez Reclaims Power in Venezuela," "Powell Meets Arafat, Makes Little Progress."

Mr. Holbrooke knows the uncertainty of the Middle East and we are all learning of the difficulties in Venezuela. He represented our country in the United Nations. He knows what it takes for America to be strong to get to the negotiating table free to make the best decisions we can. He knows our energy policy is in lockstep with our national security policy.

We have a chance to reverse course and not make the same mistake again. Let's have a balance.

Again, we have in ANWR the original intent to have some refuge area, some wilderness area, and some drilling area. Not all drilling. Not drilling everywhere, but where we can. An area for wildlife, for general recreation, and one for the bottom line, businesses, workers, companies, and our economy. This is balanced. Instead, we get no more drilling, a moratorium.

Let me show the other moratoria in the country. In addition to Alaska being taken off the map, we have—Democrats and Republicans are both guilty here—imposed moratoria along the entire east and west coasts of the United States. There are places in the interior States where, because of rules, regulations, slow permitting, lawsuits, and filings on behalf of certain groups, the production has slowed down, forcing us to continue to increase our imports, year after year. These imports do not always come from friendly nations, from nations that share our values, but sometimes from nations that are in direct opposition to U.S. foreign policy and the democratic values for which we stand.

My second point is, are we asking something of Alaska that we have not asked of other States? The senior Senator from Louisiana showed this chart, and Senator MURKOWSKI showed it earlier. It is worth showing again. We are only asking to allow drilling in the kind of places where other States are already allowing it. Drilling is taking place in nine refuges in Texas; 12 in Louisiana; 1 in Mississippi, 1 in Alabama. You can see the rest. These are ongoing drilling operations in refuges.

Someone in my office the other day, a great labor leader from Louisiana, asked: Senator, why are people against drilling? I was trying to explain. I said: Some people said this area is the last great place. He said: Would you tell them America is full of great places? Louisiana has great places.

I loved when he said, "America is full of great places." There are great places in all of our States. We will preserve them. We will fight to keep them wilderness when we can. But when we refuse to tap domestic sources of oil and gas that would help our Nation, help our economy, create jobs, and release us from our dangerous dependency on imported oil and gas, it just makes no sense to me.

We have been spending a lot of time on this issue because it is at the heart of the debate. We have a weak production policy and, I might say, a weak conservation policy. That is the wrong direction. We need to turn around and go the other way: Strong production and strong conservation. If we don't, I predict there will be a huge price to pay. We will pay it one way or another, either through the lives of servicemen, or through compromised foreign policy. Americans know this. There is no free lunch. We don't seem to know that inside the beltway, but working Americans of all stripes, of all political backgrounds, understand that. It is important. It is about balance. And we need it.

People say ANWR will not produce a lot of oil, that it will not come online for several years—and I agree it will take time. But there is enough oil, even using the lowest estimates, to replace the oil we get from Saudi Arabia for about 8 to 10, maybe 8 to 12 years.

Ask the American people, Would you like to drill on our own land, land that we control, land that we set regulations on, and that we can depend on, or do you want to continue to import oil from Saudi Arabia for 15 years? I don't think there would be many Americans who would choose the latter.

The third good reason is jobs. We continue to make decisions in this Congress that keep Americans from getting good paying jobs. Every time they want to apply for a job, there may as well be a sign that says: Congress doesn't think we should drill. So go look elsewhere for work.

I don't know about the Presiding Officer, but I have thousands of people in

Louisiana who want to work. I have heard Senators say 60,000 jobs doesn't matter. This Senator believes 60,000 jobs is a lot of jobs. We should allow more production, which will lead to more than 60,000 jobs. We should promote investments in conservation and alternative fuels. There are lots of jobs, in science and other high-end jobs, associated with alternative fuels. Why not have good jobs for both production and conservation? Why turn down these job-making opportunities when it is so important to produce jobs for people in Louisiana, for people in Alaska, for people in Delaware, for people in New Mexico? I don't understand it.

We can create good, skilled jobs, where people can make a very good living working 40 or 50 hours, overtime, onshore, offshore, whereby they can buy a home, contribute to their community, send their children to get an equal or better education than they did. I think it is very important.

The fourth reason we need to support drilling in ANWR besides the fact we need it, besides the fact it is balanced, besides the fact we are doing it in many other States in the same way we would be asking Alaska to contribute, besides the fact that it means thousands and thousands of good-paying jobs that people in America would like and need at this time, it is the right thing to do for our environment. I mean that sincerely. I know I said some things on the floor about some environmental organizations, and I believe their positions, with all due respect to the great work they have done, are leading this country in the wrong direction.

I work very well with environmental groups in Louisiana and many of our environmental groups around the Nation. But I will say it again: When we drill and extract resources in America, we can do it in the most environmentally sensitive way in the world. Why? Because we have the strictest rules and regulations.

Even the former executive director of the Sierra Club agrees, and he is on the record saying that by pushing production out of America, all we are doing is damaging the world's environment.

We have the best rules and the best laws. We have a free press and the ability, to punish those who pollute the environment.

That does not happen in other places around the world, places without the same confidence in the law that we can have here in the United States. So the pro-environmental position—and I mean this sincerely—is to drill and explore and extract resources where we can watch it, where we can control it and where we can make sure it is done correctly.

If I am wrong I would like someone to come to the floor and tell me: Senator, you are not thinking clearly about this.

Apart from the many troubled parts of the world where production is taking place, I don't know where else we would drill. And the saddest part of that to me, or the most hypocritical part of that to me, is that we consume more than everyone else. If we were not consuming that much, I would say fine. But we go to poorer countries with less infrastructure, fewer rules, and weaker laws and enforcement, not because they need the oil but because we need it. And we degrade the environment and support illegitimate regimes because we will not drill in our own country. I do not understand it.

I will make another point about Louisiana. I have heard some of my colleagues come to the floor and say: I will not drill in ANWR, but boy I will come drill in the Gulf of Mexico.

I want to show the map of these States that are net producers of energy. There are only a few of us. There are only 15. There are only 15 States in the entire country, just 15, that produce at least 50 percent of the energy they consume. You can see the States represented here.

We love all of our States, wish them all well, and we are all part of this great Union, but the red States on this chart produce less than half the energy they consume, which means they do not produce oil, they do not produce gas, they do not produce nuclear, they do not produce wind, solar, or hydro, but they want their lights to come on whenever they want and they want to power their businesses and industries.

Nobody can look at this map and say this is fair. I know there are products produced in some States that other States do not produce. I am clear. But there are no moratoria on growing corn, no moratoria on growing cotton. People are not opposed to that or think it harms the environment to grow corn or grow wheat. But we have a policy growing in this country that we do not want to produce anything but we want to continue to consume.

I am for strong conservation measures. I voted against the proposal to reduce CAFE standards, not because I don't agree with the goal, but because the method was wrong. It would have cost too many jobs in my State. There is a better way to get there. I would vote for even more stringent measures but not that particular measure.

There are strong conservation measures that I and many Members support. But this attitude has to change. We have to have an attitude among all of these States that you either reduce your consumption significantly or you decide how to produce the energy. You have your choice. You can produce it any way you want. But what you cannot do is sit on the sideline, complain and complain, prevent other States from drilling, and then just continue to consume.

I have an amendment. I am thinking about offering this. I hope people who vote against ANWR will think about ways we can encourage our States, in a fair way, to make their own choices about how they would like to generate more energy or consume less, and to put it in balance, so our Nation can truly achieve energy independence. I hope we can do that.

Let me show one more chart. This is the Gulf of Mexico. You can see the red areas here where there is active drilling. We have been doing this now for 50 years. We have made some mistakes. I am the first one to admit it. We didn't know all the things that we know now back in the 1940s and 1950s.

We did not have the science and the technology. But we have made tremendous progress, and we in Louisiana are happy to produce hundreds of millions of barrels of oil and gas, and host pipelines that light up the Midwest and New York and California. We want to do it. We are proud of the industry, and we are getting better and better at it every day.

But it is grossly unfair for our State, and Mississippi and Alabama and Texas, to bear the brunt of this production when other States don't want to produce. Then, to pour salt on the wound, we get no portion of the revenues that are generated. Taxpayers may not realize this, but the royalties that come into the Treasury every time you produce a natural resource can keep our personal income taxes lower.

When we do not drill, royalties do not come into the Treasury, so taxes have to go up to support Government. So a fifth really good reason to explore natural resources is so we can bring money into the Treasury, again in a very balanced approach, and keep taxes minimal for taxpayers.

However, all that money that goes to the Federal Treasury right now, from production in Louisiana, Texas, Mississippi, and Alabama, is not shared with those States. Since 1950, we sent $120 billion to the Federal Treasury. Louisiana, which has produced the lion's share of the offshore production for the whole Nation, has not received a penny.

This is a true story. I know my time is almost to the end, but I am going to end with a couple of points on this. Two years ago the mayor of Grande Isle, a tiny little place down here at the foot of Louisiana, told me of a lot of their unique problems.

The mayor called me and said: Senator, I have a problem. I don't have a sewer system and a water system that is able to bring the fresh water that I need. I have children in school drinking rainwater out of a barrel, dipping a cup into a barrel, drinking the rainwater, because we do not have the right sewer and water system. Because it is a small town, they do not have the necessary resources. I was sitting in my office in Washington thinking about these children dipping that cup and drinking that rainwater. I know if they just looked up and out just a few miles they could see a rig, producing the Nation's oil and gas. The money it produces is not going to help them get a sewer system which they desperately need. It will not help these children get a road so that when it floods or the weather is bad they can get to school. That money is coming all the way up to Washington for us to spend on all the States in the Nation.

When I ask to have a sewer system for them, I have to come back, ask and plead for money from the budget to get the kids in Grande Isle a drinking water system. That isn't fair.

I will propose and will continue to propose that we have more drilling and that the communities that host drilling share in those revenues. We need infrastructure for the people and families living there, for the workers and the businesses that are participating, and for the associated environmental impacts, which can be minimal. Sometimes they are a little more challenging. But with good science and the old yankee ingenuity and southern ingenuity, we can get that done for the people of our State.

In conclusion, I have given five good reasons why this is so important.

Let me close by reading something out of the Atlantic Monthly, "The Tales of a Tyrant", written by Mark Bowden, author of "Black Hawk Down." We are familiar with the incident. Many of us have seen the movie. It is very riveting. I would like to read about the kind of people from whom we are getting our oil.

> Wearing his military uniform, he walked slowly to the lectern and stood behind two microphones, gesturing with a big cigar. His body and broad face seemed weighted down with sadness. There had been a betrayal, he said. A Syrian plot. There were traitors among them. Then Saddam took a seat, and Muhyi Abd al-Hussein Mashhadi, the secretary-general of the Command Council, appeared from behind a curtain to confess his own involvement in the putsch. He had been secretly arrested and tortured days before; now he spilled out dates, times, and places where the plotters had met. Then he started naming names. As he fingered members of the audience one by one, armed guards grabbed the accused and escorted them from the hall. When one man shouted that he was innocent, Saddam shouted back, "Itla! Itla!"—"Get out! Get out!" (Weeks later, after secret trials, Saddam had the mouths of the accused taped shut so that they could utter no troublesome last words before their firing squads.) When all of the sixty "traitors" had been removed, Saddam again took the podium and wiped tears from his eyes as he repeated the names of those who had betrayed him. Some in the audience, too, were crying—perhaps out of fear. This chilling performance had the desired effect. Everyone in the hall now understood exactly how things would work in Iraq from that day forward.

If we cannot get enough of the Senate to vote in favor of this amendment, in spite of articles like this, because of movies that we see, because of headlines like this, and the disruptions not only in the Mideast but in Venezuela, I don't know what will make the Members of this Senate decide that we must produce where we can produce. We can set aside lands where we can set aside land, create jobs for our people and security for our Nation.

I am giving the best I can give. I don't think we have the votes. But I submit this for the RECORD, and hope people will reconsider their positions.

Mr. BINGAMAN. Madam President, under the unanimous consent, I believe the Senator from Wisconsin is the next Senator to speak.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, I rise to oppose the amendments offered by my colleagues from Alaska, Mr. MURKOWSKI and Mr. STEVENS. I oppose these amendments for several reasons, and I rise to share my concerns with my colleagues.

Energy security is an important issue for America, and one which my Wisconsin constituents take very seriously. The bill before us initiates a national debate about the role of domestic production of energy resources versus foreign imports, about the tradeoffs between the need for energy and the need to protect the quality of our environment, and about the need for additional domestic efforts to support improvements in our energy efficiency and the wisest use of our energy resources. The President joined that debate with the release of his national energy strategy earlier this Congress. The questions raised are serious, and differences in policy and approach are legitimate.

I join with the other Senators today who are raising concerns about these amendments. Delegating authority to the President to opening the refuge to oil drilling does little to address serious energy issues that have been raised in the last few months.

Though proponents of drilling in the refuge will say that it can be done by only opening up drilling on 2,000 acres of the refuge, that is simply not the case. The President will decide whether the entire 1½ million acres of the Coastal Plain of the refuge will be open for oil and gas leasing and exploration. Exploration and production wells can be drilled anywhere on the Coastal Plain.

I infer that when proponents say that only 2,000 acres will be drilled, they are referring to the language in the amendment which states, and I am paraphrasing, "the Secretary shall . . . ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain."

That limitation is not a clear cap on overall development. It does not cover seismic or other exploration activities, which have had significant effects on the Arctic environment to the west of the Coastal Plain. Seismic activities are conducted with convoys of bulldozers and "thumper trucks" over extensive areas of the tundra. Exploratory oil drilling involves large rigs and aircraft.

The language does not cover the many miles of pipelines snaking above the tundra, just the locations where the vertical posts that support the pipelines literally touch the ground. In addition, this "limitation" does not require that the two thousand acres of production and support facilities be in one contiguous area. As with the oil fields to the west of the Arctic Refuge, development could and would be spread out over a very large area.

Indeed, according to the United States Geological Survey, oil under the Coastal Plain is not concentrated in one large reservoir but is spread in numerous small deposits. To produce oil from this vast area, supporting infrastructure would stretch across the Coastal Plain. And even if this cap were a real development cap, what would this mean? Two thousand acres is a sizable development area. The development would be even more troubling as it is located in areas that are actually adjacent to the 8 million acres of wilderness that Congress has already designated in the Arctic Refuge which share a boundary with the Coastal Plain.

The delegation of authority to open the refuge is controversial, and make no mistake, it will generate lengthy debate.

I have also heard concerns from the constituents in my State who have paid dearly for large and significant jumps in gasoline prices. Invoking the ability to drill in response to a national emergency does not add to gasoline supplies today, nor does it do anything to address the immediate need of the Federal Government to respond to fluctuations in gas prices and help expand refining capacity. In some instances, there were reports of prices between $3 to as high as $8 per gallon in Wisconsin on September 11 and 12, 2001. The Department of Energy immediately assured me that energy supplies were adequate following the terrorist attacks, and these increases are being investigated as possible price gouging by the Department of Energy and the State of Wisconsin. With adequate energy resources, constituents need assurances that these unjustified jumps can be monitored and controlled.

And I, along with many other Senators, have constituents who are concerned about the environmental effects of this amendment, and what it says about our stewardship of lands of wilderness quality.

I also oppose opening the refuge for what it will do to the Energy bill as a whole. This measure contains important provisions that we need to enact into law. In light of the tragic events of September 11, a key element of any new energy security policy should be to secure our existing energy system—from production to distribution—from the threat of future terrorist attack. Americans deserve to know that the Senate has protected the existing North Slope oil rigs and pipelines from attack. Americans deserve to know that the Senate has considered measures to reduce the vulnerability of above ground electric transmission and distribution by providing needed investments in siting of below ground direct current cables, in researching better transmission technologies, and in protecting transformers and switching stations. Americans want us to review thoroughly the security of our Nation's domestic nuclear powerplant safety regimes to ensure that they continue to operate well. Finally, Americans living downstream from hydroelectric dams want to know that they are safe from terrorist initiated dam breaching. We must assure them that this existing infrastructure is secure.

These were issues that the House did not address on August 2, 2001, when it passed its bill, because the terrorist attacks of September 11, were obviously unthinkable at that time. These are issues that drilling in the refuge does not address. But we are a changed country in response to September 11, and these are very real issues today, issues that must be addressed.

In addition, there have been significant technological changes in the last few months that can help us reduce our dependence upon foreign oil. On September 19, 2001, a model year 2002 General Motors Yukon that can run on either a blend of 85 percent ethanol and 15 percent conventional gasoline or conventional gasoline alone rolled off the line in my hometown of Janesville, WI. The 2002 model year Tahoes, Suburbans and Denalis with 5.3 liter engines will be able to run on either fuel. But while my constituents could buy a vehicle that can run on a higher percentage of ethanol fuel, there isn't a place open today to buy that fuel in Wisconsin. We could go a long way under this bill to reducing dependence on foreign oil by using domestic energy crops and biomass more wisely, and we should pass this bill to reflect our new technological capacity.

I also oppose this amendment because there is a lingering veil of concern that special corporate interests would benefit over our citizens by this amendment. Oil companies receive a good deal of financial assistance in the form of tax breaks from the Federal Government to encourage development of domestic oil supplies. I have spoken out, for example, against the percentage depletion allowance in the mining of hardrock minerals, and its use in the oil sector dwarfs the hardrock tax break.

This longstanding tax break allows those in the oil business to, in effect, write off all of their losses. The ostensible reason for the depletion allowance is to encourage exploration of oil drilling sites, which, presumably, no one would do without such a tax break.

The oil industry argues that other businesses are allowed to depreciate the costs of their manufacturing. But this tax break goes well beyond the costs of deducting capital equipment. For example, a garment manufacturer can only deduct the original cost of a sewing machine, whereas an oil well can produce tax deductions as long as it keeps producing oil. So this deduction can amount to many times the cost of the original drilling and exploration. The depletion allowance is currently set at 15 percent of gross income.

The current cost to the U.S. Treasury for the depletion allowance exceeds $1 billion a year. This deduction can, in some cases, amount to 100 percent of the company's net income, which means that all profitability comes from Government tax subsidies.

But just in case there is anyone in the oil industry not enjoying sufficient profitability, Congress has come up with a number of other cushions against the risks of capitalism. Big Oil can immediately deduct 70 percent of the costs of setting up an operation of the so-called intangible drilling cost deduction. Other industries have to deduct such costs over the life of the operation, so this amounts to another interest-free loan from the Treasury. It also amounts to a double deduction, since the depletion allowance is supposed to compensate the poor oil producer for the costs of risking a dry well. Repealing this deduction would save more than $2.5 billion over the next 5 years.

Another tax subsidy encourages oil companies to go after oil reserves that are more difficult than usual to extract, such as those that have already been mostly depleted, or that contain especially viscous crude. This, of course, is more expensive than normal oil drilling. Thus the "enhanced oil recovery" credit helps to subsidize those extra costs. The net effect of this is that we taxpayers are paying for domestic oil that costs almost twice as much as foreign supplies.

The combined effect of the depletion allowance, the intangible drilling cost deduction, the enhanced oil recovery credit, and other subsidies can sometimes exceed 100 percent of the value of the energy produced by the subsidized oil. This makes no economic sense at all. I make these points because the taxpayers already give the oil sector a great deal of assistance, and now we are being asked to give up additional public lands as well.

Before we allow the President to open more public lands, I think we should be mindful of the help these industries are already getting.

I also am concerned about the effect of a decision to open the refuge to oil drilling on resources that we have already designated for special protection. The 19-million-acre Arctic National Wildlife Refuge contains 8 million acres of wilderness that Congress has already designated. The amendment proposes to essentially trade wilderness designation for other areas in the refuge, 1.5 million acres in the southern portion of the refuge for the 1.5-million-acre Coastal Plain. The existing wilderness areas in the refuge, however, are immediately adjacent to the Coastal Plain. I am concerned that the President would permit drilling on the Coastal Plain of the refuge before Congress considers whether or not the Coastal Plain should be designated as wilderness. Establishment of drilling on the Coastal Plain would be allowing a use that is generally considered to be incompatible with areas designated as wilderness under the Wilderness Act. We have had very little discussion about the effect of drilling in the refuge on the wilderness areas that we have already designated. I want colleagues to be aware that the drilling question threatens not only our ability to make future wilderness designations in the Coastal Plain but also could endanger areas that we have already designated as wilderness in the public trust.

Colleagues should keep in mind that the criteria established in this amendment that the President must certify in his determination to open of the Coastal Plain as a source of oil do not include any new developments or changes in the geological information or economics that affect potential development of Arctic resources. The United States Geological Survey has already reconsidered those factors in its 1998 reassessment of the Arctic Refuge Coastal Plain's oil potential. Rather, the current discussion, in my view, is prompted by the rhetoric and opportunistic efforts of those interests that have long advocated drilling in the Arctic Refuge, to exploit the current response with regard to terrorism.

If drilling may impair our ability to make a decision about the present and future wilderness qualities of the refuge, if the refuge does not contain as much oil as we thought, and if opening the Coastal Plain to drilling may do little to affect our current domestic prices, why, then, are we considering doing this? The facts don't point toward drilling in the refuge: the refuge may not contain as much oil as we think, and opening the Coastal Plain to drilling may have only a minor effect on our current domestic prices.

I raise these issues because I have grave concerns about the arguments that oil drilling and environmental protection are compatible. I traveled, a while ago, through the Niger Delta region of Nigeria by boat, where I observed firsthand the environmental devastation caused by the oil industry. The terrible stillness of an environment that should be teeming with life made a very powerful impression on me. These are the same multinational companies that have access to the same kinds of technologies, and though they are operating in a vastly different regulatory regime, I was profoundly struck by the environmental legacy of oil development in another ecologically rich coastal area.

For these reasons, I oppose this amendment. I appreciate the fundamental concern that we need to develop a new energy strategy for this country. I do disagree strongly, however, with drilling in this location, which I feel is deserving of wilderness designation. I think this bill achieves its objectives without damaging the refuge, and I encourage colleagues to oppose these amendments.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the majority leader has authorized me to announce there will be no rollcall votes this evening.

I would like to make a unanimous consent request. I have spoken to both managers of the bill. We have, in the unanimous consent queue that is now established, Senator DORGAN speaking for 20 minutes. Senator DORGAN is not going to speak. So in place of that 20 minutes, I ask unanimous consent to amend the order to put in Senator STABENOW for 10 minutes and Senator MURRAY for 10 minutes.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I am continually amazed by the ability—and I am sorry my friend from Wisconsin has left the Chamber—to generalize because that is what we are doing here. There is a generalization that somehow the oil industry's application in Africa is perhaps applicable to Alaska. These tactics I find unacceptable because, first of all, we have invited many Members of this body to come up and see for themselves.

You might not like oilfields. That is the business of each and every Member. But the best oilfield in the world is Prudhoe Bay. It is 30-year-old technology. What bothers me about this general criticism is nobody seems to care where oil comes from as long as they get it. The Senator from Wisconsin generalized on several aspects, implying that somehow the limitation in this bill of a 2,000-acre disturbance was broader than that.

Let me read what is in the bill. It ensures that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support pipelines, does not exceed 2,000 acres on the Coastal Plain. I don't know what could be more understood than that statement.

Furthermore, to suggest that exploration is a permanent footprint on the land begs the issue. Here is what exploration looks like in the summertime on a particular area that was drilled. The reality will show you that the footprint is certainly manageable. To suggest somehow that that particular activity, because of the advanced technology, is incompatible with this area is really selling American ingenuity, technology, and American jobs short.

The Senator from Wisconsin didn't indicate at all the concern of the jobs associated with this. He didn't concern himself as to where we would get the oil. He simply said he didn't think it should come from this area. He talked about the flow of technology, refuge and wilderness.

Let me show you the map one more time. It has been pointed out again and again, but perhaps some Members are not watching closely enough. They simply assume that the ANWR Coastal Plain is wilderness. Congress specifically designated it as a specific area outside the wilderness. It is the 1002. Only Congress can open it. It is the Coastal Plain.

Within ANWR there are almost 8.5 million acres of wilderness. There are 9 million acres of refuge and 1.5 million in the Coastal Plain. What we proposed—and nobody has mentioned—is the creation of another 1.5 million acres of wilderness.

It is time that Members, before they come to the Chamber, familiarize themselves with what is in the amendment. It is a 2,000-acre limitation. Not too many people want to recognize that. They suggest the entire area is at risk. That is ridiculous. We have an export ban. Oil from the refuge cannot be exported. We have an Israeli exemption providing an exemption for exports to Israel, under an agreement we have had which expires in the year 2004. We are going to extend it to the year 2014.

As I have indicated, we have a wilderness designation, an additional 1.5 million acres which would be added to the wilderness out of the refuge. Here is the chart that shows that. We are adding to the wilderness.

If that doesn't salve the conscience of some Members who believe that is the price we should pay, I don't know what does.

Finally, we have a Presidential finding. This amendment does not open ANWR. ANWR is opened only if the President certifies to Congress that exploration, development, and production of the oil and gas resources in ANWR's Coastal Plain are in the national economic and security interests of the United States.

We leave all kinds of things up to the President around here. Declarations of war are often, in effect, handled by the President rather than the Congress—in the informal stage, at least. We think it is a pretty important responsibility. We are giving that responsibility to the President. Yet those from the other side, I don't know whether they begrudge, distrust, or whatever, because it happens to be in the President's energy proposal that we open up the area, and that is good enough for me.

The amendment does not open ANWR. It will only be opened if the President certifies to the Congress that exploration, development, and production of oil and gas resources of the ANWR Coastal Plain are in the national economic and security interests of this country.

What does that mean? It means different things to different people, I suppose one might say. From the standpoint of at least my interpretation from the former senior Senator from Oregon, Mark Hatfield, the statement I opened with, I would vote to open up ANWR anytime rather than send another young man or woman to fight a war in a foreign land over oil. We did that in 1992. We lost 148 lives. At that time, we were substantially less dependent on imported oil.

Make no mistake about it. Our minority leader, Senator LOTT, indicated in his statement the vulnerability of this country. Our Secretary of State has not been able to bring the parties together in the Mideast. It remains volatile. The situation in Venezuela is unclear. The estimates are this Nation has lost 30 percent of the available crude oil imports that we previously enjoyed—that is an interruption—as a consequence of Saddam Hussein terminating production for 30 days. We have reason to believe Colombia is on the verge of some kind of an interruption which will terminate the oil through their pipeline. This is a crisis.

The reason you don't see Members coming down here and saying, "I guess we had better do something about it now," is very clear. The shoe is not pinching enough. The prices are not high enough. I would hate to say there are not enough lives at risk.

Members could very well rue the day on this vote, recognizing the influence of America's environmental community on this issue. I think everyone who is familiar with oil development in Alaska understands that we consume this oil that we produce in Alaska. It is jobs in America. It is U.S. ships built in American shipyards. These are the facts. By not recognizing the real commitment we have to doing business in

America, we are going to have to get that oil overseas.

When the Senator from Wisconsin generalizes about oilfields, he doesn't give us the credit for the advanced technology moving from Prudhoe Bay to the next major oilfield we found in Alaska called Endicott. Endicott was 56 acres. It was the 10th largest producing field. Those are the kinds of technological advancements we have in this country.

As a consequence, I am prepared to continue to respond to those inaccuracies. It is a shame we have to subject ourselves to the pandering associated with interpretations that have nothing to do with the extent of the risk associated to our national security at this time.

The risk is very real. The risk may go beyond the risk associated with just a political view of this issue. In this amendment, we are giving the President of the United States the authority to make this determination. I would like to think every Member of this body values not only the President but his office to see what is in the best interest of our country, our Nation, and our national security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

RECESS

Mr. BIDEN. Madam President, I ask unanimous consent that the Senate recess for up to 3 minutes so our colleagues may have a chance to meet His Excellency, President Andres Pastrana, President of the Republic of Colombia, and His Excellency Juan Manuel Santos, Minister of Finance.

President Pastrana's term ends in the next 2 months. We just had him before the Foreign Relations Committee. In all the years I have been on that committee, as I said to my colleagues today and I say to my colleagues here, we have never had a better friend of America as a head of state from any country more so than President Pastrana.

One distinction that marks his service to his country and to the entire region is that when we lose elections here, we get a pension. When you run for election, stand for election, and take a stand in Colombia, you often literally get kidnapped or killed.

I have become a personal friend of the President, and I visited with him and his family. I cannot tell you how much I admire and marvel at his personal courage and that of the other officials in Colombia who have fought to keep the oldest democracy in the hemisphere just that—a democracy.

I ask that the Senate recess for up to 3 minutes for my colleagues to be able to meet the President and the Minister of Finance of Colombia. I ask unanimous consent that we recess for up to 3 minutes.

There being no objection, the Senate, at 5:30 p.m. recessed and reassembled at 5:34 p.m. when called to order by the Presiding Officer (Ms. CANTWELL).

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I rise to oppose the proposal to drill in the Arctic National Wildlife Refuge. With all due respect to my colleagues on the other side, who I know feel strongly, I feel strongly as well and have been involved with this issue since my time in the House of Representatives, where I consistently cosponsored legislation that would not allow drilling to occur.

It is important that we continue to stress the fact that drilling in ANWR will not create energy independence and that we are talking about, even if we started drilling tomorrow, the first barrel of crude oil would not make it to the market for at least 10 years. So it would not affect our current energy needs. There is a real question in all of the debate going on about the concerns that are immediately in front of us. This is not the answer to that.

We are talking about whether or not, on the one hand, we risk the environmentally sensitive Coastal Plain for the equivalent of just 6 months' worth of usage or consumer usage in the United States. And this is not something that will be available for use for 10 years. It doesn't make sense to me.

I think that in this energy bill, when we are trying to look to the future, we ought not to be going to the past in terms of trying to drill our way to energy security and independence.

According to the EIA, an independent analytical agency within the Department of Energy, drilling in the Arctic Refuge is projected to reduce the amount of foreign oil consumption by the United States in 2020 from 62 percent to 60 percent—a whopping 2-percent difference by 2020. This certainly is not going to address our energy needs. Drilling in the Arctic Refuge will not really make a dent in the question of the overdependence on foreign oil. Even John Brown, the CEO of BP Amoco, admitted in an interview on "60 Minutes" back in February that it was "simply not possible for the U.S. to drill its way to energy independence." That is why we have a proposal in front of us that is comprehensive.

I would like to, once again, commend the sponsor and the leader on this issue, Senator BINGAMAN, for not only his leadership in coming forward with a broad plan that moves us to the future, but also his patience during this process, as we have moved through all of the amendments and the different comments in which each of us have been involved.

When we look at the tradeoff, I simply don't believe it is worth it. Drilling in the Arctic Refuge will lead, potentially, to environmental damage. The proponents of drilling claim that the modern techniques are clean and would cause no environmental damage.

First, drilling accidents do happen. Over the past several years, across the Nation, there have been accidents due to poor maintenance, equipment failure, human error, even sabotage. Certainly, in this time of concern about terrorism, we need to be concerned about that as well. In these accidents, crude oil was dumped into our rivers, our lakes, our streams, and wetlands, and often dangerous hydrogen sulfide gas was released into the air as well.

This doesn't seem to be a good tradeoff for the equivalent of 6 months' worth of oil that we cannot actually begin to use for 10 years. We can create more jobs and help our U.S. steel industry and help our economy and make other kinds of positive benefits without drilling in the Arctic Refuge.

There are more than 35 trillion cubic feet of natural gas immediately available in the existing oilfields on the Alaskan North Slope. Currently, natural gas is produced with this oil but is reinjected, as we all know, back into the ground because there is no pipeline to bring it to the lower 48 States. Constructing the Alaskan natural gas pipeline will create more than 400,000 new jobs and provide a real opportunity to the U.S. steel industry, which, I might add, is incredibly important in my State of Michigan, where we are concerned about an integrated steel industry from the iron ore mines in the upper peninsula of Michigan to our steel mills.

This pipeline would require up to 3,500 miles of pipe and 5 million tons of steel. The Alaska natural gas pipeline also would provide natural gas to American consumers for at least 30 years and would be a stabilizing force on natural gas prices.

We can do that. We agree on that. We can move in this direction. It creates jobs. It adds to the availability of energy sources and does not risk one of the most important, pristine, environmentally sensitive areas in our country.

There are other, better supply options available to us. Currently, as we all know, in the Gulf of Mexico, it is a source of 25 percent of the crude oil produced in the United States, 29 percent of the natural gas, and there are 32 million acres in the western and central portions of the Gulf of Mexico under lease but not developed. Why are we not talking about those areas?

In addition, the oil industry is extremely optimistic about the prospects of finding additional oil reserves in the National Petroleum Reserve in Alaska where we are already drilling. In fact, the three largest oil discoveries in the last 10 years were made in the National Petroleum Reserve in Alaska. So we have options.

I am always perplexed in this debate to hear why this is the focal point of the administration's energy plan, this one piece of land, when we do have other options, and we have other options for creating jobs as well.

We also know that conservation and investment in new technologies are the real solutions. Given relatively small amounts of oil available in the Arctic Refuge, it does not make sense to endanger this 1.5-million-acre Coastal Plain that is the biological heart of this pristine national treasure.

An energy policy such as the Senate energy bill that encourages conservation and investments in new technologies can help us come closer to achieving independence within 10 years.

I am very proud of what is happening in Michigan as it relates to alternative fuels, agriculture, and also what we are doing in terms of technologies that are important for our future.

The bottom line is the Arctic National Wildlife Refuge is one of the most pristine places in the United States. This tradeoff is not worth it. We can meet our energy needs in other ways that look to the future. We can create important jobs for our people in other ways with the natural gas pipeline. We have other opportunities to drill that do not involve risking this important part of our heritage. Our ability to pass this area on to our children and to protect it is very important.

When we look at all of the various wildlife species, all of the animals and birds that are involved in this area of land and the habitat involved, I cannot imagine that we, in fact, will be serious about risking this fragile and irreplaceable national treasure.

I hope my colleagues will join with us in protecting this area for the future of our children and our grandchildren, and that we will move forward in the other parts of this energy bill and the other opportunities we have to lessen our dependence on foreign oil and create the economic and energy security that we all would like.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I rise today in opposition to cloture on these amendments. I want to say a few words about the energy bill in general, and then I want to explain my opposition to drilling in the Arctic National Wildlife Refuge.

Our country needs a comprehensive energy policy, and certainly that policy needs to recognize the current importance of oil, gas, and coal exploration. But to ensure America's energy security for the future, it should support energy efficiency, conservation, clean and renewable energy sources, and it should help diversify our energy sources.

Overall, I have to say I am disappointed in the direction in which this energy bill is heading because it has been diverted from achieving these important goals. I am disappointed because we had an opportunity to make progress on our long-term challenges.

This bill started off in the right direction. Unfortunately, after many amendments, it is now a far different bill, and I believe it does not respond adequately to the challenges we face either in my home State of Washington or nationally.

It focuses too heavily on coal and natural gas. It does too little to diversify our energy sources.

It does not meaningfully raise fuel economy standards, and it does not protect electricity customers. In fact, it creates considerable uncertainty in electricity markets. It pursues electricity deregulation despite the hard lessons learned through our recent experiences in California and with Enron.

It takes regulatory authority away from the States and gives it to the Federal Energy Regulatory Commission.

And it does not do enough to encourage investments in our transmission systems.

Overall, this energy bill reflects the way we have treated energy policy for decades. We have not addressed the long-term problems. Instead, we wait until there is a crisis, and then we are stuck at looking at bad, short-term fixes like drilling in ANWR. We have not dealt with our long-term dependence on oil. We have not invested enough in renewable energy. We have not diversified our energy resources, and we have not put enough financial incentives behind conservation.

The responsible way to address our energy problems is to focus on the long-term solutions like reducing our need for oil and investing in clean and renewable energy sources.

Unfortunately, much of this bill continues to largely endorse the past practices of short-term fixes that do not address many of the real long-term problems.

Today we are being asked to damage a sensitive ecosystem and spoil one of our national treasures for the sake of oil production. We cannot drill our way out of energy problems. That is a fact.

I ask my colleagues: At what point do we say "enough is enough"? Today we are being asked to allow the President to authorize exploration in a critical wildlife refuge. Where will we and future generations be asked to drill tomorrow?

To get out of these short-term traps, we need to invest in long-term solutions, such as diversifying our energy sources.

This bill started with a strong renewable portfolio standard which would have diversified our energy sources. After many changes, however, these standards are now no better than the current pathways we have. To me, that is a missed opportunity. We should be doing more to diversify our energy sources.

Currently, Washington State and the Pacific Northwest are very dependent on hydroelectric power to meet our energy needs. This dependence contributed to severe price spikes during last year's drought and California's disruption of the west coast energy market.

I fear that in our rush to address last year's energy shortfall, we in Washington State are now becoming overreliant on natural gas. Diversifying our energy resources will help us prevent future price swings. Developing other resources like wind, biomass, solar, and geothermal energy will protect us from future shortages and will ensure our communities and economy they can continue to grow.

However, rather than enacting a strong renewable portfolio standard, this bill will continue the failed strategy of digging more, burning more, and conserving less.

I refer next to the electricity title in this energy bill. The Presiding Officer is from Washington State and she knows we have worked on and agreed to many amendments. However, electricity consumers in this underlying bill do not appear to be protected. I think we are moving too quickly to deregulate electricity markets and to create regional transmission organizations. From the California energy crisis to the collapse of Enron, the events of the last few years have highlighted the importance of moving slowly with electricity legislation.

In Washington State, our regional transmission system has more than 40 major bottlenecks. There are many other parts of the Nation that also have major bottlenecks, and we need to fix them.

We can build all the generation facilities we need but still not have power because the transmission capacity is inadequate.

With all of the problems we are experiencing in our transmission systems, this is not the time to dramatically alter the way electricity markets are regulated and function.

With regard to electricity legislation, I think we should proceed very cautiously.

I will now turn to the debate over drilling in the Arctic National Wildlife Refuge, which I strongly oppose. For the record, I have heard from many residents of my State on this issue. They have called me, sent me letters, faxes, e-mails, and a clear majority oppose drilling in ANWR.

I will vote against oil exploration in ANWR because the potential benefits do not outweigh the significant environmental impacts. The Arctic National Wildlife Refuge is an important and unique national treasure. In fact, it is the only conservation system in North America that protects the complete spectrum of Arctic ecosystems. It is the most biologically productive part of the Arctic Refuge, and it is a critical calving ground for a large herd of caribou, which are vital to many Native Americans in the Arctic. Energy exploration in ANWR would have a significant impact on this unique ecosystem. Further, development will not provide the benefits being advertised.

The proponents of this measure argue that over the years energy exploration has become more environmentally friendly. While that may be true, there are still significant environmental impacts for this sensitive region. Exploration means a footprint for drilling, permanent roads, gravel pits, water wells, and airstrips. We recognize that our economy and lifestyle require significant energy resources, and we are facing some important energy questions. However, opening ANWR to oil and gas drilling is not the answer to our energy needs.

Many people are incorrectly stating the exploration of ANWR will reduce our dependence on foreign oil. As a nation, the only way to become less dependent on foreign oil is to become less dependent on oil overall. The oil reserves in ANWR—in fact, the oil reserves in the entire United States—are not enough to significantly reduce our dependence on foreign oil.

There are four ways to really reduce our need for foreign oil. First, we can increase the fuel economy of our automobiles and light trucks. Higher fuel economy standards will reduce air pollution, reduce carbon dioxide emissions, save consumers significant fuel costs, and reduce our national trade deficit.

In addition, cars made in the United States will be more marketable overseas if they achieve better fuel economy standards. Last month, many of us in the Senate tried to raise CAFE standards, but our efforts were defeated.

A second way to reduce our need for foreign oil is to expand the use of domestically produced renewable and alternative fuels. That will reduce emissions of toxic pollutants, create jobs in the United States, and reduce our trade deficit.

Third, we can invest in emerging technologies such as fuel cells and solar electric cars. The United States has always led the world in emerging technologies, and this should not be any different.

Fourth, we can also increase the energy efficiency of our office buildings and our homes.

These four strategies will reduce our dependence on foreign oil and protect one of our Nation's most precious treasures.

The proponents of drilling in ANWR have argued it will help our national security, and I want to comment on that. Back in 1995, the same proponents of drilling in ANWR fought to lift the ban on exporting North Slope oil. Prior to 1995, oil produced on American soil, on the North Slope of Alaska, was, by law, headed for domestic markets. This export ban had been in effect for over 20 years. In 1995, some Members worked to lift that ban. On the other hand, I helped lead a bipartisan filibuster, with Mr. Hatfield, a great Senator from the State of Oregon, to keep the export ban in place because it served our Nation's interest. Since that debate first took place, I have become even more convinced that sending our oil to overseas markets is the wrong policy for our country.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. I ask for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. It is recognized that gasoline prices in west coast States are frequently among the highest in the Nation. It is estimated that since 1995 more than 90 million barrels of Alaskan oil have been exported overseas. Approximately half of that oil went to Korea, a quarter of it went to Japan, and the remaining went to China and Taiwan. I would respectfully suggest to the administration and the proponents of drilling in ANWR that if this debate were really about providing Americans with our own oil or about denying Saddam Hussein the means to develop his evil plans, here in the Senate we would be considering reimposing the export ban.

The administration has been silent on reimposing that ban, the House has been silent on reimposing the ban, and I doubt the Senate will move on it either.

Now I suspect that someone from the other side is going to stand up and say that the House-passed ANWR bill precludes the exportation of oil from ANWR and that the pending amendment limits the exportation of ANWR oil except to our friends in Israel. But it will be easy for proponents to do an end run around those provisions.

First, the export ban would have to survive in conference. Even if it survives, oil companies will still be allowed to export more of the oil they drill from other parts of Alaska where the ban does not exist.

The proponents will say there have not been any recent exports of North Slope oil. The fact is that as soon as the economics line up, we will add to the 90 million barrels already sent overseas.

Let us remember that the amount of oil in ANWR is too small to significantly improve our current energy problems, and, further, the oil exploration in ANWR will not actually start producing oil for as many as 10 years.

Exploring and drilling for oil and gas in ANWR is not forward thinking. It is a 19th century solution to a 21st century problem.

For all of these reasons, I oppose energy exploration in the Arctic National Wildlife Refuge, and I continue to have strong concerns about the energy bill as it is currently written.

I yield back my time.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Idaho.

Mr. CRAIG. Mr. President, many of us who have come to this Chamber over the last 24 hours to speak on this most important issue have approached it from a variety of points of view, all of them with some degree of logic that points out a frustration, if not a legitimate concern, about the energy supply of our country.

A few moments ago, the Senator from Michigan was speaking about ANWR, that it was only a moment in time that would pass quickly and that we ought to be much more interested in other sources of energy.

While she was speaking, I was thinking of a trip I recently made to her State, to Dearborn, MI, to the laboratories of Ford Motor Company, and there, for a period of time, I had the opportunity to visit with their engineers and scientists and look at what clearly is some of the latest technology that the laboratories of Ford Motor Company are employing toward future transportation.

One of those is a much touted, much talked about hydrogen fuel cell. Someday in the future, many of our cars might well be fueled by that fuel cell, generating the electricity that would drive the electric motors in the hubs of the wheels of that car.

I drove that car. I had the privilege to take it out on the track at Dearborn and drive it around the track. It was an exciting experience, to think that this vehicle could be my future, my children's and my grandchildren's future, as a form of transportation. Very clean; a drop of water now and then emitting from the tailpipe of that car.

So it is an exciting concept, to think we have invested, taxpayers have invested in future technologies that someday may be available to the consuming public as a form of transportation.

Let me talk about the rest of the story, about which the engineers and the scientists huddled around the hydrogen fuel cell at Ford Motor Company talked. They talked about the tens of billions of dollars it would take to build the infrastructure to fuel the hydrogen fuel cell that would have to be spread across the country, comparable to the gas station on every corner of America today that fuels the gasoline-powered cars.

Had we thought about that? Well, I had not thought about it to that extent, that it would take decades to build that kind of infrastructure so that driving a hydrogen fuel cell car would be as convenient as the gas-powered car we drive today. Certainly, whether it be Seattle, WA, or Boise, ID, I am not confident we would want to drive to one spot, one location only, to fuel our hydrogen car. I am sure we would want it at least as nearly convenient as fueling our gas-powered car of the day. That was one issue.

The other issue is a very real problem in the minds of American drivers today as to the acceptability of hydrogen cars. It is a little thing called "boom," a fear that it might blow up. It is a false fear. The hydrogen fuel cell car would not blow up because it is a very safe form of energy. But the reality and the public perception is there. A decade of information, hundreds of millions of dollars invested in experiments and public relations and education and experience is all going to be part of that equation.

What happened the day I drove that $6 million prototype hydrogen-fueled cell car at Dearborn, MI, taught me something. It taught me we do not instantly do new things around here; we don't instantly have a new hydrogen-fueled cell car. Its day will come, and I do believe it might. It clearly is environmentally clean, and it would be important for our economy.

Yes, the economy will create hundreds of thousands of jobs and invest billions of dollars to get us into new forms of transportation. However, they predicted at Ford Motor Company that we were literally decades away, if not double decades, from a hydrogen-fueled cell car.

I say to the Senator from Michigan whose economy depends on the employment of the auto industry to make her State go, what do you do in the meantime, if you don't have the fuel to drive the engines of the cars that the workers in Dearborn, MI, produce today? That is part of what the Senator from the State of Michigan represents.

I guess you let them be unemployed. If gas goes up to $3 or $4 a gallon, certainly the kind of vehicle, if not the quantity of vehicles that are produced in Michigan today and by the auto industry around the country, is going to dramatically change. Some would say that is perfectly fine, that is the way the marketplace ought to work, and, therefore, who cares? I think the Senator from Michigan cares. I know the Senator from Idaho cares because in Idaho, driving from Boise, ID, to Twin Falls, ID, is not around the corner. A few minutes down the road is 2½ hours. It is 250 miles. To go anywhere in my State means driving a couple hundred miles. My State is 600-plus-miles long. By the way, that is from here to Boston. And it is about 550 miles wide at the widest.

My State is a mile-intensive State. People travel long distances. Transportation is critically important. Large, safe automobiles that consume a certain amount of energy are necessary and important.

Important to my State, which is now becoming a manufacturing State and a processing State, are the products we produce which have to get to places like Chicago, to the Detroit, the New York, and the Minneapolis-St. Paul because we feed a world economy. If we cannot get the product we produce to that economy at a reasonably priced way, then either we go out of production or it gets produced closer to that marketplace.

The point I am making and the point that has been made by many today is we are an energy-dependent economy; we are an energy-dependent society. We use a great deal of it. We are wealthy because of it. We are free because of it. We have great flexibility as a country because of it. We are powerful because of it. And we can help other freedom-loving people around the world because of our capacity to not only use energy but produce energy.

Yet today we have heard many coming to the floor opining the fact that production was somehow bad in the name of the environment, in the name of the critter, in the name of the pretty little plant, in the name of life after, in the name of generational concerns, in the name of something. Someone has found a reason not to produce additional energy for this country. Yet their very presence on the floor, the very wealth that has created this country was, in part, a direct result of the abundance of reasonably priced, reliable energy.

When I listen to some of my colleagues, a fundamental thought goes through my mind. Don't they get it? Don't they understand the jobs that are created in their State are based on a certain economic equation and that if you adjust that equation arbitrarily or you deny its right to be in place, you run the risk of destroying that job and dramatically changing the economy of the country? Don't they get it?

What happens if we get $3-a-gallon gas in this country? What happens to the cost of doing business in this country? What happens to the thousands and thousands of people who no longer have a job because of that in this country? Don't they get it? Or is praying at the altar of a creature, a plant, a concept, an idea so much more important that somehow we stand back and deny the right of this country to produce the energy it needs reasonably, presently, and in an environmentally sound way?

Don't they get it? Yeah, they get it. We all get it. My wife told me last night: Don't you get emotional over this issue; you really shouldn't; keep your cool. I am trying to, but it is very frustrating for me to suggest to my grandchildren that because of a public policy they are going to be denied certain rights, certain freedoms, certain flexibilities within their lifetime that I had within my lifetime because my forefathers recognized the importance of producing, recognized the importance of abundance, and recognized the importance of wealth generation for this country.

That is the bottom line of the debate we are involved in tonight. It is the fundamental debate that has gone on for the last 4 weeks on the floor of the Senate about a national energy policy.

The first opportunity I had to visit with President-elect George W. Bush, the first opportunity our assistant leader, who has just come to the Chamber, had a chance to visit with President-elect George W. Bush was in TRENT LOTT's office. The issue in Florida had just been solved. The President-elect was in town. He was beginning to put together his Cabinet. He came to the Hill to visit with us. I will never forget that. We were all so very proud and excited about his Presidency. He said: I campaigned on education. I campaigned on tax cuts. I campaigned on the general well-being and the economy of this country and that I would lead these issues before the Congress and before the American people. But let me tell you what is important now. What is important is a national energy policy for this country that gets us back into the business of producing energy. He said: The first thing I am going to do is ask Vice President-elect DICK CHENEY to head up an energy task force. We will make recommendations to you in Congress, and we hope you will move a national energy policy as quickly as possible for the country. We all agreed it was a high priority for our Nation to get back in the business of producing energy.

That was a priority of this President then. It is now. It is a priority of Republicans in the Senate. It is a priority of many of my colleagues on the other side of the aisle.

In establishing national energy priorities, I have changed over the years. I used to think that maybe this was the right way to go and this wasn't and you could do this but you couldn't do that. I don't agree with that anymore. The policy ought to create the incentives and the opportunities to drive all forms of energy. Conservation ought to be a part, and it is now a part of this legislation. New technologies clearly ought to be a part, and we ought to provide the kind of tax incentives that create the investment that brings the capital that drives new technologies. We have put several billion dollars into new technologies in the last several years: in photovoltaics and wind and the hydrogen fuel cell car that I talked about that I have had the opportunity to drive, all of that is moving forward. All of it is out there in somebody's future. But probably not in my lifetime, at least not all of it, and certainly not some of it. But we ought to be doing all of that. We ought to be utilizing our coal with new clean coal technology. It drives 60 percent of electrical generation today.

My hydro dams in Idaho and in the Columbia and Snake River systems ought not be threatened. They ought to be retrofitted and managed in a way that they are fish friendly, but they ought to be allowed to produce megawatts—10 percent of the national base.

What about nuclear? We have included nuclear in this bill, and we are enhancing it—we are reauthorizing Price-Anderson—another 20 percent of the base. If we believe in climate change and global warming, we are probably going to want nuclear to be a greater portion of that mix in time.

So why on the floor of the Senate tonight are we picking and choosing and saying this but not this? Do we know better? No, we do not know better. But we do know that as we have grown increasingly energy dependent on someone else's production, we have lost our flexibility as a country, we have lost our ability to shape domestic and foreign policy, and in the end, we will lose a little bit of our freedom because our sovereignty, our ability as a country to make those kinds of decisions that drive our economy and shape our attitude and our relationships with our foreign neighbors is, in fact, freedom.

"Oh, it is a freedom argument tonight?" You're darned right it is. Somebody is saying you don't need to produce the 15 or 20 billion barrels of oil in the ANWR, or the 7 or the 8 or the 10—we don't know how much is there, but we know there is a lot there. But if we did, one example about the freedom I am talking about, or the flexibility in foreign policy, if we did produce ANWR—bring it into the pipeline, make it available to our refineries, allow it to go to the pump for you and me to put in our gas tanks—we could turn to Saddam Hussein, who just turned his pumps off last Tuesday, and say: Keep them off. We don't need your oil anymore. We don't need to buy 720,000 barrels a day from you for $4.2 billion a year so you can use that money to pay Palestinian families to allow their kids to be human bombs. We don't need to let you do that anymore. Most importantly, we are not going to pay for it.

Our policy today, or the absence of striving toward the form of relative energy independence is, in fact, allowing that policy. Shame on us. Bad policy. But, somehow, over the years, in this state of ambivalence toward production, toward self-sufficiency, we have wandered off toward Saddam Hussein. On any given day it can be anywhere from 55 to 60 percent dependency.

"My goodness, Alaska is just a drop in the bucket." Some say it will drop our dependency on foreign sources 14 percent for the next 20 years. I'll bet Colin Powell, in the last week, wished he had 14-percent greater capacity to bring off a peace settlement or a ceasefire between Palestine and Israel. That would have been a phenomenally larger advantage.

"Oh, it is only 14 percent." Since when did that not count? I think it counts. You cannot be cavalier about this issue.

Now let's talk environment. I do not make little of the environment. I live in a beautiful State. We have very strict environmental standards in my State, and we adhere to them and we believe in them. But we also believe in production. In the 1970s, when we drilled the North Slope of Alaska under the most strict environmental conditions ever imposed on an oilfield, we did it and we did not hurt the environment.

You have heard speeches in this Chamber today and yesterday about the abundance of the caribou herd and all the successes there. A cousin of mine was a foreman for Peter DeWitt. He helped build the pipeline. We were visiting the other night about the phenomenal technicalities involved in building that pipeline, but they got it done.

It was the first time; it was never done before. But Congress said do it cleanly, do it sound environmentally, and they did and that pipeline is 55, 60 miles away from the field we are talking about now.

We are not going to hurt the environment. The technologies of today, slant drilling and all of those new employments of technology within the energy field, weren't there in the 1970s, and we did it well then. We will do it better today.

It is not a matter of hurting the environment; it is a matter of not doing anything. That is the debate here. Do it or do not do it. Take the environmental equation out of it.

If you do not do it, why then are they arguing? Why would anyone take that point of view? I suggest because there are some esoteric attitudes, if you do that you slow down economic growth, you discourage this, and the world changes. It is kind of a cave and a candle syndrome: Find everybody a cave to live in and have candlelight for their reading. You will not have to have all these other goodies that we call the marketplace, and somehow the world is going to be a better place.

I think not. I think we ought to talk about the differences and the tradeoffs. We ought to talk about the jobs.

My colleagues from Alaska and those who have analyzed this matter would suggest anywhere from 250,000 to 700,000 jobs could be created. Since when did jobs become a dirty environmental idea? I think it is a clean idea. I think it puts food on the tables of a lot of folks. It allows them to buy houses and cars and a college education for their kids. That sounds like a clean idea to me, and somehow someone is suggesting that is a bad idea.

The point here is simple. It ought not be that frustrating. None of us should struggle that mightily about it. It is producing energy for this economy, doing it in a wise and responsible way, doing it in an environmentally sound way, and, oh yes, doing it where it is. You have to go to the oil to get the oil.

We know there is oil under the ANWR in Alaska. The work has already been done. The EIS is already in place. The seismograph estimates a substantial volume. It is the natural and responsible next step in the development of the oil reserves of the State of Alaska and for this country.

We are going to choose to buy from outside the country, if we do not develop. We will continue to buy even if we do develop, but we will buy less. We will be a little more independent. We will create a lot of jobs. We will put $70 billion in the U.S. Treasury, and hundreds of billions of dollars will remain in the U.S. economy. To me, that just makes a heck of a lot of good sense.

I hope the amendments to this energy bill dealing with ANWR that are on the floor are agreed to. I hope we can vote for them. I hope at least nobody will hide behind a procedural effort. It ought to be up or down, yes or no, are you for it or are you against it? If you are against it and you can justify it—and, obviously, those who speak against it can—then so be it. That is the way we shape public policy in the Senate: honestly, fairly, and hopefully aboveboard for all the American citizens of our great country to see.

I believe we ought to explore ANWR. I believe we ought to develop it. I think this country needs it. I think we are better for it. We will be a stronger nation, we will be more independent, we will have greater flexibility, we will create more jobs, we will get greater opportunities for our kids and our grandkids, and our environment will remain clean and sound and the Porcupine caribou herd will flourish and the world will go on.

But it will be different if we cannot do that. We will be less free, more dependent, with less flexibility. The job of Colin Powell and his colleagues will be even more difficult because we have less independence to engage our friends and our enemies in trying to create a safer world. That is part of the issue. That is part of the debate.

My colleague from Oklahoma is in the Chamber ready to speak. It is an important issue. I hope all of us will take seriously the vote that we will be casting, I believe tomorrow, on cloture on this most important issue. In my opinion, it is a generational issue that comes before the Senate at this time.

I yield the floor.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. NICKLES. Mr. President, I wish to thank my colleague, Senator CRAIG from Idaho, for his speech. I also compliment Senator MURKOWSKI for his leadership in trying to put together a good energy bill, as well as Senator STEVENS. Both have made extensive speeches on the need for exploration in Alaska. I happen to respect both individuals very much.

I happen to have accepted one of their invitations to visit the area. And I believe all Senators received this invitation as well. I encourage my colleagues to do so.

I think there is a long tradition in the Senate where we have given home State Senators great latitude in making decisions that impact their States primarily. I am kind of bothered by the number of people who are coming out against drilling in ANWR without ever being there, without ever visiting the people, and without knowing the real impact.

Alaska happens to be one of the prettiest States in the Nation. It is one of the largest. I have been to several points in Alaska, including the Prudhoe Bay area and the ANWR area. Alaska contains beautiful scenic areas. However, the ANWR area, and particularly the coastal region, is not one of the prettier areas of Alaska. On the whole, although, it is a beautiful State.

When I heard people say we can't mess up this pristine wilderness, I was thinking that maybe they did not visit the area. Again, many States have gorgeous scenic views, and Alaska probably more than any other State. But this particular area can be drilled. It can be explored in an environmentally safe and sound manner without disturbing the environment and without disturbing wildlife.

I compliment the home State Senators. I wish people would listen to them. I think too many people have been listening to special interest groups that are trying to raise money on this issue without giving attention to some of the serious national and State problems.

We have real national problems. We are importing 60 percent of our oil today. We are spending about $100 billion a year overseas. We are shipping that money overseas to buy imported oil. That 60-percent figure means that we are very dependent on other countries for our livelihood. We have evidence of this in the past when we had curtailments. We had a curtailment in 1973 of 26 percent. There was an Arab oil embargo. This caused long lines at the gas stations as oil prices rose dramatically. In addition, unemployment went up as factories stalled and subsequently shut down. We even had schools closed. We had people who weren't able to get heat. We experienced this in 1973 when we were importing 26 percent and in 1979 when we were importing 44 percent. At that particular time, the OPEC countries didn't like our policy—sometimes our policy concerning Israel—so they wanted to teach us a lesson. They curtailed oil shipments to the United States.

Today we find ourselves vulnerable to the hardships we experienced in the past. We are currently importing 60 percent. That number continues to rise. It makes us very vulnerable. Without energy security, we don't have national security.

It is incumbent upon us to do something. President Bush, to his credit, and Vice President CHENEY's, to his credit, formulated a national energy policy—the first administration to do so in decades. The House, to their credit, last June passed a bipartisan energy bill. My compliments to them.

Many of us in the Senate wanted to pass a bipartisan energy bill. I have been on the Energy Committee for 22 years. Every major energy piece of legislation we passed has been bipartisan—every single one.

We passed a bill deregulating natural gas prices. It took years, but we did it.

In the Finance Committee, we passed a bill to eliminate the windfall profits tax. We passed a bill to repeal the Fuel Use Act. We passed a bill to eliminate the Synthetic Fuels Corporation.

Many of those mistakes that were made during the Carter administration were enacted by the Democratic Congress which needed to be repealed. And we repealed them in a bipartisan fashion.

We started marking up the energy bill. All of a sudden, the majority leader tells the chairman of the Energy Committee not to have a markup. So the bill we have before us, in my opinion, is in desperate need of improvement. It is 590 pages. It was never marked up in committee.

I have been on the committee for 22 years. I was never able to offer an amendment on this bill.

Some people say: Why have you been on this energy bill for so long? We have to rewrite the bill on the floor. Why are you spending so much time on ANWR? Guess what. If we had marked the bill up in committee, we would have ANWR in there. We had the votes. I suspect the reason the majority leader told Senator BINGAMAN not to mark up the bill is because he is adamantly opposed to exploration in ANWR. He may well have victory on the floor tomorrow. We will find out. I hope he is proud.

What about the hundreds of thousands of jobs that wouldn't be created because we will not have exploration? What about the billions of dollars that we are shipping overseas to little countries, such as Iraq, that really aren't our best friends? Because he is continuing that policy—he is continuing the dependency, in some cases, on very unstable and unreliable sources of oil.

Our national energy is tied to our energy security, and we are taking steps to secure ourselves. We could reverse our actions significantly by allowing exploration in ANWR. But the majority leader may be successful in keeping it off.

My guess is, if we had done the bill as we have done every single bill for the last 20-some years in committee, that it would have been in the bill, and it would have stayed in the bill. I think the majority leader knows that. Maybe his tactic will be successful, but he has totally disrupted the precedents and the standard of using committee procedures to mark up bills.

We have committees and a process in which they follow. Why disenfranchise 20-some Senators from marking up a bill? This offends me. This bill has 590 pages. The first bill we considered had 539 pages.

Again, no Senator got to mark up either bill. This was put together by the majority leader. This was put together by Senator BINGAMAN. No other Senators I know of got to mark it up because there wasn't a markup held.

Where is the committee report? The standard procedure in taking up a bill is that we will have a committee report and allow individual Senators to make comments supporting or opposing the bill's provisions.

However, since we seem to have skipped this process, we have to dig through the bill and find out what is in it. This is legislative language and not the easiest language to read. There is no common English explanation for it, as we have in almost every major bill.

I am very offended by the process. It was done I think primarily to avoid having a vote on ANWR, or making it impossible for us to put ANWR in. We will have to put ANWR in. It will take 60 votes. If we had ANWR in a committee bill, it would only take 50 votes.

The majority leader is able to use the rules and maybe bypass the entire committee structure so he can have a victory. Congratulations. Tell that to the hundreds of thousands of people who don't get a job because we are not going to explore ANWR. Hundreds of thousands of jobs?

Wait a minute. How many things can we do here? Senator MURKOWSKI has said many times that this will create thousands and thousands of jobs. One estimation is that it might create 250,000 jobs, while others offer higher estimates.

How many times can we pass a bill that will say if we do this we are going to be able to reduce our dependency on foreign sources, and, instead of spending $100 billion overseas, billions of those dollars can stay in the United States—that will stay with U.S. companies, that will be American made, that will be American owned—and where the dividends, royalties, and payments will go to workers and employees of American companies? How many times do we have that opportunity?

The majority leader may be successful in stopping it, but it makes us more dependent. It makes us more vulnerable to countries such as Iraq and other countries that might be upset with our Middle East policies.

I disagree with that very strongly. I disagree very strongly with countless Senators. I would love to know how many Senators have never been up there and are making decisions that say: I know better than Senator MURKOWSKI; I know better than Senator STEVENS.

I know that both Senator STEVENS and Senator MURKOWSKI have been there several times.

I happen to have been there, I think, once. I learned a great deal. I have been to Kaktovik, and I talked to the villagers. They are all in favor of it. They are more concerned about their environment than anyone else. They live there 365 days a year. Yet we are going to deny them an economic livelihood? I think that is a serious mistake.

I have heard countless people say: We can't do this because of the environmental impact. We are talking about 2,000 acres—2,000 acres—out of a land mass that is 19.6 million acres. And 2,000 acres may be about the size of an average airport, compared to 19 million acres, about the size of South Carolina. That is a very small percentage, very little negative impact, if you consider the impact to be negative in the first place. We have hundreds or thousands of wells in my State of Oklahoma, as Texas and Louisiana do also. We have not seen considerable negative impacts.

A pipeline, is that so bad? You ought to look at an interstate pipeline map and see how many pipeline miles are across the State of Louisiana, Texas, Oklahoma, Kansas. You don't know they are there, but they are there. And people act like that would just desecrate this beautiful area. I just question that.

As a matter of fact, I look at the ANWR Coastal Plain, and it would take just a small connection to be able to tie into the TransAlaska Oil Pipeline. This small connection would be about 100 miles long.

I look at the gas pipeline, and I heard the Senator from Michigan say, oh, she is all in favor of the gas pipeline. That is all new pipeline, and that is about 3,000 miles. The pipeline we are talking about is maybe 100 miles, connecting from ANWR to the oil pipeline that is already built. The oil pipeline is about 800 miles.

Now we are talking about a 3,000-mile pipeline, almost all of it new, going through a lot of virgin territory that has never had roads, never had a pipeline on it. This is the gas pipeline that a lot of people are saying would do 100 times the environmental damage of what we are talking about, connecting to the oil pipeline that is already there—100 times the environmental damage.

I heard somebody say, what about the caribou, or what about the wildlife in the area? I remember flying up there and looking around and looking at the wildlife. Alaska is a gorgeous State that has a lot of wildlife. In that particular Coastal Plain area, when I was there, I did not see hardly any wildlife. I could see more wildlife in my State of Oklahoma or the State of Louisiana in any square mile than what I saw at the time I happened to visit there. I did not visit there when the caribou were migrating in.

I care about the caribou. I saw a lot of caribou at Prudhoe Bay. I remember when Prudhoe Bay was originally built, there was about 3,000 caribou. Today, there are 20-some thousand. The caribou herds have multiplied dramatically. I think there are up to 27,000 caribou in the Prudhoe Bay area, about 9 times what there was 25 years ago. So the caribou have been protected fairly well. They have multiplied significantly and have proven not only to survive but to survive quite well with the TransAlaska Pipeline. I am sure they could survive with this small little junction from the ANWR area to the Prudhoe Bay pipeline.

So people who are raising these facades, "Well, we can't disturb the wildlife," "We can't disturb the natural environment," what are you doing supporting the gas pipeline that is 3,000 miles through virgin territory versus a pipeline that might be 100 miles connecting ANWR to the TransAlaska Pipeline? That does not make sense. That is absurd. I am just shocked by some of the false arguments that are being raised.

I do want to create jobs. I do want to make us less dependent on foreign sources. I do not want Saddam Hussein, who is now talking about having an oil embargo against the United States for 30 days because he doesn't like our policies in the Middle East—I don't want him to hold any type of economic leverage over the United States. Right now we are importing about a million barrels per day from Iraq, from Saddam Hussein.

Guess what. The production we expect to receive from ANWR is about a million barrels a day, except that it is estimated to last 20, 30, 40 years.

The Prudhoe Bay production that we have had for the last 25 years grew to a couple million barrels a day. Now it has declined to about a million barrels per day. So we have excess capacity of a million barrels, and ANWR could help complement that. Then we would have 2 million barrels per day coming down the TransAlaska Pipeline. That is over 25 percent of our domestic production. Our country—our Nation—needs that for national security. So to deny this, I believe, is a national security issue.

So we should give deference to our home State colleagues of Alaska. We should listen to their advice, and we should allow exploration in ANWR.

I urge my colleagues to consider doing what is right for America, what is right for our country, what is right for our national security, and, frankly, what is right for Alaska.

This project is supported overwhelmingly by Alaskans because they believe they need it, both economically and for the national security implications as well.

So I urge my colleagues, tomorrow, to support Senator MURKOWSKI and Senator STEVENS and allow exploration in the ANWR area.

Mr. President, one final comment I will make, and that is, there is an amendment pending—I guess we may have a vote on it—dealing with money going to help the steel industry cope with some of the difficulties they have. Some people call them legacy costs, but it is picking up health costs for retirees.

I think that is a serious mistake. I do not know why the Federal Treasury or the taxpayers should have to take general revenue money, or money coming from this pipeline to pay pension costs or health care costs for one particular industry. If you are going to do it for this industry, then what about the textiles, what about auto workers, what about railroad workers?

You have a lot of industries that have a lot of retirees who are struggling with paying their pensions and/or health care plans. They made those contracts. Is the Federal Government responsible to come in and assume all the costs of those contracts? If so, we have real serious problems. If we are going to do it for one, how can we not do it for another? I think it would be a serious mistake and set a serious precedent that I hope we don't follow. So I urge my colleagues to vote no on the steel legacy amendment, as it has been called.

However, I urge my colleagues, with every fiber in my being, to support exploration in ANWR, the Murkowski amendment. Let's listen to the Senators from the State of Alaska. They know this issue inside and out, far better than anybody else. They have been there countless times. Let's follow their advice and open up ANWR for exploration.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, we are now debating energy policy in the Senate that will affect the lives of generations to come, so we must make sure that our approach is comprehensive and balanced. We cannot allow poor energy policy proposals to be used as a smokescreen for an unwillingness to focus on the harder long-term issues. Drilling in the Alaskan National Wildlife Refuge is one such bad policy proposal.

It is impossible for the United States to "drill" its way out of oil dependency. The United States has 3 percent of the world's oil reserves but consumes 25 percent of the world's oil. The Arctic refuge contains less than 6 months of economically-recoverable oil and that oil would not be available for 10 years. This means that drilling in ANWR would not provide any immediate energy relief for American families.

Further, the claim that drilling in ANWR would create thousands of jobs is excessive. The job estimates used to support drilling in the Arctic refuge were developed by the American Petroleum Institute, API, in 1990 and are insupportable. According to the Congressional Research Service and other recent independent studies, the API used exaggerated estimates and questionable economic analysis.

More than 95 percent of Alaska's North Slope is open to oil and natural gas exploration or development today. In 1999, the Clinton administration opened nearly 4 million acres of the National Petroleum Reserve-Alaska to oil and gas drilling and signed a bill lifting the ban on the export of Alaska North Slope oil, a move strongly supported by industry. This action opened 425 tracts on 3.9 million acres, an area more than twice the size of ANWR. As a result of improved technologies and renewed interest in the North Slope, the lease sale returned more than $104 million in bonus bids, 50 percent of which will go to the Federal Government, and 50 percent to the State of Alaska. The oil industry should explore and develop the National Petroleum Reserve-Alaska before there is any consideration of opening ANWR.

As population and the economy grow, so does the demand for energy. We do need to keep the United States at the forefront of innovative energy production. The efficient use of energy has to be our primary goal and we need to create incentives to conserve. There are many ways to do this. Midwestern farmlands are ideal for growing high-yield "energy crops," including soybeans grown in Michigan, to help power our economy. Corn grown in the Midwest can be used to produce ethanol, a cleaner burning fuel for vehicles. While there are barriers that must be overcome to bring these alternative sources of power on line, we should support renewable energy programs by offering incentives to those who use them.

Further, a new generation of automotive technology is under development that offers great promise in our quest to achieve greater fuel efficiency. Technologies such as hybrid vehicles, which use an internal combustion engine in combination with a battery and electric motor, and fuel cells, which are devices using hydrogen and oxygen to create electricity and heat, should help to dramatically improve fuel economy and protect our environment.

Drilling in our pristine wilderness will not alter our dependence on foreign oil, it will only alter our protected wilderness. We have a responsibility to promote a balanced energy plan that invests in America's future and protects our environment, not one that damages a unique and irreplaceable wilderness.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I got an e-mail from my oldest son, who told me he was surprised by the comments of the Senator from Minnesota concerning this issue being a political issue and politics as usual. I am not surprised. But I did tell him I think the Senate has changed.

Before I go to my other remarks, I would like to relate to the Senate what happened to me as a young Senator, a young appointed Senator. I came here in 1968, and by the springtime of 1969, Senator Gordon Allott of Colorado, who was a friend from the days when I was in Washington at the Interior Department. When I left I was Solicitor, and I was very close to Gordon Allott. He was a personal friend as well as the person I worked with in the Eisenhower administration.

He said he thought it would be good if I would meet with some of the older Senators and talk about life in the Senate. So I said I would, and a day or two later, Senator Allott said they were going to gather up in Senator Eastland's office. At that time it was on the third floor. I think it was room 306, just above what has been one of the leader's offices on the second floor.

As I walked in, I found that I was facing eight of the senior Senators. I hadn't been around long. I had been familiar with Senate activity. But it was a very interesting meeting: Senator Eastland of Mississippi, Senator Allott of Colorado, Senator Cotton of New Hampshire, Senator Paul Fannin of Arizona, Senator Hruska of Nebraska. I believe the others were Senator Long of Louisiana, Senator Randolph of West Virginia, and Senator Talmadge of Georgia.

Those were different days. They were days when there was a different feeling in the Senate. These were eight senior Senators, four from each side. Obviously, they enjoyed one another's company. Those were the days when, late in the afternoon, there were a few refreshments on the table in Senator Eastland's office. He said to me: Why don't you help yourself, son. I did, and I sat down. And Senator Allott said to me they just thought they ought to talk to me a little bit about how it was easy to get along in the Senate if one understood the Senate.

For instance, the conversation went to the point of the fact that we were a new State, a young State that had only been in the Union for 10 years. They wanted to make sure I understood the Senate. Senator Allott told them I had been around during the Eisenhower days. I had been with the liaison to the Senate. They said they wanted me to understand relationships in the Senate.

We talked about senatorial courtesy and what it means to have a right to be consulted concerning appointments to your State. We talked about just the idea of the aisle as a separation between individual Senators; this is a place where, if you are going to be here, you ought to know who you are working with, and they welcomed a newcomer, an appointed Senator, to visit with them on how they felt about the Senate.

It was one of the most interesting conversations of my life. The point got around to a new State and the prerogatives of a new State. One of the things they told me was very simple: If you and your colleague agree on an issue that affects your State, for instance, land in your State, you let us know because we believe you know more about your State than we do, and we are going to rely on you; we are going to rely on you to make the judgments on Federal actions that affect your State, and only your State.

I thought about that last night. I have listened to people here over the years talk about the rights of their States and what has happened to their States and what might happen to their States.

I don't think any State has lived through what we have lived through in the first years of our statehood. We have been denuded of jobs—I will talk about the people who have done it—by a group that takes advantage of the division of the country in order to achieve objectives they could not achieve but for the divisions that exist in the Senate today. It is truly a split Senate. Relationships between the majority and minority are strained more than I have ever seen them.

We have a situation where the two of us, since 1981, have sought the fulfillment of a commitment made to us in 1980, and it is apparent now that it will be denied—not permanently; we still will have a chance to come back at this again. This bill will not forever forbid the concept of oil and gas leasing in the Arctic Plain of Alaska, but it will not happen until there is an act of Congress to authorize it to proceed.

In terms of the relationships of the Senate, I raised the question: What about other Senators? Are we to presume that the concept of the Senate relying upon the two Senators from that State, if they agree on an issue pertaining to their State, the Senate will listen to them? I don't think so.

I think we have seen really a split in the Senate intentionally caused by the radical environmental organizations of the country that think they really control the country now. I will show you; they probably do. They probably do much more than the public believes.

Senator WELLSTONE said today that he had meetings with the Gwich'in people because of the pristine wilderness, and they live in the area. I beg to correct the Senator. The Gwich'ins live on the south slope of the Arctic range. They are Canadian Indians, at least part of a Canadian tribe of Indians called the Gwich'ins. They have land in Alaska. They opted not to participate in the great land settlement of the Alaska Native lands settlement. They opted out. They took their land and did not want to rely in any way on the Federal Government.

As a matter of fact, right after they took their land, rather than participate in the land claims settlement, they put their land up for oil and gas leasing. No one wanted to lease it. They put their land up for coal leasing. They do have a lot of coal. And no one wanted to lease it.

As a matter of fact, we hardly ever heard from the Gwich'ins about this issue until they were hired by one of the environmental organizations, and they have become the spokesmen for the environmental organizations as a representative of the Alaska Native people. But they are Canadian Indians who live in Alaska.

The Alaska Native people, the Alaska Federation of Natives, and particularly the great Eskimo community on the Alaska North Slope, support drilling in the 1002 area of the Alaska Coastal Plain. They live in the area. The Gwich'ins do not. The people who own land within this area at Kaktovik, the Eskimo people, violently support this. They want it to happen. They have been denied the right by Federal order to drill on their own land, and our bill removes that impediment.

I have tried my best to explain why we went into the concept of looking at the steel legacy program. One Senator said he thought my effort was not real, not authentic, and I sought to take advantage of the hopes and pains of his people. If I had been here, I would have taken a point of personal privilege. That is an accusation of immoral conduct on the part of a Senator—were it true. It is not true.

Who made that linkage? The people who don't want to work with us. They know my amendment would provide a cashflow to the steelworkers who are currently going to be denied their medical care that they thought they were going to get. One Senator said: It is only $1 billion. It is only $1 billion. Well, we are getting $1.6 to $2.7 billion, we believe, in the bonus bids. And they only get $1 billion. Between now and 2005, they only get $1 billion. They get $8 billion over 30 years. If it is cynical, it is cynical because of the people who don't want to face up to their own responsibility.

We need that steel. We can't build this gas pipeline from Alaska, 3,000 miles from the North Slope to Chicago, unless we have steel. We can't have steel unless the steel companies of this country survive. They are not going to survive under the current circumstances.

As I said yesterday, 30 steel companies have gone bankrupt in the year 2000. Do the people who represent those areas understand their State? I understand mine. My State is bankrupt because the last administration closed down our mines, our timber operations, oil and gas activity, and our cruise ships. They have closed us down and want us to be a national park.

I am trying to represent my people, but I just hope these people here don't come in and accuse me of having taking action to take advantage of the hopes and pains of people.

I hope I am here then. I hope I am here then. We will have a discussion then. One said that drilling can't help because they thought that the legacy fund could not be solved by the moneys that would come from drilling in ANWR. I never said they would be solved. I never said they would be solved. I said we could provide a plug in that fund to keep them going until we got production from the Arctic Plain, and then we could go up to a total of $18 billion in 30 years to make that fund sound.

Now, it is one thing to not agree with a Senator who is trying to put two things together. By the way, let me remind the Senate that the great civil rights legislation of this country was introduced by Everett Dirksen of Illinois as a rider to another bill. It was a rider to another bill. It was the military structure and school bill. He added the civil rights legislation.

From some people on the other side, you would think the Democratic Party started civil rights in this country. The person who introduced the major bill was Everett Dirksen of Illinois, working with Lyndon Johnson when he was majority leader. Johnson called up the bill so that Everett Dirksen could offer that amendment. It was in February 1960.

In terms of other debates, when we were talking about the Foreign Military Sales Act of 1970, John Sherman Cooper of Connecticut and Senator Frank Church of Idaho offered an amendment to limit military operations in Cambodia. That became a substantial change in that bill. It became two bills, and, because they were joined together, they passed.

In 1982, we joined the Trade Reciprocity and Dividend Withholding Acts, and the proponents of both succeeded in bringing them together in the Senate. It is not unknown for a Senator to suggest that two separate pieces of legislation ought to be joined together in order to make a coalition of Senators who believe in an objective.

I take umbrage to some of the comments made by those people who don't have the guts to come forward and represent their own people. I would represent my people here until I die. We have done that. We have gone to the wall. I am accused of being the pork chief, or the chief porker around here. Why? Because my State is almost dead due to the actions of the last administration in shutting down our timber industry, oil and gas industry, mining industry, and the cruise ships' total opposition to the State of Alaska in terms of any kind of development on Federal land, whether it was within or without the great withdrawals we have been talking about.

When we entered into that agreement in 1980, person after person—Senator MURKOWSKI and I read them—including the President, said we have reached an understanding so that the land can be preserved that needed to be preserved, but Alaska can go forward with development of oil and gas and timber and mining. They said that. They acknowledged it in public that there was a deal—a deal.

A deal, to me, is not a bad word. Up our way, when we make a deal, we shake hands. We don't have to have an act of Congress if you give a man your word, your promise. As Robert Service said, "A promise made is a debt unpaid."

Congress made a promise to Alaska that this land would be opened to oil and gas. It was shown in that environmental impact statement that there would be no permanent harm to the fish and wildlife area.

Now along comes this environmental group that has to be the most horrendous thing that I have gotten into. I wish I had more time for this, and some day I will take a lot more time for it. I think, because of these people, we have lost that ambiance on the floor.

In the days of Senator Mansfield, we used to have dining groups. Mansfield encouraged us to get together. As young Senators from both sides of the aisle, we would invite people from the other side of the aisle to our homes for dinner. At least three times a year we used to have dinner with other Senators in each other's homes. We got to know one another. We took them to our States. We would travel with each other. We disagreed here on the floor and we did our job representing our people; but we were friends.

Many Senators right now are not going to have many friends in the Senate after this year is over. It is because of what is happening now—this great division, turning everything into political issues. We are told that on every issue the President has to have 60 votes—not a majority, but every one of the President's programs has to have 60 votes in order to stop the opposition of the majority.

That is not like the days of Mike Mansfield or Lyndon Johnson. Lyndon Johnson cooperated with President Eisenhower. Mike Mansfield cooperated with President Nixon and President Ford. Where is the spirit of cooperation from the majority?

I think it is high time people understood what is going on here. It is going to have a long-term impact on the Senate, as far as this Senator is concerned. I still have my friends over there, and I love them. By the way, they are still my friends. They understand what we are doing. They are the Senators from the old days who understand that when two Senators agree concerning an issue in their State, they ought to be listened to by the Senate. They don't always agree, but they certainly should not be attacked.

Let's talk about the fundraising groups. We have some charts. Fundraising groups started off as philanthropic organizations that raise money to help achieve conservation objectives. They have been the subject of a review by the Sacramento Bee. Why do I look at that? They happen to own our largest newspaper, the Anchorage Daily News. We came across some of these articles that I will ask to put in the RECORD.

The Institute of Philanthropy suggests that fundraising expenses not exceed 35 percent. This is the percentage of environmental groups' donations used to raise more money, not for environmental protection. The National Parks Conservation Association uses 41 percent of the money they raise to raise more money; the Sierra Club, 42 percent; Defenders of Wildlife, 50 percent; Greenpeace, 56 percent; National Park Trust, 74 percent. So 75 cents out of every dollar goes to raise more money, not to help the parks.

Are these philanthropic, eleemosynary institutions? Are they? No. They are organizations that are now there to participate in the management of them. Let me show you, for instance, the annual income of these groups. This is just income of the presidents of philanthropic organizations. They are not the President of the United States, but you will see that several make more than the President of the United States. All but one makes more money than any Member of Congress. They are out raising money from people. They send them letter after letter, and they spend more money to go out and get more money, and they raise more money than they do for their objectives. Look at what they do with what is left.

The median household income in the United States in 2000 was $42,148; that is the income of a husband and wife in a household in the year 2000. The Sierra Club's executive director makes $138,000, which is conservative. All they really do now is raise money. That is a pretty good income. The president of the Earth Justice Legal Defense Fund makes $157,000. They raise money so they can sue—not in terms of doing anything for the conservation; they are protesters. Defenders of Wildlife, $201,000. The president of the Wilderness Society, $204,000; that is Fred Gaylord Nelson. He has graduated to a better salary. President, National Audubon Society, $239,000. World Wildlife Fund, $204,000. National Wildlife Federation, $247,000.

What is eleemosynary about that? Are these volunteers to save the world?

These are people in it for what they can get out of it, and what they get out of it is both money for themselves and money to contribute to people who support them. We will get into that, too.

This is the amount of mailings sent annually by these groups. These are mailings, in the millions, for more fundraising, not money to notify people of a problem: the Audubon Society, 7 million; Greenpeace, 8; the Sierra Club, 10.5; Defenders of Wildlife, 11; the National Wildlife Federation, 12.5; National Parks and Conservation, 17; World Wildlife, 19; Nature Conservancy, 35. They mail about 160 million mailings a year. The response is 1 to 2 percent.

I wonder who owns the mailing companies. I have to look into that. Somebody is making money on just the mailings from these people. What are they doing?

One hundred sixty million mailings, how many trees does that take, Mr. President? They are stopping us from cutting our trees in Alaska. From where are they getting that paper? They are not recycling it all. This group has in mind controlling what the Government does with regard to Federal lands in particular.

Who spends more to protect the environment? This is from the "Environmental Benefits of Advanced Oil and Gas Exploration and Production Technology" published in the Clinton administration. This is not this administration. This is the Clinton administration.

It is clear that the oil and gas industry spent $8 billion, in this 1 year, 1996. That is more than EPA's entire budget for 1996 and 333 percent more than all environmental groups put together. The oil and gas industry spends more to protect the environment by the Clinton administration's findings than all environmental groups put together. The environmental groups spent $2.4 billion in 1996. That is their total spending, and we have seen most of this is spent to raise more money—this is from environmental groups—not to protect the environment, but to raise more money and pad their own wallets.

It is amazing, as I look at law firms around the country. They are advertising to get contributions to protect the environment, and what they are really doing is taking contributions and paying themselves to represent protest groups. It is an interesting connection to the environment. I am not sure that is advancing the cause of the environment.

In any event, they are really soliciting money for their own salaries, which in my day in practicing law would have been thought to be unethical. It is not unethical now, I guess.

Mr. President, I ask unanimous consent that a series of articles from the Sacramento Bee be printed in the RECORD. They were written by a Bee staff writer in April of last year. The first is called "Green Machine." Tom Knudson's article says:

> Dear friend, I need your help to stop an impending slaughter. Otherwise, Yellowstone National Park—an American wildlife treasure—could soon become a bloody killing field. And the victims will be hundreds of wolves and defenseless wolf pups."

So begins a fund-raising letter from one of America's fastest-growing environmental groups—Defenders of Wildlife.

The article goes on:

> In 1999, donations jumped 28 percent to a record $17.5 million. The group's net assets . . . grew to $14.5 million, another record. And according to its 1999 annual report, Defenders spent donors' money wisely, keeping fund-raising and management costs to . . . 19 percent of expenses.

But there is another side to Defenders' dramatic growth.

Pick up copies of its federal tax returns and you'll find that its five highest-paid partners are not firms that specialize in wildlife conservation. They are national direct mail and telemarketing companies—the same ones that raise money through the mail and over the telephone for nonprofit groups, from Mothers Against Drunk Driving to the U.S. Olympic Committee.

> You'll also find that in calculating its fund-raising expenses, Defenders borrow a trick from the business world. It dances with digits, finds opportunity in obfuscation. Using an accounting loophole, it classifies millions of dollars spent on direct mail and telemarketing activities not as fund-raising but as public education and environmental activism.

Sounds like another Enron to me.

Again, I ask unanimous consent this series of articles be printed in the RECORD.

There being on objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Apr. 23, 2001]

Mission Adrift in a Frenzy of Fund Raising

(By Tom Knudson)

"Dear Friend, I need your help to stop an impending slaughter. Otherwise, Yellowstone National Park could soon become a bloody killing field. And the victims will be hundreds of wolves and defenseless wolf pups!"

So begins a fund-raising letter from one of America's fastest-growing environmental groups—Defenders of Wildlife.

Using the popular North American gray wolf as the hub of an ambitious campaign, Defenders has assembled a financial track record that would impress Wall Street.

In 1999, donations jumped 28 percent to a record $17.5 million. The group's net assets, a measure of financial stability, grew to $14.5 million, another record. And according to its 1999 annual report, Defenders spent donors' money wisely, keeping fund-raising and management costs to a lean 19 percent of expenses.

But there is another side to Defenders' dramatic growth.

Pick up copies of its federal tax returns and you'll find that its five highest-paid business partners are not firms that specialize in wildlife conservation. They are national direct mail and telemarketing companies—the same ones that raise money through the mail and over the telephone for nonprofit groups. from Mothers Against Drunk Driving to the U.S. Olympic Committee.

You'll also find that in calculating its fund-raising expenses, Defenders borrows a trick from the business world. It dances with digits, finds opportunity in obfuscation. Using an accounting loophole, it classifies millions of dollars spent on direct mail and telemarketing not as fund raising but as public education and environmental activism.

Take away that loophole and Defenders' 19 percent fund-raising and management tab leaps above 50 percent, meaning more than half of every dollar donated to save wolf pups helped nourish the organization instead. That was high enough to earn Defenders a "D" rating from the American Institute of Philanthropy, an independent, nonprofit watchdog that scrutinizes nearly 400 charitable groups.

Pick up copies of IRS returns for major environmental organizations and you'll see that what is happening at Defenders of Wildlife is not unusual. Eighteen of America's 20 most prosperous environmental organizations, and many smaller ones as well, raise money the same way: by soliciting donations from millions of Americans.

But in turning to mass-market fund-raising techniques for financial sustenance, environmental groups have crossed a kind of conservation divide.

No allies of industry, they have become industries themselves, dependent on a style of salesmanship that fills mailboxes across America with a never-ending stream of environmentally unfriendly junk mail, reduces the complex world of nature to simplistic slogans, emotional appeals and counterfeit crises, and employs arcane accounting rules to camouflage fund raising as conservation.

Just as industries run afoul of regulations, so are environmental groups stumbling over standards. Their problem is not government standards, because fund raising by nonprofits is largely protected by the free speech clause of the First Amendment. Their challenge is meeting the generally accepted voluntary standards of independent charity watchdogs. And there, many fall short.

Six national environmental groups spend so much on fund raising and overhead they don't have enough left to meet the minimum benchmark for environmental spending—60 percent of annual expenses—recommended by charity watchdog organizations. Eleven of the nation's 20 largest include fund-raising bills in their tally of money spent protecting the environment, but don't make that clear to members.

The flow of environmental fund-raising is remarkable. Last year, more than 160 million pitches swirled through the U.S. Postal Service, according to figures provided by major organizations. That's enough envelopes, stationery, decals, bumper stickers, calendars and personal address labels to circle the Earth more than two times.

Often, just one or two people in 100 respond.

The proliferation of environmental appeals is beginning to boomerang with the public, as well. "The market is over-saturated. There is mail fatigue," said Ellen McPeake, director of finance and development at Greenpeace, known worldwide for its defense of marine mammals. "Some people are so angry they send back the business reply envelope with the direct mail piece in it."

Even a single fund-raising drive generates massive waste. In 1999, The Wilderness Society mailed 6.2 million membership solicitations—an average of 16,986 pieces of mail a day. At just under 0.9 ounce each, the weight for the year came to about 348,000 pounds.

Most of the fund-raising letters and envelopes are made from recycled paper. but once delivered, millions are simply thrown away, environmental groups acknowledge. Even when the solicitations make it to a recycling bin, there's a glitch: Personal address labels, bumper stickers and window decals that often accompany them cannot be recycled into paper—and are carted off to landfills instead.

"For an environmental organization, it's so wrong," said McPeake, who is developing alternatives to junk mail at Greenpeace. "It's not exactly environmentally correct."

The stuff is hard to ignore.

Environmental solicitations—swept along in colorful envelopes emblazoned with bears, whales and other charismatic creatures—jump out at you like salmon leaping from a stream.

Open that mail and more unsolicited surprises grab your attention. The Center for Marine Conservation lures new members with a dolphin coloring book and a flier for a "free" dolphin umbrella. The National Wildlife Federation takes a more seasonal approach: a "Free Spring Card Collection & Wildflower Seed Mix!" delivered in February, and 10 square feet of wrapping paper with "matching gift tags" delivered just before Christmas.

The Sierra Club reaches out at holiday time, too, with a bundle of Christmas cards that you can't actually mail to friends and family, because inside they are marred by sales graffiti: "To order, simply call toll-free . . ." Defenders of Wildlife tugs at your heart with "wolf adoption papers." American Rivers dangles something shiny in front of your checkbook: a "free deluxe 35 mm camera" for a modest $12 tax-deductible donation.

The letters that come with the mailers are seldom dull. Steeped in outrage, they tell of a planet in perpetual environmental shock, a world victimized by profit-hungry corporations. And they do so not with precise scientific prose but with boastful and often inaccurate sentences that scream and shout:

From New York-based Rainforest Alliance: "By this time tomorrow, nearly 100 species of wildlife will tumble into extinction."

Fact: No one knows how rapidly species are going extinct. The Alliance's figure is an extreme estimate that counts tropical beetles and other insects—including ones not yet known to science—in its definition of wildlife.

From the Wilderness Society: "We will fight to stop reckless clear-cutting on national forests in California and the Pacific Northwest that threatens to destroy the last of America's unprotected ancient forests in as little as 20 years."

Fact: National forest logging has dropped dramatically in recent years. In California, clear-cutting on national forests dipped to 1,395 acres in 1998, down 89 percent from 1990.

From Defenders of Wildlife: "Won't you please adopt a furry little pup like 'Hope'? Hope is a cuddly brown wolf . . . Hope was triumphantly born in Yellowstone."

Facts: "There was never any pup named Hope," says John Varley, chief of research at Yellowstone National Park. "We don't name wolves. We number them." Since wolves were reintroduced into Yellowstone in 1995, their numbers have increased from 14 to about 160; the program has been so successful that Yellowstone officials now favor removing the animals from the federal endangered species list.

Longtime conservationist Peter Brussard has seen enough.

"I've stopped contributing to virtually all major environmental groups," said Brussard, former Society for Conservation Biology president and a University of Nevada, Reno, professor.

"My frustration is the mailbox," he said. "Virtually every day you come home, there are six more things from environmental groups saying that if you don't send them fifty bucks, the gray whales will disappear or the wolf reintroductions in Yellowstone will fail . . . You just get supersaturated.

"To me, as a professional biologist, it's not conspicuous what most of these organizations are doing for conservation. I know that some do good, but most leave you with the impression that the only thing they are interested in is raising money for the sake of raising money."

Step off the elevator at Defenders of Wildlife's office in Washington, D.C., and you enter a world of wolves: large photographs of wolves on the walls, a wolf logo on glass conference room doors, and inside the office of Charles Orasin, senior vice president for operations, a wolf logo cup and a toy wolf pup.

Ask Orasin about the secret of Defenders' success, and he points to a message prominently displayed behind his desk: "It's the Wolf, Stupid."

Since Defenders began using the North American timber wolf as the focal point of its fund-raising efforts in the mid-1990s, the organization has not stopped growing. Every year has produced record revenue, more members—and more emotional, heart-wrenching letters.

"Dear Friend of Wildlife: It probably took them twelve hours to die. No one found the wolves in the remote, rugged lands of Idaho—until it was too late. For hours, they writhed in agony. They suffered convulsions, seizures and hallucinations. And then—they succumbed to cardiac and respiratory failure."

"People feel very strongly about these animals," said Orasin, architect of Defenders' growth. "In fact, our supporters view them as they would their children. A huge percentage own pets, and they transfer that emotional concern about their own animals to wild animals.

"We're very pleased," he said. "We think we have one of the most successful programs going right now in the country."

Defenders, though, is only the most recent environmental groups to find fund-raising fortune in the mail. Greenpeace did it two decades ago with a harp seal campaign now regarded as an environmental fundraising classic.

The solicitation featured a photo of a baby seal with a white furry face and dark eyes accompanied by a slogan: "Kiss This Baby Good-bye." Inside, the fund-raising letter included a photo of Norwegian sealers clubbing baby seals to death.

People opened their hearts—and their checkbooks.

"You have very little time to grab people's attention, said Jeffrey Gillenkirk, a veteran free-lance direct mail copywriter in San Francisco who has written for several national environmental groups, including Greenpeace. "It's like television: You front-load things into your first three paragraphs, the things that you're going to hook people with. You can call it dramatic. You can call it hyperbolic. But it works."

The Sierra Club put another advertising gimmick to work in the early 1980s. It found a high-profile enemy: U.S. Secretary of the Interior James Watt, whose pro-development agenda for public lands enraged many.

"When you direct-mailed into that environment, it was like highway robbery," said Bruce Hamilton, the club's conservation director. "You couldn't process the membership fast enough. We basically added 100,000 members."

But environmental fund raising has its downsides.

It tends to be addictive. The reason is simple: Many people who join environmental groups through the mail lose interest and don't renew—and must be replaced, year after year.

"Constant membership recruitment is essential just to stay even, never mind get bigger," wrote Christopher Bosso, a political scientists at Northeastern University in Boston, in his paper: "The Color of Money: Environmental Groups and the Pathologies of Fund Raising."

"Dropout rates are high because most members are but passive check writers, with the low cost of participating and translating into an equally low sense of commitment," Bosso states. "Holding on to such members almost requires that groups maintain a constant sense of crisis. It does not take a cynic to suggest . . . that direct mailers shop for the next eco-crisis to keep the money coming in."

That is precisely how Gillenkirk, the copywriter, said the system works. As environmental direct mail took hold in the 1980s, "We discovered you could create programs by creating them in the mail," he said.

"Somebody would put up $25,000 or $30,000, and you would see whether sea otters would sell. You would see whether rain forests would sell. You would try marshlands, wetlands, all kinds of stuff. And if you got a response that would allow you to continue—a 1 or 2 percent response—you could create a new program."

Today, the trial-and-error process continues.

The Sierra Club, which scrambles to replace about 150,000 nonrenewing members a year out of 600,000, produces new fund-raising packages more frequently than General Motors produces new car models.

"We are constantly turning around and trying new themes," said Hamilton. "We say, 'OK, well, people like cuddly little animals, they like sequoias.' We try different premiums, where people can get the backpack versus the tote bag versus the calendar. We tried to raise money around the California desert—and found direct mail deserts don't work."

And though many are critical of such a crisis-of-the-month approach, Hamilton defended it—sort of.

"I'm somewhat offended by it myself, both intellectually and from an environmental standpoint," he said. "And yet . . . it is what works. It is what builds the Sierra Club. Unfortunately the fate of the Earth depends on whether people open that envelope and send in that check."

The vast majority of people don't. Internal Sierra Club documents show that as few as one out of every 100 membership solicitations results in a new member. The average contribution is $18.

"The problem is there is a part of the giving public—about a third we think—who as a matter of personal choice gives to a new organization every year," said Sierra Club Executive Director Carl Pope. "We don't do this because we want to. We do it because the public behaves this way."

Fund-raising consultants "have us all hooked, and none of us can kick the habit," said Dave Foreman, a former Sierra Club board member. "Any group that gives up the direct mail treadmill is going to lose. I'm concerned about how it's done. It's a little shabby."

Another problem is more basic: accuracy. Much of what environmental groups say in fund-raising letters is exaggerated. And sometimes it is wrong.

Consider a recent mailer from the Natural Resources Defense Council, which calls itself "America's hardest-hitting environmental group." The letter, decrying a proposed solar salt evaporation plant at a remote Baja California lagoon where gray whales give birth, makes this statement:

"Giant diesel engines will pump six thousand gallons of water out of the lagoon EVERY SECOND, risking changes to the precious salinity that is so vital to newborn whales."

Clinton Winant, a professor at Scripps Institution of Oceanography who helped prepare an environmental assessment of the project, said the statement is false. "There is not a single iota of scientific evidence that suggest pumping would have any effect on gray whales or their babies," he said.

The mailer also says:

"A mile-long concrete pier will cut directly across the path of migrating whales—potentially impeding their progress."

Scripps professor Paul Dayton, one of the nation's most prominent marine ecologist, said that statement is wrong, too.

"I've dedicated my career to understanding nature, which is becoming more threatened," he said. "And I've been confronted with the dreadful dishonesty of the Rush Limbaugh crowd. It really hurts to have my side—the environmental side—become just as dishonest."

Former Mexican President Ernesto Zedillo halted the project last year. But as he did, he also criticized environmental groups. "With false arguments and distorted information, they have damaged the legitimate cause of genuine ecologists." Zedillo said at a Mexico City news conference.

A senior Defense Council attorney in Los Angeles, Joel Reynolds, said his organization does not distort the truth.

"We're effective because people believe in us," Reynolds said. "We're not about to sacrifice the credibility we've gained through direct mail which is intentionally inaccurate."

Reynodls said NRDC's position on the slat plant was influenced by a 1995 memo by Bruce Mate, a world-renowned whale specialist. Mate said, though, that his memo was a first draft, not grounded in scientific fact.

"This is a bit of an embarrassment," he said. "This was really one of the first bits of information about the project. It was not meant for public consumption. I was just kind of throwing stuff out there. It's out-of-date, terribly out-of-date."

There is plenty of chest-thumping pride in direct mail, too—some of it false pride. Consider this from a National Wildlife Federation letter: "We are constantly working in every part of the country to save those species and special places that are in all of our minds."

Yet in many places, the federation is seldom, if every, seen.

"In 15-plus years in conservation, in Northern California, Nevada, Idaho, Oregon and Washington, I have never met a (federation) person," said David Nolte, who recently resigned as a grass-roots organizer with the Theodore Roosevelt Conservation Alliance—a coalition of hunters and fishermen.

"This is not about conservation," he said. "It's marketing."

Overstating achievements is chronic, according to Alfred Runte, an environmental historian and a board member of the National Parks Conservation Association from 1993 to 1997.

"Environmental groups all do this," he said. "They take credit for things that are generated by many, many people. What is a community ccomplishment becomes an individual accomplishment—for the purposes of raising money."

As a board member, Runte finds something else distasteful about fund raising: its cost.

"Oftentimes, we said very cynically that for every dollar you put into fund raising, you only got back a dollar," he recalled. "Unless you hit a big donor, the bureaucracy was spending as much to generate money as it was getting back.

Some groups are far more efficient than others. The Nature Conservancy, for example, spends just 10 percent of donor contributions on fund raising, while the Sierra Club spends 42 percent, according to the American Institute of Philanthropy.

Pope, the Sierra Club director, said it's not a fair comparison. The reason? Donations to the Conservancy and most other environmental groups are tax deductible—an important incentive for charitable giving. Contributions to the Sierra Club are not, because it is a political organization, too.

"We're not all charities in the same sense," Pope said. "Our average contribution is much, much smalller."

Determining how much environmental groups spend on fund raising is only slightly less complex than counting votes in Florida. The difficultly is a bookkeeping quagmire called "joint cost accounting."

At its simplest, joint cost accounting allows nonprofit groups to splinter fund-raising expenditures into categories that sound more pleasant to a donor's ear—public education and environmental action—shaving millions off what they report as fund raising.

Some groups use joint cost accounting. Others don't. Some groups put it to work liberally, others cautiously. Those who do apply it don't explain it. What one group labels education, another calls fund raising.

> "You use the term joint allocation and most people's eyes glaze over," said Greenpeace's McPeake. The most sophisticated donor in the world "would not be able to penetrate this," she said.
>
> Joint cost accounting need not be boring, however.
>
> Look closely and you'll find sweepstakes solicitations, personal return address labels, free tote bag offers and other fund-raising novelties cross-dressing as conservation. You also find that those who monitor such activity are uneasy with it.
>
> David Ormsteadt, an assistant attorney general in Connecticut, states in Advancing Philanthropy, a journal of the National Society of Fundraising Executives: "Instead of reporting fees and expenses as fund-raising costs, which could . . . . discourage donations, charities may report these costs as having provided a public benefit. The more mailings made—and the more expense incurred—the more the 'benefit' to society."
>
> The Wilderness Society, for example, determined in 1999 that 87 percent of the $1.5 million it spent mailing 6.2 million membership solicitation letters wasn't fund raising but "public education." That shaved $1.3 million off its fund-raising tab.
>
> One of America's oldest and most venerable environmental groups, the Wilderness Society didn't just grab its 87 percent figure out of the air. It literally counted the number of lines in its letter and determined that 87 of every 100 were educational.
>
> When you read in the society's letter that "Our staff is a tireless watchdog," that is education. So is the obvious fact that national forests "contain some of the most striking natural beauty on Earth." Even a legal boast—"If necessary, we will sue to enforce the law"—is education.
>
> "We're just living within the rules. We're not trying to pull one over on anybody," said Wilderness Society spokesman Ben Beach.
>
> Daniel Borochoff, president of the American Institute of Philanthropy, the charity watchdog, said it is acceptable to call 30 percent or less of fund-raiding expenses "education." But he deemed that the percentages claimed by the Wilderness Society, Defenders of Wildlife and others were unacceptable.
>
> "These groups should not be allowed to get away with this," Borochoff said. "They are trying to make themselves look as good as they can without out-and-out lying. . . . This doesn't help donors. It helps the organization."
>
> At Defenders of Wildlife, Orasin flatly disagreed. The American institute of Philanthropy "is a peripheral group and we don't agree with their standards," he said. "We don't think they understand how a nonprofit can operate, much less grow."
>
> Even the more mainstream National Charities Information Bureau, which recently merged with the Better Business Bureau's Philanthropic Advisory Service, rates Defenders' fund raising excessive.
>
> "We strongly disagree with (the National Charities Information Bureau)," said Orasin. "They take a very subjective view of what fund raising is. We are educating the public. If you look at the letters that go out from us, they are chock-full of factual information."
>
> But much of what Defenders labels education in its fund raising is not all that educational. Here are a few examples—provided to The Bee by Defenders from its recent "Tragedy in Yellowstone" membership solicitation letter:
>
> Unless you and I help today, all of the wolf families in Yellowstone and central Idaho will likely be captured and killed.
>
> It's up to you and me to stand up to the wealthy American Farm Bureau . . .
>
> For the sake of the wolves . . . please take one minute right now to sign and return the enclosed petition.
>
> The American Farm Bureau's reckless statements are nothing but pure bunk.
>
> "That is basically pure fund raising," said Richard Larkin, a certified public accountant with the Lang Group in Bethesda, Md., who helped draft the standards for joint cost accounting. "That group is playing a little loose with the rules."
>
> Defenders also shifts the cost of printing and mailing millions of personalized return address labels into a special "environmental activation" budget category.
>
> Larkin takes a dim view.
>
> "I've heard people try to make the case that by putting out these labels you are somehow educating the public about the importance of the environment," he said. "I would consider it virtually abusive."
>
> Not all environmental groups use joint cost accounting. At the Nature Conservancy, every dollar spent on direct mail and telemarketing is counted as fund raising.
>
> The same is true at the Sierra Club. "We want to be transparent with our members," said Pope, the club's director.
>
> Groups that do use it, though, often do so differently.
>
> The National Parks Conservation Association, for example, counts this line as fund raising: "We helped establish Everglades National Park in the 1940s." Defenders counts this one as education: "Since 1947, Defenders of Wildlife has worked to protect wolves, bears . . . and pristine habitat."
>
> "It's a very subjective world," said Monique Valentine, vice president for finance and administration at the national parks association. "It would be much better if we would all work off the same sheet of music."
>
> At the Washington, D.C.-based National Park Trust, which focuses on expanding the park system, even a sweepstakes solicitation passes for education, helping shrink fund-raising costs to 21 percent of expenses, according to its 1999 annual report.
>
> Actual fund-raising costs range as high as 74 percent, according to the American Institute of Philanthropy, which gave the Trust an "F" in its "Charity Rating Guide & Watchdog Report." Borochoff, the Institute's president, called the Trust's reporting "outrageous."
>
> "Dear Friend," says one sweepstakes solicitation, "The $1,000,000 SUPER PRIZE winning number has already been pre-selected by computer and will absolutely be awarded. It would be a very, very BIG MISTAKE to forfeit ONE MILLION DOLLARS to someone else."
>
> Paul Pritchard, the Trust's president, said the group's financial reporting meets nonprofit standards. He defended sweepstakes fund raising.
>
> "I personally find it a way of expressing freedom of speech," Pritchard said. "I can ethically justify it. How else are you going to get your message out?"

Mr. STEVENS. Mr. President, the article goes on to say:

> No allies of industry, they have become industries themselves, dependent upon a style of salesmanship that fills mailboxes across America with a never-ending stream of environmentally unfriendly junk mail, reduces the complex world of nature to simplistic slogans, emotional appeals and counterfeit crises, and employs arcane accounting rules to camouflage fundraising as conservation.

It goes on to say:

> Six national environmental groups spent so much on fund-raising and overhead they don't have enough left to meet the minimum benchmark for environmental spending—60 percent of annual expenses—recommended by charity watchdog organizations. Eleven of the nation's 20 largest include fund-raising bills in their tally of money spent protecting the environment, but don't make that clear to members.

The direct mail costs that we have seen can go up to 74 percent of the total money received and is being reported to members as money spent to protect the environment. Are these the people the Senate ought to believe? They are the ones the people on the other side have been quoting all day. That is why we are raising it. They have been quoting them as the sources for the information they present to the Senate—all these things are going bad in Alaska, all these tragedies that have happened to Alaska. What they do not mention is the human tragedy that has happened to Alaska.

This article was printed on April 23, 2001. I hope Senators will read this and all other Sacramento Bee articles in this series. In fact, I think the Sacramento Bee ought to receive an award for them. They are enormous in terms of their reach.

The Sierra Club, for instance, one time said:

> By this time tomorrow, nearly 100 species of wildlife will tumble into extinction.

They sent that to retired people and to working people who believe in protecting the environment. This says, as a matter of fact:

> No one knows how rapidly species are going extinct. The Alliance's figure is an extreme estimate that counts tropical beetles and other insects—including ones not yet known to science—in its definition of wildlife.

And the Defenders of Wildlife are raising money.

This article says:

> We will fight to stop reckless clear-cutting of the national forests in California and the Pacific Northwest that threatens to destroy the last of America's unprotected ancient forests in as little as 20 years.

As a matter of fact: Clear-cutting the forests has stopped. It is down 89 percent from 1990, and yet they wrote that letter after the timber cutting stopped.

Again, I urge Members of the Senate to read these articles written by the Sacramento Bee. It is high time someone started looking into them, and we will do that later.

Mr. President, I have another series of articles from the Sacramento Bee. This time it is called "Litigation Central."

It says the "flood of costly lawsuits raises questions about motive." I refer to this article of April 24, 2001.

It says, in part:

> Suing the government has long been a favorite tactic of the environmental movement—used to score key victories for clean

> air, water and endangered species. But today, many court cases are yielding an uncertain bounty for the land and sowing doubt even among the faithful.

"We've filed our share of lawsuits, and I'm proud of a lot of them," said Dan Taylor, executive director of the California chapter of the National Audubon Society. "But I do think litigation is overused. In many cases, it's hard to identify what the strategic goal is, unless it is to significantly reshape society."

The suits are having a powerful impact on Federal agencies. They are forcing some government biologists to spend more time on legal chores than on conservation work. As a result, species in need of critical care are being ignored. And frustration and anger are on the rise.

It goes on:

> During the 1990s, the government paid out $31.6 million in attorney fees for 434 environmental cases brought against Federal agencies. The average award per case was more than $70,000 [for attorneys fees alone]. One long-running lawsuit in Texas involving the endangered salamander netted lawyers for the Sierra Club and other plaintiffs more than $3.5 million in taxpayer funds.

It is a growth industry, suing the Federal Government for an environmental cause, mythical or otherwise.

> Lawyers for the industry and natural resource users get paid for winning environmental cases.

As a matter of fact, the environmental groups are not shy about asking for money. This is from this article:

> They earn $150 to $350 an hour . . . In 1993, three judges on the U.S. Circuit Court of Appeals in Washington were so appalled by one Sierra Club Legal Defense Fund lawyer's flagrant overbilling that they reduced her award to zero.

The lawyer had claimed too much money.

I see the Senator from Iowa is in the Chamber. Does he have a timeframe problem?

Mr. GRASSLEY. I would like to speak on ANWR for about 10 minutes if I could, or a little bit less.

Mr. STEVENS. I do not want to keep the Senator waiting. I have a lot more than that to speak. I ask unanimous consent that I be able to yield to the Senator from Iowa for 10 minutes without losing the floor.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. First of all, I thank the Senator from Alaska for his kindness.

I have heard discussed in the Senate this area of Alaska being about 19 million acres, and I have heard that there was only going to be drilling in about 2,000 acres of that 19 million acres. Two thousand acres out of 19 million acres is not very many acres.

My State of Iowa is about 55,000 square miles, and that multiplies out to about 35 million acres. So 19 million acres would be a little bit more than half of my State of Iowa. I know how big the State of Iowa is. I do not want to claim that I know how big the State of Alaska is, but I know how big the State of Iowa is because I travel every year to all 99 counties to hold at least one meeting in each county.

I know how much 2,000 acres happens to be because that would be about 3 square miles in the neighborhood of my farm in Iowa. Take 3 square miles out of my State of Iowa and it is practically nothing. So I do not know what the big deal is about drilling on 2,000 acres in the State of Alaska or even in the State of Iowa. It would be equivalent to about a pinprick on a map of the State of Iowa. That is the way I see it.

I say to the Senator from Alaska, to me, this ends up almost as a no-brainer. From the facts we have heard, that this will supply enough oil for my State of Iowa for 126 years—I have also heard it would be equivalent to the amount of oil we would bring in from Saudi Arabia for 30 years. I think I have heard the figure of 55 years is the amount of oil that would come from Saddam Hussein. I have also heard my colleagues say we send $4.5 billion a year to Iraq for oil.

If all of this is correct—I do not believe that it has been refuted. I have not heard all the debate. But it really comes down to whether or not we would like to get our energy from areas that we control in the United States, or we want to get oil from unstable governments around the world, and whether or not we ought to save that $4 billion for America, spend it in America, or spend it with Saddam Hussein.

I also believe when we do drill in Alaska—and the Senator from Alaska does not have to respond to this unless I am wrong, but I believe when we drill in Alaska, there are very rigorous environmental rules that have to be followed.

We hear about the pristine areas of Alaska, and I do not dispute that, but do we not also have pristine areas in Siberia? I assume that whether it is Alaska or whether it is Siberia, there is going to be more oil added to the world pool of oil because it is going to be needed.

So would people in the United States rather have us drill under the strict environmental rules of the United States as they would apply in Alaska or would they rather have us let the Russians drill in Siberia where I know there was oil floating out of pipelines for long periods of time—and I do not know whether it has ever been cleaned up—and where there would be little concern about the environment in Siberia where Russia would be drilling?

I would think people in America would rather have us drill under the strict guidelines of the environmental requirements of the United States than they would in a country that does not have such guidelines, particularly considering these are considered pristine environmental areas, whether it is in Alaska or whether it is anywhere in the Arctic area of the world. I think you would have to look at them the same way.

So I have come to the conclusion, I want to tell the Senator from Alaska, not just from listening to him but listening to other people and studying this, that I happen to think he is right on this issue. I think we have an opportunity not only on this issue but on a lot of parts of this legislation to pave the way for a balanced, long-term national energy strategy that will increase U.S. energy independence and limit the stranglehold foreign countries have on American consumers. A comprehensive energy strategy must strike a balance among development of conventional energy sources and alternative, renewable energy and conservation.

I think the President's approach of incentives for production, incentives for conservation, and incentives for alternative and renewable fuels is a very balanced energy program. It is a program that, No. 1, incentives for renewables take care of the short-term needs of the country, and in the case of the second and third points, conservation and renewables take care of the long-term energy needs of our country.

During the past few weeks, I have had an opportunity to express my strong support for renewable fuel provisions included in this bill which require a small percentage of our Nation's fuel supply to be provided by renewable fuels such as ethanol and biodiesel.

As a domestic renewable source of energy, ethanol and biodiesel can increase fuel supplies, reduce our dependence on foreign oil, and increase our national economic security. But they can't do it alone, and it can't be done overnight. That is why we need short-term solutions and we need long-term solutions.

The Senate has had an opportunity to consider renewable portfolio standards, which I believe will go a long way to promote renewable energy resources for electrical generation. However, that is only part of a solution.

As ranking member of the Senate Finance Committee, I have had an opportunity to work with Chairman BAUCUS to develop an energy-related tax amendment that includes provisions for development of renewable sources of energy such as wind and biomass and incentives for energy-efficient appliances and homes. The tax package, however, unlike the underlying energy bill, recognizes that a balanced energy plan can't overlook the production of traditional energy sources such as oil and gas.

Developing domestic oil resources is vital to our national security. The United States is dependent upon foreign countries for over 58 percent of our oil needs. We are currently dependent upon Saddam Hussein, which I already referred to but, more specifically, for about 750,000 barrels of oil a day or 9 percent of our U.S. oil imports.

Last week, as we have been reminded during this debate, Iraq stopped its exports of 2.5 million barrels a day in response to developments in the Middle East, further driving up crude oil prices. It is important that Americans know that last year alone, we spent $4.5 billion of our money to pay for Saddam Hussein's oil, thereby providing funding to help Iraq with its war machine.

The United States has the resources on our land that could reduce or eliminate the stranglehold Saddam Hussein has on our economy. By developing our resources in Alaska, we could produce 10 billion barrels of oil and perhaps as much as 16 billion barrels of oil. This amount could replace the oil I have referenced from Saudi Arabia or the oil from Iraq for a long period of time. So for the sake of our national security, we ought to be developing our own natural resources at home.

Opponents have made claims that opening ANWR to oil development would do tremendous environmental harm. But, again, I repeat for my colleagues, 2,000 acres out of 19 million acres is a no-brainer. Only the best environmental technology will be used for exploration and development, leaving the smallest possible footprint.

Opponents have also argued that oil development in ANWR will hurt wildlife. Remember the warnings from environmental groups about the danger to the caribou if we developed Prudhoe Bay? They were wrong. Since the development, we have had increases in herd size. I ask my colleagues, what is better for the environment: Developing resources in the United States, using the toughest environmental standards ever imposed, or importing foreign oil produced without much consideration for the environment?

We must do more to develop in an environmentally sensitive way the resources God has given us in stewardship. I hope my colleagues will join with me to support this approach to opening Alaska and ensuring that the bill before the Senate does more to protect our national security and to reduce our dependence upon foreign oil.

I thank my colleague from Alaska. I yield the floor.

Mr. STEVENS. Mr. President, last night at the Library of Congress I ran across this ad. I was going to talk about it later, but I wanted the Senator to see this. This is an ad on one of the displays in the Library of Congress. Millions of acres in Iowa and Nebraska were put up for sale by the Burlington and Missouri River Railroad Company.

I will develop later that the West was opened, really, because President Lincoln offered $1 million and every odd section of the right-of-way for the first railroad to link the east and west coasts of the United States. We don't think in terms of that now. Once those railroad companies got a hold of the land, they put it up for sale. They put it up for sale at $2.50 an acre and let people have 10 years' credit to pay for it. That is what stimulated the development of the West. That is what stimulated the expansion of the United States.

What have they done in my State, one-fifth of the land mass in the United States? They have blocked us at every turn, withdrew lands with economic potential, blocked us from using our own lands that had economic potential, closed our mines, closed our pulp mills, closed our timber mills, canceled the permits of the wildcat well drillers for oil and gas. We have lost the American dream of private ownership of lands in Alaska.

I thought the Senator might be interested in that. It is a very interesting exhibit at the Library of Congress. It includes some of the artifacts of the history of our great country, including the great move to make land available to those people who developed the transportation system. Talk about blending. Here is the transportation system of the United States, the first railroad to go from east to west across the United States. Persons who built that obtained every odd section along the right-of-way of the railroad, and from that came the expansion to the west.

People complain about my suggestion that we join together oil development in the Arctic Plain and the future of the great steel industry of the United States.

I am pleased to have received this letter addressed to me:

> We write as members of the House with a strong interest in the steel industry to convey our strong support of your efforts to resolve the legacy cost burden of the domestic steel industry, and especially your efforts to assist the steel industry's retirees and their dependents.
>
> As you know, the domestic steel industry has significant unfunded pension liabilities as well as massive retiree health care responsibilities that total $13 billion and cost the steel industry almost $1 billion annually. These pension and health care liabilities pose a significant barrier to steel industry consolidation and rationalization that could improve the financial condition of the industry and reduce the adverse impact of unfairly traded foreign imports.
>
> It has come to our attention that a unique opportunity has arisen in the Senate to remove this barrier to rationalization while assisting the retirees, surviving spouses, and dependents of the domestic steel industry. It is our understanding that you have offered an amendment to the energy bill this week which will break the impasse on the legacy problem.
>
> Once again, we would like to extend our wholehearted support to you in this endeavor. We look forward to working with you to find a viable solution to bring a sense of security to the over 600,000 retirees, surviving spouses, and dependents before the end of the 107th Congress.

I ask that that letter be put on every desk. It is a bipartisan letter signed by an equal number of Democratic Members and House Members in the House of Representatives.

I go back to the comments about the Sacramento Bee articles. On August 19, the article by Thomas Knudson, titled "Old Allies Now Foes in Alaska's Oil Battle":

Environmentalists come under fire for their impassioned efforts to bar drilling in a wildlife refuge.

It details the problems. For instance, JIM CLYBURN of South Carolina, who voted for oil drilling in Alaska's Arctic National Wildlife Refuge, is chairman of the Congressional Black Caucus and sided with the Bush administration. This article points out that in the House the pro-drilling side won 223 to 206. The Senate is expected to take up the matter this fall.

The [environmental] rhetoric has been an insult to us, CLYBURN told an energy trade journal. A lot of us don't feel obliged to be purists on this issue.

How many times can you cry wolf and have your audience still believe in you? said Mark Buckley, a commercial fisherman and member of the National Audubon Society in Kodiak, Alaska, who opposes Audubon's anti-drilling stance.

This article goes on to point out, in terms of environmental groups' advocacy against this, advocacy mail-in campaigns on roadless areas, national forests, and genetically modified crops. At least eight major groups are circulating letters on the single topic of the Arctic Refuge drilling.

It is a very meaningful article about the way these environmental groups really single out those who support drilling in the Arctic Plain. It is, one of the balanced articles that deals with the question of this drilling.

As the Senator from Iowa said, 2,000 acres out of 1.5 million acres is not very much. It is 3 square miles.

Here is a nice one: Yours Free When You Contribute $10 Or More . . . our polar bear tote bag.

It's the perfect way to show you're working to Keep the Arctic Wild and Free.

If you complete the enclosed reply form and return it with your membership gift of $10 or more, you get a little tote bag. It says: Keep The Arctic Wild & Free.

It is available only to NRDC members, but it is a concept of what we are looking at. For that membership, you can join the club. They do not tell you that 75 percent of their money is not spent for conservation.

The next article I want to talk about was published on November 11 of last year. It talks about the people who live on the slope, on the North Slope. It says:

> Like detectives, the two Inupiat Eskimos gathered all the information they could about the Alaska Wilderness League, a relatively new arrival to the environmental community far away in Washington, D.C.
>
> From Bloomberg News, the St. Paul Pioneer Press and other sources, Tara Sweeney and Fenton Rexford read about a group that was passionate, self-assured and actively working to halt oil drilling in the Arctic National Wildlife Refuge with a blend of environmental activism—such as street theater and letters to the editor—and lobbying politicians.
>
> But when they examined the league's federal tax return, they discovered a group that portrayed itself in a different manner: as a tax-exempt charity focusing on science and education.
>
> "The Alaska Wilderness league sponsored two educational trips to the Arctic refuge . . ." its tax form says. "The Alaska Wilderness League supported the 'Last Great Wilderness' slide show, seen by thousands of people to educate them" about the refuge.
>
> Rexford, a leader of the Eskimo village of Kaktovik—the only permanent human settlement on the refuge—was astonished.
>
> "What they do and what they tell the IRS they do are two different things," said Rexford, who favors oil drilling. Last month, he made his views known to the IRS itself, filing a complaint in which he and other village leaders allege the League is violating tax law by "devoting substantially all of its resources" to lobbying.
>
> In filing the complaint, Rexford did more than challenge the Alaska Wilderness League. He also struck at a vital support system for environmental groups: their 501(c)(3) tax status. [We are going to go after that too, Mr. President.] That status saves nonprofits millions in corporate and other taxes, makes them eligible for foundation funding and allows contributors to deduct donations from their own income taxes.
>
> Rexford and Sweeney said they got the idea from IRS audits of the Heritage Foundation and other conservative nonprofits during the Clinton administration. In June, they watched with interest as the Frontiers of Freedom Institute, a pro-business think tank, filed an IRS complaint against Rain Forest Action Network, a tax-exempt group that scales skyscrapers to protest logging.
>
> The League's executive director responded angrily to the Inupiat attack.
>
> "The Kaktovik Inupiat Corporation either has been misinformed by its friends in the oil industry about the law or it has deliberately distorted the facts in a cynical attempt to intimidate America's conservation groups," said director Cindy Shogan.
>
> "We have a right to represent the interest of our members . . . so long as our legislative advocacy activities stay within specified IRS limits," Shogan said. "We fully comply with all IRS laws."
>
> But Rexford—who hunts whales, seals and caribou for subsistence—said it is Shogan who is misinformed. He said the Inupiat corporation "has not solicited information from the oil industry, nor will we. It is apparent that the AWL simply cannot fathom that a native-owned organization has enough intelligence and talent to think independently and . . . file a complaint of this nature."
>
> Most environmental groups are 501(c)(3)'s, which means they can receive tax-deductible contributions but can spend only a small portion on lobbying. The spending limit varies. But in many cases, it ranges from 12.5 percent to 20 percent—and cannot exceed $1 million.
>
> A handful of others, such as the Sierra Club and Greenpeace, are 501(c)(4)'s, which means their contributions are not tax-deductible but they can spend what they want on lobbying. Based on its federal tax return for 2000, the Alaska Wilderness League does not run afoul of spending limits on lobbying. On that return, the League reported spending $81,283 to influence legislation, well under its legally allowable limit of $130,623.
>
> The essence of the Inupiats' complaint is that the League spends most of its money on lobbying but disguises it as education and science. As evidence, they cite League letter-writing and phone campaigns targeting federal lawmakers in several states, testimony before Congress and League-sponsored "junkets" for members of Congress to the Arctic refuge.

Another one of these articles on December 9 said:

> Log onto the Web sites of the National Wildlife Federation, the Wilderness Society and other environmental groups and you learn that the struggle to save the Arctic National Wildlife Refuge in Alaska from oil drilling is about more than protecting the environment.
>
> "It is also a human rights issue since the indigenous Gwich'in Indians rely on this important area for their subsistence way of life," say the Wilderness Society's Web site: *www.wilderness.org.*
>
> But this fall, Petroleum News Alaska—a trade journal—reported a story that environmental groups have not publicized: Over the border in Canada, the Gwich'in Tribal council joined forces with an oil firm to tap into energy resources on their lands.

This very same tribe that is paraded around as being the spokesman for Alaska Native people, they drilled on their lands in Canada for oil and gas. They formed a partnership.

"It's time for us to build an economic base," said Fred Carmichael, president of the tribal council in Inuvik, Canada. That is the Gwich'in tribal council.

Two Senators said they talked to the Alaska Native people who opposed it and said they just assumed all Alaska Natives opposed it. It is not true at all.

The Eskimos have an opposite point of view, this article says.

They say drilling can be carried out in concert with the caribou. But their position is discounted by environmental groups because the Inupiats have extensive ties with oil companies through their own tribal business: the Arctic Slope Regional Corporation.

"The national debate has placed us as caricatures—us, as the tools of the oil industry, and them—the Gwich'in—as caretakers of the environment," said Richard Glenn, vice president, lands, for the Arctic Slope Regional Corporation. "It's unfortunate. And it's not accurate."

I believe these articles ought to be written by those people who are visited by the Gwich'in.

It says:

But in Alaska, most Alaska natives actually support drilling. In 1955, the Alaska Federation of Natives, which represents 400 of the village corporations and is the state's largest native organization, passed a resolution in favor of tapping the refuge's energy resources.

It says simply:

"Environmental groups are using the Gwich'in to advance their own agenda. That's as simple as I can put it," Tetpon said.

That is John Tetpon, the federation's director of communications.

I hope Senators will read some of these things that have been written about these people who are bringing these stories about what is going on in our State. It is a very difficult problem.

I particularly call the attention of the Senate to the article on April 24 of last year because it points out that litigation central, these lawsuits, are not only costing the defendants a lot of money, they are costing the Federal Government a lot of money and they are taking a lot of people who should be working on the environment into courtroom after courtroom after courtroom to defend against these lawsuits that are brought. For what? In order to get the attorney's fees paid by the winning side in the environmental litigation. In some instances, they do not have to win.

These environmental groups are currently raising $9.5 million a day, $3.5 billion a year, and you can see where it is going by our charts. It is not going to improve the conservation, it is going to pay salaries—it is going to pay very large salaries—and it is going to make mailings to raise more money.

I commend the entire series of Sacramento Bee articles to Senators for further reading from April 22, 2001 through April 5, 2001. Further investigative articles were printed on November 11, 2001, December 9 and December 18, 2001. They are excellent articles and they expose what is really happening in the environmental movement in America today.

I don't know how to say it other than to say I am appalled that so many people in the Senate rely on them as presenting facts. They do not present facts. They present positions and look for arguments to support them.

I think it is time that we tried to get back to the concept of reliance upon the people from the State. I said that before. If the Senate would listen to the two Senators from Alaska concerning what is going on in Alaska, the country would be better off, and so would Alaska. We live there.

Most of the people who criticize us have never been there and won't go there. Particularly, they won't go there in the wintertime.

I told the Senate yesterday that when I took my great friend, the late Postmaster General, up there one time, we pulled up to the postal substation at Prudhoe Bay. The digital thermometer showed minus 99. There was a wind chill factor. I didn't have the courage to tell him it wouldn't go below 100. That was as far down as it would go. It was digital. The wind chill and the temperature had a factor greater than minus 100 degrees.

How many people want to go up there and go around up there? The old people live there. The Eskimos live there year-round in that climate. We have learned how to exist and how to care for ourselves in our environment. I have not really been in that too long myself, frankly. I am not that acclimated to it.

I think the real problem is that no one here understands that we don't drill in the Arctic in the summertime. It is not a summertime operation. You can't get vehicles across the tundra. We wouldn't want to do it. It would leave scars. We don't leave scars. They did in times gone by, but everybody learned from the mistakes of the past. We wait until it is frozen. We take water in, spray water, create an ice road, gravel the top of that, and put more water on top of that to make a compact ice road. We use it until the springtime when it starts to break up, and they don't bring things across that road anymore. As a matter of fact, most in the State don't use gravel. They only place gravel is used is where they have to have some traction going up the hills. There are not many hills, by the way.

I want to go back again to this problem of steel. I want to first take the occasion to thank the great labor leaders of this country who took time to join us yesterday in a press conference across from the doors of the Senate.

We had Terry O'Sullivan of the Laborers; Mr. Sullivan of the Building Trades Department; Marty Malonie of the Pipefitters; Frank Handly of the Operating Engineers; Joe Hunt of the Iron Workers; Terry Turner of the Seafarers; Mike Sacco, President of the Seafarers; Mano Frey, President of the Alaska AFL-CIO; Jerry Hood, President of the Alaska Teamsters and special assistant to President James Hoffa of the National Teamsters Union.

They came to speak to the members of their unions through the press to urge them to contact their Senators and ask them to support the drilling in the Arctic Plain. They know it means jobs.

I just heard the Senator from Massachusetts say that at most it is only 1 percent of the world's reserves—only 1 percent. These are the same people who not 6 months ago were saying ANWR could only produce oil that would sustain the United States for 6 months. The projection they have on this is the projected estimated reserve. The projected reserve in Prudhoe Bay was 1 billion barrels. We have already produced 13 billion barrels, and we believe there is another 15 years there—about a third more. We will have produced 20 billion barrels when the estimate was reported that the world's reserves were 1 billion barrels. So much for reserves.

The real issue is jobs. That is why these labor leaders were with us—jobs. They know we are talking about jobs. When we send our money to Saddam Hussein to buy oil from Iraq, we don't involve American jobs. We have to find some way to sell something abroad to bring those dollars back or we have an imbalance of trade. We have had that for a long time. It harms our economy and currency. But we are exporting jobs as we import oil.

That is why they were there. They were there in order to get us to understand that they want to help us deal with the creation of jobs that would come from pursuing the oil and gas potential of that area.

They were great friends of Scoop Jackson. They understood, as he understood, the Arctic from the point of view of jobs. Jackson did not oppose drilling in the Arctic. As a matter of fact, he and Senator Tsongas made it possible for us to be here today arguing to proceed as was intended in 1980.

We have added to this the idea of the pending second-degree amendment—the amendment I offered which the Senator from Minnesota said is a sham amendment. Raising the visibility of the needs of the steelworkers and the coal workers is not a sham amendment. You may not agree with it, but it is offensive to call it a sham amendment. It is only sham because they won't support it. If they supported it, it would be very valid, even from their point of view.

The question is, Can we find a way to reverse the trend that prevents the building of the pipeline necessary to bring the already discovered and measured gas from Prudhoe Bay to the Midwest? We know it is there—50 to 70 trillion cubic feet. I don't have the exact figures because it was reinjected into the ground. It was estimated to be 50 to 70 trillion cubic feet of gas produced from the oil since 1968. The gas has been reinjected into the ground. We need a 3,000-mile pipeline.

We are trying to find some way to ask people to address the question of how to maintain a steel industry that can support a pipeline of that size—1,500 miles of gathering pipelines, thousands of valves, hundreds of trucks, hundreds of backhoes, and hundreds of pieces of road-building equipment to build access to these areas. It is enormous. It is the largest gas delivering plan in the world. It is projected to be the largest private enterprise project in the history of man—totally financed by private enterprise. But if private enterprise doesn't survive in the steel industry, we are not going to have that pipeline in the timeframe that we need it. If we started it in 2003, the first gas would be coming through in about 2010 or 2011. Knowing that the environmental opposition will sue, that will add 6 years to that. We are talking about between 2015 and 2020 making that gas available to the U.S.

That is why I brought that poster here, to ask people to think ahead. Lincoln, one of our greatest Presidents, thought about how to connect the east coast and the west coast of the United States. He conceived the idea himself to offer a bounty incentive to the railroad industry to build the railroad from the east coast to the west coast. He got Congress to approve it, and they paid for it. One million dollars was to be paid to the first railroad that completed a coast-to-coast railroad. Every section along the right-of-way was loaned by the Federal Government.

The problem of the country today is the people living in these States don't know the policies that led to their private enterprise as compared to the policies that led to our serfdom under the Federal Government.

We thought when we became a State that we had a right—and we did have a right—to 103.5 million acres to be selected from vacant, unappropriated and unreserved Federal land. To us, that meant as of the day we became a State in January of 1959.

To the people in the Congress, in 1980, it meant those lands that were left after they had reserved 104 million acres for special purposes for these elite areas. You can't get to them. As I said before, only three of them can be reached by road. Most of them don't have an airport. You fly in by float plane, or you hike in. They are recreational areas for the elite few of the world.

But, in any event, they withdrew them, preventing the State from getting lands it was going to select, preventing the Natives from getting the lands they were going to select from the Alaska Native Lands settlement.

People ask: Why were people disturbed? That 1980 act took away from the 365-million-acre pool of lands that were available to be selected for the State and Native settlements, and reserved them—directly contrary to the historical policy of the United States to make Federal lands available for sustaining the private enterprise economy.

By what these people are doing now, we are going to be a dependent colony of the United States. We are going to be dependent upon having someone, in a position such as mine, who can add to the budget the moneys that are necessary for survival in Alaska.

The real problem about this is that, when you look at the basic law, it is July 1, 1862, that led to that. It led to that. Following that, in 1984, the Federal Government issued a table of grants to States. I want to put this in the RECORD because it shows what every single State has received. There is no question that, as the Nation moved West, the policies of the United States were to enhance the development of the private sector, as I have said before.

We end up with a situation, where as of 1983, 3 years after that act was passed, the Federal Government still owned 87.9 percent of Alaska. The part that we own is subject to control through acts such as the 1980 act. So it really does not matter. I think that the development of these lands, and the use of Federal lands, is a question we ought to explore sometime in the future.

But for now I would like to put in the RECORD the table that shows the grants to the States, from 1803 to 1984, showing what happened in the other 49 States—48 States. Hawaii had the same problem. Hawaii really was not treated properly in terms of their lands. Mr. President, I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—GRANTS TO STATES, 1803-FISCAL YEAR 1984

[Amounts in acres]

State	Purpose									
	Common schools	Other schools	Other institutions	Railroads	Wagon roads	Canals and rivers	Miscellaneous improvements (not specified)	Swamp reclamation	Other purposes	Total
Alabama	911,627	383,785	181	2,747,479		400,016	97,469	441,666	24,660	5,006,883
Alaska	106,000	112,064	1,000,000						103,351,187	104,569,251
Arizona	8,093,156	849,197	500,000						1,101,400	10,543,753
Arkansas	933,778	196,080		2,563,721			500,000	7,686,575	56,680	11,936,834
California	5,534,293	196,080		320			500,000	2,194,196	400,768	8,825,657
Colorado	3,685,618	138,040	32,000				500,000		115,946	4,471,604
Connecticut		180,000								180,000
Delaware		90,000								90,000
Florida	975,307	182,160		2,218,705			500,000	20,333,430	5,120	24,214,722
Georgia		270,000								270,000
Idaho	2,963,698	386,686	250,000						654,064	4,254,448
Illinois	996,320	526,080		2,595,133		324,283	209,086	1,460,164	123,589	6,234,655
Indiana	668,578	436,080			170,580	1,480,409		1,259,271	25,600	4,040,518
Iowa	1,000,679	286,080		4,706,945		321,342	500,000	1,196,392	49,824	8,061,262
Kansas	2,907,520	151,270	127	4,176,329			500,000		59,423	7,794,669
Kentucky		330,000	24,607							354,607
Louisiana	807,271	256,292		373,057			500,000	9,505,335		11,441,955
Maine		210,000								210,000
Maryland		210,000								210,000
Massachusetts		360,000								360,000
Michigan	1,021,867	286,080		3,134,058	221,013	1,250,236	500,000	5,680,312	49,280	12,142,846
Minnesota	2,874,951	212,160		8,047,469			500,000	4,706,591	80,880	16,422,051
Mississippi	824,213	348,240		1,075,345			500,000	3,348,946	1,253	6,097,997
Missouri	1,221,813	376,080		1,837,968			500,000	3,432,561	48,640	7,417,062
Montana	5,198,258	388,721	100,000						276,359	5,963,338
Nebraska	2,730,951	136,080	32,000				500,000		59,680	3,458,711
Nevada	2,061,967	136,080	12,800				500,000		14,379	2,725,226
New Hampshire		150,000								150,000
New Jersey		210,000								210,000
New Mexico	8,711,324	1,346,546	750,000			100,000			1,886,848	12,794,718
New York		990,000								990,000
North Carolina		270,000								270,000
North Dakota	2,495,396	336,080	250,000						82,076	3,163,552
Ohio	724,266	699,120			80,774	1,204,114		26,372	24,216	2,758,862
Oklahoma	1,375,000	1,050,000	670,000							3,095,760
Oregon	3,399,360	136,165			2,583,890		500,000	286,108	127,324	7,032,847
Pennsylvania		780,000								780,000
Rhode Island		120,000								120,000
South Carolina		180,000								180,000
South Dakota	2,733,084	366,080	250,640						85,569	3,435,373
Tennessee		300,000								300,000
Texas		180,000								180,000
Utah	5,844,196	556,141	500,160						601,240	7,501,737
Vermont		150,000								150,000
Virginia		300,000								300,000
Washington	2,376,391	336,080	200,000						132,000	3,044,471
West Virginia		150,000								150,000
Wisconsin	982,329	332,160		3,652,322	302,931	1,022,349	500,000	3,361,283	26,430	10,179,804
Wyoming	3,470,009	136,800	420,000						316,431	4,342,520
Total	77,629,220	16,707,787	4,993,275	37,128,851	3,359,188	6,102,749	7,806,555	64,919,202	109,780,866	328,427,693

Mr. STEVENS. Mr. President, we are in a situation where one provision of our bill—it is in our amendment and in Senator MURKOWSKI's underlying amendment—grants the Kaktovik village the right to drill on their land. They have land that is owned by their Native village. It was part of the 1971 settlement. Their people settled their claims against the United States by accepting conveyance of lands that were due to them. Each village was given the township in which it was located and further lands depending on population.

But for this village only, in the State of Alaska, there is a Federal law in another provision of basic law that says they cannot drill on their land, I believe it says, until the 1002 area is authorized to be drilled by the Federal Government. In the old days we would have said that shows the forked tongue of the Federal Government.

It told them they had a settlement. It told them they got the right to their lands. It gave them fee title to the surface. It gave the subsurface to their regional organization. But they cannot use it. Why? Because of the policy with regard to the 1002 area. But even there, it was, again, an imposition on the private structure of our State.

I think the great problem I have here is what is going to happen now to the steel industry. I have raised the issue, and, apparently, I may have done more harm than good, according to some people, at least if you listen to the Democratic Senators; that is what they are saying. I don't know what good they are doing for them.

I challenge the Democratic Senators to come up with a proposal to find a funding stream to save the rights of the steelworkers and the coal workers and be within the budget and not subject to points of order and the possibility of being passed. With their help, this would pass. With their opposition, it is not going to pass. I know that.

But what happens to the steelworkers? What happens to the future of our gas pipeline if there is no steel industry in the United States? You can't even plan ahead. You can't order ahead. I said yesterday, you have to order ahead a piece of that big 52-inch diameter, one-inch-thick pipe, and test it to see if this new concept of a chemically treated pipe will withstand the pressures it has to withstand in order to have gas pumped 3,000 miles to the market.

That is not going to exist. The assets of the steel industry are going to be burdened by the claims of the working people who have retired and who will be put out of work between now and 2004. And it makes no sense. It makes no sense that there are over 600,000 who are out of their health care. And the Democratic leadership is promising a vote on steel legacy costs with no source of money. Where is the money? Where are the bucks? Where are the dollars? They have a solution, but no one has mentioned from where the money is going to come. Where can they find a cash stream that will come in from a new source, replacing the money we send out to Saddam Hussein? We would take that money and use a portion of the moneys that come to the Federal Government from that activity in the Alaska Coastal Plain and solve the problem of the steel industry and the steelworkers and let them proceed to reorganize the steel industry of the United States.

Two weeks ago, I am told, 82,000 retirees of LTV Steel lost their health care benefits. Another 100,000 are coming. Bethlehem Steel and U.S. Steel—chapter 11—could go in chapter 7 bankruptcy. No other steel company, other than Bethlehem Steel, could have rolled the steel to repair the U.S.S. *Cole* after it was attacked by terrorists. It is in bankruptcy facing extinction. And I am criticized for trying to find some way to solve the problem that might lead them further down that road to extinction.

I am happy to tell the Senator from those States that I will vote for any plan they can come up with which is funded and within the budget and does not raise taxes that will solve the problems of their retirees. I challenge them to come up with that program. They have criticized my suggestion, a legitimate, bona fide attempt to meld two basic issues that should be before this Senate. We used to call that win-win. It is lose-lose now. We lose; the steelworkers, the coal workers lose, too.

They are not voting one way or the other in my State. I have coal workers, but there is no steel in my State. I am not involved in that. It is not a political issue, as far as I am concerned.

I have not told very many people, but I worked in a steel mill once. I spent 8, 9 hours a day lifting pieces of rolled steel off the belt. Others were lifting the other side. I had one side I was lifting—8½ hours a day. That was just before I entered the military to become an Army Air Corps cadet. But I have had a lot of jobs. I have had union cards, and I am proud of it.

It offends me greatly that some of these people, some of these people who never did a day's work in their life—they never dug a ditch; they never lifted steel; they never lifted concrete bags; they really never did any real manual work—don't know laborers. They appeal to them politically, but they don't know them.

The laboring people want a check. They want a job. They do not want a bunch of BS from the people who represent them. They want their benefits to be secured. They depend upon their Government to see it is done.

I do not think they are offended at me for suggesting this. I have not had one call from any steelworker or coal worker saying: Hey, guy, what are you doing messing up our future? No way. The people are accusing me of being crass. And opportunists are afraid of their own future, these Senators who won't face up to representing their people. I am tired of being accused of doing something wrong by trying to help them.

This is the testimony of a Leo Gerard of the U.S. Steelworkers. He opposes this amendment because of his commitments in the past, but he gives the story of what happened to the health care and pension benefits of the great steel industry. It is quite a story. He points out that there are subsidies in other countries for these. We subsidize agriculture. We subsidize so many things through entitlements.

We don't face up to the problem of what we do about retirees who lose their benefits because of the failure of the economic system. I don't think it is wrong to think about how to use new revenues that come to the Federal Government by virtue of legitimate Federal action and seeking development on Federal lands, how we can use those revenues to meet this crisis as outlined by Mr. Gerard.

I will not include this testimony because he agrees with me. He doesn't agree with me, but he does point out the plight of these people he represents. Many of them are retirees who—how can I say this gracefully—are approaching my age. They are at the point where they are going to need help by the Federal Government one way or the other.

Mr. President, I ask unanimous consent to print the testimony of Mr. Gerard in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. SCHUMER). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. STEVENS. I say to you in closing—I won't be talking on this amendment again, I don't think—the Senators who represent coal and steelworkers have made their own choice. The environmental movement is more important to them than the unemployed workers and retirees who lose their benefits in their States. That is the fact. They don't like it, but that is the fact.

I yield the floor.

EXHIBIT 1

TESTIMONY OF LEO W. GERARD, PRESIDENT UNITED STEEL WORKERS OF AMERICA BEFORE THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR & PENSIONS, MARCH 14, 2002

Madam Chair and distinguished members of the Committee, thank you for your invitation to appear before you today to discuss the health care and pension crisis facing several hundred thousand steelworkers across the nation.

By every measure, the American steel industry is in crisis. As of today, 32 U.S. steel companies representing nearly 30 percent of U.S. steelmaking capacity have filed for bankruptcy. Twenty-one steelmaking plants are idled or shutdown representing the loss of 25 million tons or 19 percent of this nation's steelmaking capacity.

Some analysts mistakenly believe that minimills (which produce steel by melting scrap in electric arc furnaces) haven't been hurt by unfair trade and record low prices, it is noteworthy that fifteen of these 21 shutdowns are minimills. In fact, shut down steel capacity is almost evenly divided between integrated steelmakers and minimills.

Steel prices have fallen to the lowest levels in twenty years. The December, 2001 composite average of steel prices published by Purchasing Magazine had declined by $140 per ton or 33 percent from the average between 1994 and 1997. The industry posted a combined operating loss of $1.3 billion during the first nine months of 2001.

How did this happen?

The USWA warned our policymakers as early as 1997 that the Asian economic crisis and the collapse of the Russian economy would, if not dealt with correctly, lead to a flood of imported steel. The delay by our own government in responding to the crisis made matters considerably worse. The events of 1997 and 1998 were only the latest in what the U.S. Department of Commerce has identified as thirty years of predatory unfair trading practices and government subsidies by many of our trading partners.

Some today suggest that the American steel industry must be restructured, as if this had not already happened before. Between 1980 and 1987, the American steel industry underwent a painful restructuring, eliminating 42 million tons of steelmaking capacity. Over 270,000 jobs were eliminated. Many workers were forced to take early retirement based on the promise of a pension and continued health care benefits. The tax base in steel communities in Pennsylvania, Ohio, Indiana, West Virginia, Minnesota, and elsewhere shrank as workers went from earning paychecks to collecting unemployment benefits. Some local communities have never recovered from the last steel crisis.

Yes at the same time that our American steel industry has been contracting and downsizing our foreign competitors have been adding additional steelmaking capacity. OECD data indicates that foreign steel producers had excess raw steel production capacity amounting to over 270 million metric tons. That is more than twice the total annual steel consumption in the United States. Recent multilateral talks in Paris on reducing global overcapacity have revealed that despite the reductions in U.S. capacity, our trading partners fully expect the U.S. steel industry to continue to downsize even further. The Paris talks are instructive for they illustrate yet again that multilateral negotiations are no substitute for strong enforcement of our own trade laws, including Section 201 and our anti-dumping laws.

The testimony which you have heard today from steelworkers and retirees from Maryland, Pennsylvania, and Minnesota illustrates the depth of concern across the nation by our active members and retirees. They have worked hard and given the best years of their lives to this industry. Now, they are simply asking that promises made become promises kept.

At the end of 1999, American steel's retiree health care benefit obligation totaled an estimated $13 billion. Health care benefits for 600,000 retired steelworkers, surviving spouses, and dependents annually cost domestic steel producers an estimated $965 million or $9 per ton of steel shipped. Another 700,000 active steelworkers and their dependents rely upon the domestic steel industry for health care benefits. The average steel company has approximately 3 retirees for every active employee—nearly triple the ratio for most other major basic manufacturing companies. Several steel companies have retiree health care costs that are substantially higher than the industry average. Our active members and retirees are concentrated most heavily in Pennsylvania, Ohio, Indiana, Maryland, Illinois, West Virginia, Minnesota, and Michigan, but they live all across the nation.

In the U.S. up to now, we have made a public policy choice in favor of employment-based health insurance coverage rather than guaranteed national health insurance. This means that when an employer goes bankrupt or liquidates its operations, absent a social safety net, workers are at risk of losing their health insurance and access to health care services. Regrettably, thousands of steelworkers from Acme, Laclede, Gulf States, CSC, Northwestern Steel and Wire, and various other steel companies are now facing this terrible prospect.

The USWA is very proud of its record in negotiating decent health care coverage for both its active workers and its retirees. In 1993, our union made history when we negotiated pre-funding of retiree health care in the iron ore industry. Benefits provided to steel industry retirees are equivalent and, in some cases, more modest, than benefits provided to retirees from other basic manufacturing companies, such as Alcoa, Boeing, and General Motors.

These plans typically include cost containment provisions, such as deductibles, co-payments, pre-certification requirements, coordination with Medicare, and incentives to utilize managed care. Most of our retirees pay monthly premiums from 25 to 40 percent of their retiree health care benefit, plus several hundred dollars a year in deductibles and co-payments. Retiree premiums from major medical coverage vary by employer due to differences in demographics, regional health care costs, utilization, and design of the plan. The USWA estimates that the average major medical premium during 2001 was approximately $200 per month for a non-Medicare eligible couple and $150 a month for a Medicare-eligible couple.

American steel's international competitors do not bear a similar burden. In one form or another, foreign producers' retiree health care costs are offset by government subsidies.

In Japan, the government provides government-backed insurance programs. Government subsidies cover some administrative costs and contributions to Japan's health care programs for the elderly.

In the United Kingdom, the UK's National Health Service is 85 to 95 percent funded from general taxation with the remainder coming from employer and employee contributions.

In Germany, health care is financed through a combination of payroll taxes, local, state, and federal taxes, co-payments, and out-of-pocket expenses, along with private insurance. Insurance funds with heavy loads of retired members received governmental subsidies.

In Russia, de facto government subsidies exist. While Russian steel companies theoretically pay for workers' health care, the national and local governments allow companies not to pay their bills—including taxes and even wages. At the end of 1998, Russian steel companies owed an estimated $836 million in taxes. According to the Commerce Department report, the Russian government's "systematic failure to force large enterprises to pay amounts to a massive subsidy."

The U.S. is the only country in the industrial world in which the health care benefits of retirees are not assumed by government to facilitate consolidation in one form or another. It is now very clear that American steelworker retirees stand to be hit twice by the collapse of the steel industry since a majority of them were forced into retirement (350,000)—many prematurely—during the massive restructuring of the steel industry during the late 1970s and the 1980s. First, they lost their jobs before they were ready to retire, and now they may lose their health care and a significant portion of their pension now that they are ready to retire. Our own government's inadequate enforcement of our trade laws is the principal reason that steelworkers and steelworker retirees' health care benefits are now at risk.

Because our government has allowed this unlevel and unfair trade environment to develop and consume our industry, government now has a responsibility to our steelworkers and retirees and to the steel industry to help craft a solution to this problem.

Why is action needed?

Retirees under age 65 and older active employees who have been displaced by plant shutdowns are not yet covered by Medicare.

They cannot purchase COBRA continuation coverage because companies are not obligated to provide COBRA coverage when they no longer maintain a health care plan for employees actively at work. Steel companies which have filed for Chapter 7 bankruptcy (i.e., liquidation) have already moved to terminate health care plans for their workers and retirees.

They cannot afford COBRA premiums even when such coverage is available.

They cannot afford commercially-available health insurance coverage.

Many cannot meet insurability requirements (and may not have continuous coverage under HIPAA).

Many have difficulty in finding new jobs that pay similar wages or benefits.

Why is action needed for retirees age 65 and over?

Because Medicare has significant gaps in its coverage. Medicare also has significant deductibles and co-payments. There is no coverage for expensive outpatient prescription drugs. Also, health care providers often do not accept Medicare reimbursement rates as full payment, at which point they go after the retiree for full payment.

Medicare Supplemental Insurance ("Medigap") is available, but it is costly and has limited prescription drug coverage. The most comprehensive of the Medigap supplements (Plan J) covers only 50 percent of prescription drug costs and limits drug benefits to $3,000 per year.

The average retiree receives a monthly pension benefit of less than $600 to $700 per month. Most surviving spouses receive monthly benefits under $200 per month.

Finally, Medicare HMOs (or as they are sometimes referred to "Medicare+Choice") are available only in limited areas of the nation.

Some who have looked at this problem, particularly with respect to access to prescription drugs, have said the Bush Administration's proposed "Medicare Prescription Drug Card" might be a possible solution. The proposed card would provide discounts of 10 to 25 percent from retail drug prices.

But low income drug assistance is limited to people below 150 percent of the Federal poverty level. That's an individual with an annual income of $12,000 or a couple with a combined annual income of $15,000. In fact, more than half of Medicare beneficiaries would not qualify for Low-Income Drug Assistance. The Low-Income Drug Assistance proposal does not describe how premiums would be set nor does it describe the level of out-of-pocket expenses (i.e., deductibles or co-payments) to be paid by Medicare recipients. Also, states would be required to assume 10 percent of the cost of the Low-Income Drug Assistance proposal at a time when nearly every state is facing budget deficits because of the recession and sharply-rising costs for their Medicaid programs.

The Bush Administration is also considering tax credits as a device for helping the uninsured. Under this proposal, a refundable tax credit of $1,000 to $3,000 (depending on family size) would be made available to individuals without employer-provided health insurance. The problem here is that the tax credits are too small to make health insurance. The problem here is that the tax credits are too small to make health insurance affordable. A "Family USA" study found that a healthy 25-year-old woman pays an average of $4,734 per year for coverage under a standard health plan, compared to the $1,000 tax credit offered.

Until the steep increases in health care costs can be contained, the real value of any refundable tax credit will diminish year by year. A recent report from the Centers for Medicare and Medicaid Services, which is an arm of the Department of Health and Human Services, says that health care costs are expected to grow at a rate of 7.3 percent annually between now and 2011. That means that by 2011, Americans will be spending $9,216 per person on health care, or about double what they spent in 2000. The nation's health care bill could reach $2.8 trillion, or 17 percent of the nation's gross domestic product, by 2011.

Clearly, this problem is not going to go away.

While the United Steelworkers was pleased that the President took a step toward reigning in steel imports by imposing variable tariffs on steel products in the recent Section 201 case, the President pointedly chose not to address the matter of the retirement and health security of steelworkers and our retirees. He is apparently leaving this unfinished business in Congress' hands.

Let me state this very clearly. It is the view of the United Steelworkers of America that the pension and health care commitments made to our active workers and retirees must be honored. These issues are every bit as important to us as the recent Section 201 determination on restraining foreign steel imports.

Our active members as well as our retirees look to you for action. We will work with you and your colleagues in both the House and Senate continuously until this problem is solved and we will not relent in our efforts.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am not going to be debating the specific amendment on the floor now but, rather, a context in which I believe this amendment and most other aspects of this energy legislation should be considered.

There are three principles I would like to discuss at this hour of the evening. First is, when should we, the Congress of the United States, adopt an energy policy? When can we legislate dispassionately, not in response to an immediate emergency?

Second, an energy policy for when? It makes a considerable difference if we are developing a policy for the next 10 years as opposed to what I think should be the more appropriate timeframe, at least the next 50 years, that we are legislating not for ourselves but for our grandchildren.

And third, an energy policy should include a recognition of other affected issues—economic, environment, and more.

A persistent problem in crafting energy policy is the fact that our willingness to act is greatest in the midst of a crisis, a disruption, or spikes in prices. History has repeatedly shown us that energy crises are the worst time to try to solve our problems. Short-term policy initiatives that deal with things such as market upheavals are often counterproductive. They respond to temporary circumstances. They might be political; they might be economic. They could even be climactic.

California blackouts were the initial impetus for the energy legislation we have today. Those blackouts are now hopefully a thing of the past. Yet we now are casting this issue as how to respond to the threat from Saddam Hussein, that he will cut off supplies from Iraq.

Even if there were silver bullets that the Congress could use to deal with these short-term energy disruptions, Congress often moves too slowly to shoot those bullets in the right direction to hit the right target.

Long-term measures, such as promoting energy efficiency and launching new forms of energy production, don't have time to affect the market if these conditions are temporary.

It would seem to me that the solution to this problem is both logical and obvious. The solution, however, goes against our natural inclinations. The time to address energy issues is between crises, when there is a better chance to do something that will actually work.

If I could refer on this special day, the 54th anniversary of the establishment of the State of Israel, to an event which occurred in that region of the world and is recorded in the Book of Genesis. It is Joseph's interpretation of the Pharaoh's dream about 7 good years followed by 7 lean years.

What Joseph's interpretation teaches us is that if we are going to deal with famine, the time to do so is not when the famine has commenced but, rather, the time to do so is during those years of plenty, to set aside for the lean years that will surely be ahead.

The core of a wise energy policy is to avoid a focus on the here and now and look over the 50-year horizon. The focus should not be on us, the current generation but, rather, should be on the well-being of our grandchildren.

An astute public official once said:

> If we ever go into another world war, it is quite possible that we would not have access to the petroleum reserves held in the Middle East. But in the meantime, the use of those middle eastern reserves would prevent the depletion of our own domestic petroleum reserves.

That wise public official was Navy Secretary James Forrestal. And the date of his wise statement was 1946.

Forrestal's statement was remarkable in several respects. First, he was looking beyond the next year to what would be happening over the next half century, setting a good example for the kind of thinking to which we should repair as we ask the question: What kind of an energy policy for America, for when?

Second, James Forrestal suggests that we can't change the inevitable. We are not going to be able to produce our way out of the challenges created by our appetite for oil. If we were to take a 50-year view as Mr. Forrestal suggested, what are the challenges we must overcome?

First, there is no likely scenario that will alter the reality that most of the oil consumed in the United States from today into the future will come from foreign sources. Shares of imported oil have been rising steadily for years. Proposals such as those before us in the past few days might slow this trend, but they will not reverse it.

Second, we will likely see the need to dramatically reduce greenhouse gases that are the by-product of fossil energy use.

There is definitive evidence that greenhouse gases impact our climate and our environment. Because greenhouse gases accumulate in the atmosphere and remain there for decades, or longer, we must commence action now in order to avoid unrestrainable consequences in the future.

We must prepare by taking steps to ensure that strong, early action will avoid the need for drastic, expensive, and maybe unavailable steps when it is too late.

Third, we must develop and utilize alternative fuels, both as a means of reducing our total fossil fuel consumption and the greenhouse gases which are an outgrowth of the use of fossil fuel. Alternatives are an important component of a diverse national environmental portfolio. They represent a solution to our dependence on fossil fuels and environmental problems associated with fossil fuels. Alternatives are critical in a policy that does not believe we should focus our energy goals on draining America first.

I suggest that there are some opportunities in an enlightened energy policy for our Nation. There are three points contained in the energy bill upon which I believe we can all agree. I will point to these as the core of an intelligent energy policy.

Point No. 1: We know we need to increase storage in the Strategic Petroleum Reserve in order to provide a greater cushion against disruption in oil supplies. Since the price of oil fell in the mid-1980s, we have missed many opportunities to build petroleum reserves at a time when we can do so relatively inexpensively. One reason may have been the false sense of security that the end of the Persian Gulf war brought in the early 1990s.

During that period, we were able to replace the lost production from Iraq and Kuwait with only a minor release from the Strategic Petroleum Reserve. Why did this seem to happen so effortlessly? Primarily because we were fortunate to have allies, such as the Saudis, increase their production. The Saudis have been good allies on numerous occasions, but do we really want to have an energy policy for the next 50 years that depends upon the good will of our allies and their own uninterrupted excess capacity?

One of the positive aspects of the President's strategy for energy is his announced support for filling the Strategic Petroleum Reserve to its current capacity. This act alone will not solve our problems, but it is a good first step and should be implemented. A larger reserve will not eliminate our vulnerabilities, but it will reduce the economic impacts of disruptions and threats from abroad.

Point No. 2: We must use the energy we have available as efficiently as possible. Energy efficiency cannot be accomplished in one giant step. It takes time for manufacturers to modernize their means of production. It takes even longer for equipment stock to turn over so that customers are buying the more efficient product.

What we need is steady progress. This is a marathon, not a 100-yard sprint. We cannot rely solely on research and development. Low average energy prices in the United States limit the economic incentives to research and develop fuel-saving technologies. More broadly, the entire marketplace does not fully reflect environmental and long-term strategic concerns.

In order to mitigate these realities, we have used efficiency standards for automobiles and appliances to achieve national goals. These standards have allowed us to make significant strides in reducing energy use. During the 1990s, while we made significant progress in some areas, such as the efficiency of refrigerators, we have moved backward in the area that is the largest consumer of fossil fuels, which is transportation. During this period, numerous technological advances for automobiles were introduced and widely implemented, such as airbags, crumple zones, and all-wheel drive. But none of these advances was aimed at increasing the efficiency, increasing the gas mileage of the vehicle.

Now we are on the verge of additional technologies coming to the market, such as the electric hybrid vehicle which is making its debut to very promising reviews. Let's assure the American people that some of these technological advances will go to reducing the amount of money we spend on petroleum. In the appliances market, we can reduce the summer peak loads of electricity by insisting on greater efficiency for air-conditioners. It will take years for new, more efficient models to completely absorb the market. The sooner we start, the sooner we will begin to see the results.

Point No. 3: We must increase the share of alternative sources of energy. If we try to do this all at once, the economic cost will be high. But if we opt for a steady progress toward greater use of alternative energy sources, we can expand our energy options and do so at a reasonable cost. We also must do this with flexibility. We are a diverse nation of States. Each State, each locale, has conditions that make it different from others. Those differences often impact on the ways in which States can participate in national initiatives, including the efforts to increase the use of alternative energy and thus reduce the reliance on fossil fuel.

Point No. 4: We should strive for diversity in our energy sources. Renewables will contribute to that diversity. Another area that I believe has and, in the future, will contribute to that diversity is commercial nuclear power. It wasn't long ago that commercial nuclear power was providing 25 percent of our Nation's electric generation. Today, it is down to 20 percent and sliding lower. At the same time, that proportion of energy that used to be provided by nuclear is being provided by natural gas. While there are some compelling environmental reasons that natural gas is an attractive energy source for electric production, it contributes to the depletion of an important American natural resource, to use an energy source which is a direct provider of energy, to become an indirect provider of energy by converting natural gas into electric generation. I applaud the provisions of this legislation that will, hopefully, begin to re-energize a safe and secure contribution to the diversity of our electric generation capacity through nuclear.

In the coming years, we will see ups and downs in energy prices. We have been on a roller coaster for the past several months, seeing some of the highest and some of the lowest gasoline prices in recent memory. We will likely see times of turmoil. We are likely to see oil increasingly being used as a weapon in geopolitical disputes. We are likely to see times of calm. During those times, energy seems to be the least of our worries.

But we have before us now an opportunity, an opportunity to create an energy policy for the next generations of Americans, the next generations of citizens of this planet. We are given the opportunity to develop an energy policy that can help us leave a cleaner, safer, more prosperous world, and a world in which energy is used to serve human purposes, not as a source of intimidation.

Our grandchildren will thank us.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have spoken to the Senator from Alaska. The Senator from Alaska indicated he wishes to speak for some time tonight, and I have indicated to him we have a few matters we need to do to close the business of the Senate for today.

Mr. REID. Mr. President, I ask unanimous consent that at 9:45 a.m. on Thursday, April 18, following the opening proceedings, the Senate resume consideration of S. 517 and that there be debate until 11:45 a.m. with respect to the cloture motions filed, with the time equally divided and controlled between the two leaders or their designees; further, that the time from 11:25 a.m. to 11:45 a.m. be controlled as follows: 11:25 a.m. to 11:35 a.m. under the control of the Republican leader, or his designee; and from 11:35 a.m. to 11:45 a.m. under the control of the majority leader, or his designee; that at 11:45 a.m., without further intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the Stevens second-degree amendment No. 3133, that the mandatory quorum required under rule XXII be waived; provided further that Members have until 10:45 a.m. to file any second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, APRIL 18, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:45 a.m. on Thursday, April 18; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the energy reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 4TH ANNUAL NATIONAL BREAST CANCER CONFERENCE FOR AFRICAN AMERICAN WOMEN

• Mr. LEVIN. Mr. President, during the weekend of April 19, 2002, as we commemorate Cancer Awareness Month, hundreds of women from around the country will gather in my home town, Detroit, MI, to celebrate breast cancer survivorship among African American women. This is a very special group of women, in that they are all survivors of the most common type of cancer of women in the United States. I take great pleasure in welcoming them to Detroit and want to bring to your attention, the many accomplishments of the sponsoring organizations and the goals of this conference.

The 4th Annual National Breast Cancer Conference, which is sponsored by the Karmanos Cancer Institute, Detroit's nationally renowned cancer treatment center and breast care center, and Sisters' Network, Inc. presents an aggressive agenda focusing on the survivorship of African American Women who have, and who will encounter the challenge of breast cancer, a disease which has claimed far too many lives of the members of any community, but within the African American community, 28 percent more than other ethnic groups. According to a recent report appearing in the Journal of the National Cancer Institute, researchers said that studies have shown that black women are more likely to be diagnosed with late stage breast cancer and to have a shorter survival time than white women. We should all find these statistics unacceptable. During this conference, with the guidance of medical professionals from around the country, including Detroit's own Dr. Lisa Newman, Associate Director of the Waltz Comprehensive Breast Center, there will be discussions on how to eradicate all of those barriers women of the African American community face when assaulted by this dreaded disease.

I am proud to acknowledge the work and dedication of Cassandra Woods, my Michigan Chief of Staff, who is the president of the Greater Metropolitan Detroit Chapter of Sisters' Network, Inc, and a breast cancer survivor and the national president and founder of the Network, Ms. Karen Jackson. These women and the members of the 37 chapters from around the country are committed to increasing local and national attention to the devastation that breast cancer has in the African American community. These women believe that through education, advocacy, research, and support for each other, they can make a marked difference in breast cancer outcomes and the rate of survival among their sisters.

I applaud this effort, I support this effort, and I ask my colleagues to join me in wishing the best of outcomes for this conference and with the challenges ahead.•

THE UNITED STATES/RUSSIAN PLUTONIUM DISPOSITION AGREEMENT

• Mr. DOMENICI. Mr. President, I rise today to bring the Senate's attention to a matter of tremendous international importance to our efforts to prevent the terrorists' use of weapons of mass destruction.

I wish to talk about the United States/Russian plutonium disposition agreement, a commitment between our two countries to each permanently dispose of 34 metric tons of plutonium from nuclear weapons. Thirty-four tons is enough material to make over 4,000 nuclear weapons.

I was pleased to help develop aspects of that agreement during several interactions with the Russian leadership of Minatom, both here and in Russia. I was in Moscow with our President in 1998 when the first agreement was initialed. I believe this agreement represents one the most significant accomplishments between the United States and Russia in the last 10 years in our joint efforts to keep the material and technology of weapons of mass destruction out of the hands of those that seek to do us harm.

The agreement basically commits the United States and Russia to turning 34 tons of plutonium into fuel that can be burned in commercial nuclear power plants. In this way, electricity is produced and the used fuel is left in a condition that makes it unusable in the future for nuclear bombs. Facilities will be built in both the United States and Russia to perform this work.

Our Government completed a 4-year process to decide what type of facilities was needed for this disposition mission, and where those facilities should be built. The United States considered four sites, Washington State, Idaho, Texas, and South Carolina, and after a vigorous competition in which the State of South Carolina lobbied very hard to get the mission, the decision was made to site the disposition facilities in South Carolina.

Now, South Carolina is hesitating. The plutonium disposition agreement is being imperiled by the unwillingness of the State of South Carolina to reach an agreement with the Department of Energy on taking shipment of the plutonium identified for disposition and building the required facilities.

It is appropriate for the Governor of South Carolina to insist on every assurance that his State will be treated fairly, and will not simply become the permanent storage site for unwanted nuclear material if for some reason the plutonium agreement should fall apart. But the Governor has done that, he has succeeded, he has won. He should be congratulated.

The Governor has gotten the Secretary of Energy to provide South Carolina all of the assurances they never got from the Clinton administration, including full funding for the MOX program, a strict construction schedule, and a number of mechanisms, including statutory language and other measures, to ensure that the agreement will be legally enforceable.

However, the Governor is apparently insisting that this matter should be thrown to the courts and resolved through the mechanism of a court ordered consent decree. Putting the courts in charge of executive branch non-proliferation and foreign policy affairs will slow our ability to meet our goals of reducing Russian nuclear material stockpiles, and will allow others who are opposed to the program's goals have a voice in their implementation. Ultimately, I fear America's national security will be undermined.

Further delay in reaching agreement with South Carolina will undermine the United States/Russian plutonium disposition agreement. We must move forward with the construction of the MOX plant that will be used to dispose of the plutonium at issue in order to honor our commitments to the Russian Federation. That will be very difficult, if not impossible, in the face of litigation from the Governor of the State where the plant will be located.

The Russians will not go along to reduce their plutonium inventory unless we do. A failure in this program means more material may end up on the black market where terrorists could have access to it.

For 50 years now the State of South Carolina, like my home State of New Mexico, has hosted some of the most important facilities within our nuclear weapons complex. For 50 years, tens of thousands of the sons and daughters of South Carolina proudly toiled in relative anonymity so that the rest of the country, and the world, could enjoy the peace provided by our nuclear shield during the long, dark days of the Cold War. I am proud of the citizens of South Carolina and their unique service for our county.

Today, the children and grandchildren of the previous generations of South Carolina heroes have a tremendous opportunity to almost literally, as the prophet Isaiah said, "beat their swords into plowshares and their spears into pruning hooks." They stand on the cusp of a grand new opportunity to lead the world community in converting nuclear weapons to electric power while at the same time keeping the material out of the hands of would be terrorists.

We must go forward with this important agreement. Thus, I will close today by urging both the Secretary of Energy and the Governor of South Carolina to work together to resolve their differences, move out together, and not threaten this effort by resorting to litigation.•

NATIONAL LIBRARY WEEK

• Mr. SARBANES. Mr. President, as a strong supporter of Federal programs to strengthen and protect libraries, I am pleased to recognize April 14—20 as National Library Week. This is the 44th anniversary of this national observance and its longevity is evidence of the great importance our Nation places on libraries, books, reading and education.

National Library Week grew out of 1950's research that showed a troublesome trend—Americans were spending more money on radios and television and less on buying books. The American Library Association and the American Book Publishers joined forces and introduced the first National Library Week in 1958 in an effort to encourage people to read and to use their libraries.

When the free public library came into its own in this country in the 19th century, it was, from the beginning, a unique institution because of its commitment to the principle of a free and open exchange of ideas, much like the Constitution itself. Libraries continue to be an integral part of all that our country embodies: freedom of information, an educated citizenry, and an open and enlightened society.

I firmly believe libraries play an indispensable role in our communities. They promote reading and quench a thirst for knowledge among adults, adolescents, and children. More importantly, they provide the access and resources to allow citizens to obtain timely and reliable information that is so necessary in our fast-paced society. In this age of rapid technological advancement, libraries are called upon to provide not only books and periodicals, but many other valuable resources as well audio-visual materials, computer services, Internet access terminals, facilities for community lectures and performances, tapes, records, videocassettes, and works of art for exhibit and loan to the public.

Libraries provide a gateway to a new and exciting world for all the place where a spark is often struck for disadvantaged citizens who for whatever reason have not had exposure to the vast stores of knowledge and emerging technology available to others. In this information age, they play a critical role in bridging the digital divide. Many families cannot afford personal computers at home, yet the role of computers has become almost necessary to a basic educational experience. The children of these families would suffer without the access to emerging technology that libraries provide to all patrons regardless of income. In addition, special facilities libraries provide services for older Americans, people with disabilities, and hospitalized citizens.

During National Library Week, I wish to salute those individuals who are members of the library community and work so hard to ensure that our citizens and communities continue to enjoy the tremendous rewards available through our libraries. Library staff, volunteers and patrons work to ensure existing libraries run smoothly and have adequate resources, as well as advocate for increased funding and new libraries.

I am proud that Maryland is a State of readers. Recent statistics show that Maryland citizens borrowed more public library materials per person than those of almost any other State, nearly 9 per person. In addition, 67 percent of the State's population are registered library patrons. We are lucky to have 24 public library systems, providing a full range of library services to all Maryland citizens and a long tradition of open and unrestricted sharing of resources. The State Library Network that provides interlibrary loans to the State's public, academic, special libraries and school library media centers has enhanced this policy. Marylanders have responded to this outstanding service by showing their continued enthusiasm and support for our public libraries. I have worked closely with members of the Maryland Library Association, colleges and universities and others involved in the library community throughout the State, and I am very pleased to join with them and citizens throughout the Nation in this week's celebration of "National Library Week." I look forward to continuing this relationship with those who enable libraries to provide the unique and vital services available to all Americans.●

PASSAGE OF THE HEALTH CARE SAFETY NET AMENDMENTS OF 2001 (S. 1533)

● Mr. KENNEDY. Mr. President, almost 39 million Americans wake up each morning, hoping that they or their families do not face illness or a serious accident—because they have no health insurance. Many more are underinsured and do not have access to a good health provider. They awake hoping that they and their loved ones will not get sick. For many, falling ill can mean financial ruin, or even death, because they cannot afford the critical health services they need.

During this time when our country struggles through the worst economic downturn in a decade, we must find innovative ways to provide access to health care for our most vulnerable citizens. States are facing more than $40 billion in deficits, unemployment is up, and the number of uninsured are rising.

Today, we offer Americans hope. I am proud that the U.S. Senate has joined together in passing the Health Care Safety Amendments of 2001. This bill reauthorizes two critical programs that serve our poorest populations—the health centers program and the National Health Service Corps. It also creates the Healthy Communities Access Program, HCAP. By bringing together public and private providers, HCAP will help improve the coordination of services for communities' most vulnerable populations.

At a time when our health care system too often treats people as statistics, this Nation's community health centers and our health professionals working through the National Health Service Corps treat them as patients who deserve the best available health care. They know their communities, they understand their concerns, they know their names, and they speak their languages.

For more than 30 years, these programs have provided health care to Americans who have no where else to go for services. In fact, it is difficult to imagine what health care in the United States would be like today without them. Without their extraordinary achievements, millions of the most vulnerable Americans would not receive the health care they need to live healthy and productive lives. Without the health centers and the National Health Service Corps, there would be higher rates of tuberculosis, infant mortality, AIDS, substance abuse, and many other debilitating conditions in our low-income neighborhoods. Without these two programs, the Nation's emergency rooms would be flooded with even more patients seeking primary care.

Despite their extraordinary accomplishments, far too often these health centers and providers struggle each day just to keep their doors open. That is why this legislation is so important.

Over the years, our community health centers have more than proven their worth. And as a result, last year, health centers received more support than ever before. We set a goal of doubling the Federal financial commitment to community health centers over the next 5 years. We need to continue expanding these programs and get more health professionals on the ground in health centers in America's small farming communities, urban centers, and sprawling suburbs.

And we must continue our commitment to the Healthy Communities Access Program. HCAP plays a very important role in our health care safety net. From the physician in private practice to the community health centers to the hospitals, all will work hand-in-hand to coordinate their efforts to reach the vast number of Americans who fall between the cracks in today's health care system. We must ensure that we continue to fund this program to help safety net providers develop innovative ways to coordinate the care for the uninsured and underinsured. We should not put this important safety net program at risk of receiving lower levels of funding.

I commend President Bush for making the health centers program and the National Health Service Corps a priority in his 2003 budget, and I hope the administration will support the bipartisan HCAP program. I also commend Senator FRIST, Senator JEFFORDS, and the members of our committee for their hard work on this bill.

For more than 30 years, I have been inspired by those who invest their lives in caring for Americans who have no place to turn for health care. I thank my colleagues today for passing the Safety Net bill which will aid our health centers and doctors in delivering critical health care services in our poorest communities. In doing so, we not only offer the tools for ensuring healthier lives, but we provide hope for millions of struggling families.●

TRIBUTE TO COLONEL TIMOTHY A. PETERSON

● Mr. SHELBY. Mr. President, I wish to recognize and pay tribute to Colonel Timothy A. Peterson, Chief, Senate Liaison Division, Office of the Chief of Legislative Affairs, and Department of the Army who will retire on June 1, 2002. Colonel Peterson's career spans over 28 years, during which he has distinguished himself as a soldier, scholar, leader and friend of the United States Senate.

A New York native, Colonel Peterson graduated from the United States Military Academy in 1974 and was commissioned as a lieutenant in the Field Artillery Branch of the U.S. Army. During his career he has commanded soldiers from the battery through the installation level. At Schofield Barracks in Hawaii, he commanded the 7th Battalion, 8th Field Artillery Regiment of the 25th Infantry Division and later served as the Installation Commander of the U.S. Army Garrison at Fort Dix, NJ. As a scholar Tim Peterson has sought opportunities to improve himself throughout his career. In addition to teaching mathematics to cadets at the United States Military Academy, he has served as an American Political Science Association Congressional Fellow and a Army Senior Fellow, Secretary of Defense Corporate Fellowship, as well as receiving advanced degrees from the University of Puget Sound, University of Washington, the Salve Regina College and the U.S. Naval War College.

Since September 1999, Tim Peterson has served with distinction as the Chief

Army Senate Liaison. He has superbly represented the Chief of Legislative Liaison, the Army Chief of Staff, and the Secretary of the Army while promoting the interests of the soldiers and civilians of our Army. His professionalism, mature judgement, sage advice and interpersonal skills have earned him the respect and confidence of the Members of Congress and Congressional staffers with whom he has worked on a multitude of issues affecting our Army, its soldiers and civilians. In almost 3 years on the Hill, Tim Peterson has been a true friend of the United States Senate and the Congress. Serving as the Army's primary point of contact for all Senators, Congressional Committees and their staffs, he has assisted Congress in understanding Army policies, operations, requirements and priorities. As a result, he and his staff have been extremely effective in providing prompt, coordinated and factual replies to all inquiries and matters involving Army issues. In addition, he has personally provided invaluable assistance to Members and their staffs while planning, coordinating and accompanying Senate delegations traveling worldwide. His substantive knowledge of the key issues, keen legislative insight and ability to effectively advise senior Army leaders have directly contributed to the successful representation of the Army's interests before Congress.

Throughout his career, Colonel Tim Peterson has demonstrated his profound commitment to our Nation, a deep concern for soldiers and their families and a commitment to excellence. Colonel Peterson is a consummate professional whose performance in over 28 years of service has personified those traits of courage, competency and integrity that our Nation has come to expect from its professional Army officers.

I ask my colleagues to join me in thanking Colonel Peterson for his honorable service to our Army, its soldiers and the citizens of the United States. We wish him and his family well and all the best in the future.•

TRIBUTE TO INTEGRITY LODGE #51

• Mr. TORRICELLI. Mr. President, I rise today to recognize the Integrity Lodge #51 Prince Hall Masons, who will be celebrating 100 years of service to the community of Paterson, NJ, this month.

Prince Hall Masons, the founders of this organization, are the oldest African American fraternity in the United States. This celebration will truly highlight the contributions as well as the many accomplishments that this fine organization has made to its community.

Under the direction of Prince Hall Masons, the Integrity Lodge has enjoyed countless success stories. The Integrity Lodge has been recognized for guiding and providing leadership to African Americans. Additionally, the Integrity Lodge has made countless charitable contributions which in turn have positively affected many lives.

Through the efforts of this group of people, the community of Paterson has been enriched. I am confident that there are many lives that this organization has changed and I am sure that they find victories on a daily basis. It is my firm belief that the Integrity Lodge will continue this fine tradition of community service in the years to come, and will serve with distinction as tireless advocates on behalf of Paterson, NJ.

I congratulate the Integrity Lodge #51 for their 100 years of dedicated service.•

KLAMATH FOOD BANK

• Mr. SMITH of Oregon. Mr. President, I rise today to give tribute to some Oregon heroes. Over the past year, I have come to the Senate floor on several occasions to describe the tragic events in the Klamath Basin last year. Today, I wish to salute some of the heroes, who when watching their neighbors in need, responded with great compassion and service to their community.

In April of last year, the farm economy of Klamath Falls was sent into a tailspin when the decision was made to forego water deliveries to farmers in favor of protecting threatened and endangered fishes. Almost overnight, the devastating effects of the water shutoff began to be felt. In one month's time, the number of families seeking assistance from the local food bank jumped by seven hundred.

The response from the surrounding community was incredible. Farmers, car dealerships, coffee shops, gas stations, banks, schools, and countless others came together to lend their support to folks in the Klamath Basin. On June 15 of last year, Joe Gilliam, President of the Oregon Grocers Association, with the help of grocers from around the State, gathered 240,000 pounds of food. This food helped feed the community for nearly two months.

In August, Oregon Senator and farmer Gary George of Pendleton, Oregon decided that he too had to do something. He set out and, with the help of Oregonians In Action, raised $30,000. Also in August, K-Dove Radio, Perry Atkinson and his son Oregon Senator Jason Atkinson, and sixty churches in the Medford area, joined together in collecting 27,000 pounds of food. They delivered it in two twenty-four-foot Ryder trucks.

The examples of kindness go on and on. For as tragic as the situation last year in the Basin was, Oregonians from around the State responded with an equal level of benevolence. With the help of hundreds of community volunteers and under the direction of Niki Sampson, the Klamath Falls-Lake County Food Bank has distributed 830,000 pounds of food and non-food products.

This has been a very emotional year, and as a U.S. Senator and as an Oregonian, I am very proud of how the people in my State have responded. The generosity shown by so many truly reaffirms one's faith in the goodness of people. In my mind, every single person who volunteered his or her time or resources is a hero. Today, I salute the workers, the volunteers, and all those who gave of themselves to help this community in need.•

VENEZUELA

• Mr. KENNEDY. Mr. President, I rise regarding recent events in Venezuela and my concern that the response of the administration was inconsistent with our foreign policy goal of promoting democracy abroad.

On April 12, following anti-government protests by civil opposition sectors, supported by parts of the military, President Hugo Chavez was briefly forced to resign power. The civil-military movement named businessman Pedro Carmona as interim president, and he then took steps which further undermined constitutional order, dissolving the legislature and the Supreme Court. Instead of protesting these clear violations of democratic order, the U.S. found itself virtually alone in the region in seemingly welcoming the undemocratic change in government in Venezuela.

Latin American presidents, meeting in Costa Rica, quickly condemned the coup as contrary to democratic obligations of members of the Organization of American States. Their action had nothing to do with support for President Chavez, whose radical declarations and friendly links to Cuba and Iraq had caused discomfort in the region and in Washington.

However, the American government did not acknowledge that a coup had occurred and referred to the action as "a change in the government." After 2 days, the lack of full support inside the Venezuelan military, the extreme nature of the actions of the interim president in voiding Venezuela's democratic institutions, and the clear opposition of hemispheric leaders resulted in Chavez being reinstated to the presidency.

The Inter-American Democratic Charter, which the United States and the other members of the Organization of American States agreed to last year, commits all member governments to condemn and investigate the overthrow of any democratically elected OAS member government. These events tested the resolve of Western Hemisphere leaders in their support of democracy, and Latin American leaders responded decisively. Unfortunately, the American government failed the test.

Our government must support changes of government through a constitutional process, not military means. America's failure to condemn the illegal overthrow of a democratically elected leader in Venezuela has seriously undermined our credibility in the Western Hemisphere.

The United States must be a leader in promoting the strengthening of democracy in our hemisphere. We can do this by abiding by the OAS charter and by working within the OAS to maintain close scrutiny of democracies at risk.

The Secretary-General of the OAS, Dr. Cesar Gaviria, arrived in Venezuela this week to evaluate the latest developments and explore how the OAS can support Venezuela in its efforts to strengthen democracy. As a member of the OAS, our government should strongly and unequivocally support Secretary-General Gaviria's mission. We must also support the right of the voters of Venezuela to decide their political future. At the same time, President Chavez should fully respect individual freedoms, including freedom of the press, due process, and the rule of law. The OAS should continue to monitor the situation in Venezuela closely, and the U.S. Government should renew its commitment to democracy and democratic standards in the region.•

TRIBUTE TO TASK FORCE 2–153, ARKANSAS NATIONAL GUARD

• Mr. HUTCHINSON. Mr. President, it is my distinct honor and privilege to recognize the "Arkansas Gunslingers." Task Force 2–153, commanded by Lieutenant Colonel Steve Womack, made military history on January 13, 2002 by becoming the first pure Army National Guard unit to represent the United States in performing the Multinational Force and Observer, MFO, mission on the Sinai peninsula in Egypt which was born out of the 1979 Camp David Peace Accords.

Soldiers of the 2nd Battalion, 153rd Infantry headquartered in Searcy, AR, along with other elements of the 39th Infantry Brigade were mobilized October 8, 2001 as part of President Bush's Homeland Defense initiative and the War on Terrorism. Under the strong leadership of Lieutenant Colonel Womack, Major Franklin Powell and Command Sergeant Major John Hogue, Task Force 2–153 exceeded all post-mobilization, pre-deployment, and post-deployment requirements. This accomplishment is particularly noteworthy given that these citizen-soldiers were given this critical and highly visible assignment just 90 days prior to deployment, at most, half the time to prepare routinely given to Regular Army units. When called upon by their commander in chief, this proud group of Arkansans literally lived up to their motto: "Let's Go"!

It is with great pride that I have risen today to pay tribute to the more than 500 soldiers who make up the Arkansas Gunslingers. They have selflessly put their private lives on hold to answer the call of duty. Their presence on the Sinai Peninsula is a powerful symbol of peace. The people of Arkansas are grateful for their service, and extremely proud that they have been chosen to represent the United States of America in this important mission.•

COMMEMORATING THE 54th ANNIVERSARY OF ISRAEL'S STATEH0OOD

• Mr. GRAHAM. Mr. President, on this date 54 years ago, the State of Israel was founded. Today, all over the world, friends of Israel are observing this anniversary of Israel's independence.

The United States, under President Harry S. Truman, was the first country to formally recognize the State of Israel in 1948. We have a legacy of a special relationship based on shared values, among them support for democracy and human rights.

Preservation of the integrity, vitality and sovereignty of Israel is the cornerstone of U.S. policy in the Middle East, as well as a fundamental prerequisite for winning the global War on Terrorism.

On this day, when Israel and its allies should be celebrating, instead we see daily acts of violence and acts of terrorism that have led to the loss of innocent lives. The ability of the people of Israel and of the region to lead normal lives has been shattered.

The United States is committed to leading the international community in ending the conflict and beginning the slow walk back to negotiations for peace.

I urge President Bush and his Administration to recognize the importance of ongoing U.S. engagement in the Middle East at this crucial time. As the world's sole remaining superpower and the leader of the efforts to eradicate terrorism from the Earth, our commitment to allies such as Israel cannot and must not falter.

Once a framework for peace is in place, and we pray that day will soon come, there should be no question that the United States recognizes we will be called upon to play an ongoing role in the region, and we are prepared to accept that role.

Again, we offer our congratulations to the State of Israel on its 54th anniversary. And we assure our Israeli brothers and sisters that we share with them their quest for peace and the dream of turning swords into plowshares so that they can raise their children and grandchildren in a region of harmony.•

HONORING INSIGHT COMMUNICATIONS IN LOUISVILLE, KENTUCKY

• Mr. BUNNING. Mr. President, today I rise to offer a proper salute to Insight Communications of Louisville, KY. The Cable Television Public Affairs Association recently presented Insight with the coveted Beacon Award in the category of education for introducing their "Young Women's Technology Fellowship" initiative to the Louisville Community.

The Fellowship initiative, which arose from a partnership established between Oxygen Media and Insight Communications, was a two-month after-school program designed to provide advanced technical training and resources to twelve motivated young women who would typically be denied access to this level of technical education. During the curriculum, the young women were instructed to design an online magazine devoted to social issues. In the process, the girls were able to learn valuable computer applications as well as technical and journalistic skills while paying appropriate attention to social issues affecting the Louisville/Jefferson County community.

I applaud the efforts of Insight Communications and Oxygen Media. I would also like to thank these two organizations for their enduring commitment to education and service. The Fellowship program was an excellent forum for young women to not only learn invaluable technical and journalistic skills but also provide the community with pertinent information surrounding existing social issues.•

NATURAL GAS TRANSMISSION LINES AND ENHANCED COST RECOVERY

• Mr. BREAUX. Mr. President, the demand for natural gas is expected to increase tremendously in this country over the next 15 years. By some accounts demand for natural gas will go from approximately 23 trillion cubic feet in 2000 to over 31 trillion cubic feet by 2015, a 34 percent increase. The existing natural gas transmission infrastructure simply cannot accommodate this increased demand.

Natural gas offers an environmentally friendly and secure source of energy, and we must ensure that we have the infrastructure in place to meet this increased demand. Otherwise, we could suffer adverse environmental consequences and undermine the potential for economic growth, which depends upon safe and secure sources of energy. Natural gas also has the added advantage of reducing our dependence on foreign energy sources, which in today's environment, is a major advantage.

The Senate Finance committee took several steps to address this issue. Improving the depreciation period for natural gas distribution lines and clarifying that natural gas gathering lines are seven-year property is a step in the right direction. However, I am concerned that the bill we are now considering, as well as the House-passed energy legislation, does not address cost recovery for natural gas transmission lines. Reliable estimates indicate that we will have to build over 38,000 miles of additional transmission lines, a fifteen percent increase over current capacity, to deliver the increased amount of natural gas that will be required to meet the increased demand over the next fifteen years. My concern is that if the Congress determines that enhanced cost recovery is necessary to generate the additional investment required to meet this enormous demand, that it is necessary to address the entire natural gas delivery system, including both distribution and transmission lines.

There is no doubt that the demands for capital investment in this area are very large indeed. Industry studies show that the natural gas industry will require almost $50 billion in new investment for pipeline transmission lines over the next fifteen years, over $3.2 billion per year, to meet this demand. These expenditures also include the United States portion of an Alaskan Gas Pipeline, which offers tremendous potential for this country in meeting its energy needs.

These are daunting sums. I am very concerned whether this capital can be raised in both the current economic climate and under our current cost recovery system. Over the past year, the companies we depend upon to raise the capital required to build these transmission lines lost over $60 billion in market capitalization. This situation will impede their ability to raise the necessary capital in the market. Accelerated depreciation will help alleviate this problem by increasing cash flow, thus reducing a company's need to borrow money to build additional pipelines and lower the cost of capital that must be borrowed to complete the projects. Our committee recognized as much, as did the House, when it chose to lower the depreciation period for natural gas transmission lines from 20 to 15 years. I supported this decision, but we may not be able to utilize fully this increased distribution capacity if we do not take similar steps regarding transmission. After all, natural gas will not arrive at the distribution point unless the transmission infrastructure is sufficient to handle the increased amount of natural gas required.

There is no question that the capital investment required to ensure that we have adequate transmission pipelines to deliver natural gas is very significant. There is also no question that Congress needs to examine the entire delivery system to ensure that the benefits of any improved cost recovery are utilized efficiently and do not produce unwanted bottlenecks.

I think it would be appropriate for us to review carefully the need for shorter depreciation periods not just for distribution lines but for natural gas transmission lines as well when this matter goes to conference. Any decisions regarding natural gas depreciation must be made with an eye towards their effect on the system as a whole, including transmission lines.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 21, 1991 in Brattleboro, VT. A lesbian woman was struck by an attacker who was heard to say "There's another . . . queer." The assailant, Lauralee Akley, 19, was charged with committing a hate-motivated crime in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

INTERNATIONAL BROADCASTING

● Mr. BIDEN. Mr. President, last month the former Chairman of the Federal Communications Commissions, Newton Minow, delivered the Morris I. Liebman Lecture at Loyola University in Chicago.

Mr. Minow's address was entitled "The Whisper of America," and is focused on the need for the United States to significantly increase the resources it devotes to international broadcasting.

I believe Mr. Minow makes a very thoughtful case for expanding our efforts in this area. In order that it may be available to a wider audience, and to call it to the attention of my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHISPER OF AMERICA

In World War II, when the survival of freedom was still far from certain, the United States created a new international radio service, the Voice of America. On February 24, 1942, William Harlan Hale opened the German-language program with these words: "Here speaks a voice from America. Every day at this time we will bring you the news of the war. The news may be good. The news may be bad. We will tell you the truth."

My old boss, William Benton, came up with the idea of the Voice of America. He was then Assistant Secretary of State and would later become Senator from Connecticut. He was immensely proud of the Voice of America. One day he described the new VOA to RCA Chairman David Sarnoff, the tough-minded and passionate pioneer of American broadcasting. Sarnoff noticed how little electronic power and transmitter scope the VOA had via short-wave radio, then said, "Benton, all you've got here is the whisper of America."

Although The Voice of America, and later other international radio services, have made valuable contributions, our international broadcasting services suffer from miserly funding. In many areas of the world, they have seldom been more than a whisper. Today, when we most need to communicate our story, especially in the Middle East, our broadcasts are not even a whisper. People in every country know our music, our movies, our clothes, and our sports. But they do not know our freedom or our values or our democracy.

I want to talk with you about how and why this happened, and what we must do about it.

First, some history:

At first, the Voice of America was part of the Office of War Information. When the war ended, the VOA was transferred to the Department of State. With the beginning of the Cold War, officials within the government began to debate the core mission of the VOA: Was it to be a professional, impartial news service serving as an example of press freedom to the world? Or was it an instrument of U.S. foreign policy, a strategic weapon to be employed against those we fight? What is the line between news and propaganda? Should our broadcasts advocate America's values-or should they provide neutral, objective journalism?

That debate has never been resolved, only recast for each succeeding generation. In August 1953, for example, our government concluded that whatever the VOA was or would be, it should not be part of the State Department. So we established the United States Information Agency, and the VOA became its single largest operation.

A few years ago, Congress decided that all our international broadcasts were to be governed by a bi-partisan board appointed by the President, with the Secretary of State as an ex officio member.

This includes other U.S. international broadcast services which were born in the Cold War, the so-called "Freedom Radios." The first was Radio Free Europe, established in 1949 as a non-profit, non-governmental private corporation to broadcast news and information to East Europeans behind the Iron Curtain. The second was Radio Liberty, created in 1951 to broadcast similar programming to the citizens of Russia and the Soviet republics. Both Radio Free Europe and Radio Liberty were secretly funded by the Central Intelligence Agency, a fact not known to the American public until 1967, when the New York Times first reported the connection. The immediate result of the story was a huge controversy, because the radios had for years solicited donations from the public through an advertising campaign known as the Crusade for Freedom. Such secrecy, critics argued, undermined the very message of democratic openness the stations were intended to convey in their broadcasts to the closed, totalitarian regimes of the East.

In 1971, Congress terminated CIA funding for the stations and provided for their continued existence by open appropriations. The stations survived and contributed to American strategy in the Cold War. That strategy was simple: to persuade and convince the leaders and people of the communist bloc that freedom was better than dictatorship, that free enterprise was better than central planning, and that no country could survive if it did not respect human rights and the rule of law. Broadcasting into regimes where travel was severely restricted, where all incoming mail was censored, and all internal media were tools of state propaganda, Radio Free Europe and Radio Liberty communicated two messages that conventional weapons never could—doubt about the present and hope for the future.

They did so against repeated efforts by Soviet and East European secret police to sabotage their broadcast facilities, to create friction between the stations and their host governments, and even to murder the stations' personnel. In 1962, I personally witnessed an effort by Soviet delegates to an international communications conference in Geneva to eliminate our broadcasts to Eastern Europe. Because I was then Chairman of the Federal Communications Commission, the Soviets assumed I was in charge of these broadcasts. I explained that although this was not my department, I thought we should double the broadcasts.

Listening to the radios' evening broadcasts became a standard ritual throughout Russia and Eastern Europe. Moscow, no matter how hard it tried, could not successfully jam the transmissions. As a result, communism had to face a public that every year knew more about its lies. In his 1970 Nobel Prize speech, Aleksander Solzhenitsyn said of Radio Liberty, "If we learn anything about events in our own country, it's from there." When the Berlin Wall fell, and soon after the Soviet Union crumbled, Lech Walesa was asked about the significance of Radio Free Europe to the Polish democracy movement. He replied, "Where would the Earth be without the sun?"

Radio Free Europe and Radio Liberty continue to broadcast, from headquarters in downtown Prague, at the invitation of Vaclav Havel. The studios are now guarded by tanks in the street to protect against terrorists.

With very little money, Congress authorized several new services: Radio Free Asia, Radio Free Iraq, Radio Free Iran, Radio and TV Marti, Radio Democracy Africa, and Worldnet, a television service that broadcasts a daily block of American news. After 9/11, Congress approved funding for a new Radio Free Afghanistan. What most people don't know is that this service is not new—Congress authorized funds for Radio Free Afghanistan first in 1985, when the country was under Soviet domination. Even then the service was minimal—one half-hour a day of news in the Dari and Pashto languages. When the Soviets withdrew, we mistakenly thought the service was no longer needed. We dismantled it as the country plunged into chaos. We are finally beginning to correct our mistakes with a smart new service in the Middle East called "The New Station for the New Generation."

Indeed, as the Cold War wound down, we forgot its most potent lesson: that totalitarianism was defeated not with missiles, tanks and carriers, but with ideas—and that words can be weapons. Even though the Voice of America had earned the trust and respect of listeners for its accuracy and fairness, our government starved our international broadcasts. Many of the resources that had once been given to public diplomacy—to explaining ourselves and our values to the world—were eliminated. In the Middle East, particularly, American broadcasting is not even a whisper. An Arab-language radio service is operated by Voice of America, but its budget is tiny and its audience tinier—only about 1 to 2 percent of Arabs ever listen to it. Among those under the age of 30—60 percent of the population in the region—virtually no one listens.

As we fell mute in the Cold War's aftermath, other voices grew in influence.

AL JAZEERA

In the past few months, Westerners began to learn about Al Jazeera as a source of anti-American tirades by Muslim extremists and as the favored news outlet of both Osama bin Laden and the Taliban. The service had its beginnings in 1995, when the BBC withdrew from a joint venture with Saudi-owned Orbit Communications that had provided news on a Middle East channel. The BBC and the Saudi government clashed over editorial judgments, and the business relationship fell apart. Into the breach stepped a big fan of CNN, Qatar's Emir, Sheikh Hamed bin Khalifa Al Thani. He admired CNN's satellite technology and decided to bankroll a Middle East satellite network with a small budget. He hired most of the BBC's anchors, editors and technicians, and Al Jazeera was born.

Al Jazeera means "the peninsula" in Arabic, and the name is fitting. Just as Qatar is a peninsula, the station's programming protrudes conspicuously into the world of state-controlled broadcasting in the Middle East. Several commentators, including many Arabs, have sharply criticized the service for being unprofessional and biased. CNN and Al Jazeera had a dispute this year and terminated their cooperative relationship.

Well before September 11, Al Jazeera had managed to anger most of the governments in its own region. Libya withdrew its ambassador from Qatar when Al Jazeera broadcast an interview with a critic of the Libyan government. Tunisia's ambassador complained to the Qatari foreign ministry about a program accusing Tunisia of violating human rights. Kuwait complained after a program criticized Kuwait's relations with Iraq. In Saudi Arabia, officials called for a "political fatwa" prohibiting Saudis from appearing on any Al Jazeera programming. In March 2001, Yasser Arafat closed Al Jazeera's West Bank news bureau, complaining of an offensive depiction of Arafat in a documentary. Algeria shut off electricity to prevent its citizens from watching Al Jazeera's programs. Other countries deny Al Jazeera's reporters entry visas.

And of course, our own country has plenty to complain about Al Jazeera.

Al Jazeera came to our notice first because a 1998 interview with Osama bin Laden called upon Muslims to "target all Americans." Al Jazeera broadcast the tape many times. As the only network with an office in Afghanistan, Al Jazeera was the only one the Taliban allowed to broadcast from the country. On October 7, 2001, the network's Kabul office received a videotape message from Osama bin Laden, which it transmitted around the world. Hiding in caves, Osama could still speak to the world in a voice louder than ours because we allowed our story to be told by our enemies.

Forty years ago, I accompanied President Kennedy on a tour of our space program facilities. He asked me why it was so important to launch a communications satellite. I said, "Mr. President, unlike other rocket launches, this one will not send a man into space, but it will send ideas. And ideas last longer than people do." I never dreamed that the ideas millions of people receive every day would come from Al Jazeera.

THE GLOBAL MEDIA MARKETPLACE

Whatever one thinks of Al Jazeera, it teaches an important lesson: The global marketplace of news and information is no longer dominated by the United States. Our own government, because it has no outlet of its own in the area, is looking into buying commercial time on Al Jazeera to get America's anti-terrorism message out. And because of privatization and deregulation in the international satellite business, a huge number of Americans now have direct access to Al Jazeera through the EchoStar satellite service.

The point is simply this: Whether the message is one of hate or peace, in the globalized communications environment it is impossible either to silence those who send the message, or stop those who want to receive it. Satellites have no respect for national borders. Satellites surmount walls. Like Joshua's Trumpet, satellites blow walls down.

That was the last lesson of the Cold War. In Beijing, the Chinese government would not begin its brutal sweep through Tianamen Square until it thought the world's video cameras were out of range. In Manila, Warsaw and Bucharest, dissenters first captured the television station—the Electronic Bastille of modern revolutions. In Prague, a classic urban rebellion became a revolution through television. The Romanian revolution was not won until television showed pictures of the Ceaucescus' corpses and scenes of rebels controlling the square in Bucharest. In the final days of the Soviet Union, the August 1991 coup against President Mikhail Gorbachev failed when video of the supposedly ill president was broadcast by satellite around the world. Those satellites, Gorbachev later said, "prevented the triumph of dictatorship." Now, we have the newer technologies of the internet and e-mail—technologies the Voice of America and the Freedom Radios use with enthusiasm without adequate support.

What we have failed to realize is that the last lesson of the Cold War is also the first lesson of the new global information age. We live now in a world where we are the lone superpower, and the target of envy and resentment not just in the Middle East but elsewhere. Terror is now the weapon of choice.

But if you believe we are only in a war against terrorism, you are only half-right. Nation-states can sponsor terrorism and provide cover to terrorists, but the war against terrorism is asymmetric. This is my friend Don Rumsfeld's favorite word—asymmetric. This means that war is not waged by a state against another state per se, but against an ideology. Think of the campaign of the past few months. The enemy has been a band of religious zealots and the Al Qaeda terrorists they harbor, not the people of Afghanistan. President Bush has been emphatic and effective on this point, as have Prime Minister Tony Blair and other world leaders.

Asymmetry also refers to the strategies and tactics used by those who cannot compete in a conventional war. In an asymmetric war, it is not enough to have Air Forces to command the skies, Navies to roam the seas, or Armies to control mountain passes. Although the Cold War led to staggering advances in military technology to win the battles, there is not a corresponding change in our government's use of communications technology to win the peace.

Asymmetry, in other words, is not limited to what happens on the battlefield. While U.S. Special Operations forces in Afghanistan use laptops and satellites and sophisticated wireless telecommunications to guide pilots flying bombing missions from aircraft carriers in the Arabian Sea, we still use obsolete, clumsy and primitive methods, such as short-wave radio, to communicate to the people.

Here is another incongruity: American marketing talent is successfully selling Madonna's music, Pepsi Cola and Coca Cola, Michael Jordan's shoes and McDonald's hamburgers around the world. Our film, television and computer software industries dominate their markets worldwide. Yet, the United States government has tried to get its message of freedom and democracy out to the 1 billion Muslims in the world and can't seem to do it. How is it that America, a nation founded on ideas—not religion or race or ethnicity or clan—cannot explain itself to the world?

In the months since September 11, Americans have been surprised to learn of the deep and bitter resentment that much of the Muslim world feels toward us. Our situation is not just a public relations problem. Anyone who has traveled the world knows that much anti-American sentiment springs from disagreements with some of our economic and foreign policies. Our support of authoritarian regimes in the Muslim world has not endeared us to the people who live there. And there is no more poisonous imagery than that of Palestinians and Israelis locked in mortal and what seems to be never-ending combat.

Still, the United States has an important story to tell, the story of human striving for freedom, democracy and opportunity. Since the end of the Cold War, we have failed to tell that story to a world waiting to hear it on the radio and see it on television. We have failed to use the power of ideas.

Within days of the Taliban's flight from Kabul, television was back on the air in the country. The Taliban had not only banned television broadcasts, but confiscated and destroyed thousands of TV sets. They hung the smashed husks of TV sets on light poles, along with videocassettes and musical instruments, as a warning to anyone who might try to break the regime's reign of ignorance. And yet no sooner were the Taliban driven from the city than hundreds of TV sets appeared from nowhere. Even in the midst of a totalitarian, theocratic regime, there had been a thriving underground market for news and information. Television antennas were quickly hung outside of windows and on rooftops. The antennas are like periscopes, enabling those inside to see what is happening outside.

Where were we when those people needed us? Where were we when Al Jazeera went on the air? It was as if we put on our own self-created burka and disappeared from sight. The voices of America, the voices of freedom, were not even a whisper.

THE NEW CHALLENGE

I believe the United States must re-commit itself to public diplomacy—to explaining and advocating our values to the world. As Tom Friedman put it in his New York Times column not long ago: "It is no easy trick to lose a PR war to two mass murderers—(Osama bin Laden and Saddam Hussein) but we've been doing just that lately. It is not enough for the White House to label them 'evildoers.' We have to take the PR war right to them, just like the real one."

There are two leaders of both parties who need our support in this fight for aggressive, vigorous public diplomacy. Illinois Republican Congressman Henry Hyde, chairman of the House International Relations Committee, wants to strengthen the Voice of America and the many Freedom Radio services that broadcast from Cuba to Afghanistan. Democratic Senator Joseph Biden, Chairman of the Senate Foreign Relations Committee, is on the same page. He has developed legislation known as "Initiative 911" to give special emphasis to more programming for the entire Muslim world, from Nigeria to Indonesia.

In November, Congress finally set aside $30 million to launch a new Middle East radio network. The AM and FM broadcasts (not short wave) will offer pop music—American and Arabic—along with a mix of current events and talk shows. The proposal to fund Radio Free Afghanistan is for $27.5 million this year and next, and will allow about 12 hours a day of broadcasting into the country. The goal is to make our ideas clear not just to leaders in the Muslim world, but to those in the street, and particularly the young, many of whom are uneducated and desperately poor, and among whom hostility toward the United States is very high.

These efforts are late and, in my view, too timid. They are tactical, not strategic. They are smart, not visionary. The cost of putting Radio Free Afghanistan on the air and underwriting its annual budget, for example, is less than even one Commanche helicopter. We have many hundreds of helicopters which we need to destroy tyranny, but they are insufficient to secure freedom. In an asymmetric war, we must also fight on the idea front.

Bob Shieffer put the issue well not long ago on CBS' "Face the Nation":

"The real enemy is not Osama, it is the ignorance that breeds the hatred that fuels his cause. This is what we have to change. I realized what an enormous job that was going to be the other day when I heard a young Pakistani student tell an interviewer that everyone in his school knew that Israel was behind the attacks on the Twin Towers and everyone in his school knew all the Jews who worked there had stayed home that day.

"What we have all come to realize now is that a large part of the world not only misunderstands us but is teaching its children to hate us."

Steve Forbes, who once headed the Broadcasting Board of Governors, put the issue even more bluntly: "Washington should cease its petty, penny-minded approach to our international radios and give them the resources and capable personnel to do the job that so badly needs to be done right. . . . What are we waiting for?"

THE PROPOSAL

What are we waiting for? I suggest three simple proposals. First, define a clear strategic mission and vision for U.S. international broadcasting. Second, provide the financial resources to get the job done. Third, use the unique talent that the United States has—all of it—to communicate that vision to the world.

First, and above all, U.S. international broadcasting should be unapologetically proud to advocate freedom and democracy in the world. There is no inconsistency in reporting the news accurately while also advocating America's values. The real issue is whether we will carry the debate on the meaning of freedom to places on the globe, where open debate is unknown and freedom has no seed. Does anyone seriously believe that the twin goals of providing solid journalism and undermining tyranny are incompatible? As a people, Americans have always been committed to the proposition that these goals go hand in hand. As the leader of the free world, it is time for us to do what's right—to speak of idealism, sacrifice and the nurturing of values essential to human freedom—and to speak in a bold, clear voice.

Second, if we are to do that, we will need to put our money where out mouths are not. We now spend more than a billion dollars each day for the Department of Defense. Results in the war on terrorism demonstrate that this is money well invested in our national security.

Whatever Don Rumsfeld says he needs should be provided by the Congress with pride in the extraordinary service his imaginative leadership is giving our country. As President Bush has proposed, we will need to increase the defense budget. When we do, let's compare what we need to spend on the Voice of America and the Freedom Radio services with what we need to spend on defense. Our international broadcasting efforts amount to less than two-tenths of one percent of Defense expenditures. Al Jazeera was started with an initial budget of less than $30 million a year. Now Al Jazeera reaches some 40 million men, women and children every day, at a cost of pennies per viewer every month.

Congress should hold hearings now to decide what we should spend to get our message of freedom, democracy and peace into the non-democratic and authoritarian regions of the world. One suggestion is to consider a relationship between what we spend on defense with what we spend on communication. For example, should we spend 10 percent of what we spend on defense for communication? That would be $33 billion a year. Too much. Should we spend 1 percent? That would be $3.3 billion, and that seems about right to me—one dollar to launch ideas for every $100 we invest to launch bombs. This would be about six times more than we invest now in international communications. We must establish a ratio sufficient to our need to inform and persuade others of the values of freedom and democracy. More importantly, we should seek a ratio sufficient to lessen our need for bombs.

Third, throwing money alone at the problem will not do the job. We need to use all of the communications talent we have at our disposal. This job is not only for journalists. As important as balanced news and public affairs programming are to our public diplomacy mission, the fact is that we are now in a global information marketplace. An American news source, even a highly professional one like the VOA, is not necessarily persuasive in a market of shouting, often deceitful and hateful voices. Telling the truth in a persuasive, convincing way is not propaganda. Churchill's and Roosevelt's words—"never was so much owed by so many to so few"—"The only thing we have to fear is fear itself"—were as powerful as a thousand guns.

When Colin Powell chose advertising executive Charlotte Beers as Under Secretary of State for public diplomacy and public affairs, some journalists sneered. You cannot peddle freedom as you would cars and shampoo, went the refrain. That is undoubtedly so, and Beers has several times said as much herself. But you can't peddle freedom if no one is listening, and Charlotte Beers is a master at getting people to listen—and to communicate in terms people understand.

So was another visionary in this business, Bill Benton. Before he served as Assistant Secretary of State, Benton had been a founding partner in one of the country's largest and most successful advertising firms, Benton and Bowles. To win the information war, we will need the Bentons and Beers of this world every bit as much as we will need the journalists. We have the smartest, most talented, and most creative people in the world in our communications industries—in radio, television, film, newspapers, magazines, advertising, publishing, public relations, marketing. These men and women want to help their country, and will volunteer eagerly to help get our message across. One of the first people we should enlist is a West Point graduate named Bill Roedy, who is President of MTV Networks International. His enterprise reaches one billion people in 18 languages in 164 countries. Eight out of ten MTV viewers live outside the United States. He can teach us a lot about how to tell our story.

CONCLUSION

In 1945, a few years after the VOA first went on the air, the newly founded United Nations had 51 members. Today it has 189. In the last decade alone, more than 20 countries have been added to the globe, many of them former Soviet republics, but not all. Some of these new countries, as with the Balkan example, have been cut bloodily from the fabric of ethnic and religious hatred. Some of these countries are nominally democratic, but many—especially in Central Asia—are authoritarian regimes. Some are also deeply unstable, and thus pose a threat not only to their neighbors, but to the free world. Afghanistan, we discovered too late, is a concern not only to its region, but to all of us.

In virtually every case, those whose rule is based on an ideology of hate have understood better than we have the power of ideas and the power of communicating ideas. The bloodshed in the Balkans began with hate radio blaring from Zagreb and Belgrade, and hate radio is still common in the region today. The murder of 2 million Hutus and Tutsis in central Africa could not have happened but for the urging of madmen with broadcast towers at their disposal. The same has been true of ethnic violence in India and Pakistan.

I saw this first hand in the Cuban Missile Crisis of 1962. President Kennedy asked me to organize eight American commercial radio stations to carry the Voice of America to Cuba because the VOA was shut out by Soviet jamming. We succeeded, and President Kennedy's speeches were heard in Spanish in Cuba at the height of the crisis. As we kept the destroyers and missiles out of Cuba, we got the Voice of America in because we had enough power to surmount the jamming. On that occasion, our American broadcasts were more than a whisper.

Last spring—well before the events of September 11—Illinois Congressman Henry Hyde put the need eloquently. I quote him: "During the last several years it has been argued that our broadcasting services have done their job so well that they are no longer needed. This argument assumes that the great battle of the 20th century, the long struggle for the soul of the world, is over: that the forces of freedom and democracy have won. But the argument is terribly shortsighted. It ignores the people of China and Cuba, of Vietnam and Burma, of Iraq and Iran and Sudan and North Korea and now Russia. It ignores the fragility of freedom and the difficulty of building and keeping democracy. And it ignores the resilience of evil."

Fifty-eight years ago, Albert Einstein returned from a day of sailing to find a group of reporters waiting for him at the shore. The reporters told him that the United States had dropped an atomic bomb on Hiroshima, wiping out the city. Einstein shook his head and said, "Everything in the world has changed except the way we think."

On September 11 everything changed except the way we think. It is hard to change the way we think. But we know that ideas last longer than people do, and that two important ideas of the 20th century are now in direct competition: the ideas of mass communication and mass destruction. The great question of our time is whether we will be wise enough to use one to avoid the other.●

MESSAGE FROM THE HOUSE

At 11:04 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 101. Concurrent resolution extending birthday greetings and best wishes to Lionel Hampton on the occasion of his 94th birthday.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1374. An act to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building."

H.R. 3960. An act to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building."

H.R. 4156. An act to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

At 3:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 476. An act to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 476. An act to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

H.R. 1374. An act to designate the facility of the United States Postal Service located at 600 Calument Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3960. An act to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4156. An act to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN:

S. 2138. A bill to provide for the reliquidation of certain entries of antifriction bearings; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2139. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS:

S. 2140. A bill to suspend temporarily the duty on 1,2 cyclohexanedione; to the Committee on Finance.

By Mr. HELMS:

S. 2141. A bill to suspend temporarily the duty on Wakil XL; to the Committee on Finance.

By Mr. HELMS:

S. 2142. A bill to suspend temporarily the duty on primisulfuron; to the Committee on Finance.

By Mr. HELMS:

S. 2143. A bill to suspend temporarily the duty on flumetralin technical; to the Committee on Finance.

By Mr. HELMS:

S. 2144. A bill to suspend temporarily the duty on methidathion technical; to the Committee on Finance.

By Mr. HELMS:

S. 2145. A bill to suspend temporarily the duty on mixtures of lambdacyhalothrin; to the Committee on Finance.

By Mr. HELMS:

S. 2146. A bill to suspend temporarily the duty on cyprodinil technical; to the Committee on Finance.

By Mr. HELMS:

S. 2147. A bill to suspend temporarily the duty on oxasulfuron technical; to the Committee on Finance.

By Mr. HELMS:

S. 2148. A bill to suspend temporarily the duty on Paclobutrazole 2SC; to the Committee on Finance.

By Mr. HELMS:

S. 2149. A bill to suspend temporarily the duty on difenoconazole; to the Committee on Finance.

By Mr. HELMS:

S. 2150. A bill to suspend temporarily the duty on mucochloric acid; to the Committee on Finance.

By Mr. HELMS:

S. 2151. A bill to extend the duty suspension on 3,5-Dibromo-4-hydoxybenzonitril; to the Committee on Finance.

By Mr. HELMS:

S. 2152. A bill to extend the duty suspension on isoxaflutole; to the Committee on Finance.

By Mr. HELMS:

S. 2153. A bill to extend the duty suspension on cyclanilide technical; to the Committee on Finance.

By Mr. HELMS:

S. 2154. A bill to extend the duty suspension on Fipronil Technical; to the Committee on Finance.

By Mr. HELMS:

S. 2155. A bill to extend the duty suspension on 3,5-Dibromo-4-hydoxybenzonitril ester and inerts; to the Committee on Finance.

By Mr. HELMS:

S. 2156. A bill to suspend temporarily the duty on 2,4-Xylidine; to the Committee on Finance.

By Mr. HELMS:

S. 2157. A bill to suspend temporarily the duty on p-Chloro aniline; to the Committee on Finance.

By Mr. HELMS:

S. 2158. A bill to suspend temporarily the duty on 4-methoxyphenacychloride; to the Committee on Finance.

By Mr. HELMS:

S. 2159. A bill to suspend temporarily the duty on 3-methoxy-thiophenol; to the Committee on Finance.

By Mr. HELMS:

S. 2160. A bill to suspend temporarily the duty on acetyl chloride; to the Committee on Finance.

By Mr. HELMS:

S. 2161. A bill to suspend temporarily the duty on esters and sodium esters of parahydroxybenzoic acid; to the Committee on Finance.

By Mr. HELMS:

S. 2162. A bill to suspend temporarily the duty on chloroacetic acid; to the Committee on Finance.

By Mr. HELMS:

S. 2163. A bill to suspend temporarily the duty on isobornyl acetate; to the Committee on Finance.

By Mr. HELMS:

S. 2164. A bill to suspend temporarily the duty of azocystrobin technical; to the Committee on Finance.

By Mr. HELMS:

S. 2165. A bill to suspend temporarily the duty on paclobutrazole technical; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2166. A bill to suspend temporarily the duty on 1H-imidazole-2-methanol, 5-[(3,5-dichlorophenyl)thio]-4-(1-methlethyl)-1-(4-pyridinylmethyl)-(9Cl); to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2167. A bill to suspend temporarily the duty on 1H-imidazole,4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-(9Cl); to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2168. A bill to suspend temporarily the duty on 1(2H)-Quinolinecarboxylic acid, 4-[[[3,5-bis(trifluoromethyl)phenyl]methyl] (methoxycarbonyl)amino]-2-ethyl-3,4-dihydro-6-(trifluoromethyl)-,ethylester, (2R,4S)-(9CI); to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2169. A bill to suspend temporarily the duty on Benzamide, N-methyl-2-[[3-[(1E)-2-(2-pyridinyl-ethenyl]-1H-indazol-6-yl)thio]-; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2170. A bill to suspend temporarily the duty on 1H-Pyrazole-5-carboxamide, N-[2-fluoro-5-[[3-[(1 E)-2-(2-pyridinyl)ethenyl]-1H-indazol-6-yl]amino]phenyl]1,3-di-methyl- ; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2171. A bill to suspend temporarily the duty on Disulfide,bis(3,5-dichlorophenyl)(9Cl); to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2172. A bill to suspend temporarily the duty on HIV/AIDS drug; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2173. A bill to suspend temporarily the duty on HIV/AIDS drug; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2174. A bill to suspend temporarily the duty on rhinovirus drug; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2175. A bill to suspend temporarily the duty on Pyridin, 4-[[4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-1H-imidazol-1-yl]methyl]-ethanedioate (1:2); to the Committee on Finance.

By Mr. HELMS:

S. 2176. A bill to suspend temporarily the duty on Triticonazole; to the Committee on Finance.

By Mr. HELMS:

S. 2177. A bill to suspend temporarily the duty on Glufosinate-Ammonium; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2178. A bill to suspend temporarily the duty on 1H-imidazole,4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-(9Cl); to the Committee on Finance.

By Mrs. CARNAHAN (for herself and Mr. LEAHY):

S. 2179. A bill to authorize the Attorney General to make grants to States, local governments, and Indian tribes to establish permanent tributes to honor men and women who were killed or disabled while serving as law enforcement or public safety officers; to the Committee on the Judiciary.

By Mr. KYL:

S. 2180. A bill to suspend temporarily the duty on Nylon MXD6; to the Committee on Finance.

By Mr. MCCAIN:

S. 2181. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies; to the Committee on Governmental Affairs.

By Mr. WYDEN:

S. 2182. A bill to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HUTCHINSON:

S. 2183. A bill to provide emergency agricultural assistance to producers of the 2002 crop; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BREAUX (for himself, Mr. SPECTER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. CLELAND, Mr. JOHNSON, Mr. BAUCUS, Mr. BAYH, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LIEBERMAN, Mrs. MURRAY, Ms. STABENOW, Mr. WELLSTONE, Mr. LEVIN, Mr. BINGAMAN, Mr. REED, Mr. HARKIN, Ms. MIKULSKI, Mr. DURBIN, Mr. JEFFORDS, Mr. DAYTON, and Ms. CANTWELL):

S. 2184. A bill to provide for the reissuance of a rule relating to ergonomics; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CLELAND:

S. 2185. A bill to amend the Employee Retirement Income Security Act of 1974 to provide workers with individual account plans with information on how the assets in their accounts are invested and of the need to diversify the investment of the assets; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (by request):

S. 2186. A bill to amend title 38, United States Code, to establish a new Assistant Secretary to perform operations, preparedness, security and law enforcement functions, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself and Mr. AKAKA):

S. 2187. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish health care during a major disaster or medical emergency, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BREAUX (for himself and Mr. BURNS):

S. 2188. A bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. WELLSTONE, Mr. DURBIN, Ms. MIKULSKI, Mr. SARBANES, Mr. DAYTON, and Mrs. CLINTON):

S. 2189. A bill to amend the Trade Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry; to the Committee on Finance.

By Mr. KERRY (for himself, Ms. SNOWE, Mrs. FEINSTEIN, and Mr. CHAFEE):

S. 2190. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to provide employees with greater control over assets in their pension accounts by providing them with better information about investment of the assets, new diversification rights, and new limitations on pension plan blackouts, and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 2191. A bill to suspend temporarily the duty on petroleum sulfonic acids, sodium salts; to the Committee on Finance.

By Mr. HELMS:

S. 2192. A bill to suspend temporarily the duty on certain TAED chemicals; to the Committee on Finance.

By Mr. HELMS:

S. 2193. A bill to suspend temporarily the duty on Vanguard 75 WDG; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY (for himself and Mr. WYDEN):

S. Res. 244. A resolution eliminating secret Senate holds; to the Committee on Rules and Administration.

By Mr. DURBIN (for himself, Mr. BROWNBACK, and Mr. FEINGOLD):

S. Res. 245. A resolution designating the week of May 5 through May 11, 2002, as "National Occupational Safety and Health Week"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 808

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 964

At the request of Mr. KENNEDY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 964, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1174

At the request of Mr. LEAHY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1174, a bill to provide for safe incarceration of juvenile offenders.

S. 1248

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1258

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1258, a bill to improve academic and social outcomes for teenage youth.

S. 1526

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1526, a bill to establish the Arabia Mountain National Heritage Area in the State of Georgia, and for other purposes.

S. 1638

At the request of Mr. BOND, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1638, a bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes.

S. 1722

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1722, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the excise tax imposed on bows and arrows.

S. 1748

At the request of Mr. GRAMM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1748, a bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

S. 1751

At the request of Mr. GRAMM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1751, a bill to promote the stabilization of the economy by encouraging financial institutions to continue to support economic development, including development in urban areas, through the provision of affordable insurance coverage against acts of terrorism, and for other purposes.

S. 1769

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1769, a bill to authorize the Secretary of the Army to carry out a project for flood protection and ecosystem restoration for Sacramento, California, and for other purposes.

S. 1787

At the request of Mr. DASCHLE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1787, a bill to promote rural safety and improve rural law enforcement.

S. 1924

At the request of Mr. LIEBERMAN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1988

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1988, a bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 2039

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from Illinois (Mr. DURBIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. MILLER), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2075

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2075, a bill to facilitate the availability of electromagnetic spectrum for the deployment of wireless based services in rural areas, and for other purposes.

S. 2076

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2076, a bill to prohibit the cloning of humans.

S.J. RES. 35

At the request of Mrs. FEINSTEIN, the names of the Senator from Alaska (Mr. MURKOWSKI), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Texas (Mr. GRAMM), and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S.J. Res. 35, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. RES. 185

At the request of Mr. ALLEN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 185, a resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

S. RES. 219

At the request of Mr. GRAHAM, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 219, a resolution expressing support for the democratically elected Government of Columbia and its efforts to counter threats from United States-designated foreign terrorist organizations.

AMENDMENT NO. 3037

At the request of Mr. TORRICELLI, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 3037 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3103

At the request of Mr. KENNEDY, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Virginia (Mr. ALLEN), the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. ENSIGN), the Senator from Massachusetts (Mr. KERRY), the Senator from New York (Mr. SCHUMER), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 3103 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3129

At the request of Mr. BREAUX, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 3129 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2139. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today entitled the "Community Health Workers Act of 2002" would improve access to health education and outreach services to women in medically underserved areas in the United States-New Mexico border region.

Lack of access to adequate health care and health education is a significant problem along the United States-New Mexico border. While the access problem is in part due to a lack of insurance, it is also attributable to nonfinancial barriers to access. These barriers include a shortage of physicians and other health professionals, and hospitals; inadequate transportation; a shortage of bilingual health information and health providers; and culturally insensitive systems of care.

This legislation would help to address the issue of access by providing $6 million in grants to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Recognizing factors such as poverty and language and cultural differences that often serve as barriers to health care access in medically underserved populations, community health workers are in a unique position to improve health outcomes and quality of care for groups that have traditionally lacked access to adequate services.

The positive benefits of the community health worker model have been documented. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure. Preliminary investigation of a community health workers project in New Mexico suggests that community health workers also help to increase enrollment in health insurance programs such as Medicaid and the Children's Health Insurance Program, SCHIP.

According to an Institute of Medicine, IOM, report entitled, "Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare," "community health workers offer promise as a community-based resource to increase racial and ethnic minorities' access to health care and to serve as a liaison between healthcare providers and the communities they serve."

Although the community health worker model is valued on the United States-Mexico border as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations, these programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also notes that "programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated."

I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Health Workers Act of 2002".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Chronic diseases, defined as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Hispanic, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the health risk behaviors that most often lead to disease, premature death, and disability, and are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and over 30 percent are classified as obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care contribute to racial and ethnic disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of illnesses.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention services provided within the community and the home may lessen the impact of chronic outcomes, while strengthening families and communities.

(9) Community health workers, who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved populations.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing screening and medical followup visits among residents with limited access or underutilization of health care services.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations: border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399O. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

"(a) GRANTS AUTHORIZED.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women in target populations, especially racial and ethnic minority women in medically underserved communities.

"(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to support community health workers—

"(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and especially among racial and ethnic minority women;

"(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

"(A) poor nutrition;

"(B) physical inactivity;

"(C) being overweight or obese;

"(D) tobacco use;

"(E) alcohol and substance use;

"(F) injury and violence;

"(G) risky sexual behavior; and

"(H) mental health problems;

"(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

"(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, medicare under title XVIII of such Act and medicaid under title XIX of such Act;

"(5) to promote community wellness and awareness; and

"(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought;

"(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

"(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

"(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

"(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

"(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

"(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

"(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

"(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

"(1) who propose to target geographic areas—

"(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

"(B) with a high percentage of families for whom English is not their primary language; and

"(C) that encompass the United States-Mexico border region;

"(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

"(3) with documented community activity and experience with community health workers.

"(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

"(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

"(g) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (e).

"(h) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

"(i) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

"(2) CONTENTS.—The report required under paragraph (1) shall include the following:

"(A) A description of the programs for which grant funds were used.

"(B) The number of individuals served.

"(C) An evaluation of—

"(i) the effectiveness of these programs;

"(ii) the cost of these programs; and

"(iii) the impact of the project on the health outcomes of the community residents.

"(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

"(E) Recommendations regarding training to enhance career opportunities for community health workers.

"(j) DEFINITIONS.—In this section:

"(1) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

"(A) by serving as a liaison between communities and health care agencies;

"(B) by providing guidance and social assistance to community residents;

"(C) by enhancing community residents' ability to effectively communicate with health care providers;

"(D) by providing culturally and linguistically appropriate health or nutrition education;

"(E) by advocating for individual and community health or nutrition needs; and

"(F) by providing referral and followup services.

"(2) COMMUNITY SETTING.—The term 'community setting' means a home or a community organization located in the neighborhood in which a participant resides.

"(3) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means a community identified by a State—

"(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

"(B) a significant portion of which is a health professional shortage area as designated under section 332.

"(4) SUPPORT.—The term 'support' means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

"(5) TARGET POPULATION.—The term 'target population' means women of reproductive age, regardless of their current childbearing status.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2003, 2004, and 2005.".

By Mr. KYL:

S. 2180. A bill to suspend temporarily the duty on Nylon MXD6; to the Committee on Finance.

● Mr. KYL. Mr. President, I rise today to introduce legislation that would provide for a five-year temporary suspension of the duty on imports of Nylon MXD6, through December 31, 2007.

Nylon MXD6 is polyamide, classified under Chapter 39 of the Harmonized Tariff Schedule of the United States, subheading 3908.10.10, HTSUS. It is a tough, transparent resin that is used by several companies throughout the U.S. to make packaging for food and other products.

Temporary duty suspensions, when properly utilized, are an effective way to confer "win-win" benefits on consumers and the economy. Suspending the duty on an imported good encourages increased supply and availability of that good, and such increases benefit U.S. consumers. So long as we first ensure that no domestic businesses will be harmed, and that the impact on Federal revenue is negligible, such temporary duty suspensions clearly make for smart trade policy.

The merits of a temporary duty-suspension bill are typically judged based on whether or not it is "non-controversial." Such a bill is generally considered non-controversial only if there are no domestic producers who would be harmed by increased imports, and the revenue impact would be de minimis, that is, roughly $500,000 per year or less. Based on these criteria, this bill should not be controversial. It is my understanding that there are no domestic producers of Nylon MXD6, and that the duties paid on imports of the resin have historically been at or under $500,000.

In addition to the usual benefits of this kind of legislation, it is my understanding that the importer of Nylon MXD6, Mitsubishi Gas Chemical-America, has plans to establish a domestic production facility in the United States, and hopes to have it on-line before this proposed duty suspension would expire. Temporarily suspending the duty on the compound would help ease the company's transition to domestic production. The planned facility, in turn, would create new U.S. manufacturing jobs and contribute to our overall economic vitality. The facility would purchase domestically one of the two principal raw materials used to make the resin, and the revenue that local, state, and federal governments would collect from a permanently established, domestic production facility are likely to far outweigh the amount that will be collected through the duties imposed under current law.

This is a good bill with no substantial costs involved. I urge my colleagues to support it.•

By Mr. McCAIN:

S. 2181. A bill to review, reform, and terminate unnecessary and inequitable Federal subsidies; to the Committee on Governmental Affairs.

• Mr. McCAIN. Mr. President, today, I am re-introducing legislation to establish a process to evaluate Federal subsidies and tax advantages received by corporations to ensure they are in the national interest, not the special interest. This bill, "The Corporate Subsidy Reform Commission Act," is identical to a bill I introduced in previous years.

Because we face diminishing resources, we must prioritize our level of Federal spending. Therefore, corporate welfare simply must be eliminated.

There are more than 100 such corporate subsidy programs in the Federal budget today, requiring the Federal Government to spend approximately $65 billion a year.

Terminating even some of these programs could save taxpayers tens of billions of dollars each year, money that could be used to cut taxes for lower-income Americans, bolster Social Security, pay down the national debt, and strengthen our military forces.

In years past, Congress has insisted that it would eliminate the existence of this corporate welfare, but virtually no such program has been eliminated. Consequently, taxpayer dollars continue to be wasted as I speak.

The Corporate Subsidy Reform Commission Act aims to remove the special treatment given to politically powerful industries and restore all taxpayers to a level playing field. It defines inequitable subsidies as those provided to corporations without a reasonable expectation that they will return a commensurate benefit to the public.

The Act excludes any subsidies that are primarily for research and development, education, public health, public safety, or the environment. Also excluded are subsidies or tax advantages necessary to comply with international trade or treaty obligations.

The Act would create a nine-member commission nominated by the President and the Congressional leadership. Federal agencies would be required to submit to the Commission, at the time of the Administration's next budget, a list of subsidies and tax advantages that each agency believes are inequitable.

The Commission will provide recommendations to either terminate or reduce the corporate subsidies. The President has the authority under the Act to either terminate consideration of the Commission's recommendations, or submit the Commission's recommendations to the Congress as a legislative initiative.

The Congress would then have four months to review the Commission's recommendations that have been endorsed by the President. At that time, the actions of all involved committees in each respective legislative body would be sent to the floor for debate, under expedited procedures.

Many Federal subsidies and special-interest tax breaks for corporations are unnecessary, and do not provide a fair return to the taxpayers who bear the heavy burden of their cost. If a corporation is receiving taxpayer-funded subsidies or tax breaks that are unsupported by a compelling benefit to the public, the subsidy should be ended.

Does it make sense for the Agriculture Department to spend $80 million a year on a program, the Market Access Program, that subsidizes the overseas advertising campaigns of cash-strapped corporations such as Pillsbury, Dole, and Jim Beam?

Why should the Commerce Department spend $211 million a year on the Advanced Technology Program to give research grants to consortiums of some of the largest and richest high-tech companies in this Nation?

Where is the accountability to taxpayers here? They have been shortchanged at the expense of the special interests. This undermines our Nation's fiscal house, and impairs Congress' ability to respond to truly urgent needs such as health care, education, debt reduction, and national security.

Unfortunately, the pervasive system of pork-barreling and special interest legislating is speeding along unabated in Washington. Instead of pursuing our Nation's priorities, both parties continue to spend without accountability. During my service in the Senate, I have worked to eliminate wasteful earmarks in appropriations bills. And yet this year alone, about $15 billion in pork barrel spending was approved by the Senate without going through any merit-based review process.

I would rather eliminate corporate subsidies and inequitable tax subsidies without resorting to a commission. But we know that the influence of the special interests will prevent that effort from succeeding unless forceful action is taken.

We need a credible process to identify corporate pork and eliminate it. This legislation is the first important step in alleviating the public burden of unnecessary corporate subsidies and tax breaks.•

By Mr. WYDEN:

S. 2182. A bill to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

• Mr. WYDEN. Mr. President, Americans today live in an increasingly networked world. The system of interlinked computer networks known as the Internet, which not so long ago was a platform used only by a relatively narrow group of academic researchers, is today a core medium of communications and commerce for many millions of Americans. According to the Commerce Department, more than half of all Americans were using the Internet by last September, and the numbers are only growing.

The spread of the Internet presents great new opportunities for the American society and economy. But there is a downside to an interconnected, networked world: security risks. The Internet connects people not just to friends, potential customers, and sources of information, but also to would-be hackers, viruses, and cybercriminals.

Last July, after I became Chairman of the Commerce Committee's Subcommittee on Science, Technology, and Space, I chose cybersecurity as the topic for my first hearing. The message from that hearing was that cybersecurity risks are mounting. The complexity of computer networks and the breadth of functions handled online are growing faster than the country's computer security capabilities. New technologies, for example, "always on" Internet connections and wireless networking technologies, often make the problem worse, not better.

The events of September 11 make this matter even more urgent. The fact is, America needs to be prepared for the possibility that future terrorists will try to strike not our buildings, streets, or airplanes, but our critical computer networks.

Government can't provide a silver bullet solution to this problem. Ultimately, progress with respect to cybersecurity is going to require the energy and ingenuity of the entire technology sector.

But one thing government can and should do is support basic cybersecurity research, so that the country's pool of cybersecurity knowledge and expertise keeps pace with the new and constantly evolving risks. This is an area where government involvement is sorely needed.

That is why I am pleased to introduce today the Cyber Security Research and Development Act. Thanks to the leadership of Congressman SHERRY BOEHLERT, this legislation has already passed the House by an overwhelming bipartisan vote. I hope the Senate will be able to follow suit soon.

This legislation, which has the widespread support of the Nation's technology sector, would significantly increase the amount of cybersecurity research in this country by creating important new research programs at the National Science Foundation, NSF, and National Institute of Standards and Technology, NIST. The NSF program would provide funding for innovative research, multidisciplinary academic centers devoted to cybersecurity, and new courses and fellowships to educate the cybersecurity experts of the future. The NIST program likewise would support cutting-edge cybersecurity research, with a special emphasis on promoting cooperative efforts between government, industry, and academia.

I believe the stakes are high. In addition to the damage that cyberattacks could cause directly, the mere threat of security breaches can cripple the ongoing development of e-commerce. If the Internet is to reach its full potential, security must be improved.

I therefore urge my colleagues to join me in making cybersecurity research and development a top priority, and to work with me in moving this bill forward.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cyber Security Research and Development Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Revolutionary advancements in computing and communications technology have interconnected government, commercial, scientific, and educational infrastructures—including critical infrastructures for electric power, natural gas and petroleum production and distribution, telecommunications, transportation, water supply, banking and finance, and emergency and government services—in a vast, interdependent physical and electronic network.

(2) Exponential increases in interconnectivity have facilitated enhanced communications, economic growth, and the delivery of services critical to the public welfare, but have also increased the consequences of temporary or prolonged failure.

(3) A Department of Defense Joint Task Force concluded after a 1997 United States information warfare exercise that the results "clearly demonstrated our lack of preparation for a coordinated cyber and physical attack on our critical military and civilian infrastructure".

(4) Computer security technology and systems implementation lack—

(A) sufficient long term research funding;

(B) adequate coordination across Federal and State government agencies and among government, academia, and industry; and

(C) sufficient numbers of outstanding researchers in the field.

(5) Accordingly, Federal investment in computer and network security research and development must be significantly increased to—

(A) improve vulnerability assessment and technological and systems solutions;

(B) expand and improve the pool of information security professionals, including researchers, in the United States workforce; and

(C) better coordinate information sharing and collaboration among industry, government, and academic research projects.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Director" means the Director of the National Science Foundation; and

(2) the term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

SEC. 4. NATIONAL SCIENCE FOUNDATION RESEARCH.

(a) COMPUTER AND NETWORK SECURITY RESEARCH GRANTS.—

(1) IN GENERAL.—The Director shall award grants for basic research on innovative approaches to the structure of computer and network hardware and software that are aimed at enhancing computer security. Research areas may include—

(A) authentication and cryptography;

(B) computer forensics and intrusion detection;

(C) reliability of computer and network applications, middleware, operating systems, and communications infrastructure;

(D) privacy and confidentiality;

(E) firewall technology;

(F) emerging threats, including malicious such as viruses and worms;

(G) vulnerability assessments;

(H) operations and control systems management; and

(I) management of interoperable digital certificates or digital watermarking.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $35,000,000 for fiscal year 2003;

(B) $40,000,000 for fiscal year 2004;

(C) $46,000,000 for fiscal year 2005;

(D) $52,000,000 for fiscal year 2006; and

(E) $60,000,000 for fiscal year 2007.

(b) COMPUTER AND NETWORK SECURITY RESEARCH CENTERS.—

(1) IN GENERAL.—The Director shall award multiyear grants, subject to the availability of appropriations, to institutions of higher education (or consortia thereof) to establish multidisciplinary Centers for Computer and Network Security Research. Institutions of higher education (or consortia thereof) receiving such grants may partner with one or more government laboratories or for-profit institutions.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) PURPOSE.—The purpose of the Centers shall be to generate innovative approaches to computer and network security by conducting cutting-edge, multidisciplinary research in computer and network security, including the research areas described in subsection (a)(1).

(4) APPLICATIONS.—An institution of higher education (or a consortium of such institutions) seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center and the contributions of each of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as computer scientists, engineers, mathematicians, and social science researchers;

(C) how the Center will contribute to increasing the number of computer and network security researchers and other professionals; and

(D) how the center will disseminate research results quickly and widely to improve cybersecurity in information technology networks, products, and services.

(5) CRITERIA.—In evaluating the applications submitted under paragraph (4), the Director shall consider, at a minimum—

(A) the ability of the applicant to generate innovative approaches to computer and network security and effectively carry out the research program;

(B) the experience of the applicant in conducting research on computer and network security and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract and provide adequate support for undergraduate and graduate students and postdoctoral fellows to pursue computer and network security research; and

(D) the extent to which the applicant will partner with government laboratories or for-profit entities, and the role the government laboratories or for-profit entities will play in the research undertaken by the Center.

(6) ANNUAL MEETING.—The Director shall convene an annual meeting of the Centers in order to foster collaboration and communication between Center participants.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the National Science Foundation to carry out this subsection—

(A) $12,000,000 for fiscal year 2003;

(B) $24,000,000 for fiscal year 2004;

(C) $36,000,000 for fiscal year 2005;

(D) $36,000,000 for fiscal year 2006; and

(E) $36,000,000 for fiscal year 2007.

SEC. 5. NATIONAL SCIENCE FOUNDATION COMPUTER AND NETWORK SECURITY PROGRAMS.

(a) COMPUTER AND NETWORK SECURITY CAPACITY BUILDING GRANTS.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education (or consortia thereof) to establish or improve undergraduate and master's degree programs in computer and network security, to increase the number of students who pursue undergraduate or master's degrees in fields related to computer and network security, and to provide students with experience in government or industry related to their computer and network security studies.

(2) MERIT REVIEW.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—Grants awarded under this subsection shall be used for activities that enhance the ability of an institution of higher education (or consortium thereof) to

provide high-quality undergraduate and master's degree programs in computer and network security and to recruit and retain increased numbers of students to such programs. Activities may include—

(A) revising curriculum to better prepare undergraduate and master's degree students for careers in computer and network security;

(B) establishing degree and certificate programs in computer and network security;

(C) creating opportunities for undergraduate students to participate in computer and network security research projects;

(D) acquiring equipment necessary for student instruction in computer and network security, including the installation of testbed networks for student use;

(E) providing opportunities for faculty to work with local or Federal Government agencies, private industry, or other academic institutions to develop new expertise or to formulate new research directions in computer and network security;

(F) establishing collaborations with other academic institutions or departments that seek to establish, expand, or enhance programs in computer and network security;

(G) establishing student internships in computer and network security at government agencies or in private industry;

(H) establishing or enhancing bridge programs in computer and network security between community colleges and universities; and

(I) any other activities the Director determines will accomplish the goals of this subsection.

(4) SELECTION PROCESS.—

(A) APPLICATION.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(i) a description of the applicant's computer and network security research and instructional capacity, and in the case of an application from a consortium of institutions of higher education, a description of the role that each member will play in implementing the proposal;

(ii) a comprehensive plan by which the institution or consortium will build instructional capacity in computer and information security;

(iii) a description of relevant collaborations with government agencies or private industry that inform the instructional program in computer and network security;

(iv) a survey of the applicant's historic student enrollment and placement data in fields related to computer and network security and a study of potential enrollment and placement for students enrolled in the proposed computer and network security program; and

(v) a plan to evaluate the success of the proposed computer and network security program, including post-graduation assessment of graduate school and job placement and retention rates as well as the relevance of the instructional program to graduate study and to the workplace.

(B) AWARDS.—(i) The Director shall ensure, to the extent practicable, that grants are awarded under this subsection in a wide range of geographic areas and categories of institutions of higher education.

(ii) The Director shall award grants under this subsection for a period not to exceed 5 years.

(5) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under this subsection no later than 6 years after the establishment of the program. At a minimum, the Director shall evaluate the extent to which the grants achieved their objectives of increasing the quality and quantity of students pursuing undergraduate or master's degrees in computer and network security.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $15,000,000 for fiscal year 2003;

(B) $20,000,000 for fiscal year 2004;

(C) $20,000,000 for fiscal year 2005;

(D) $20,000,000 for fiscal year 2006; and

(E) $20,000,000 for fiscal year 2007.

(b) SCIENTIFIC AND ADVANCED TECHNOLOGY ACT OF 1992.—

(1) GRANTS.—The Director shall provide grants under the Scientific and Advanced Technology Act of 1992 for the purposes of section 3(a) and (b) of that Act, except that the activities supported pursuant to this subsection shall be limited to improving education in fields related to computer and network security.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $1,000,000 for fiscal year 2003;

(B) $1,250,000 for fiscal year 2004;

(C) $1,250,000 for fiscal year 2005;

(D) $1,250,000 for fiscal year 2006; and

(E) $1,250,000 for fiscal year 2007.

(c) GRADUATE TRAINEESHIPS IN COMPUTER AND NETWORK SECURITY RESEARCH.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education to establish traineeship programs for graduate students who pursue computer and network security research leading to a doctorate degree by providing funding and other assistance, and by providing graduate students with research experience in government or industry related to the students' computer and network security studies.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—An institution of higher education shall use grant funds for the purposes of—

(A) providing fellowships to students who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are pursuing research in computer or network security leading to a doctorate degree;

(B) paying tuition and fees for students receiving fellowships under subparagraph (A);

(C) establishing scientific internship programs for students receiving fellowships under subparagraph (A) in computer and network security at for-profit institutions or government laboratories; and

(D) other costs associated with the administration of the program.

(4) FELLOWSHIP AMOUNT.—Fellowships provided under paragraph (3)(A) shall be in the amount of $25,000 per year, or the level of the National Science Foundation Graduate Research Fellowships, whichever is greater, for up to 3 years.

(5) SELECTION PROCESS.—An institution of higher education seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the instructional program and research opportunities in computer and network security available to graduate students at the applicant's institution; and

(B) the internship program to be established, including the opportunities that will be made available to students for internships at for-profit institutions and government laboratories.

(6) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (5), the Director shall consider—

(A) the ability of the applicant to effectively carry out the proposed program;

(B) the quality of the applicant's existing research and education programs;

(C) the likelihood that the program will recruit increased numbers of students to pursue and earn doctorate degrees in computer and network security;

(D) the nature and quality of the internship program established through collaborations with government laboratories and for-profit institutions;

(E) the integration of internship opportunities into graduate students' research; and

(F) the relevance of the proposed program to current and future computer and network security needs.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry our this subsection—

(A) $10,000,000 for fiscal year 2003;

(B) $20,000,000 for fiscal year 2004;

(C) $20,000,000 for fiscal year 2005;

(D) $20,000,000 for fiscal year 2006; and

(E) $20,000,000 for fiscal year 2007.

(d) GRADUATE RESEARCH FELLOWSHIPS PROGRAM SUPPORT.—Computer and network security shall be included among the fields of specialization supported by the National Science Foundation's Graduate Research Fellowships program under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869).

SEC. 6. CONSULTATION.

In carrying out sections 4 and 5, the Director shall consult with other Federal agencies.

SEC. 7. FOSTERING RESEARCH AND EDUCATION IN COMPUTER AND NETWORK SECURITY.

Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to take a leading role in fostering and supporting research and education activities to improve the security of networked information systems.".

SEC. 8. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY RESEARCH PROGRAM.

The National Institute of Standards and Technology Act is amended—

(1) by moving section 22 to the end of the Act and redesignating it as section 32;

(2) by inserting after section 21 the following new section:

"RESEARCH PROGRAM ON SECURITY OF COMPUTER SYSTEMS

"SEC. 22. (a) ESTABLISHMENT.—The Director shall establish a program of assistance to institutions of higher education that enter into partnerships with for-profit entities to support research to improve the security of computer systems. The partnerships may also include government laboratories. The program shall—

"(1) include multidisciplinary, long-term, high-risk research;

“(2) include research directed toward addressing needs identified through the activities of the Computer System Security and Privacy Advisory Board under section 20(f); and

“(3) promote the development of a robust research community working at the leading edge of knowledge in subject areas relevant to the security of computer systems by providing support for graduate students, post-doctoral researchers, and senior researchers.

“(b) FELLOWSHIPS.—(1) The Director is authorized to establish a program to award post-doctoral research fellowships to individuals who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act.

“(2) The Director is authorized to establish a program to award senior research fellowships to individuals seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act. Senior research fellowships shall be made available for established researchers at institutions of higher education who seek to change research fields and pursue studies related to the security of computer systems.

“(3)(A) To be eligible for an award under this subsection, an individual shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(B) Under this subsection, the Director is authorized to provide stipends for post-doctoral research fellowships at the level of the Institute's Post Doctoral Research Fellowship Program and senior research fellowships at levels consistent with support for a faculty member in a sabbatical position.

“(c) AWARDS; APPLICATIONS.—The Director is authorized to award grants or cooperative agreements to institutions of higher education to carry out the program established under subsection (a). To be eligible for an award under this section, an institution of higher education shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

“(1) the number of graduate students anticipated to participate in the research project and the level of support to be provided to each;

“(2) the number of post-doctoral research positions included under the research project and the level of support to be provided to each;

“(3) the number of individuals, if any, intending to change research fields and pursue studies related to the security of computer systems to be included under the research project and the level of support to be provided to each; and

“(4) how the for-profit entities and any other partners will participate in developing and carrying out the research and education agenda of the partnership.

“(d) PROGRAM OPERATION.—(1) The program established under subsection (a) shall be managed by individuals who shall have both expertise in research related to the security of computer systems and knowledge of the vulnerabilities of existing computer systems. The Director shall designate such individuals as program managers.

“(2) Program managers designated under paragraph (1) may be new or existing employees of the Institute or individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970.

“(3) Program managers designated under paragraph (1) shall be responsible for—

“(A) establishing and publicizing the broad research goals for the program;

“(B) soliciting applications for specific research projects to address the goals developed under subparagraph (A);

“(C) selecting research projects for support under the program from among applications submitted to the Institute, following consideration of—

“(i) the novelty and scientific and technical merit of the proposed projects;

“(ii) the demonstrated capabilities of the individual or individuals submitting the applications to successfully carry out the proposed research;

“(iii) the impact the proposed projects will have on increasing the number of computer security researchers;

“(iv) the nature of the participation by for-profit entities and the extent to which the proposed projects address the concerns of industry; and

“(v) other criteria determined by the Director, based on information specified for inclusion in applications under subsection (c); and

“(D) monitoring the progress of research projects supported under the program.

“(e) REVIEW OF PROGRAM.—(1) The Director shall periodically review the portfolio of research awards monitored by each program manager designated in accordance with subsection (d). In conducting those reviews, the Director shall seek the advice of the Computer System Security and Privacy Advisory Board, established under section 21, on the appropriateness of the research goals and on the quality and utility of research projects managed by program managers in accordance with subsection (d).

“(2) The Director shall also contract with the National Research Council for a comprehensive review of the program established under subsection (a) during the 5th year of the program. Such review shall include an assessment of the scientific quality of the research conducted, the relevance of the research results obtained to the goals of the program established under subsection (d)(3)(A), and the progress of the program in promoting the development of a substantial academic research community working at the leading edge of knowledge in the field. The Director shall submit to Congress a report on the results of the review under this paragraph no later than six years after the initiation of the program.

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘computer system’ has the meaning given that term in section 20(d)(1); and

“(2) the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”; and

(3) in section 20(d)(1)(B)(i) (15 U.S.C. 278g-3(d)(1)(B)(i)), by inserting “and computer networks” after “computers”.

SEC. 9. COMPUTER SECURITY REVIEW, PUBLIC MEETINGS, AND INFORMATION.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended by adding at the end the following new subsection:

“(f) There are authorized to be appropriated to the Secretary $1,060,000 for fiscal year 2003 and $1,090,000 for fiscal year 2004 to enable the Computer System Security and Privacy Advisory Board, established by section 21, to identify emerging issues, including research needs, related to computer security, privacy, and cryptography and, as appropriate, to convene public meetings on those subjects, receive presentations, and publish reports, digests, and summaries for public distribution on those subjects.”.

SEC. 10. INTRAMURAL SECURITY RESEARCH.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d) As part of the research activities conducted in accordance with subsection (b)(4), the Institute shall—

“(1) conduct a research program to address emerging technologies associated with assembling a networked computer system from components while ensuring it maintains desired security properties;

“(2) carry out research associated with improving the security of real-time computing and communications systems for use in process control; and

“(3) carry out multidisciplinary, long-term, high-risk research on ways to improve the security of computer systems.”.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology—

(1) for activities under section 22 of the National Institute of Standards and Technology Act, as added by section 8 of this Act—

(A) $25,000,000 for fiscal year 2003;
(B) $40,000,000 for fiscal year 2004;
(C) $55,000,000 for fiscal year 2005;
(D) $70,000,000 for fiscal year 2006;
(E) $85,000,000 for fiscal year 2007; and
(F) such sums as may be necessary for fiscal years 2008 through 2012; and

(2) for activities under section 20(d) of the National Institute of Standards and Technology Act, as added by section 10 of this Act—

(A) $6,000,000 for fiscal year 2003;
(B) $6,200,000 for fiscal year 2004;
(C) $6,400,000 for fiscal year 2005;
(D) $6,600,000 for fiscal year 2006; and
(E) $6,800,000 for fiscal year 2007.

SEC. 12. NATIONAL ACADEMY OF SCIENCES STUDY ON COMPUTER AND NETWORK SECURITY IN CRITICAL INFRASTRUCTURES.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a study of the vulnerabilities of the Nation's network infrastructure and make recommendations for appropriate improvements. The National Research Council shall—

(1) review existing studies and associated data on the architectural, hardware, and software vulnerabilities and interdependencies in United States critical infrastructure networks;

(2) identify and assess gaps in technical capability for robust critical infrastructure network security, and make recommendations for research priorities and resource requirements; and

(3) review any and all other essential elements of computer and network security, including security of industrial process controls, to be determined in the conduct of the study.

(b) REPORT.—The Director of the National Institute of Standards and Technology shall transmit a report containing the results of the study and recommendations required by subsection (a) to the Congress not later than 21 months after the date of enactment of this Act.

(c) SECURITY.—The Director of the National Institute of Standards and Technology shall ensure that no information that is classified is included in any publicly released version of the report required by this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology for the purposes of carrying out this section, $700,000.•

By Mr. HUTCHINSON:

S. 2183. A bill to provide emergency agricultural assistance to producers of the 2002 crop; to the Committee on Agriculture, Nutrition, and Forestry.

• Mr. HUTCHINSON. Mr. President, I ask unanimous consent that a copy of the "Emergency Agricultural Assistance Act of 2002", which I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Emergency Agricultural Assistance Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MARKET LOSS ASSISTANCE

Sec. 101. Market loss assistance.
Sec. 102. Oilseeds.
Sec. 103. Peanuts.
Sec. 104. Honey.
Sec. 105. Wool and mohair.
Sec. 106. Cottonseed.
Sec. 107. Specialty crops.
Sec. 108. Loan deficiency payments.
Sec. 109. Payments in lieu of loan deficiency payments for grazed acreage.
Sec. 110. Milk.
Sec. 111. Pulse crops.
Sec. 112. Tobacco.
Sec. 113. Livestock feed assistance program.
Sec. 114. Increase in payment limitations regarding loan deficiency payments and marketing loan gains.

TITLE II—ADMINISTRATION

Sec. 201. Obligation period.
Sec. 202. Commodity Credit Corporation.
Sec. 203. Regulations.

TITLE I—MARKET LOSS ASSISTANCE

SEC. 101. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the "Secretary") shall, to the maximum extent practicable, use $5,603,000,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2002 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2002 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 102. OILSEEDS.

(a) IN GENERAL.—The Secretary shall use $466,000,000 of funds of the Commodity Credit Corporation to make payments to producers that planted a 2002 crop of oilseeds (as defined in section 102 of the Agricultural Market Transition Act (7 U.S.C. 7202)).

(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage determined under subsection (c); and

(3) the yield determined under subsection (d).

(c) ACREAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1999, 2000, or 2001 crop year, whichever is greatest, as determined by the Secretary.

(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to a type of oilseed during the 2002 crop year but not the 1999, 2000, or 2001 crop year, the acreage of the producers for the type of oilseed under subsection (b)(2) shall be equal to the number of acres planted to the type of oilseed by the producers on the farm during the 2002 crop year, as determined by the Secretary.

(d) YIELD.—

(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1997 through 2001 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1999, 2000, or 2001 crop year, as determined by the Secretary.

(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average national yield per harvested acre for each of the 1997 through 2001 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1999, 2000, or 2001 crop year, as determined by the Secretary.

(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to a type of an oilseed during the 2002 crop year but not the 1999, 2000, or 2001 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1997 through 2001 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 2002 crop.

(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

SEC. 103. PEANUTS.

(a) IN GENERAL.—The Secretary shall use not more than $55,000,000 of funds of the Commodity Credit Corporation to provide payments to producers of quota peanuts or additional peanuts to partially compensate the producers for continuing low commodity prices, and increasing costs of production, for the 2002 crop year.

(b) AMOUNT.—The amount of a payment made to producers on a farm of quota peanuts or additional peanuts under subsection (a) shall be equal to the product obtained by multiplying—

(1) the quantity of quota peanuts or additional peanuts produced or considered produced on the farm during the 2002 crop year; and

(2) a payment rate equal to—

(A) in the case of quota peanuts, $30.50 per ton; and

(B) in the case of additional peanuts, $16.00 per ton.

(c) LOSSES.—The Secretary shall use such sums of the Commodity Credit Corporation as are necessary to offset losses for the 2001 crop of peanuts described in section 155(d) of the Agricultural Market Transition Act (7 U.S.C. 7271(d)).

SEC. 104. HONEY.

(a) IN GENERAL.—The Secretary shall use $93,000,000 of funds of the Commodity Credit Corporation to make available recourse loans to producers of the 2002 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(b) LOAN RATE.—The loan rate for a loan under subsection (a) shall be equal to 85 percent of the average price of honey during the 5-crop year period preceding the 2002 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

(c) TERM OF LOAN.—A loan under this section shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

SEC. 105. WOOL AND MOHAIR.

(a) IN GENERAL.—The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–55), to producers of wool, and producers of mohair, for the 2002 marketing year that received a payment under that section.

(b) PAYMENT RATE.—The Secretary shall adjust the payment rate specified in that section to reflect the amount made available for payments under this section.

SEC. 106. COTTONSEED.

The Secretary shall use $100,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2002 crop of cottonseed.

SEC. 107. SPECIALTY CROPS.

(a) DEFINITION OF SPECIALTY CROP.—In this section, the term "specialty crop" means any agricultural commodity, other than wheat, feed grains, oilseeds, cotton, rice, peanuts, or tobacco.

(b) GRANTS.—The Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to make a grant to each State in an amount that represents the proportion that—

(1) the value of specialty crop production in the State; bears to

(2) the value of specialty crop production in all States.

(c) USE.—As a condition of the receipt of a grant under this section, a State shall agree to use the grant to support specialty crops.

(d) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 108. LOAN DEFICIENCY PAYMENTS.

Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) is amended—

(1) in subsection (a)(2), by striking "the 2000 crop year" and inserting "each of the 2000 through 2002 crop years"; and

(2) by striking subsections (e) and (f) and inserting the following:

"(e) BENEFICIAL INTEREST.—

"(1) IN GENERAL.—A producer shall be eligible for a payment for a loan commodity under this section only if the producer has a beneficial interest in the loan commodity, as determined by the Secretary.

"(2) APPLICATION.—The Secretary shall make a payment under this section to the producers on a farm with respect to a quantity of a loan commodity as of the earlier of—

"(A) the date on which the producers on the farm marketed or otherwise lost beneficial interest in the loan commodity, as determined by the Secretary; or

"(B) the date the producers on the farm request the payment.".

SEC. 109. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

(a) IN GENERAL.—Subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

"SEC. 138. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

"(a) IN GENERAL.—For the 2002 crop of wheat, grain sorghum, barley, and oats, in the case of the producers on a farm that would be eligible for a loan deficiency payment under section 135 for wheat, grain sorghum, barley, or oats, but that elects to use acreage planted to the wheat, grain sorghum, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producers on the farm under this section if the producers on the farm enter into an agreement with the Secretary to forgo any other harvesting of the wheat, grain sorghum, barley, or oats on the acreage.

"(b) PAYMENT AMOUNT.—The amount of a payment made to the producers on a farm under this section shall be equal to the amount obtained by multiplying—

"(1) the loan deficiency payment rate determined under section 135(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

"(2) the payment quantity obtained by multiplying—

"(A) the quantity of the grazed acreage on the farm with respect to which the producers on the farm elect to forgo harvesting of wheat, grain sorghum, barley, or oats; and

"(B) the payment yield for that contract commodity on the farm.

"(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

"(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 135.

"(2) AVAILABILITY.—The Secretary shall establish an availability period for the payment authorized by this section that is consistent with the availability period for wheat, grain sorghum, barley, and oats established by the Secretary for marketing assistance loans authorized by this subtitle.

"(d) PROHIBITION ON CROP INSURANCE OR NONINSURED CROP ASSISTANCE.—The producers on a farm shall not be eligible for insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 with respect to a crop of wheat, grain sorghum, barley, or oats planted on acreage that the producers on the farm elect, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop.".

SEC. 110. MILK.

Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended by striking "May 31, 2002" each place it appears and inserting "December 31, 2002".

SEC. 111. PULSE CROPS.

(a) IN GENERAL.—The Secretary shall use $20,000,000 of funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that grow a 2002 crop of dry peas, lentils, or chickpeas (collectively referred to in this section as a "pulse crop").

(b) COMPUTATION.—A payment to owners and producers on a farm under this section for a pulse crop shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary; by

(2) the acreage of the producers on the farm for the pulse crop determined under subsection (c).

(c) ACREAGE.—

(1) IN GENERAL.—The acreage of the producers on the farm for a pulse crop under subsection (b)(2) shall be equal to the number of acres planted to the pulse crop by the owners and producers on the farm during the 1999, 2000, or 2001 crop year, whichever is greatest.

(2) BASIS.—For the purpose of paragraph (1), the number of acres planted to a pulse crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary)—

(A) the number of acres planted to the pulse crop for the crop year by the owners and producers on the farm, including any acreage that is included in reports that are filed late; or

(B) the number of acres planted to the pulse crop for the crop year for the purpose of the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 112. TOBACCO.

(a) PAYMENTS.—The Secretary shall use $100,000,000 of funds of the Commodity Credit Corporation to provide supplemental payments to owners, controllers, and growers of tobacco for which a basic quota or allotment is established for the 2002 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.), as determined by the Secretary.

(b) LOAN FORFEITURES.—Notwithstanding sections 106 through 106B of the Agricultural Act of 1949 (7 U.S.C. 1445 through 1445–2)—

(1) a producer-owned cooperative marketing association may fully settle (without further cost to the Association) a loan made for each of the 2000 and 2001 crops of types 21, 22, 23, 35, 36, and 37 of an agricultural commodity under sections 106 through 106B of that Act by forfeiting to the Commodity Credit Corporation the agricultural commodity covered by the loan regardless of the condition of the commodity;

(2) any losses to the Commodity Credit Corporation as a result of paragraph (1)—

(A) shall not be charged to the Account (as defined in section 106B(a) of that Act); and

(B) shall not affect the amount of any assessment imposed against the commodity under sections 106 through 106B of that Act; and

(3) the commodity forfeited pursuant to this subsection—

(A) shall not be counted for the purposes of any determination for any year pursuant to section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e); and

(B) may be disposed of in a manner determined by the Secretary of Agriculture, except that the commodity may not be sold for use in the United States for human consumption.

SEC. 113. LIVESTOCK FEED ASSISTANCE PROGRAM.

The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to provide livestock feed assistance to livestock producers affected by disasters during calendar year 2001 or 2002.

SEC. 114. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act (7 U.S.C. 1308(3)) that a person shall be entitled to receive for 1 or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2002 crop year may not exceed $150,000.

TITLE II—ADMINISTRATION

SEC. 201. OBLIGATION PERIOD.

The Secretary and the Commodity Credit Corporation shall obligate funds only during fiscal year 2002 to carry out this Act and the amendments made by this Act (other than sections 106, 107, and 110).

SEC. 202. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SEC. 203. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.●

By Mr. BREAUX (for himself, Mr. Specter, Mrs. Lincoln, Ms. Landrieu, Mr. Cleland, Mr. Johnson, Mr. Baucus, Mr. Bayh, Mrs. Clinton, Mr. Dodd, Mr. Edwards, Mr. Feingold, Mrs. Feinstein, Mr. Kennedy, Mr. Lieberman, Mrs. Murray, Ms. Stabenow, Mr. Wellstone, Mr. Levin, Mr. Bingaman, Mr. Reed, Mr. Harkin, Ms. Mikulski, Mr. Durbin, Mr. Jeffords, Mr. Dayton, and Ms. Cantwell):

S. 2184. A bill to provide for the reissuance of a rule relating to ergonomics; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to join my colleague Senator Breaux in introducing legislation which would require the Secretary of Labor to issue a new ergonomics standard within two years of the bill's enactment. The measure is similar to legislation I cosponsored last year, S. 598, but includes additional provisions to ensure that a truly protective standard is issued.

Following the overturning of the Clinton Administration's proposed ergonomics regulation by Congress in 2001, I expected the Department of Labor to issue a new rule to protect our Nation's workers. Rather than implement a new standard, however, the Department unveiled an ergonomics plan on April 5, 2002, that calls for voluntary industry guidelines, enforcement measures, and workplace outreach. I have concern that such an approach adequately addresses the safety of our Nation's workforce.

I voted in favor of the Joint Resolution of Disapproval of the proposed ergonomics standard because I had concerns over its potential cost and complexity. Last year, as Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I held two hearings on this contentious matter where I heard from witnesses on both sides of the debate. They testified that the potential costs of the rule ranged from $4.5 billion to as much as $1 trillion. There was also considerable disagreement over whether the regulation needed to be as complex as it was. I came away from these hearings with the conclusion that there was a need for promoting worker safety. But I was also concerned as to whether the entire matter ought to be substantially simpler.

I firmly believe that the best way to protect our Nation's workers from work-related musculoskeletal disorders and workplace hazards is for the Department of Labor to issue a new ergonomics standard, but one that is substantially simpler than the rule overturned last year. I had hoped that the Department would take action on its own to issue a new rule, and Secretary of Labor Elaine L. Chao left open this possibility in response to an inquiry I made prior to the ergonomics vote. She stated in a March 6, 2001, letter to me:

> Let me assure you that in the event a Joint Resolution of Disapproval becomes law, I intend to pursue a comprehensive approach to ergonomics which may include new rulemaking that addresses the concerns levied against the current standard.

The key word in her response was "may," and I remain disappointed that the plan put forward by the Department of Labor does not include such a new rulemaking. For that reason, I believe it is important to press ahead with today's legislation.

● Mr. WELLSTONE. Mr. President, I am pleased to join as an original cosponsor of S. 2184, which provides for reissuance by the Department of Labor of a rule to prevent repetitive stress injuries. Too much time has passed with too little action on what is acknowledged to be the most critical workplace safety issue we face. After a year of inaction and delay, it is clear that this Administration is not serious about protecting workers from repetitive stress injury hazards in the workplace. Congress must now step in and require the Department to act.

This is a problem that affects countless numbers of workers. Each year, roughly 1.8 million workers suffer repetitive stress injuries on the job. That translates to 5000 injured workers a day, one worker injured every 18 seconds. Women suffer disproportionately from repetitive stress injuries. In particular, 67 percent of reported carpal tunnel cases and 61 percent of tendonitis cases are women, even though women comprise only 46 percent of the work force and account for only 33 percent of total workplace injuries.

Notwithstanding the gravity of the problem, this Administration and its Republican allies in Congress saw fit to overturn the ten years of effort that went into developing an OSHA standard for protecting workers from repetitive stress injury hazards in the workplace. In its place, Secretary of Labor Chao and President Bush promised a "comprehensive plan" to combat this serious workplace safety issue.

Yet after months of delays and inaction, what the Department of Labor has now produced is a sham. It's emphasis on voluntariness, toothless enforcement, and unnecessary and duplicative research in my view turns the clock back to before the first Bush Administration when Secretary of Labor Lynn Martin initiated the repetitive stress injury rulemaking proceeding.

Voluntary approaches alone have not protected workers from repetitive stress injuries. OSHA itself reports that only 16 percent of employers in general industry have put in place ergonomic programs to reduce hazards. Each year 1.8 million workers suffer repetitive stress injuries and recent Bureau of Labor Statistics reports show that injury numbers and rates are increasing, particularly in high risk industries and occupations.

We have been as patient as possible with this Administration, but it is clear that they have no intention of addressing this problem in a serious manner. Time is running out for the millions of workers at risk of repetitive stress injury. Congress must act now. And we must act decisively.

The bill we introduce today is a balanced approach to fashioning a repetitive stress injury standard that will benefit all workers. In particular it requires the Department of Labor to issue, within two years, a standard for addressing work-related repetitive stress injuries and workplace ergonomic hazards. The bill requires the new standard to describe in clear terms when an employer is required to take action, what actions the employer must take, and when an employer is in compliance with the standard. Under the bill's terms the new standard must emphasize prevention and cover workers at risk only where measures exist to control the hazards that are both economically and technologically feasible. The standard must be based on the best available evidence and employer experience with effective practices. Finally, the bill clarifies that the new rule cannot expand the application of state workers' compensation laws, it requires the Department of Labor to issue information and training materials, and provides the Department with authority and flexibility to issue an appropriate standard.

In sum, this bill represents a balanced and comprehensive approach to dealing with the most serious workplace safety issue we face. I urge my colleagues to join me in supporting this measure. Action on the issue of repetitive stress injury is long overdue.●

By Mr. CLELAND:

S. 2185. A bill to amend the Employee Retirement Income Security Act of 1974 to provide workers with individual account plans with information on how the assets in their accounts are invested and of the need to diversify the investment of the assets; to the Committee on Health, Education, Labor, and Pensions.

● Mr. CLELAND. Mr. President, today I am introducing a bill designed to promote investor education. The collapse of Enron has left Congress searching for answers as to how such a disaster could have happened and how it can be prevented from happening in the future. I serve on both the Commerce and Governmental Affairs Committees which are investigating Enron and a central concept I have taken away from these investigations is the importance of ensuring that investors have adequate and current information regarding their retirement plans. Employees need to be armed with knowledge in order to protect themselves and their hard earned retirement savings.

My bill would require that employee investors in company 401(k) plans receive quarterly reports detailing the contents of their 401(k) plans. Under current law, employers are only required to provide annual reports with a statement of benefits accrued under the plan. Enron certainly illustrates what a difference a year makes. Employees should have timely access to information about their 401(k) plan, enabling them to make choices in their investments. My bill would require that employees receive quarterly reports with a specific listing of: 1. the fair market value of the assets of each investment option; 2. the percentage of plan investment in each asset; and 3. the percentage of investments in employer securities and how much of that investment came from employee contributions.

My bill would also require that quarterly reports contain a "warning label" informing employees of the potential danger of investing too heavily in employer stock. I believe that employees should have the ability to choose how to invest and diversify their own 401(k) plan. However, I also believe employees should be able to make informed choices. Providing employees with the basic information that investing too heavily in any one security, including their own company stock, violates commonly accepted investing principles is simple common sense. Thus, my bill requires that a warning label be provided to employees upon enrollment in a plan and included in quarterly reports that reads: Under commonly accepted principles of good investment advice, a retirement account should be invested in a broadly diversified portfolio of stocks and bonds. It is unwise for employees to hold significant concentrations of employer stock in an account that is meant for retirement savings.

We may not be able to prevent company executives from lying, cheating and stealing like the executives of Enron, though we should ensure a climate of strict enforcement to deter such behavior. However, we can arm employees with the information and tools to protect themselves and their retirement savings. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDIVIDUAL ACCOUNT PLANS REQUIRED TO GIVE PARTICIPANTS ADEQUATE INFORMATION TO ASSIST THEM IN DIVERSIFYING PENSION ASSETS.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) The plan administrator of an applicable individual account plan shall, within a reasonable period of time following the close of each calendar quarter, provide to each participant or beneficiary a statement with respect to his or her individual account which includes—

"(A) the fair market value as of the close of such quarter of the assets in the account in each investment option,

"(B) the percentage as of such calendar quarter of assets which each investment option is of the total assets in the account,

"(C) the percentage of the investment in employer securities which came from employer contributions other than elective deferrals (and earnings thereon) and which came from employee contributions and elective deferrals (and earnings thereon), and

"(D) such other information as the Secretary may prescribe.

"(2)(A) Each statement shall also include a separate statement which is prominently displayed and which reads as follows:

'Under commonly accepted principles of good investment advice, a retirement account should be invested in a broadly diversified portfolio of stocks and bonds. It is unwise for employees to hold significant concentrations of employer stock in an account that is meant for retirement savings'.

"(B) The plan administrator of an applicable individual account plan shall provide the separate statement described in subparagraph (A) to an individual at the time the individual first becomes a participant in the plan.

"(3) Any statement or notice under this subsection shall be written in a manner calculated to be understood by the average plan participant.

"(4) For purposes of this subsection—

"(A) The term 'applicable individual account plan' means an individual account plan to which section 404(c)(1) applies.

"(B) The term 'elective deferrals' has the meaning given such term by section 402(g)(3) of such Code.

"(C) The term 'employer securities' has the meaning given such term by section 407(d)(1)."

(b) ENFORCEMENT.—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 104(c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on and after January 1, 2003.●

By Mr. ROCKEFELLER (by request):

S. 2186. A bill to amend title 38, United States Code, to establish a new Assistant Secretary to perform operations, preparedness, security and law enforcement functions, and for other purposes; to the Committee on Veterans' Affairs.

● Mr. ROCKEFELLER. Mr. President, today I introduce legislation requested by the Secretary of Veterans Affairs, as a courtesy to the Secretary and the Department of Veterans Affairs, VA. Except in unusual circumstances, it is my practice to introduce legislation requested by the Administration so that such measures will be available for review and consideration.

This "by-request" bill would allow VA to create an office, directed by an Assistant Secretary, to address operations, preparedness, security, and law enforcement functions. With the increased focus on homeland security has come increased emphasis on the role that VA is expected to play in providing medical care to veterans, active duty military personnel, and civilians during disasters. In order to improve emergency preparedness without sacrificing its primary mission, caring for the Nation's veterans, the Secretary has proposed creating an Office of Operations, Security, and Preparedness to help coordinate preparedness strategies, both within VA and with other Federal, State, and local agencies.

I ask unanimous consent that the text of the bill and Secretary Principi's transmittal letter that accompanied the draft legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Reorganization Act of 2002".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. INCREASE THE NUMBER OF AUTHORIZED ASSISTANT SECRETARIES; REVISION OF FUNCTIONS.

Section 308 is amended:

(a) in subsection (a) by substituting "seven" for "six" in the first sentence.

(b) by adding to the end of subsection (b) the following new paragraph (11):

"(11) Operations, preparedness, security and law enforcement functions."

SEC. 4. CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.

Section 5315 of title 5, United States Code, is amended by changing "Assistant Secretaries, Department of Veterans Affairs (6)" to "Assistant Secretaries, Department of Veterans Affairs (7)".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, April 12, 2002.

Hon. RICHARD B. CHENEY,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herein a draft bill "To amend title 38, United

States Code, to increase the number of certain Officers to perform operations, preparedness, security and law enforcement functions, and for other purposes." We request that it be referred to the appropriate committee for prompt consideration and enactment.

America has entered into an extended war against terrorism in which the front lines include the home front as well as the foreign battlefield. The tragic events of September 11, 2001, served as a reminder that terrorists are willing and able to attack our civilian population, our centers for military command and control, and our economic system. The anthrax attacks that surfaced during October underscored our nation's vulnerability to asymmetric attacks.

National Defense and Homeland Security Offices project that terrorist attacks on the United States will continue. Terrorists may use any lethal means against domestic targets, including chemical, biological, radiological, or kinetic devices. Moreover, we can assume that terrorists and other entities supporting terrorists may use chemical or biological weapons against U.S. military members engaged in combat operations. VA must anticipate military casualties in numbers or of a type that could tax the Department of Defense (DOD) medical system. Additionally, the United States can expect terrorists to attempt to degrade our national infrastructure by any means available to them, including sabotage and cyber warfare.

Congress has assigned to the Department of Veterans Affairs statutory functions for response to terrorist attacks and other emergencies and disasters, that are especially challenging, particularly when compared with those of some other executive branch agencies. The statutory functions include the duty to provide medical services to military personnel referred in time of war by the Department of Defense; responsibilities in four emergency support functions, as tasked under the Federal Response Plan by the Federal Emergency Management Agency under the Stafford Act; and the role of providing care to members of the community during emergencies on a humanitarian basis.

We can properly perform these responsibilities, however, only in a way that ensures the effective continuity of VA's primary mission of serving veterans.

The Department of Veterans Affairs (VA or the Department) has emerged from the events of the past few months with a heightened commitment to our statutory roles as a key support agency for disaster response and mitigation, including response to the use of nuclear, chemical, or biological weapons of mass destruction (WMD), as well as its traditional Federal Response Plan roles. Since September 11, VA has joined with other Federal agencies in greatly expanded inter-agency work. The necessary time commitment will expand further as the Homeland Security Council (HSC), Federal Emergency Management Agency (FEMA), Department of Health and Human Services (HHS), and Department of Defense (DoD) programs become fully operational and expand, and VA is asked to provide additional support.

In response, VA is reorganizing certain of its elements in order to best meet its responsibility to protect veterans, employees, and visitors to its facilities, to assure the continuity of veterans' services, while at the same time providing enhanced emergency preparedness and planning. These responsibilities, which in recent months have become even more imperative, belong to VA as a whole. They thus transcend the Administrations and the staff offices. To help ensure the Department as a whole meets these broad responsibilities, VA needs a separate, and a separately accountable, coordinating and policymaking entity. This reorganization creates a new Office of Operations, Security & Preparedness (OSP) to carry out Operations, Preparedness, Security and Law Enforcement functions. VA's experiences during the last several months of increased emergency management activities demonstrate that OSP requirements are full-time activities for an Assistant Secretary. In order to provide appropriate leadership and accountability, the reorganization places OSP under a new Assistant Secretary. Executive Branch requirements, as well as the strategic and day-to-day requirements of OSP are significant and require a full-time Assistant Secretary to provide the necessary level of executive representation and leadership and to meet time demands.

To support the establishment of this new organization, this draft bill would amend section 308 of title 38, United States Code, to increase the number of Assistant Secretaries from six to seven and would add Operations, Preparedness, Security and Law Enforcement functions to the functions and duties to be assigned to the Assistant Secretaries.

The proposed OSP will enable the Department and its three administrations—Veterans Health Administration (VHA), Veterans Benefits Administration (VBA), and National Cemetery Administration (NCA)—to operate more cohesively in this new, uncertain environment, and will help assure continuity of operations in the event of an emergency situation. OSP will:

(a) Ensure that operational readiness and emergency preparedness activities enhance VA's ability to continue its ongoing services (Continuity of Operations);

(b) Coordinate and execute emergency preparedness and crisis response activities both VA-wide and with other Federal, State, local and relief agencies;

(c) Develop and maintain an effective working relationship with the newly established US Office of Homeland Security and reinforce existing relationships with the Department of Defense (DOD), Federal Emergency Management Agency, Department of Health and Human Services, Centers for Disease Control and Prevention, Department of Justice, and other agencies actively involved in continuity of government, counter-terrorism and homeland defense;

(d) Ensure enforcement of the law and oversee the protection of employees and veterans using VA facilities while ensuring the physical security of VA's infrastructure;

(e) Evaluate preparedness programs and develop Department-wide training programs that enhance VA's readiness and exercises.

The creation of this new organization will shift responsibility for emergency preparedness, continuity of operations, continuity of government, law enforcement, physical security, and personnel security programs from the Office of the Assistant Secretary for Human Resources and Administration (HR&A) to OSP. The Office of Security & Law Enforcement (S&LE) will be transferred from HR&A to OSP. In addition, all or part of the following functions and offices will transfer from VHA's Emergency Management Strategic Healthcare Group (EMSHG) to OSP: DOD contingency support, National Disaster Medical System, and Federal Response Plan.

The reorganization establishing OSP would create a standing, around-the-clock readiness operations capability to monitor potential and ongoing situations of concern to the Department and its administrators. It would create a more resourced and focused approach to coordinating and executing the Department's missions to respond as a key support agency in national emergencies and to provide contingency support to DOD in time of war.

This proposed organization would have the capability to meet both ongoing and projected operations center requirements, while providing sufficient personnel to address Departmental planning and policy development needs, and to conduct ongoing training and evaluation at the Departmental level. In addition, OSP would help the Department address growing inter-agency cooperation responsibilities, much of which is required to support the Homeland Security Council.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

ANTHONY J. PRINCIPI.●

By Mr. ROCKEFELLER (for himself and Mr. AKAKA):

S. 2187. A bill to amend title 38, United States Code to authorize the Secretary of Veterans Affairs to furnish health care during a major disaster or medical emergency, and for other purposes; to the Committee on Veterans' Affairs.

● Mr. ROCKEFELLER. Mr. President, I introduce legislation today to highlight, and acknowledge in law, a mission that already exists in fact: VA's role in offering health care and support to individuals affected by disasters. I am pleased to be joined in offering this legislation by my colleague on the Veterans' Affairs Committee, Senator DANIEL AKAKA.

VA's first, and most familiar, three missions include caring for our Nation's veterans, training future health care personnel, and fostering scientific and clinical research to improve future medical care. In 1982, Congress assigned to VA a fourth mission: serving as the primary medical back-up system to the Department of Defense during times of war or domestic emergencies. If necessary, VA estimates that it could make about 3200 beds available immediately, and about 5500 beds within 72 hours, to care for injured troops.

VA has expanded this Fourth Mission to encompass a much greater share of the Federal responsibility for public health during crises beyond caring for active duty military casualties. VA also serves as a supporting agency in the Federal Response Plan for domestic disasters, as a cornerstone of the National Medical Disaster System, and by managing the National Pharmaceutical Stockpile. Through these programs, VA provides personnel, supplies and medications, facilities, and, if necessary, direct patient care to communities whose resources have been overwhelmed by medical crises.

VA conducts large-scale disaster training exercises with its military partners, cooperates with other agencies to staff emergency medical teams during high-profile public events, and can deploy its group of experts in radiological medicine anywhere in the United States within a day. VA's mental health care professionals offer expertise in post-traumatic stress disorder counseling that is unparalleled anywhere in the world.

VA has responded to every major domestic disaster of the last two decades, including the Oklahoma City attack, and Hurricanes Andrew and Floyd, by sharing skilled medical staff and supplies with community caregivers. Following catastrophic flooding in Houston last year, the local VA medical center remained the only area hospital with power, and its staff extended care to rescue workers and the public. On September 11, VA physicians cared for at least 68 injured individuals in New York, and VA coordinators identified more than half of the 20,000 beds that would have been available for the care of victims in New York and Virginia through VA's community hospital partnerships. In the weeks following the terrorist attacks, VA continued to provide skilled medical specialists, including mental health professionals, to care for rescue workers and servicemembers in New York and at the Pentagon.

The legislation that we introduce today would confer no new responsibilities or missions upon VA, but would recognize VA's already enormous contribution to public safety and emergency preparedness. As Congress continues to prepare for the threat of terrorism, it becomes increasingly important to focus not only the public health community, but those capable of providing medical care during mass casualty events.

As the largest health care system in the nation, VA medical centers can and will offer invaluable services during a public health care emergency, whether that emergency is terrorism or a natural disaster. When VA health care providers are called upon to care for disaster victims, they serve not only as part of the Federal response to emergencies, but as part of the communities in which they live. This legislation would extend the Congressional mandate calling upon VA to provide care for active duty military personnel during a disaster to recognize VA's contribution to general public safety during crises. I urge my colleagues in the Senate to join Senator AKAKA and me in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Emergency Medical Care Act of 2002".

SEC. 2. AUTHORITY TO FURNISH HEALTH CARE DURING MAJOR DISASTERS AND MEDICAL EMERGENCIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 1711 the following new section:

"§1711A. Care and services during major disasters and medical emergencies

"(a) During and immediately following a disaster or emergency referred to in subsection (b), the Secretary may furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by such disaster or emergency, as the case may be.

"(b) A disaster or emergency referred to in this subsection is any disaster or emergency as follows:

"(1) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) A disaster or emergency in which the National Disaster Medical System is activated.

"(c) The Secretary may furnish care and services under this section to veterans without regard to their enrollment in the system of annual patient enrollment under section 1705 of this title.

"(d) The Secretary may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of—

"(1) veterans with service-connected disabilities; and

"(2) members of the Armed Forces on active duty who are furnished health-care services under section 8111A of this title.

"(e)(1) The cost of any care or services furnished under this section to an officer or employee of a department or agency of the Federal Government other than the Department shall be reimbursed at such rates as may be agreed upon by the Secretary and the head of such department or agency based on the cost of the care or service furnished.

"(2) Amounts received by the Department under this subsection shall be credited to the funds allotted to the Department facility that furnished the care or services concerned.

"(f) Within 60 days of the commencement of a disaster or emergency referred to in subsection (b) in which the Secretary furnishes care and services under this section (or as soon thereafter as is practicable), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the Secretary's allocation of facilities and personnel in order to furnish such care and services.

"(g) The Secretary shall prescribe regulations governing the exercise of the authority of the Secretary under this section.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 1711 the following new item:

"1711A. Care and services during major disasters and medical emergencies.".

(b) EXCEPTION FROM REQUIREMENT FOR CHARGES FOR EMERGENCY CARE.—Section 1711(b) of that title is amended by striking "The Secretary" and inserting "Except as provided in section 1711A of this title with respect to a disaster or emergency covered by that section, the Secretary".

(c) MEMBERS OF THE ARMED FORCES.—Subsection (a) of section 8111A of that title is amended to read as follows:

"(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or Congress that involves the use of the Armed Forces in armed conflict, the Secretary may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty.

"(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in such disaster or emergency, as the case may be.

"(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency follows:

"(i) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(ii) A disaster or emergency in which the National Disaster Medical System is activated.

"(3) The Secretary may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of veterans with service-connected disabilities.

"(4) In this section, the terms 'hospital care', 'nursing home care', and 'medical services' have the meanings given such terms by sections 1701(5), 101(28), and 1701(6) of this title, respectively.".●

● Mr. AKAKA. Mr. President, I am pleased to cosponsor the legislation offered by the Senator from West Virginia, Mr. ROCKEFELLER, to authorize the Department of Veterans Affairs, VA, existing emergency preparedness activities.

Currently, VA participates in the National Disaster Medical System, NDMS, and the Federal Response Plan through VA's Fourth Mission, mandated by Congress in 1982 to establish VA's role as the medical back-up to the military during conflicts. When VA has offered medical care to the general public during every major U.S. disaster since Hurricane Andrew, it has done so without the statutory authority to care for non-veterans and non-active-duty military personnel. The VA Emergency Medical Care Act of 2002 would give this authority.

Already an active participant in disaster response and preparedness, VA partners with the Departments of Defense and Health and Human Services and the Federal Emergency Management Agency, FEMA, to form the National Disaster Medical System, NDMS. The Act would codify and authorize VA's existing efforts to provide health care to the general public following activation of the NDMS.

VA is an emergency responder through the Federal Response Plan, a signed agreement between 27 Federal agencies and the Red Cross that coordinates Federal assistance when State and local resources are overwhelmed by a major disaster. VA serves as a support agency for four of the Emergency Support Functions outlined in the Federal Response Plan, including Mass Care and Health and Medical Services. VA is also the principle provider of mental health services to disaster survivors.

I commend the work done by VA employees in responding to national emergencies. Because of their dedication and initiative, this legislation does not create new VA programs nor authorize any additional funds. I urge my colleagues to support the Department of Veterans Affairs Emergency Medical Care Act of 2002. This legislation is a first step in acknowledging the work that VA performs now to help all Americans respond to major disasters and medical crises.●

By Mr. BREAUX (for himself and Mr. BURNS):

S. 2188. A bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act; to the Committee on Commerce, Science, and Transportation.

● Mr. BREAUX. Mr. President, today, along with Senator BURNS, I am introducing the Children's Safe Sleepwear and Burn Prevention Act of 2002. This legislation is designed to prevent sleepwear-related burn injuries and reverse the 1997 decision of the Consumer Product Safety Commission on children's sleepwear safety regulations.

In 1996, the CPSC made two principle changes to the sleepwear safety regulations. First, the Commission determined that because children age 0–9 months were not mobile, they were not at risk from fire. Consequently, the revised regulations totally exempted sleepwear for young infants from any safety regulations. Second, the CPSC decided that so-called "tight-fitting" sleepwear did not have to meet any fire safety requirements on the mistaken assumption that tight-fitting garments do not burn.

As a result of the Commission's action, I heard from the Shriners Hospital in Shreveport, Louisiana. The Shirners Hospitals for children operate four burn centers in the United States and treat over 20 percent of all serious pediatric burns in the country. The Shriners Hospitals conducted a study comparing the incidence of sleepwear-related burn injuries during the period 1995–1996, before the regulations were changed, to the period 1998–1999 after the changes had been put in place.

The results of the Shriners study are sobering indeed. From 1995–1996, Shriners Hospitals treated 14 children for sleepwear-related burn injuries. For the period 1998–1999, the number of children suffering from these sleepwear-related burns increased to 36, a 157 percent increase!

The Shriners Hospitals also examined pediatric burn injuries where it was impossible to determine the exact type of clothing involved or where the children was not technically wearing sleepwear but may have been using this clothing to sleep in. Over the relevant time period, the number of children suffering clothing-related burn injuries increased from 70 to 147, a 110 percent increase! Similarly, the number of pediatric burn injuries where it was impossible to determine anything about the clothing being worn because the clothing had been totally burned away increased from 218 to 311, a 43 percent increase! All told, the number of burned children treated at Shriners Hospitals increased from 302 in 1995–1996 to 494 in 1998–1999, a 64 percent increase!

The data regarding infants age 0–9 months is also revealing. In 1995–1996 Shriners Hospitals treated just five children for sleepwear-related burn injuries under nine months of age. For 1998–1999, the total number of infants suffering such injuries rose to nineteen, a 280 percent increase!

As a practical matter, almost all pediatric burn injuries involve ignition of the clothing and some other materials. While the safety regulations cannot save a child trapped in a raging inferno, a 1972 HEW study concluded that children in fires whose clothing ignited had a four to six-fold increase in mortality and morbidity compared to those who clothing did not ignite. Take, for example, a situation where the house is on fire and a parent picks up her infants and flees the burning house. Sparks are flying, but the infants garments do not ignite because they are flame resistent. If the sleepwear is not flame resistant, the sparks catch the clothing.

The Children's Safe Sleepwear and Burn Prevention Act directs the Commission to restore the safety protections that it removed in 1997. Henceforth, young infants will not have to face the dangers of using sleepwear that provides no protection whatsoever against fire. Tight-fitting or snug sleepwear will also have to meet these fire safety requirements. There is, however, more that must be done to ensure a fire safety environment for our children.

Another problem regarding the children's sleepwear regulations must be addressed. Under the CPSC's regulations, even the pre-1997 version, clothing that the manufacturer did not intend to be used as sleepwear were not required to meet the flammability safety requirements. Consequently, a manufacturer could simply label an item as day wear as sleepwear and completely avoid the safety requirements.

This legislation eliminates this "labeling loophole" by creating a functional definition of sleepwear for children up to seven years of age. If, as a practical matter, clothing is used for sleepwear, then should meet the safety requirements. The legislation provides some guidance as to what types of garments are used for sleepwear with some regularity such as togs, bunny suits and garments with cartoon characters that are particularly attractive to young children.

One might ask what alternatives are there to untreated cotton. Advances in technology now provide such alternatives. Cotton can be treated with a flame retardant that does not wash out because it is bonded to the cotton through a chemical process at the atomic level. The treatment adds little to the cost of children's sleepwear.

The defense of our innocent children from the dangers of sleepwear related burn injuries should be a priority. If you have ever seen a child severely burned by flaming sleepwear, you have some sense of the suffering and horror that these injuries entail. We can make these horrible burn injuries less frequent by enacting this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Safe Sleepwear and Burn Prevention Act of 2002".

SEC. 2. AMENDMENTS TO CHILDREN'S SLEEPWEAR FLAMMABILITY REGULATIONS.

(a) IN GENERAL.—The Consumer Product Safety Commission (in this Act referred to as the "Commission") shall, with respect to the Commission's flammability standards for children's sleepwear sizes 0 through 14, promulgated pursuant to the Flammable Fabrics Act (15 U.S.C. 1191 et seq.; parts 1615 and 1616 of title 16, Code of Federal Regulations)—

(1) not enforce or enact a standard with respect to children's sleepwear that—

(A) exempts—

(i) diapers and underwear (including disposable diapers and underwear);

(ii) infant garments sizes 0 through 6X, infant garments sizes 9 months or smaller, or other garments described in part 1615.1(c) of title 16, Code of Federal Regulations; or

(iii) tight-fitting garments; or

(B) includes as a part of any definition of children's sleepwear (or of any item of such sleepwear) a standard based on the intent of the manufacturer or retailer; and

(2) provide a functional definition of children's sleepwear for ages 0 through 7 years (encompassing, at a minimum, infant and children's garment sizes 2 through 6X, as such sizes are defined by the Department of Commerce Voluntary Product Standard (previously identified as Commercial Standard

CS151-50 "Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers, and Children"), including children's clothing used with some regularity as sleepwear, such as—

(A) "togs";

(B) "onesies";

(C) body suits with snaps at the bottom for easy access to a diaper;

(D) all-in-one "bunny" suits with enclosed feet; and

(E) any garments sized for children ages 0 through 7 years with cartoon characters or symbols that the Commission finds are particularly attractive to young children.

(b) RULEMAKING.—Notwithstanding any other provision of law, not later than 180 days after the date of enactment of this Act, the Commission shall promulgate regulations with respect to the flammability of children's sleepwear consistent with the provisions of this Act.

(c) EFFECTIVE DATE.—Sleepwear manufactured or imported on or before the effective date of the regulations promulgated by the Commission under subsection (b) shall not be treated as being in violation of the Flammable Fabrics Act or such regulations if the sleepwear complied with the rules of the Commission in effect at the time the sleepwear was manufactured or imported.●

By Mr. ROCKEFELLER (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. WELLSTONE, Mr. DURBIN, Ms. MIKULSKI, Mr. SARBANES, Mr. DAYTON, and Mrs. CLINTON):

S. 2189. A bill to amend the Trade Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry; to the Committee on Finance.

● Mr. ROCKEFELLER. Mr. President, the American steel industry will not consolidate and will not survive without relief from their unique burden of substantial retiree health care costs. Failing to assist the American steel industry with its retiree health care costs puts our industry at a tremendous disadvantage as it competes in the world markets. If we are to have a competitive, viable industry, we must not shirk our responsibility. In the case of steel in America, that means three things: tariffs under Section 201, as is provided for under our trade laws; legacy, retiree health, relief; and effective consolidation of the steel industry.

Earlier this year, the President imposed limited and temporary steel tariffs under Section 201. Today, I introduce the Steel Industry Consolidation and Retiree Benefits Protection Act of 2002, the Steel Legacy bill. This bill provides strong incentives for consolidation in the United States steel industry by supporting companies' retiree health care costs. This bill provides desperately needed medical care to retirees whose companies have been forced out of business by imports. This bill is critical to the preservation of the American steel industry, and it is humane to those individuals who have paid a very high price for our nation's free trade policies.

The American steel industry has been facing an unprecedented crisis since 1997, when the Asian financial crisis disrupted global steel trade and diverted much of the world's excess steel capacity to the U.S. market. Thirty-three U.S. steel companies, representing over 40 percent of domestic steelmaking capacity, have gone into bankruptcy since 1999, including such venerable names as Bethlehem Steel and LTV. Wheeling Pittsburgh Steel in my state is in the process of reorganizing. Many more steel companies have been forced into liquidation. Almost 50,000 steelmaking jobs have been lost in this country since the steel crisis began in 1998—losses that come on top of hundreds of thousands of steel job losses in the two preceding decades.

The cause of this crisis in the industry is not that demand for steel has suddenly collapsed or that the competitiveness of the American steel industry has suddenly collapsed, but because foreign steelmakers have enjoyed decades of government subsidies and protection. Those foreign subsidies have created massive global steel overcapacity, and that foreign protection has ensured that most of the world's overcapacity has been directed at the U.S. market, which has been the most open major market in the world.

The crisis our steel industry currently faces could well mean the end of steelmaking in the United States. This would have grave consequences for steel companies and steel workers, for the steel communities that depend on them, and for our nation's industrial base and our national defense. In recognition that this could not be allowed to happen, the President announced last month that he would impose temporary Section 201 tariff measures on some steel imports. These measures will help give the U.S. steel industry some breathing room to recover. I commend the President for recognizing the importance of maintaining a domestic steel manufacturing base and for taking these steps.

Still, I think it's essential to realize that the Section 201 measures are limited in their scope and duration: first, the tariffs range from 8 percent to 30 percent, far less than the level recommended by two of the ITC Commissioners and the level that I and many others in the steel industry had argued for. And these tariffs are lowered dramatically each year, and stop after only three years. The tariffs do not apply to all steel products. Because of this, foreign steel companies will be able to engage in circumvention measures to get around the tariffs, as they have with antidumping measures. Under the 201 relief, tariffs were imposed on some grades of steel, others were exempted altogether, numerous exemptions for specific steel products have been issued, and for the critical category of slab, a tariff rate quota has been imposed that is unlikely to have any positive effect whatsoever. The tariffs are not being applied across the board to all foreign steel producers; the relief exempts all steel from developing countries and from NAFTA members, who between them represent a significant portion, over a third, of overall U.S. steel imports.

We knew from the beginning of the 201 process that even in the best of circumstances, it was clear that Section 201 tariffs were going to provide only part of the solution to help the domestic steel industry respond to this crisis. But the Section 201 remedy imposed, with its exclusions and exemptions and declining tariffs, makes the need for additional measures even more compelling.

Section 201 will slow the tide of imports. But it will not resolve the other critical issues that will determine whether America's integrated steelmaking capacity survives. America's integrated steelmakers face massive "legacy costs" for retiree health and pension benefits, stemming from the dramatic reduction in the American steel industry's active workforce over the past two decades, which in turn results from successive Administrations' inability to negotiate an agreement for foreign governments to stop subsidizing their steelmakers. These legacy costs both hurt American steel's international competitiveness and serve as a liability that has prevented the consolidation of the fragmented domestic steel industry. Industry consolidation is another issue that must be addressed: with foreign steelmakers merging to create a new level of top tier steelmakers, American steelmakers risk being permanently consigned to the second rank, with subscale facilities and insufficient revenues to fund the necessary investment in research and technology. Finally, we must take measures to mitigate the human cost of this steel crisis, particularly the cost to retirees who worked long, hard years to earn health and pension benefits for themselves and their families, but now risk seeing all that taken away because the company that pays those benefits is threatened by unfair foreign trade practices.

The bill I am introducing today, the Steel Industry Retiree Benefits Protection Act of 2002, addresses the toughest of these problems. It guarantees the health care coverage and a very limited life insurance benefit for steel industry retirees whose employer is acquired by another steelmaker or whose employer is forced to shut down because no other steelmaker will acquire it. This will ensure that in steel communities throughout the nation, no retirees will lose their critical health benefits simply because of a crisis in the global steel industry that our government failed to avert. Equally important, this bill will address retiree legacy costs in a way that will enhance our steel industry's competitiveness, by clearing the way for the industry consolidation that is necessary and inevitable if the American steel industry is to survive.

The mechanics of the bill are fairly simple. A Federal trust fund will be established that will assume the retirees' health care and life insurance costs for steel, iron ore, and coke producers, and those who transport steel mill products for steelmaking operations, that are acquired by another company; that are in bankruptcy and attempted unsuccessfully to be acquired by another company, and thus have been closed, or are in imminent danger of closing, or have been unable to be acquired for at least two years; that are in bankruptcy and sell a significant steelmaking operation to another company; or, finally, in order to ensure that the assumption of legacy costs does not distort competition within the domestic steel industry, if a significant portion of the entire industry's legacy costs have been assumed by the Federal trust fund, all steel industry retirees and beneficiaries would be eligible to be covered by the program.

The money for the Fund to pay for these legacy costs will come from the following: steel tariff revenues; an acquired steelmaker's retiree health care trust fund assets; payments for 10 years by the qualified steel company of $5 per ton of steelmaking capacity, subject to the bill's provisions; retiree premiums; and, and appropriated funds if necessary.

In order to simplify the management of the program, retiree health benefits assumed by the Fund will be limited to Federal Blue Cross/Blue Shield health benefits, a fair and reasonable standard of health coverage. Life insurance will be limited to a one-time payment of $5,000 dollars. The program will be administered by the Secretary of Commerce and by Trustees who are designated by both management and labor.

This bill is supported by both the integrated steelmakers and by the steel unions, who understand what it will take to save the American steel industry. They know that legacy costs have been the major barrier to consolidation of the American steel market and that it is critical that we resolve that problem if we are to preserve retiree health benefits and an integrated domestic steel industry. I am introducing this legislation with my partner as Co-Chair of the Senate Steel Caucus, Senator SPECTER. We have a history of working together on issues that are vital to the core industries in our states and the workers who have helped fuel and build this nation. I am pleased that Senators WELLSTONE, DURBIN, MIKULSKI, SARBANES, and DAYTON, and the distinguished Senate Majority Leader, who have long been champions of retirees and workers health care issues, join me today as cosponsors. We have also worked in close consultation with our colleagues on the House side, especially members of the House Steel Caucus, who share our concern that these critical legacy cost issues be addressed.

But, make no mistake, this steel legacy legislation will not happen without the active involvement of the President. This bill is fair, it is pro-competition, and there is a broad consensus that legacy cost legislation like this is absolutely necessary if we are to preserve integrated steelmaking in the United States, as well as the communities and businesses that depend on those facilities. But realistically, a program like this is only going to be enacted with the strong support and active engagement of the President.

The President's announcement of his decision on Section 201 tariffs last month was an encouraging sign that the President was committed to the preservation of the American steel industry, and his recognition that, if equipped with the right tools and competing in a fair market, the domestic steel industry can regain its former role as the world's leader. I surely hope so. But I know that without President Bush's support for a legacy cost bill, the Section 201 tariffs he announced last month will not be enough, and we will witness the erosion of a vital national asset, the American steel industry.

I appeal to the President to maintain his personal interest in the well-being of our steel industry. It is vital to our nation's economy and to our defense capability. I encourage the President to lead on this issue because surely, in these times, without his support and quick involvement, we will not be able to get a bill through this Congress. I hope the Administration will work with us here in the Senate to pass a legacy cost bill that will ensure fairness for America's retired steelworkers and a competitive future for America's integrated steel industry. We need legacy cost legislation like that outlined in the bill I am submitting today, if we are to preserve the U.S. steel industry. I urge my colleagues to join me in supporting this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; CONGRESSIONAL FINDINGS AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Steel Industry Consolidation and Retiree Benefits Protection Act of 2002".

(b) CONGRESSIONAL FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds the following:

(A) The United States Department of Commerce has documented that American steelworkers and their employers have been forced over the last 30 years to compete in a global steel market in which foreign governments have engaged in market distorting practices that to this day sustain enormous overcapacity in world steel supplies.

(B) The United States International Trade Commission, in its recent investigation of steel imports to the United States under section 201 of the Trade Act of 1974, has concluded that surges of imported steel since the Asian crisis of 1997 have caused serious injury to American producers of most steel products.

(C) Since 1997, 32 American steel companies have been forced to seek bankruptcy protection, over 45,000 steelworkers have lost their jobs, and over 100,000 steel retirees have suffered a complete cutoff of vital medical and life insurance benefits.

(D) Many steel industry retirees were forced into retirement as a result of the restructurings of the 1980's and 1990's, and then, as a second blow, recently lost their retiree medical insurance.

(E) Recent steel imports have pushed steel prices to such record lows that surviving American steelmakers face imminent financial collapse, and these firms employ over 185,000 workers in family-supporting jobs and provide crucial medical coverage to hundreds of thousands of retirees and beneficiaries.

(F) As American steel companies continue to weaken or fail, a very different trend is underway in other countries where governments shoulder a substantial portion of retirement costs and foreign steelmakers are now merging into companies of unprecedented size and market influence.

(G) If the American steel industry is to survive and compete, it must transform itself from a group of relatively small producers into a consolidated market force.

(H) For many American steel companies, the ability to consolidate is undermined by the burden of retiree health and life insurance obligations.

(2) PURPOSE.—It is the purpose of this Act to ensure that—

(A) retired steelworkers receive medical and life insurance coverage, and

(B) the American steel industry can continue to provide livelihoods to tens of thousands of American workers, their families, and communities through the receipt of assistance in consolidating its position in world steel markets.

SEC. 2. ESTABLISHMENT OF STEEL INDUSTRY RETIREE BENEFITS PROTECTION PROGRAM.

The Trade Act of 1974 is amended by adding at the end the following new title:

"TITLE IX—PROTECTION FOR STEEL INDUSTRY RETIREMENT BENEFITS

"SUBTITLE A. Definitions.

"SUBTITLE B. Steel Industry Retiree Benefits Protection Program.

"SUBTITLE C. Steel Industry Legacy Relief Trust Fund.

"Subtitle A—Definitions

"Sec. 901. Definitions.

"SEC. 901. DEFINITIONS.

"(a) TERMS RELATING TO BENEFITS PROGRAM.—For purposes of this title—

"(1) RETIREE BENEFITS PROGRAM.—The term 'retiree benefits program' means the Steel Industry Retiree Benefits Protection Program established under this title to provide medical and death benefits to eligible retirees and beneficiaries.

"(2) STEEL RETIREE BENEFITS.—

"(A) IN GENERAL.—The term 'steel retiree benefits' means medical, surgical, or hospital benefits, and death benefits, whether furnished through insurance or otherwise, which are provided to retirees and eligible beneficiaries in accordance with an employee benefit plan (within the meaning of section 3(3) of the Employee Retirement Income Security Act of 1974) which—

"(i) is established or maintained by a qualified steel company or an applicable acquiring company, and

"(ii) is in effect on or after January 1, 2000.

Such term includes benefits provided under a plan without regard to whether the plan is established or maintained pursuant to a collective bargaining agreement.

"(B) RETIREE.—

"(i) IN GENERAL.—The term 'retiree' means an individual who has met any years of service or disability requirements under an employee benefit plan described in subparagraph (A) which are necessary to receive steel retiree benefits under the plan.

"(ii) CERTAIN RETIREES INCLUDED.—An individual shall not fail to be treated as a retiree because the individual—

"(I) retired before January 1, 2000, or

"(II) was not employed at the steelmaking assets of a qualified steel company.

"(b) TERMS RELATING TO STEEL COMPANIES.—For purposes of this title—

"(1) QUALIFIED STEEL COMPANY.—

"(A) IN GENERAL.—The term 'qualified steel company' means any person which on January 1, 2000, was engaged in—

"(i) the production or manufacture of a steel mill product,

"(ii) the mining or processing of iron ore or beneficiated iron ore products, or

"(iii) the production of coke for use in a steel mill product.

"(B) TRANSPORTATION.—The term 'qualified steel company' includes any person which on January 1, 2000, was engaged in the transportation of any steel mill product solely or principally for another person described in subparagraph (A), but only if such person and such other person are related persons.

"(C) SUCCESSORS IN INTEREST.—The term 'qualified steel company' includes any successor in interest of a person described in subparagraph (A) or (B).

"(2) STEELMAKING ASSETS AND STEEL MILL PRODUCTS.—

"(A) STEELMAKING ASSETS.—The term 'steelmaking assets' means any land, building, machinery, equipment, or other fixed assets located in the United States which, at any time on or after January 1, 2000, have been used in the activities described in subparagraph (A) or (B) of paragraph (1).

"(B) STEEL MILL PRODUCT.—The term 'steel mill product' means any product defined by the American Iron and Steel Institute as a steel mill product.

"(3) ACQUIRING COMPANY.—The term 'acquiring company' means any person which acquired on or after January 1, 2000, steelmaking assets of a qualified steel company with respect to which a qualifying event has occurred.

"(c) OTHER DEFINITIONS.—For purposes of this title—

"(1) RELATED PERSON.—The term 'related person' means, with respect to any person, a person who—

"(A) is a member of the same controlled group of corporations (within the meaning of section 52(a) of the Internal Revenue Code of 1986) as such person, or

"(B) is under common control (within the meaning of section 52(b) of such Code) with such person.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(3) TRUST FUND.—The term 'Trust Fund' means the Steel Industry Legacy Relief Trust Fund established under subtitle C.

"Subtitle B—Steel Industry Retiree Benefits Protection Program

"I. Establishment.

"II. Relief and assumption of liability, eligibility, and certification.

"III. Program benefits.

"PART I—ESTABLISHMENT

"Sec. 902. Establishment.

"SEC. 902. ESTABLISHMENT.

"There is established a Steel Industry Retiree Benefits Protection program to be administered by the Secretary and the Board of Trustees of the Trust Fund in accordance with the provisions of this title for the purpose of providing medical and death benefits to eligible retirees and eligible beneficiaries certified as participants in the program under part II.

"PART II—RELIEF AND ASSUMPTION OF LIABILITY, ELIGIBILITY, AND CERTIFICATION

"Sec. 911. Relief and assumption of liability.

"Sec. 912. Qualifying events.

"Sec. 913. Eligibility and certification of eligibility.

"SEC. 911. RELIEF AND ASSUMPTION OF LIABILITY.

"(a) IN GENERAL.—If—

"(1) the Secretary certifies under section 912 that there was a qualifying event with respect to a qualified steel company,

"(2) the asset transfer requirements of subsection (b) are met with respect to the qualifying event, and

"(3) the qualified steel company and any acquiring company assumes their respective liability to make any contributions required under subsection (c),

then the United States shall assume liability for the provision of steel retiree benefits for each eligible retiree and eligible beneficiary certified for participation in the retiree benefits program under section 913 (and the qualified steel company, any predecessor or successor, and any related person to such company, predecessor, or successor shall be relieved of any liability for the provision of such benefits). The United States shall be treated as satisfying any liability assumed under this subsection if benefits are provided to eligible retirees and eligible beneficiaries under the retiree benefits program provided in part III.

"(b) REQUIRED ASSET TRANSFERS.—

"(1) IN GENERAL.—The requirements of this subsection are met if the qualified steel company and any applicable acquiring company transfer to the Trust Fund all assets, as determined in accordance with rules prescribed by the Secretary, which, under the terms of an applicable collective bargaining agreement, were required to be set aside under an employee benefit plan or otherwise for the provision of the steel retiree benefits the liability for which (determined without regard to this subsection) is relieved by operation of subsection (a). The assets required to be transferred shall not include voluntary contributions, including voluntary contributions made pursuant to a voluntary employees beneficiary association trust, which are in excess of the contributions described in the preceding sentence.

"(2) DETERMINATION.—The amount of the assets to be transferred under paragraph (1) shall be determined at the time of the certification under section 912 and shall include interest from the time of the determination to the time of transfer. Such amount shall be reduced by any payments from such assets which are made after the determination by the qualified steel company or applicable acquiring company for the provision of steel retiree benefits for which such assets were set aside and the liability for which (determined without regard to this subsection) is relieved by operation of subsection (a).

"(c) CONTRIBUTION REQUIREMENTS.—

"(1) CONTRIBUTIONS BASED ON OWNERSHIP OF STEELMAKING ASSETS.—

"(A) IN GENERAL.—If there is a qualifying event certified under section 912 with respect to a qualified steel company—

"(i) the qualified steel company shall assume the obligation to pay, and

"(ii) if the qualified steel company transferred on or after January 1, 2000, any of its steelmaking assets, the qualified steel company and any acquiring company acquiring such assets as part of (or after) a qualifying event shall assume the obligation to pay,

to the Trust Fund for each of the years in the 10-year period beginning on the date of the qualifying event its ratable share of the amount determined under subparagraph (B) with respect to the steelmaking assets owned by such company or person.

"(B) AMOUNT OF LIABILITY.—

"(i) IN GENERAL.—The amount required to be paid under subparagraph (A) for any year shall be equal to $5 per ton of products described in section 901(b)(1)(A) attributable to the steelmaking assets which are the subject of the qualifying event and shipped to a person other than a related person. If 2 or more persons own steelmaking capacity or assets, the liability under this clause shall be allocated ratably on the basis of their respective ownership interests. The determination under this clause for any year shall be made on the basis of shipments during the calendar year preceding the calendar year in which such year begins.

"(ii) REDUCTIONS IN LIABILITY.—The amount of any liability under clause (i) for any year shall be reduced by the amount of any assets transferred to the Trust Fund under subsection (b), reduced by any portion of such amount applied to a liability for any preceding year. If 2 or more persons are liable under subparagraph (A) with respect to any qualifying event, any reduction with respect to assets transferred to the Trust Fund under subsection (b) shall be allocated ratably among such persons on the basis of their respective liabilities or in such other manner as such persons may agree.

"(2) FASB LIABILITY IN CASE OF CERTAIN QUALIFYING EVENTS.—

"(A) IN GENERAL.—If there is a qualifying event (other than a qualified acquisition) with respect to a qualified steel company, then, subject to the provisions of subparagraphs (C) and (D), the qualified steel company shall be liable for payment to the Trust Fund of the amount determined under subparagraph (B). If a qualified acquisition occurs after another qualifying event, such other qualifying event shall be disregarded for purposes of this paragraph.

"(B) AMOUNT OF LIABILITY.—The amount determined under this subparagraph shall be equal to the excess (if any) of—

"(i) the amount determined under the Financial Accounting Standards Board Rule 106 as being equal to the present value of the steel retiree benefits of eligible retirees and beneficiaries of the qualified steel company the liability for which (determined without regard to any modification pursuant to section 1114 of title 11, United States Code) is relieved under subsection (a), over

"(ii) the sum of—

"(I) the value of the assets transferred under subsection (b) with respect to the retirees and beneficiaries, and

"(II) the present value of any payments (other than payments determined under this subparagraph) to be made under this subsection with respect to steelmaking assets of the qualified steel company.

"(C) DISCHARGES IN BANKRUPTCY.—The amount of any liability under subparagraph (B) shall be reduced by the portion of such liability which, in accordance with the provisions of title 11, United States Code, is discharged in any bankruptcy proceeding.

"(D) NO LIABILITY IF INDUSTRY-WIDE ELECTION MADE.—If a qualifying event occurs by reason of a qualified election under section 912(d)(2)(B), then—

"(i) any liability that arose under this paragraph for any qualifying event occurring before such election is extinguished (and any payment of such liability shall be refunded from the Trust Fund with interest), and

"(ii) no liability shall arise under this paragraph with respect to the qualifying event occurring by reason of such election or any subsequent qualifying event.

"(3) JOINT AND SEVERAL LIABILITY.—Any related person of any person liable for any payment under this subsection shall be jointly and severally liable for the payment.

"(4) TIME AND MANNER OF PAYMENT.—The Secretary shall establish the time and manner of any payment required to be made under this subsection, including the payment of interest.

"SEC. 912. QUALIFYING EVENTS.

"(a) IN GENERAL.—For purposes of this title, the term 'qualifying event' means any—

"(1) qualified acquisition,

"(2) qualified closing,

"(3) qualified election, and

"(4) qualified bankruptcy transfer.

"(b) QUALIFIED ACQUISITION.—For purposes of this title, the term 'qualified acquisition' means any arms'-length transaction or series of related transactions—

"(1) under which a person (whether or not a qualified steel company) acquires by purchase, merger, stock acquisition, or otherwise all or substantially all of the steelmaking assets held by the qualified steel company as of January 1, 2000, and

"(2) which occur on and after January 1, 2000, and before the date which is 2 years after the date of the enactment of this title.

Such term shall not include any acquisition by a related person.

"(c) QUALIFIED CLOSING.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified closing' means—

"(A) the permanent cessation on or after January 1, 2000, and before January 1, 2004, by a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, of all activities described in subparagraph (A) or (B) of paragraph (1) of section 901(b), or

"(B) the transfer on or after January 1, 2000, and before January 1, 2004, by a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, of all or substantially all of its steelmaking assets to 1 or more persons other than related persons in an arms'-length transaction or series of related transactions which do not constitute a qualified acquisition.

"(2) COMPANIES IN IMMINENT DANGER OF CLOSURE.—A qualified closing of a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, shall be treated as having occurred if the company—

"(A) meets the acquisition effort requirements of paragraph (3),

"(B) establishes to the satisfaction of the Secretary that—

"(i) it is in imminent danger of becoming a closed company, or

"(ii) in the case of a company operating under protection of chapter 11 of title 11, United States Code, it is unable to reorganize without the relief provided under this title, and

"(C) elects, in such manner as the Secretary prescribes, at any time after the date of the enactment of this title and before the date which is 2 years after the date of the enactment of this title, to avail itself of the relief provided under this title.

"(3) ACQUISITION EFFORT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met by a qualified steel company if—

"(i) the company files with the Secretary within 10 days of the date of the enactment of this title—

"(I) a notice of intent to be acquired, and

"(II) a description of the actions the company will undertake to have its steelmaking assets acquired in a qualified acquisition, and

"(ii) the company at all times after the filing under clause (i) and the date which is 2 years after the date of the enactment of this title (or, if earlier, the date on which the requirement of paragraph (2)(B) is satisfied) makes a continuing, good faith effort to have its steelmaking assets acquired in a qualified acquisition.

"(B) GOOD FAITH EFFORT.—A continuing, good faith effort under subparagraph (A)(ii) shall include—

"(i) the active marketing of a company's steelmaking assets through the retention of an investment banker, the preparation and distribution of offering materials to prospective purchasers, allowing due diligence and investigatory activities by prospective purchasers, the active and good faith consideration of all expressions of interest by prospective purchasers, and any other affirmative action designed to result in a qualified acquisition of a company's steelmaking assets, and

"(ii) a demonstration to the Secretary by the company that no bona fide and fair offer which would have resulted in a qualified acquisition of the company's steelmaking assets has been unreasonably refused.

"(d) QUALIFIED ELECTION.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified election' means an election by a qualified steel company operating under the protection of chapter 11 or 7 of title 11, United States Code, meeting the acquisition effort requirements of subsection (c)(3) to transfer its obligations for steel retiree benefits to the retiree benefit program. Such an election shall be made not earlier than the date which is 2 years after the date of the enactment of this title, and in such manner as the Secretary may prescribe.

"(2) INDUSTRY-WIDE ELECTION.—Notwithstanding paragraph (1), a qualified election shall be treated as having occurred with respect to a qualified steel company (whether or not operating under the protection of chapter 11 or 7 of title 11, United States Code) if—

"(A) the Secretary determines that at least 200,000 eligible retirees and beneficiaries have been certified under section 913 for participation in the retiree benefits program, and

"(B) the qualified steel company elects to avail itself of the relief provided under this title on or after the date of the determination under subparagraph (A).

"(e) QUALIFIED BANKRUPTCY TRANSFER.—For purposes of this title, the term 'qualified bankruptcy transfer' means any transaction or series of transactions—

"(1) under which the qualified steel company, operating under the protection of chapter 11 or 7 of title 11, United States Code, transfers by any means (including but not limited to a plan of reorganization) its control over at least 30 percent of the production capacity of its steelmaking assets to 1 or more persons which are not related persons of such company,

"(2) which are not part of a qualified acquisition or qualified closing of a qualified steel company, and

"(3) which occur on and after January 1, 2000, and before January 1, 2004.

"(f) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall certify a qualifying event with respect to a qualified steel company if the Secretary determines that the requirements of this title are met with respect to such event and that the asset transfer and contribution requirements of section 911 will be met.

"(2) TIME FOR DECISION.—The Secretary shall make any determination under this subsection as soon as possible after a request is filed (and in the case of a request for certification as a qualified acquisition filed at least 60 days before the proposed date of the acquisition, before such proposed date).

"(3) ELIGIBILITY TO FILE REQUEST.—A request for certification under this subsection may be made by the qualified steel company or any labor organization acting on behalf of retirees of such company.

"SEC. 913. ELIGIBILITY AND CERTIFICATION.

"(a) RETIREES.—

"(1) IN GENERAL.—Any individual who is a retiree of a qualified steel company with respect to which the Secretary has certified under section 912 that a qualifying event has occurred shall be treated as an eligible retiree for purposes of this title if—

"(A) the individual was receiving steel retiree benefits under an employee benefit plan described in section 901(a)(2)(A) as of the date of the qualifying event, or

"(B) the individual was eligible to receive such benefits on such date but was not receiving such benefits because the plan ceased to provide such benefits.

"(2) CERTAIN INDIVIDUALS INCLUDED.—An individual shall be treated as an eligible retiree under paragraph (1) if the individual—

"(A) was an employee of the qualified steel company before a qualified acquisition,

"(B) became an employee of the acquiring company as a result of the acquisition, and

"(C) voluntarily retires within 3 years of the acquisition.

"(b) BENEFICIARIES.—An individual shall be treated as an eligible beneficiary for purposes of this title if the individual is the spouse, surviving spouse, or dependent of an eligible retiree (or an individual who would have been an eligible retiree but for the individual's death before the date of the qualifying event).

"(c) CERTIFICATION OF ELIGIBLE RETIREES AND BENEFICIARIES.—

"(1) IN GENERAL.—The Board of Trustees of the Trust Fund shall certify an individual as an eligible retiree or eligible beneficiary if the individual meets the requirements of this section.

“(2) ELIGIBILITY TO FILE REQUEST.—A request for certification under this subsection may be filed by any individual seeking to be certified under this subsection, the qualified steel company, an acquiring company, a labor organization acting on behalf of retirees of such company, or a committee appointed under section 1114 of title 11, United States Code.

“(d) RECORDS.—A qualified steel company, an acquiring company, and any successor in interest shall on and after the date of the enactment of this title maintain and make available to the Secretary and the Board of Trustees of the Trust Fund, all records, documents, and materials (including computer programs) necessary to make the certifications under this section.

“PART III—PROGRAM BENEFITS

“Sec. 921. Program benefits.

“SEC. 921. PROGRAM BENEFITS.

“(a) GENERAL RULE.—Each eligible retiree and eligible beneficiary who is certified for participation in the retiree benefits program shall be entitled—

“(1) to receive health care benefits coverage described in subsection (b), and

“(2) in the case of an eligible retiree, payment of $5,000 death benefits coverage to the beneficiary of the retiree upon the retiree's death.

“(b) HEALTH CARE BENEFITS COVERAGE.—

“(1) IN GENERAL.—The Board of Trustees of the Trust Fund shall establish health care benefits coverage under which eligible retirees and beneficiaries are provided benefits for health care items and services that are substantially the same as the benefits offered as of January 1, 2002, under the Blue Cross/Blue Shield Standard Plan provided under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, to Federal employees and annuitants. In providing the benefits under such program, the secondary payer provisions and the provisions relating to benefits provided when an individual is eligible for benefits under the medicare program under title XVIII of the Social Security Act that are applicable under such Plan shall apply in the same manner as such provisions apply to Federal employees and annuitants under such Plan.

“(2) CONTRACTING AUTHORITY.—The Board of Trustees of the Trust Fund shall have the authority to enter into such contracts as are necessary to carry out the provisions of this subsection, including contracts necessary to ensure adequate geographic coverage and cost control. The Board of Trustees may use the authority under this subsection to establish preferred provider organizations or other alternative delivery systems.

“(3) PREMIUMS, DEDUCTIBLES, AND COST SHARING.—The Board of Trustees of the Trust Fund shall establish premiums, deductibles, and cost sharing for eligible retirees and beneficiaries provided health care benefits coverage under paragraph (1) which are substantially the same as those required under the Blue Cross/Blue Shield Standard Plan described in paragraph (1).

“Subtitle C—Steel Industry Legacy Relief Trust Fund

“SEC. 931. STEEL INDUSTRY LEGACY RELIEF TRUST FUND.

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Steel Industry Legacy Relief Trust Fund, consisting of such amounts as may be appropriated to the Trust Fund as provided in this section.

“(b) TRANSFERS TO TRUST FUND.—

“(1) IN GENERAL.—There are appropriated to the Trust Fund amounts equivalent to—

“(A) tariffs on steel mill products received in the Treasury under title II of this Act,

“(B) amounts received in the Treasury from asset transfers and contributions under section 911,

“(C) amounts credited to the Trust Fund under section 9602(b) of the Internal Revenue Code of 1986, and

“(D) the premiums paid by retirees under the program.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Trust Fund each fiscal year an amount equal to the excess (if any) of—

“(A) expenditures from the Trust Fund for the fiscal year, over

“(B) the assets of the Trust Fund for the fiscal year without regard to this paragraph.

“(c) EXPENDITURES.—Amounts in the Trust Fund shall be available only for purposes of making expenditures—

“(1) to meet the obligations of the United States with respect to liability for steel retiree benefits transferred to the United States under this title, and

“(2) incurred by the Secretary and the Board of Trustees in the administration of this title.

“(d) BOARD OF TRUSTEES.—

“(1) IN GENERAL.—The Trust Fund and the retiree benefits program shall be administered by a Board of Trustees, consisting of—

“(A) 2 individuals designated by agreement of the 5 qualified steel companies which, as of the date of the enactment of this title—

“(i) are conducting activities described in subparagraph (A) or (B) of section 901(b)(1), and

“(ii) have the largest number of retirees, and

“(B) 2 individuals designated by the United Steelworkers of America in consultation with the Independent Steelworkers Union, and

“(C) 3 individuals designated by individuals designated under subparagraphs (A) and (B).

“(2) DUTIES.—Except for those duties and responsibilities designated to the Secretary, the Board of Trustees shall have the responsibility to administer the Trust Fund and the retiree benefits program, including—

“(A) enrolling eligible retirees and beneficiaries under the program,

“(B) procuring the medical services to be provided under the program,

“(C) entering into contracts, leases, or other arrangements necessary for the implementation of the program,

“(D) implementing cost-containment measures under the program,

“(E) collecting revenues and enforcing claims and rights of the program and the Trust Fund,

“(F) making disbursements as necessary under the program, and

“(G) acquiring and maintaining such records as may be necessary for the administration and implementation of the program.

“(3) REPORT.—The Board of Trustees report to Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 2 fiscal years. Such report shall be printed as a House document of the session of Congress to which the report is made.

“(e) TRANSFER INVESTMENT OF ASSETS.—Sections 9601 and 9602(b) of the Internal Revenue Code of 1986 shall apply to the Trust Fund.”•

• Mr. SPECTER. Mr President, I have sought recognition at this time to comment briefly on legislation that I am pleased to cosponsor with my colleague, Senator ROCKEFELLER. That legislation, the “Steel Industry Retiree Benefits Protection Act of 2002,” would set the Nation on a path of assuring the retirement health care benefits of the Nation's retired steelworkers and their dependants, and the survival of a domestic integrated steel industry. I crafted this bill jointly with Senator ROCKEFELLER with extensive consultation by the integrated steel industry and representatives of the United Steelworkers of America. I am pleased to note that labor and management have joined in a common effort to resolve the near-intractable problems that face the industry today, and I thank them for that spirit of cooperation and compromise.

The reasons for this legislation are succinctly stated in the findings set forth in the preamble of the bill. The domestic steel industry has been forced to compete over the last 30 years in an international marketplace in which foreign governments have subsidized both domestic production and employee healthcare costs and, simultaneously, stimulated the creation and maintenance of excess world steelmaking capacity. During the 1980's and 1990's, the steel industry adapted, but literally hundreds of thousands of steel workers were forced into early retirement as the industry streamlined productions methods. Since 1997, the situation has worsened, due to the unfair practices of overseas producers and governments and a resultant glut of foreign imports, to the point that 32 American steel companies have had to resort to bankruptcy protection, causing 45,000 steelworkers to lose their jobs and over 100,000 steel industry retirees to lose vital medical insurance benefits. Record-low steel prices place remaining steel producers, and their workers and retirees, in an increasingly untenable position.

A clear consensus now exists that the only way a domestic integrated steel industry can survive is through consolidation. It is true that the ranks of U.S. integrated producers have been decimated; one need only drive through Pennsylvania to see ample evidence of that. But a domestic industry does indeed survive. It will continue to survive only if there is further consolidation and the emergence of a relatively few domestic companies with the muscle to compete in a global marketplace with subsidized foreign behemoths. But there is a significant impediment to such consolidation: the so-called “legacy costs” of domestic producers which might otherwise be acquired and consolidated into larger, more efficient U.S. operations.

To summarize, a relatively healthy domestic steel producer might find the acquisition, and the continued operation, of a weaker steel company's manufacturing operations to be quite attractive but for one major problem: such operations typically are owned by companies which are weighed down by the health care costs of prior generations of retirees, retirees who are relatively young due to the premature withdrawal of workers from the rolls due to downsizing in the 1980's and 1990's. Potential acquirers of such assets have "legacy costs" of their own to deal with; they cannot afford to assume those of their former competitors, a result that would be unavoidable were they to simply purchase and consolidate the assets of former competitors. If we want consolidation to happen, and it is unquestionably in the Nation's self-interest that it happen; few would dispute that the common defense requires a viable domestic steel industry, potential acquirers of these assets must gain relief from the "legacy cost" obligations that would otherwise run with the acquired assets.

My colleagues might ask: if an acquiring steel company is relieved of these obligations, who would take them on? The answer is this: a Federally-sponsored trust fund, financed with steel tariff receipts; funds previously placed in trust by acquired companies for retiree health and life insurance benefits; fees to be paid by acquiring companies; and, yes, as necessary to cover shortfalls, appropriations. To those who say the public cannot take on these obligations, I offer the following logic: when steel producers go under, as they will if we do not act, the public may very much face exposure to these obligations via the Medicare and Medicaid programs; taking them on before the companies go under will at least assure that the defense-critical steel industry survives. It is an unpleasant choice we face, but it is one which we must face: we may either assume "legacy cost" obligations now and save a vital industry; or we can wait and watch a vital industry die and face up to "legacy costs" later.

I strongly appeal to my colleagues in the Senate to seriously consider this Hobson's choice. If they do, I trust they will come to the same conclusion that I have: we must save this industry by clearing the way for the consolidation that will be necessary to compete in the international market of the future. And we must protect those who have lost, or may yet lose, their health care benefits due to unfair competition from abroad. The steelworkers of America, many from the "Greatest Generation" and from my home, Pennsylvania, built the Nation in the 20th Century. They made the United States the world's only superpower. We need to assure that their post-retirement years are secure.•

By Mr. KERRY (for himself, Ms. SNOWE, Mrs. FEINSTEIN, and Mr. CHAFEE):

S. 2190. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to provide employees with greater control over assets in their pension accounts by providing them with better information about investment of the assets, new diversification rights, and new limitations on pension plan blackouts, and for other purposes; to the Committee on Finance.

• Mr. KERRY. Mr. President, I rise today with a great deal of pride to introduce the Senate's first bipartisan pension reform bill since Enron's downfall ruined the lives of thousands of workers and their families. I am introducing this bill with Senator OLYMPIA SNOWE of Maine, who has worked closely with me to develop a much-needed proposal that will greatly help our nation's workers to achieve greater pension security and receive better investment information and advice. Our bill is called the "Worker Investment and Retirement Education Act of 2002," or the WIRE Act. Senator SNOWE and I are pleased that Senator FEINSTEIN and CHAFEE have joined with us as original cosponsors.

As you know, Enron's bankruptcy, which caused thousands to lose their retirement savings, since their pensions were invested heavily in Enron stock, has prompted many members of Congress in both parties to introduce pension-related legislation. President Bush has also suggested several reforms. Many of these proposals share some common elements, while others contain measures that are objectionable to one side or the other. Senator SNOWE and I share the view that worker retirement protection is much too important to become another partisan issue, where the upcoming elections cloud our judgment and prevent us from passing much-needed legislation. We can, and should, pass critical pension reform this year that helps American workers fee secure about their retirement savings. In my view, the playing field has been tilted against workers for far too long, and it is unfortunate that it takes a travesty like Enron to make those of us in Congress act in their interests.

Of course, the pension issue is one that falls in the jurisdiction of two Senate committees. I strongly support Senator KENNEDY's bill, which recently passed out of the HELP committee here in the Senate. Soon, however, the Senate Finance Committee will also consider pension reform. Given that the history of that Committee is one in which the best bills are often bipartisan, I wanted to work with Senator SNOWE to develop a pro-worker bill for the Finance Committee that can be combined with Senator KENNEDY's bill later on.

The House of Representatives has also followed such a two-committee approach, although I have some significant reservations that the final bill that passed last week does not do enough for workers. I hope to work within the Finance Committee and with Senator KENNEDY to develop a better bill here in the Senate, so we can pass legislation this year that the President will sign. Our goal should be to pass a bill that receives a two-thirds vote in both chambers not because we think President Bush will veto it, but because we want to signal to the country that partisan politics can be pushed aside when the true interests of hard-working Americans are at stake.

Despite all of the news in recent months about corporate greed and excess, recent polls show that nearly two-thirds of the public believes that the most important issue with Enron's collapse is the loss of jobs and savings. With 38 million people controlling nearly $1.7 trillion in 401(k) plan assets, and with nearly 40 percent of large-plan assets tied up in company stock, much of which cannot be sold until workers reach a certain age, it is clear that the playing field needs to be tilted back towards workers. Our bill does just that, and because it is a complete approach, including all types of so-called "defined contribution" plans, as opposed to just some plans, it does so without opening any major new loopholes that would allow workers to be further exploited.

The first thing workers need out of a pension reform bill is better information, because for millions of Americans, their retirement savings is their only true asset other than their homes. Under our bill, all covered workers would be given basic, unbiased information on the basics of investing, as well as personalized information from their employers to help them know if they are adequately preparing for their retirement years. This additional information will make a huge difference to millions of workers who currently have no knowledge about the basics of investing, or if they are saving enough to live comfortably in retirement.

Next, since current law prevents most workers from receiving any sound guidance about financial planning, our bill includes the text of S. 1677, the Bingaman-Collins investment advice bill. Under this bill, millions more workers will benefit from professional, independent investment advice paid for by their employers. Workers will be able to select appropriate investments and better plan for their retirements without the creation of new conflicts of interest.

Like other bills, our bill addresses the issue of blackout periods, those times when plan participants are prevented from making changes to their asset allocations. Senator SNOWE and I believe that companies should provide adequate notice before any blackout period, our bill requires 30 days' notice, and inform workers of its expected length. In addition, blackouts should generally be limited to 30 days for plans that are heavily invested in company stock. Exemptions could be granted to small businesses or companies in unusual circumstances, such as a merger. This latter rule is one that distinguishes our bill from many of the others. But it seems common-sense to use that plans with more volatile assets, such as plans heavily invested in company stock, should be forced to end blackout periods as quickly as possible in order to minimize market risk for the workers.

Moreover, during blackout periods, management should be prohibited from selling large blocks of stock on the open market. We command President Bush for suggesting this additional protection for rank-and-file employees, and we will work with him to help it become law.

But most important, workers want and deserve a greater say in where their money is invested. Diversification is a key principle in any balanced investment strategy. Workers should be empowered with the ability to direct where their retirement savings are invested.

While the shift to more broad-based stock ownership is generally a positive trend in our society, employees should no longer be forced to buy company stock with their own contributions. In addition, if workers choose to buy company stock with their own funds, they should be able to diversify these contributions whenever they wish. It's their money, after all, and they should never be forced to relinquish control of it.

For employer contributions to retirement plans, workers should be allowed to begin diversifying these contributions once they are vested in the plan. Our bill accomplishes that goal while avoiding new loopholes by applying different diversification rules based on the type of contribution, worker payroll deduction, employer matching contribution, or employer nonmatching contribution, rather than the type of plan. We want to make sure that the situation with Enron never happens again, and the protections in our bill will accomplish that goal.

In our view, Congress should also provide special diversification rights for older workers, because the closer you are to retirement, the more you have to lose should stock prices fall. Therefore, under our bill, once a worker turns 55, he or she would be permitted to completely diversify their retirement assets, with no restrictions. This will be the case regardless of tenure with the firm, and regardless of the type of plan. Companies must notify workers of this right to diversify when the worker has reached 55 years of age, thereby giving older workers the additional layer of protection they deserve after a lifetime of work and saving.

I want to say a word about ESOPs. Employee stock ownership plans are important in that they give rank-and-file employees an ownership stake in their firms, which is largely a good thing. We should continue to encourage firms, both public and private, to include their workers in their success. Many public companies are converting parts of their 401(k)s to ESOPs to take advantage of a feature in the tax code that allows them to deduct dividends paid on the shares in the plan. However, these conversions to so-called KSOPs have downsides, in that these plans are generally more restrictive than 401(k)s when employee diversification right are concerned.

As a result, Congress must include both KSOPs and ESOPs in any new diversification rules, to the extent that the plans are at public companies. If we fail to include them, or include one but not the other, we would open a new loophole while limiting workers rights. But again, since broader employee ownership is a generally positive development, we need to help workers without killing publicly-traded ESOPs. Our bill does so. Plus, another unique feature of the Kerry-Snowe bill is that for all workers under age 55 who choose to diversify some of their KSOP or ESOP shares, the firm will still be allowed to deduct for tax purposes the dividends that would have been paid on those shares, for the year of the sale and the following two years. This provision will smooth the transition to a more worker-friendly system.

Finally, the government should create an Office of Pension Participant Advocacy, similar to the Taxpayer Advocate Service, where both unionized and non-unionized workers can turn to voice their concerns about pension policy. The Pension Participant Advocate would issue an annual report to Congress recommending changes to the pension laws. This idea is one that appears in several bills before Congress, and it is long overdue.

All of these proposals will protect our workers, and more importantly, they will do so without prompting reductions in benefits. Businesses could still contribute stock to retirement plans. Workers will be empowered to diversify their assets, but they would not face any new rules that limit their own choices, such as a hard cap on the amount of a single stock they could own. Our bipartisan approach will ensure that workers are better off in the long run, and that's the outcome we all want.●

● Ms. SNOWE. Mr. President, I rise today to join Senator KERRY in introducing the Worker Investment and Retirement Education, or WIRE, Act of 2002. The WIRE Act seeks to empower workers by giving them control over all of the assets in their retirement accounts and ensures that, in addition to having the ability to take command of assets, they have the information they need to make sound and informed choices.

While the need for pension reform was highlighted by the recent collapse and bankruptcy of Enron, a review of pension regulations is critical for all of the approximate 48 million workers nationwide who participate in a defined contribution retirement plan.

And, as Congress sets out to review existing pension laws, we must recognize that there has been a significant shift in Americans' retirement savings vehicles over the past several years. In fact, use of what we think of as the typical "pension", or defined benefit plan, has fallen from one-third of all plans to one-tenth in 20 years. And, the actual number of defined benefit plans has fallen each year since 1986. Although they still account for almost 45 percent of all employer-sponsored retirement plan participants, that figure was much higher, at 74 percent, just 20 years ago.

This shift away from defined benefit plans has resulted in the explosion of participation in defined contribution plans, giving individuals the opportunity to make investment decisions according to their own needs and plans for the future. However, with this ability comes added responsibility and, depending on the investment choice, greater risk. And it is this risk that was so clearly personified by the experience of Enron employees.

On Enron's 40,000 employees, almost 21,000 were participating in the Enron Savings Plan, the 401(k) plan. These loyal employees heavily invested in Enron, only to be hit by the one-two punch of losing their jobs and losing their life savings, with the retirement savings losses amounting to over $1 billion. It is their experience that has led us to write the legislation we are introducing today.

While it is critical that the Congress ensure that such a massive loss of retirement savings never reoccurs, it is also vital that we consider reforms that empower employees, and do not discourage employers from contributing to their employees' retirement plans. As we set out to draft the WIRE Act we sought first and foremost to do no harm to the private pension system.

The WIRE Act, in seeking to increase employees' access to information and ensure that employees have the knowledge necessary to make sound investment decisions, requires that individual workers receive annual statements regarding the assets in their accounts. In addition, our legislation directs the Departments of Labor and the

Treasury to produce annually a document for all employees giving them basic guidelines for retirement investing. This assures that employees receive fundamental investment information from an independent authority.

Additionally, the WIRE Act incorporates the language of the Independent Investment Advice Act of 2001, clarifying the fiduciary rules for plan sponsors who offer access to investment advice by providing companies with a safe harbor from liability if they provide qualified, independent investment advice for their workers.

Just as it is critical that we provide access to the information necessary to make informed decisions, it is essential that we increase employees' diversification rights without inhibiting an employee's ability to invest in their company.

And, certainly a review of the investment decisions of employees across the country tells us that the decision of Enron employees to invest their retirements heavily in Enron stock is not unique. In fact, the employees of many of America's leading companies, our top brand names, have chosen similarly to invest more than half of their retirement plan assets in company stock, Procter and Gamble, 94.7 percent, Sherwin-Williams, 91.6 percent, Pfizer, 88.5 percent, McDonald's, 74.3 percent, the list goes on and on.

And so where does that leave us? How does Congress balance an individual's right to make their own investment decisions, with trying to make sure that no other class of employees suffer as significant a loss as that experienced by Enron employees?

The WIRE Act proposes that the answer to these questions lies in the ability of employees to access and diversify company stock. Therefore, we create specialized diversification rights that are dependent upon the manner in which the stock was added to the employee's account.

For instance, for voluntary purchases of company stock by employees, workers should be able to diversify those shares at any time, after all, it is their own money. For employer-matching contributions made in the form of company stock, half of those shares can be diversified after three years of service, and one hundred percent can be diversified after five years of service.

Importantly, as our intent is to first do no harm to the current employer-sponsored pension system, the WIRE Act attempts to mitigate any potential loss of tax incentives enjoyed by employers for making contributions in the form of company stock when that stock is diversified. We do this by allowing employers to continue to deduct the dividends that would have been paid on employee held company stock for the remainder of that calendar year and for two additional years. This provision, which is unique to the WIRE Act, would ensure that the diversification rights given to employees does not have the unfortunate effect of reducing employer contributions to pension plans—which would be harmful to both the employees and the employers.

The bill we introduce today aims to do nothing to limit personal choice, which is the cornerstone of American beliefs, but instead empower investors with the knowledge and ability to make some of the most fundamental financial decisions a person can make. However, as we begin to consider how best to empower and educate employees, it is just as essential that we do not create any disincentives for employers to stop participating in their employees' retirement security. Employers play a critical role in the retirement planning of their employees and it is critical that we encourage this role to continue.

Retirement is part of the American dream, and to that end we must do whatever we can to ensure that this dream is achievable for everyone. I look forward to working with the other members of the Finance Committee, and the Senate, to consider addressing the need for pension reform.●

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 244—ELIMINATING SECRET SENATE HOLDS

Mr. GRASSLEY (for himself and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 244

Resolved,

SECTION 1. ELIMINATING SECRET SENATE HOLDS.

Rule VII of the Standing Rules of the Senate is amended by adding at the end the following:

"7. A Senator who provides notice to party leadership of his or her intention to object to proceeding to a motion or matter shall disclose the notice of objection (or hold) in the Congressional Record in a section reserved for such notices not later than 2 session days after the date of the notice.".

Mr. GRASSLEY. Mr. President, today I am submitting, along with my colleague Senator WYDEN, a Senate resolution to amend the Senate rules to eliminate secret holds.

I know Senators are familiar with the practice of placing holds on matters to come before the Senate.

Holds derive from the rules and traditions of the Senate.

In order for the Senate to run smoothly, objections to unanimous consent agreements must be avoided.

Essentially, a hold is a notice by a Senator to his or her party leader of an intention to object to bringing a bill or nomination to the floor for consideration.

This effectively prevents the Senate leadership from attempting to bring the matter before the Senate.

A Senator might place a hold on a piece of legislation or a nomination because of legitimate concerns about that legislation or nomination.

However, there is no legitimate reason why a Senator placing a hold on a matter should remain anonymous.

I believe in the principle of open government.

Lack of transparency in the public policy process leads to cynicism and distrust of public officials.

I would maintain that the use of secret holds damages public confidence in the institution of the Senate.

It has been my policy, and the policy of Senator WYDEN as well, to disclose in the CONGRESSIONAL RECORD any hold that I place on any matter in the Senate along with my reasons for doing so.

As a practical matter, other Members of the Senate need to be made aware of an individual Senator's concerns.

How else can those concerns be addressed?

As a matter of principle, the American people need to be made aware of any action that prevents a matter from being considered by their elected Senators.

Senator WYDEN and I have worked twice to get a similar ban on secret holds included in legislation passed by the Senate.

But, both times it was removed in conference.

Then, at the beginning of the 106th Congress, Senate Leaders LOTT and DASCHLE circulated a letter informing Senators of a new policy regarding the use of holds.

The Lott/Daschle letter stated,

> . . . all members wishing to place a hold on any legislation or executive calendar business shall notify the sponsor of the legislation and the committee of jurisdiction of their concerns.

This agreement was billed as marking the end of secret holds in the Senate and I took the agreement at face value.

Unfortunately, this policy has not been followed consistently.

Secret holds have continued to appear in the Senate.

For example, last November, it became apparent that an anonymous hold had been placed on a bill, S. 739, sponsored by Senator WELLSTONE.

This bill had been reported by the Committee on Veterans' Affairs.

However, neither Senator WELLSTONE nor Senator ROCKEFELLER, as chairman of the Committee on Veterans' Affairs, were ever informed as to which Senator or Senators had placed the hold.

The time has come to end this distasteful practice for good.

This resolution that Senator WYDEN and I are submitting would do just that.

It would add a section to the Senate rules requiring that Senators make public any hold placed on a matter within two session days of notifying his or her party leadership.

This change will lead to more open dialogue and more constructive debate in the Senate.

Ending secret holds will make the workings of the Senate more transparent.

It will reduce secrecy and public cynicism along with it.

This reform will improve the institutional reputation of the Senate and I would urge my colleagues to support the Grassley-Wyden resolution.

• Mr. WYDEN. Mr. President, One of the Senate's most popular procedures cannot be found anywhere in the United States Constitution or in the Senate Rules. It is one of the most powerful weapons that any Senator can wield in this body. And it is even more potent when it is invisible. The procedure is popularly known as the "hold."

The "hold" in the Senate is a lot like the seventh inning stretch in baseball: there is no official rule or regulation that talks about it, but it is has been observed for so long that it has become a tradition.

The resolution that Senator GRASSLEY and submit today does not in any way limit the privilege of any Senator to place a "hold" on a measure or matter. Our resolution targets the stealth cousin of the "hold," known as the "secret hold." It is the anonymous hold that is so odious to the basic premise of our democratic system: that the exercise of power always should be accompanied by public accountability. Our resolution would bring the anonymous hold out of the shadows of the Senate.

Senator GRASSLEY and I have championed this idea in a bipartisan manner for six years now. In 1997 and again in 1998, the United States Senate voted unanimously in favor of our amendments to require that a notice of intent to object be published in the CONGRESSIONAL RECORD within 48 hours. The amendments, however, never survived conference.

So we took our case directly to the leadership, and to their credit, TOM DASCHLE and TRENT LOTT agreed it was time to make a change. They recognized the significant need for more openness in the way the United States Senate conducts its business so TOM DASCHLE and TRENT LOTT sent a joint letter in February 1999 to all Senators setting forth a policy requiring "all Senators wishing to place a hold on any legislation or executive calender business [to] notify the sponsor of the legislation and the committee of jurisdiction of their concerns." The letter said that "written notification should be provided to the respective Leader stating their intentions regarding the bill or nomination," and that "holds placed on items by a member of a personal or committee staff will not be honored unless accompanied by a written notification from the objecting Senator by the end of the following business day."

At first, this action by the Leaders seemed to make a real difference. Many Senators were more open about their holds, and staff could no longer slap a hold on a bill with a quick phone call. But after six to eight months, the Senate began to slip back towards the old ways. Abuses of the "holds" policy began to proliferate, staff-initiated holds-by-phone began anew, and it wasn't too long before legislative gridlock set in and the Senate seemed to have forgotten what Senators DASCHLE and LOTT had tried to do.

My own assessment of the situation now, which is not based on any scientific evidence, GAO investigation or CRS study, is that a significant number of our colleagues in the Senate have gotten the message sent by the Leaders, and have refrained from the use of secret holds. They inform sponsors about their objections, and do not allow their staff to place a hold without their approval. My sense is that the legislative gridlock generated by secret holds may be attributed to a relatively small number of abusers. The resolution we are submitting today will not be disruptive for a solid number of Senators, but it will up the ante on those who may be "chronic abusers" of the Leaders' policy on holds.

Our bipartisan resolution would amend the Standing Rules of the Senate to require that a Senator who notifies his or her leadership of an intent to object shall disclose that objection in the CONGRESSIONAL RECORD not later than two session days after the date of the notice. The resolution would assure that the awesome power possessed by an individual Senator to stop legislation or a nomination should be accompanied by public accountability.

The requirement for public notice of a hold two days after the intent has been conveyed to the leadership may prove to be an inconvenience but not a hardship. No Senator will ever be thrown in jail for failing to give public notice of a hold. Senators routinely place statements in the CONGRESSIONAL RECORD recognizing the achievements of a local Boys and Girls Club, or congratulating a local sports team on a State championship. Surely the intent of a Senator to block the progress of legislation or a nomination should be considered of equal importance.

I have adhered to a policy of publicly announcing my intent to object to a measure or matter. This practice has not been a burden or inconvenience. On the contrary, my experience with the public disclosure of holds is that my objections are usually dealt with in an expeditious manner, thereby enabling the Senate to proceed with its business.

Although the Senate is still several months away from the high season of secret holds, a number of important pieces of legislation have already become bogged down in the swamp of secret holds this year. The day is not far off when any given Senator may be forced to place holds on numerous other pieces of legislation or nominees just to try to "smoke out" the anonymous objector. The practice of anonymous multiple or rolling holds is more akin to legislative guerilla warfare than to the way the Senate should conduct its business.

It is time to drain the swamp of secret holds. The resolution we submit today will be referred to the Senate Committee on Rules. It is my hope that the Committee will take this resolution seriously, hold public hearings on it and give it a thorough vetting. This is one of the most awesome powers held by anyone in American government. It has been used countless times to stall and strangle legislation. It is time to bring accountability to the procedure and to the American people.•

SENATE RESOLUTION 245—DESIGNATING THE WEEK OF MAY 5 THROUGH MAY 11, 2002, AS "NATIONAL OCCUPATIONAL SAFETY AND HEALTH WEEK"

Mr. DURBIN (for himself, Mr. BROWNBACK, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 245

Whereas every year, more than 6,000 people die from job-related injuries and millions more suffer occupational injuries or illnesses;

Whereas every day, millions of people go to and return home from work safely due, in part, to the efforts of many unsung heroes—the occupational safety, health, and environmental professionals who work day in and day out identifying hazards and implementing safety advances in all industries and at all workplaces, thereby reducing workplace fatalities and injuries;

Whereas these safety professionals work to prevent accidents, injuries, and occupational diseases, create safer work and leisure environments, and develop safer products;

Whereas the more than 30,000 members of the 90-year-old nonprofit American Society of Safety Engineers, based in Des Plaines, Illinois, are safety professionals committed to protecting people, property, and the environment globally;

Whereas the American Society of Safety Engineers, in partnership with the Canadian Society of Safety Engineers, has designated May 5 through May 11, 2002, as North American Occupational Safety and Health Week (referred to in this resolution as "NAOSH week");

Whereas the purposes of NAOSH week are to increase understanding of the benefits of investing in occupational safety and health, to raise the awareness of the role and contribution of safety, health, and environmental professionals, and to reduce workplace injuries and illnesses by increasing awareness and implementation of safety and health programs;

Whereas during NAOSH week the focus will be on hazardous materials—what they are, emergency response information, the skills and training necessary to handle and transport hazardous materials, relevant laws, personal protection equipment, and hazardous materials in the home;

Whereas over 800,000 hazardous materials are shipped every day in the United States, and over 3,100,000,000 tons are shipped annually; and

Whereas the continued threat of terrorism and the potential use of hazardous materials make it vital for Americans to have information on these materials: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 5 through May 11, 2002, as "National Occupational Safety and Health Week";

(2) commends safety professionals for their ongoing commitment to protecting people, property, and the environment;

(3) encourages all industries, organizations, community leaders, employers, and employees to support educational activities aimed at increasing awareness of the importance of preventing illness, injury, and death in the workplace; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe "National Occupational Safety and Health Week" with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3135. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3136. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3103 submitted by Mr. KENNEDY (for himself and Mr. SMITH of Oregon) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3137. Mr. CAMPBELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3138. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3139. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3140. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3141. Mr. DORGAN (for himself, Ms. CANTWELL, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3135. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 23 and all that follows through page 48, line 4, and insert the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

"(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to an independently administered, auction-based day ahead and real time wholesale market for the sale of electric energy.

"(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

"(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

SA 3136. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3103 submitted by Mr. KENNEDY (for himself and Mr. SMITH of Oregon) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48 the following:

"SEC. 48B. BROADBAND CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

"(1) the current generation broadband credit, plus

"(2) the next generation broadband credit.

"(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

"(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

"(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) LIMITATION.—

"(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service,

after December 31, 2002.

"(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after December 31, 2002, by a person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES.—

"(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of—

“(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

“(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

“(e) DEFINITIONS.—For purposes of this section—

“(1) ANTENNA.—The term ‘antenna’ means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

“(2) CABLE OPERATOR.—The term ‘cable operator’ has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

“(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term ‘commercial mobile service carrier’ means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

“(4) CURRENT GENERATION BROADBAND SERVICE.—The term ‘current generation broadband service’ means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

“(5) MULTIPLEXING OR DEMULTIPLEXING.—The term ‘multiplexing’ means the transmission of 2 or more signals over a single channel, and the term ‘demultiplexing’ means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

“(6) NEXT GENERATION BROADBAND SERVICE.—The term ‘next generation broadband service’ means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

“(7) NONRESIDENTIAL SUBSCRIBER.—The term ‘nonresidential subscriber’ means a person who purchases broadband services which are delivered to the permanent place of business of such person.

“(8) OPEN VIDEO SYSTEM OPERATOR.—The term ‘open video system operator’ means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

“(9) OTHER WIRELESS CARRIER.—The term ‘other wireless carrier’ means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

“(10) PACKET SWITCHING.—The term ‘packet switching’ means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

“(11) PROVIDER.—The term ‘provider’ means, with respect to any qualified equipment—

“(A) a cable operator,

“(B) a commercial mobile service carrier,

“(C) an open video system operator,

“(D) a satellite carrier,

“(E) a telecommunications carrier, or

“(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

“(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

“(A) a subscriber has been passed by the provider’s equipment and can be connected to such equipment for a standard connection fee,

“(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

“(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

“(D) such services have been purchased by one or more such subscribers, and

“(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

“(13) QUALIFIED EQUIPMENT.—

“(A) IN GENERAL.—The term ‘qualified equipment’ means equipment which provides current generation broadband services or next generation broadband services—

“(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

“(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

“(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

“(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

“(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

“(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

“(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

“(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber’s premises.

“(14) QUALIFIED EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified expenditure’ means any amount—

“(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

“(ii) incurred after December 31, 2002, and before January 1, 2004.

“(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

“(15) QUALIFIED SUBSCRIBER.—The term ‘qualified subscriber’ means—

“(A) with respect to the provision of current generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

“(B) with respect to the provision of next generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber.

“(16) RESIDENTIAL SUBSCRIBER.—The term ‘residential subscriber’ means an individual who purchases broadband services which are delivered to such individual’s dwelling.

“(17) RURAL AREA.—The term ‘rural area’ means any census tract which—

“(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

“(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

“(18) RURAL SUBSCRIBER.—The term ‘rural subscriber’ means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

“(19) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

“(20) SATURATED MARKET.—The term ‘saturated market’ means any census tract in which, as of the date of the enactment of this section—

"(A) current generation broadband services have been provided by one or more providers to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

"(B) such services can be utilized—

"(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

"(21) SUBSCRIBER.—The term 'subscriber' means a person who purchases current generation broadband services or next generation broadband services.

"(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

"(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

"(B) does not include a commercial mobile service carrier.

"(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

"(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

"(A) an empowerment zone or enterprise community designated under section 1391,

"(B) the District of Columbia Enterprise Zone established under section 1400,

"(C) a renewal community designated under section 1400E, or

"(D) a low-income community designated under section 45D.

"(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (17), (20), and (24) of subsection (e). In making such designations, the Secretary shall consult with such other departments and agencies as the Secretary determines appropriate.".

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following:

"(5) the broadband credit."

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end the following:

"(v) from the sale of property subject to a lease described in section 48B(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48B for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.".

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48A the following:

"Sec. 48B. Broadband credit.".

(e) REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48B of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband credit under section 48B of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48B of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48B of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48B of such Code.

Until the Secretary prescribes such regulations, taxpayers may base such determinations on any reasonable method that is consistent with the purposes of section 48B of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002, and before January 1, 2004.

SA 3137. Mr. CAMPBELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 92, between lines 17 and 18, insert the following:

Subtitle A—Energy Programs

On page 94, line 5, insert "and nonrenewable" after "renewable".

On page 109, line 5, strike "renewable" and insert "tribal".

On page 109, line 12, insert "and nonrenewable" after "renewable".

On page 109, line 14, insert "and nonrenewable" after "renewable".

On page 115, between lines 3 and 4, insert the following:

Subtitle B—Energy Development

SEC. 411. DEFINITIONS.

In this subtitle:

(1) FUND.—The term "Fund" means the Joint Energy Development Feasibility Fund established under section 412(g).

(2) INDIAN LAND.—

(A) IN GENERAL.—The term "Indian land" means any land within the limits of—

(i) any Indian reservation, pueblo, or rancheria; or

(ii) a former reservation in Oklahoma;

which is held in trust by the United States or subject to Federal restriction upon alienation.

(B) LANDS IN ALASKA.—Land in Alaska owned by an Indian tribe, as that term is defined in this subsection (3), shall be considered to be Indian land.

(3) INDIAN TRIBE.—

(A) IN GENERAL.—The term "Indian tribe" means any Indian tribe, band, nation or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) (43 U.S.C. 1601 et seq.) which is eligible to receive services provided by the United States because of their status as Indians.

(B) TRIBAL CONSORTIA.—For purposes of this Act only, the term "Indian tribe" includes a consortium of Indian entities described in subparagraph (A).

(4) SECRETARY.—The term "Secretary" means Secretary of the Interior.

SEC. 412. INDIAN ENERGY DEVELOPMENT DEMONSTRATION PROJECT.

(a) PURPOSE.—The purpose of this section is to authorize the Secretary of the Interior to establish an Indian energy development demonstration project to—

(1) promote the energy self-sufficiency of the United States by encouraging the development of energy resources on Indian land;

(2) enable and encourage Indian tribes to take advantage of energy opportunities by expediting the procedures for entering into energy development agreements with respect to Indian land;

(3) meet the energy needs of members of Indian tribes by encouraging the development of energy resources on Indian land; and

(4) protect the environmental and economic interests of Indian tribes and communities located adjacent to Indian land.

(b) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means the demonstration project carried out by the Secretary under subsection (c)(1).

(2) DEVELOPMENT PLAN.—The term "development plan" means a comprehensive Indian energy development plan described in subsection (d)(1).

(3) ENERGY RESOURCE.—The term "energy resource" means a renewable or nonrenewable source of energy.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a demonstration project to provide for the development of energy sources on Indian land.

(2) SELECTION OF PARTICIPATING TRIBES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, in accordance with such application and review procedures as the Secretary, in consultation with interested Indian tribes, shall establish, the Secretary may select not more than 25 Indian tribes to participate in the demonstration project.

(B) ADDITIONAL TRIBES.—In addition to the Indian tribes selected under subparagraph (A), the Secretary may select an additional 5 Indian tribes for each fiscal year after the date of expiration of the 1-year period referred to in subparagraph (A).

(C) APPLICATION.—An Indian tribe that seeks to participate in the demonstration project shall submit to the Secretary an application that includes—

(i) certification by the governing body of the Indian tribe that the Indian tribe has requested to participate in the demonstration project; and

(ii) a description of the reasons why the Indian tribe seeks to participate in the demonstration project, including an overview of the types of energy development projects and activities that the Indian tribe anticipates will be carried out on the Indian land of the Indian tribe under the demonstration project.

(d) COMPREHENSIVE INDIAN ENERGY DEVELOPMENT PLANS.—

(1) IN GENERAL.—The Secretary shall require each Indian tribe that participates in the demonstration project to submit to the Secretary for approval a comprehensive Indian energy development plan that—

(A) describes the manner in which the Indian tribe intends to govern activities of the Indian tribe with respect to energy sources on the Indian land of the Indian tribe;

(B) includes information relating to—

(i) the siting of energy facilities on the Indian land of the Indian tribe; and

(ii) the granting of rights-of-way for any energy-related purposes;

(C) describes how the Indian tribe will protect the environment on its land in conjunction with the development of its energy sources; and

(D) describes any proposed actions by the Indian tribe that would require approval under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

(2) PLAN APPROVAL.—

(A) GUIDELINES.—The Secretary, taking into consideration the purposes of this section, shall develop guidelines for the approval of development plans.

(B) ACTION BY THE SECRETARY.—

(i) IN GENERAL.—The Secretary shall approve or disapprove a development plan not later than 120 days after the Secretary receives the development plan.

(ii) FAILURE TO ACT.—If the Secretary fails to approve or disapprove a development plan within time period specified in clause (i), the development plan shall be considered to be approved.

(C) AGREEMENTS.—Notwithstanding any other provision of law, after approval by the Secretary of a development plan of an Indian tribe, the Indian tribe, without further approval by the Secretary, may enter into 1 or more agreements for the development of energy sources in accordance with the development plan.

(e) FEDERAL LIABILITY.—The Secretary shall not be liable for any action taken, or any failure to act, by any Indian tribe or other person in accordance with a development plan under paragraph (2), unless the Secretary, in approving the plan, has violated the trust responsibility to that Indian tribe.

(f) REPORT TO CONGRESS.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, a report that—

(1) describes the implementation and effectiveness of the demonstration project; and

(2) includes any recommendations of the Secretary relating to administrative, statutory, or other changes that are considered by the Secretary to be necessary to achieve the purposes specified in subsection (a).

(g) JOINT ENERGY DEVELOPMENT FEASIBILITY FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the "Joint Energy Development Feasibility Fund".

(2) USE OF FUND.—The Secretary may use amounts in the Fund to—

(A) provide loans to Indian tribes to assist in—

(i) identifying energy development opportunities on Indian land;

(ii) preparing and implementing comprehensive Indian energy development plans; and

(iii) carrying out other activities consistent with the purposes of this subtitle; and

(B) make grants to Indian tribes to assist in the establishment of multi-tribal energy consulting and energy development corporations to assist Indian tribes in preparing or implementing comprehensive Indian energy development plans.

(3) INDIAN ENERGY DEVELOPMENT REGISTRY.—In consultation with the Indian tribes, the Secretary shall compile an Indian Energy Development Registry to serve as an electronic database identifying energy sources on Indian land. Prior to any related information being included in the Registry, the Secretary shall seek and secure the approval of the appropriate Indian tribe.

(4) REPAYMENT OF LOANS.—Under terms and conditions approved by the Secretary, an Indian tribe that receives a loan from the Fund shall repay the loan from the proceeds of an energy development project facilitated by the loan.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

SEC. 413. LAND ACQUISITIONS FOR PURPOSES OF ENERGY DEVELOPMENT.

(a) APPLICATION.—

(1) IN GENERAL.—On submission, in accordance with section 5 of the Act of June 18, 1934 (25 U.S.C. 465), by an Indian tribe to the Secretary of an application to take land into trust for the purpose of energy development, the Secretary shall approve the application if the application meets the requirements described in paragraph (2).

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are that—

(A) the land that is proposed to be taken into trust under the application is located within the exterior boundaries of the Indian land of an Indian tribe;

(B) the land is proposed to be taken into trust only for purposes consistent with this section; and

(C) the application contains provisions that waive any rights of the Indian tribe that submitted the application, or any other Indian tribe, to conduct gaming activities on the land in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) APPROVAL.—If the Secretary does not approve or disapprove an application submitted by an Indian tribe under subsection (a) within the 120-day period beginning on the date of submission of the application, the application shall be considered to be approved.

SEC. 414. ENERGY ASSET PRODUCTIVITY ENHANCEMENT.

(a) FEDERAL WATER AND POWER PROJECTS INVENTORY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete, publish in the Federal Register, and submit in accordance with paragraph (2) a report on, an inventory of all federally-owned water projects and power projects that are—

(A) under the jurisdiction of the Secretary; and

(B) located on Indian land.

(2) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that—

(A) describes the results of the inventory completed under paragraph (1);

(B) identifies potentially transferable water projects and power projects contained in the inventory completed under paragraph (1); and

(C) includes options recommended by the Secretary for the eventual ownership, management, operation, and maintenance of those projects by Indian tribes (including ownership, management, operation, and maintenance in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)).

(b) FEDERAL TRANSFERS.—

(1) IN GENERAL.—After publication of the inventory under subsection (a)(1), and on the request of an Indian tribe, the Secretary shall transfer the ownership of any water project or power project to the Indian tribe if—

(A) the project is—

(i)(I) owned by the United States; and

(II) under the administrative jurisdiction of the Secretary; and

(ii) located on the Indian land of the Indian tribe;

(B) the Indian tribe agrees to hold the United States harmless for any liability relating to ownership, management, operation, and maintenance of the project by the Indian tribe; and

(C) the Secretary determines that the transfer—

(i) is in the best interests of the United States and the Indian tribe; and

(ii) would not be detrimental to local communities.

(2) NO CHANGE IN PURPOSE OR OPERATION.—No transfer of a water project or power project under paragraph (1) shall authorize any change in the purpose or operation of the project.

SEC. 415. REVIEW OF PROVISIONS RELATING TO ENERGY ON INDIAN LAND.

(a) FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete, and submit to Congress in accordance with paragraph (2) a report on, a review of the royalty system for oil and gas development on Indian land—

(A) under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.); and

(B) in accordance with leases of Indian land that involve the development of oil or gas resources on that land.

(2) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that describes—

(A) the findings made by the Secretary as a result of the review under paragraph (1);

(B) an analysis of—

(i) the barriers to the development of energy sources on Indian land; and

(ii) the best means of removing those barriers; and

(C) recommendations of the Secretary with respect to measures to—

(i) increase energy production on Indian land;

(ii) maximize revenues to Indian tribes and members of Indian tribes from that energy production; and

(iii) ensure the timely payment of revenues from that energy production.

(3) RECOMMENDATIONS.—The Secretary shall implement the recommendations described in paragraph (2)(C) for which the Secretary has implementation authority.

(4) IMPACTS ON INDIAN LAND.—Notwithstanding the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), an Indian tribe shall be eligible for assistance to mitigate the effects of exploration, extraction, and removal of oil or gas on Indian land to the same extent as a State is eligible for assistance for exploration, extraction, or removal of oil and gas on State land.

(b) INDIAN MINERAL DEVELOPMENT ACT REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete, and submit to Congress in accordance with paragraph (2) a report on, a review of all activities that have been conducted on Indian land under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

(2) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that describes—

(A) the findings made by the Secretary as a result of the review under paragraph (1);

(B) an analysis of—

(i) the barriers to the development of energy sources on Indian land; and

(ii) the best means of removing those barriers; and

(C) recommendations of the Secretary with respect to measures to—

(i) increase energy production on Indian land; and

(ii) maximize the opportunities to develop those energy sources.

(3) RECOMMENDATIONS.—The Secretary shall implement the recommendations described in paragraph (2)(C) for which the Secretary has implementation authority.

SEC. 416. ENERGY EFFICIENCY AND CONSERVATION IN INDIAN HOUSING.

(a) FINDING.—Congress finds that the Secretary of Housing and Urban Development should promote energy conservation in housing located on Indian land that is assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the encouragement of shared savings contracts; and

(3) other similar technologies and innovations considered appropriate by the Secretary of Housing and Urban Development.

(b) ENERGY EFFICIENCY IN ASSISTED HOUSING.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting "improvement to achieve greater energy efficiency," after "planning,".

(c) TECHNICAL ASSISTANCE TO NONPROFIT AND COMMUNITY ORGANIZATIONS.—The Secretary of Housing and Urban Development, in cooperation with Indian tribes or tribally-designated housing entities of Indian tribes, may provide, to eligible (as determined by the Secretary of Housing and Urban Development) nonprofit and community organizations, technical assistance to initiate and expand the use of energy-saving technologies in—

(1) new home construction;

(2) housing rehabilitation; and

(3) housing in existence as of the date of enactment of this Act.

(d) REVIEW.—The Secretary of Housing and Urban Development and the Secretary of the Interior, in consultation with Indian tribes or tribally-designated housing entities of Indian tribes, shall—

(1) complete a review of regulations promulgated by the Secretary of Housing and Urban Development and the Secretary of the Interior to determine any necessary and feasible measures that may be taken to promote greater use of energy efficient technologies in housing for which Federal assistance is provided under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.);

(2) develop energy efficiency and conservation measures for use in connection with housing that is—

(A) located on Indian land; and

(B) constructed, repaired, or rehabilitated using assistance provided under any law or program administered by the Secretary of Housing and Urban Development and the Secretary of the Interior, including—

(i) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

(ii) the Indian Home Improvement Program of the Bureau of Indian Affairs; and

(3) promote the use of the measures described in paragraph (2) in programs administered by the Secretary of Housing and Urban Development and the Secretary of the Interior, as appropriate.

SA 3138. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, strike lines 8 through 11 and insert the following:

"(4) CELLULOSIC BIOMASS ETHANOL.—

"(A) IN GENERAL.—For the purpose of paragraph (2)—

"(i) except as provided in clause (ii), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel; and

"(ii) 1 gallon of cellulosic biomass ethanol shall be considered the equivalent of 2 gallons of renewable fuel if the cellulosic biomass ethanol is derived from agricultural residues.

"(B) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

"(i) IN GENERAL.—The Secretary of Energy may make grants to merchant producers of cellulosic biomass ethanol to assist such producers in building eligible facilities for the production of cellulosic biomass ethanol.

"(ii) ELIGIBILE FACILITIES.—A facility shall be eligible to receive a grant under this paragraph if the facility—

"(I) is located in the United States; and

"(II) uses cellulosic biomass ethanol feed stocks derived from agricultural residues.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph such sums as may be necessary for fiscal years 2003, 2004, and 2005.".

SA 3139. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 204, strike line 15 and all that follows through page 205, line 8 and insert the following:

"Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.".

SA 3140. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Powers Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) with either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

“(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

“(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.”

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting “(a)” before the first sentence; and

(2) adding at the end the following:

“(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

“(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—

“(A) will be no less protective of the fishery than the fishway initially prescribed by the Secretary; and

“(B) with either—

“(i) cost less to implement, or

“(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

“(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

“(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.”

SA 3141. Mr. DORGAN (for himself, Ms. CANTWELL, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 2917 by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 10, insert:

SEC. 824. FUEL CELL VEHICLE PROGRAM.

Not later than one year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timetables for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of Energy budget.”

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I seek the unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April, 17, 2002, at 2 p.m., in room 485 of the Russell Senate Office Building to conduct an oversight hearing on subsistence hunting and fishing issues in the State of Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 17, 2002, at 2:30 p.m., to hold an open hearing on the nomination of John L. Helgerson to be Inspector General of the Central Intelligence Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on “Should the Office of Homeland Security Have More Power? A Case Study in Information Sharing” on Wednesday, April 17, 2002, at 9:30 a.m., in Dirksen 226.

Witness List

Panel I: Mr. Vance Hitch, Chief Information Officer, Department of Justice, Washington, DC; Mr. Eugene O'Leary, Acting Assistant Director for the Information Resource Division, Federal Bureau of Investigation, Washington, DC; and Mr. Scott Hastings, Deputy Associate Commissioner for Information Resources, Immigration and Naturalization Service, Washington, DC.

Panel II: Mr. Leon Panetta, Director, Panetta Institute, Monterey Bay, California; Mr. George J. Terwilliger III, Partner, White & Case, Washington, DC; Mr. Philip Anderson, Senior Fellow, International Security Program, Center for Strategic and International Studies, Washington, DC; and Mr. Paul C. Light, Vice President and Director, Governmental Studies, Brookings Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, FEDERALISM AND PROPERTY RIGHTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution, Federalism & Property Rights be authorized to meet to conduct a hearing on “Applying the War Powers Resolution to the War on Terrorism,” on Wednesday, April 17, 2002, at 2 p.m., in SD–226.

Panel: Mr. John Yoo, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, Washington, DC; Mr. Louis Fisher, Senior Specialist in Separation of Powers, Congressional Research Service, Library of Congress, Washington, DC; Mr. Alton Frye, Presidential Senior Fellow and Director, Program on Congress and Foreign Policy, Council on Foreign Relations, Washington, DC; Mr. Michael Glennon, Professor of Law and Scholar in Residence, The Woodrow Wilson International Center for Scholars, Washington, DC; Mr. Douglas Kmiec, Dean of the Columbus School of Law, The Catholic University of America, Washington, DC; Ms. Jane Stromseth, Professor of Law, Georgetown University Law Center, Washington, DC; and Ms. Ruth Wedwood, Edward B. Burling Professor of International Law and Diplomacy, Yale Law School and The Paul H. Nitze School of Advanced International Studies, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that an intern in my office, Tanya Balsky, be allowed privileges on the floor for the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I ask unanimous consent that Christopher Jackson, a fellow in my office, be granted the privilege of the floor for the duration of the debate on the energy bill, S. 517.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment following the statement of the Senator from Alaska, which is for debate only, as we have discussed.

Mr. MURKOWSKI. Mr. President, reserving the right to object, I have been notified there may be another Republican who will speak.

Mr. REID. I am going to include that. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the statements of the Senator from Alaska, Mr. MURKOWSKI, and the Senator from Texas, Mr. GRAMM, and that their statements be for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, let me take a minute and say I appreciate very much the courtesy of the Senator from Alaska. He has been here for days. With his courtesy, I can go home a couple hours before he can, and I appreciate that very much.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. MURKOWSKI. I thank my good friend, the majority whip from Nevada. I am sure at some point in time the situation will be reversed, and we will be on a Nevada issue of some torturous nature, Yucca Mountain or some such issue, and he will be here through the evening time.

I recognize the hour is late, and I also recognize the issue before us is the crux of the energy debate. It is the so-called lightning rod known as ANWR.

It has been interesting to be here today and participate with a number of Senators, almost all of whom have never been to my State and visited ANWR. They certainly had some strong opinions about it. One has to question where those opinions may have come from, but I am sure they meant well and their own convictions as they stated them were reflective of information they had.

I am going to spend a little time tonight on information and education. Make no mistake about it, Mr. President, you and I both know we are speaking to an empty Chamber. On the other hand, I appreciate the courtesy of your attention and that of the staff who is still with us.

We have a different audience out there, and we do not know who they are, but I think it is fair to say that from the debate here, a lot of Members of this body are not too well informed on the factual issues in my State of Alaska. Senator STEVENS and I have attempted to change that by a characterization that we think is representative of the facts associated with resource development in our State.

I hope as we address whatever audience may be out there, that they, too, recognize certain realities of those of us who have been elected by our constituents to represent their interests. It is in that vein that I speak to you tonight, Mr. President.

I guess this all started in the sense of a slippery slope when Republicans lost control of this body. We had a vote on ANWR in 1995. It passed in the omnibus bill. President Clinton vetoed it. At that time, control of the Senate was in Republican hands, 55 to 45. Now it is 50 to 49 in favor of the Democrats. This is a clear reality, and I am sure it will be reflected in the cloture votes tomorrow.

One could say that the salvation of ANWR is pretty much directed by the Republican Party. That certainly has been the case in the past, and it appears to be the case today. We will see where it is tomorrow.

The last time we had an ANWR vote, it was a simple majority. We were not faced with a cloture vote. We were not faced with having to overcome 60 votes. Equity is equity and rules are rules, and I understand that. But the manner in which this occurred is particularly offensive to me because I happened to be at the beginning of this year the chairman of the Energy and Natural Resources Committee. One of my goals, of course, was to present before that committee that I chaired the ANWR amendment, debate it, and vote it out.

Then we had a little change of structure in the Senate in June and, as a consequence, the Republicans lost control of the Senate. I still had hopes because some of my Democratic friends had actually visited ANWR and they were convinced it could be opened up safely. As a consequence of the chronology of that, I had assumed we would take up the energy bill in the committee of jurisdiction, debate it, come up with amendments, and present it on the floor of the Senate.

Had that been done, we would not have been required to have a 60-vote point of order on a cloture vote, and we all know that, but that was not the case because I can only assume through a recognition of the exposure that the Republicans had lost control of the Senate and the recognition of the availability of the rules that the Democratic leadership found a way to get around that.

What they did is they simply took the energy bill away from the committee of jurisdiction and proceeded to introduce it on the floor of the Senate, as is the prerogative of the majority leader.

Whether it is crooked or not, whether you feel bad or not, it is within the rules of this body and, as a consequence, it was done.

That presented the dilemma that Senator STEVENS and I faced in proceeding. It was a little more complex than that because it put a burden on other Members, as well, because the other Members clearly, as we got into the intricacies of the energy bill, were faced with an educational process of electricity, alternative energy sources, some relatively complex issues that ordinarily would be addressed in the vein of the committee process, and go to the floor with specific recommendations and block bases of support.

In any event, to get to the bottom line, we are faced with the reality that we now need 60 votes because it was structured that way. There was no other way to avoid it because we simply could not get a simple majority vote for the reason we had to add the ANWR amendment in, and in so doing, we were under the exposure of cloture.

Had it been in the bill, we would have been faced with the much more favorable alternative of a simple majority. So that is where we are today.

I think it is important to reflect a little bit on where the amendments are relative to what is before us. As I think everyone is quite familiar with by now, we have a second degree, and the second degree is very specific in its recognition of what it does. It specifically states that any proceeds from the development of ANWR, which would result from the leases and the royalty bids, would go to the steel industry.

I think the rationale for this is quite evident. The steel industry is in a difficult position. We have seen a decline of that industry. People have indicated from time to time there are a couple of things we have to have as a nation. One is steel. One is energy. One is food. We have seen our steel industry reduced dramatically in the last couple of decades to the point where the viability of the American steel industry is clearly in question.

What we had was an opportunity to meld two projects together. This would address jobs, this would address the opportunity to revitalize the American steel industry, because, as has been pointed out, with the discovery of natural gas in Prudhoe Bay, we came across about 36 trillion cubic feet of natural gas.

I am going to point out the general area of Prudhoe Bay. As a consequence of that discovery of gas, the question was: When and how can it be developed?

It was found as a consequence of developing the Prudhoe Bay oilfield. As we developed the oilfields, we found more gas. We did not have any way to take that gas to market. So we began to develop some proposals.

The blue line on the chart indicates the proposed route of the TransAlaska gasline. That line is estimated to be about 3,000 miles long. It would go ultimately to the Chicago city gate. It would move about 4 billion cubic feet a day and have a capacity of about 6 billion cubic feet a day. I have to be careful with the numbers because the design capacity is in the trillions. The movement per day is in the billions.

As a consequence, it would be the largest construction project ever undertaken in North America. The cost is estimated to be about $20 billion.

We have had some experience because we built an oil pipeline that traversed a significant portion of Alaska. That oil pipeline is seen on this particular chart. It goes from Prudhoe Bay to Valdez. All of that pipe came from Japan, Korea, and Italy. Why? Because we did not make 48-inch oil pipe.

With this other proposal I have outlined, the obvious opportunity for the American steel industry, for rejuvenation, is, who is going to make this pipe? This is going to be 52-inch pipe. It is going to be X–80 to X–100 steel. That is the tinsel strength of the steel. The significance of that is obvious. Somebody is going to build it. If it is not built in America, where is it going to be built? I assume Japan, Korea, Taiwan perhaps.

Is there a way we could build that steel in this country, stimulate the rejuvenation of the industry and, as a consequence of the opportunity, recognize that we were probably going to generate somewhere between $10 billion and $12 billion over 30 years from the royalties and lease sale of ANWR? Why not put it into the steel industry?

The second-degree amendment that is pending and will be voted on first tomorrow, which should be of great interest to the steel industry and the unions, as well as some 600,000 current retirees who, I understand, are in jeopardy of losing their health care benefits, would be an opportunity to address that.

We structured a revenue split for the second-degree amendment. Initially, it would contribute to the steel legacy program approximately $8 billion. Recognizing that there is a shortfall in the United Coal Mine Workers combined benefit funds, there was a proposal that a billion dollars would go into that fund.

Some people are going to criticize this and say this is a way to buy votes; this is a way to take money from the Federal Treasury.

I encourage Members to reflect a little bit on what our obligation is to those who depend on Medicare. Many of those people will fall into that category, if they are not already there. Obviously, we have an obligation to consider how to take care of those that have contributed into retirement funds and found those funds not adequately funded for the benefits.

So as we address the merits of how this effort is structured, we should consider a more positive contribution, and that is the $232 million that is proposed for commercial grants for the retooling of the industry so they can address competitively a large project like the $5 billion natural gas pipeline, some 3,000 miles of pipeline.

Further, there was funding for $155 million of labor training. There was also another $160 million for conservation programs, for maintenance of park and habitat restoration. That is what the second-degree amendment is all about. It says the money that is recognized from the sale of leases and royalties from ANWR, which is Federal land, will go back and rejuvenate the steel industry so it can get back on its feet and again address its opportunity to participate in the continued development of steel products in this country as opposed to having them imported.

As the Presiding Officer knows, this administration just granted a 30-percent protective tariff on steel. So clearly they have an opportunity, they have kind of a comfort zone, if they are willing to recognize the benefits of this.

I understand some Members said we are going to take this up separately anyway, but the fallacy in that argument is where is the money going to come from? There is no identification of the funds. If we do not open ANWR, we are not going to have that availability of this $10 billion to $12 billion. What is going to be done about rejuvenating the steel industry? What is going to be done about the prospects of a major order for 3,000 miles of pipe? I guess we will just shrug and say: Well, there goes another contract overseas that could have been done by American labor.

So that is the second degree we are going to be voting on first tomorrow.

In line with that, I have been handed a letter from PHIL ENGLISH and BOB NEY, both Members of Congress:

U.S. CONGRESS,
Washington, DC April 17, 2002.

Hon. TED STEVENS,
Senator, Washington, DC.

DEAR SENATOR STEVENS: We write as members of the House with a strong interest in the steel industry to convey our strong support of your efforts to resolve the legacy cost burden of the domestic steel industry, and especially your efforts to assist the steel industry's retirees and their dependents.

As you know, the domestic steel industry has significant unfunded pension liabilities as well as massive retiree health care responsibilities that total $13 billion and cost the steel industry almost $1 billion annually. These pension and health care liabilities pose a significant barrier to steel industry consolidation and rationalization that could improve the financial condition of the industry and reduce the adverse impact of unfairly traded foreign imports.

It has come to our attention that a unique opportunity has arisen in the Senate to remove this barrier to rationalization while assisting the retirees, surviving spouses, and dependents of the domestic steel industry. It is our understanding that you have offered an amendment to the energy bill this week which will break the impasse on the legacy problem.

Once again, we would like to extend our wholehearted support to you in this endeavor. We look forward to working with you to find a viable solution to bring a sense of security to the over 600,000 retirees, surviving spouses, and dependents before the end of the 107th Congress.

Sincerely,

Phil English, Bob Ney, Steven LaTourette, Robert Aderholt, George Gekas, Jack Quinn, John Shimkus, Frank Mascara, Ralph Regula, Alan Mollohan, William Lipinski, and Melissa Hart.

Mr. MURKOWSKI. There is an expression from a dozen or so House Members saying this is an opportunity. You might not get it again. We have identified significant funding to rejuvenate the steel industry, take care of the retirees, and put it back on its feet.

As we address the amendment, I want to make sure everybody understands what is in it. There have been generalizations from the other side that this is simply a second-degree amendment which takes any funds that would open up ANWR and provides for the rejuvenation of the steel industry, while the first degree would be an up-down vote on opening ANWR.

First of all, this amendment does not open ANWR. ANWR would only be opened if our President certifies to Congress that the exploration, development, and production of oil and gas resources in the ANWR Coastal Plain are in the national economic and security interests of the United States.

It is pretty simple. The President of the United States has to certify that the ANWR Coastal Plain should be open. Then the Secretary of the Interior will implement a leasing program. Then the following will apply.

I don't want to hear any more that this is an up-down vote to open ANWR. It is to give our President extraordinary authority, almost a declaration of war. Don't we trust him and his Cabinet to make a determination that this is in the national security interests of this Nation? I certainly trust our President to make that finding. The President has to certify to us, the Congress, that exploration, development, and production are in the national economic and security interests. I can state now it is certainly in the national security interests relative to the situation in the Middle East where we are 58-percent dependent on imported oil. I will get into that later. The stimulation of the steel industry alone substantiates that particular cover.

We will look at what is in this. There is a Presidential finding. The President has the authority. We are giving it to him. He has to come to Congress and certify, again, production is in the national economic and security interests.

We have mandated a 2,000-acre limitation on surface disturbance. It is that simple. That is what it means, 2,000 acres. We have an export ban. Oil from the refuge cannot be exported.

I heard a conversation the oil will be exported or has been exported. The natural market for Alaskan oil is the west coast of the United States. We have a chart that demonstrates where Alaskan oil goes. It goes to the nearest refining areas. This chart shows Alaska and Valdez. It shows it goes to Puget Sound in the State of Washington, it goes to San Francisco, Los Angeles, and some to Hawaii. We do not see a line to Japan. We exported some to Japan. It was excess to the west coast refineries. That is the economics of it. Why send it further? Can you get more for it? That is kind of hard to figure because you bring it over from Iraq or from Saudi Arabia when you have it in proximity relative to Alaska.

The other thing unique about this oil, it could only go in U.S. ships because of the Jones Act, mandating carriage between two American ports be in U.S.-flagged vessels. These are American jobs. Every one of the ships was built in a U.S. yard. Every one of those is crewed by U.S. crews and carries an American flag. And 85 percent of the total tonnage in the American merchant marine is in the Alaskan oil trade. Bring oil from Saudi Arabia, you could bring it from Iraq, you can bring it in a foreign ship. What happens in Seattle, Puget Sound, San Francisco, Los Angeles? Talk about all the conservation you want, but you will still bring oil because the world and America moves on oil. That is the only transportation method.

This issue of export is not a factor because it is banned. It says it cannot be exported, with one exception, and that is to Israel. We have had with Israel an oil supply agreement that expires in the year 2004. We are extending that to the year 2014.

Where is the Israeli lobbying group? I will throw a few in the Record: the Zionist Organization of America, Americans For A Safe Israel, B'Nai B'rith International.

I ask unanimous consent these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ZIONIST ORGANIZATION OF AMERICA,
New York, NY, November 26, 2001.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the Zionist Organization of America—the oldest, and one of the largest, Zionist movements in the United States—we are writing to express our strong support for your efforts to make our country less dependent on foreign oil sources, by developing the oil resources in Alaska's Arctic National Wildlife Refuge.

At time when our nation is at war against international terrorism, it is more important than ever that we work quickly to free ourselves of dependence on oil produced by extremist dictators. Such dependence leaves the United States dangerously vulnerable.

Your initiative to develop the vast oil resources of Alaska will make it possible to rid America of this dependence and thereby strengthen our nation's security.

Sincerely,

MORTON A. KLEIN,
National President.
DR. ALAN MAZUREK,
Chairman of the Board.
DR. MICHAEL GOLDBLATT,
Chairman, National Executive Committee.
SARAH STERN,
National Policy Coordinator.

AMERICANS FOR A SAFE ISRAEL,
New York, NY, November 30, 2001.

Attention: Brian Malnak
Hon. FRANK H. MURKOWSKI,
U.S. Senate Hart Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: Americans for a Safe Israel is a national organization with chapters throughout the country and a growing membership including members living in other countries. AFSI was founded in 1971, dedicated to the premise that a strong Israel is essential to Western interests in the Middle East.

We have many Middle East experts on our committees, who have authored texts on Israel and the Arab states and have appeared in television interviews, forums, and on newspaper op-ed pages. U.S. senators and representatives have been guest speakers at AFSI annual conferences.

Americans for a Safe Israel is strongly in support of your amendment which would permit drilling for oil in the ANWR area of Alaska. Your eloquence in addressing the Senate yesterday and this morning should have convinced the undecided that the arguments offered by senators in the opposition, or by environmental activists, are not based on the facts or realities in the ANWR and of our need for energy independence.

We at Americans for a Safe Israel would be pleased if you would include our organization among American Jewish organizations in support of your amendment regarding oil exploration in the ANWR.

Sincerely,

HERBERT ZWEIBON,
Chairman, Americans for a Safe Israel.

B'NAI B'RITH INTERNATIONAL,
Washington, DC, March 12, 2002.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write to you as the US Senate debates national energy legislation, a critical national security issue, in support of both modest Corporate Average Fuel Economy increases and the environmentally safe exploration and extraction of petroleum from the Arctic National Wildlife Refuge. Together Washington will lessen the nation's reliance on foreign energy sources, now estimated at close to 60 percent of our consumption.

We endorse the recent compromise proposal to bring required fuel economy ratings for vehicles—including sport utility vehicles now subject to a lower standard—up to 35 miles per gallon by 2015. As you know, under current federal regulations automakers are required to achieve an average of 27.5 mpg for new passenger cars, and only 20.7 mpg for new light-duty trucks. The reinstitution of a meaningful CAFE standard will serve as a hallmark of America's conservation policy; the National Academy of Sciences concluded recently that CAFE requirements have resulted in a savings of "roughly 2.8 million barrels of gasoline per day from where it would be in the absence of CAFE standards."

Similarly, it must be recognized that conservation alone is not a meaningful answer to the new realities our nation faces. Ending our dependency on oil and natural gas from dictorial regimes and authoritarian governments that actively sponsor international terrorist groups—including al-Qaeda and other movements that threaten our nation's most cherished principles—requires increasing domestic production, too. Such a plan includes exploration and extraction in the Arctic refuge. While B'nai B'rith International sympathizes with some of the environmental issues that have been raised regarding that area's future, we believe that, in wartime, our number one priority must be to take all credible steps necessary to protect our national security interests. Replacing up to 30 years worth of oil imports from Saudi Arabia or 50 years of oil imports from Iraq will provide critical leverage for American foreign policy in the years to come.

To be sure, it will be several years before both of these important proposals will have a discernable impact on US energy policy. At this time there is every reason to believe that we will still be fighting terrorists who seek to destroy our nation. Accordingly, it is imperative that both measures are enacted into law at the earliest opportunity so that by decade's end America will be less reliant on foreign energy and enjoy greater national security.

Sincerely,

RICHARD D. HEIDEMAN,
International President.

Mr. MURKOWSKI. A few of the national Jewish organizations recognize what is happening currently, and that is oil is funding terrorism.

We all remember September 11 when, for the first time, an aircraft was used as a weapon. Now we have statements from people such as Saddam Hussein. What is he saying? Oil is a weapon.

Are we contributing to those weapons? Yes, we are. Here is, currently, an example. Perhaps it is extreme and perhaps a little inappropriate, but where and who funds the suicide bombers in Israel? We know who funds them. Oil. Who has the oil? Saddam Hussein. Saddam Hussein, via American oil purchase. When we go to the gas station, we should think of our responsibility because our responsibility goes beyond filling our gas tank. Where do we get some of our oil? There is 58 percent that comes from overseas.

How much do we get from Saddam Hussein currently? A million barrels. How much did we get September 11? It was 1.1 million on September 11, the highest of any other time.

This is off the Bank of Baghdad, $25,000, which is what he is paying the suicide bombers. He used to pay $10,000. That is an incentive that could reach our shores. That is some of the vulnerability we have as we look at the consequences of increasing our dependence on imported oil.

This Senator from Alaska understands we are not going to eliminate our dependence, but if we make a commitment, we will open ANWR; we will reduce our dependence; we will send a very strong message not only to Saddam Hussein but OPEC and that cartel over there. It is illegal to have a cartel in this country. That cartel over there, we are going to send them a message that we mean business about reducing our dependence.

Do you know what OPEC did not so long ago? They got together, had their cartel meeting, said we want the price to go up, and said we are going to put a floor and ceiling, $22 as a floor, $28 as a ceiling. How do they do it? By controlling the supply. It is just that simple because we are addicted to Mideast oil.

Here is another photo of our friend, Saddam Hussein. Here is where it comes from. It has been increasing all the time—1.1 million, that was from Energy Information, September 2001. Here is where we get our oil: Iraq, Persian Gulf, OPEC. American families are counting on them, I guess.

That is why we have to protect Israel. That is why we are extending, in this legislation, the U.S. oil supply arrangement through the year 2014.

Furthermore, we are going to increase wilderness. What we are going to do is we are going to take the 1002 area, which everybody has concluded is at great risk, although Alaskans believe it can be developed responsibly—that is 1.5 million acres—what we are going to do is add another 1.5 million from a refuge and put it in in perpetuity, so we are going to increase this wilderness area from about 9 million acres to about 10.5 million acres. We think that is a fair trade. Yet not one Member of the other side has acknowledged that is of any significance.

I can only assume the other side has been pretty well—I won't say brainwashed, but there have been some convincing arguments from our extreme environmental friends. Somehow, more wilderness is not the answer. It is simply to kill ANWR. And the rationale is obvious: ANWR has been a cash cow and these organizations have milked it for all it is worth.

To give some idea, we have a State that is pretty big. It is one-fifth the size of the United States. We have a map here that gives some idea of the comparison. This is a comparative scale. Alaska over the United States, the comparative scale, it will run roughly from Florida almost to California. It will run almost from the Canadian border to almost the Mexican border. It is a big chunk of real estate. I don't see anybody from Texas here, but it is 2.5 times the size of Texas.

It is a big piece of real estate, and it is an important piece of real estate, but it has a small population, a very small population. As we look at that population and recognize that over 75 percent support opening ANWR, we begin to reflect a little bit on what this debate is all about. It is all about a theory that there has to be somewhere, someplace, in the minds of a lot of Americans, that is untouched, where there is no footprint, that only the hand of God has caressed.

We all respect, obviously, the well-meaning environmental groups. But as far as our State is concerned, we believe we have been overexposed because a few years ago, we counted up the number of environmental groups that had offices in Alaska, primarily Anchorage. There were about 62. The last time I looked there were over 90. These are organizations that are located outside that have offices in Alaska. They have young environmental lawyers who are almost coming up to do a missionary commitment. They file an injunction on any project anywhere, a log dump, a driveway, wetlands—you name it.

As a consequence, we think we have done a pretty good job in Alaska. We think we have responsible development. We think Prudhoe Bay is the best oilfield in the world. I said in this Chamber time and time again: You might not like oilfields, but Prudhoe Bay is the best in the world.

Americans do not seem to care where their oil comes from as long as they get it. If it comes from the scorched Earth fields of Iraq or Iran, it doesn't make any difference. We can do it right. And we have done it right because Prudhoe Bay is the best in the world and it is 37-year-old technology.

We can go to newer fields such as Endicott, 53 acres—that is the footprint. How many acres do we have in Alaska, 356 million?

Here is a State far to the north. Most people have never been to it. Then in our State we have this Arctic area, the ANWR area way up in the top, that ANWR area. If you are going to take a trip up there, you better have $5,000 in your pocket or go on one of the environmental groups' funded trips because that is what it costs to get up after Fairbanks, charter into the area. Have somebody take care of you as you enjoy your wilderness experience because you just don't wander around in that area. It is very harsh.

Here we have this area in the northern part of the United States, and we have the extraordinary outside influences of these outside groups dictating terms and conditions. They made it a business because it is a big business. They generate millions of dollars in membership and dollars.

Why do they do it? Because it enhances their organizations. It gives them a cause, and they make a contribution. I am not suggesting they do not, but it has gotten to be a big business, and as a consequence Alaska is a little overexposed because if you look at this other chart, you can get an appreciation of what was done in 1980. We are recognizing all these areas of Alaska that are scratched in blue are Federal withdrawals. They are parks. They are wilderness. We have 56 million acres of wilderness, more than the entire State of California. We appreciate and manage our wilderness areas appropriately. But that is a pretty good chunk of Federal land to have withdrawn because you happen to be a public land State.

Maybe we should have cut a better deal when we came into the Union in 1959. Maybe we were a little naive. Maybe we trusted big government.

What we got is this, and this was the land claims settlement in 1980. What they did is they were very crafty. They said: All right, you have 356 million acres in your State. We think the State ought to have 104 million acres in the Statehood Compact. They said: Your Native people ought to have 40 million acres, so that leaves you with 250 million acres or thereabouts for the Federal Government.

Instead of letting the new State go ahead and select the land, automatically the lands were frozen under Carter. So the Federal Government got the first selection instead of the State. But here is what I want to point out.

You see that little red line? You see right in between the two blues? That is the only access our State has north and south, the only access, and that is where our pipeline has to go and that is where our gasline has to go because we cannot get access across Federal parks, wilderness areas—refuges. We cannot do it without congressional action and that is what we are doing right tonight. We are trying to get congressional action to open up that little oilfield up there.

That did not happen by accident. That did not happen on the free will of the people of Alaska. That was gerrymandered by people who did not want Alaska developed.

If you go east and west, you can see they almost crossed over. There are a few little areas—we have a mine now. Do you know how many mines we have in Alaska? We have one major gold mine, one major zinc and lead mine, and Red Dog, and at Greens Creek we have a large silver mine. We have three major mines in this huge area. We used to have four times those in the State.

Do you know how many pulp mills we have? Zero. I don't know how many you have in New York, but I do know that New York cuts more wood for firewood than we cut as commercial timber in the State of Alaska. Yet we have the largest of all the national forests: 16 million acres in the Tongass—all this area. As a matter of fact, we live in the forests. Some people think we live in the dark forests. But Juneau, our State capital, is in the State forest. Ketchikan is in the forest; Wrangell, Petersburg, Haines, Skagway, Sitka, Yakutat, Cordova—they are in the forest.

(Mr. DAYTON assumed the Chair).

Mr. MURKOWSKI. Why didn't we get a land selection there? We thought we could trust the Forest Service. We thought we could work in harmony. We rue the day, but here it is, and we have to live with it. We have to come to the Congress and plead for understanding. We have to, as one State, take on the whole national environmental community that has one cause—stop development in Alaska, because of their membership and dollars.

What we have attempted to do in this amendment is add more wilderness—1.5 million acres. We are adding to the Coastal Plain, as the chart indicates.

What else do we do? We impose strict environmental protections in this legislation.

I don't hear anyone on the other side of the aisle commenting as to the adequacy or inadequacy.

We impose seasonal limitations to protect the denning migration of the animals.

Some ask: What about the polar bear? Are we going to protect the polar bear? The polar bear, for the most part, den on the ice. They do not den on land. The greatest protection we have for the polar bear is the marine mammal law. Polar bears are marine animals. You can't take them as trophies. You can't shoot them. If you want to shoot them, you go to Russia or Canada. But you can't do it in Alaska. These bears get along pretty well. You have seen this picture time and time again. You have been very patient. These are a few of the bears. They do not happen to be polar bears. They are grizzly bears and brown bears. They are walking on top of the pipeline because it is easier for them to walk on the pipeline. They are not threatened. You can't take a snow machine in there. You can't hunt in there. We think these are pretty responsible conservation efforts.

A further provision is that the leasers must reclaim the land and put it back to its prior condition. That means it has to be put back in its natural state.

What does it look like in Alaska after you drill a well? Let me show you what it looks like in the Arctic. The only problem is we only have about 2 ½ months where it looks like this. There is the tundra. There is the little Christmas tree. Where are they talking about these big gravel roads? It isn't done anymore. We use technology. That is it. It is a nice road. There is the well. It is pretty bleak country. Some people say you couldn't find oil in a better place. That is reality.

We require use of ice roads, ice pads, and ice airstrips for exploration. If the oil isn't there, you are not going to see a track. We prohibit public use on all pipeline access and service roads. We require no significant adverse effect on fish and wildlife and no significant impact. We require consolidation of facility siting. Tell me where in the world oil is developed that you have these kinds of restrictions.

Further, we give the Secretary of the Interior the authority to close areas of unique character at any time after consultation with the local community.

Here we have structure. There are two amendments. The second-degree amendment would fund rejuvenation of America's steel industry and address the steel legacy by funding so that our steel industry can resurrect itself, be internationally competitive, and participate in the largest construction project in the history of North America, the building of a 3,000-mile pipeline. The order alone is worth $5 billion.

The first-degree amendment opens the area up so that the leases can be sold and so that the funds can be designated—$8 billion to the legacy, $1 billion to the United Mine Workers, and commercial grants for $232 million to retool the industry; labor training, $115 million; and conservation for National Park Service maintenance and backlog, et cetera. We think that is pretty good balance.

We wish we had a few more days on this issue. We might be able to further communicate to the American public really what we are trying to do.

Again, the first-degree is not an authorization to open. We give that authority to the President. The President has the determination to open it.

We don't have the level of support we had hoped. It is pretty hard for one State to compete with national environmental groups. But we are not giving up because sooner or later ANWR will be opened.

I can only guess, as you can, the consequences of this vote tomorrow because we don't know what the future holds. We do know there is an inferno in the Mideast. We do know we are importing 58 percent of our oil. We know Saddam Hussein is obviously up to no good with the money he generates from oil sales to the United States. We know he pays his Republican Guards to keep him alive. We also know he is developing weapons of mass destruction. We just do not know when we are going to have to deal with it or how.

We are enforcing that aerial no-fly zone over Iraq. We have bombed them three times since the first of the year, and several times last year he attempted to shoot us down. We have the lives of our men and women at risk. We take his oil and go use it to bomb him. He takes our money, pays his Republican Guard to keep him alive, and he develops these weapons of mass destruction.

We look back to September 11 and say: Gee, if we had only had the intelligence, we would have averted that tragedy at the World Trade Center, the Pentagon, and saved the brave people in the aircraft as they tried to take it over before it went down in Pennsylvania.

We know there is a threat from Saddam Hussein. We don't know when or how. But do we wait?

These are grave responsibilities for our President and the Cabinet and the Joint Chiefs of Staff. These are real. But every time we go to the gas station, we are buying Iraqi oil—some of it, at least. He gets billions. What does he do with it?

Here is that check again. We know he is doing that. He has a reward out.

Where is the principle of the United States, for heaven's sake? Why do we succumb to do business with a tyrant? There is a principle involved here. If you or I were in business, we wouldn't do it. We would say: Hey, enough is enough. Let us send a message out here.

We can go down a million rabbit trails for excuses as to why we shouldn't or couldn't open this area. These are all things that are tied together. Some Members obviously don't want to talk too much about it because it is not a pleasant subject. But for the Israelis who are on a bus who are innocent bystanders, and suddenly a young woman gets on the bus rigged with a bomb, and it blows up, believe me, that is a set of facts. That is why so many of the Jewish organizations are saying enough is enough; we ought to stop importing from Iraq.

I have an amendment pending which I am going to bring up. We are going to have a vote on it because the leader gave me a commitment to have a vote on it—that we ought to sanction oil imports from Iraq. Isn't it rather ironic? He has already done it to us, because he said last week he was going to terminate production for 30 days. What happens? The supply goes down and the price goes up.

I don't know, but the way I read it, charity begins at home. We certainly should not be doing business with this guy just because we need more oil.

I know my critics will say: Well, Senator MURKOWSKI, you are not going to get any relief for awhile. I am talking about sending a message that we mean business about reducing our dependence on Iraq. That is going to be a strong message.

I have heard my colleagues on the other side saying that there is no significant potential in ANWR that would offset our imports. Let me show you a chart. We have lots of charts. This is going to be a show and tell. We are probably going to go through every chart we have because this is probably going to be the only time we have that opportunity.

But this is a chart that shows what happened to imports when we opened Prudhoe Bay. This might be a little tricky, but let me just show you. The blue line at the bottom is Alaskan oil production from 1973 through 1999. We started small, and the blue line running across the chart shows the production, and then in 1977, more production—and then more production, more production. We were producing 2 million barrels a day. That was 25 percent of the total crude oil produced in the United States. That is how much it was.

As the blue line shows, in 1988, 1989, production at Prudhoe Bay began to decline. And it declined and declined, and now it is a little over a million barrels a day.

So what happened, as depicted by the red line, is interesting, though, because that shows our total imports. We started out, per the chart, at roughly 3 million barrels a day, and we kept going up and up and up; and then, suddenly, at the peak, we opened up Prudhoe Bay. So those who say ANWR is not going to make any difference, I defy them to counter this reality.

Look at what happened to our imports. They dropped. Why? Because we increased production domestically. We did not relieve our dependence on imported oil, no, not by any means, but we clearly reduced our imports.

Now, what has happened? And we have more conservation. You can go out and buy a 50-mile per gallon car. But we are using more. Why are we using more? Well, it is just the harsh reality that oil imports are taking place because other production in the United States is in decline, and we are using more oil. It is just a harsh reality.

As we look at this chart, we recognize that we can refute the generalization that ANWR isn't going to make any difference with the reality that it will make a difference. It will make a big difference.

So let's take that chart down and reflect on how much oil might be there.

We have had some discussion about the Energy Information Administration, the EIA, providing an analysis of the effect of ANWR on U.S. domestic oil production and the net imports of crude oil. And we have had it all over the ballpark.

From the EIA report of February 11, for purposes of addressing ANWR's impact on national security, crude oil imports—which is an accurate measure, since ANWR provides only crude oil—this is what they project regarding domestic production of ANWR. Assuming the U.S. Geological Service mean case for oil in ANWR, there would be an increase of domestic production of 13.9 percent.

I have heard the Senator from Massachusetts communicate some 3 percent. All I can do is submit for the RECORD the EIA USGS mean case of a 13.9-percent increase of domestic production.

Assuming the USGS high case for oil in ANWR—the high case is a 16-billion-barrel reserve—that would be a 25.4-percent increase in domestic production. That is a pretty big percentage. That is about 25 percent.

You have to put this in perspective. I have a hard time doing this with those in opposition because they do not want to sit still long enough to reflect on what this means.

How much oil is it?

For Washington, it is 66 years; for Minnesota, it is 85 years; for Florida, it is 30 years—this is a lot of oil—for New York, it is 35 years; for Rhode Island, 570 years; for Delaware, it is 46 years; for West Virginia, it is 260 years, for Maryland, it is 98 years; for the District of Columbia, it is 1,710 years; for Maine, it is 235 years. I could go on and on. You can all see your individual States. Where is Massachusetts on there? There it is: 87 years. I want to make sure Massachusetts gets in there. I do not want to leave Massachusetts out. For Alaska, it is 87 years.

So there is a lot of oil. But how does it compare, say, with my generalization that Prudhoe Bay has provided, for the last 27 years, somewhere between 20 and 25 percent of the total crude oil? Well, you can only do that by applying the projections associated with ANWR, which are somewhere between 5.6 billion and 16 billion barrels. If you take halfway—10 billion barrels—it is as big as Prudhoe Bay because Prudhoe Bay was supposed to be 10 billion barrels, but it produced 13 billion barrels. So it is significant, make no mistake about it. I want to put that argument to rest once and for all. It will make a difference in reducing our imports.

So, as we talk about this, and we find that most of the critics have never been there, and we look at some of the things that Alaska's oil development does for other States, such as providing them with a secure source of oil, that is defended by the U.S. Navy—I am talking about oil from Alaska and the west coast of the United States—it clearly is a reliable supply.

I have addressed the reality that Prudhoe Bay is the best oilfield in the world.

Do you remember the pictures in 1991, 1992, of the burning oilfields of Kuwait? The fleeing Iraqi troops set more than 600 of Kuwait's 940 oil wells ablaze with explosives and sabotage. Do we have any of those pictures with us? Yes. Do you want to see an oilfield burning, set fire to? Do you know who did it? Saddam Hussein. We have heard of him a couple times tonight, haven't we? Talking about a burn, that burn is all through. It is a tough reality. Was there wildlife there? Camels, goats, other wildlife once lived there. The land is dead. Yet this is where we choose to get our oil.

Our President told Iraqi President Saddam Hussein that the United States will deal with him soon if he continues to produce weapons of mass destruction. I am sure, Mr. President, both you and I have had an opportunity to be with President George W. Bush. I do not think there is any question he means what he says. He says the U.S. "will deal with him soon" if he continues to produce weapons of mass destruction.

I guess the question is, When and how?

In Alaska, in the United States, we have the most stringent environmental regulations on Earth. Maybe we are not doing it right, and maybe we can do better, but we are doing it better than anybody else.

Those who suggest that somehow Prudhoe Bay is a disaster fail to recognize that it is still the best oilfield in the world. I am proud to be an Alaskan. I am proud that we can make that commitment as a State because we have two levels of environmental oversight. The State Department's environmental conservation is very prudent, some think too prudent. And we have the Federal Environmental Protection Agency, and others. But they are doing their job, and they are doing the best job in the world because they are using the best technology in the world.

We have heard other Members talk about—I think Senator GRASSLEY—some of the history of Russian oil development. Anything goes. It is to get the oil. It doesn't make any difference how much you spill or how much you drill. Workers drill too fast, too many holes, don't make proper recovery. Do we have any charts on that?

How about this? You would never see anything like that in the United States. You would never see that in Alaska. There is a puddle of oil, a busted pipeline, a disaster.

Does the United States care where America gets its oil? Evidently, nobody really cares if it is there. If it is not there, they scream. If the price is too high, they scream. If they have to wait too long to get it, wait in line around the block, they blame Government.

Since the House passed their energy bill in August, which had a provision for opening ANWR—some say the House of Representatives is pretty representative—America has imported 231 million barrels of oil from Iraq. That fact disturbs me greatly, and I would hope it disturbs my colleagues and addresses their digestion. Some of that money went straight into Saddam's pocket. I would prefer 100-percent homegrown energy because we can do it safer and better here in the United States.

As this debate continues, I hope my colleagues will take a long and hard look at the alternatives to Alaskan oil because that is what they are and what it means to the environment on a global scale. Again, I hope they will recognize Alaskan oilfields are the best in the world.

I will add a little partisan reference here from the Wall Street Journal, April 16, 2001, just the other day. It is entitled "Labor Revolt." It says:

> You might not see picket lines, but a chunk of America's labor movement is staging a notable walkout—against the Democratic Party. The trend is already having consequences in Congress and could echo through November and into 2004.
>
> Leading the revolt is James Hoffa, head of the AFL–CIO's third largest union, the 1.4 million Teamsters. Mr. Hoffa has become a key and very public supporter of [President Bush's] energy plan, which is also backed by a coalition of carpenters, miners and seafarers. He has lobbied inside Big Labor for a more neutral political bent and his officials were recently overheard giving Democrats on Capitol Hill hell for killing jobs.

This gasline and ANWR are jobs issues.

> Today, some 500 Teamsters will help present the Senate amendment to drill in the Arctic National Wildlife Refuge.

We had that press conference the other day. We had hundreds of laborers out front on the issue. We had, in addition to the Teamsters, my good friend Jerry Hood. We had Ed Sullivan, president of the Building and Construction Workers, the AFL–CIO, members of the Building Trades Union, the president of Operating Engineers, and the Seafarers Union.

They are concerned about two things: They are concerned about jobs, and, obviously, they are concerned about national security interests relative to our Nation and our Nation's continued dependence on foreign oil. It is very real.

That article goes on to say:

> Meanwhile, the United Auto Workers, electricians and machinists have rebelled against Democrats on issues from fuel-efficiency standards to nuclear energy.

That is going to come up at another time as we debate the nuclear industry and the future of it and what we are going to do with our waste. I know my good friend Senator REID is going to be very active in that debate because that debate affects his State. I respect that set of circumstances.

The problem with nuclear waste is nobody wants it. If you throw it up in the air, it won't stay there. It has to come down somewhere. As a consequence, we can't agree where to put it.

In my opinion, there is an answer to it; that is, you reprocess it. By so doing, you recover the plutonium, put it back in the reactors, and you vitrify the waste, which obviously has very little ability for proliferation. That is what the Japanese are doing. That is what the French are doing. Do you know why we can't do it? Because we have such an active nuclear environmental lobby, we don't allow it. So we walk around saying, what in the world are we going to do with our waste? Where are we going to put it? Nobody wants it. Nevada says they don't want it. We have decided to put it there, and so all hell is going to break loose.

Anyway, United Auto Workers, electricians, and machinists have rebelled. Why have they rebelled? They are looking at jobs.

This article goes on to say that this issue has:

> . . . alienated many of old industrial unions which grow only when the private economy does. Many of these unions don't share the cultural liberalism of the Washington AFL–CIO elites, who are often well-to-do Ivy-Leaguers.

Well, there is a bit of a change among some of the unions. I suppose that happens around here, too.

But I think it is fair to conclude from this article:

> Mr. Hoffa and fellow unions are now doing the same for oil-drilling in Alaska, spending heavily on ads across the country. He's vowed to "remember" Democrats who vote against drilling.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 16, 2001]

LABOR REVOLT

You might not see the picket lines, but a chunk of the American labor movement is staging a notable walkout—against the Democratic Party. The trend is already having consequences in Congress and could echo through November and into 2004.

Leading the revolt is James P. Hoffa, head of the AFL–CIO's third-largest union, the 1.4 million Teamsters. Mr. Hoffa has become a key and very public supporter of the Bush energy plan, which is also backed by a union coalition of carpenters, miners and seafarers. He ha lobbied inside Big Labor for a more neutral political bent and his officials were recently overheard giving Democrats on Capitol Hill hell for killing jobs. Today, some 500 Teamsters will help present the Senate amendment to drill in the Arctic National Wildlife Refuge.

Meanwhile, the United Auto Workers, electricians and machinists have rebelled against Democrats on issues from fuel-efficiency standards to nuclear energy. They follow last year's resignation from the AFL–CIO by the influential United Brotherhood of Carpenters, along with its half-million members and $4 million in annual dues.

Some of this is issue specific, but it's also a sign of deeper labor tensions. When John Sweeney took over the AFL–CIO in 1995, he turned it in a markedly more partisan and ideological direction. He aligned Big Labor with a coalition of interest groups on the cultural and big government left. This is fine with most public-sector unions (teachers especially), which grow along with government.

But this leftward tilt has increasingly alienated many of the old industrial unions, which grow only when the private economy does. Many of these unions also don't share the cultural liberalism of the Washington AFL–CIO elites, who are often well-to-do Ivy Leaguers. They resent the money being pushed into political campaigns and would rather spend more on shop-room organizing. In Mr. Sweeney's tenure, the union share of the private-sector work force has actually fallen, to 9.1%

All of these tensions have come to the surface in the energy debate, where Democrats have had to choose between the greens (enviros) and blues (unions). Senator (and would-be President) John Kerry thought he could win over the greens and suburbanites by pushing new car-mileage standards, but instead he inspired a labor rebellion. Nineteen Senate Democrats, primarily from industrial states, joined Republicans to kill Mr. Kerry's proposals.

Mr. Hoffa and fellow unions are now doing the same for oil-drilling in Alaska, spending heavily on ads across the country. He's vowed to "remember" Democrats who vote against drilling. And he specifically singled out New Jersey's Robert Torricelli (up for reelection this fall) and Michigan's Debbie Stabenow (a top recipient of union cash in her 2000 race). In case they don't' believe him, the Teamsters have already endorsed three GOP Congressional candidates in Michigan.

President Bush has noticed all of this, naturally, and is openly courting union support. Having won only a third of union households in 2000, Mr. Bush knows he has lots of votes to gain. Sometimes his effort runs to schmoozing, as when he made Mr. Hoffa one of his noted guests at the state of the Union. But sometimes he's bowed to political temptation and bent his principles, as with his 30% steel tariff.

Mr. Bush might keep in mind that Mr. Hoffa has helped him even though last year he ignored Teamster objections and fulfilled his campaign promise to allow Mexican trucks into the U.S. The President is also no doubt aware that Mr. Hoffa wants an end to 13 years of federal oversight into his union—which should only happen on the legal merits.

Unions are moving to the Republicans less out of love for the GOP than from disillusionment with Democrats. Democrats had better be careful or they'll give Mr. Bush the chance to form a formidable majority.

Mr. MURKOWSKI. What it does is simply say these are job issues and our business is jobs and productivity for the American people. This has become an issue where, clearly, if you look at the vote the last time that we voted on this issue in the Senate, it was 45 to 55, and ANWR was passed in the 1995 vote on the omnibus act. That is when Republicans controlled the Senate.

Well, that was then and this is now. Now we have a 50–49–1 ratio in favor of the Democrats. Clearly, we are in a situation where we don't have control. As a consequence, ANWR is in trouble because it has to overcome the 60-vote point of order. Make no mistake about that.

We have had quite a discussion throughout the day, but there are a few points that have been overlooked. One of them that bothers me the most is overlooking the people of my State, the people who are affected, the people who live in the Arctic and reside in the Coastal Plain. These are a few of the kids. There is not very many of them. There are about 300 of them in that village. But they are like your kids or your grandkids or mine: Looking for a future, looking for an opportunity for a better lifestyle, educational opportunities, sewer, water—some of the things we take very much for granted.

This is another picture of their community hall. This is Kaktovik. It is of an elder Eskimo, a snow machine, with his grandson, and a bike. That is the way it is up there.

Some Members would have you believe there is nothing there. Let me show you a picture of Kaktovik. It has been portrayed time and time again—a small community, small village. It has an airport, has some radar installations. And it is actually in ANWR. It is in the Arctic Coastal Plain. It is in the 1.5 million acres. In fact, one oilwell has been drilled in that area.

We have another chart here that gives you a little better idea of that particular geographic area. The thing I want to make sure everybody understands is that all of ANWR, all of that 1.5 million acres is not Federal land.

These Native American citizens own 95,000 acres. That is diagrammed in the square. The only problem is, while they have title to that land, they have no authority for any access—absolutely none. Only Congress can give them that authority. We are going to be addressing that, because to have an aboriginal group of natives, American citizens, and give them land that has been their ancestral land—it has been their land to begin with; that is where they have been for generations—and not allow them to have access because everything around it is Federal land is simply wrong; it is unjust. We would not do it anywhere else in the country. You would say you are entitled to access. I know because I have been there time and time and time again.

I had the Secretary of the Interior, Gale Norton, there with me last year. So was Senator BINGAMAN. The temperature today was 95 here. A year ago, it was 77 below zero there. That caught your attention. It is a harsh environment.

My point is that only through an act of Congress will those people be allowed access to their own land. What would it take? Well, it would take some kind of a corridor across Federal land—maybe 300 feet wide. Access to what? Access just to State land. Where does State land start? Over on the other side of that yellow line. On this side is Federal land. They cannot get from there to the State land unless we do something about it.

Let me read you a little letter. This is from the Kaktovik Inupiat Corporation. These are the people who live in that village. I want to show these other pictures. I want you to get the flavor. Nobody has mentioned on that side of the aisle, during the entire debate, the dreams and aspirations of these people. You have kids going to school in the snow. Nobody shovels the snow away. They dress a little differently perhaps. They wear mucklucks. They wear fur. You have some kids up there.

Let them take a peek at that so the kids in the gallery can see it.

This is how the kids in the Arctic go to school. It is a little different. But these kids are American citizens. They are Eskimos. They have rights, dreams, and aspirations. Yet what kind of a lifestyle do they have?

Here is a letter:

> Dear Senators Daschle & Lott:
>
> The people of Kaktovik . . . are the only residents within the entire 19.6 million acres of the federally recognized boundaries of the Arctic National Wildlife Refuge. . . .

These people live right up at the top of the world in Kaktovik.

The letter goes on to say:

> [The Kaktoviks] ask for your help in fulfilling our destiny as Inupiat Eskimos and Americans. We ask that you support reopening the Coastal Plain of ANWR to energy exploration.

They are asking that we open it.

> Reopening the Coastal Plain will allow us access to our traditional lands. We are asking Congress to fulfill its promise to the Inupiat people and to all Americans: to evaluate the potential of the Coastal Plain.

These people are talking to us as landowners. They go on to say:

> In return, as landowners of 92,160 acres of privately owned land within the Coastal Plain of ANWR, the Kaktovik Inupiat Corporation promises to the Senate of the United States:
>
> 1. We will never use our abundant energy resources "as a weapon" against the United States, as Iraq, Iran, Libya, and other foreign energy exporting nations have proposed.
>
> 2. We will not engage in supporting terrorism, terrorist States, or any enemies of the United States;
>
> 3. We will neither hold telethons to raise money for, contribute money to, or any other way support the slaughter of innocents at home or abroad;
>
> 4. We will continue to be loyal Alaskans and proud Americans who will be all the more proud of a government whose actions to reopen ANWR and our lands will prove it to be the best remaining hope for mankind on Earth; and
>
> 5. We will continue to pray for the United States, and ask God to bless our nation.

These are my people, Mr. President. They further state:

> We do not have much, Gentlemen, except for the promises of the U.S. government that the settlement of our land claims against the United States would eventually lead to the control of our destiny by our people.
>
> In return, we give our promises as listed above. We ask that you accept them from grateful Inupiat Eskimo people of the North Slope of Alaska who are proud to be American.

Mr. President, I don't think we would get a letter like this from any other potential supplier of oil in the Mideast. I think you would agree with me. So here we have a situation where my people are deprived of a basic right that any other American citizen would not be. It is very disappointing because the human element was not brought up once.

What we have talked about today is whether ANWR can be opened safely. There is no evidence that it cannot. Is there a significant amount of oil that could make a difference? You bet. There is more oil in ANWR than there is in all of Texas. I think the proven reserves in Texas are about 5.3 billion barrels. What are we talking about here? Are we talking about charades or about some kind of a conveyance, trying to portray to the American people that we cannot open it safely. They say it will take 10 years. We have a pipeline halfway to ANWR. Another 50 miles, we would be hooked up. They say 10 years. Come on, let's expedite the permit.

If anybody wanted to talk about history—and this was not brought up on the other side today—the arguments we are using on the floor of the Senate at 9:35 p.m. are the same arguments we used 30 years ago on the issue of whether or not to open the TransAlaska Pipeline system—not to open but to build it, because the environmental groups weren't as well organized then. But they were making a case. They said: You can't build an 800-mile fence across Alaska because if you do, you are going to build a fence that will keep the caribou and the moose on one side or the other. You are putting that pipeline in permafrost. It is a hot line, and permafrost is frozen. It is going to melt. It is going to break.

The doomsayers were wrong. The same argument here: Can't do it safely. They said the animals—look at the caribou, Mr. President. There are a few of them. That is a new picture. I want to make sure you understand that we have more than one picture. These guys are under the pipeline. Why? Why not? You see the water behind them. They are grazing. That pipeline doesn't offer them any threat.

Somebody said that is an ugly pipeline. Well, I don't know. I guess it depends on your point of view. I could probably take 10 pictures of other pipelines and we could have a contest on whose pipeline is the ugliest. But, you know, you either bury them or put them on the surface. That is all in steel. It is designed to withstand earthquakes. It is the best that the 30-year-old technology had, and we can do better now.

This is another picture. This is real. These are not stuffed. These are caribou. They are lounging around. The extraordinary thing is this is Prudhoe Bay, and we had, I believe, 3,000 animals in the central Arctic herd. Today we have somewhere in the area of 26,000. Why? You cannot shoot them, and you cannot run them down with a snow machine. They are protected. They do very well. The argument is bogus.

They say it is a different herd, a Porcupine herd. We are not going to allow any activity during the 2½ months that is free of ice and snow because you cannot move in that country. We do not build gravel roads; we build ice roads. It represents better and safer technology and does not leave a scar on the tundra.

We have made great advances as a consequence of our lessons, but it is beyond me to reflect on the opposition here other than its core opposition: We are opposed to it. The rationale behind it lacks an indepth understanding. Here is the new technology. We do not drill the way we used to. They do not go out and punch a hole straight down, and if they are lucky enough, they find oil.

We have directional drilling capability. We can drill under the Capitol and come up at gate 4 at Reagan National Airport. That is the technology we have.

We can hit these spots that are under the ground with this 3-D seismic, one footprint. That is the change. We have proven it because we built Endicott. Nobody wants to talk about Endicott on the other side: 56 acres; produced over 100 million barrels.

I also want to touch on another myth that the Senator from Massachusetts and the Senator from New Mexico used several times relative to why do you want to go to ANWR when there are other areas. If you are going to rob somebody, you might as well go to the bank; that is where the money is.

We have the greatest prospect for discoveries, and that area is specifically in ANWR. We have what they call National Petroleum Reserve, Alaska. We have pictures of that area. This chart is a bit of a contrast because this shows the top of the world. I want to reference this with this big map. I want to reference where this area is.

Point Barrow is at the top. That is one of our Eskimo communities, and the nice thing about Point Barrow is you cannot go any further north. You fall off the top. The Arctic Ocean is right ahead. This is the National Petroleum Reserve, Alaska. It used to be Naval Petroleum Reserve, Alaska. I wish the cameras had the intensity to pick up on this to see all this gray/blue area. These are lakes within the reserve.

This is ANWR. Mr. President, do you see any lakes on the Coastal Plain? This is strategic from an environmental point of view, from the standpoint of migratory birds. Where do they go? They do not squat on the land. They go to the lakes. This is a huge mass of lakes.

The opponents are suggesting we go over there. That is fine except from an environmental point of view, we are not going to get permits in many of these areas. While there have been some discoveries right on this line within NPRA, this is where the oil happens to be because that is where the geologists tell us it is most likely to be.

We will put up lease sales in these fringe areas, but we are not going to get anything around the lakes. To suggest this area is already open is contrary to reality.

Another thing the Senator from Massachusetts says is instead of opening ANWR, we should drill anywhere but Alaska. I find that incredible. We have the infrastructure. We have an 800-mile pipeline, and we are drilling on land.

Do my colleagues know what we are doing in the Gulf of Mexico? We are in 2,000 feet of water. We have had 8,000 leases in the gulf, many of which are not currently producing. There are a lot of endangered and threatened species, including marine mammals, sea turtles, and coastal birds. I cannot fathom why the Senator from Massachusetts believes it is better to drill where there are endangered species than where we have a thriving wildlife population that obviously we take care of, as they do in the Gulf of Mexico.

What stuns me is it seems to me common sense we should develop areas where people support the development. Many of these leases sit off the coast of Florida are objectionable to the people of Florida, and I respect their objections. Yet the people of the Alaska Coastal Plain overwhelmingly support development in Alaska.

Even the Teamsters who support development in Alaska disagree with the Senator from Massachusetts that we ought to massively increase our drilling in the Gulf of Mexico overnight.

We have a lot of species in the Gulf of Mexico that are threatened or endangered: The blue whale, fin whale, humpback whale, the northern right whale, sei whale, threatened endangered sea turtles, green sea turtles, hawksbill, loggerheads, endangered beach mice which I am not familiar with, the Florida salt marsh vole, the piping plover, and the brown pelican. I am not going to bore you with these, Mr. President.

The point is, that is tough drilling in 3,000 feet of water. There is a lot of risk. On land you can contain the risk. We have done a pretty good job of it in Alaska. They have done an excellent job in the Gulf of Mexico, make no mistake about it.

As we look at some of the suggestions that are made in general, such as we go someplace else in Alaska, remember, NPRA has 90 percent of the birds on the North Slope and over 90 bird species, millions of shore birds. There they are, Mr. President. They are not in ANWR. I just do not understand why Senators suggest they will not support development in an area with more oil and less wildlife diversity. It does not make any sense at all other than those Senators have been influenced by some of the groups that clearly are using ANWR as a symbol.

Others suggest that the development of Alaska's gas—for example, I think the chairman suggested we face a growing threat from foreign dependence on natural gas. Without going into that in too much detail, we only import 15 percent of our natural gas needs compared with 58 percent of dependence on foreign oil.

Let us take a look at that because I am all for alternatives, but don't believe they do not leave a footprint. I have a chart that shows the San Jacinto. If you do not know where this is, if you are driving from Palm Springs to Los Angeles and you happen to go through Banning, the pass, this is it. It is probably the largest wind farm in the world. Look at the little windmills in the back at the bottom. There are hundreds of them. They call it Cuisinart for the birds because a bird that gets through there is lucky—if he is flying low.

There is an equivalent energy ratio. This wind farm is about 1,500 acres and produces the equivalent of 1,360 barrels of oil a day. Two thousand acres of ANWR will produce a million barrels of oil a day. There is the footprint.

How much wind power does it need to equal that of ANWR's energy? About 3.7 million acres, equivalent to all of Rhode Island and Connecticut. If one put them all on a wind farm, then they would equal about what ANWR's energy input is capable of. We have a couple more of these charts so we might as well show them.

When we talk about the Sun, we naturally think of solar. Solar is worthwhile, but it is not very good in Point Barrow, AK, because the Sun only rises in the summertime. I should not say that but in the winter it is dark for a long time.

Two thousand acres of solar panel produce the energy equivalent of 4,400 barrels of oil a day. Two thousand acres of ANWR will produce a million barrels of oil a day. So it would take 448,000, or two-thirds of Rhode Island all in solar panels to produce as much energy as 2,000 acres of ANWR.

Solar panels do have a place in Arizona, Florida, New Mexico, and other areas, but do not think America is going to be moved on solar panels.

There has been a lot of discussion taking place on ethanol. Ethanol is an alternative made from vegetable products, corn and other products that come from our farmers. Two thousand acres of ethanol farmland produce the energy equivalent of 25 barrels of oil a day. Two thousand acres will produce 25 barrels of oil equivalent a day. Two thousand acres of ANWR will produce a million barrels of oil a day, and that source is the national renewable energy lab.

Make no mistake about it, a byproduct is produced with the corn, which is the corn husk. I am not sure what one does with them, but we could speculate. It would take 80.5 million acres of farmland, or all of New Mexico and Connecticut, to produce as much energy as 2,000 acres of ANWR. So we could plant New Mexico and Connecticut in corn, I guess. The point is, these all have footprints.

We have often talked about size when we talk about Alaska. We have talked about the fact that our State has 33,000 miles of coastline. ANWR is 19 million acres, as big as the State of South Carolina. We talked about the attitude of Alaskans in supporting exploration. About 75 percent of our people support it. Why is it that the people who want to develop oil and gas are not given the opportunity? I do not know. I find it very frustrating.

I listened to some of the debate by some Members relative to domestic oil production vis-a-vis subsidized oil. They talked about the rip-off that the oil industry allegedly is guilty of in this country, but we still have the best oil industry in the world. It is a relatively high-risk oil exploration. You do not know if you are going to find it. You better find a lot of it.

Somebody suggested that it is comparable in some manner to making sewing machines, that somehow there is a relationship relative to risk. Well, if one is making sewing machines, they know what their market is. They know what it is going to cost. But when one goes out and drills for oil, they do not know if they are going to find it. There is a lot of risk there.

As we import foreign oil, we do not know what the true cost is because there is no environmental consideration associated with the development.

I do not think anyone recognizes what we enjoy in this country as a standard of living. The standard of living is brought about by people who have prospered and have become accustomed to a standard of living that is high. The convenience of having an automobile that can accommodate a family comfortably on a long trip; modest gasoline and energy prices, that is as a consequence of the structure of our society and the makeup of the United States.

The question comes about, Do we want to substantially limit that standard of living by taxes or various increased costs of energy? I do not think so. I think those kinds of things were evident in the debate that we had earlier in the week relative to CAFE standards.

One of the things that can certainly undermine our recovery is high oil prices. Our friend Alan Greenspan, Chairman of the Fed, is taking a more guarded outlook on the U.S. economy compared with the comments he made last month about the possible consequences of sustained high oil prices on the economic recovery.

This influential gentleman told the Congressional Joint Economic Committee on Wednesday that energy prices had not yet risen to a point that would seriously sap spending but warned that a lasting surge in the cost of oil could have far-reaching consequences.

I ask unanimous consent that this article from Oil Daily be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GREENSPAN: HIGH OIL CAN UNDERMINE RECOVERY

(By Sharif Ghalib)

Federal Reserve Chairman Alan Greenspan appears to be taking a more guarded outlook on the US economy compared with more sanguine comments he made last month amid the possible consequences of sustained high oil prices on an economic recovery.

The influential central bank chief told the congressional Joint Economic Committee on Wednesday that energy prices had not yet risen to a point that would seriously sap spending, but warned that a lasting surge in the cost of oil could have "far-reaching" consequences. He told the committee he was in no rush to raise US interest rates.

Greenspan's apparent step back may well have reflected mixed signals from recently released economic indicators and, perhaps more importantly, the recent surge in crude oil prices, which have risen nearly $2 per barrel this week.

While the preponderance of the latest economic indicators point to a faster than previously expected economic recovery in the US, recent data released on the labor market showing a slight rise in unemployment shed some doubt on the speed of the recovery.

The reported rise in unemployment was followed this week by a suggested slowdown in the US housing market, which had been expanding strongly, and—arguably more alarming—a slowdown in consumer spending. Manufacturing activity, however, has turned in its strongest expansion in almost two years.

While the so-called core rate of consumer price inflation, excluding energy and food prices, rose by a mere 0.1% in March, gasoline prices rose by a sharp 8%, the largest monthly change in six months. Fuel oil prices jumped by 2.2%, the strongest since last December.

These increases are in line with higher crude prices, reflecting mainly tensions in the Middle East, Iraq's unilateral 30-day oil embargo, and export delays in Venezuela.

Should the current oil rally continue for much longer, Opec will face mounting pressure to ease the reins on production. The group will meet in June to discuss production policy for the second half of 2002. But Iraq's embargo call, which has fallen on deaf ears among producers inside and outside Opec, may make it politically difficult for Saudi Arabia and other Muslim Opec members to increase production while fellow members Iraq withholds exports to pressure Israel.

Mr. MURKOWSKI. We have talked about oilfields. We have talked about the Arctic. We have talked about the wildlife. We have talked about the oil reserves. We have talked about the safety of development. I think we have responded to the myth that some suggest we are going to industrialize the Arctic.

I will show a chart of the Arctic in the wintertime. This area cannot be industrialized. It is just simply too harsh. Some of this is untouched because it has to be. To suggest we can have an industrial complex is totally unrealistic.

I often take this picture because it shows the harsh Arctic on a day when it is clear, but it is not clear all the time. Sometimes we have a whiteout. We can turn this picture upside down, but it is even better to turn it around because that is what it looks like when it is snowing. This is a whiteout. A lot of people do not know what kind of a condition that is. That is when one cannot tell the sky from the land because it is all the same color, and you better not fly into it. If you fly into it, you better be proficient as an instrument pilot or you will not make a round trip. That is the harsh reality.

That is what it looks like during a whiteout, which is a good portion of the time. When there is snow on the ground, there is snow in the air and no visibility. Somebody told me it is one of the best charts we have.

We talked about the footprint, talked about the accountability and how the vote will be scored. We know how the union will score the vote—as a jobs issue. We know how the environmentalists will score it—as an environmental issue. I hope Members will score it as to what is best for America. That is the issue. That is why we are here.

I have talked about jobs. If we open ANWR, we will build new ships, 19 new tankers. We will build them in California, the National Steel yard. We will build them in the South; hopefully, in Maine. This is big business, several thousand jobs in the shipyards, $4 or $5 billion into the economy alone, construction jobs, good-paying jobs, union jobs. It is not just what is in the national security interests of our Nation.

We can argue about how many jobs will be created, whether it is 50,000 or 700,000. What difference does it make? These are good jobs. We should regard each for what it is worth, providing each family with an opportunity to educate their children and provide a better life.

Speaking of a better life, those kids I talked about in Kaktovik have dreams and aspirations. Their dreams are more simple than ours. Maybe it is Halloween night. Do you know what their dreams and aspirations are? How about a little running water instead of the water well. How about a sewer system instead of a honeybucket? Do you know what a honeybucket is? We will show an arctic honeybucket. It costs about $17.

I didn't have any conversation over there as to why my people aren't entitled to running water, sewer, disposal. It is not a pleasant reality, but it is a reality. My people are tired. They want to be treated like everybody else. That is why this issue of opening ANWR has more to do than just the environmental innuendoes. It affects real people in my State. It is time they were heard.

I listened to the Senator from Massachusetts. He made a statement that he attested was made in a quote by our current Governor, which I don't believe. The quote was:

> Evidence overwhelmingly rejects the notion of any relationship between Alaska

North Slope crude and west coast gasoline prices.

I know the Governor doesn't believe that, and I want to make sure the record was corrected. Think for a minute what would happen to prices on the west coast in California if we cut off North Slope oil; if we do not continue to supply California, Washington, Oregon with refined product and crude oil. It would impact the west coast. It would impact the entire country.

The Senator from Massachusetts made this reference. I heard it and I thought it was a mischaracterization, so I looked in the RECORD. He made the statement and attributed it to the Governor of Alaska:

> Evidence overwhelmingly rejects the notion of any relationship between Alaska North Slope crude and west coast gasoline prices.

I encourage the Senator from Massachusetts to correct that statement.

We have heard time and time again the statement that the United States has only 3 percent of the world's oil and we use 25 percent of the energy. Yet we produce 35 percent of the world's gross national product. We can argue that. We are getting a return, certainly, nearly a third of the world's domestic product is produced by the United States which has 3 percent of the world's oil and uses 25 percent of the world's energy. That is part of our standard of living.

I talked about ANWR doubling our reserves. I talked about the fact we have to address conservation. We are doing it and continue to do it and we can continue to do a better job. Nevertheless, we live from day to day. Our farmers are dependent on low-cost energy.

We have a letter from the American Farm Bureau Federation in support of ANWR. I ask unanimous consent to have that printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, March 8, 2002.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: America's farmers and ranchers are users, and increasingly producers, of energy. We believe that passage of a comprehensive energy bill is of vital importance to agriculture and to our nation. We urge the Senate to pass an energy bill with the hope that the President will soon sign into law legislation that will address our country's energy security.

Our organization along with other ag groups, the petroleum industry, and environmental groups have reached a bipartisan agreement on renewable fuels. This agreement, contained in Majority Leader Daschle's bill, provides that our nation's motor fuel supply will include at least five billion gallons of renewable fuels by 2012. The Renewable Fuels Standard adds value to our commodities, creates jobs in rural America and provides a clean-burning, domestically produced fuel supply for our nation. We urge you to oppose any amendment that undoes this agreement.

Production of food and fiber takes energy—diesel in the tractor and combine, propane to heat the greenhouse, natural gas as a feedstock for fertilizer and electricity for home and farm use. Our members believe that we must have affordable and reliable energy sources. American Farm Bureau policy has long supported environmentally sound energy development in the Arctic National Wildlife Refuge (ANWR). We ask that you support a cloture vote to allow the Senate to vote on this issue and to support expanding our domestically produced energy sources.

Sincerely,

BOB STALLMAN,
President.

Mr. MURKOWSKI. As we look at other aspects of the debate in the limited time we are going to have tomorrow, I hope we would not rest our laurels on simply increasing CAFE standards. We had a very healthy debate on that. We sacrificed CAFE standards, to a degree. We did it for safety. We heard from people, from mothers driving children to school or soccer games; they want a safe automobile.

The statistics we heard suggested there was a compromise between CAFE standards and safety. We chose to err on the side of not reducing CAFE standards to the levels we could have. That is a responsible decision.

That does not mean new technology will not help, but to suggest we can make up the difference of what we import from Saddam Hussein, nearly 1.1 million barrels a day on CAFE, is not realistic. We gradually improve our CAFE standards as we have over a period of time. To suggest we can make up the difference is poppycock. It can't be done. We can begin to do better and we will do better. But America moves on oil. You don't run an aircraft on hot air. You don't fly an auto in Washington, DC, on hot air. You do it on oil. We are moving on oil. We will continue to do that. I am all for conservation, for renewables, but I am all for reality.

This chart is ironic. It shows the New York Times editorial positions from time to time. This was the 1987, 1988, and 1989 position, the New York Times editorial board. They said in 1989:

> Arctic National Wildlife Refuge is the most promising refuge . . . of untapped resource of oil in the north.

In June of 1988:

> . . . The potential is enormous and the environmental risks are modest . . .

Further,

> . . . the likely value of the oil far exceeds plausible estimates of the environmental cost.
>
> . . . the total acreage affected by development represents only a fraction of 1 percent of the North Slope wilderness.
>
> . . . But it is hard to see why absolute pristine preservation of this remote wilderness should take precedence over the Nation's energy needs.

March 30, 1989:

> . . . Alaskan oil is too valuable to leave in the ground.
>
> . . . The single most promising source of oil in America lies on the north coast of Alaska.
>
> . . . Washington can't afford to treat the [Exxon Valdez] accident as a reason for fencing off what may be the last great oil field in the nation.

Now they say:

> Mr. Murkowski's stated purpose is to reduce the Nation's use of foreign oil from 56 percent to 50 percent partly through tax breaks.
>
> The centerpiece of that strategy, in turn is to open the coastal plain of the Arctic National Wildlife Refuge.
>
> This page has addressed the folly of trespassing on a wondrous wilderness preserve for what, by official estimates, is likely to be a modest amount of economically recoverable oil.

What a contrast. January 2001, the country needs a rational energy strategy, but the first step in that strategy should not be to start punching holes in the Arctic Refuge.

They have gone from 1987, 1988, 1989 to 2001, in March and January—a complete change of position. I asked the editorial board of the New York Times: Why? They said: Well, Senator, the former head of the editorial board moved to California so we have changed our position.

We have another one here from the Washington Post that is even more ironic. In 1987 and 1989 they said:

> Preservation of wilderness is important, but much of Alaska is already under the strictest of preservation laws. . . .
>
> But that part of the arctic coast is one of the bleakest, most remote places on this continent, and there is hardly any other place where drilling would have less impact on the surrounding life. . . .
>
> That oil could help ease the country's transition to lower oil supplies and . . . reduce its dependence on uncertain imports. Congress would be right to go ahead and, with all the conditions and environmental precautions that apply to Prudhoe Bay, see what's under the refuge's tundra. . . .

Then on April 4, 1989, it says:

> . . . But if less is to be produced here in the United States, more will have to come from other countries. The effect will be to move oil spills to other shores. As a policy to protect the global environment, that's not very helpful. . . .
>
> . . . The lesson that conventional wisdom seems to be drawing—that the country should produce less and turn to even greater imports—is exactly wrong.

Here we are in February 2001:

> Is there an energy crisis, and if so, what kind? What part of the problem can the market take care of, and what must government do? What's the right goal when it comes to dependence on overseas sources?
>
> America cannot drill its way out of ties to the world oil market. There may be an emotional appeal to the notion of American energy for the American consumer and a national security argument for reducing the share that imports hold. But the most generous estimates of potential production from the Alaska refuge amount to only a fraction of current imports.

Did we say it might be as much as 25 percent?

December 2001, the 25th, Christmas Day:

> Gov. Bush has promised to make energy policy an early priority of his administration. If he wants to push ahead with opening the plain as part of that, he'll have to show that he values conservation as well as finding new sources of supply. He'll also have to make the case that in the long run, the oil to be gained is worth the potential damage to this unique wild and biologically vital ecosystem. That strikes us as a hard case to make.

Isn't it ironic that these editorial boards of two of the Nation's leading papers could change their minds so dramatically? I did meet with the Washington Post editorial board and I asked them why they had changed their position. They were relatively surprised I would ask them that kind of question, and their response was equally interesting. They said they thought George W. Bush was a little too forceful in promoting energy activities associated with his particular background. In other words, I was politely brushed off.

This happens to be a Washington Post story. It is interesting because this is the newest deal that we developed. It is the Philips field, the Alpine project in Alaska's North Slope, and right on the edge of the National Petroleum Reserve, Alaska.

You can see that is a whole oilfield. That is it. That is producing somewhere around 85,000 to 100,000 barrels a day.

You know there is one thing you see and you see a little airstrip and that is all. There is no road out of there. There is a ice road in the wintertime, but in the summertime you have to fly to get in and out of there. The interesting thing about the Washington Post is—we used to have laws around here when I was in the banking business called truth in lending. You had to tell the truth to a borrower if you were going to lend him money. Those particular polar bears are warm and cuddly, but they are not in ANWR. We know where the picture was taken. It was taken about 500 miles away near Point Barrow. Nevertheless, it was a Park Service photo. It looked good. They just used it and wrote us a nice letter and said thank you.

> ANWR—100 percent homegrown American energy.

That is like homegrown corn.

> The exploration and development of energy resources in the United States is governed by the world's most stringent environmental constraints, and to force development elsewhere is to accept the inevitability of less rigorous oversight.

This is a gentleman, former executive director of the Sierra Club, Doug Wheeler.

> We can do it right. Give us a chance.

Washington Post, February 12, 2002:

> Our greatest single failure over the last 25 years was our failure to reduce our dependence on foreign oil . . . which would have reduced the leverage of Saudi Arabia.
>
> Richard Holbrooke, Ambassador to the United Nations in the second Clinton administration.

February 13, 2002:

> The Bush administration's defense of the leases shows "disregard for both our precious California coastline and the right of states to make decisions about their environment."

This was our good friend, the junior Senator from California, BARBARA BOXER, commenting on the issue of States having a determination as to what should prevail in their State. She further said:

> We're going to swap [oil leases] so that the oil companies can drill where people want them to drill.

That was February 15. Of course we would like to have them drill in our State. I think it is important to reflect the inconsistency associated with some of the statements.

This happens to be back in Eisenhower's time. This was a Petroleum Industry War Council poster:

> Your work is vital to victory. Our ships, our planes, our tanks must have oil.

You do not sail a Navy ship by wind. You do not fly the planes on hot air.

This is by Reuters:

> Iraq urges use of oil weapon against Israel, U.S.
>
> "Use oil as a weapon in the battle with the enemy (Israel)," Iraq's ruling Baath party said in a statement published by Baghdad media Monday.
>
> "If the oil weapon is not used in the battle to defend our nations and safeguard our lives and dignity against American and Zionist [namely Israeli] aggression, it is meaningless," the Iraqi statement said.
>
> "If Arabs want to put an end to Zionism, they are able to do so in 24 hours," Saddam told a group of Iraqi religious dignitaries Sunday night.
>
> "The world understands the language of economy, so why do not Arabs use this language?" he asked.
>
> "Saddam said if only two Arab States threatened to use economic measures against Western countries if Israel did not withdraw from Palestinian-ruled territory, "you will see they (Israelis) will pull out the next day."

That is the kind of threat being used today.

Let's take a look at where the Iraqi oil is currently going. It is going to California. This is 287 million barrels that we shipped out: Minnesota, Midwest, all the States in the red on this chart. Do not think we are not getting some Iraqi oil.

This is what occurred in the world when the United States said it was out for the Easter recess. This is a little note to the American people and the Senators. What happened April 9, while we were out? We had Saddam Hussein impose a 30-day oil embargo; oil jumped $3 a barrel; Saddam was paying the Palestinian suicide bombers an increase from $10,000 to $25,000; Iraq and Iran called on countries to use "oil as a weapon" against the United States and Israel, and Libya happened to agree with that; the Iraqis—there was a plot, I think it was reported in the Christian Science Monitor, to blow up a U.S. warship; the price of gasoline moved up.

So it is happening. Here is our friend Saddam Hussein, very blatantly stating "Oil Is A Weapon."

Again, we have seen this check that he is offering suicide bombers—$25,000.

This is reality. That is what is occurring in the world today. I do not know how the American public feels; but I am fed up.

The last one I will show again. It is the frustration associated with the people. You have seen this before. We all appreciate the sanctity of wilderness, parks, and recreation areas. But all those areas in Alaska are federally established withdrawals. They are wilderness areas, wildlife areas, and national parks. We are proud of them. But we are entitled to develop and prosper as a State, to provide educational opportunities for our children, sewer and water, and jobs.

When we look at an area one-fifth the size of the lower 48 and recognize we don't have one year-round manufacturing plant in the entire State, with the exception of an ammonia plant, that really can be considered a manufacturing plant—all of their products are exported outside of Alaska. We have oil and we have gas. As you know, once oil and gas are developed, they are not very labor intensive. There is a lot of maintenance. There is new exploration. The oil industry has done a responsible job. But it is not a resident oil industry. We don't have small resident companies in our State. We wish we did. We have Exxon, we have British Petroleum, we have Phillips, and a couple of others. It is all outside capital. The people who contribute to the industry are the best, but for the most part they are transient.

The wealth of an area is in its land. If the land is not controlled by the people, then the wealth belongs to government. In our State, for the most part it is the Federal Government, and to a lesser degree the State government. The only exception we have to that is the land that is owned in fee simple by our Native residents and their efforts to try to develop the resources on this land.

But I could go very easily right down the list. We have the potential for oil and gas. We are blessed with that. It is in the Arctic. It is in the Cook Inlet area. It is down around Anchorage, and it is higher up.

We have some other companies. Unocol is down in the Cook Inlet area. But for the most part, it has just been the major oil companies. We really don't have a significant locally owned, Alaskan-domiciled oil company of any competitive magnitude. I wish we did. But people come up and exploit the resources. Most of the profits are taken down below to Texas, simply where the oil industry is located. We have even seen Phillips move down to Texas as well. That is a corporate decision; that is their own business.

Oil and gas have tremendous potential. The only way the citizens of Alaska and the Government can participate in that is through employment and through revenues from the taxes of those resources.

We go to the timber resources. As I have indicated time and time again, there is more timber harvested in the State of New York for firewood than is produced commercially in the State of Alaska in the largest of all our national forests because we don't have State forests of any consequence, it is all Federal. Try to get a timber sale on the Federal forest today, and you will find yourself sitting on the courthouse steps—one injunction after another. As a consequence, I think we have one sawmill perhaps still operating in Ketchikan, one perhaps still operating in Klawock, and one perhaps still operating in Wrangell. That is virtually it.

We have 33,000 miles of coastline. There is a lot of fishing. We have a tough time marketing our salmon, which are wild Alaska salmon, because our salmon are seasonal. They start running in May and run through August and September. Our competition is now fish farming in Chile and Canada. We can't quite comprehend that in Alaska because, first of all, we don't know what we would do with our fishermen and coastal communities which are the backbone of our State. We think we have a superior product. But they can provide the fresh product year round in the market.

We have a problems with our fisheries. We are going through a transition. We don't necessarily know what the answer is. We have a lot of halibut, a lot of cod, and a lot of crab.

We are tremendously blessed with minerals. We have no transportation. We haven't built a new highway in our State since we opened up that highway to Prudhoe Bay to build the pipeline. We have no way to reach across our State from east to west. We have no highways throughout southeastern Alaska. We have a ferry system.

As you look at minerals, if you look at that map and try to figure out how you are going to get through some of the Federal withdrawals located nearby, indicated on the colored charts, you get a different picture of that wide open space up there and all those resources. How are you going to develop them? Anything we develop we don't market in our State because we don't have a population concentration. We have 660,000 people, or thereabouts, with half of them in Anchorage. Everything we produce has to be competitive with the other countries that develop resources and sell on the markets of the world. For all practical purposes, our world markets, with the exception of oil and gas, are in the Orient—Japan, Korea, Taiwan, and China to some extent.

That is a little bit of a rundown of Alaska today. That is why we believe, for the benefit of our State, our State government, and for our people, that it is imperative we be allowed to develop this area for the national security interests of this Nation.

There is a technical paper I came across which was sent to me on the physics of oil and natural gas production. It addresses the relationship between Prudhoe Bay and ANWR. It is two paragraphs. I think it is important. It is written by the professor of geological engineering and chairman of the Department of Mining and Geological Engineering, School of Minerals and Engineering, University of Alaska, Fairbanks. I am sure he would agree to have that go into the RECORD.

It states:

> Due to the physics of oil and natural gas production, the natural gas resources in Prudhoe Bay can now be produced since there has been a significant reduction in the oil reserves—

In other words, the oil has been pulled down.

He goes on to say:

> Due to the physics of production, the concurrent production of oil from ANWR with the production of natural gas from Prudhoe Bay can result in the optimum utilization of these energy resources. Without concurrent production there will be a significant time interval after the depletion of the natural gas in Prudhoe Bay before any gas is produced from ANWR. The interval could be as much as 30 years. Assuming only 16 billion barrels of recoverable oil in ANWR, and an excess capacity of 800,000 barrels per day in the Trans-Alaska pipeline, it would take 55 years to utilize this petroleum resource. Thus, natural gas from ANWR could not be optimally utilized for 34 years after the natural gas in Prudhoe Bay is depleted. There is more than adequate time for both Alaskans and those outsiders in the "lower-48" to freeze in the dark. ANWR petroleum must be utilized now in order to have ANWR gas available when Prudhoe Bay gas is depleted.

So he is making the case that as we developed Prudhoe Bay, we found the gas. We used the gas for recovery of the oil. Now that the oil is in decline, we can use the gas. But the same is true in ANWR. If we develop ANWR, and begin to produce oil, as the oil declines, we will use the gas for reinjection, and then we will have the gas available.

So there is a logical sequence in the manner in which you develop these fields and provide the continuity of oil, followed by the continuity of gas.

I must also indicate that as a professional engineer, Paul Metz is providing his opinion and not the opinion, necessarily, or endorsement of the University of Alaska, or the engineering department. But I think it puts a different light on the logic of the sequence of development of a huge hydrocarbon field such as we have in the Alaska Arctic today.

Mr. President, you have been very gracious with your time. It is 10:30 at night. I think we started this debate very early. Somebody said 8:30. It has been a long day. But I felt it necessary to give Joe an opportunity to show his charts, and he has done a good job of that.

I say to you, Mr. President, you have been gracious with your time. And the clerks, and the whole Senate professional staff have been very generous.

Again, I would appeal to those of you who are about ready to go to bed, to those staff people who are watching, to consider, one more time, the human element. Put aside, for just a moment, the environmental considerations that have gone into this debate. Consider the people of Alaska. Consider those kids—their hopes, their dreams, their aspirations for a better life, an opportunity for sewer and water. It looks like the middle child shown in the picture missed the dentist. But, in any event, they are American citizens. They are Eskimo kids who live in our land, and I think they have a right to look to us, look to those of us in this body for some disposition of their future so they can enjoy the opportunities that we take for granted.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL TOMORROW AT 9:45 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:45 tomorrow morning.

Thereupon, the Senate, at 10:33 p.m., adjourned until Thursday, April 18, 2002, at 9:45 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 17, 2002:

THE JUDICIARY

LANCE M. AFRICK, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

EXTENSIONS OF REMARKS

IN HONOR OF RAY "SCOTTY" MORRIS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Ms. PELOSI. Mr. Speaker, I rise to salute a great San Francisco talent, Ray "Scotty" Morris on the occasion of his 70th birthday. Scotty Morris is a brilliant photographer, and San Francisco has been enriched by the fine work he has done in our City.

Scotty's work in the fields of photography and photojournalism has earned him widespread recognition. He has won 28 national, State, and local awards for his photographs, including the well-recognized Associated Press News and Feature Award and the San Francisco Press Club Award for the best news picture of the year. His works have appeared in the New York Times, the London Times, Newsweek, Life, Esquire, Forbes, and many other prestigious publications.

Scotty Morris' photographs of international political leaders include every American President from Harry Truman to Bill Clinton, as well as Charles De Gaulle and Nikita Khruschev. His portfolio includes well-known images of film stars Elizabeth Taylor, Sophia Loren, and Robert Redford; world icons Queen Elizabeth, Mother Teresa, and the Dalai Lama; and sports heroes Pele, Peggy Flemming, and Joe Montana.

During Mayor Frank Jordan's administration, Scotty was the official photographer for San Francisco. His photograph of the Royal Yacht Britannia entering San Francisco Bay was presented to Her Majesty Queen Elizabeth as an official gift from the city of San Francisco and.now resides in Buckingham Palace.

Mr. Speaker, Scotty Morris' artistic gifts have enriched our City and our Nation. It is my pleasure to commend him for his marvelous career and to wish him the best on his 70th birthday.

PERSONAL EXPLANATION

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. HORN. Mr. Speaker, on Rollcall No. 92, H.R. 3762, the passage of the Employee Pension Freedom Act of 2007/Pension Security Act of 2002, I was unavailably detained on Congressional business. Had I been present, I would have voted yea.

PERSONAL EXPLANATION

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RYAN of Wisconsin. Mr. Speaker, due to a death in the family, I was absent for Roll Call Votes No. 80 through 92 from April 9, 2002 through April 11, 2002. 1 have listed below how I would have voted had I been present.

On Vote No. 80, to approve the Journal, I would have voted "Yea."

On Roll Call Vote No. 81, H. Res. 377, recognizing Ellis island Medal of Honor and commending the National Ethnic Coalition of Organizations, I would have voted "Yea."

On Roll Call Vote No. 82, H.R. 3958, the Bear River Migratory Bird Refuge Settlement Act, I would have voted "Yea."

On Roll Calf Vote No. 83, on agreeing to an amendment introduced by the gentleman from California, Mr. Waxman, to H.R. 3925, The Digital Tech Corps Act of 2002, 1 would have voted "No."

On Roll Call Vote No. 84, H. Res. 363, congratulating the people of Utah, the Salt Lake Organizing Committee and the athletes of the world for a successful and inspiring 2002 Olympic Winter Games, I would have voted "Yea."

On Roll Call Vote No. 85, H.R. 3991, the Taxpayer Protection and IRS Accountability Act, I would have voted "Yea."

On Roll Call Vote No. 86, on a motion to instruct conferees to H.R. 2646, the Farm Security Act, "Yea."

On Roll Call Vote No. 87, on ordering the Previous Question, I would have voted, "Yea."

On Roll Call Vote No. 88, H. Res. 386, the rule to consider H.R. 3762, the Pension Security Act, I would have voted "Yea."

On Roll Call Vote No. 89, on approving the Journal, I would have voted "Yea."

On Roll Call Vote No. 90, on the amendment offered by the gentleman from California, Mr. Miller, Substitute Amendment to H.R. 3762, the Pension Security Act, I would have voted, "No."

On Roll Call Vote No. 91, on the motion to recommit with instructions to H.R. 3762, the Pension Security Act, I would have voted, "No."

On Roll Call Vote No. 92, on final passage of H.R. 3762, the Pension Security Act, I would have voted "Yea."

HONORING RUBEN BURKS, SECRETARY-TREASURER OF THE UAW, ON HIS RETIREMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. DINGELL. Mr. Speaker, I rise today to recognize Ruben Burks on the occasion of his retirement from the UAW as secretary-treasurer.

Mr. Burks was elected secretary-treasurer of the UAW on June 24, 1998, by the delegates to the 32nd UAW Constitutional Convention in Las Vegas, Nevada.

As secretary-treasurer, Ruben holds the second-highest office in the UAW. He is responsible for various administrative departments of the International Union, including Accounting, Auditing, Building Maintenance, Circulation, Purchasing, and Strike Insurance. In addition, Burks directs the UAW Michigan CAP (Community Action Program) and the UAW's Veterans Department.

Prior to his position as secretary-treasurer, Ruben served three terms as director of UAW Region IC, which covers 11 counties in south-central Michigan and is headquartered in Flint.

Mr. Speaker, Ruben has been a member of UAW Local 598 since 1955 when he went to work as an assembler at the former Fisher Body Plant 2 of General Motors Corporation in Flint, Michigan. In 1970, Mr. Burks was appointed by then UAW President Walter Reuther to the International Union staff in Region 1C where he serviced UAW members in General Motors and independents, parts, and supplier plants.

Ruben has been a long time community activist as well. He has been a leader in Flint Genesee County Economic Development, a cooperative effort by labor, business, and civic leaders to keep good jobs in the Flint community and to attract new industries to the area. Ruben played a leading role in the UAW-General Motors Community Health Care Initiative in Flint, an innovative community-based effort to improve the quality and accessibility of health care while at the same time making the community's health care delivery system more cost efficient.

Ruben has not only been active in the UAW, but is also actively involved in numerous civic, charitable, and youth organizations in the Flint community, including Special Olympics, March of Dimes, Red Cross, and Easter Seals.

An outspoken advocate for working families in the political arena, Mr. Burks has made grassroots political action by UAW members a high priority in Region 1C. Ruben also received an honorary degree in Community Development from Mott Community College in recognition and appreciation of his contributions to the Flint community.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Ruben has lived in Flint since 1955 and is the proud father of seven children and ten grandchildren. Mr. Speaker, as Ruben leaves his position as secretary-treasurer of the UAW, I would ask that all my colleagues salute him and his leadership.

RECOGNIZING DePELCHIN CHILDREN'S CENTER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. BENTSEN. Mr. Speaker, I rise today in recognition of the DePelchin Children's Center, on the occasion of their 110th Anniversary and the grand opening dedication of their new facility. The DePelchin Children's Center is named for its founder Kezia Payne DePelchin, who in 1892 took three orphaned babies into her care and started a tradition of service.

The three babies taken in by Kezia were the first of thousands to be cared for by the DePelchin Children's Center. The center currently provides counseling services, parental education, adoption and foster care services, and residential treatment for children with emotional disorders. What is a most remarkable feat is that these services are currently offered to more than 27,000 children and families each year.

Throughout its 110 year continuum of care, DePelchin Children's Center has been a cornerstone of care in Harris, Montgomery, Ft. Bend, and Waller Counties. The services offered at DePelchin are designed to meet the specific needs of individuals and families. At DePelchin, services are offered to individuals regardless of their ability to pay. The Center receives its funding from the United Way, several government agencies, and the generosity of individuals within the community.

From 1892 to 2002, the DePelchin Children's Center has continued to grow. Through its support from the Child Welfare League of America (CWLA) in 1937, DePelchin opened the Negro Child Center and targeted services to Houston's minority population. During the days of segregation DePelchin was a catalyst within the community.

There are many success stories that spawned from the DePelchin Children's Center. The "Bayou Place," a division of DePelchin in Spring, Texas, serves as a group home and hosts classes for foster and biological families. It provides education for children at the shelter, care for children of battered wives, and adoption services for mentally retarded children.

Mr. Speaker, I join the DePelchin Children's Center as it celebrates its 110th Anniversary and the grand opening dedication of the new facility. I commend the staff and volunteers of DePelchin for their unyielding commitment to the ideals of Kezia Payne DePelchin. Their passionate work on behalf of countless young Texans has set an example for generations. I applaud their leadership and service, and wish them continued success in the years to come.

HONORING ROSTEEN STRASSNER

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Mrs. Rosteen Strassner on the occasion of her 100th birthday. The Fresno Temple Church of God in Christ celebrated her birthday on March 23, 2002.

Mrs. Strassner has made numerous contributions to her community; she is truly a giving person. She has served the West Fresno Community and the City of Fresno for nearly 68 years. Her accomplishments have been great, and range in variety. Rosteen's concern for others has made an impact on her career choices. Mrs. Strassner worked as a dietitian at St. Agnes Hospital for many years. She also owned and operated two restaurants in the Fresno area. Mrs. Strassner, unwilling to turn her back on anyone, opened her home to become a full-time caregiver to mentally challenged adults. Her hard work and dedication was very rewarding, though not in a monetary sense. She became one of the first African Americans to open a residential licensed home in West Fresno for the Central Valley Region and State of California, where she could assist numerous Valley residents.

Mr. Speaker, I rise today to honor Mrs. Rosteen Strassner on the very special occasion of her 100th birthday. The community has been greatly served by this outstanding woman. I invite my colleagues to join me in thanking Mrs. Strassner for her contributions to the community and wishing her many more prosperous years.

RACE RELATIONS IN NORTHEAST OHIO

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SAWYER. Mr. Speaker, in 1993, The Akron Beacon Journal in Akron, Ohio published "A Question of Color," a year-long Pulitzer Prize winning series on race relations in Northeast Ohio. As part of the series, The Akron Beacon Journal called on local organizations to join together to discuss ways to improve race relations in the community. This effort became known as the Coming Together Project.

Nine years later, the Coming Together Project has grown tremendously. What began as a local effort to address growing disparities between blacks and whites in the areas of housing, income, and educational opportunities, has expanded into a national effort to promote diversity, racial harmony, and cultural awareness. The Coming Together Project established programs that provide people with the opportunity to discuss issues that have historically divided them. Through educational workshops and seminars, the Coming Together Project promotes dialogue and helps foster community-building relationships.

On Wednesday, April 17, 2002, the Coming Together Project will hold its inaugural Annual Meeting and Awards Luncheon in honor of the organization's founders, community volunteers, and supporting groups. The Coming Together Project and its 250 participating member groups and corporations deserve recognition for their dedicated work to improving communities across the country through diversity programs.

RECOGNIZING THE HOUSTON MINORITY BUSINESS COUNCIL'S EXPO 2002

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. BENTSEN. Mr. Speaker, I rise in recognition of the Houston Minority Business Council's EXPO 2002. EXPO 2002, Texas' largest minority business development trade fair, assists major corporations, government agencies and educational institutions in identifying proven minority suppliers capable of satisfying product and service needs. This year's business forum will be held on Wednesday, September 5, 2002, at the George R. Brown Convention Center. Dr. John Mendelsohn, president of the University of Texas' M.D. Anderson Cancer Center will serve as this year's General Chair.

For many years, major corporations have used EXPO as a tool to disseminate information on how to do business with their companies. Minority Business Enterprises (MBEs) utilize EXPO as an easy and cost-effective means of accessing key purchasing personnel and decisionmakers at major corporations. EXPO allows MBEs to gain valuable insights into both the local and national strategies of major corporations. Nearly 1,000 minority-owned businesses and more than 200 corporations and government agencies are expected to attend. EXPO prides itself in its ability to spur the development of minority businesses by bringing together minority businesses and corporate executives. Last year, as a result of contacts established at EXPO, MBEs made an average of 23 sales calls from which 44 percent reported immediate results. On average, at least two-thirds of the participants reported the establishment of new business relationships that totaled as high as $2 million within 8 months of the event.

Mr. Speaker, the Houston Minority Business Council serves the important function of incorporating minority businesses in local and national commerce. Regardless of the size of the company, EXPO has something to offer a minority business owner, major corporation, government agency, educational or financial institution, or business resource organization. I applaud the efforts of the Houston Minority Business Council and look forward to another successful event.

HONORING CHARLES M. WALLIN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Charles M. Wallin for receiving the 2002 Hall of Fame Award from the Sanger District Chamber of Commerce. Mr. Wallin has been playing a huge role in the Sanger community nearly his entire life.

Charles Wallin attended elementary school and high school in Sanger. He graduated from Fresno State, and the College of Mortuary Science in Los Angeles. Upon his return to Sanger, Charles went into business with his father at Wallin & Son Funeral Home which he eventually purchased from his father and renamed Wallin's Sanger Funeral Home.

Mr. Wallin is a very active member of the Sanger community. He was a member of the board of directors for the Sanger Chamber of Commerce and was the District Secretary for Rotary District 5230. Charles Wallin has been a member of the Rotary Club of Sanger since 1964, and is currently a member of the Sanger Masonic Lodge No. 316. Charles is an avid supporter of the Tom Flores Youth Foundation, and also promotes numerous programs at Sanger High School, Mr. Wallin is a member of the California Funeral Director's Association. He has been married to Marilyn L. Wallin for 37 years, and the happy couple was blessed with three sons, Mark, Christopher, and Brian.

Mr. Speaker, I rise today to congratulate Mr. Charles M. Wallin for receiving the 2002 Hall of Fame Award from Sanger Chamber of Commerce. I invite my colleagues to join me in thanking Mr. Wallin for his community service and wishing him many more years of continued success.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 93, H.R. 1374, the Philip E. Ruppe Post Office Building Designation Act. Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 94, H.R. 4156, the Clergy Housing Allowance Clarification Act (as amended). Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 95, H.R. 4167, the Family Farmer Bankruptcy Extension Act. Had I been present I would have voted "yea."

50TH ANNIVERSARY OF LITTLE LEAGUE BASEBALL IN BOUND BROOK, NJ

HON. MICHAEL FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. FERGUSON. Mr. Speaker, I rise today to congratulate the players, coaches and administration of the Bound Brook Little League on the 50th anniversary of Little League Baseball in Bound Brook, New Jersey.

Nothing symbolizes the springtime and the onset of warmer weather like the first pitch of the baseball season. A season's first pitch is always a special moment, but on Saturday, April 20, the first pitch ceremony of the Bound Brook Little League commemorates 50 years of little league baseball in the community.

Over the years, little league baseball has become a fixture in Bound Brook. The little league does more than merely teach the youth of the area about our national pastime. It fosters camaraderie with teammates, instills respect for fellow competitors, and teaches youngsters that sports are about much more than winning and losing.

On April 20, the community of Bound Brook will come together to have a parade followed by exhibition baseball games to mark the 50th anniversary of the little league. This day of celebration will bring together former and current players and is symbolic of the organization's meaning to the area. The little league brings the community together to give adults the opportunity to share their love of baseball and teach kids lessons that they will carry throughout their lives.

I commend Bound Brook Little Leaguers, past and present, and the many friends of the little league that have helped mold the lives of so many youngsters throughout the past 50 years.–

HONORING DR. FRED B. KESSLER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. BENTSEN. Mr. Speaker, I rise today to honor Dr. Fred B. Kessler who has been selected The Houston Surgical Society's "Distinguished Houston Surgeon" for 2002. Dr. Kessler's family, colleagues, and friends will honor him at the society's meeting on May 21, 2002.

Dr. Kessler has dedicated his life to our county and to the world of surgical medicine. He was born on December 18, 1931, in Houston, TX. He graduated from the University of Texas in 1952 and obtained his medical degree in 1956 from the University of Texas Medical School in Galveston. Dr. Kessler interned at the Philadelphia General Hospital from 1956–1957 and completed his residency training at the Hospital University of Pennsylvania. He returned to Houston after completing his fellowship at Roosevelt Hospital in New York in 1963.

Dr. Kessler is currently Clinical Professor of Surgery and Co-Fellowship Director of the Plastic Surgery Hand Service at Baylor College of Medicine. He has served on numerous committees for the American Society for Surgery of the Hand and the American Medical Association, published numerous articles and chapters, and served as associate editor of the Journal of Hand Surgery.

Mr. Speaker, throughout his career, Dr. Kessler has distinguished himself as a spectacular surgeon, consummate educator and an integral part of the Houston community. It is with great honor that I congratulate him on this outstanding recognition of his commitment to the field of medicine.

HONORING MR. DEAN STANLEY SHELTON

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SCHAFFER. Mr. Speaker, today I am proud to honor Staff Sergeant Dean Stanley Shelton who proudly served in the United States Army and recently received the Purple Heart and Bronze Star medals of honor.

Raised in Kansas, Mr. Shelton was drafted on February 8, 1951 at age twenty-one, and first served in Germany. During his time there he met his soon to be wife, Greta. Once his service abroad was completed, Mr. Shelton came back to the United States and was stationed at Fort Custer, Michigan where he received an Honorable Discharge on January 30, 1955.

However, due to his dedication and love of service, Mr. Shelton re-enlisted in the Army on June 27, 1955. Once again duty sent him to Germany, South Korea, and South Vietnam.

It was in Vietnam, assigned to Company A, Fourth Engineering Battalion, Fourth Infantry Division, where Staff Sergeant Shelton sustained injuries during combat. On March 26, 1968, the Third Battalion Fire Support Base came under intense enemy ground, rocket, and mortar attack. During these events, Specialist Shelton sustained injuries while positioned in a bunker defending the base perimeter.

Although his fellow soldiers and the U.S. Army recognized his personal bravery, due to his severe medical condition and evacuation to U.S. hospitals, there was unfortunately not time to present his medals when they were actually awarded. On the battlefield, Shelton showed uncommon valor, dedication, and sacrifice that cannot be instilled in training.

Mr. Speaker, I had the honor of attending an awards ceremony on April 8, 2002, when Mr. Shelton finally received his medals. This nation has not forgotten his tremendous service. I would like to thank Staff Sergeant Shelton in keeping with the highest tradition of armed service, and selflessly defending the lives of his fellow soldiers.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CLEMENT. Mr. Speaker, on roll call no. 93, H.R. 1374, had I been present, I would have voted "yea."

RECOGNIZING SHARON K. DARLING

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mrs. NORTHUP. Mr. Speaker, I rise today to congratulate a truly inspiring woman in my district, Ms. Sharon Darling. Ms. Darling has been honored as a 2001 recipient of the prestigious National Humanities Medal. Next month, Ms. Darling will receive her award in a personal presentation from President Bush and First Lady Laura Bush.

As a tireless advocate for education and literacy, Ms. Darling has worked hard to improve and reform the education system. While serving in many capacities throughout her career, she has always remained steadfast in her pursuit of this very noble goal. Ms. Darling pioneered a program that combines early childhood education, adult literacy education, parental support and structured interaction between parents and their children. Encouraged by positive results, Ms. Darling founded the National Center for Family Literacy in 1989. Since its inception, NCFL, which is located in Louisville, Kentucky, has been dedicated to family literacy. Their efforts are internationally recognized, and NCFL is well-known for creating innovative program models, developing effective advocacy strategies and providing research, training and technical assistance to professionals working within the field of family literacy.

Ms. Darling and the NCFL realize the importance of education and literacy. Without the ability to access knowledge, people will not have the tools necessary to fight their way out of impoverishment, and to empower themselves. Ms. Darling serves as an advisor on education issues to governors, policy makers, business leaders and foundations across the nation. By providing advice and creative planning strategies, Ms. Darling works toward strengthening families through education, and moving them toward literacy and self-sufficiency; both essential steps in breaking the intergenerational cycle of poverty. She continues to have a lasting impact in helping to shape welfare reform, education reform and develop the skilled workforce of our nation.

The National Humanities Medal will not be the first time Ms. Darling has received recognition for her efforts. In 2000, she received the Razor Walker Award from the University of North Carolina for her contributions to lives of children and youth. She also has been honored with the Women of Distinction Award from Birmingham Southern University in 1999; the Albert Schweitzer Prize for Humanitarianism from Johns Hopkins University in 1998; the Charles A. Dana Award for Pioneering Achievement in Education in 1996; and the Harold H. McGraw Award for Outstanding Educator in 1993. Several honorary doctorate degrees and a feature on the Arts & Entertainment television network's series, "Biography" further exemplify the impact Ms. Darling has had in regards to education and literacy.

The National Humanities Medal, the Federal Government's highest honor recognizing achievement in the humanities, acknowledges individuals or groups whose work broadens citizens' engagement with and expands Americans' access to important resources in the humanities. By providing literary assistance to children and their parents, Ms. Darling's family literacy programs are helping reverse the disturbing trend of illiteracy in families, and improve the academic achievement of children. We all know that reading is critical to overall success in school—if a student cannot read the math problem, he cannot achieve in math—if he cannot read his science book, he cannot understand our changing world. Ms. Darling has striven toward the ideals personified by the National Humanities Medal, and her distinction is much deserved. I commend her on receiving this award, and thank her for the work she has done, and will continue to do.

HONORING MICHAEL P. GALAN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Michael P. Galan for receiving the Citizen of the Year Award from the Sanger District Chamber of Commerce. Mr. Galan has devoted many years to service within the community of Sanger.

Mike Galan graduated from Contra Costa Junior College in 1966 and was hired by the University of Wisconsin to work for the National Science Foundation in Antarctica. While in Antarctica he explored the Queen Maude Land area—which had never been explored. A mountain ridge was named "The Galan Ridge" for his involvement in the expedition.

He returned to California, completed a degree at California State University, Sacramento, and, after many promotions with Western Kraft Paper, moved to Sanger as Plant Manager. He has made a tremendous impact on the community through his participation in numerous organizations. He has been a member of the Rotary for seven years and the Sanger Chamber of Commerce for fifteen years. Mr. Galan is also a member of the Sanger Masonic Lodge and serves as a Trustee and on the Stewardship Committee for the Sanger Methodist Church. Regardless of his enormous community involvement Mike also spends a lot of time with his wife of 32 years, Karen, and their two sons, Justin and Raymond.

Mr. Speaker, I rise today to congratulate Mike Galan for receiving the Citizen of the Year Award from Sanger Chamber of Commerce. I invite my colleagues to join me in thanking Mr. Galan for his community service and wishing him many more years of continued success.

CELEBRATING THE 75TH ANNIVERSARY OF THE HAMILTON COUNTY REPUBLICAN WOMEN'S CLUB

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CHABOT. Mr. Speaker, today I want to recognize the Hamilton County Republican Women's Club of Cincinnati, Ohio, in celebration of its 75th anniversary.

Since 1927, this organization has diligently promoted and participated in our democratic process. The HCRWC has helped hundreds of candidates at the local, state, and federal levels, and supported countless issues of importance to the greater Cincinnati community.

Grassroots organizations like the HCRWC supply campaigns with dedicated volunteers who donate their own time to do the invaluable behind the scenes work necessary to keep the democratic electoral process functioning.

Mr. Speaker, organizations like the Hamilton County Republicans Women's Club are the backbone of the American political process. I wish the club and its members continued success in raising political awareness and increasing political participation in Cincinnati and beyond for years to come.

TRIBUTE TO FAITH HERITAGE HIGH SCHOOL BASKETBALL TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. WALSH. Mr. Speaker, I rise today to congratulate the Faith Heritage High School Boys Basketball team for winning the Class D New York State Basketball Championship. The Faith Heritage Saints not only won the Class D State title, they did so in an impressive fashion, finishing the season with a perfect 27–0 record.

The Saints were led by first year coach Dan Sorber as well as strong leadership from the team's veteran members, which included six graduating seniors. The team had high expectations from the very beginning of the season, never settling for anything less than perfection. Their senior leadership and perseverance allowed them to emerge victoriously in the title game. They finished the season having fulfilled all of their expectations and successfully completing the perfect season.

On behalf of the people of the 25th District of New York, it is my honor to congratulate the Faith Heritage Boys High School Basketball team and their coaching staff on their Class D State Basketball Championship. With these remarks, I would like to recognize the following players and staff. Jason Awad, David Booher, Joel Canino, Tim Halladay, Ryan Nellenback, Vivek Thiagarajan, BJ Dwyer, Paul Finch, Andrew Honess, Dan Loucy, Jacob Brunner, Cooper Stroman and Head Coach Dan Sorber.

REMEMBERING ISABELLA ROSE LANCASTER, OF MOBILE, ALABAMA

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. RILEY. Mr. Speaker, I rise this evening in extremely sad, yet spiritually joyful remembrance of a little girl named Isabella Rose Lancaster, who was born December 20, 2001, and died April 14, 2002, in the arms of her beloved mother.

During the short four months she graced our world with her innocent presence, Isabella touched the hearts of everyone fortunate enough to have seen her, to have held her, and to have loved her. Chief among them was her mother, Caroline Anne-Marie Lancaster, of Mobile, Alabama, whom my prayers, sympathy, and thoughts are with this evening.

Friends and family gathered at St. Dominic's Catholic Church in Mobile earlier today to remember Isabella and to comfort Caroline, who cared for her little girl with all a mother's love.

We in Congress mourn the unexpected passing of Isabella, and pause to remember her this evening.

While there are no words from man that could ever provide the solace Caroline needs, we humbly ask the Holy Spirit to shine into her soul, and reassure her broken heart that little Isabella will forever walk beside her, forever sleep next to her, and will forever protect her until Mother and Daughter are reunited in Heaven with our loving Father, the Lord our God, and his Son, Jesus, who this very hour holds Isabella safely in the palm of His hand, and who truly knows Isabella's life has no end.

HONORING DR. PAULA HARTMAN-STEIN

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SAWYER. Mr. Speaker, Dr. Paula Hartman-Stein, a leading mental health advocate, is being inducted into the National Academies of Practice on April 13, 2002, after being elected a Distinguished Practitioner by the National Academies of Practice in Psychology. Founded in 1981, the National Academies of Practice is an organization devoted to promoting quality health care for all through interdisciplinary practice, education, and research.

Dr. Paula Hartman-Stein is the founder of the Center for Healthy Aging, a behavioral health practice in Portage County, Ohio. A clinical psychologist with expertise in both healthy psychology and geropsychology, Dr. Hartman-Stein has taught psychological aspects of healthcare to internal medicine residents at Akron General Medical Center. Currently, she is an Adjunct Instructor at the Kent State University College of Nursing, a Senior Fellow at The Institute for Life Span Development and Gerontology at the University of Akron, and an on-line instructor for the Fielding Institute.

For almost 20 years, Dr. Hartman-Stein has helped individuals and families cope with the stress associated with caregiving and decision-making for older adults. Her work regarding assessment and therapy of older adults has been featured in many professional publications, including her 1998 edited book, Innovative Behavioral Healthcare for Older Adults: A Guidebook for Changing Times. For the past three years, she has been a regular columnist on public policy affecting older adults for the newspaper, The National Psychologist. She is considered a national expert in issues relating to Medicare and mental health.

Dr. Hartman-Stein received her doctorate from Kent State University and Master's degree from West Virginia University in Clinical Psychology. In addition, she received training through the Geriatric Clinician Development program at Case Western Reserve University.

CONGRATULATIONS TO SISTER ROSE MARIE KUJAWA

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. KNOLLENBERG. Mr. Speaker, I would like to take this opportunity to congratulate Sister Rose Marie Kujawa as she is inaugurated as Madonna University's sixth president. I would also like to thank her for her extraordinary contributions to Madonna. For over twenty years, Sister Rose Marie has served Madonna, and every person with whom she has worked is eternally grateful for all she has accomplished.

On July 1, 2001, Sister Rose Marie became Madonna's sixth president. Sister Rose Marie began her tenure with Madonna in 1975, organizing and teaching the first computer courses to be offered at the university. Later on, as an academic dean, Sister Rose Marie organized Madonna's first graduate program. During her term as academic vice president, the size of the faculty and the percentage of faculty members holding doctorates doubled. Further, the faculty teaching load was brought in line with national standards during Sister Rose Marie's tenure as academic vice president.

Mr. Speaker, it is clear Sister Rose Marie is a woman of great dedication to Madonna University. In addition to her outstanding service to Madonna, Sister Rose Marie is dedicated to improving the lives of others. She has served on the boards of a seminary, social services agencies, nursing homes, retreat centers, a hospice and a hospital. Additionally, she was elected to the leadership team of the Felician Sisters of the Livonia Province.

And so, Mr. Speaker, I submit this tribute to be included in the archives of the history of our country. It is women like Sister Rose Marie Kujawa who make this nation great. I extend to her my congratulations as Madonna University celebrates her inaugural activities on April 20, 2002.

INTRODUCTION OF THE DISTRICT OF COLUMBIA TAX INCENTIVES IMPROVEMENT ACT OF 2002

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Ms. NORTON. Mr. Speaker, today, during Tax Week in the Congress, I am introducing the District of Columbia Tax Incentives Improvement Act of 2002. The legislation builds on and adds to federal tax incentives I first pressed through Congress in 1997 in order to help produce market-based residential and business stability and growth. I believe the bill has a good chance of passage. This bill is necessary to assure even the sustained stability, let alone real economic growth, that still eludes the District economy and the city government. The bill is essential if the District is to become more economically diverse so that it is not overly dependent on just two sectors—tourism and federal offices. This federal tax package gives the city the tools it needs to begin to produce a self-sufficient economy. After the financial collapse of the 1990s, and after the sunset of the control board last year, Congress has an obligation to help the city do what is necessary to increase its own residential and commercial economic output and independence.

The city does not have that capacity today. Ominously, the District lacks the essential safety valve of other large cities—a state to fall back on in times of economic downturn and distress. The economic forecasters agree that because of congressionally imposed impediments to collecting the natural revenue available to states, including the inability to levy a tax on commuters, no matter how much the District reduces spending, expenditures will continue to grow faster than revenues for the foreseeable future. This trend places the District on a collision course, at worse to insolvency, at best to instability, if the Congress does not assist the District with economic tools to help the city capture its own, natural, steady revenue stream in the marketplace. The surpluses that brightened the city's hopes are trending toward a decline: $185 million surplus in 1997 to a $77.6 million in 2001. Because of congressional constraints on the ability of the District to collect revenue, the District faces an annual structural deficit of $400 million, a figure projected to rise every year. The city's unemployment rate is 6.9% compared with 4.5% in Maryland and 4.1% in Virginia. This picture resembles other large cities in the United States. However, none of these cities survives on city-generated revenues alone, nor could it do so. State assistance is necessary not only to meet current expenses, but also to make up for sharply diminished tax bases in every other major American city.

Fortunately, the federal tax credit incentive approach already approved by Congress is having extraordinary success in promoting economic growth here. My bill will improve upon D.C.-only tax credits that leverage the private sector rather than the government to do the job of growing the economy and will return many times the small tax revenue foregone by the federal government.

The District of Columbia Tax Incentives Improvement Act of 2002 that I introduce today has six important components: first and most important, treatment of the entire District of Columbia as an enterprise zone, to spread to all neighborhoods and businesses tax incentives that have brought substantial benefits to many communities but with the unintended effect of affording an unfair and arbitrary advantage to some businesses and neighborhoods over their competitors; (2) assuring that the tax benefits do not expire before their job is done by extending these D.C.-only federal enterprise zone benefits, to match other jurisdictions with similar benefits; (3) improvements to capital gains provisions, including zero capital gains taxation for businesses holding intangibles; (4) making the $5000 homebuyer credit permanent, to ensure continuation of the tax incentive that is largely responsible for new homebuyers and for maintaining and attracting taxpayers to the city, and that is critical to helping the District achieve the 100,000 new residents necessary to sustain its stability; (5) releasing tax exempt bonds from the private activity bond limit in order to lift the constraints of a valuable tool for attracting businesses to build here; and (6) enacting triple tax exemption for D.C. securities, to put the District on par with the territories who do not pay taxes on their securities.

1. District of Columbia City-Wide Enterprise Zone

Several extraordinarily valuable enterprise zone tax benefits constitute the major financial tools that have been used for business revival and new commercial and office construction in the city. Among the most successful have been the wage tax credit allowing an employer a 20% credit for the first $15,000 ($3000) of an employee's income if that employee is a D.C. resident. This credit not only helps attract and retain businesses, it also helps to correct the severe imbalance that allows two-thirds of the jobs in the city to go to commuters. Another tax benefit, the elimination of capital gains altogether, is expanding and creating businesses in many city neighborhoods and downtown. A third tax incentive, tax exemption for up to $15 million in bonds, is fueling much of the city's construction boom, and construction alone accounts for the major portion of the increased economic output of the District today.

However, because the District is small and compact, multiple enterprise zones have had unintended, discriminatory effects. High income university students with little personal income have brought Georgetown and Foggy Bottom businesses within the zone, but some businesses in struggling areas of Ward 5 do not qualify. The Willard Hotel can get $3,000 off the first $15,000 it pays any employee, but competitors such as the Hay Adams and the Washington Hilton, cannot. The Hay Adams, one of D.C.'s oldest and most distinguished hotels recently completed renovation of its facilities and helped return tourists to D.C. without the benefit of the $15 million tax exempt bonds because it is not in the zone. These new provisions would eliminate an unearned advantage that forces competition among our already depleted pool of businesses instead of between those in and outside of the District.

The solution is to designate the District of Columbia itself an enterprise zone. Only this solution will erase indefensible distinctions that tear neighborhoods apart and help some D.C. businesses, neighborhoods and residents over others that are similarly situated.

We are simply asking the Congress to do for the business tax breaks what it has already done for the Homebuyer credit: make it available in all parts of the city. The $5,000 Homebuyer Tax Credit has always been citywide, and the success of its citywide approach shows that effective tax breaks can and should be used to encourage the economy throughout the city.

2. Extending the Life of the D.C. Enterprise Zone Benefits

Currently, the District of Columbia Enterprise Zone Benefits (including the $3,000 wage credit, zero percent capital gains taxation, tax exempt bonds) expire at the end of 2003. Last Congress, other jurisdictions which enjoy similar tax incentives, had their benefits extended until 2009. The Tax Incentives Improvement Act would extend the life of the D.C. Enterprise Zone Benefits to 2009 to match those of other states.

Since 1997, the economic impact of these valuable tax incentives have been felt across the city, and the evidence of their clear success has enabled me to renew these benefits several times. The evidence is now so convincing that I am seeking not only to renew but to enhance and improve the benefits. In return for hiring D.C. residents, local businesses have claimed hundreds of thousands of dollars in $3,000 employment tax credits which has resulted in the hiring of D.C. residents as required to receive any tax breaks. Representative D.C. businesses that have claimed wage credits include hotels and restaurants, retailers (such as Safeway Foods, CVS Drugs, and Subway Restaurants), offices, janitorial and maintenance services, parking facilities, and telephone, electric, and gas utilities. Although the Internal Revenue Service does not have a mechanism that captures the amount of wage credits claimed, there are thousands of representative examples throughout the city: an accounting firm with 15 District clients that documented claims of $1.9 million over three years; a D.C. manufacturer that claimed tax credits of $400,000 over the same period; a partnership that owns a D.C. hotel that claimed credits of more than $500,000 each year since 1998; and one of the District's largest hotel operators, for tax year 2001, will claim employment tax credits of more than $1.7 million.

In addition, more than $150 million in tax exempt bonds have been issued on behalf of new and expanding for-profit businesses, including such neighborhood retail businesses as K–Mart and CVS Drugs; tourist destinations such as the new International Spy Museum; commercial parking facilities, and social service providers such as the United Planning Organization. Specific amounts include: $11.3 million in tax exempt bonds for the Arnold and Porter law firm; $13 million for a subsidiary of Pepco; $9 million for the Crowell and Moring law firm; and $4.5 million for the American Immigration Lawyers Association. The current pipeline consists of projects valued at over $150 million.

3. Improvements to Capital Gains Provision

The District seeks the high technology and computer companies that have made the rest of the region rich and that can help diversify the city's economy. Under current federal enterprise zone law, elimination of taxes on capital gains (such as increases in the value of investments in stock or property), does not apply to earnings to D.C. companies and entrepreneurs whose assets consist substantially of so-called "intangible" assets (those assets which do not have a physical substance). The most common types of businesses that deal principally in intangibles are information-based technology companies, including those that develop software or maintain Internet sites. Recently, the Internal Revenue Service ruled that businesses in the District holding intangibles could not receive the zero percent capital gains taxation allowed in many neighborhoods in the D.C. enterprise zone. My bill allows technology and other companies to receive the special capital gains treatment subject to appropriate safeguards to ensure that D.C. is not used by such companies as a tax haven.

My bill also makes other important improvements to the capital gains provisions in the D.C. enterprise zone law, including reducing the holding period for assets from five years to two years to help spur investment and growth and reducing the amount of business that must be derived from the zone to receive the special capital gains treatment. Currently, District businesses must derive 80% of their business from the enterprise zone while other jurisdictions only have to derive 50%. My bill corrects this inequity.

4. Making the District of Columbia a Permanent $5,000 Homebuyer Credit Jurisdiction

This provision would make permanent the $5,000 Homebuyer Credit, perhaps the most successful economic stimulus in the city's history. It is chiefly responsible for stemming the flight that almost destroyed the city's tax base during the 1980s and during the financial crisis and insolvency of the 1990s. The credit offers significant evidence that a tightly targeted tax incentive can have a major turnaround effect on a major problem confronting a city.

The credit has been so successful that we have recommended that states do the same for the many large cities that are rapidly losing taxpayers. In 1998, its first full year, despite the city's financial problems and damaged reputation, the credit made the District first in home sales increases in the United States. According to an independent study by the Greater Washington Research Center covering a portion of 1997 and all of 1998, 70% of D.C. homebuyers have used the credit, and 51% purchased homes because of the credit. In 1999 alone, single family home sales have risen in the District by over 10,000 homes. Fannie Mae has converted the $5,000 credit into up-front money towards the purchase of a home, affording the credit significantly greater value to the individual.

The $5,000 homebuyer credit proved itself so quickly and so well that I have been able to get it repeatedly extended by Congress. The credit is minimally necessary if the city is to have any chance of increasing its still small and depleted tax base, an urgent necessity for self-sufficiency. The credit has proved itself so definitively that to get the full effect, it should be enacted permanently.

5. Exempt Enterprise Zone Bonds from Private Activity Bond Limit

Under legislation recently enacted by the Congress, Enterprise Zone bonds issued to finance commercial development projects in Empowerment Zones and Renewal Communities are exempt from the federal Private Activity Bond Limit or PAB. The PAB is the state's annual authorized limit for total tax-exempt bonds projects. Currently, that limit is $150 million per year in the District. The failure to apply this exclusion to the District places the city at a competitive disadvantage with the states, particularly with respect to housing and retail projects. My bill levels the playing field and exempts the District from the $150 million limit, as well as from the $15 million per project limit, to give the District the tools to attract economic development projects to the city.

6. Triple Tax Exemption for District Securities

Generally, local jurisdictions that issue securities, such as bonds and notes, are subjected to three different levels of taxation—federal, state, and local. Unlike these jurisdictions, the District is the only local government in the continental United States that does not have a state to assist it in supporting basic goverment functions and services. Although Puerto Rico, the Virgin Islands, and American Samoa do not have state support either, they have been granted an exemption of federal, state, and local taxes (or triple tax exemption) on their securities (bonds and notes issued by the Council) to help make up for this deficiency. My bill ends the District's inequitable treatment and exempts District securities, like those in the territories without state aid, from federal, state, and local taxation.

PENSION SECURITY ACT OF 2002

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in opposition to H.R. 3762, the so-called Pension Security Act of 2002. As we all learned as a result of the monumental collapse of Enron, our pension system needs to be fixed to ensure that Americans' retirement savings are protected.

This bill brought before us today, however, does not ensure this protection. What it does ensure is political cover for the majority so they appear to be protecting people's retirement savings while not creating friction with their corporate allies.

H.R. 3762 doesn't really solve the problems we witnessed last year from the Enron debacle. The majority's bill still restricts employees from selling existing company stock in their pension accounts during the five-year phase-in, and requires them to hang on to employer stock for three years after it is contributed. While employees are restricted during this time, however, company executives would still be free to trade their own stock as they wished.

The substitute bill, which I support, has no such five-year phase-in and allows employees to sell employer stock immediately, once they have been in the plan for three years. The substitute also ensures that employees will know, within three days, when executives are dumping large amounts of their company stock. Ken Lay used loopholes in securities laws to delay disclosure of sales of millions of dollars of company stock. Had employees known about these sales, they may have decided not to continue to purchase Enron stock. The substitute ensures that such information could not be kept from employees. Also, the substitute holds executives accountable for selling company stock in their special pension accounts by including stiff new criminal penalties for violations.

H.R. 3762 also allows companies to offer workers investment advice, even if there is a clear conflict of interest. For example, an investment management company could serve as both the investment advisor and the plan manager chosen by the company.

I urge my colleagues to oppose H.R. 3672, support the substitute, and help protect the savings of hard-working Americans. The Pension Security Act of 2002 is nothing more than lip service to protecting pensions. 15,000 Enron employees lost more than $1.3 billion. Clearly this calls for Congress to provide real security and real pension protection and reform of the system that allowed Enron officials to pull the sheets over the eyes of their employees. That is what the Rangel/Miller substitute does and that is the bill I will support. Thank you.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CLEMENT. Mr. Speaker, on roll call no. 94, H.R. 4156, had I been present, I would have voted "yea."

TRIBUTE TO SERGEANT 1ST CLASS DANIEL AARON ROMERO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SCHAFFER. Mr. Speaker, it is with a heavy heart and a tremendous amount of respect and admiration that I rise today to honor the tragic, yet heroic death of Colorado Army National Guard Sergeant 1st Class, Daniel Aaron Romero. On April 15, 2002, near Qandahar, Afghanistan, Sergeant Romero gave his life for his country, while fighting the battle against the evils of terrorism during Operation Noble Eagle. Upon reflection of his life and service to this nation, we have come to know Sergeant Daniel Romero as a man who loved his family, loved his home State of Colorado, and loved his country.

Born in Longmont, CO, Daniel was the only son of proud parents, Michael and Geralyn Romero. While earning his living as a Colorado rancher, Daniel decided to concurrently serve with the Colorado Army National Guard in 1991.

Sergeant Romero rose through the ranks of the Colorado Army National Guard, receiving the Army Service Ribbon, Non-Commissioned Officers Ribbon, National Defense Service Medal, and the Colorado Service Ribbon with device. Eventually, Sergeant Romero became a member of the select B/5–19th Special Forces Group, headquartered in Pueblo, CO. This elite group of soldiers is known for parachuting at high altitudes, rappelling from helicopters face first, and furtively permeating enemy lines. In December 2001, he was placed on active duty to serve in Operation Noble Eagle.

Sergeant Daniel Romero is survived by his wife Stephanie, mother Geralyn, father Michael, and sisters Gabrielle and Stephanie. I am sure I speak for this entire Nation when I say our thoughts and prayers go out to the Romero family. May God send His grace upon them during the time of this tragic loss, and may Daniel's bravery and selflessness become the proud example for all those actively serving in America's War Against Terrorism.

HONORING ONCOLOGY NURSES AND THE ONCOLOGY NURSING SOCIETY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. BENTSEN. Mr. Speaker, I rise today to bring to the attention of my colleagues the important and essential role that oncology nurses play in the provision of quality cancer care. These nurses are principally involved in the administration and monitoring of chemotherapy and the associated side-effects patients may experience. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial, and supportive care to patients and their families. In short, they are integral to our Nation's cancer care delivery system.

The setting for cancer treatment has changed over the last 10 years. Today, more than four out of five cancer encounters occur in community settings, where the majority of cancer care is provided by oncology nurses. However, Medicare does not adequately reimburse the administration of chemotherapy by oncology nurses, which are referred to as practice expenses. Last September, the General Accounting Office released a study indicating that Medicare's drug reimbursement system, based upon the Average Wholesale Price (AWP), is severely flawed and drug payments are inflated. While I strongly support the efforts to reform the AWP system and ensure that Medicare does not overpay for any supplies, I also believe that Medicare should not underpay for any benefits or services.

Today, more than two-thirds of cancer cases strike people over the age of 65 and the number of cancer cases diagnosed among senior citizens is projected to double by 2030. At the same time, many of the community-based cancer centers are facing significant barriers in hiring the specialized oncology nurses they need to treat cancer patients. It is estimated that there will be 115,000 nursing positions open in the year 2015.

The Oncology Nursing Society (ONS) is the largest organization of oncology health professionals in the world with more than 30,000 registered nurses and other health care professionals. Since 1975, the Oncology Nursing Society has been dedicated to excellence in patient care, teaching, research, administration and education in the field of oncology. Of the 13 ONS chapters in the State of Texas, one is located in the Houston area. These chapters serve the oncology nurses in the state and help them to continue to provide high quality cancer care to those patients and their families in the State.

In particular, I would like to acknowledge nine special oncology nurses from my district who will be in Washington this week to participate in the ONS Annual Congress and the ONS inaugural Hill Day—Glenda Alexander, Laura Espinosa, Visitacion Junpratepchai, Sherry Preston, and Ellen Siegel from Houston, Vickie Dockery from Alief, Cynthia Segal and Paula Rieger from Bellaire, and Susan Stary from Pasadena. I am looking forward to meeting with these outstanding women who have dedicated their lives to improving the health and well being of people affected by cancer. On behalf of all the people with cancer and their families in Texas' 25th Congressional District, I thank these nurses as well as all of their colleagues in the Oncology Nursing Society for their outstanding contributions to the provision of quality cancer care to those in need.

I would like to also acknowledge Paula Rieger for her leadership within the Oncology Nursing Society. For the past 2 years, Paula has served as the ONS President of the Board of Directors and has been an outstanding leader and spokesperson for the organization. I have had the pleasure of working with ONS and Ms. Rieger over the past few years to advance programs and policies that work to reduce suffering from cancer. Her leadership and vision for ONS have resulted in the organization being more aggressive and effective in its health policy efforts. In addition, through her commitment to outreach and collaboration, ONS has expanded and strengthened its partnerships with other health professional, patient, and advocacy organizations. This week Ms. Rieger is stepping down from the ONS Board of Directors. I thank her for her commitment to ONS, for advancing oncology nursing, and for caring for the people of the greater Houston area.

Mr. Speaker, I would like to commend the Oncology Nursing Society for all of its efforts and leadership over the last 27 years and thank the Society and its members for their ongoing commitment to improving and assuring access to quality cancer care for all cancer patients and their families. I urge all of my colleagues to support them in their important endeavors.

TRIBUTE TO COLONEL MICHEAL J. COLEMAN

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CRAMER. Mr. Speaker, I rise today to recognize the contributions of Colonel Micheal J. Coleman to the U.S. Army. I join his family, friends, and colleagues as they celebrate his accomplishments and congratulate him on his retirement from 27 years of service in the U.S. Army.

Colonel Coleman is a native of Montgomery, AL, and earned a bachelor of science degree in Business Administration in December 1975 from Alabama A&M University. Immediately after graduation, he was commissioned as a Second Lieutenant in the Adjutant General Corps and entered active duty on January 6, 1976, thus beginning his long and successful career with the U.S. Army. Since that time, Colonel Coleman has served in various capacities in Stuttgart, Germany; Raleigh, NC; Izmir, Turkey; Alexandria, VA; Washington, DC; and at Redstone Arsenal in Huntsville, AL. He achieved a masters of arts degree from Webster University as well as graduated from many other distinguished military educational programs. On March 28, 2002, he will retire from his position as the Director of Personnel and Training for the U.S. Army Aviation and Missile Command at Redstone Arsenal. I know the people of Redstone Arsenal will miss his outstanding leadership, but wish him a well-deserved retirement.

Colonel Coleman has earned a great deal of respect from his colleagues, receiving several military awards throughout his career. His awards include the Legion of Merit, the Defense Meritorious Service Medal Second Oak Leaf Cluster, Meritorious Service Medal Fourth Oak Leaf Cluster, the Army Commendation Medal Third Oak Leaf Cluster, the Joint Service Achievement Medal, the National Defense Ribbon, the Army Staff Identification Badge, the Army Parachute Badge, and the Army Superior Unit Badge.

This is a deserved retirement for someone who has worked so diligently for the United States to protect our freedom and defend our nation. I join his wife, Carolyn, his sons PJ and Casey, and all of his friends, family, and colleagues in celebrating Colonel Micheal J. Coleman's 27 years of service. On behalf of the U.S. House of Representatives, I congratulate Colonel Coleman and express my gratitude for a job well done.

HONORING MICHAEL FORDE AND THE NEW YORK CITY DISTRICT COUNCIL OF CARPENTERS

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CROWLEY. Mr. Speaker, I rise today to pay tribute to Mr. Michael Forde, Executive Secretary-Treasurer of the New York City District Council of Carpenters and the over 300 men and women who have dedicated everyday, 24 hours a day, to the clean up effort at the World Trade Center Site.

Mr. Speaker, Michael Forde is a leader in the New York City labor community as the Secretary-Treasurer of the largest Carpenters Union in the Country representing over 25,000 members.

On September 11, the District Council under the leadership of Michael Forde, wasted no time in being some of the first men and women outside of rescue workers and public safety officers to be on the scene of Ground Zero. During the first days after the destruction of the Trade Center, union carpenters worked around the clock helping to clear debris, insuring the structural safety of the area for rescue workers and engaging in the search themselves for survivors of the attack.

As a union based in Lower Manhattan, the District Council of Carpenters has a long and strong history of working to make New York City the financial capital that it is today.

The quick, untiring and heroic response of the men and women of the District Council of Carpenters would not have been as extensive or effective if it was not for the leadership of Michael Forde.

Mr. Speaker, I have known Michael Forde for many years. He was born in the Bronx, moved to Woodside, Queens, in my congressional district where he graduated from Christi High School in Astoria. He received his B.A. in Business Administration from Hunter College.

Mike started in the carpentry field as an apprentice during the construction of the World Trade Center in the early 1970s. Through hard work, dedication to his craft, exceptional leadership skills and a strong commitment to his fellow union brothers and sisters, he rose through the ranks to become a foreman, general foreman, shop steward, president and business manager of Local 608 and ultimately to his present position.

Mr. Speaker, Michael Forde is just one among many. I rise today not only to pay tribute to him and to recognize his work to help rebuild Lower Manhattan and Ground Zero, but I rise to recognize all the men and women of the New York City District Council of Carpenters. These men and women have showed exceptional dedication, fulfilling the task at hand and they will play a critical role in the tasks of the future rebuilding Lower Manhattan and Ground Zero.

Mr. Speaker, I rise today to insure that we as a Congress recognize the work the New York District Council of Carpenters did and the work they continue to do to rebuild Lower Manhattan.

IN RECOGNITION OF THE CONTRIBUTION OF THE IRON WORKERS TO THE RECOVERY OF NEW YORK

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. ENGEL. Mr. Speaker, for every American, September 11th, 2001 means one thing. It is a day that we, as a Nation, suffered as we had never before. As I watched the events of the day unfold from my home in the Bronx, like most, I thought of my family and their safety.

Some others though, had thoughts of only one thing—how can I help. Hundreds of firefighters, police officers, and emergency medical personnel and, yes, construction workers, went running to what was left of the Twin Towers to try and save lives. We should all feel proud of the many men and women who went to Ground Zero, such as the Iron Workers.

In fact, it was Iron Workers who had one of the toughest jobs. These men and women were charged with sifting through that nightmare and they did so with great dignity and compassion for those who lost their lives and their families. As I have watched this amazing transformation, I have swelled with pride, for I have a special place in my heart for these men and women who are Iron Workers, because so was my father.

Today, I have the honor of recognizing two great trade union leaders, Ed Walsh and Robert Ledwith, Both of these men have dedicated their lives to their families, their communities, and their unions.

Just last month, Ed Walsh became the President of the Iron Workers District Council of Greater New York and Vicinity. Ed Walsh started his career with the Iron Workers in 1968 working as an apprentice for three years. He became a journeyman Ironworker union member in 1971. Through three decades he moved up the ranks until becoming the Business Manager of Local 40 in 1995. In March 2002, Ed was appointed as General Organizer for the International and became President of the Iron Workers District Council of Greater New York and Vicinity, an affiliate of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers.

Ed resides in Mamaroneck, New York with his wife Kathy. He has two sons, Christopher and Kevin. Kevin has decided to follow his father's footsteps and is currently an apprentice with Iron Workers Local 40. Ed Walsh comes from a union tradition. His father and brothers John and Bob are union ironworkers, his brother Jim is a retired union carpenter, and his brother is a retired New York City Police Officer.

Bob Ledwith serves as Business Manager and Financial Secretary-Treasurer of the Metallic Lathers Union and Reinforcing Iron Workers Local 46. Bob Ledwith was elected as Business Agent for the Metallic Lathers Union and Reinforcing Iron Workers Local 46 in June 1981. He was elected Business Manager and Financial Secretary-Treasurer in 1999 and continues to serve in that capacity today.

Through the haze and the numbness caused by September 11th, something was shining through. The American Spirit. The men and women of the Iron Workers are the embodiment of that Spirit. It gave us all a sense of hope and a sense of pride.

LEHIGH VALLEY HERO—HANOVER ELEMENTARY SCHOOL

HON. PATRICK J. TOOMEY

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, April 17, 2002

Mr. TOOMEY. Mr. Speaker, today I would like to share my Report from Pennsylvania for my colleagues and the American people.

All across Pennsylvania's 15th Congressional District there are some amazing people who do good things to make our communities a better place. These are individuals of all ages who truly make a difference and help others. I like to call these individuals Lehigh Valley Heroes for their good deeds and efforts.

Today, I would like to recognize the fifth graders and teachers at Hanover Elementary School in Bethlehem. These students and teachers are true examples of excellence in education.

This year, Hanover Elementary, for the second year in a row had the highest PSSA scores in all of Pennsylvania. The 69 students scored 1630 in math and 1570 in reading, well above the state average of 1310 in both areas. The students outscored 3,800 public and private elementary schools across the state!

I recently had the opportunity to attend a reception in honor of these students and teachers, and offer my congratulations. The teachers deserve much credit for their hard work and dedication. They obviously inspired their students to want to achieve academically. They have shown that when we raise academic standards, we raise academic performance.

These teachers who make a difference everyday and students who excelled way beyond expectations are Lehigh Valley Heroes in my book. They are as follow: Carol Leasure, Principal; Earl Bethel, 5th grade teacher; Patrice Masluk Schwartzman, 5th grade teacher; and Amanda Shuler, 5th grade teacher.

Students are: Sophia Abud, Erin Albertson, Matthew Ammon, Darren Ankrom, Philip Antonis, Amal Atiyeh, Peter Badger, Monica Bates, Rachel Bochner, Jaimie Boyd, Lauren Burlew, Christopher Cann, Andrew Cass, Rakesh Chauhan, Dilesh Chudasama, Nicholas D'Angelo, Brittany Dellatore, Gregory DeSarro, Owen Divers, Lance Dolci, Roberta Domyan, Caitlin Donnelly, Brittney Dunnigan, Austin Emmons, Donnarae Farrell, Luke Foley, Shawn Forouraghi, Maria Gentis, Erin Glenn, Alexander Haller, Benjamin Haskins, Andrew Hero, John Hrubenak, Christie Jones, Kayleigh Kalamar, Patrice Kane, Ryan Kassis, Carl Kolepp, Nicole Kyriakopoulos, Gregory Laudenslager, Alaina Loguidice, Kyle Longemecker, John Lule, Kevin McCarthy, Drew Mihalik, Brian Miller, Mark Moyer, Bradley Pendzick, Gregory Pendzick, Lauren Perlman, Matthew Piazza, Ashley Plummer, Alexander Pypiuk, Jason Ricles, Kayleigh Rider, Daniel Rivera, Ethan Saravitz, Robert Sawyer, Matthew Searfoss, Emilie Segretto, Mark Segretto, Paul Segretto, Jared Serman, Christopher Smith, Robert Stauffer, Abigail Tercha, Emilye Turner, Steven Walsh, and Rebecca Yaple.

Mr. Speaker, this concludes my Report from Pennsylvania.

PENSION SECURITY ACT OF 2002

SPEECH OF

HON. TODD TIAHRT

OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 11, 2002

Mr. TIAHRT. Mr. Speaker, I rise in strong support of H.R. 3762, the Pension Security Act of 2002. This legislation is not only a step in addressing areas such as blackout periods and diversification in retirement accounts, it is an important step towards giving workers throughout my state of Kansas, and the rest of America, the peace of mind and security they deserve when planning for retirement.

This bill, based on the President's pension reform proposal, contains new safeguards and options to help workers preserve and enhance their retirement security, and demands greater accountability from companies and senior corporate executives during so-called "blackout periods" when workers are not allowed to make changes to investments in their retirement accounts.

The Pension Security Act would have made a real difference in the lives of thousands of Enron employees and investors if these measures had existed at the time of the company's collapse. For example, under this bill, diversification and sound investment advice would have been readily available because investment advisors would have been made more accessible and employers would have been forced to take responsibility for anything that happened to employee retirement savings during blackout periods. Companies would have also been required to provide 30-day advance notice of a blackout period.

Mr. Speaker, I believe Congress has a responsibility to fully protect workers and give them the ability to enhance their retirement savings. Enron workers may well be the victims of criminal wrongdoing, but they were definitely the victims of outdated federal pensions laws. Let's prevent this from happening again. Pass the Pension Security Act.

YOM HA'ATZMAUT

HON. CAROLYN McCARTHY

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, April 17, 2002

Mrs. McCARTHY of New York. Mr. Speaker, I rise in celebration of Israel's Independence Day. Fifty-four years as the sole democracy in the Middle East is a huge accomplishment. As a member of Congress, and a friend of Israel, I know that she will have 54 more, and counting! This is only a beginning.

Israel has faced many tough times since 1948, like the one now. Over the past 18 months, Israel has continued to battle hatred on a daily basis. This hatred is terrorism. It is murder. Israel has every right to defend herself against terrorism. When innocent civilians are murdered, over and over again, Israel has no choice but to take action.

I don't think it is unreasonable for Israel to root out terrorists. I think it's natural, and expected, and it must be done just like America's efforts in Afghanistan. But for the past couple of weeks, Israel has been criticized by many for her military action against terrorism, and lack of compassion for Palestinians. But what other choice does Israel have?

Is Israel supposed to wave suicide bombers through the checkpoints, allow wanted terrorists to go without arrest? Are we to expect Israel to sit by and watch her country crumble, and her people be murdered in groups of 20 while they sip coffee at cafes? No.

I firmly believe that difficult decisions will be made in order to achieve a permanent peace. I also think one of the decisions was Israel's resistance to international pressure to end the military operation. Israel entered towns in the West Bank with a plan: to root out terrorism. Obviously, there was an exit strategy to be used once the terrorists were caught.

Recently, Israel announced her upcoming withdrawal from almost all of the towns she entered. I commend Israel's decision to withdraw only after the operation is complete. So does the upcoming withdrawal of troops bring Israel back to where she was? Can we expect Israel to compromise should daily suicide bombings begin again? No.

Terrorism is not something you can compromise with, it is not something to reward. What I know is this. Israel will survive this crisis. Israel will continue to do what is necessary to rid the country of terrorists. If terrorist attacks end, military action will end, and more difficult decisions in the name of peace will be made. What those decision are, I can't tell you. No one can.

But last Sunday, I joined 3,000 of my constituents in a pro-Israel rally on Long Island. Many of those constituents were Jewish; others, like myself, were Christian. These same people participated the weekend before at a rally in New York City. They also traveled with over 100,000 other Americans to the Capitol on Monday for a national rally. Regardless of their religion, they are standing up for their beliefs.

Terrorism must be destroyed. Not only here, but in Israel, and in many other countries. The US firmly believes in this, and I know Israel will continue to enjoy broad support as she eliminates terrorist threats from her borders. Israel will always have a friend and ally in the US Government.

TRIBUTE TO MR. DENNIS MAYS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. GRAVES. Mr. Speaker, I rise today to acknowledge the impeccable motor carrier safety record of Mr. Dennis Mays of Blue Springs, Missouri. Mr. Mays is a professional motor carrier operator for Roadway Express, Inc.

According to the most recent information from the Federal Motor Carrier Safety Administration, large trucks drove 7 percent of all vehicle miles traveled. In motor vehicle crashes, large trucks represented 9 percent of vehicles in fatal crashes, 3 percent of vehicles in injury crashes, and 5 percent of vehicles in property-damage-only crashes.

Mr. Mays reached a safety milestone when he recently surpassed one million miles driven without a preventable accident. This outstanding achievement, obtained by few drivers, demonstrates Mr. Mays' commitment to safety. To put this accomplishment in perspective, the average car driver would have to travel around the world forty times to equal this milestone.

Mr. Speaker, please join me in congratulating Mr. Dennis Mays for reaching this noteworthy milestone. I am proud to have a constituent as dedicated to highway safety as he is, and I wish him continued safe driving in the future.

PENSION SECURITY ACT OF 2002

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. OXLEY. Mr. Speaker, I rise today in strong support of H.R. 3762. This important legislation makes significant improvements in protecting the retirement accounts of America's working men and women. H.R. 3762 takes a sensible approach in ensuring that employees have the best access to their retirement accounts possible, and are able to make informed investment decisions in those accounts.

In particular, I'd like to congratulate the sponsors of this legislation for a provision in the bill dealing with restricting insiders from selling their shares during periods when their employees don't have the same freedom. When the facts of the Enron bankruptcy became known, all of us were horrified to learn that at the same time Enron's hard working employees were helplessly watching their retirement dreams disappear, Enron insiders were reaping millions of dollars in profits from selling their shares.

No employee should be forced to sit idly by while his or her retirement account plummets. Although it is understood that at times these accounts must be serviced in such a way that there must be temporary restrictions on transactions, it is only fair that corporate insiders face these same restrictions when these lockdowns happen by surprise.

H.R. 3762 is primarily about giving employees greater freedom in preparing for their retirement. When this freedom is unexpectedly taken away, corporate officers and directors have a duty, indeed a moral obligation, to share that burden. H.R. 3762's provisions on retirement account lockdowns are a sensible way to ensure that insiders are held accountable.

Mr. Chairman, section 108 of the bill contains language which falls within the jurisdiction of the Committee on Financial Services. Our own legislation, H.R. 3763, contains similar language. I am including for the record an exchange of letters between myself and the other gentleman from Ohio, Mr. BOEHNER, indicating that we have no objection to the consideration of this language in this bill.

I congratulate Chairman BOEHNER, Chairman THOMAS, Mr. PORTMAN, and all the Members who have worked so hard to protect America's workers. I strongly urge my colleagues to vote for these much needed reforms, and I thank the Leadership for bringing H.R. 3762 to the floor today.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, April 9, 2002.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BOEHNER: I am writing regarding H.R. 3762, the Pension Security Act of 2002. As you know, section 107 of the bill reported by your Committee contains a provision addressing the sale of stock by the directors and officers of public companies during 401(k) blackout periods. Clause 1(g) of rule X of the Rules of the House of Representatives grants the Committee on Financial Services jurisdiction over securities and exchanges and the Committee was given an additional referral of this bill upon its introduction.

Because of your willingness to consult with the Committee on Financial Services on this matter, and the need to move this legislation expeditiously, I will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over H.R. 3762. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on H.R. 3762 or related legislation.

I request that you include this letter and your response in the portion of the CONGRESSIONAL RECORD pertaining to consideration of this legislation. Thank you for your assistance in this matter.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, April 9, 2002.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, U.S. House of Representatives, Rayburn HOB, Washington, DC.

DEAR CHAIRMAN OXLEY: This letter is to confirm our agreement regarding H.R. 3762, "Pension Security Act of 2002," which was also referred to the Committee on Financial Services. The Committee on Education and the Workforce considered this bill on March 20, 2002. I thank you for working with me on Sec. 107, "Insider Trades During Pension Plan Suspension Periods Prohibited," which is within the sole jurisdiction of the Committee on Financial Services.

I appreciate your willingness to expedite consideration of H.R. 3672 without the need for further consideration by the Committee on Financial Services. I agree that this procedural route should not be construed to prejudice the jurisdictional interest and prerogatives of the Committee on Financial Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future.

Again, I thank you for your consideration in this matter. Your letter and this response will be included in the Congressional Record during floor debate on this bill. If you have questions regarding this matter, please do not hesitate to call me.

Sincerely,

JOHN BOEHNER,
Chairman.

TRIBUTE TO THE LATE RALPH E. BIGGER SR., ON HIS INDUCTION INTO THE U.P. LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. STUPAK. Mr. Speaker, I rise today to pay special tribute to the late Ralph E. Bigger Sr., a resident of Michigan's Upper Peninsula, who during his lifetime was a strong advocate on behalf of working men and women.

Ralph was born in 1907 and grew up in the small town of Big Bay, on the shore of Lake Superior. Mr. Speaker, you and other members may remember Big Bay as one of the settings for the famous James Stewart movie, "Anatomy of a Murder." Picturesque it may have been, but this remote area demanded hard work for a family to survive. Because his parents both suffered physical disabilities, young Ralph, the oldest of six children, quit school in the seventh grade to take a job in a local sawmill. In the mid-1920s he moved to nearby Marquette to work at another sawmill, and at the age of 24 he took a job with Cliff-Dow Chemical, where he would work for the next 37 years until his death in 1968.

Throughout his career, Ralph was a strong advocate of the labor movement. He served as a business representative of Local 179 of the International Chemical Workers Union. He fought hard for decent wages and he fought for medical insurance, which, when we consider his own personal history, was probably his most important issue.

Ralph was also very active in politics, including campaign work for Congressman Bennett and the late Michigan State Rep. Dominic Jacobetti, himself a legend in Michigan politics and state government. Ralph also traveled to union conventions around the country and was elected president of the Marquette Central Labor Union in 1949. Ralph also served as Marquette Township Constable.

During his employment with Cliff-Dow, Ralph founded his own logging business and later got into brick supply with his sons. His company's contributions can be seen in many of the prominent buildings in Marquette County, including most of the structures on the campus of Northern Michigan University.

Mr. Speaker, Ralph Bigger will be honored on Saturday, April 20, with his induction into the U.P. Labor Hall of Fame at a banquet at the university. I ask you and my House colleagues to Join me in giving long-overdue recognition to the efforts of this spokesman for the working men and women of northern Michigan.

FAMILY FARM AND RANCH INNOVATION ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. UDALL of Colorado. Mr. Speaker, today, I am introducing legislation to help ensure that our Nation's family farms and ranches continue to produce the agricultural products that have made us the breadbasket for the world.

Small family farms and ranches helped build the foundation of America. Thomas Jefferson once wrote in a letter to George Washington, "Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness." Today many small farms and ranches have disappeared. This is in part because the smaller farms and ranches have not been able to change to more profitable means of production. To continue as a viable business in agriculture farmers and ranchers need to be able to use modern techniques that increase profitability, and do it in a manner that is environmentally sound.

As a friend of mine, W.R. Stealey reminded me when I was first elected to the Colorado Legislature, "If you eat, you are in agriculture."

The Family Farm and Ranch Innovation Act (FFRIA) would provide necessary tools for small agriculture businesses to modernize and become more competitive in today's market, access to credit and a plan to turn the credit into increased revenue.

The U.S. Department of Agriculture's National Commission on Small Farms report titled A Time to Act found, "The underlying trend toward small farm decline reflects fundamental technological and market changes. Simply put, conventional agriculture adds less and less value to food and fiber on the farm and more and more in the input and post-harvest sectors. We spend more on capital and inputs to enable fewer people to produce the Nation's food and look primarily to off-farm processing to produce higher value products. Sustainable agriculture strives to change this trend by developing knowledge and strategies by which farmers can capture a large share of the agricultural dollar by using management skills to cut input costs—so a large share of the prices they receive for their products remain in their own pockets—and by producing products of higher value right from the farm." (In context of the report farms include ranches.)

The innovation plans in FFRIA, to be developed with the USDA's Natural Resources Conservation Service, would provide the blueprints to increase the value of farm and ranch outputs.

The report also found, "Agricultural operations require high levels of committed capital to achieve success. The capital-intensive nature of agricultural production makes access to financial capital, usually, in the form of credit, a critical requirement. Small farms are no different from larger farms in this regard, but testimony and USDA reports received by this Commission indicate a general under-capitalization of small farms, and increased difficulty in accessing sources of credit." If small farms and ranches are going to use improved technologies laid out in innovation plans they will need capital. The Small Business Administration's 7(a) loan program has a long history of helping small businesses and would be a great tool for small farmers and ranchers to implement their plans.

America's small farms and ranches need a hand up to remain viable in our rapidly changing marketplace. Often today's small agriculture businesses are family owned and have only a very small profit margin. The combination of low market prices for raw agricultural commodities and the rising cost of land means that many of these businesses cannot afford to carry on. And that causes more urbanization of valuable farm and ranch land.

This legislation recognizes the importance of our small farming and ranching businesses. They provide diversity in the marketplace, local production of food, less pollution, and jobs, all of which strengthen our economy. And farms and ranches that are part of our community remind us that food and other agricultural products don't just come from stores, they remind us of our connection to the land.

Mr. Speaker, small farms and ranches have provided the livelihood for many families since the beginning of our country. This bill will help ensure small farms and ranches do not become a thing of the past by providing the technical expertise and capital to allow them to meet the challenges of the 21st Century.

PENSION SECURITY ACT OF 2002

SPEECH OF

HON. BRIAN BAIRD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BAIRD. Mr. Speaker, while I am a cosponsor of the Investment Advice Act and agree that workers should be allowed access to professional investment advice, I can not support the Republican pension legislation that is before us today. Unfortunately, the bill offered by the majority fails to include basic reforms that are necessary to ensure that future employees do not suffer the same fate of Enron employees. The flawed Republican bill fails to provide for diversification of stock plans, fails to give notice when executives are dumping company stock and continues to jeopardize employee savings.

Thousands of workers at Portland General Electric lost their life savings when their pension plans evaporated in the Enron collapse. Throughout the last six months, I have heard their horror stories, many of whom are my constituents. They tell me about their worthless retirement plans, shattered dreams and uncertain futures because of the undeniable corporate mismanagement that was pervasive at Enron. I can not in good faith support legislation that does not address the concerns of these employees and will not prevent future Enrons from happening.

Mr. Speaker, I support the Democratic alternative that offers a real change in the protections afforded to employees. The Democratic pension reform bill provides new stiff criminal penalties for executives and pension plan managers who engage in illegal insider trading or provide misinformation to employees. The bill requires that notice be given to employees when CEOs and executives decide to dump their company's stock and the Democratic alternative offers employees a voice, on pension boards, where they can gain timely and accurate information about their pensions.

I encourage all Members to vote against the Republican pension reform bill and vote to protect the savings of our nation's workers.

TRIBUTE TO SALVATORE GULLA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Salvatore Gulla, a gifted educator, artist and craftsman who has spent his life teaching and sharing. Sal will turn 75 years old on Wednesday and will celebrate at a party given by family and friends.

He is a vibrant, dynamic, and caring man who served on the New York City Board of Education for over 30 years. Along with Sal's years of educating New York's youth in the field of academia, he has devoted much of his life to educating young people in the arts. Sal has thoroughly enriched thousands of students throughout the years and shaped young people in so many ways. Sal was a significant part of my formative years and I was one of those young people that he helped to shape.

Mr. Speaker, Salvatore Gulla is a founding member and Artistic Director of the South Bronx Community Action Theatre. Along with Mr. Fred Daris, Sal had a vision to introduce the beauty and power of the performing arts to South Bronx youth. Through this theatre alone Sal changed the lives of many children and young people who never knew that the arts could be a part of their lives. When he was not designing masterful costumes or directing set constructions, Sal was facilitating workshops in performing and visual arts.

Sal is an authentic and pure artist who celebrates every form of art. He has instructed people in painting, drawing, and sculpture in conjunction with his involvement in the performing arts. In 1947, Sal discovered that a paintbrush became a magic wand in his hands and began creating beauty on canvas. He studied at the Art Students League of New York under Reginald Marsh, Morris Kantor, and Vaclav Vittacyl among others. He also studied at the esteemed Columbia University. Like his dynamic personality, Sal's style is eclectic and has spanned many artistic genres. His work is both experimental and temperamental and demonstrates his courage and ability to dream, attributes that he has tried to instill in his students for decades. There is good reason that Sal has been referred to as a "Renaissance man."

Salvatore Gulla has had showings of his work as recently as four years ago and throughout his career, has had his work on exhibit at a number of esteemed galleries throughout New York. Mr. Speaker, at 75 years of age, Sal's spirit is as robust and contagious as it has always been and he continues to be an inspiration to those around him. Sal has been a dear friend and advisor for many years. I ask my colleagues to join me in honoring Mr. Salvatore Gulla on his 75th birthday.

TRIBUTE TO DONALD O. LARSEN ON HIS INDUCTION INTO THE U.P. LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. STUPAK. Mr. Speaker, I rise today to pay special tribute to Donald O. Larsen, a resident of Marquette, Michigan, in my congressional district, who has spent decades as a bricklayer, a teacher, a volunteer, and an active member of the local labor movement.

Don was born in Delta County in the Upper Peninsula of Michigan in 1920, and later moved with his family to Marquette, where he graduated from high school. After serving three years in the U.S. Army in the South Pacific in World War II, Don returned to Marquette and took a job as a bricklayer. It was through this employment that he joined Bricklayers Local 4.

Don's expertise in bricklaying extended beyond the actual trade and included teaching and sharing his skills. He provided instruction and leadership in the local apprentice training program, and he taught bricklaying as part of Marquette High School's house-building project in its vocational education program. He taught bricklayer union apprentices for 10 years, during which time they built basements and did concrete work for two Habitat for Humanity homes. Don also served as an instructor for the Vocational Industrial Clubs of America U.P.-wide competition.

Active in his local, Don served as a union steward for many years and as vice president from 1955 to 1970. He also served on the Board of the United Building Trades and was the labor representative for several years at U.P. builder shows.

Don is a member of the Messiah Lutheran Church in Marquette and is a life member of VFW Post 2439, where he has served as quartermaster. He has a life membership in the Ishpeming and Marquette beagle clubs and a membership in the U.P. Trappers Association. He also contributed his time and effort to rebuilding the Negaunee Pyramid mining monument when it was moved several years ago.

Mr. Speaker, Donald Larsen will be honored on Saturday, April 20, with his induction into the U.P. Labor Hall of Fame at a banquet at the university. I ask you and my House colleagues to join me in recognizing this community servant and spokesman for the working men and women of northern Michigan.

TRIBUTE TO BUD GARDNER

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. HAYES. Mr. Speaker, this past February, Scotland County lost one of its finest law enforcement officers. Henry "Bud" Gardner was a police officer for 37 years in Laurinburg, North Carolina. Bud served his community with pride and honor and will be missed. The citizens of Laurinburg will always be grateful for his loyal service.

He is survived by his wife, Kathleen, of 57 years. Barbara and I join the Laurinburg community in prayer for Bud's family and friends during this difficult time.

PROTECTING MUTUAL INSURANCE POLICYHOLDERS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. LaFALCE. Mr. Speaker, I am pleased to join today with my colleague from Massachusetts, Mr. FRANK, in introducing the "Protection of Policyholders Act." This legislation seeks to strike provisions in current law that undermine the ownership rights of millions of policyholders in mutual insurance companies and severely weaken State regulation of insurance.

In recent years, some 70 million Americans have learned that they own a valuable asset that few had previously been aware of—their insurance policies with mutual insurance companies. As policyholders, they collectively own 100 percent of mutual insurance companies, which were structured under state law as co-operatively-owned corporations. Until recently, mutual companies could convert to stock ownership, but State law required that the company's accumulated profits be divided among policyholders by giving them 100 percent of the stock in the new company. These shares would then pay stock dividends and could appreciate in value like regular corporate stock.

Over the past decade, the mutual insurance industry has sought to change state laws to permit mutual companies to convert to stock ownership without distributing stock to policyholders. Under these revised state laws, mutual companies could form "hybrid" mutual holding companies in which policyholders would continue to own 51% of the insurance company through a non-insurance mutual holding company. The remaining 49% ownership of the insurance company would be sold as stock to investors, most often to the former officers and directors of the mutual company. Where this has occurred, policyholders have not received any stock or any benefit of the dividends paid by the new insurance subsidiary of the mutual holding company. Moreover, policyholders often experience insurance rate increases to cover the costs of paying competitive dividends to the new stockholders.

A number of states, including New York, Massachusetts, Illinois, Indiana and others, refused to enact these mutual conversion changes out of fairness to policyholders and concerns about appropriate regulation of these hybrid corporate structures. The insurance industry responded by inserting in the comprehensive financial reform legislation Congress enacted in 1999, a provision that would permit state-chartered mutual companies to relocate to another state with more liberal conversion rules without jeopardizing their licenses, operations, or insurance policies. This controversial provision was adopted by the House only because it was paired in a floor amendment with a broadly supported provision to prohibit discrimination in insurance sales against victims of domestic violence.

These so-called mutual "redomestication" provisions of the 1999 Gramm-Leach-Bliley Act now permit a mutually owned insurance company that cannot convert to stock ownership, or cannot convert without distributing 100 percent of the stock to policyholders, to relocate to another state that permits such conversions. Federal law has become the instrument for overturning pro-consumer state insurance law and an accomplice in robbing mutual policyholders of their ownership fights.

The mutual redomestication provisions in current Federal law now empower mutual insurance companies to blackmail state legislatures, saying, in essence, if you don't enact the conversion laws we want, we'll simply move to another state. Despite a 200-year tradition of state regulation of insurance, these provisions strip states of their right to regulate insurance companies as they deem appropriate and rob policyholders of valuable ownership rights. These provisions are anti-State, they are anti-consumer, and they should be repealed by Congress.

PERSONAL EXPLANATION

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Ms. DUNN. Mr. Speaker, on Friday, July 27, 2001, I was unable to be present for rollcall vote No. 96. Had I been present, I would have voted "yes" on rollcall No. 96 in favor of H.R. 476, the Child Custody Protection Act.

PERSONAL EXPLANATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mrs. JONES of Ohio. Mr. Speaker, I was unable to return to Congress on Tuesday, April 16, 2002, and Wednesday April 17, 2002, due to a death in my family. Had I been present, the record would reflect that I would have voted: On roll 93, H.R. 1374, Philip E. Ruppe Post office Designation—"yea"; on roll 94, H.R. 4156, Clergy Housing Allowance Clarification—"yea"; on roll 95, H.R. 4157, Family Farmer Bankruptcy Extension Act—"yea."

PERSONAL EXPLANATION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. LEVIN. Mr. Speaker, due to needs within our family, I was unable to be present for rollcall No. 86 last Wednesday, April 11, as well as rollcalls Nos. 93, 94 and 95 on Tuesday, April 16. Had I been present, I would have voted "yea" on rollcalls Nos. 86, 93, 94 and 95.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CLEMENT. Mr. Speaker, on rollcall No. 95, H.R. 4167, had I been present, I would have voted "yea."

CLERGY HOUSING ALLOWANCE CLARIFICATION ACT OF 2002

SPEECH OF

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. KIND. Mr. Speaker, I rise today in support of H.R. 4156, the Clergy Allowance Clarification Act. In western Wisconsin, I have personally witnessed the effective and invaluable efforts put forth by religious organizations. Not only do they lead congregations in worship, they also help combat such traumas as drug-addiction and domestic abuse. Our Nation's clergy are worthy of our continual appreciation and praise.

But more importantly, our Nation's clergy are worthy of our support. Since the 1920s, Congress has allowed members of the clergy to exclude from taxable income a portion of their church income that is used for housing. This provision in the tax code has helped churches of all faiths expand their community outreach activities and provided clergy members with a much deserved tax break.

Mr. Speaker, H.R. 4156 will clarify current law to allow our clergy to continue to receive this important tax benefit. I urge all of my colleagues to join with me in supporting this important piece of legislation. Our nation's clergy deserve our continued support.

TRIBUTE TO MIKE DONOVAN JOHNSON

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. MATSUI. Mr. Speaker, I rise in tribute to Mike Donovan Johnson, the Local 522's City Vice President, for eleven years, of the Sacramento Area Firefighters Union. Mike is retiring after thirty-three years of outstanding service to the City of Sacramento Fire Department. As his friends and family gather to celebrate Mike's illustrious career, I ask all of my colleagues to join with me in saluting one of Sacramento's most talented citizen leaders.

Mike was born and raised in Sacramento. He earned a Fire Science Certificate and a Bachelor of Science degree in Public Administration/Political Science. For the past three decades, Mike has worked for the City of Sacramento Fire Department as a Firefighter, and Apparatus Operator, and the last nineteen years, as a Fire Captain. In addition, Mike is also a highly qualified Hazardous Materials Specialist and he often lends his expertise as a B shift Captain at Station 21. Throughout his career, Mike has remained one of the most cherished and well-respected members of the City of Sacramento Fire Department.

Mike began his union career as City Director in 1972. After two years in that post, Mike was elected City Vice President for the first time in 1974. In addition, Mike has performed the duties and responsibilities of the Political Action Committee Treasurer for the past twenty-two years. Mike has been an indispensable member of the Local 522 Executive Board for the past thirty years. All in all, Mike has steadfastly represented the members of the Sacramento Fire Department with great honor and dignity for the past three decades.

In addition to his contributions to the Local 522, Mike has also offered his valuable contributions, to a number of statewide organizations. Mike has served on numerous statewide committees through California Professional Firefighters. In the past, Mike has also been a delegate to the Sacramento County Central Democratic Committee.

Staying true to his unyielding commitment to represent the interests of firefighters, Mike is looking to remain active in the cause in his retirement years. Currently, Mike is a member of the California Firefighters Joint Apprentice Committee Board. Furthermore, Mike remains a delegate to the Sacramento Central Labor Council, a member of the Industrial Relations Association of Northern California and sits on the Regional Fire Task Force. In particular, Mike continues to serve the members of the fire service community through his support for the passage of Measure F, a change to the City of Sacramento Charter to improve the health insurance provided to its retired employees. Mike's commitment to serving his community is truly an example to his fellow citizens.

Mr. Speaker, as Mike Johnson's friends and family gather for his retirement dinner, I am honored to pay tribute to one of Sacramento's most honorable citizens. His successes are considerable, and it is a great honor for me to have the opportunity to pay tribute to his contributions. I ask all my colleagues to join with me in wishing Mike Johnson continued success in all his future endeavors.

IN HONOR OF ROBERT G. McGRUDER

HON. DENNIS J. KUCINICH

OF OHIO

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. KUCINICH. Mr. Speaker, we rise today to honor Robert G. McGruder. Through grace, intelligence and character he fought for fair reporting and justice in the news industry. He was the quiet authority amid the frantic newspaper offices in which he worked for almost 40 years.

Robert G. McGruder's fighting spirit surfaced early on when he overcame childhood battles with polio and poverty. He became interested in journalism while attending Kent State University when friends encouraged him to write for the school's paper. His reporting aspirations were not deterred by the setbacks of growing up in a segregated society. He learned to gain strength from overcoming obstacles. He demonstrated that racial barriers can be broken. Through this strong willed optimism, Robert G. McGruder became the first African American to hold various positions at the Cleveland Plain Dealer and the Detroit Free Press.

He worked as a reporter for the Plain Dealer before becoming city editor in 1978 and managing editor in 1981. In 1986, Neal Shine, the longtime Free Press managing editor and publisher, finally succeeded after a decade of trying to hire McGruder. McGruder spent 16 years as the chief editor of the Free Press where he guided award-winning news coverage. Beyond Detroit, he served as president of the Associated Press Managing Editors, judged Pulitzer Prize entries five times, and served on the board of the American Society of Newspaper Editors.

His pursuit of excellence and monumental work in the cause of diversity made him one of the newspaper industry's giants. He cared for colleagues, always making time to talk and listen. He urged the industry to hire more black, latino, Asian, gay and lesbian employees. He was a mentor to those he worked with, many of whom went on to hold important positions at newspapers across the country. In 2001, he received the John S. Knight Gold Medal, the highest award within Knight Ridder, which owns the Free Press. Upon receiving the award, he reminded company officials and friends that he represented change and that he stands for diversity.

We ask our colleagues to rise to honor the accomplishments of this truly remarkable individual.

Robert G. McGruder stood for what was best about the news industry. I hope his integrity, honesty and deep commitment to fair and accurate reporting will remain an example to all.

REINSTATE SUPERFUND TAX

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Ms. SOLIS. Mr. Speaker, the Bush Administration has broken promise after promise in their attempt to destroy our country's most basic environmental laws. These broken promises and bad decisions are not hurting big corporate contributers. Instead, they will hurt those families who are working to put food on their table.

In particular, President Bush's recent decision not to reinstate the Superfund tax will ensure that the cost for cleaning up polluted communities will be paid by taxpayers instead of those who made the mess.

President Bush's decision is no better than another worthless tax break for the rich. By failing to reinstate the Superfund tax, President Bush is saying that he believes that families fighting to make ends meet should foot the bill while polluting industries profit.

Polluters should pay to clean up their messes, not profit from destroying the environment and their neighbor's health. How can we in good conscience allow corporations to profit without making them pay to clean up their pollution?

I am hopeful that this chamber will address this issue in the near future before families have to pay one more cent for a mess that they didn't make.

TRIBUTE TO PUBLIC SAFETY TELECOMMUNICATORS

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. LEWIS of Kentucky. Mr Speaker, I rise today to pay tribute to the men and women who serve as public safety telecommunicators. April 14–20 is National Public Safety Telecommunicators Week, and in the Second District of Kentucky as well as throughout the Nation, dedicated public safety dispatchers provide a vital service to our communities.

Public safety telecommunicators answer calls every day for emergency rescue services. These are the people who ensure that police forces, firefighters, and ambulances are dispatched in emergency and law enforcement situations.

In light of the horrific terrorist attacks on our Nation last year, we especially should honor the invaluable contribution made by public safety communications personnel. Their selfless ongoing service was certainly highlighted on September 11, and continues today as these men and women still deal with the repercussions.

Mr. Speaker, I commend the emergency response dispatchers in Kentucky's Second District for the critical role they play in my community every day.

IN RECOGNITION OF ISRAELI DAY OF INDEPENDENCE

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. PUTNAM. Mr. Speaker, I rise to recognize the Israeli Day of Independence.

The State of Israel officially came into existence, with the end of the British Mandate on May 14, 1948. Israel's Independence Day is celebrated annually, according to the Hebrew calendar, on 5 Iyar. With the establishment of the State of Israel on that day in 1948, Jewish independence was restored. The Israeli day of independence is a celebration of the renewal of the Jewish state in the Land of Israel, the birthplace of the Jewish people. In this land, the Jewish people began to develop its distinctive religion and culture some 4,000 years ago, and there it has preserved an unbroken physical presence.

On this day of independence for Israel we must recognize that a peaceful resolution to the conflict between Israel and its neighbors will only be possible when Israelis and Palestinians recognize their mutual interests and take substantive steps to demonstrate their commitment to a solution. All parties must realize that the only vision for a long-term solution is for two states—Israel, Palestine—to live side by side in security and in peace. That will require hard choices and leadership by Israelis, Palestinians, and their Arab neighbors.

For the Israelis, that means establishing secure and defensible borders, withdrawing from occupied areas, and recognizing the viability of a Palestinian state. For the Palestinians, that means not only renouncing terrorism but cutting ties to terrorists, halting arms shipments, unequivocally recognizing Israel's right to exist and stifling the rhetoric that encourages and glorifies the continuation of Palestinian terrorism against Israel.

In spite of all of its struggles past and present Israel's cultural and artistic activity has flourished, blending Middle Eastern, North African and Western elements, as Jews arriving from all parts of the world brought with them the unique traditions of their own communities as well as aspects of the culture prevailing in the countries where they had lived for generations.

When Israel celebrated its 10th anniversary, the population numbered over two million. During Israel's second decade (1958–68), exports doubled, and the GNP increased some 10 percent annually. While some previously imported items such as paper, tires, radios and refrigerators were now being manufactured locally, the most rapid growth took place in the newly established branches of metals, machinery, chemicals and electronics. Since the domestic market for homegrown food was fast approaching the saturation point, the agricultural sector began to grow a larger variety of crops for the food processing industry as well as fresh produce for export. A second deep-water port was built on the Mediterranean coast at Ashdod, in addition to the existing one at Haifa, to handle the increased volume of trade.

Israel's foreign relations expanded have expanded steadily, as close ties were developed with the United States, British Commonwealth countries, most western European states, nearly all the countries of Latin America and Africa, and some in Asia. Extensive programs of international cooperation were initiated, as hundreds of Israeli physicians, engineers, teachers, agronomists, and irrigation experts and youth organizers shared their know-how and experience with people in other developing countries. Clearly this nation has come far in its relatively short lifetime.

On this day of reflection let us recognize that on the eastern shore of the Mediterranean Sea sits a land of freedom and democracy—Israel. Surrounded by hostility, but a place where freedom and tolerance are alive today. On this day of independence for Israel, I hope all people of goodwill would join me in praying for peace in the Middle East.

RECOGNIZING OSTEOPATHIC PHYSICIANS

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. WATTS. Mr. Speaker, April 18 is National D.O. Day, a day when we recognize the more than 47,000 osteopathic physicians (D.O.s) for their contributions to the American healthcare system. On National D.O. Day, more than 100 members of the osteopathic medical profession, including osteopathic physicians and osteopathic medical students, will descend upon Capitol Hill to share their views with Congress.

I especially am pleased that osteopathic physicians from Oklahoma will be visiting our nation's Capitol and participating in this event. These representatives are practicing osteopathic physicians, staff from the American Osteopathic Association, and osteopathic medical students.

Participants in National D.O. Day are here to talk about how liability insurance rates for all health care professionals—especially those in high-risk specialties and rural areas—are increasing rapidly. Numerous commercial insurers are no longer offering professional liability insurance for physicians and others have stopped covering certain procedures or services. A continuation of this trend will, over time, lead to a shortage of physicians and create access to care problems for our citizens. I share their concerns about access to care. Several States, including my home State of Oklahoma, are facing critical access problems and this trend will only continue to worsen if action is not taken.

For more than a century, osteopathic physicians have made a difference in the lives and health of my fellow Oklahomans and all Americans. Overall, osteopathic physicians provide care to more than 100 million patients each year. Osteopathic physicians are committed to serving the needs of rural and underserved communities and make up 15 percent of the total physician population in towns of 10,000 or less.

D.O.s are certified in nearly 60 specialties and 33 subspecialties. Similar to requirements set for their M.D. colleagues, D.O.s must complete and pass: four years of medical education at one of 19 osteopathic medical schools, a one-year internship, a multi-year residency, and a State medical board exam. Throughout this education, D.O.s are trained to understand how the musculoskeletal system influences the condition of all other body systems. Many patients want this extra education as a part of their health care. Individuals may call (866) 346-3236 to find a D.O. in their community.

In recognition of National D.O. Day, I would like to congratulate the over 1,200 D.O.s in Oklahoma, the 350 students at the Oklahoma State University College of Osteopathic Medicine, and the 47,000 D.O.s represented by the American Osteopathic Association for their contributions to the good health of the American people.

CARE BY CELEBRATING CHILDREN DAY

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. GREENWOOD. Mr. Speaker, I rise today to recognize Care by Celebrating Children Day on April 26, a day set aside to acknowledge and celebrate the contributions of children that make the world a better place for us all. Today, we invite every adult to visit their child in school, where they will learn about and admire the ways in which those children grow every day. By distinguishing their efforts and accomplishments, this day helps to raise the self-esteem of the children, builds bridges between the community and the school, introduces the children to role models, and teaches the children about their value to the community.

It is also my privilege to introduce Ms. Gail Delevich in conjunction with this day. Ms. Delevich is an elementary school teacher in the Central Bucks School District, in Bucks County, Pennsylvania. She spearheaded this initiative at her elementary school, after she was disheartened at the multitude of negative media coverage of American schools in the wake of the Columbine tragedy and other episodes of school violence. Rather than chastise students or criticize our education system as inadequate to prevent violence, this day celebrates children and their accomplishments as students, athletes, artists and young leaders.

The Commonwealth of Pennsylvania and the State of New Jersey have already declared a day each April as Care by Celebrating Children Day, and I present this remark in hope of expanding the day's recognition to the national level. I hope that this day, which honors, celebrates, and encourages our children, our most precious resource, will empower children to believe in themselves, working hard to prepare for their future and for the future of our Nation.

A BILL TO STRENGTHEN AND IMPROVE THE BENEFITS PROVIDED TO SMALL BUSINESSES UNDER INTERNAL REVENUE CODE SECTION 179

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. HERGER. Mr. Speaker, I rise today to introduce the "Small Business Expensing Improvement Act of 2002," legislation to assist small businesses with the cost of new business investment. I am pleased to be joined in this effort by Mr. TANNER, as well as several other of my colleagues on the Ways and Means Committee.

Small businesses truly are the backbone of our economy, representing more than half of all jobs and economic output. We should not take small business vitality for granted, however. Rather, our tax laws should support small businesses in their role as the engines of innovation, growth, and job creation.

On March 19 of this year, President Bush unveiled his small business proposal. I applaud the President for his commitment to our nation's small business owners and his dedication to ensure that our tax laws do not impede the growth and development of small businesses. The legislation we are introducing today will implement a key element of the President's plan, expansion of the benefits available to small businesses under Internal Revenue Code Section 179.

Our bill will improve our tax laws to make it easier for small businesses to make the crucial investments in new equipment necessary for continued prosperity. Under Code Section 179, a small business is allowed to expense the first $24,000 in new business investment in a year. Our legislation will permanently increase this amount to $40,000. Furthermore, our bill will index this amount to ensure that the value of this provision is not eroded over time.

This legislation will also allow more small businesses to take advantage of expensing by increasing from $200,000 to $325,000 the total amount a business may invest in a year and qualify for Section 179. It is important to note that this amount has not been adjusted for inflation since its enacting into law in 1986.

The "Small Business Expensing Improvement Act" also improves the small business expensing provision by following the recommendations of the IRS National Taxpayer Advocate in his 2000 Annual Report to Congress. Specifically, our legislation clarifies that residential rental personal property and off-the-shelf computer software qualify for expensing under Section 179.

Mr. Speaker, in times of economic uncertainty, we must do all we can to encourage new investment and job creation. The "Small Business Expensing Improvement Act of 2002" will help accomplish this worthy goal, and I urge my colleagues to join me in this effort.

HOPING TO LIVE ONE DAY IN AN ENVIRONMENT FREE FROM POLLUTION

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Ms. MCCOLLUM. Mr. Speaker, soon after I delivered my remarks on the House floor this morning, I received numerous calls from news organizations. Unfortunately, these calls were not about the importance of the Clean Air Act, which was the subject of my one-minute speech. Instead, the press was more concerned about a pause I took during the Pledge of Allegiance—as I was trying to determine if I had my back to the American flag—than what I said about protecting our environment. I would hope the media pays closer attention to the issues affecting our air quality so that the people of this Nation, under God, will be able to one day live in an environment free from pollution.

ON THE OCCASION OF THE NINETIETH ANNIVERSARY OF THE GIRL SCOUTS

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. MCNULTY. Mr. Speaker, I rise today to recognize an exceptional organization, the Girl Scouts of the USA.

Since Juliette Gordon Low assembled the first Girl Scout troop in March of 1912, the Girl Scouts have not only grown in number, but also in the scope of their mission. Generations of young women have developed positive values and a greater sense of self-worth by participating in Girl Scout programs.

For 90 years, the Girl Scouts have opened doors of opportunity for girls from all walks of life, and they continue to expand their outreach efforts. They have renewed their commitment to reach beyond racial, ethnic, socioeconomic and geographic boundaries. Diversity can be found in all the activities in which these young women engage. From science and technology, to money management and finance, to global awareness, Girl Scouts experience it all.

Mr. Speaker, the Girl Scouts of the Hudson Valley Council in New York State are fine examples of the Girl Scout mission. Girl Scouts in my district are committed to developing leadership skills and honing a finer sense of social conscience by engaging in a wide range of activities. When they collect supplies for the Merilac Women's Shelter in Albany, when they plant flowers and trees outside of the Colonie Town Hall in remembrance of the lives lost on September 11th, and when they make cards of thanks to the firefighters of New York City, Girl Scouts are making a difference. Thousands of girls in the Capital District will be forever impacted by the experiences they had and the friendships they made while participating in the Girl Scouts.

We must also extend our gratitude to the adults, both women and men, who volunteer their time to ensure that the highest ideals of character, conduct, patriotism and service continue to be imparted on our Nation's girls and young women.

I congratulate the Girl Scouts on their 90 years of service. Our communities have benefited from their accomplishments and I wish them many more decades of success.

STATEMENT OF CONGRESSWOMAN JANE HARMAN ON ISRAELI INDEPENDENCE DAY

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Ms. HARMAN. Mr. Speaker, today, Secretary of State Powell leaves the Middle East having failed to secure a cease-fire between Israel and the Palestinians, or make substantial progress toward peace. It was perhaps too much to hope for a dramatic breakthrough, but the status quo remains unacceptable.

As we celebrate and commemorate Israeli Independence Day, it is more important than ever to remember why the United States has such a strong relationship with Israel.

Fifty-four years ago, the creation of the state of Israel gave hope to Jews everywhere that safety, freedom, and justice could be found at last—in the ancient cradle of the Jewish faith and civilization. A half-century of friendship and cooperation between Israel and the United States began with President Truman's courageous recognition of Israel shortly after its establishment. Throughout many battles, our relationship has remained strong, and it continues today, with our common search for security and peace in the Middle East.

Israel is now engaged in one of its most challenging wars ever, the war against terrorism. Since the latest Palestinian intifada began, more than 400 Israeli civilians have been killed by suicide bombers—over 125 since March. Hundreds more have been injured in these attacks—attacks that are designed to strike at the heart of Israel itself.

The Palestinians have also suffered hundreds of casualties, and innocent civilians, including children, are being used as human shields by terrorists hiding in refugee camps.

Peace is the only way to move forward, a peace that contemplates two states coexisting side-by-side. But Israel can only achieve peace from a position of strength. I have long been an advocate for a strong US-Israel security relationship. Now is not the time to back away from our security relationship or to give any credence to the misguided efforts of the European Union to impose economic sanctions against Israel.

A critical contribution towards resolution of the current crisis must be taken by moderate Arab regimes—our allies such as Egypt and Saudi Arabia—to pressure the Palestinians to genuinely renounce terrorism. Chairman Arafat's recent statement deploring terrorist attacks—delivered in English to an American—served no more purpose than to bring Secretary Powell to Ramallah. Far more revealing was a recent statement from Mr. Arafat's wife—in Arabic to the Arabic press—saying that she would be proud to have a future son become a suicide bomber.

It has unfortunately been shown time and time again that the parties in the region will be unable to achieve peace on their own. All past breakthroughs for peace have been the result of US and international leadership and every future breakthrough will require the same. I commend the Administration for resuming a leadership role in the Mideast, and I urge it to remain engaged with the parties and moderate Arab states in the region.

Last week, in a ceremony commemorating Yom ha-Shoah, National Security Advisor Condoleeza Rice made the connection between our remembrance of the Holocaust and our continued fight against evil in the war on terrorism. I would ask that her remarks be entered into the RECORD.

May our memories of the horror of the Holocaust fuel our hunger for a permanent peace.

REMARKS BY CONDOLEEZZA RICE, ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS, AT THE 2002 NATIONAL COMMEMORATION OF THE DAYS OF REMEMBRANCE—U.S. CAPITOL ROTUNDA, WASHINGTON, D.C.

As Prepared

Survivors, liberators, Members of Congress, Members of the Cabinet, Ambassador Ivry, other members of the diplomatic corps, Benjamin Meed, Fred Zeidman, Elie Wiesel, Ruth Mandel, other honored guests, ladies and gentlemen: Thank you for inviting me to join you for Yom ha-Shoah.

We gather today to remember that evil is real and present in our world. We gather to remember that hatred and bigotry are always and everywhere wrong. We gather to remember that the commission of monstrous sin requires not our consent, but only our indifference, our neutrality, or our silence. We gather to light six candles, so that we may never forget six million acts of murder.

With each passing year, the number of living Holocaust survivors and liberators grows smaller. When all the eyewitnesses are gone, the Holocaust's history will be taught not from the searing pain of memory but from the pressing call of conscience.

Last year, when the President spoke here, the Holocaust seemed somewhat removed from our era—part of a bloody century now behind us. Sadly, this year we need no prompting to appreciate the Holocaust's importance and its relevance. Fanatical, unreasoning hatred has intruded upon our lives in ways that no one could have imagined months ago.

From the Holy Land, we see daily images of carnage, and from Europe, come images of synagogues and Torah scrolls burned. Our own land has seen the mass destruction of innocents, guilty of nothing more than going to work in a country called America on a beautiful, but terrible autumn morning. And the world was sent obscene videotapes where evil leaders celebrate the slaughter, and yet another tape where a man is killed after being made to say the words, "I am a Jew."

This year, evil has spoken to all of us, and on this day we need no reminder to answer back, but firmly: "never again."

As our world prevails through these difficult days, and as we pray for peace for all the children of Abraham, it is important to recall not just the Holocaust's horrors, but also its heroes: bearers of witness like Jan Karski; rescuers like Wallenberg and Schindler; writers like Anne Frank and Elie Wiesel; and resistors like the Danes and the righteous of many nations who hid and saved many thousands of their Jewish neighbors.

And, of course, we recall those who fought from inside the Warsaw Ghetto in April 1943, and who, as Elie Wiesel wrote, lit a flame that "continues to burn in our memory" even through the distance of six decades,

We draw strength from these names—all familiar to our lips—and we gain inspiration from their stories. Less often, we think of the other heroes, the countless ordinary Jews, Roma, Jehovah's Witnesses, gay people, and disabled men and women who defied the machinery of murder with quiet acts of courage and piety. Their names are mostly unknown to all but Him, yet their lives too instruct.

I remember visiting Yad Vashem and seeing a photograph of a handsomely dressed Jewish couple in the Warsaw Ghetto. The guide at the museum said that people often express consternation at the photograph, wondering how odd it was that against the ghetto's backdrop of danger and desperation this couple had obviously gone to great lengths to ensure that their clothing and grooming were impeccable.

I had a different reaction. I said immediately, "I understand that photograph. These people are saying, 'I'm still in control, I still have my dignity.' They are saying, 'You can take everything from us, including life itself. But you cannot take away our pride."

I've often wondered what became of that couple. I imagine that long after they were no longer able to control their appearance they still found subtle ways to say, "You cannot control me, you cannot take away my pride and dignity." I've wondered whether they were part of the uprising; whether they perished in a camp; whether they were among the few who survived; whether they may even have had children like Marek Edelman or Bronislaw Geremek who survived and went on to become members of Solidarity and leaders in a free and democratic Poland.

And I have thought about that couple from the ghetto even more in the days since September 11. Because right now, all of us are enduring a time of testing, loss, and fear; a time when our vulnerability to evil and the certainty of our mortality are all too clear; a time when once again our intellect is insufficient to answer the question, "Why?" And at these times more than ever, we are reminded that it is a privilege to struggle for good against evil.

We do not choose our circumstances or trials, but we do choose how we respond to them. Too often when all is well, we slip into the false joy and satisfaction of the material and a complacent pride and faith in ourselves. Yet it is through struggle that we find redemption and self-knowledge. This is what the slaves of Exodus learned. And it is what slaves in America meant when they sang: "Nobody knows the trouble I've seen, Glory Hallelujah!"

None of our current travails approach those of the Holocaust. The evil of the Holocaust is singular. Yet its lessons are universal.

So today, we remember that ignorance and cruelty are never far away, and that their atrocities demand action and justice.

We remember that every life has value and all lives are ennobled by opposing hate and bigotry.

We remember that not even mankind's worst depravities can be allowed to dissuade us from our search for worldly and spiritual peace.

In this nation of immigrants, surrounded here by the symbols and totems of tolerance and freedom, we remember our very great responsibility to protect freedom and to welcome all of God's creatures into its loving embrace.

And we remember the words of the Kaddish, "Oseh shalom beem'roh'mahv, hoo ya'aseh shalom, aleynu v'al kohl yisrae'el v'eemru: Amein."

TRIBUTE TO EDWARD SWINGLE, JOHN SHUMEJDA, THOMAS BOYDSTON, ROBERT NORTON AND TIMOTHY VANDEVORT

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. BARR of Georgia. Mr. Speaker, I rise today to express our most heartfelt condolences to the family and friends of Edward Swingle, John Shumejda, Thomas Boydston, Robert Norton, and Timothy Vandevort who lost these loved ones in a tragic airplane accident on January 4, 2002, in Birmingham, England.

In honor and memory of these individuals, I will be presenting a flag to each of the families, to Chairman, President and CEO of AGCO, Mr. Bob Ratliff, and to CFO of Epps Aviation, Ms. Marian Epps on April 22, 2002. Mr. Speaker, I want my colleagues to know what great individuals these men were.

AGCO Corporation, headquartered in Duluth, Georgia, USA, is one of the world's largest manufacturers, designers, and distributors of agricultural equipment. AGCO provides several brands of products which are sold in more than 140 countries around the world.

John Shumejda was President and Chief Executive Officer of AGCO. He was appointed to the position in 1999 and provided a strong source of leadership for the company.

Edward "Ed" Swingle was Senior Vice President of Worldwide Marketing of ACGO. He had been with the company since its formation in 1990, and greatly contributed to the growth of the company.

Both men were leaders at ACGO from its founding in 1990. Due to their leadership, AGCO is considered one of the top companies in the farming equipment industry.

Epps Aviation, headquartered at Dekalb-Peachtree Airport just outside of Atlanta, Georgia, lost three of its finest and most experienced members of its team:

Thomas "Tommy" Boydston, Director of Operations of Epps Aviation. He had been with the company for over 26 years, and was instrumental in the growth of the Charter Department's fleet and pilots.

Robert "Bob" Norton was a distinguished pilot from Atlanta, Georgia who worked over 20 years for Epps Aviation.

Timothy "Tim" Vandevort was a distinguished pilot from Duluth, Georgia who had worked for Epps Aviation for over 4 years.

Each of these five individuals will be greatly missed by their loving families, their many friends, and by their business associates and customers. I hope my colleagues in the House of Representatives join me in recognizing their dedication to their companies, their families and their country.

IN APPRECIATION OF CATHEY J. NEWHOUSE

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SMITH of Michigan. Mr. Speaker, I rise to congratulate Cathey J. Newhouse, a teacher at Parnall Elementary School in Jackson, Michigan and recipient of the 2001 Presidential Award for Excellence in Mathematics and Science Teaching. I request that her recent testimony before the Science Committee be placed in the CONGRESSIONAL RECORD.

STATEMENT OF CATHEY J. NEWHOUSE

Thank you Chairman BOEHLERT and Congressman SMITH for holding the CONGRESSIONAL RECORD open and allowing me to add my ideas on improving science education to those shared on March 20, 2002.

I have been an active learner and lover of science for most of my life. I have been an elementary teacher in Jackson, Michigan for 14 years. I believe that at the elementary level, enthusiasm for and interest in science are crucial, probably even more important than the teaching of facts and concepts in science. Young children need to know with certainty that science is fun to learn! However, science is a scary subject for many elementary teachers.

I would like to see a two-fold commitment to funding for improving science instruction. First, teachers need professional development to increase their knowledge in specific science disciplines. This needs to be an ongoing and consistent professional development, not just a one-time event. Teachers should be given the opportunity to yearly attend workshops or conferences and to process with colleagues the information gained.

Secondly, I strongly believe that funding needs to be provided to have a science consultant in each elementary building. This person would function as a teacher of teachers, helping new and veteran teachers with all aspects of teaching the science curriculum. I had the opportunity during 2001 to work for the Jackson County Intermediate School District in Michigan as such a science specialist. In this role, I assisted other teachers with planning, improving teaching methodology, locating appropriate activities and materials, and developing skills in inquiry science teaching. The improvement I saw in teachers'confidence and competence during my tenure as a science teacher specialist was dramatic.

If funding specifically designated for consistent, on-going professional development in science could be coupled with funding for a science specialist to assist teachers in each elementary building. I believe we would see a very significant increase in the quantity and quality of science learning taking place in our schools.

Thank you for recognizing the 2001 Presidential Awardees, thank you for your continued support of science and math education, and thank you for giving me this opportunity to express my views.

TRIBUTE TO MAY LOUIE ON THE OCCASION OF HER 90TH BIRTHDAY

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. ESHOO. Mr. Speaker, I rise today to pay tribute to May Louie, an extraordinary woman who will celebrate 90 years of life on June 5, 2002.

A loving mother, daughter and widow, May Louie is an honorable woman in her own right. She has lived a life filled with values, service, and dedication to her family and to her community.

Born on June 5, 1912 in Columbus Ohio, May was the eighth child of ten and the second of two daughters. Driven by famine in China, her father came to the United States in the early 1880s to help build the transcontinental railroad. He met and married May's mother and the two moved to Biloxi, Mississippi and then to Columbus, where they owned and operated a laundry.

May was sent to China as a young girl after her mother's tragic death as a result of the Spanish flu epidemic of 1918. She endured harsh living conditions, including a bout of malaria fever before returning to Ohio aboard the USS *President McKinley* in 1928.

Following the death of her father, May provided loving care for many years to her elderly foster parents, Walter and Sadie Hauptfuier in Canton, Ohio. She studied piano, flute and piccolo and became a respected music teacher.

May moved to Lakewood, Ohio after her marriage to Toy Louie, the owner of a wholesale Chinese grocery business and noodle factory, and the couple soon began a family of their own. May gave birth to two sons—James and David and she instilled in them a lifelong love of music and the arts. A devoted mother, May Louie was a full-time homemaker and the family's chief money manager.

In an effort to bring diversity to television, May encouraged her sons to appear on a live public affairs program produced by a neighbor. While both children participated, David displayed an early and keen interest in the news business, appearing weekly on the show for eight years . . . from five years old to age thirteen. It was this experience that kindled David's interest in pursuing a highly distinguished career in T.V. journalism.

Widowed in 1980, May managed on her own for 16 years before moving into David's home in San Mateo, California. She is a proud grandmother of two adult grandchildren—Linda May Louie and Michael Louie, the children of Jim and Vana of Mayfield Heights, Ohio.

Mr. Speaker, I ask my colleagues to join me in honoring this great and good woman, May Louie, and in wishing her a very happy, healthy and fulfilling 90th birthday. Her life is instructive to us all and we know we are a better country because of all she's done.

RECOGNIZING THE 54TH ANNIVERSARY OF ISRAELI INDEPENDENCE

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. HOLT. Mr. Speaker, today, Wednesday, April 17, is Yom Ha'Atzmaut—Israel's Independence Day. As the people of Israel celebrate 54 years as the only democracy in the Middle East, I am proud to join with my colleagues to reiterate our continued strong support of Israel, its right to defend itself and its people from terrorism, and to focus on the special relationship that exists between our two nations.

We all know that these are troubling times for Israel, and indeed, the entire Middle East. The world has watched in horror as terrorist attacks have killed more than 450 Israelis and wounded nearly 4,000.

Car bombings, suicide attacks and widespread terrorism in residential areas have disrupted the lives of Israelis. Men and women fear that an ordinary trip to their local market will result in tragedy. Children no longer feel safe to ride their school buses, and families sitting down to celebrate a holy meal have been murdered by suicide bombers. Since September 11, I think all Americans have a new understanding of the threats that Israelis face and have faced for some time. And I think all Americans have been steeled in their resolve to root out terror wherever it may be found.

Before and since being elected to Congress, I have supported a strong Israel. America has always had a unique relationship with Israel. They are our most important strategic ally in this volatile area, and a nation whose founding and existence clearly makes the world better.

The United States must continue to voice its support for Israel and for their right to defend their people and to exist. That is particularly true at this terrible time. The United States must be prepared to continue to provide the diplomatic, military, and economic support that Israel needs.

As the world's only superpower, the United States plays an essential role as a broker of peace in the region. I am pleased to see President Bush engaged on this issue, sending Secretary of State Powell to the Middle East to try to end the violence. But we must not let that role keep us from speaking the truth. As our President has said, terrorism is unacceptable in all its forms. Palestinians must end the violence against the Israelis. The attacks must stop.

When they do, Israel must respond, as I am confident she will, with corresponding steps to reduce the level of tension. That is the only way to get back to the peace table. And only peace discussions can achieve the lasting, just peace that will best serve the interests of all Israelis, all Palestinians and indeed, all of us throughout the world.

Mr. Speaker, my personal sense of commitment to Israel has only been strengthened by recent developments. Today, as Israelis mark their 54th anniversary, we can celebrate the existence of a strong and vibrant Jewish state. I am proud to observe this occasion and to use this opportunity to join with my colleagues to reaffirm our solidarity with Israel and the Israeli people.

TRIBUTE TO MR. ED WENGER

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, I offer the following comments today to mark the retirement of Mr. Ed Wenger. After nearly 30 years of service, Ed retired from the U.S. Forest Service last year.

After a stint in the Army, he began his distinguished career with the Forest Service at the Hoosier National Forest in Indiana. Since then, he's served in forests from Illinois to Pennsylvania, and a couple of places in between.

But it's Ed's time in Wisconsin that left such a lasting impression on me and lots of other folks in my area. He was instrumental in developing the Florence Natural Resource Center while serving as the Florence District Ranger for the Nicolet Forest. And he did tremendous work while at the Nicolet-Chequamegon National Forest from 1997 to 2001.

Wherever he was stationed, Ed quickly became an active and well-known member of the community—both in forest issues and in the general activities and organizations that make our towns and villages such great places to live. I believe that future generations of Forest Service employees could stand to learn much from Ed, and his dedication to maintaining such close ties between the management of our forests and the communities that surround them.

CONGRATULATING ISRAEL ON ITS INDEPENDENCE DAY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. LANTOS. Mr. Speaker, I wish to congratulate Israel on its Independence Day, its 54th anniversary. In 54 years, Israel has experienced more dangers and more triumphs, more success and more tragedy, more highs and lows than many far more venerable states. Throughout it all, Israel's indomitable spirit has conquered adversity.

Israel has much for which to be grateful. First and foremost, Israel has so often been blessed with great leadership—wise and visionary leadership. This tradition goes back to Israel's modern origins. At the end of the nineteenth century, the founder of the modern Zionist movement Theodor Herzl made the most preposterous and prophetic prediction I know of, when he asserted that a Jewish state would be born within a half-century.

In statehood, Israel's leaders have been practical, humane, bold, and peace-loving. It is a pity that Israel's neighbors have not been similarly blessed.

David Ben-Gurion and the Zionist leadership were practical enough to accept the 1947 partition resolution, though they had hoped for much more. They were humane enough to treat their Arab citizens as equals when Arab leaders were threatening to drive the Jews into the sea. They and their successors were bold enough to do what is necessary to keep Israel and the Jewish people alive, regardless of what the rest of the world might think. Usually, the world learns later that Israel is right. Remember the bombing—the then much criticized bombing—of the Iraqi nuclear reactor Osirak in 1981? How universally scorned it was at the time; how grateful the civilized world is now.

Israel has been blessed with the great friendship and unswerving support of the United States. It has earned this friendship because it has fashioned a society that embodies the same values as our own.

It is important on this Independence Day that Israelis and their friends take time to reflect on all the wonderful, almost unthinkable achievements of the past 54 years. Against impossible odds, Israel has established a vibrant, open, prosperous, and free society; a pluralistic society built by people from virtually every country in the world; a society on a par with the best of the West. And Arabs in Israel enjoy incomparably more freedom and democratic rights than they have anywhere in the Arab world.

Although this is a day for joy, it is no secret that this year's independence day occurs at one of the most dangerous times in Israel's history. I know everybody in this room understands the problems all too well. The scale of Israeli loss in the so-called intifada is staggering—almost incomprehensible. On a scale proportional to the U.S. population, Israel has lost over 20,000 people since September 2000, close to half of them in suicide bombings.

Israel's friends stand in solidarity with all Israelis. Israel should know that its friends in the United States will stick with it and defend its right to protect itself against terrorism and against the scourge of those who place no value on human life. Israel should know that its friends here won't be afraid to stand up to the unjustified and disturbingly persistent criticism coming from Europe, from those who have managed to misunderstand the lessons of their own history. We are outraged by the U.N. Human Rights Commission's resolution of two days ago that makes disgraceful accusations against Israel, while failing even to mention the terrorism to which Israel has been subjected. But our outrage is outweighed by our shock, sadness, and anger that it was supported by Western nations such as France, Austria, Belgium, Portugal, Spain and Sweden.

Israel should know that its friends here are deeply pained by its profound dilemma: Yearning for peace, Israel has no clear partner for peace. Israel should know that its friends won't let the world forget that the Yasser Arafat whose Palestinian Authority funds the al-Aqsa Martyrs' Brigade, the Yasir Arafat of the Karine-A, the Yasir Arafat who colludes with Iran and Hizballah—Yasir Arafat the terrorist—is, sadly, the real Yasir Arafat.

And Israel should know that its friends here agree that the violence must end before negotiations begin. You cannot negotiate with terror; you can only defeat it. The people of Israel have the right to restore the security of their homes and families by taking the military measures necessary to defeat terror. Once that is achieved, we will do our best to create the conditions that will enable Israel to find reliable partners for peace and an end to the conflict. Only when Arabs learn that they cannot exhaust Israel through violence will they be ready for the kinds of political compromises necessary for a lasting peace. Israel's friends understand that.

For Israel's friends, today is a day for joy, solidarity, and reflection. On a personal note, it is also a sad occasion, for it marks the eve of the departure of my dear friend, Israel's wonderful ambassador David Ivry. His has always been a voice of integrity, clarity, and insight, and we will sorely miss having it in our midst.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 18, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 19

Time to be announced
Governmental Affairs
Business meeting to consider the nomination of Paul A. Quander, Jr., of the District of Columbia, to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency, to occur immediately following the first Senate floor vote.
S–211 Capitol

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine Canadian wheat 301 decisions.
SR–253

APRIL 23

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine generic pharmaceuticals, focusing on marketplace access and consumer issues.
SR–253

10 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the implications of the human capital crisis, focusing on how the federal government is recruiting, selecting, retaining, and training individuals to oversee trade policies and regulate financial industries.
SD–342

Health, Education, Labor, and Pensions
Public Health Subcommittee
To hold hearings to examine current safeguards concerning the protection of human subjects in research.
SD–430

Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the Federal Deposit Insurance System, focusing on recommendations for reform.
SD–538

Judiciary
To hold hearings to examine the reformation of the Federal Bureau of Investigation, Department of Justice, focusing on mission refocusing and reorganization.
SD–226

10:15 a.m.
Foreign Relations
To hold hearings to examine United States nonproliferation efforts in the former Soviet Union.
SD–419

2:30 p.m.
Judiciary
Antitrust, Competition and Business and Consumer Rights Subcommittee
To hold hearings to examine cable competition, focusing on the ATT-Comcast merger.
SD–226

Health, Education, Labor, and Pensions
To hold hearings to examine the implementation of the Elementary and Secondary Education Act, focusing on status and key issues.
SD–430

APRIL 24

9:30 a.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine future relations between the United States and Colombia.
SD–419

1:30 p.m.
Appropriations
Treasury and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Office of National Drug Control Policy.
SD–192

2:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National

Institute of Standards and Technology; and other relative pending legislation.

SR–253

Intelligence

To hold closed hearings on pending intelligence matters.

SH–219

APRIL 25

9:30 a.m.

Veterans' Affairs

To hold hearings to examine the Department of Veterans' Affairs preparedness regarding options to nursing homes.

SR–418

Commerce, Science, and Transportation

To hold hearings on proposed legislation concerning online privacy and protection.

SR–253

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Harold D. Stratton, of New Mexico, to be a Commissioner of the Consumer Product Safety Commission.

SR–253

MAY 2

9:30 a.m.

Veterans' Affairs

To hold hearings to examine pending legislation.

SR–418

2:30 p.m.

Judiciary

To hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice.

SD–226

HOUSE OF REPRESENTATIVES—*Thursday, April 18, 2002*

The House met at 10 a.m.

The Reverend Ronald S. Escalante, Good Shepherd Catholic Church, Alexandria, Virginia, offered the following prayer:

Almighty and ever-living God, You have revealed Your glory to all nations. Through You authority is rightly administered, laws are enacted, and judgment is decreed.

Let the light of Your divine power and wisdom guide the deliberations of Congress, and shine forth in all the proceedings and laws framed for our rule and government. They seek to preserve peace, promote national happiness, and continue to bring us the blessings of liberty and equality.

We likewise commend to Your unbounded mercy all the citizens of the United States, that we may be blessed in the knowledge and sanctified in the observance of Your holy law. And after enjoying the blessings of this life, may we be admitted to those which are eternal.

We pray to You, who are Lord and God, forever and ever. Amen.

THE JOURNAL

The **SPEAKER.** The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **FOLEY.** Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER.** The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **FOLEY.** Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER.** Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The **SPEAKER.** Will the gentlewoman from Florida (Ms. ROS-LEHTINEN) come forward and lead the House in the Pledge of Allegiance.

Ms. **ROS-LEHTINEN** led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1533. An act to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes.

WELCOMING REVEREND RONALD S. ESCALANTE, ASSOCIATE PASTOR, GOOD SHEPHERD CATHOLIC CHURCH, ALEXANDRIA, VIRGINIA

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MORAN** of Virginia. Mr. Speaker, I'd like to just say a word about the priest who gave our invocation today. Father Escalante was born in the Philippines. He has his Masters in Divinity from Mount St. Mary's College and Seminary in Maryland. He has been the Associate Pastor of Good Shepherd Catholic Church for the last 4 years.

Good Shepherd Catholic Church in Mount Vernon, Virginia, has been particularly affected by the events of 9/11. Three of their families lost loved ones, as well as most recently Corporal Matthew Commons was killed in a firefight in Afghanistan while on a mission to rescue a Navy Seal. So that parish has been particularly determined to bring an end to hostility around the world through God's word.

Father Escalante has played an important role in uniting that parish and helping them to get over their grief. We thank him for delivering our invocation this morning.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER.** The Chair will entertain ten 1-minute speeches on each side.

COMMENDING WAL-MART FOR PROVIDING AID TO THOSE AFFECTED BY SEPTEMBER 11 TRAGEDY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. **ROS-LEHTINEN.** Mr. Speaker, I would like to congratulate Wal-Mart for its participation in Vital Voices, an organization which assists Afghan women and children. Wal-Mart is supporting Vital Voices' efforts to provide aid to enable Afghan women to return to work and Afghan girls to return to school.

Wal-Mart's donation is part of a larger company effort to provide aid to those who are affected by the September 11 tragedy. Since September 11, Wal-Mart and Sam's Club associates and customers have raised and contributed nearly $16 million in support of relief agencies and victims' families, including a $1 million donation to UNICEF to help Afghani children.

Please join me in congratulating and recognizing the wonderful contributions of Wal-Mart and Sam's Club associates and customers.

RESPONDING TO SUPREME COURT RULING ON PORNOGRAPHY

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **LAMPSON.** Mr. Speaker, child pornography was a worldwide industry that was all but eradicated in the 1980s. Unfortunately, it has resurfaced with a vengeance, thanks to computer technology. The explosive growth of computer technology via e-mail, chat rooms and news groups have created a bigger demand for pornographic pictures of our children on the Information Superhighway.

Congress must step up to the plate and take some action to stem the growing tide of child exploitation on the Internet and in other forms. On Tuesday, the Supreme Court struck down the Child Pornography Protection Act. Today the Congressional Missing and Exploited Children's Caucus will hold a briefing for members of the caucus on legislation that is being developed in response to the Supreme Court's decision.

We must continue to protect our children from exploitation and pornography. The Supreme Court sent the wrong message to pornographers all over the world. Mr. Speaker, Congress needs to send the right message, and we will, just as we will in returning Ludwig Koons to the United States. It is not right that Ludwig's pornographer mother illegally removed him

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to Italy against the order of the United States courts. She is a criminal. We need to bring Ludwig home and all of our children home.

FOSTERING FAMILY INDEPENDENCE THROUGH WELFARE REFORM

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, in 1996 this House passed historic welfare reform legislation that fostered family independence by moving people into the workforce. Welfare reform is an issue of monumental proportion. Six years ago we had a positive effect on the lives of millions of needy Americans. Today we have another chance to improve the lives of many more.

Since 1996, statistics have shown that welfare families have begun to achieve independence. While we celebrate the progress of 1996, we must charter a plan that guarantees future success. This Congress must move forward to reauthorize welfare reform and assist those Americans that have not yet achieved their goals.

Welfare reform works. But we must continually improve the system today for tomorrow. By reaching out to Americans in need, we will change not only lives, but put a smile on the face of our society.

We are making progress, Mr. Speaker, but it is time we turn the corner. Let us strengthen the path towards independence by empowering people to support themselves. I encourage my colleagues to support reauthorized welfare reform.

PROTECTING SACRED NATIVE AMERICAN SITES

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, just yesterday we had a hearing in the Committee on Resources dealing with a parcel of land belonging to the Pechanga Band of Mission Indians in Riverside County, California. The Tribe is trying to protect the land because it contains several sites sacred to the tribe, including the largest living oak tree in the United States.

This magnificent tree is over 1,500 years old and has been the site of tribal ceremonies for generations. Believe it or not, this tree is in danger of being felled by an order to construct transmission lines.

We are often faced with the perception that Native American sacred sites are not worthy of protection somehow because they generally are a part of nature and not brick and mortar buildings with a large bell towers. One look at this tree, however, and the majesty of it comes across to even the most cynical.

While I believe we will be able to preserve this particular Native American site through the hard work of the gentleman from California (Mr. ISSA), Senator BOXER and Senator FEINSTEIN, dozens of other similar areas are threatened with desecration. The Glamis Mine in California and the Valley of the Chiefs in Montana are in danger of being lost forever by the presence of gold mining and the sights and sounds of oil drilling.

The time has come for us to stop running around trying to cherry-pick certain Native American sacred sites to save. We need to act and have one strong policy and procedure, backed up by the laws of this country.

SUPPORTING ISRAEL IN ITS WAR WITH TERRORISM

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, I rise today to condemn the terrorist attacks upon the people of Israel. On the basis of our shared principles and democratic values, we have an obligation to stand squarely with our democratic ally. We will support those who stand for freedom.

On Monday, tens of thousands of Americans assembled in Washington, D.C., to stand in solidarity with the people of Israel and to support her right to defend herself. We must not and we will not allow the lone light of democracy in the entire Middle East to be extinguished by the Palestinian wave of hatred.

Yasser Arafat has impeded peace and perpetuated his charade for far too long. The Palestinian Authority must not be allowed to breed its violence and hatred, and the international community, led by the United States, must make it absolutely clear that terrorism will not be tolerated.

I urge all of my colleagues on both sides of the aisle to continue their unyielding support for the people of Israel as they wage their own war on terrorism.

HIGHWAY ROBBERY

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, President Bush and the Republicans in Congress proclaim that today's vote to make permanent last year's $2 trillion tax cut is merely to correct a quirk in the law that sunset the entire tax cut December 31, 2010.

That was no quirk. The Republicans controlled the House, the Senate and the White House. They wrote it into the law because they wanted to hide the implications of these massive tax cuts; the fact that they were going to put us back in deficit, that they were going to take money from the Social Security lock box, which they just voted for seven times, and they just wanted to pretend.

Well, now the pretension is over. They are revealing their true side. Make these cuts permanent. If they are successful in doing that, another $400 billion of deficit in the next 10 years, every penny of it coming out of the Social Security trust fund, money raised with a regressive flat tax which is going to fund estate tax relief for people with estates over $5 million and people who earn over $373,000 a year.

That is what this vote is all about, plain and simple. No quirk; it is highway robbery.

FIGHTING FOR THE RELEASE OF HOUA LY

(Mr. GREEN of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Wisconsin. Mr. Speaker, I rise today to mark a tragic anniversary. Three years ago tomorrow, Houa Ly, a Hmong-American constituent of mine, disappeared on the border between Laos and Thailand. Eyewitnesses last saw him with Lao government authorities, a brutal regime infamous for human rights abuses.

For 3 years his family has suffered without any real answers. It has been three frustrating years.

His family is inspired, however, by the memories they still have of their life together as an American family and of Mr. Ly's incredible service to this country, saving downed U.S. pilots during the Vietnam War.

Our Nation will also remember him. The Lao government and its apologists should know for that me and many others, this case is an insurmountable obstacle that should block any effort towards normalizing relations between our two countries.

It has been three frustrating years, and for all of our work together with the Ly family, it often feels like we have gotten nowhere. But we will not give up. A U.S. citizen is missing. His family deserves answers, and we will keep fighting until we get them.

SUPPORTING THE RIGHT OF LEGAL IMMIGRANTS TO BENEFITS UNDER THE FARM BILL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to applaud the gentleman from California (Mr. BACA) for his motion to instruct today that I ask my colleagues to support enthusiastically. It is important to explain the purpose and the force and the importance of the motion to instruct, and that is to reinforce the language that was offered in the other body regarding legal immigrants and the rights of legal immigrants to receive benefits under the farm bill, in this instance, food stamps. Legal immigrants are represented by us all—we owe them good and fair representation.

It is important to note that nothing is being taken from those who claim to believe that only benefits should ensure to citizens. Legal immigrants work, pay taxes, are our neighbors, and, most of all, they offer their lives for our freedom in the United States military.

□ 1015

This is a commonsense amendment, and it states that the United States House of Representatives truly believes in the equality of all. We cannot owe shame to this body by declaring that legal immigrants who work here and are part of this Nation and sacrifice their lives deserve not to have the benefits. We realize that the U.S. military, many of them, are on food stamps. Would we deny to them the rights of those of us who live and breathe the free air of this Nation? Vote for the Baca amendment.

UNITED NATIONS HUMAN RIGHTS COMMISSION LOSES CREDIBILITY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, killing innocent civilians to achieve a political goal is unacceptable under any circumstance. But now we have received word that the United Nations Human Rights Commission has voted to condemn the State of Israel for a long list of supposed human rights violations without even once mentioning Palestinian violence. Worse than that, the resolution supports, and I quote, "all available means, including armed struggle," to establish a Palestinian State.

Now, the United States is on record of supporting an eventual Palestinian state. But we also know what "armed struggle" means in the current environment in the Middle East. It means a 17-year-old girl being promised all the glories of heaven if she will just strap a bomb to herself and go kill a bunch of innocent Israelis.

It is shocking that the U.N. Human Rights Commission would endorse violence against civilians. I think we should thank those countries who voted against this resolution, but we should express anger at the 40 countries who voted for it, including six from Europe. It is an outrage. As far as I am concerned, the U.N. Human Rights Commission has lost all of its credibility.

U.S. NEEDS COMPREHENSIVE ENERGY POLICY NOW

(Mr. HALL of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Speaker, I rise today to begin a series of remarks on energy. Energy, or the lack of energy, has caused many of the wars of the world. Once again, the uncertainties of the Middle East have caused prices in oil markets to rise; and from what we read in the news, the current uncertainty is, unfortunately, likely to last for quite some time.

My goal with this series is simple: to impress upon my colleagues the need to develop a national energy policy, and that policy should include all of our resources: fossil fuels, coal, nuclear renewables, and yes, conservation. We need them all.

In this country we are blessed with an abundance of energy choices. We have abundant coal reserves, in fact, some of the largest in the world. We have a tremendous potential for the development of solar and wind resources; and even though for many years we produced huge volumes of crude oil and natural gas and even supplied some of the world with it at times, we still have significant oil and gas resources in the ground.

Much of the rest of the world is envious of our energy resources and the choices we have. In the coming days and weeks, I will address some of these options and see what we can do to bring them into reality.

CONTINUING THE SUCCESS OF WELFARE REFORM

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I support President Bush's welfare reform. I am often asked what I consider some of the best accomplishments I have made as a Congressman. Well, I am very proud to have been a Member of the historic 105th Congress that passed the 1996 Welfare Reform Act.

Perhaps more than anything else that we have accomplished during my time in Washington, reforming welfare has given the most hope to American families. Welfare caseloads fell by 9 million since 1994. That means 9 million more Americans, 9 million more people are on the road to making their dreams a reality.

The number of mothers who are more likely to go on welfare, but instead have a job, rose by 40 percent between 1995 and 2000. Since 1996, nearly 3 million children have been lifted from poverty. In the African American community, the child poverty rate is at an all-time record low.

The success of the 1996 welfare reform law is beyond dispute. Our challenge and our great opportunity is to build on that success by letting more Americans work their way to freedom of dependence and follow the path to making their dreams a reality.

EXTENDING CONDOLENCES AND GRATITUDE TO CANADA

(Mr. SKELTON asked and was given permission to address the House for 1 minute.)

Mr. SKELTON. Mr. Speaker, I want to express condolences to the families of the four Canadian soldiers who were killed and the eight soldiers who were injured during training exercises in Afghanistan. News reports say that these are the first Canadians to be killed in a combat zone in half a century.

Canada is a valued member of our coalition in the fight against terrorism and has been a valued friend of the United States for decades. I fear we do not express our gratitude enough to the Canadian people for their support and their friendship. In the face of this tragedy, it is important to thank Canada for its commitment to the fight against terrorism.

Our men and women in uniform, U.S. forces, as well as members of our coalition forces, take risks every day in support of our freedoms. Unfortunately, some of our best and brightest young people lose their lives in this cause. Canadian forces are fighting alongside U.S. and European troops, seeking to hunt down remnants of Osama bin Laden's terrorist organization. We extend our condolences to our Canadian allies.

U.S. MUST STAND WITH ISRAEL

(Mr. TIBERI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIBERI. Mr. Speaker, it is more important than ever that we as individuals and the United States as a Nation reflect on the historic link between the United States and Israel. Yesterday was the 54th anniversary of Israel's independence. The U.S. must stand with Israel now as it did in 1948 as the war on terrorism continues throughout the world.

For 54 years, Israel has existed as the only democracy in the Middle East. We must not abandon our work to bring a lasting peace to the region. The efforts of those trying to achieve this goal over the past few days and weeks should be applauded. However, we must also not forget Israel's right as a sovereign nation to defend itself and its people from terrorism.

Israel has stood by efforts of the U.S. to combat terrorism around the globe. Likewise, the U.S. must stand by Israel in its effort to eradicate the scourge of terrorism.

Let us be clear: attacks on civilians by suicide bombers are acts of terrorism.

REJECT MAKING THE TAX CUTS PERMANENT

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, today the majority party will ram through a bill making their tax cuts permanent; but it is not just tax cuts they will make permanent. They will make a $4 trillion raid on the American Social Security trust fund permanent. They will make their $1 billion raid on the Medicare trust fund permanent. They will take their temporary wound to Social Security and make it into a permanent scar.

Just when 40 million Americans will be entering Social Security, they will be permanently raiding it for $4 trillion. They will be doing so as part of an ultimate dream to privatize Social Security and realize what one Republican called the hope that Medicare some day would just "wither on the vine."

Mr. Speaker, today's bill ought to be called the "Permanent Raid on Social Security," the "Permanent Injury to Medicare Act of 2002"; and we should reject it.

TIME FOR ACTION ON MEDICARE REFORM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, it is time to take a serious look at the problems we have with Medicare. Medicare started for the right reasons; there is no question about that, and I do not think we can argue with that. We did not want the elderly going without the ability to have the proper health care. We all realize it is not perfect and we need to do something about the prescription drug portion of it.

But there is a bigger problem with Medicare, and that is the problem of access. Doctors are dropping out across this country in droves. They are dropping out because the compensation is too low, and we proposed this year to make it even lower. They are dropping out because there is a hassle factor of feeling that if they make a little clerical error, that they might be drawn in by the police and pulled before the courts.

I had a woman come to me in a town meeting the other day that said she brought her mother from Missouri to Colorado, and they had gone to 128 doctors trying to find care for her mother and none of them would take new Medicare patients.

If we do not have access, we do not have a program. Congress must stop ignoring this problem. It is time for action.

INDIAN SACRED SITES MUST BE TREATED WITH REVERENCE

(Mr. RAHALL asked and was given permission to address the House for 1 minute.)

Mr. RAHALL. Mr. Speaker, yesterday at this time several Members of the House Committee on Resources Democratic Caucus rose to speak on a number of environmental issues as a prelude to Earth Day, which is April 22. As the ranking Democrat on that committee, today we continue with this theme.

My purpose this morning, however, is not to speak to the more traditional environmental concerns of which I share, but rather to draw attention to the destruction of sites located on Federal lands which are sacred to American Indians.

Valley of Chiefs, Montana. This area contains historic rock art and is used for ceremonial purposes. Yet the Bush administration believes it is a pretty good place to drill for oil and gas.

Indian Pass, California, a place where dream trails were woven. Yet the Bush administration has given the green light to a massive 1,600 acre open-pit gold mine there.

There are many other examples.

Most Americans understand a reverence for the great Sistine Chapel or a traditional church with steeple and a bell. I believe it is time we sound the alarm bell for Indian sacred sites and treat them with equal reverence. We are, after all, one Nation under God, and all of our religious beliefs must be protected.

WASHINGTON STATE NAMED WINE REGION OF THE YEAR

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, the State of Washington has long been known for its great people, its great natural beauty, its great companies like Boeing and Microsoft, and its great basketball teams. Now it has been designated with another honor, and that is "Wine Region of the Year" as endorsed by "Wine Enthusiast" magazine.

This designation is fully justified. Washington State is now the second largest wine producing State in the country. It provides $2.4 billion to the Washington State economy, and it employs 11,000 people. It is a small business-focused industry, and it provides tremendously to the jobs and the agriculture community of eastern Washington and western Washington. It produced 100,000 tons of grapes in the year 2001.

So congratulations to the State of Washington, and congratulations to the wine industry in the State of Washington, which helps our agriculture economy, and thanks to "Wine Enthusiast" magazine for making this designation.

PROTECT LANDS SACRED TO INDIAN TRIBES

(Mr. KILDEE asked and was given permission to address the House for 1 minute.)

Mr. KILDEE. Mr. Speaker, as cochair of the Native American Caucus, I work on many issues on behalf of our first Americans. An issue that is of particular importance to me relates to protecting lands sacred to our Indian tribes.

Native Americans were the first protectors of this great land, and protect it they really did.

Long before my forefathers arrived here, it was the native Americans who respected, honored and gave thanks for all that nature provided. They knew never to take more than what was needed, and never disrespect or damage their sacred areas.

I am sad to see so many native American sacred sites under the threat of desecration and the active role our government often plays.

We have attempted over the years to enact legislation to protect these sites, but each time it falls short. We need to pass legislation that will put the full legal weight of the United States behind the preservation of native American sacred sites.

POSTAL SERVICE REFORM

(Mr. GARY G. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. GARY G. MILLER of California. Mr. Speaker, on April 4, the postal service transmitted its "Transformation Plan" to Congress. I read through some of the report and was surprised that there was no mention of the fact that the postal service spent $55 million on general advertising in 2001.

The report did, however, stress that the postal service needs more "flexibility" and cited "increasing cost burdens" and "significant fixed costs" as part of the problem.

Now, why on earth is an organization who whines about "burdens" and "fixed costs" spending $55 million on brand promotion? Remember, this money was spent during the same year it lost more than $1 billion.

Mr. Speaker, the $55 million the postal service spent on advertising for product lines which typically lose money could clearly have been spent more efficiently. For example, $55 million would have just about covered all of the postal service's tax liability on leased facilities last year. Even better, $55 million would have paid for more than two-thirds of the postal service employee wages in my district.

Mr. Speaker, an agency which spends $55 million on a losing advertising campaign does not need "flexibility." No, Mr. Speaker. What the postal service needs is some old fashioned "accountability."

□ 1030

EXTENSION OF TAX CUT WILL RAID SOCIAL SECURITY AND MEDICARE

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, it is important to review a little of the chronology leading to today's vote. Only last year, at the end of the Clinton administration, there was a $5.6 trillion surplus forecast.

Now, the majority of Democrats said, let us be a little fiscally disciplined here. Let us wait and see if these numbers hold up. But the Republican majority, in a rush to judgment, went ahead and enacted a $2 trillion tax cut. Here we are, the very next year, $4 trillion of the surplus is gone and we realize that that money is going to have to come out of Social Security and Medicare trust funds, even though five times we all voted for a lockbox on Social Security and Medicare.

The lockbox is broken. Today we are going to cut taxes between the years 2011 to 2020 by another $4 trillion, $7 trillion when you count interest payments on the increased public debt it will create, and virtually all of that money is going to have to be paid for by Social Security and Medicare. Yet in that decade, from 2011 to 2020, we are going to see another 40 million people join the retirement rolls.

This is fiscally irresponsible. It is not right. We would not do it in our own family, and we should not do it to the American family.

THE JOURNAL

The SPEAKER pro tempore (Mr. OSE). Pursuant to clause 8, rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WILSON of South Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This 15-minute vote will be followed by a 5-minute vote on the motion to instruct.

The vote was taken by electronic device, and there were—yeas 369, nays 52, not voting 13, as follows:

[Roll No. 99]

YEAS—369

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Foley
Forbes
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Upton
Velázquez
Vitter
Walsh
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (FL)

NAYS—52

Aderholt
Berry
Borski
Brady (PA)
Brown (FL)
Capuano
Costello
Crane
Emerson
English
Filner
Fletcher
Ford
Gillmor
Gutknecht
Hefley
Hilliard
Hinchey
Jackson-Lee (TX)
Johnson, E. B.
Kennedy (MN)
Kucinich
Lampson
Larsen (WA)
LoBiondo
Matheson
McDermott
McNulty
Menendez
Moran (KS)
Oberstar
Olver
Pallone
Paul
Peterson (MN)
Ramstad
Riley
Sabo
Scott
Strickland
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Walden
Waters
Weller
Wu

NOT VOTING—13

Becerra
Clay
Clement
Hastings (FL)
Jones (OH)
Reyes
Rogers (KY)
Schaffer
Simpson
Stark
Traficant
Wamp
Young (AK)

□ 1055

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. BECERRA. Mr. Speaker, this morning I was unavoidably detained, and therefore unable to cast my floor vote on rollcall No. 99, on Approving the Journal.

Had I been present for the vote, I would have voted "yea" on rollcall vote 99.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

The SPEAKER pro tempore (Mr. OSE). The unfinished business is the question of agreeing to the motion to instruct on H.R. 2646 on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. SMITH).

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 265, nays 158, not voting 11, as follows:

[Roll No. 100]

YEAS—265

Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Bass
Becerra
Bereuter
Berkley
Berman
Biggert
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Brady (PA)
Brown (OH)
Calvert
Cannon
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chabot
Clay
Clayton
Clyburn
Collins
Conyers
Cox
Coyne
Crane
Crowley
Cubin
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doyle
Duncan
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Ferguson
Flake
Ford
Fossella
Frank
Frelinghuysen
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goss
Graham
Green (TX)
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Harman
Hart
Hefley
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Istook
Jackson (IL)
Johnson (CT)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Latham
Leach
Lee
Levin
Lewis (CA)
Linder
Lipinski
LoBiondo
Lofgren
Luther
Lynch
Maloney (CT)
Maloney (NY)
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Northup
Nussle
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Pascrell
Payne
Pelosi
Peterson (PA)
Petri
Pitts
Platts
Pomeroy
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reynolds
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schakowsky
Schiff
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sununu
Sweeney
Tancredo
Tauscher
Taylor (MS)
Thune
Tiberi
Tierney
Toomey
Towns
Udall (CO)
Udall (NM)
Upton
Velázquez
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NAYS—158

Abercrombie
Aderholt
Akin
Armey
Baca
Bachus
Baker
Ballenger
Barton
Bentsen
Berry
Bishop
Blunt
Boehner
Bonilla
Boozman
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Camp
Cantor
Carson (OK)
Chambliss
Coble
Combest
Condit
Cooksey
Costello
Cramer
Crenshaw
Cunningham
Davis, Jo Ann
Delahunt
DeLay
Dooley
Doolittle
Dreier
Dunn
Edwards
Emerson
Etheridge
Everett
Filner
Fletcher
Foley
Forbes
Frost
Gallegly
Gilchrest
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Grucci
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hulshof
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kingston
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Larson (CT)
LaTourette
Lewis (GA)
Lewis (KY)
Lowey
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McIntyre
McKeon
Mink
Moran (KS)
Myrick
Nethercutt
Norwood
Ortiz
Osborne
Ose
Otter
Pastor
Paul
Pence
Peterson (MN)
Phelps
Pickering
Pombo
Price (NC)
Putnam
Radanovich
Rehberg
Riley
Rodriguez
Rogers (MI)
Ross
Ryun (KS)
Sandlin
Schrock
Scott
Sessions
Shadegg
Shimkus
Shows
Skeen
Skelton
Smith (TX)
Snyder
Souder
Stenholm
Stump
Sullivan
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Turner
Visclosky
Vitter
Walden
Watkins (OK)
Watts (OK)
Weller
Whitfield
Wicker
Woolsey

NOT VOTING—11

Clement
Hastings (FL)
Issa
Jones (OH)
Markey
Reyes
Rogers (KY)
Schaffer
Simpson
Traficant
Young (AK)

□ 1105

Mr. TAYLOR of North Carolina, Ms. JACKSON-LEE of Texas, and Ms. BROWN of Florida changed their vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ISSA. Mr. Speaker, on rollcall No. 100 I was inadvertently detained. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 586, FAIRNESS FOR FOSTER CARE FAMILIES ACT OF 2001

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 390 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 390

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 586) to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes, with the Senate amendment thereto, and to consider in the House without intervention of any point of order a motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendment with the amendment printed in the report of the Committee on Rules accompanying this resolution. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore (Mr. SWEENEY). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 390 provides for a motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendment with the amendment printed in the report of the Committee on Rules accompanying this resolution.

The rule waives all points of order against consideration of the motion to concur in the Senate amendment with an amendment. It provides one hour of debate in the House, equally divided and controlled by the chairman and ranking member of the Committee on Ways and Means.

Finally, the rule provides that the previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

Mr. Speaker, upon adoption of this resolution, it shall be in order to take from the Speaker's table the bill, H.R. 586, the Fairness on Foster Care Families Act of 2001. This measure was passed by the House on May 15, 2001 by a vote of 420–0, and would amend the Internal Revenue Code to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies.

The motion to be offered by the chairman of the Committee on Ways and Means would modify H.R. 586 in a number of ways. First, it would make permanent the tax reductions passed by Congress last year by repealing Title IX of H.R. 1836, the Economic Growth Tax Relief Reconciliation Act of 2001, which "sunsets" tax relief provisions after 2010. The motion also contains a provision providing further protection for the Social Security and Medicare trust funds.

Finally, the measure assists taxpayers by reforming the penalty and interest sections of the Internal Revenue Code, providing new safeguards against unfair IRS collection procedures, and increasing the confidentiality of taxpayer information.

Mr. Speaker, it is imperative that the House act without delay to pass these important changes in our tax law. The need to make permanent the tax reductions passed last year is particularly acute. If we fail to pass this legislation, Americans will lose tax relief on January 1, 2011. On that date, if we fail to act: New, lower individual tax rates will disappear; the new $1,000 per child tax credit will be cut to $500; significant reductions in the marriage penalty would end; the annual IRA contributions would be cut from $5,000 to $2,000; the death tax would be resurrected; and contribution limits for education IRAs would be cut from $2,000 to $500; and, finally, greater deductibility of student interest loans would end.

Mr. Speaker, the American people have waited far too long for this much-waited relief to have it snatched away because Congress failed to act. Accordingly, I urge my colleagues to support both the rule and the underlying measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me this time. This is a closed rule. It will allow for consideration of the measure to make permanent last year's tax cut. This restrictive rule will not make permanent any amendments. It will also prohibit a motion to recommit which is a long-standing right of the minority.

When Republicans were in the minority, they promised if they ran the House, the minority's right to offer a motion to recommit would be protected. The rule that we are considering makes a mockery of that promise. It is hard to imagine a more restrictive rule, and it is wrong for a measure as expensive, important, and controversial as this bill is.

The bill makes permanent the 10-year tax cut enacted last June. I for one, and many of us, do not understand why the House is rushing to pass this bill. There is no way we can accurately predict how much this legislation will cost a decade from now.

Since we passed the tax cut last year, our Nation suffered of course the terrible terrorist acts on September 11, which shifted our national priorities to homeland defense and the war against terrorism. We do not know the full cost of these important initiatives, but it will become clear over the next few years. It would be prudent to wait and to get more realistic numbers before changing the tax laws again.

During Committee on Rules consideration of the rule, the gentleman from Illinois (Mr. PHELPS) offered an amendment which would allow the tax cuts to be made permanent upon certification by the Congressional Budget Office that the measure would not create a budget deficit in 2011 or 2012. The Republican majority on the committee refused to make the amendment in order.

The procedure that the Republicans used to bring this bill to the floor prevents Democrats from amending the bill or offering a motion to recommit, and only by defeating the previous question can we bring democracy and order back to the budget process.

Mr. Speaker, my constituents are not asking for this bill. In fact, they want us to delay the tax cuts in order to fund the war on terrorism and keep the budget in balance.

This year in my annual congressional questionnaire, I asked, "Do you favor or oppose delaying already enacted tax cuts in order to fund the war on terrorism?" A full 55 percent of those who responded said they favored delaying tax cuts.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to this unfair rule that will protect the fiscal integrity of our budget. I urge defeat of the previous question.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, we are doing this today not because of any public opinion poll, not because our constituents have said that we should do this or not do it; we are doing it because it is the right thing to do. If we do not take this action, in 10 years we will see the largest tax increase in our Nation's history inflicted on the American people. That is just plain wrong.

It is very clear that this tax measure which we put into place, Mr. Speaker, has played a role in mitigating the economic downturn that we have suffered since September 11. I believe that it is important for us to let every single investor know, every single American taxpayer know that we are not going to put into place this massive tax increase.

It is just an incredible irony when we listen to the horror stories about how people have said we should live very productively for the next 10 years, but in 2010, before this thing expires, one has to drop dead. I think that the idea behind this whole measure of phasing it out was just plain wrong.

□ 1115

Some of my colleagues have been putting forward ridiculous claims that the idea of phasing it out initiated right here in the House. It did not. It was part of the Byrd rule in the Senate that required that.

So we passed out of the House of Representatives a measure which, in fact, did exactly what we are going to do today right here. We did it with bipartisan support. Democrats and Republicans supported this measure. I happen to believe very strongly in guaranteeing the minority the right to a motion to recommit, and I think it is the right thing to do, and we have guaranteed the minority the right to offer a motion to recommit, and they did it when this bill came forward.

It is not unusual for this procedure of our concurring in a Senate amendment as we are doing here today. In fact, in the 103rd Congress, in 1993, we saw on six occasions our Democratic colleagues do this exact same thing. I am not saying because one side does it that the other should do it. We are not doing this in retaliation at all; we are doing it because this has been a standard procedure. But when people claim that the motion to recommit is not being allowed, you have got to realize that every Member of this House has had a chance in the past to vote on an identical measure that we are going to be voting on today when it comes to the tax portion of this bill. And so it has been debated; and in fact, we gave the gentleman from New York (Mr. RANGEL) not only a motion to recommit but a substitute, so there were two bites at the apple when this measure was considered before. It is the right thing to do. Let us move it through.

We had to try four times to get the economic stimulus package through the United States Senate. Many people have said that the other body will not bring it up. I hope very much that they will, in fact, follow our lead once again and do the right thing.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY). The Chair would advise Members to avoid urging the Senate to act.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I thank the gentleman from Ohio for giving me the opportunity to speak on this very important issue.

Mr. Speaker, first and foremost I would like to express my strong concern with making this tax cut permanent. Yesterday, I offered a simple amendment to the Committee on Rules that would protect Social Security by not allowing the repeal of the sunset of the tax cut to borrow from our Social Security surplus. My amendment was simple and straightforward, and it would have helped save our Nation's most crucial program. But it was denied and without debate or question. A vote was not even allowed.

The budget already calls for tapping into the Social Security trust fund to support other government programs every year for the next 10 years to the total of $1.5 trillion. Our Nation cannot afford to make this worse. Making this tax cut permanent will take away $4 trillion from the Social Security and Medicare trust funds. This is $4 trillion that we promised the American people would be kept safe, locked up.

I am very supportive of repeal of these taxes such as the marriage tax penalty and the estate tax, but only if it is within a balanced budget and it does not require raising the debt ceiling and we do not use the Social Security surplus funds. As fiscal policy leaders of this Nation, we must ensure that making tax cuts permanent will not require the use of Social Security surplus funds. However, it is obvious the Republicans do not agree.

It is time that we start being fiscally responsible. We need to look out for Americans by protecting the resources they depend on us to protect. By making this tax cut permanent, we will make our deficit larger by borrowing even more funds from our Social Security trust fund.

Vote "no" on the previous question, and then allow my amendment to be presented to save Social Security.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. SESSIONS), a member of the Committee on Rules.

Mr. SESSIONS. Mr. Speaker, today is a classic example of what we have with one party that is for the taxpayer and one party that is for the tax collector. The tax collector in this case is that IRS that gets money after money after money from the American public. But we are telling the story today that we do not think that we cannot afford it and it is expensive because we have already given it to the taxpayer.

Alan Greenspan said lower taxes equals jobs and a stronger economy. That is what we are after. We want jobs for people, and the way you do that is by giving people back their own money.

What does this bill also do? This bill says today, we are going to make sure that the American people, that through the elimination of taxes, 3.9 million low-income Americans will be able to keep that money that we have already given to them. The tax collector, you see what their plan is. They want to raise taxes on 3.9 million low-income families. We think that is wrong.

The tax collectors want to raise taxes for single moms by $770. We believe that the President's plan, the Republican plan, that we cut taxes by $770 for single moms, was the right thing to do. We believe the right thing to do is to give money to people so that they can make their own decisions in life. The bottom line is senior citizens count, too.

This is not an expensive tax cut. This is giving money directly to people who deserve it. The tax collectors' plan, they want to raise taxes. We want to give money back; $920 is what would be taken for every single senior.

This is all about spending and making priority decisions. One side can spend $2 trillion, but when it gets down to seniors and single moms and low-income Americans, they say, Sorry, you come last in line.

The Republican Party believes it is your money and you should keep it.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I rise in opposition to the bill before us today to make permanent tax cuts before it is clear we can afford them. Today we have the opportunity to vote to fund a new round of tax cuts right out of Social Security. Today we can vote for America to go deeper into debt, to force our children to pay billions in interest, to pay more for their homes and to have less for their schools. Today we can vote to put this country back into deficit and debt and more deficit and more debt. Or we can vote for America's future. We can vote for a balanced budget. We can vote to restore the lockbox to protect Social Security.

When we had a $5.6 trillion surplus, we could afford a substantial tax cut, and I supported the President. War and recession intervened. Now we have no surplus, and we have the added expenses of the war on terrorism. While we did not ask for this war and we certainly did not ask for this recession, we cannot shrink from the consequences. To make cuts permanent when it is not clear that we can afford them is simply irresponsible.

Imagine this: at the very same time that the House GOP is asking for a half a trillion dollars in additional tax cuts, the White House is asking to raise the debt limit by $750 billion. What does that mean? That means that we are asking to borrow the money to fund the tax cut. It cannot be simpler than that. We are asking to fund a massive increase in the tax cut out of our Social Security.

I do not know about you, but I would have a hard time looking my parents in the face and telling them that I would like to fund additional cuts for me out of their retirement. And I would have a hard time telling my children that I was prepared to raise the cost of their homes and their education to raise the debt over their heads to fund something now that we cannot afford.

I hope the circumstances change; but right now we should restore a balanced budget, and we should restore fiscal responsibility. I urge a "no" vote on this measure.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of both the rule and the underlying legislation.

Make no mistake about it, this is an issue on which there should not be a disagreement. John F. Kennedy said a rising tide lifts all ships. With that, he cut tax rates. The result was not less income to the Federal Government but more. Ronald Reagan took the same premise. He lowered tax rates and revenues went up.

We are being presented today with a false pretext, a pretext that the only way to increase government revenue is to increase government tax rates, and that is simply wrong. But look at the devastation that that position will cause. If Congress fails to make the Bush tax cut permanent, it will result in the single largest tax increase in American history. That simply makes no sense.

But what is puzzling here is that the American taxpayers do not even understand why we are doing this. Why we are doing this is because there is a bizarre rule in the other body called the Byrd rule; and under the Byrd rule it said that when you make tax policy and it goes beyond 10 years, you must have 60 votes. Sadly, there were only 58 votes, of course, a solid majority for these tax cuts; but we were stuck with the bizarre system where all of these tax relief provisions will go out of existence if we do not act now.

Which one do they oppose? Do they think we should reinstate the marriage penalty and punish Americans who are married? Do they believe that we should repeal the increase in the tax credit and punish parents with small children? I do not think so. Are they opposed to the repeal of the death tax and do they support it being fully reinstated? Because that is what opposing this rule and that is what opposing this bill will do.

But what about savings in America? In this legislation, IRA contribution limits were increased. They would be reduced by 60 percent if we do not act today to make them permanent.

Education IRAs. How many kids are in school today because we increase the ability for education IRAs? Who will be hurt if we do not make this tax cut permanent? Every American will be hurt. I urge my colleagues to support this rule and support this important piece of legislation.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the very distinguished gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentleman for yielding me this time and tell him how much we all will miss him when he leaves the House in the near future.

Mr. Speaker, the votes before us are a test of whether this Congress will force future generations to shoulder trillions of dollars of new debt incurred by current policy choices. It is a test of whether our grandchildren will have to respond to problems and issues this Congress and administration would rather postpone than try to solve. Amongst them, the solvency of Social Security.

There are, of course, alternatives. One is requiring this Congress and the President to fashion a wartime budget, a wartime budget based on a thorough assessment of our Nation's vulnerabilities and the strategy for addressing them; a wartime budget that ensures that our Armed Forces have all the resources needed to fight the long war against terrorism; a wartime budget that prioritizes every other government program, every other decision about spending and taxing.

Rather than legislate by ideology, we need a wartime budget that ensures our economy remains strong after we win the war against terrorism. Rather than incur trillions of dollars of new debt, we need a wartime budget that sets out the tough, but right, choices. Rather than use the Social Security surplus to fund our current government spending, we need a wartime budget that guarantees the promises we have made to Social Security recipients.

Fiscal responsibility is as critical to homeland defense as are the tools we provide to first responders. A wartime budget can achieve fiscal responsibility.

Defeat the rule. Enact a fiscally responsible wartime budget.

The SPEAKER pro tempore. Without objection, the gentlewoman from New York (Ms. SLAUGHTER) will now control the time for the gentleman from Ohio (Mr. HALL).

There was no objection.

□ 1130

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 30 seconds to the gentleman from Missouri (Mr. HULSHOF), the author of the bill.

Mr. HULSHOF. What I want to do, Mr. Speaker, is kind of set the record straight. There have been a couple of comments made by the other side, the gentleman from Illinois, that said somehow what we are doing today is going to cost $4 trillion. Let me just advise the Members of the House there is actually no budget number from the Congressional Budget Office or the Joint Tax Committee or any official scorekeeper that says any such thing.

Secondly, the other side says we are taking this money out of Social Security. That also is not true. We are talking about budget implications in the fiscal years 2011 and 2012 when we are going to be running surpluses. The numbers, Mr. Speaker, are that over the next 10 years, permanence would cost $374 billion. At the same time, we are projected to have a surplus of $2.3 trillion.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I appreciate the opportunity to speak on this rule, and I want to point out that I am an individual who voted for the tax cut last year. It encompassed a number of measures which I personally felt were important, including elimination of the estate tax and elimination of the marriage penalty.

The bottom line is, times have changed in terms of what we know about the future. If anything we have learned in the last year, it is that things change, and my concern is one certainty we do know is that baby boomers are going to retire and our Social Security system, which is supposed to be overcollecting right now in anticipation of that, that we are spending that Social Security surplus.

So the question I raise is why are we looking at this now? This is something we are talking about 8 years down the line, and we are hearing comments today like this is the only shot we got, and if we do not do it now, then all these tax implications are going to expire. I do not think that is true. I think we are elected to be responsible and make good decisions.

There is concern about long-term planning. People need to understand what is in the tax cut. I will tell you one where I can accept that, and that is in terms of the estate tax. I understand that there is planning now for estate planning for the future, and if we were voting on that measure alone, that is something I would give serious consideration to.

But we are not doing that. Everything has been bundled together for something 8 years away, and I reject the notion that we need to be looking at that right now. In fact, in the face of the uncertainty we face, I think it is irresponsible to make that decision today.

I sure would like to come up with policies that reduce the long-term tax burden for this country, but one thing that is not going to reduce the long-term tax burden for this country is if we incur more debt and we have more interest we have to pay.

When I look at the next generation, when I look at my own 3-year-old son, we are going to be imposing an additional tax burden on him by the debt that we run up by decisions we make here in this Congress.

So I call on people to take a step back from the rhetoric and let us do the responsible thing. As I say, if you want to bring up an estate tax issue, maybe that is one where the long-term planning implications make sense. But, in general, doing something today for 8 years from now, with all the uncertainties we face in the world, to me does not make sense, so I encourage people to oppose the previous question.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, we worked hard last year to provide real and meaningful tax relief to the American people, and I am glad to say that we succeeded in creating a package that was a true benefit to all who pay Federal income taxes. For too long the government has taken too much money from the pockets of the American people, and our President and Congress decided it was time to give some money back.

This tax relief sunset was a major flaw in what was an otherwise great initiative. If Congress does not remedy this, families will go back to bed on December 31, 2010, only to wake up the next morning to the largest tax increase in the history of our country. Low income taxpayers will see a 50 percent tax increase. Families will once again be subject to the marriage penalty and will see the child tax credit cut in half. The death tax will once again rob children of family owned and operated farms and businesses.

By passing this bill we can do what we meant to do all along, provide permanent tax relief to the American people. If any on the other side of the aisle believe it is right, either economically or morally, to increase taxes in order to put the people's money back into the coffers of the government, then they have every right to vote against this legislation and against this rule. I, for one, think it is important for Americans to see where their representatives stand on this issue, to see which side we are on, putting money in the pockets of the people, or the coffers of the government.

Again, I support the rule, and hope others will as well.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I would ask that every young person under the age of 35 years old in this country listen to what I have to say. We are almost $6 trillion in debt as a Nation, as a people, we owe. That is 16 percent of the money that comes here every year. That means we have a 16 percent mortgage on this country.

The President has submitted a request to the Congress for authority to borrow another three-quarters of a trillion dollars. That is another $750 billion. The administration has submitted a budget that is not balanced for the next 10 years.

If there ever was a recipe for financial disaster, if there ever was a generational mugging going on in this Congress because we will not cut spending or raise the money that we need to finance the war and other things that we want today, then let me just say to all of you young people, under these policies, you are going to be overtaxed the rest of your lives because you are going to have to pay 16 or 18 percent interest before you ever get to what you need in your day when it comes.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 15 seconds to the gentleman from Wisconsin (Mr. RYAN), a cosponsor of the bill.

Mr. RYAN of Wisconsin. Mr. Speaker, I see my friend from Tennessee. I am under 35 and I am not interested in seeing my generation get hit with the single largest tax increase in American history in the year 2011 if this bill does not pass.

The score of this bill assumes that you are going to have a huge tax increase and if we do not have that huge tax increase, it is going to cost the government money.

All we are proposing is to keep taxes constant, level. Not cutting them, keeping them level. You are saying we want a big tax increase and if we do not get it, it is going to cost us money somehow.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me time and rise in support of the rule and in support of the underlying bill, the tax relief guarantee act.

Mr. Speaker, we all realized, many on both sides of the aisle last year, that it was simply morally wrong to tax married couples more than unmarried couples living together in America.

Mr. Speaker, we realized it was morally wrong to tax small business owners and family farmers over 50 percent of everything they had earned and kept after paying taxes all of their lives, just because of their deaths. And last year Congress repealed, with much support on the Democrat side of the aisle, the marriage penalty and repealed estate taxes. But because of an arcane rule in the Senate, these taxes will be thrust back into the pockets of American taxpayers in the year 2011.

Just as it was morally wrong to have these taxes on the books, I offer to you it is morally wrong, Mr. Speaker, to bait and switch the American people. So many of my constituents have thanked me on the street for ending death taxes, thanked me for ending the onerous marriage penalty, and I have to stop them and say, well, almost. Because in Congress-speak, while we got all the publicity, all of us, for doing just that, the reality is we did less than that, and today we try to make that right.

If we do not pass the Tax Relief Guarantee Act, we will have the largest single year tax increase in American history in the year 2011, and it will most hit low income Americans and married couples. Low income Americans will see their tax rate rise from 10 percent to 15 percent. That is a 50 percent tax increase on those least able to pay. Three million American families now off the tax rolls will be thrust back on the tax rolls, and married couples with children, like me, will suddenly find their tax burden rising by thousands of dollars.

Mr. Speaker, those who say we cannot afford to pass this bill today, we cannot afford not to.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, let me begin by saying this is not a partisan issue for me. I was one of 28 Democrats to stand with our President and vote for the largest tax cut in some 20 years. This tax cut does not sunset for 10 years. We all knew that when we voted for it and when we supported it. This is a vote that should happen, in 10 years, and it is a vote that I hope I can cast to repeal the sunset in 10 years. But not now. Not now, unless we can demonstrate without a shadow of a doubt that the money will not come from raiding the Social Security trust fund.

America is in a crisis. We are setting up a train wreck for our kids and our grandkids. $5.9 trillion in debt. What does that mean to the American people? $1 billion every single day this country pays, using your tax money in interest. Not principal, but just interest on the national debt. How much is $1 billion? That is 200 brand new elementary schools every single day in America. That is new highways. That is more economic opportunities for our people. And now for next year we are proposing to deficit spend for the first time since 1997 $50 billion, all of this coming from the Social Security trust fund.

We all know, everyone agrees that Social Security is broke in 2041. That is assuming that we find a way to pay back the $1 trillion that we have already borrowed from the Social Security trust fund, which we all know there is no provision on how that money gets paid back.

Do not repeal the sunset now. Let us make certain that we can save Social Security and Medicare and not dip into it.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I want to emphasize what is being said here, and I suspect we will hear it over and over and over, regarding Social Security. But the fact of the matter is, this bill will not affect any benefits paid out now or in the future to any recipient of Social Security. That needs to be emphasized over and over and over.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE)

Mr. OSBORNE. Mr. Speaker, I rise in support of H.R. 586, the Tax Relief Guarantee Act of 2002, and in support of the rule.

I know there are divided views on whether the tax cut was good for the economy or not. Alan Greenspan says it was a good thing, and I guess I tend to agree with him.

I would like to pay special attention to the permanent repeal of the death tax. Currently a farmer or small businessman needs three estate plans: First of all, if he dies before 2010, he has to be able to take advantage of the partial exemption; if he dies in 2010, he has a total repeal of the death tax; if he dies after 2010, then he has no death tax exemption and he has to pay the full death tax.

This may sound a little bit extreme, but this is what is going on today. Can you imagine dropping dead while you are watching the football games on January 1, 2011, and your family will not come to the funeral the next day because you died one day too late? That is real pressure to die on time in 2010, and that is basically what we have to do.

So what I would like to point out is that, as has been pointed out in previous debate, the death tax is the most unfair tax. The estate has already been taxed by income, Social Security, property and sales taxes. Then over half of what is left goes to pay taxes. Heirs usually have to sell the farm or business after estate taxes. There are not enough assets left to operate. Money leaves the communities, and this is devastating to small towns.

The death tax repeal needs to be made permanent and it needs to be made permanent now, because plans are being made to transfer businesses and farms, and I think this is the time to do it.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I voted for the tax cut last year. This is not a partisan issue for me. Last year, there were surpluses. This year, the surpluses are gone. But this legislation would increase the debt of our Nation by over $4 trillion in the next decade. That is $4 trillion we will have to borrow, borrow from Social Security. That is $4 trillion right when we need it, when the baby-boomers begin to retire. That is a $4 trillion debt that we will have to pass on to our kids and grandkids. That is not fair. That is not fiscally responsible.

And it gets worse. Three times in the last year the Secretary of Treasury has written Congress warning us that unless Congress acted to raise the debt limit, we would place our country in a situation of default on current debt obligations.

□ 1145

Congress has not acted; and 2 weeks ago, the Secretary of the Treasury began to borrow money from Federal retirees' pension funds in order to keep our government solvent.

The President has requested a $27 billion defense supplemental to continue our war on terrorism. That is $27 billion we are going to have to borrow, and we will do it. So at a time when we are borrowing money to pay for the war on terrorism, when we are shifting retiree pension funds to maintain current services, and when we know in 10 years the baby boomers will begin to retire, we are wanting to cut taxes. We are wanting to cut taxes starting in 8 years. That is not only fiscally irresponsible, because we do not know what is going to be happening to the economy in 8 years, it is hypocritical; and it did not have to be this way.

Last year I voted for the President's tax cut. We had assurances from the President, and I believed it too, that we had these surpluses that would go on and we would be able to afford the tax cut. I am not apologizing for voting for the tax cut, but we should not take this irresponsible action. If we do, it is going to cost our kids $4 trillion in the future.

The budget, the projected budget surpluses simply did not materialize. We need to reevaluate our position now, just like any responsible business would do.

Mr. Speaker, I ask the Members to vote against this proposal.

Mr. Speaker, I rise to oppose the rule to H.R. 586. This bill is bring brought to the floor under an abusive procedure that prevents the consideration of any amendments and even a motion to recommit.

This rule limits full and fair debate on proposed legislation that would have the effect of increasing the deficit by over $4 trillion in the next two decades. That's $4 trillion that we will have to "borrow" from the Social Security trust funds. That's $4 trillion that we will need at precisely the time the baby boom generation will be retiring. That's a $4 trillion debt we will pass on to our children and grandchildren.

Mr. Speaker, that's not fair; that's not fiscally responsible. And, it gets worse.

Three times in the last year, the Secretary of the Treasury has written Congress warning us of a ticking time bomb in our budget. He warned that, unless Congress acted to raise the debt limit—that is if Congress does not increase the government's authority to borrow money—we would place our country in the unprecedented position of defaulting on current debt obligations.

To date, Congress has not acted; and, 2 weeks ago, the Treasury Secretary began to "borrow" retirees' pension funds in order to keep the government open and to prevent a Federal default.

Moreover, this Congress has pending a $27 billion defense supplemental to allow us to continue our campaign against terrorism. That is $27 billion we did not anticipate; that is $27 billion we will have to borrow. So, at a time when we're borrowing money to pay for the war on terror, when we're shifting retiree pension funds to maintain current services, and when we know we'll have, in ten years, an enormous obligation as baby boomers begin to retire and draw Social Security—we're cutting taxes?

Mr. Speaker, that's not only fiscally irresponsible, it's hypocritical. And it didn't have to be this way.

Last year, I voted for the President's tax cut with his assurance that we would have the money to pay for it without dipping into the Social Security surpluses. Like you, I believe that we should fix provisions of last year's tax cut to increase certainty in the tax code that will help people plan for their financial future. Unfortunately, the budget surpluses projected last year did not materialize and we are now in a situation where we must reevaluate our fiscal decisions in order to get us out of the deficit ditch.

Yesterday, our fiscally conservative coalition took to the Rules Committee a proposal to amend this bill to provide for this permanent extension without using the Social Security surpluses and to restore fiscal integrity to the Federal Government. This amendment was rejected on a vote of 6–3.

Today, I urge my colleagues to defeat this rule to allow the House to consider our amendment that will help ensure we get out of the deficit ditch, out of the Social Security surplus and back on the road to fiscal responsibility.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 15 seconds to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, I just want to clarify two errors from the last speaker. First of all, in 8 years we are not talking about cutting taxes. In 8 years we are talking about keeping them constant and not raising taxes. The $4 trillion figure that has been mentioned repeatedly is a nonexistent figure. It is a bogus figure. It is not supported by CBO or by the Joint Tax. It is a dreamed-up Washington math figure, and it should be disregarded by those who are watching this debate.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is funny how politics changes very little over the years. More than 30 years ago, Ronald Reagan, in a speech for Barry Goldwater, what I consider the best speech ever given said, "This is the issue of this election: whether we believe in our capacity for self government, or whether we abandon the American revolution and confess that a little intellectual elite in a far distant capital can plan our lives for us better than we can plan them ourselves."

I guess I am now part of that little intellectual elite in Washington, but I can tell my colleagues that I have had no epiphany or no revelation over the past 2 years that tells me how to spend people's money better than they can spend it themselves. That is why I and all of my Republican colleagues and 28 of our Democrat colleagues supported the legislation last year to cut taxes. Now it is incumbent on us to make it permanent.

If we truly believe that Americans can spend their money better than we can spend it for them, then we will support this measure to make the tax cuts permanent.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, common sense tells us if you want to get out of a hole, you do not dig it deeper. Well, our Nation is in a deep fiscal hole; and this fiscally irresponsible bill would dig that hole much, much deeper.

These are the facts. Our present national debt is right at $6 trillion. Interest on that debt last year alone costs the American taxpayers $360 billion. Last year's dreams of huge surpluses have disappeared. That is a fact. Instead, the reality is we will have a $100 billion deficit this year. And the administration is presently asking us in Congress to immediately raise our national debt ceiling by $700 billion.

Yet, despite all of those facts, we are debating today a proposal that would cut taxes by $374 billion more in this decade and, yes, by $4 trillion more in the next decade. The hole is getting deeper, Mr. Speaker; and sadly, it will be our children and our grandchildren who will be trapped in it for their entire lives, paying massive amounts of taxes just to pay the interest on the debt.

Our generation has no right, whether we are in an election year or not, to put that kind of unfair burden upon our children and future generations of Americans. Increasingly, the national debt harms our present economy by driving up interest rates on homes, cars, credit, and family businesses and farms.

Mr. Speaker, I want to say this: if a Member wants to take credit back home this week for cutting taxes $4 trillion in this bill, then I hope he or she would be honest enough to tell his or her constituents just where you want to cut that $4 trillion. You want to cut it out of defense, Medicare, Social Security, Medicaid, interest on the national debt, which are increasing. Those five programs represent 70 percent of the budget.

I am an appropriator. It will be interesting to look at how many Members who want to take credit for this tax cut today have letters sitting over at the Committee on Appropriations at this very moment. The fact is there are thousands of them asking for hundreds of billions of increased spending.

This is an unfair rule and a bad bill. We should defeat both.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, let me tell my colleagues where I would start cutting waste and spending. The American government spends $5 billion a year helping salmon swim upstream each year. That is enough to put each fish on a first-class flight from the mouth of the river to the top and still save money. That is where I would start cutting. By the way, we also give a grant to a group to teach them how to catch those fish once they are grown. That is where I would start.

The fact is, higher taxes do not balance the budget. A stronger economy balances the budget in Washington, D.C. Making permanent the President's tax relief is an issue of jobs.

Economists tell us that the President's tax relief has already created 800,000 new jobs just in the time it has been in place. It has helped soften the recession. It is the anti-recession formula. But we can grow the economy even faster, create more jobs, build this revenue here, if we will grow and strengthen where we can count on this relief in the future. Most importantly, getting the economy moving now is the key to balancing our Federal budget, to paying down our debt, to preserving Social Security and Medicare.

As my colleagues know, we are here because of a Senate rule that will eliminate the tax relief that we are counting on; and it is funny how the Senate has few rules when it comes to spending our money, but quite a few when it comes to sending it back. The fact is, making permanent this tax relief will help a family of four, two teachers raising their children, avoid a tax hike of $2,000; a $2,000 tax hike.

To grow our economy, to preserve Social Security, to pay down the debt, Americans need tax relief we can count on, not a tax hike we can count on.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I think it is clear that everybody in this House would like to see tax cuts continued past 2010. The issue is not whether we are for tax cuts; the issue is whether or not we are willing to use the Social Security trust fund money to pay for those tax cuts.

I voted for the President's tax cut last June, and I would be glad to extend that tax cut; and I hope we have the opportunity to do it sometime between now and 2010. But when we have gone from projections of $5.5 trillion in surplus down to where we no longer have any surplus and we are projecting deficits, it seems fiscally irresponsible to propose today to extend that tax cut.

I am confident we will be able to extend much of it, but fiscal conservatives will support a balanced budget first. Fiscal conservatives will oppose deficit spending, and fiscal conservatives will oppose spending the Social Security trust fund money to pay for future tax cuts.

There is no business in America that will use its retirement fund to give dividends to stockholders, and if they did, they would go to jail. So I am confident that today the right thing to do is to oppose the previous question, oppose this rule, and let us have the opportunity to adopt the Blue Dog amendment to encourage and promote fiscal responsibility.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 30 seconds to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, again, I am compelled to respond to the gentleman from Texas, my friend, who just spoke. The fact is, and again I respect those that bring the green eye shade approach here, keeping in mind, of course, that the Congressional Budget Office and Joint Tax do not take into account the economic benefits that are going to happen from small businesses being able to invest. But even assuming the numbers, we have on-budget surpluses; in the most recent numbers, on-budget surpluses in the year that this permanent tax cut kicks in.

If we really want to talk about numbers, the fact is that if we do nothing, nearly 4 million people that are now off the tax rolls are going to be put back on them, and 3 million of those are families with kids. So I would urge that we vote in favor of this measure.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, this is an issue that is not a partisan issue for me, it is very bipartisan, because we just do not think it is the right thing to do. I supported the President's tax cuts when he brought them up and the Speaker and the leadership in the House, because I thought they were the right thing to do, and I still think they were the right thing to do. But they were just to go for 10 years, and then we were to reevaluate and then extend if the economy was doing right.

Even the Republican budget, fiscal year 2003, phased out these tax cuts. They knew the cuts would create a horrible, looming deficit. They knew these tax cuts would dramatically cut into Social Security, Medicare, military retirees, veterans' benefits, and public education. When the timing is right and the Nation does not have such pressing wartime needs or the deficits or taking care of Social Security, that is the time to institute the tax cuts, again extending it past the 10 years.

We cannot deny America's families and seniors what they were promised. The best way to give the American taxpayer back the money they deserve is to keep Social Security, keep Medicare solvent, and lower the cost of prescription drugs, and bring our jobs back from Mexico.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Speaker, I rise in strong opposition to the previous question and urge the defeat of this measure.

I am one who believes that nonsunsetting tax cuts are, in fact, appropriate. I do not think they should sunset; I think they should be made permanent. But I think they need to be made permanent at a level that we can afford.

The sunset provision of existing law, I think, is flawed. It disallows Americans from planning, both for personal reasons and for business reasons. But the truth is, the existing tax policy should have been made at a level we can afford, a level that does not jeopardize Social Security, Medicare, homeland security, and the other priorities that are important to our Nation.

Unfortunately, we have seen the cost of this tax cut is increasing our debt and puts programs such as Social Security and Medicare in trouble. We pay $1 billion per day just on the interest on our national debt, and if we remove this sunset, it is just going to exacerbate the problem.

It is time that we have honest debate on tax policy, debt reduction, and fiscal policy. That is what we should be doing now, not engaging in political debate, and I would urge defeat of this measure.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I rise to oppose this rule. I went before the Committee on Rules yesterday, and I asked my Republican colleagues to consider just a little fairness in presenting this extremely important piece of legislation to the floor. But they refused to allow Democrats to amend it; they refused to allow us time to debate it; they refused to allow us even the opportunity to send it back to committee with certain instructions.

They do this because they know that our great Nation, our great Republic, even though we are at war today, is actually supporting the government not on regular tax dollars, but on the tax dollars that are being paid by people for their Social Security benefits. We are saying that maybe the President did not know at the time that he had the tax cuts that we would have war or the impact of the recession; but we as legislators, we cannot foresee what is going to happen in the far distant future. This bill before us will be cutting taxes for the next couple of decades at the very time that 40 million Americans will become eligible for their Social Security benefits.

□ 1200

Do we want to take a gamble that we will not have the money there, that the Social Security trust funds just will not be there as they have been for us? Do we want to take a gamble that for those 40 million Americans that become eligible for Medicare and health care as they become older, that the money will not be there?

What is the rush in doing this during the limited time that Mr. Bush is going to be President? Why can we not do this, yes, with the green shades on, and look after the American future the same way we look after our businesses, and being able to say that when the time comes, we will take a look at the economy?

All we wanted to do is say, yes, make the tax cuts permanent, but make it contingent that it does not do violence to the Social Security trust fund. What are they so afraid of, that these things have to be rammed down America's throat, rammed down the Congress, and not even give us a chance to amend and express our views?

If Members think it is so good, why is it that they do not give us time as Americans, not as Democrats, not as Republicans, but as Members of the House of Representatives, to do this? We did not have time even to amend it in the committee of jurisdiction, the tax-writing committee.

We are dealing with close to $5 trillion of revenue shortfalls. We are not dealing with just trying to spend the people's money, we are trying to make certain that the trust fund is there. These funds are entrusted to us. We are the board of trustees. We guarantee that the people are entitled to have their Social Security benefits, and they are taking away that right from the Congress, from the Democrats, and from the American people.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I want to emphasize once again when we have this discussion on Social Security that the benefits now will not be harmed at all by passage of this bill and signing it into law, and benefits in the future will not be harmed when this bill is signed into law by the President.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, perhaps there is someone who is wondering how such extreme opposite statements could be made and both be true. I invite them to take a look at a section of the Constitution which is called the "speech and debate clause." There, any Member of Congress is protected from any of the normal libel, slander, or other penalties for not speaking the truth.

That is why, in the context of debate on the floor, we can have such wild and exaggerated statements which have no basis in fact and are not true, not only spoken but repeated by Member after Member.

What we just heard from the gentleman from Washington and what we might like to know is that in this legislation it says, "The Social Security and Medicare trust fund shall be held harmless." Not one penny will come out of the trust fund.

In addition to that, if Members are looking for fundamental debate between the parties, I think they have seen it. What they are using are scare tactics about Social Security and Medicare to make sure that the people do not get some of their hard-earned dollars back. What they are saying is they know better than the people, and what they say is when the time is right, they may let people have it back. It is kind of like when we go to a bank, and if we do not need the loan, we get one.

How are we going to grow the economy, have these people make the decisions about economic and industrial questions, or Americans? Republicans believe the way we grow the pie, the way we provide more over this decade and the next, is to get more of Americans' money in their hands and let them make the decisions. It has worked for 200 years.

They are concerned that it will work and that more people will understand the concepts and ideas of opportunity and power. Allow us to continue to grow as a country.

About the fact that we need opposite debate or bills or amendments, this is pretty simple: The tax cut is either going to be permanent or it is not. We are going to hear a lot of rhetoric. That is the basic question: Do we want it to be permanent, or not? It is pretty simple.

We have a board behind us. We have voting boxes. They vote yes or they vote no. This is not a complicated issue. Either people get their money back guaranteed over time so the country can grow, or they listen to them.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I am glad to follow the chairman of the Committee on Ways and Means, because I guess since this week was April 15, my colleagues have to show again that they are against tax increases. We voted for one last year. Now let us show we are against them, and we are going to vote against one 8 years from now. It just does not make sense.

Last year, when Congress passed the tax cut, a lot of us voiced concerns that we were cutting and not leaving enough room for emergencies. Well, in the post-September 11 environment, that argument has even more weight now.

It is more important, with the war on terrorism, it is critical that we realize our defense responsibilities. We must continue to pay for the important domestic responsibilities we have, education, prescription drugs for seniors, and not go deeper into deficit spending.

All people ask is that the Federal Government live like our families. If our families have to pay for the security of their home, for their prescriptions for their parents, for the education of their children, why would they go to their employer and say, we need a tax cut; we need a pay cut 8 years from now?

It does not make economic sense, it only makes political sense during this week. I am just amazed that my Republican colleagues would try and pull this over the eyes of Americans.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 15 seconds to the gentleman from Wisconsin (Mr. RYAN)

Mr. RYAN of Wisconsin. Mr. Speaker, I just wanted to quickly respond to the last speaker about tax cuts being the source of the loss of the surplus this past year.

That is simply not the case. Seventy-three percent of the loss of the surplus this past year came because our economy went into a recession. People lost their jobs and they did not pay taxes, and the surplus dried up because we went into recession. These tax cuts will grow the economy and get us back on track and grow those surpluses.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HILL).

Mr. HILL. Mr. Speaker, the country's current budget situation is like the proverbial elephant in the living room. He is there and he is larger than life, but very few if any of our colleagues on the other side of the aisle will acknowledge him.

Several of my colleagues and I have been over the last several months trying to alert everyone to the elephant's presence. Rest assured that we are going to continue to come down to this House floor and point him out until everybody acknowledges him.

This elephant, unfortunately, comes with his own set of numbers. In one year, the projected 10-year surplus decreased $4 trillion. That is the truth. That is a fact.

The Federal Government will run a deficit, both this year and next. That is the truth. That is a fact.

Because of these deficits, the Federal Government will have to borrow money to pay its bills. That is the truth. That is the fact.

To pay for these bills, the Federal Government will borrow almost $2 trillion more this decade than was expected when CBO published its numbers in January, 2001. That is the truth. That is the fact.

All told, by the time the interest payments are added in, the national debt will be almost $3 trillion larger than earlier projected when the 10-year budget window closes. That is the truth. That is the fact.

And to top it all off, Social Security surplus dollars will be used to help balance the budget through the end of this decade. That is the truth. That is the fact. This is our problem. This is the elephant. Our fiscal house is not in order.

For those who are listening, it is probably very hard to determine what is the truth and what is the fact, so we offered an amendment that was rejected by the Committee on Rules: We will agree to the tax cuts, but let us do a study by CBO to in fact determine once and for sure what the truth and the facts are. Are we dipping into Social Security? Are we not managing our house in a fiscally responsible way?

This idea was rejected. I am sorry that it was.

Mr. HASTINGS of Washington. Mr. Speaker I yield 15 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, the truth and facts are that when one is laid off, they do not pay into Social Security. If they do not have a job, they do not pay to preserve Medicare. If there is no means of income, they are not helping balancing this budget, they are not paying for the war, they are not paying down our debts.

The economy strengthens our government and strengthens all these programs. That is what this bill is all about.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, that is the truth? Those are the facts? Okay, let us say it is the truth. Let us say it is the facts. Where is their plan? We have been asking for their plan for now going on over 6 months. Where is their plan?

Where is their plan on terrorism? Where is their plan on defending this Nation? Where is their plan on special education? Where is their plan on prescription drugs? Where is their plan on Medicare? Where is their plan on Social Security? Where, where, where in the name of God is their budget?

They do not have a budget; the Senate does not have a budget. The only plan for the American people to look at is the plan that was passed here in the House of Representatives by the President of the United States and the House Republicans. Why is that? Because they are devoid of ideas, they are unable to act, and they are unwilling to lead; therefore, we must.

Now, this is a new phenomenon. The great Democratic Party that led us many times in our history is disappointing America with absolutely not one scintilla of an idea. So what do we have to do? We have to move forward. We want to do it in a bipartisan way.

I mean, translate this debate for us today. The Democrats are coming to the well and they are wringing their hands and saying, oh, my goodness, I am worried about the budget in 2020. That is what I am worried about, the budget in 2020.

We are worried about the family budget today. It is not the Federal budget. Wake up. It is America's family budget that matters. The Republicans are the ones who have paid down the debt, $450 billion. Yet, they come to the well and say, we are worried about the debt in 2020? Well, do something about it. Give us their plan, give us their budget, give us their ideas.

Do not just come down here and scare America's seniors and wring their hands about an economy they are unwilling to do anything about, but join us. Join us in recognizing that last year, because of some quirky Senate rules, they were unable and unwilling to do more than 10 years.

Alan Greenspan said yesterday, "The markets of America assumed this tax cut is permanent." Certainly, my constituents believe that when we pass a bill and pass a law, it means it is permanent until Congress is willing to change it.

The reason they are scared of this debate is simple: Because automatically, 10 years from today, do Members want to know what they are up to? They want the tax increase on America, but they do not want to have to vote for it. No, they do not want to have to show their plan, they do not want to have to show their budget, they just want it to automatically happen.

Have the guts to have a plan, have the guts to have a budget, have the guts to come to the floor and tell America what Democrats are all about. Do not just accuse us of doing nothing, of wrecking the economy, of dipping into Social Security, which we all know is impossible. Do not do that unless they have got a plan on what to do about it, and America will wake up to that fact as soon as we have the opportunity to get this story out.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY). Members are asked to refrain from casting reflections upon the other body.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

If Members had the guts to have an open rule, they would be hearing some Democrat plans.

Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Let me share our plan with the gentleman. I appreciate and respect his passion, but let me tell the Members what our plan is: It is the same plan that every American family and every small business has to abide by every day. That plan says we make sure that the budgets are balanced. That plan says we make sure that the numbers add up. That plan says we take care of retirement. That plans says we make sure if we get sick or if our parents or grandparents get sick, we can pay for their medications and prescription drugs.

That is not a novel plan, that is the plan that every single working American family has to abide by, and it is the same plan we should abide by.

I am one of those Democrats who have supported tax cuts. I was one of 28 Democrats to support the President's tax cut. I was one of nine Democrats to support the President's economic stimulus package because it provided tax cuts, because we could afford those plans.

Now all we are asking is for some bipartisanship. I will support this bill. All we are asking is that we do the responsible thing and have the Congressional Budget Office certify to the American people that this is not going to break into their Social Security and their retirement savings.

□ 1215

That is the responsible thing to do. That is the plan that every American family wants from us, and that is what we should do.

The SPEAKER pro tempore (Mr. SWEENEY). The Chair will advise Members that the gentlewoman from New York (Ms. SLAUGHTER) has 3 minutes remaining. The gentleman from Washington (Mr. HASTINGS) has 3¾ minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 15 seconds to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, I simply want to clarify the last speaker. According to the most recent figures from the Congressional Budget Office and the Joint Committee on Taxation, this bill will not dip into Social Security. This bill will still leave an on-budget or non-Social Security surplus in both the years 2011 and 2012, the years which we are discussing.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the time, and I rise in support of making these tax cuts permanent.

I just want to talk about the human factor in the death tax. I have a constituent in my congressional district in Kissimmee, Florida. Actually, it is a couple. They owned a florist, Dennis and Nancy Sexton. Their uncle owned a florist in the same town, a much bigger floral operation. He passed away. He had 19 employees, and Dennis inherited that operation; and Dennis had to spend about $253,000 to deal with the death tax. The death tax was $160,000. The lawyer's fee and accountant fees were $60,000. He spent $4,000 on the appraisal of his uncle's floral operation, and he did not have that kind of money.

So what did he do? He did the things that a lot of small business owners have to do. He laid off people. He took people that had worked for his uncle for years, brought them in and said I have to lay you off. Others he said I have to cut your salary. He took out a loan. He had to forego repairs on the building. They actually went a summer in Florida in their office, with no air conditioning, just to save some money, and had fans in there.

The other thing he had to do, he had traditionally given to the United Way, to various charities in the community, as a lot of businessmen do. A lot of these charities come to the local businesses and ask for a donation. He has had to totally cut all that off.

Now, he is going to survive, and I think he is going to make it; and hopefully some day he will be able to grow the business back up to where it was before the IRS stepped in. But I think this death tax is absolutely horrible, and to say in our bill that we want to bring it back in 10 years I just think is obscene, and I thoroughly support all the other provisions.

I am only allowed 2 minutes, but my colleagues could put forward similar arguments with the retirement provisions. We can make the exact same arguments.

So this is a good piece of legislation, and I commend our leaders for bringing it to the floor, and I would encourage everybody on both sides of the aisle to vote in support of it.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, Woody Allen said, "This is a tragedy of a disaster." Look at the State of New Jersey. A member of my colleagues' own administration, very good friend of mine, left the State and said I had a billion dollar surplus. What happened to it? Now we have an $8 billion deficit, the worst in the Nation.

We cannot fill these cards unless we know the numbers. We do not know the numbers 10 weeks from now. How can my colleagues tell us what the numbers are going to be 15 years from now? $400 billion more in deficit, $400 billion more and my colleagues need to address the American people on American values who believe we should pay for what we are getting and not go into debt even further.

By 2008 we will have paid the government's debt, the Nation's debt. Now what has happened? We are into deficit, Mr. Speaker, and Woody Allen's words ring so true, so true.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I thank our ranking Committee on Rules member this morning for yielding me the time.

Someone else asked earlier why do we not put our own plan forward. Well, we have a rule that will not give us a substitute, will not allow us a substitute, will not allow us amendments and will not allow us a motion to recommit. What kind of process is this?

I rise in opposition to the rule and also the underlying bill. If we spend as much time on tax cuts, if we translate that to education and health care, our health care system that is collapsing, Medicare trust fund, our senior parents, our aunts and uncles who built this country, the world and this country would be a better place.

It is a bad bill, it is a bad rule, and until we shore up Social Security for those who built this country, until we have an adequate health care system and Medicare, why do we have a tax bill with a permanent tax cut years out that really cannot bind this Congress? It is a bad rule. It is a bad rule.

Let us vote the rule down, vote the bill down and continue to build America for the people who built it, the Medicare senior citizens who deserve a better health care system than we now have.

The SPEAKER pro tempore. The Chair would advise the Members that the gentleman from Washington (Mr. HASTINGS) has the right to close. He has 1½ minutes remaining. The gentlewoman from New York (Ms. SLAUGHTER) has 1 minute remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the remaining time.

I want to remind my colleagues and anybody listening out there that the cost of this bill is $753,713,000. The intended raise in the debt limit is $750 billion. Coincidence, I do not know; but one certainly wonders whether one has a lot to do with the other.

We are going to call for a vote on the previous question. If it is defeated I am going to offer an amendment for this unfair rule. The Phelps substitute that was offered in the Committee on Rules and that the Republican majority on the Committee on Rules refused to make in order would allow the tax cuts to be made permanent upon certification by the director of the Congressional Budget Office that enactment of the legislation would not result in an on-budget deficit.

Quite simply, Mr. Speaker, the permanent extension of the tax cuts should not use Social Security funds; and we all stood here, both sides alike, and pledged to protect Social Security funds in a lockbox. We propose that my colleagues let that promise be kept to the American people.

The procedure that the majority used to bring the bill to the floor prevents the Democrats from having a substitute motion to recommit, and only by defeating the previous question can we bring fiscal order back to the budget process. That should be the top priority of this Congress.

So I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield the balance of our time to the gentleman from Missouri (Mr. HULSHOF), the author of this bill.

Mr. HULSHOF. Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the time.

My friend from New Jersey awhile ago quoted Woody Allen. Let me provide this quote that I came across in an old "Farmers Almanac" recently. It said, "If Patrick Henry thought taxation without representation was bad, he ought to see it with representation"; and I think Mr. Henry would look at what we did a year ago and he would roll over in his grave because this sunset that was placed on this tax cut has no policy reason at all. It was simply put there by the other body by the bill's opponents.

Why is it, I ask my colleagues, especially those 28 of them, many of whom spoke here today, why is it that tax increases are always permanent? We are still paying for the Spanish-American War with the tax on luxury telephones that was passed in 1898. The death tax that we are trying to repeal once and for all was enacted in 1916. We still have deficit reduction taxes that my colleagues put on the American people back in 1993. So it is a good policy reason that we make these tax cuts permanent.

What is going to happen if we do not? What I hear from the other side of the aisle is, talking about this, we cannot afford this tax cut. Mr. Speaker, if we do nothing, this cost has to be borne by someone, and that someone is the American family, it is the American business, because we know if we do nothing, they are going to see the largest tax increase our Nation has ever had thrust upon them.

Mr. Speaker, a bipartisan majority voted to enact these tax relief measures that we passed a year ago. If it was good policy then, it remains good policy now. I urge a "yes" vote on the rule and a "yes" vote on the underlying legislation.

The material referred to earlier by the gentlewoman from New York (Ms. SLAUGHTER) is as follows:

PREVIOUS QUESTION ON H. RES. 390, RULE FOR H.R. 586, FAIRNESS FOR FOSTER CARE FAMILIES ACT OF 2001

At the end of the resolution, add the following new section:

SEC. (a) Upon adoption of the House amendment to the Senate amendment to H.R. 586, the enrolling clerk of the House of Representatives shall—

(1) prepare an engrossment of the House amendment without title (related to the repeal of the sunset provision of the Economic Growth and Taxpayer Relief Act of 2001) and transmit it to the Senate for further legislative action; and

(2) prepare an engrossment of a bill comprised of title (related to the repeal of the sunset provision of the Economic Growth and Taxpayer Relief Act of 2001).

(b) The vote by which such House amendment was agreed to shall be deemed to have been a vote in favor of the bill referred to in subsection (a)(2) upon certification by the chairman of the Budget Committee that enactment of the legislation would not rely on the use of Social Security surplus funds. Upon the engrossment of such bill, it shall be deemed to have passed the House of Representatives and been duly certified and examined. The engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action. Upon final passage by both houses, the bill shall be signed by the presiding officer of both houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills generally.

(c) The Chairman of the Budget Committee shall make the certification under subsection (b) only if the Director of the Congressional Budget Office finds that enactment of the bill would not result in an on-budget deficit in any of the 10 fiscal years based on the most recent economic and technical assumptions by the Congressional Budget Office and all legislation enacted prior to the certification and any additional changes in spending and revenues assumed in H. Con. Res. 353 as passed by the House.

Mr. HASTINGS of Washington. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 219, nays 206, not voting 9, as follows:

[Roll No. 101]

YEAS—219

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Brown (OH)
Clement
Duncan
Hall (OH)
Hastings (FL)
Horn
Jones (OH)
Rogers (KY)
Traficant

☐ 1248

Mrs. CAPPS and Messrs. McDERMOTT, WYNN and STUPAK changed their vote from "yea" to "nay."

Mr. REHBERG changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SWEENEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 218, noes 205, not voting 11, as follows:

[Roll No. 102]

AYES—218

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—205

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Brown (OH)
Clement
Duncan
Frelinghuysen
Hall (OH)
Hastings (FL)
Jones (OH)
Kaptur
Rogers (KY)
Traficant
Whitfield

☐ 1258

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FRELINGHUYSEN. Mr. Speaker, I was inadvertently detained and was not recorded for rollcall vote 102 on April 18. Had it been recorded, I would have voted "aye".

PARLIAMENTARY INQUIRY

Mr. McDERMOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. McDERMOTT. Mr. Speaker, the Committee on Ways and Means, the Subcommittee on Human Resources, is meeting at this time rewriting the welfare bill, the TANF bill. Is there any rule under which it is possible for us to suspend here on the floor so that we can go back to the committee and work on that? Members of the Committee on Ways and Means are presently supposed to be in two places at once. I am asking whether there is provision under the rules.

The SPEAKER pro tempore. The Chair would advise the gentleman that there is no House prohibition on committees meeting while the House is considering H.R. 586. Therefore, the committees are able to meet.

PERMISSION FOR MEMBER TO REVISE AND EXTEND REMARKS ON H.R. 586, FAIRNESS FOR FOSTER CARE FAMILIES ACT OF 2001

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on the bill which is before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. How can the gentleman from Washington revise and extend his remarks on the bill before us when the bill has not been laid before us?

The SPEAKER pro tempore. By unanimous consent, a Member is allowed to revise and extend his remarks on a bill that is yet to be considered.

Mr. THOMAS. As long as it is yet to be considered. The gentleman said "the bill before us."

The SPEAKER pro tempore. The gentleman's unanimous consent request is perfectly in order.

Mr. THOMAS. I would like to place in front of the House the bill that the gentleman just placed his information on the RECORD. I did that for the purpose of making sure that notwithstanding the Speaker's response, guided by the Parliamentarian, this individual from California believes the bill has to be in front of us if you are going to place unanimous consent remarks on the bill that is in front of us.

FAIRNESS FOR FOSTER CARE FAMILIES ACT OF 2001

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 390, I call up from the Speaker's table the bill (H.R. 586) to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes, with a Senate amendment thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Page 3, after line 19, insert:

SEC. 3. ACCELERATION OF EFFECTIVE DATE FOR EXPANSION OF ADOPTION TAX CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

Subsection (g) of section 202 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended to read as follows:

"(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.".

MOTION OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. THOMAS moves that the House concur in the Senate amendment with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Relief Guarantee Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—TAX REDUCTIONS MADE PERMANENT

Sec. 101. Tax reductions made permanent.
Sec. 102. Protection of social security and medicare.

TITLE II—TAXPAYER PROTECTION AND IRS ACCOUNTABILITY

Sec. 201. Short title.

Subtitle A—Penalties and Interest

Sec. 211. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
Sec. 212. Exclusion from gross income for interest on overpayments of income tax by individuals.
Sec. 213. Abatement of interest.
Sec. 214. Deposits made to suspend running of interest on potential underpayments.
Sec. 215. Expansion of interest netting for individuals.
Sec. 216. Waiver of certain penalties for first-time unintentional minor errors.
Sec. 217. Frivolous tax submissions.
Sec. 218. Clarification of application of Federal tax deposit penalty.

Subtitle B—Fairness of Collection Procedures

Sec. 221. Partial payment of tax liability in installment agreements.
Sec. 222. Extension of time for return of property.
Sec. 223. Individuals held harmless on wrongful levy, etc. on individual retirement plan.
Sec. 224. Seven-day threshold on tolling of statute of limitations during tax review.
Sec. 225. Study of liens and levies.

Subtitle C—Efficiency of Tax Administration

Sec. 231. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
Sec. 232. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 233. Jurisdiction of Tax Court over collection due process cases.
Sec. 234. Office of Chief Counsel review of offers in compromise.
Sec. 235. 15-day delay in due date for electronically filed individual income tax returns.

Subtitle D—Confidentiality and Disclosure

Sec. 241. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 242. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 243. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.
Sec. 244. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 245. Compliance by contractors with confidentiality safeguards.
Sec. 246. Higher standards for requests for and consents to disclosure.
Sec. 247. Notice to taxpayer concerning administrative determination of browsing; annual report.
Sec. 248. Expanded disclosure in emergency circumstances.
Sec. 249. Disclosure of taxpayer identity for tax refund purposes.

Subtitle E—Miscellaneous

Sec. 251. Clarification of definition of church tax inquiry.
Sec. 252. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 253. Employee misconduct report to include summary of complaints by category.
Sec. 254. Annual report on awards of costs and certain fees in administrative and court proceedings.
Sec. 255. Annual report on abatement of penalties.
Sec. 256. Better means of communicating with taxpayers.
Sec. 257. Explanation of statute of limitations and consequences of failure to file.
Sec. 258. Amendment to Treasury auction reforms.
Sec. 259. Enrolled agents.
Sec. 260. Financial management service fees.
Sec. 261. Capital gain treatment under section 631(b) to apply to outright sales by land owner.
Sec. 262. Acceleration of effective date for expansion of adoption tax credit and adoption assistance programs.

Subtitle F—Low-Income Taxpayer Clinics

Sec. 271. Low-income taxpayer clinics.

TITLE I—TAX REDUCTIONS MADE PERMANENT

SEC. 101. TAX REDUCTIONS MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 is hereby repealed.

SEC. 102. PROTECTION OF SOCIAL SECURITY AND MEDICARE.

The amounts transferred to any trust fund under the Social Security Act shall be determined as if the Economic Growth and Tax Relief Reconciliation Act of 2001 had not been enacted.

TITLE II—TAXPAYER PROTECTION AND IRS ACCOUNTABILITY

SEC. 201. SHORT TITLE.

This title may be cited as the "Taxpayer Protection and IRS Accountability Act of 2002".

Subtitle A—Penalties and Interest

SEC. 211. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) PENALTY MOVED TO INTEREST CHAPTER OF CODE.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) PENALTY CONVERTED TO INTEREST CHARGE.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

"SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF INTEREST RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) Installment underpayment period.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) Daily rate.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) Termination of estimated tax interest.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) Increase in Safe Harbor Where Tax is Small.—

(1) In general.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

"(i) the lesser of—

"(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $2,000, or".

(2) Conforming amendment.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) Conforming Amendments.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking "addition to tax" each place it occurs and inserting "interest".

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $2,000 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "Penalty for" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) Clerical Amendments.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

"Subchapter D. Notice requirements.

"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) Effective Date.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2002.

SEC. 212. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

"SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

"(a) In General.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

"(b) Exception.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

"(c) Special Rule for Determining Modified Adjusted Gross Income.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.".

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.".

(c) Effective Date.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 213. ABATEMENT OF INTEREST.

(a) Abatement of Interest With Respect to Erroneous Refund Check Without Regard to Size of Refund.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) Abatement of Interest to Extent Interest is Attributable to Taxpayer Reliance on Written Statements of the IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "Penalty or Addition" and inserting "Interest, Penalty, or Addition"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) Effective Date.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 214. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(B) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 215. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) In General.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2002.

SEC. 216. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) In General.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(i) Treatment of First-Time Unintentional Minor Errors.—

"(1) In general.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

"(A) the individual has a history of compliance with the requirements of this title,

"(B) it is shown that the failure is due to an unintentional minor error,

"(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

"(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

"(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

"(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

"(C) the failure is the lack of a required signature.".

(b) Effective Date.—The amendment made by this section shall take effect on January 1, 2003.

SEC. 217. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of Penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 7811 (relating to taxpayer assistance orders),

"(II) section 6159 (relating to agreements for payment of tax liability in installments), or

"(III) section 7122 (relating to compromises).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 218. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

Subtitle B—Fairness of Collection Procedures

SEC. 221. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 222. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 223. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2002.

SEC. 224. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 225. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Subtitle C—Efficiency of Tax Administration

SEC. 231. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

"(a) DISCIPLINARY ACTIONS.—

"(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

"(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

"(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

"(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

"(A) any right under the Constitution of the United States;

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964;

"(ii) title IX of the Education Amendments of 1972;

"(iii) the Age Discrimination in Employment Act of 1967;

"(iv) the Age Discrimination Act of 1975;

"(v) section 501 or 504 of the Rehabilitation Act of 1973; or

"(vi) title I of the Americans with Disabilities Act of 1990; or

"(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

"(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

"(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

"(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

"(c) DETERMINATIONS OF COMMISSIONER.—

"(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

"(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

"(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Disciplinary actions for misconduct.".

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206; 112 Stat. 720) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 232. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 233. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 234. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 235. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) IN GENERAL.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

"(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

"(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

"(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

"(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

"(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

"(A) such return is accepted by the Secretary, and

"(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

"(3) SPECIAL RULES.—

"(A) ESTIMATED TAX.—If—

"(i) paragraph (1) applies to an individual for any taxable year, and

"(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

"(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle D—Confidentiality and Disclosure

SEC. 241. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 242. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(7) TAXPAYER REPRESENTATIVES.—Notwithstanding paragraph (1), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 243. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

"(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

"(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

"(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

"(iii) EXCEPTIONS.—Clause (i) shall not apply—

"(I) to any civil action under section 7407, 7408, or 7409,

"(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

"(III) to disclosure of third party return information by indictment or criminal information, or

"(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.".

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking "PROCEEDINGS.—A return" and inserting "PROCEEDINGS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a return";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(3) in the matter following clause (iv) (as so redesignated), by striking "subparagraph (A), (B), or (C)" and inserting "clause (i), (ii), or (iii)" and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 244. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's address and TIN)" after "Return information".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 245. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed by any officer or employee of any Federal agency or State to any contractor of such agency or State unless such agency or State—

"(A) has requirements in effect which require each contractor of such agency or State which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each contractor to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that all contractors are in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract of the contractor with the Federal agency or State, and the duration of such contract.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2002.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2003.

SEC. 246. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

"(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section or sections 7213, 7213A, or 7431 if—

"(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

"(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

"(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

"(A) ensure that such return and return information is kept confidential,

"(B) use such return and return information only for the purpose for which it was requested, and

"(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

"(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.".

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENT.—Section 6103(c) is amended by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 247. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration determines that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).".

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 245, is further amended by adding at the end the following new paragraph:

"(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 248. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 249. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking "and other media" and by inserting ", other media, and through any other means of mass communication,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle E—Miscellaneous

SEC. 251. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 252. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 253. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: ", including a summary (by category) of the 10 most common complaints made and the number of such common complaints".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 254. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2001, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 255. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2001, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 256. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 257. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2001 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 258. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 259. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7525. Enrolled agents.".

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 260. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 261. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LAND OWNER.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) CONFORMING AMENDMENT.—The third sentence of section 631(b) is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 262. ACCELERATION OF EFFECTIVE DATE FOR EXPANSION OF ADOPTION TAX CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subsection (g) of section 202 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended to read as follows:

"(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.".

(b) TECHNICAL CORRECTIONS.—Paragraph (3) of section 411(c) of the Job Creation and Worker Assistance Act of 2002 is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.".

Subtitle F—Low-Income Taxpayer Clinics

SEC. 271. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2002, $12,000,000 for 2003, and $15,000,000 for each year thereafter".

(b) LIMITATION ON USE OF CLINICS FOR TAX RETURN PREPARATION.—Subparagraph (A) of section 7526(b)(1) is amended by adding at the end the following flush language:

"The term does not include a clinic that provides routine tax return preparation. The preceding sentence shall not apply to return preparation in connection with a controversy with the Internal Revenue Service.".

(c) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

Amend the title so as to read: "A bill to amend the Internal Revenue Code of 1986 to make permanent the tax reductions enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001 and to protect taxpayers and ensure accountability of the Internal Revenue Service."

The SPEAKER pro tempore. Pursuant to House Resolution 390, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I rise in support of the motion and of making permanent the tax cuts enacted last year.

To me, the key consideration is ensuring the level of federal revenue is sufficient to meet the needs of the government without imposing an unsupportable burden on the governed.

Over the last 40 years, federal government revenues have averaged about 18.2 percent of our gross domestic product. Some might argue that this was too low to meet pressing needs. Others believe it is so high as to stifle economic growth. But the fact is that while revenues fluctuated somewhat, they were usually within 1 percent of that 40-year average.

That has changed in the last 4 years, as federal revenues as a share of GDP rose to exceed 20 percent.

In January, the Congressional Budget Office confirmed that even with the passage of the 2001 tax cuts, federal revenues will continue to be close to 20 percent of GDP in every year of the 10-year budget window.

That is contrary to claims that the phased-in nature of the tax cut will starve Washington of revenue in the second half of this decade. The truth is that between 2006 and 2011, federal revenues as a share of GDP will actually increase.

In fact, only three times between the end of World War II and 2001, a span of more than five decades, did federal revenues consume a larger share of our national income than they will in 2011. And those years were 1998, 1999, and 2000.

The real question is whether, over the long-term, allowing the tax cuts to sunset will increase federal revenues to an unsupportable level.

A recent analysis by the General Accounting Office found that if the tax cuts are made permanent and discretionary spending grows as fast as the economy, federal revenues as a share of GDP will remain just under 19 percent for the next 50 years, still higher than historical levels. If the sunset is allowed to occur, the GAO concluded revenues will rise to 20.5 percent of national income every year through the end of their 75-year forecast period.

Looking back 70 years—a period which includes the Great Depression, the New Deal, World War II, the Korean War, the Great Society, the Vietnam War, and the oil embargo of the 1970s—federal revenues have never exceed 20.5 percent of GDP for 2 consecutive years.

Mr. Speaker, I remain concerned about the drag on our economy which results from having taxpayers send almost one in every five dollars of our national income to Washington. We should certainly not allow the 2001 tax cuts to sunset, thereby further driving up the federal government's take from the national income to historically high and potentially unsupportable levels.

Mr. Speaker, I urge passage of this measure.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are going to engage in a debate about whether or not the tax bill that was enacted into law last year does not end 10 years from now, but, rather, is open-ended. We are going to hear a series of statements which, frankly, will become very baffling to many people in this debate trying to follow what it is that Members of Congress are saying. I will try to provide a firm set of measuring tools as we get into this debate.

Number one, no matter how many times it is going to be said that we are invading, raiding, doing anything with the Social Security trust fund, that statement is not true.

We will hear a number of dollar amounts thrown around. I guess $700 billion is a lot of money. I cannot comprehend it from a personal revenue point of view. $1 trillion is a lot of money. The economy is currently producing at about $10 trillion a year. It is very, very difficult for most people, and I would say, frankly, for this Member and most Members of Congress, to really put those dollar amounts in some kind of context, so let me give you a little bit of a measurement as you listen to this debate and as dollar amounts are thrown around and the dire consequences given of actually letting the American people permanently keep a little bit more of their own money.

If you would take a look at what this economy is going to produce over the next 10 years by the best estimates and call that $1,000, what we are talking about doing here on a permanent basis is about $2.30. Or, to put it in a yearly basis, if every year of that 10-year $1,000 economy is $100, we are talking about this year's discussion being 23 cents.

Now, you are going to hear that it will reduce the Republic to rubble, deny every senior their Social Security check, deny Medicare, cause diaper rash and every other problem under the sun if, on the economy being $100, we decide to utilize 23 cents to allow people to make decisions on their own, which, frankly from a philosophical point of view is a good guideline between Democrats and Republicans, because we believe the best guarantee to have a surplus 10 years from now is to give people their own money, to allow them to make decisions, to invest, to grow, to be entrepreneurial, and we will have a bigger pie in which more revenue comes in.

Listen carefully to the Democrat plan. They will say, "We think it is a good idea to have a tax cut if and when we think it is a good idea to have a tax cut." I think you will find those 10 years will come and go, and their belief is hanging on to it here in Washington guarantees a better economy. In other words, they do not trust you.

We believe you should have more of your own money back. They were willing to do it because they were forced to do it on a temporary basis, and in no way do they want to make it permanent. That is what this debate is all about.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a lot of smart people in this world that cannot even determine what the economy is going to look like next week, so it is really extraordinary that we have someone that can give us a forecast of what it looks like in the next 20 years.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. MATSUI), an outstanding member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I thank the ranking member of the Committee on Ways and Means for yielding me time.

Mr. Speaker, this bill will not give anybody a diaper rash. It has nothing to do with diaper rashes and things of that nature. What we saw was that in January of 2001, we were projecting a $5.6 trillion surplus. That surplus is almost all gone now because we passed a tax cut of $1.3 trillion last year, and now we are going to pass a $4 trillion tax cut over the next 20 years. $5.5 trillion in tax cuts.

What is interesting about this tax cut, it will not give baby rashes, but those people whose tax returns show an average of $500,000 a year, let me repeat that, $500,000 a year, will get 60 percent of that $5.5 trillion surplus. To put it another way, if your tax return shows over $1 million a year, you are going to get 40 percent of this $5.5 trillion tax cut.

This is payroll tax money. The people on the elevators, running the elevators, waitresses in restaurants, this is their money that they think is going into the Social Security trust account, and instead it is going to go to pay for tax cuts for those earning $1 million a year or $500,000 a year.

I have to say that in addition to that, this is going to put a massive drain on the Social Security trust fund. It will not give baby rashes, but it is going to do major damage to senior citizens throughout the United States. $5.5 trillion.

Forty million new Americans are going to go on the Social Security system in the next 20 years while this tax cut is going through, and we are going to see, if this tax cut goes through, $5.5 trillion, a 30 percent reduction, a 30 percent reduction in the average American Social Security benefits.

That is what this is really all about. It is an issue, frankly, of values, what this country stands for. We want to make sure that we have clean air, we want to make sure we have education for our children, we want to make sure that we give our senior citizens the life they are entitled to in their retirement age.

Mr. RANGEL. Mr. Speaker will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I would like to ask some questions of the gentleman, because he has made some pretty bold statements out here.

Did not the Republican leadership promise that they would not invade the Social Security trust fund? Did they not put this in a lock box? What is the gentleman's response to that?

Mr. MATSUI. Mr. Speaker, reclaiming my time, I would say to the gentleman from New York that over the last 4 years, we had seven votes that the Republican leadership put to the floor of the House saying we were not going to invade the Social Security trust accounts.

Mr. RANGEL. If the gentleman will yield further, what did they do?

Mr. MATSUI. Mr. Speaker, they have raided the Social Security trust account. They are going to take $5.5 trillion out if this tax cut goes through, and it is going to have a 30 percent reduction in benefits for the average Social Security recipient.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I repeat my statement: There will be no trust fund monies spent from Social Security.

To underscore that, it is my pleasure to yield 2 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security.

Prior to that, I ask unanimous consent to yield the balance of my time to the gentleman from Missouri (Mr. HULSHOF), and that he be allowed to control said time.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHAW. Mr. Speaker, I have a prepared statement that I will make part of the RECORD, and therefore I want to direct my statements to really the incredible statement that I just heard on the floor by the ranking member on the Subcommittee on Social Security and the ranking member of the Committee on Ways and Means.

Mr. Speaker, I would say to my friends, no one is raiding the Social Security trust fund. By law you cannot. The only thing in the trust fund is Treasury Bills. Is anybody saying we are taking Treasury Bills out of the Social Security trust fund? Of course not.

Let us get a basic knowledge here of honesty and really look into how this system works. The FICA taxes that are paid, which, incidentally, are not being cut, so I do not know where that argument came from, that came really out of left field, goes into the Social Security trust fund. It goes out by way of payment of benefits. What is not used is a surplus, which then goes into the general fund and is replaced with Treasury Bills inside the trust fund.

Now, how in the world do you raid the Social Security trust fund? By law you cannot. You cannot and never have. When the Democrats were spending all of the surplus and deficit spending, they did not go into the trust fund, because you cannot. You cannot go into the trust fund.

I also heard the incredible statement made just a few moments ago that this is going to lower benefits by 30 percent. Do you know where that figure comes from? If this Congress does nothing, nothing, to reform the Social Security system in this country by forward funding it. That is what the Democrats are talking about. They are not going to have enough money beginning after somewhere in about 25 or 30 years, and they will be faced with a situation, the country will be faced with a situation, of not being able to maintain the amount of benefits that we have.

My colleagues on the other side of the aisle continue to mislead American workers and seniors. They claim the Social Security trust funds are being raided to pay for needed tax relief—in spite of the facts.

Such myths are intended only to scare seniors, use Social Security as a political jackhammer, and divert attention from the fact that the Democratic leadership has no plan for strengthening Social Security. They are not acting responsibly.

Everybody here knows the Social Security trust funds have no dollars to "raid." Social Security works the way it always has: surplus payroll taxes are credited to the trust funds as interest bearing Treasury bills—that's the law. It is legally impossible to use those Treasury IOUs for anything else other than paying benefits or administering the Social Security program.

In the name of Social Security, Democrats opposed to making the tax cuts permanent are for tax hikes. Yet, saddling hard-working taxpayers with higher taxes does nothing to stop the enormous cash-flow deficits Social Security faces due to the aging of our nation. If nothing is done, Americans will soon face the additional tax burden of supporting Social Security. While doing nothing appears to be the Democrat solution, it certainly isn't ours.

Moreover, the numbers just don't add up. The cost of Social Security's annual cash-flow deficits will continue to grow, well beyond over-inflated cost estimates of extending tax relief.

And everyone knows adding more government IOUs to the trust fund doesn't do a single thing for Social Security. Because at the end of the day, the Treasury still needs to find the cash to pay those debts.

Making the tax cuts permanent will help the economy grow by hundreds of billions of dollars in the near future, making debt reduction easier, sustaining productivity growth and improving our ability to address the needs of the retiring baby-boom. Letting the tax cuts expire, on the other hand, will cause tax hikes on taxpayers, dampen economic growth, and erode retirement security. For example, a 35 year old would set aside over $160,000 less in their IRA at age 65 if the tax cut is not make permanent.

Rather than talking about how to pass the buck onto future generations, let's have a full and honest debate about how to keep the pledge both Republicans and Democrats made last December. In a vote of 415–5 we pledged to save Social Security without cutting benefits, without raising taxes, or ignoring the special needs of women and minorities.

This debate should start with the Democrats' offering their plan to save Social Security. Are they for massive, growing, and never-ending general revenue transfers that still leave an unsustainable program? Are they for Uncle Sam sitting in the corporate boardrooms of America by allowing government investing of the trust funds or making millions of workers pay more payroll taxes without giving them credit toward their benefits, as called for by Mr. DEFAZIO—who has my sincere respect for committing his plan to legislation. Where are his Democrat colleagues?

America's seniors, workers, and their families are counting on us to provide leadership to strengthen Social Security. If we neglect this duty, if we play political games using Social Security as a pawn, it is our kids and grandkids that will pay the price of our shortsightedness.

Mr. RANGEL. Mr. Speaker, so our side will be able to respond to that question, I yield 2½ minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget, who has provided an outstanding service to the Congress and the country.

Mr. SPRATT. Mr. Speaker, the critical vote came first. It was the vote to bypass the budget and do away with the rules that have served us well for the last 10 years. They moved the budget out of deep deficit into big surpluses. Now, with those rules out of the way, this tax bill can work its will, which is just what the gentleman said, it is to raid Social Security.

If you do not believe me, look at the President's own budget. The President's budget calls for $675 billion in tax cuts on top of the $1.3 trillion passed last June. Among other things, it calls for this repeal of the sunset provision. As a result, look at the President's own budget. It wipes out what it is left of any surplus, it spends the entire Medicare surplus, consumes it completely, and spends two-thirds of the Social Security surplus, by the President's own accounting.

Last month, when our Republican colleagues in the House brought out their budget resolution, it provided for none of those tax cuts. Not any of them. It did not make any mention of repeal of the so-called sunset in last year's tax bill. Why was that? Because they knew if they factored into their budget these tax cuts, it would drive the bottom line through the floor. It would put the budget in deficit for as far as the eye could see. They would be spending virtually all of Social Security, the Social Security surplus, and all of the Medicare surplus.

Now, one month later, they bring up a tax cut that they could not accommodate in their budget resolution, did not want to put in the context of a budget resolution, because that would have shown what it did to Social Security, what it did to Medicare. They bring it up ad hoc, all by itself, a blatant violation of the budget process rules.

Consider this: Last year, the Secretary of the Treasury told us that we would not need to raise the ceiling on the amount of national debt we can incur for at least 8 years. That was his testimony. Yesterday the Secretary of the Treasury sent us his third letter saying that the ceiling on the national debt needs to be raised, and raised now, by $750 billion. Why is that? Because we are spending the Social Security trust account, we are spending the Medicare trust account, and not using them to pay down the debt of the United States.

So what is the response of our Republican leaders in the House? It is not to raise the debt ceiling. Their response is to reduce taxes by another $500 billion between now and 2012, $4 trillion between 2012 and 2022. This will wipe out what is left of Social Security and all of the surplus that builds up between now and 2012.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say in response to the gentleman that the only budget this House has considered this year does, in fact, include room to make these tax cuts permanent. In fact, the most recent numbers from our official scorekeepers, the Congressional Budget Office, as well as the Joint Tax Committee, tell us this extension would take from the Treasury $374 billion over 10 years. At the same time, we would accumulate surpluses of $2.3 trillion.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, this is a bill that never should have happened. If it had not been for quirks in the Senate language, this all would have been put to bed when we settled the tax reduction issue last year.

Now, look, this bill is not perfect. I have questions about the amount of money, I have questions about the timing, I have questions about the estate tax. But basically it is moving us in the right direction.

I ask the question, what is wrong with reducing taxes? When I was in business, many times we made money, and sometimes we did not make money. But every so often you would say to your employees, gentlemen, ladies, you have hung with us a long time. We have not given you an increase. Many times we have had to have layoffs.

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But we are going to give you back some of that money which now we are generating. I think that is a good idea, and that is what this thing is all about.

I strongly support this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), my distinguished friend and member of the committee.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, I simply want to point out that the budget resolution brought to the floor by the House Republicans last month provided only $77 billion in tax cuts over the next 5 years. The President is calling for $675 billion in tax cuts over the next 10 years, and the repeal of this repealer will take at least $400 to $500 billion. Their budget resolution did not provide for this tax cut.

Mr. LEWIS of Georgia. Mr. Speaker, I rise in strong opposition to H.R. 586. This tax cut bill is not the way to go. It does not provide real relief for all Americans. It is just plain, downright irresponsible.

I ask my Republican colleagues to reconsider their priorities.

Mr. Speaker, if we make the Republican tax cut permanent, we risk stealing, taking, really raiding the Social Security trust fund by more than $4 trillion. We risk gambling the future of the Medicare trust fund. We jeopardize funding for education and a prescription drug benefit for our seniors.

This tax cut bill breaks the promise that we made to the American people to use their tax dollars wisely. A huge windfall for the wealthy, pocket change for working Americans. We should be taking care of the basic needs of all of our people, not rushing to pass a tax cut bill that puts us deeper and deeper in debt.

Today we have a choice, a choice between a permanent tax cut bill that benefits a few, or Social Security and Medicare security that benefit all Americans. I urge my colleagues to make the right choice, the moral choice, the good choice. Vote against this bill.

Mr. HULSHOF. Mr. Speaker, what is irresponsible is forcing upon the American families and American businesses a tax increase if Congress does nothing.

Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is morally irresponsible not to pass this. Mr. Speaker, I want to thank the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, for bringing this bill to the floor. We have to make the tax cuts we enacted last year permanent. Hard-working Americans and the Texans who live in my congressional district were downright angry when they heard that their taxes would increase in 10 years. They think we have lost our minds in Washington. Mr. Speaker, I think they are right.

Just think about it for a moment. We decided to repeal the worst parts of the marriage penalty. We all hope and expect marriages to last. Why would anyone object to the marriage penalty relief becoming permanent? If they do, they must be in a fight with their spouse.

Why would anyone object to $1,000 child tax credit being permanent? How can somebody be against giving parents the extra money they need to raise their children? If my colleagues are against it, I guess they just do not like children.

On another issue, this Congress took important steps to help Americans save for their own retirement by increasing the amount people can contribute to an IRA to $5,000. How can anyone argue against this? If my colleagues do, it means my colleagues are addicted to government spending and against personal savings. The only reason for arguing against these important changes is if my colleagues love big government and do not like people making their own choices and keeping their own money.

Mr. Speaker, we need to pass this for the good of America.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), a leader in this Congress.

Mr. HOYER. Mr. Speaker, the gentleman from Texas said they must have been out of their minds. Of course it was his side of the aisle that included this provision. Remember that, I say to the gentleman, and tell them that.

Mr. Speaker, we are here today for one reason and one reason only: to indulge the GOP in its pavlovian policy prescription for every occasion: tax cuts. The GOP sold its tax cuts last year by telling the American people they were overcharged. Democrats fought for and are still for affordable tax relief. But we knew the projected surplus might never materialize, and we were right.

Mr. Speaker, $5.6 trillion the President said we had; he came down to us now and says we have $.6 trillion. The President's own budget says the tax cut was the single biggest factor in erasing our surplus. So is the GOP here to say they made a mistake, to say, let us stop the raid on Social Security and Medicare? Of course not.

With deficits projected every year for the next 10 years and an unchecked raid on Social Security and Medicare, the GOP proposes a bill that would deplete an estimated $7 trillion from the Social Security and Medicare trust funds.

I asked Secretary O'Neill that yesterday, whether $4 trillion to $7 trillion was the accurate figure, and he said he thought it probably was. Just as the baby boomers become of age, to take Social Security, we are doing this to them.

Mr. Speaker, I urge my colleagues to reject this demagogic, reckless, irresponsible piece of legislation.

Mr. HULSHOF. Mr. Speaker, it is my privilege to yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a Member who has, more than any other Member, fought to eliminate the Federal death tax.

Ms. DUNN. Mr. Speaker, I stand in strong support of the Tax Relief Guarantee Act, and I do so on behalf of families and small businesses all over this great country of ours.

Last year we passed a landmark tax relief bill that reduced income taxes for all Americans, the first across-the-board rate cut since the second world war. Now it is time to finish the job.

We have to strip away the sunset provision or else taxpayers will face a decade of uncertainty. Many economists, including Federal Reserve Chairman Alan Greenspan, have declared that it is very important for Congress to act clearly and unequivocally in this area, because taxpayers need certainty.

Consider the perverse case of the death tax. As the law now stands, the death tax will be repealed on December 31, 2009; and it will return on January 1, 2011, at pre-2001 rates, 55 percent, on estates over $675,000. We are in essence telling people that they have one calendar year to die, or else their heirs will pay that punishing 55 percent tax rate. Without permanence, no small business owner or family farmer can assume the death tax is gone forever. They have to continue to spend money on expensive life insurance policies and costly estate plans.

A study of women-owned businesses recently found that small businesswomen spend, on average, $1,000 a month paying to provide for the death tax. This is money that they could use to hire workers or to buy new equipment or to provide health care for their employees. It is important, Mr. Speaker, to understand that the lack of permanence has real consequences. It is also important to acknowledge that if we do not support permanence, then we are implicitly supporting a tax increase on January 1, 2011.

We have an opportunity to correct a mistake, a legacy of the other body. I think, Mr. Speaker, we ought to seize this moment, fulfill the promise we made, and the President made, to Americans last spring. Let us make these tax cuts permanent.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. KLECZKA), a member of the Committee on Ways and Means.

REQUEST FOR MOTION TO ADJOURN

Mr. KLECZKA. Mr. Speaker, I move that the House, upon conclusion of today's business, adjourn until noon, January 1, 2011.

The SPEAKER pro tempore (Mr. SIMPSON). That motion is not in order at this time.

Mr. KLECZKA. Well, Mr. Speaker, if it was in order, it would give some rationale to the bill before the House.

The tax bill, as passed by my colleagues to my left, provided for the sunset. And the gentlewoman from Washington State just stood up and said, my friends, here is what happens. If you die in 2011, you are going to pay an inheritance tax. And if you die in 2009, you will not. Well, whoever drafted such a nutty bill?

It was they who did so, and it was they who passed it. And it was signed by the President in June of last year. So now a few months later to come back and say, my God, the sky is falling, we are hearing from people who know they are going to die in 2011, and they want it changed now. And I have not heard from any constituent who knows they are going to die in 2011.

But I say to my colleagues that we have some other things to talk about before we restore the permanency to this tax cut. Why are we doing it? I think I know why.

In November there is going to be a congressional election, and right now, the poll numbers are showing them guys think they are in trouble. And if, in fact, the Democrats take back the House, which I think we will, that bill might not come up. And the new chairman of the committee, the gentleman from New York (Mr. RANGEL), might see to it that it does not come up right away, because he and I and many other Democrats are concerned about providing for a drug benefit for the Medicare program. That is going to cost some money. We are told by the Secretary of the Treasury that by June of this year, we have to increase the national debt for all Americans to $6.5 trillion. How can we do that if we make permanent a tax cut which is questionable to begin with?

But remember the debate last year. We were awash in a surplus. We were just swimming in greenbacks here in Congress, so they had a tax bill that gave the bulk of it back; and this year's budget is back in a deficit. Let us take care of the needs of the people; let us get out of deficit before we do something foolhardy, and if I get that call from a constituent who is going to die in 2011, I want to know how he or she knows that.

Mr. HULSHOF. Mr. Speaker, I yield 3 seconds to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, just so we stay on this planet in terms of our rhetoric, six times between March and May, this House passed tax reduction bills. Every one of them was permanent, including on April 4, H.R. 8, which repealed the death or estate tax. That was permanent. It was the United States Senate, and please stop me when I have violated any rule in talking about the other body, that produced this document which was the only time the House voted not to make the tax cuts permanent, and that was a bill generated through a conference. This House voted to make it permanent, and we are trying to do it again.

Mr. KLECZKA. Mr. Speaker, will the gentleman yield? The fact is he voted for the conference committee report.

Mr. HULSHOF. Regular order, Mr. Speaker.

Would the Chair be kind enough to advise each side as to how much time remains.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HULSHOF) has 18 minutes remaining; the gentleman from New York (Mr. RANGEL) has 18¼ minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume just to respond to my distinguished chairman, since it appears as though the dog has eaten his homework.

This bill was signed into law by a Republican President after passing a Republican House of Representatives and passing a Republican Senate that had had a compromise that excluded all Democrats.

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Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida (Mrs. THURMAN), an outstanding Member of Congress and of the committee.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just think this is the wrong bill at the wrong time for hard-working taxpayers who work hard to make ends meet today and retire comfortably tomorrow.

Working Americans get little from this bill. They already have received 70 percent of the tax cut that Congress passed last year: the 10 percent rate, increased child care credit, education incentives, and higher pension contribution limits.

So what does this bill do for middle America? First, it will bring even more working Americans under the alternative minimum tax. By 2012, 39 million taxpayers, about one in three, will face AMT liability. This bill gives a promise with one hand and takes away the promised tax cut with the other.

This bill increases the deficit by $374 billion over the next 10 years. Every dollar of that added deficit comes from the Social Security trust funds. That is $374 billion that cannot be used to reduce the national debt and interest on that debt.

If interest payments were not so large, we would have a chance to deal with our other priorities: Social Security, a Medicare prescription drug program, education, or our veterans' programs.

Speaking of veterans, the cost of this bill will be more than three times as large as the VA budget. Think about it: Every Member has heard from local veterans who know, as we all know, that the VA budget needs to be increased, especially for health care. We all have heard of veterans who cannot get appointments because VA hospitals and clinics do not have the resources.

Most of us have supported an increase in the VA budget in recent years. Yet, today we debate giving away future VA increases, and then some.

In addition, this bill will reduce revenue by $4 trillion in the period after 2012. People born in 1946 will be 66 years old that year, retired and using Medicare. Will Medicare be there for them? It may not if we continue to provide unnecessary tax cuts and eat up the trust funds.

Mr. Speaker, this is the wrong bill at the wrong time, and it is wrong for us to leave this increased debt for our children and grandchildren.

Mr. HULSHOF. Mr. Speaker, it is my honor to yield 2 minutes to the gentleman from Illinois (Mr. WELLER), a valued member of the Committee on Ways and Means who has fought to eliminate the marriage penalty.

Mr. WELLER. Mr. Speaker, I thank the gentleman from Missouri for his leadership, and he and the gentleman from Wisconsin (Mr. RYAN) for their leadership on this permanency legislation, and my chairman for making this a priority, as well.

Often a question in debate on this floor is who is helped and who is hurt by the legislation that is on the floor. If Members vote no on making the Bush tax cut permanent, we will label it the Bush tax cut, 100 million Americans benefit from the Bush tax cut. So if Members vote no, they are voting to raise taxes on 100 million Americans.

I would note that there are 3.9 million Americans who do not pay taxes because of the Bush tax cut, 3 million Americans with children do not pay taxes because of the Bush tax cut. If Members vote no and the Bush tax cut expires, those 3.9 million low-income taxpayers will once again have to pay taxes. They are the ones who are hurt.

Let us take a moment to talk about the marriage tax penalty. Under the Bush tax cut, we eliminated the marriage tax penalty. There are 43 million Americans who paid on average about $1,700 more prior to the Bush tax cut just because they were married. They combined their incomes, filed jointly, and they were pushed into a higher tax bracket; 43 million couples, $1,700. We eliminated that with the Bush tax cut.

It is always important, I think, to put a human face on who also benefits when we eliminate the marriage tax penalty. Let me introduce a family from Joliet, Illinois, Jose and Magdalene Castillo, their son Eduardo, and their daughter, Carolina. They suffered the marriage tax penalty prior to the Bush tax cut, but because of the commitment of the Republican majority in the House, we eliminated the marriage tax penalty for two hardworking laborers from Joliet, Illinois, who paid on average about $1,125 more because of the marriage tax penalty. The Bush tax cut eliminated the marriage tax penalty.

So the question is, today, are we going to vote to reimpose the marriage tax penalty on Jose and Magdalene Castillo, or are we going to protect them? That is what is always interesting.

My Democratic friends will argue passionately for permanent spending increases, they will argue passionately for permanent tax increases, but they always oppose making a tax cut permanent.

Let us vote yes. Let us do the right thing. Let us help people like Jose and Magdalene Castillo of Joliet, Illinois.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding time to me.

We look back to that brief period of time when Republicans and Democrats alike came to this floor to pledge that they would protect Social Security revenues and pledge to protect that lockbox, and actually compete with one another in terms of who could best protect those Social Security dollars.

How differently things are right now. The majority never came to this floor and said, all bets are off. We are going to grab the Social Security cash to fund the government because we are going to cut the rest of the revenues of this country, but that is exactly what is at stake. They are shortchanging the Social Security revenues that we will need to fund the Social Security program by passing this measure. In doing that, they are leaving a much bigger burden for our children.

None of the families I represent are preparing for their retirement costs by just doing no planning at all, spending freely, and relying entirely on the children, their children, to carry the day. Why should we then, as a country, steer our national budget in a way that blows the revenues now and relies upon our children to make up the difference?

There will never be a retirement switch demographically quite like the baby-boomers moving into retirement. The first will turn 65 in the year 2011. What in the world can we be thinking about to propose devastating the Federal budget at the very time the boomers are fully drawing Social Security, fully drawing Medicare?

The only thing that can explain this is this is the baby-boomers' last great self-indulgent act: Blow the revenue now, leave the kids to pick up the slack. That is not how our families function and that is not, as a nation, how we should function.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman that I am confident that there are family farmers and small businesses in North Dakota that are trying to plan to pass those businesses on to their next generation, and yet cannot because of the sunset, which we are trying to repeal.

Mr. Speaker, especially on the pension issue, no one has been a better champion on our side of the aisle than the gentleman from Ohio.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank my colleague for yielding time to me, and I want to congratulate the gentleman from Wisconsin (Mr. RYAN) and the gentleman from Missouri (Mr. HULSHOF) for bringing this bill to the floor. All we are doing is reaffirming what this House did last spring.

I suppose it is going to be tough for some of my colleagues on the other side of the aisle who did not join some of their colleagues, because it was a bipartisan vote last spring, to change their vote and now support tax relief. But they ought to think about it, for a couple of reasons.

First, what do we know since last spring? We know these tax cuts were extremely important in keeping us out of a deep recession, and now helping this economy to grow. Economists right, left, and center, including the chairman of the Federal Reserve, have said that: low inflation, low interest rates, lower taxes.

So if they are interested in getting us back into a surplus position so we can take care of the needs of our seniors through Social Security and Medicare, I would think they would want to think again about maybe supporting this tax relief.

Second, even though we have passed a good bill out of the House, the Senate put this 10-year limit on it. That does not make any sense. Why would we want to have tax relief only last for 10 years? We cannot plan. The whole idea with taxes is to be able to plan. Otherwise, we have a huge cost to the economy, to people, to businesses. Not being able to plan means incredibly increased costs and incredible new complexity.

Think about it. If somebody is trying to plan what they are going to do, their accountants and planners are going to say, well, in the ninth year this thing ends and in the tenth year it starts up again, so we really cannot give you any advice about planning, so you have to plan for both. That is a terrible inefficiency in the economy.

I would hope my colleagues would think about that. I will just give one example.

The gentleman from Missouri (Mr. HULSHOF) mentioned the retirement security provisions. They were very popular on a bipartisan basis because they make a lot of sense. They simplify the plans so the small businesses can get into them. They let people take the plan from job to job. They let people save more for their retirement. This year, people can save 50 percent more for their IRA, in their 401(k). If you are over 50, you can save even more.

This is great stuff. Do we want this to expire in 9 years? This does not make any sense. Let us not pull out the rug from the American people. Let us support this permanence.

Mr. RANGEL. I yield myself such time as I may consume, Mr. Speaker.

Sir, this stupid 10-year limitation was passed by the Republican Senate, came back here, and was passed by the House, the Republicans, and went to our President and he signed it. So I would tell the gentleman to be careful what he calls stupid when he voted for it.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a distinguished member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, Many people have said that 9-11 changed everything for this country. It certainly did for President Bush and his budget. He is now urging this Congress to increase the size of Federal spending by 22 percent for this coming year, over what it was in 1999.

This is the largest increase in Federal spending over that period of time than any comparable time since another Texan named Lyndon Johnson was President. Somehow 9-11 has changed nothing in what is always the predominant theme of the House Republican leadership and their agenda: convincing voters that they can have something for nothing. They are out to convince folks that every year they can pay less and less. Even if we have new, essential security requirements and other government needs, they will just continue to "borrow and spend"—their traditional policy.

The Republicans that were once known as the "party of fiscal responsibility" are now known as the "party of shifting responsibility", letting tomorrow's children pay for today's needs.

It was not long ago that the Republicans were bringing the debt clock out here to the House floor to show us the impact of the national debt. It kept going up. It reminded me of that old ad about a watch: "It takes a licking and it keeps on ticking." Well, it is ticking now as a result of the licking that it is taking with this economy and with the increased spending being proposed.

If there was a problem with the "guns-and-butter" budget of the sixties, imagine the extent of the problem we are going to have with what is essentially a "guns-and-caviar" approach: unlimited defense spending and tax cuts for the caviar set. At the very time this takes effect, many Americans who are baby boomers are going to be retiring. They will need their Social Security. They will need their Medicare. They will have other needs of an aging population even as we have fewer workers to finance those needs. Yet, they propose more debt instead of more responsibility.

Reject the fiscal folly: reject this "gimmick for the gullible."

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

I would remind the gentleman from Texas, Mr. Speaker, that Social Security and Medicare are funded with payroll taxes, not income taxes.

Mr. Speaker, it is my privilege to yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), another valued member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Missouri for yielding time to me.

I listened with great interest to my friend, the gentleman from Texas (Mr. DOGGETT). Mr. Speaker, it is something to see a change in political parties. It is something when we stop and realize that the standardbearer of the once proud Democratic Party said the only thing we have to fear is fear itself, and now, sadly, from the modern Democratic Party, the only thing they have to offer is fear itself.

Courage and commitment should be bipartisan, or really should be nonpartisan. Indeed, if we take a look at history over the last 40 years, it was first a Democratic President, John F. Kennedy, who said we should reduce marginal tax rates because a rising tide lifts all the boats. Ronald Reagan followed with a similar philosophy in 1980, as did George W. Bush last year.

And guess what? Revenues to the government long-term actually increased because people have more of their money to save, spend, and invest.

My friends on the left have been here really captive to a debate of process. What we should talk about, Mr. Speaker, is a debate based on principles and priorities involving real people.

This is the real consequence if Members vote no today on permanency for tax cuts: A single mother, hear me, not the caviar crew, not the Cadillac set, a single mother will end up paying an additional $963 of her hard-earned money in higher taxes if they say no to making the tax cut permanent.

Now, I know we have been talking about millions and trillions and billions, but a thousand dollars is important in the family budget. Do Members really, Mr. Speaker, want to see taxes raised on working Americans? And yet, that is the net effect if Members do not join with us in a bipartisan, nay, in a nonpartisan fashion, and vote to enact permanent tax cuts. Vote yes.

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Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) very much for yielding me the time.

The previous speaker from Ohio said we are asked to reconfirm what we had done last spring. That is astounding in light of the fact that we are also asked since 9-11 to spend $4 billion more on defense, $38 billion more on homeland security, and protect tax cuts. For him to say that we are only doing what we did last spring, as though nothing happened on 9-11, just do what we did last spring, is astounding.

Here we are on the heels of the annual tax filing season to once again to say to the American people we appreciate your contributions for military defense, for homeland security, for health care for elderly and the poor and our veterans, and to also argue on behalf of fiscal discipline. Last year, Congress learned quickly these cuts in tax would lead to big deficits. Trillions of dollars in surplus overnight vanished, and the American taxpayer wondered what happened to that money.

The Republican amendment today is fraudulent and everybody knows it. They are playing a game of three card monty. When they are in charge, they will always draw the tax cut card, but when the average middle-income taxpayer is involved, they will find simply they are going to pay the bill. No matter how many times they play, middle-income taxpayers will get stuck with alternative minimum tax, and this bill does nothing about it.

The Bush administration indicated that because of the alternative minimum tax we will see a massive increase in the number of affected families reaching 39 million by 2012, a full one-third of taxpayers with a liability. At the beginning of this week, Mr. Speaker, Republican leaders and the Treasury Department held press conferences to talk about how badly the current Tax Code needs to be simplified; and by the end of this week, we are voting to eliminate any possibility of getting it done, and we are being pushed into further debt.

We heard speeches years ago against fiscal discipline. One leader in the Republican Party said we are having a fiscal Armageddon. Another one said what a disaster. We had 8 years of unparalleled economic prosperity before this Administration. Vote against this fraudulent measure and for fiscal integrity.

Mr. HULSHOF. Mr. Speaker, may I inquire as to the time remaining on each side.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Missouri (Mr. HULSHOF) has 11¾ minutes remaining, and the gentleman from New York (Mr. RANGEL) has 9¼ minutes remaining.

Mr. HULSHOF. Mr. Speaker, it is my honor to yield 2 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Missouri for yielding me the time.

Mr. Speaker, I think it says it all when the gentleman from Texas previous to me said that tax cuts are a spending program. Only Democrats would think that tax cuts, leaving money in people's pocket, is a spending program.

Well, Mr. Speaker, a vote against this bill is a decision to bury the middle class beneath a wave of new taxes at the end of the decade; and if the Democrats vote no today, they are inflicting a rash of higher taxes on the American family.

They will slice the child care tax credit in half. It falls from $1,000 down to $500 without permanent tax relief.

They will revive the discriminatory marriage penalty that punishes families with a greater burden.

They will resuscitate the hated death tax that has been stalking American farmers and small businesswomen all these years.

They will weaken the retirement security of millions of Americans by slashing the level of contributions to 401(k) plans by more than a third, and they are dropping IRA contributions from $5,000 down to a paltry $2,000.

Democrats who vote "no" are really saying yes to the largest single-day tax increase in American history. That is the wrong message for American families. It heaps uncertainty on farmers and small businesses, and it sows doubt and uncertainty about our commitment to fiscal discipline and the prospects for limited government. That is the wrong path.

We need to reject this tax hike by making the President's tax cuts permanent; and if we do, average Americans will reap a number of powerful economic benefits. Married couples will send $1,700 less to the IRS. Families with kids will pay $1,500 less in taxes. Single moms will keep more than $700, and our senior citizens will see almost $1,000 in additional savings in their tax.

All of these steps are positive in their own right; but taken altogether, they will send a powerful economic signal that will encourage growth and job creation and, yes, provide more revenues to the government. So in this way, we will prove to the American people that we believe they should keep more of the hard-earned money that they earned.

That is the right message for America. It is what the President wants and I ask our Members to vote "yes."

Mr. RANGEL. Mr. Speaker, I yield myself 1½ minutes to then yield to the gentleman from Texas (Mr. DELAY), the majority leader, to ask a couple of questions here since he was in charge of this bill and did not make it permanent before. I would like to yield time to him. No one else is responding. I would like to yield 30 seconds to him.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I will take the 30 seconds, and I appreciate the 30 seconds; but I am not the leader. I am the whip.

Mr. RANGEL. Mr. Speaker, the gentleman is the leader. He is the leader.

Now, did not the Republican-controlled other body put in this 10-year limitation?

Mr. DELAY. Mr. Speaker, only in response to the Byrd rule. That is the rule. If the gentleman is going to yield, let me answer the question.

Mr. RANGEL. The answer is yes.

Mr. DELAY. Mr. Speaker, no. Would the gentleman yield so I can answer?

Mr. RANGEL. Then the answer is no. Is it yes or no, did they do it?

The SPEAKER pro tempore. The gentleman from New York controls time.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, we opposed that because it was a response to a silly rule over in the Senate called the Byrd rule that does not allow us to make taxes permanent, yes.

Mr. RANGEL. Mr. Speaker, now did not this silly rule that the silly Republicans have on the other side—

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend momentarily. Members are reminded not to characterize members of the Senate or Senate rules.

Mr. RANGEL. Mr. Speaker, would the gentleman withdraw calling the Republicans silly on the other side of the aisle because it is against the House rules?

Having said that, whatever it was that came over, did not the Republicans have a conference that excluded Democrats where you accepted it?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, absolutely not. We did not exclude anybody from any of the process; and the gentleman may characterize it as that, but we passed a good tax cut for the American people the best way we could with the Democrat opposition that we faced.

Mr. RANGEL. The answers are terrific. Did you not vote for a bill that included this silly amendment?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I voted for the bill because it was the only way we could get tax cuts for American families with the Democrat opposition that we faced.

Mr. RANGEL. Mr. Speaker, did not the President of the United States sign the bill with this silly amendment that came from the Republican-controlled Senate?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, certainly the President signed the only tax cut we could get for the American family in the face of the Democrat opposition that we faced.

Mr. RANGEL. Mr. Speaker, so I would just like to know where all this silliness came from and where it emanated and where it finally concluded. I thank the gentleman for his responses.

Mr. Speaker, I yield ½ minute to the gentleman from California (Mr. BECERRA), a member of the committee.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

Let me make sure we have this straight. The bill that we have before us is to correct something that our friends on the Republican side did a year ago when we passed the tax bill that cost about $1.3 trillion, but when we cost it out a lot more than that because they did not want to show the American people how much it really would cost. Now we are seeing.

In the decade from 2012 forward for those 10 years, it is about another $4 trillion. What does that translate to, because $4 trillion is something none of us will ever see. Come 2010, my colleagues can expect that the top 1 percent of Americans, the richest Americans, will get about an average of $53,000 in a tax cut; and 60 percent of Americans will average about $347 in 2010 from that tax cut.

What does that mean? Well, somehow we have to pay for it. How do we pay for it? We take every single cent out of the Medicare trust fund. We take every single cent out of the Social Security trust fund, and all that surplus money, and we spend it to pay for this tax cut.

How do we do that? We did it back in the 80s. We did it with this. It made very good use of this card. It was one of those we cannot pay now, but we will pay later. And who pays? I have got three daughters. They will be paying this credit card. Who else pays? If someone has some kids, that is who will be paying.

Why are we doing this? We should be the stewards of the people's money. We are in the people's House, and it is our responsibility to be responsible stewards of the people's money which they put into Social Security, which they put into Medicare. And what are we doing? At a time when we know we are already in deficit, we are going to go further into it.

This is not the thing to do. Do what any American house would do, and that is, be responsible with their money, plan for the future for their kids and retirement. Let us not pass this bill.

Mr. HULSHOF. Mr. Speaker, it is my privilege to yield 2 minutes to the gentleman from Texas (Mr. ARMEY), the majority leader of the House.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Missouri for yielding me the time.

Mr. Speaker, it is such a privilege and such a pleasure to be here today. The President of the United States is George W. Bush, achieved his reduction in taxes for the American working man and woman earlier in his Presidency than any President that I can ever remember. It was a good thing what we were able to accomplish with the President, and to do it so early was particularly rewarding.

There was a hitch in the process when we tried to bring that bill through because of an arcane rule of the Senate, the other body, requiring a vote of 60 Senators for permanent tax reduction; and because we could not acquire 60 votes for permanent tax reduction, we were forced to accept a 10-year sunset on the Tax Code.

Today, we are here to address that and to renew our commitment to the American people. So for those young couples that got married and are enjoying the fact that they are not receiving today prejudice in the Tax Code for their act of marriage, we are here to say you do not want to have to sunset your marriage or suffer perverse tax penalties in 10 years. We want to make it permanent in your life, till death do you part. Permanent surcease from prejudice in the Tax Code.

For those people that worked hard all their life and said I want to struggle and build and create something and when my days on this Earth are over leave it to my children that I love so much, we want to say for the rest of your life, not just for the next 10 years. You do not have to time your death in accordance with the rules of the other body, and so on down the line.

So we are asking all our colleagues, do the same rational thing. Vote for permanent tax relief, a Tax Code that prevails on the American people today that it be permanent.

In addition to that, we are doing a good thing for those families that reach out and adopt children. We are giving them a special consideration in the Tax Code and a special dispensation, some relief from the burden of taxation as they bring those precious babies into their homes and make a home for them. A good thing to do.

Finally Mr. Speaker, pursuant to a study that I asked for from GAO just the last week revealed 2 million American taxpayers, half of whom had the benefit of professional tax preparation, and were still so intimidated by the rules of the Tax Code and the enforcement procedures of the IRS that they did not take fully all of their tax deductions, to the tune of $1 million in tax overpayment. We are in this bill again addressing the question of our rights to due process, fair decent treatment under the Tax Code.

Three good things we do with this bill. I thank the committee. It is not often that we can come to the floor of the House and with one vote do three good things for the American people. I hope all my colleagues, especially those on the other side of the aisle who so often miss these opportunities, will today avail themselves of the opportunity, do the right thing, three good things for one vote.

You will never get a bargain like that often in our life. Take the opportunity today. You will feel better for it.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I include for the RECORD this statement of the public debt that shows that our Nation's debt has increased by $232,291,656,313.85 since the passage of this measure 12 months ago. Our Nation now has a record $6 trillion debt for which we squander $1 billion a day on interest.

SIMPLE TRUTHS ABOUT THE BUDGET AND THE DEBT

UPDATED THROUGH MARCH, 2002 MONTHLY STATEMENT OF THE PUBLIC DEBT AND FEBRUARY, 2002 MONTHLY TREASURY STATEMENT

The Federal debt is still growing. At the close of business on March 31, 2002, the total public debt was $6,006,031,606,265.38, or $6.006 trillion. The public debt increased by $232 billion in the twelve months since March 31, 2002.

Of the $6 trillion debt, $2.55 trillion is owed to various federal trust funds. These funds were collected and earmarked for specific purposes, but all their surpluses have been borrowed and spent in exchange for government securities.

There is no surplus except in trust funds. Through five months of Fiscal Year 2002, federal trust funds accumulated a total of $82.2 billion in surpluses, while non-trust fund accounts ran a deficit of $156.6 billion. For Fiscal Year 2001, which ended in September, trust funds had $224 billion in surpluses. Outside the trust funds, the federal government ran a deficit of $97 billion.

The trust fund surpluses are obligated for future benefits. Most of the surplus funds are collected for Social Security, Medicare, military retirement, federal employee retirement, and unemployment benefits to save and invest to pay future obligations.

We spend a billion dollars per day on interest. In the first five months of Fiscal Year 2002, the Treasury spent $150.4 billion on interests in 151 days. Over the same period, military spending totaled $129.9 billion, $20.5 billion less than interest costs. Medicare spending totaled $101.4 billion, $49 billion less than interest costs.

In Fiscal Year 2001, the Treasury spent $359.5 billion on interest on the debt, an average of almost one billion dollars per day. In the same twelve months, military spending totaled $291 billion, $68.5 billion less than gross interest. Medicare spending totaled $241.4 billion, $118 billion less than gross interest.

DEBT INCREASE IN PAST 12 MONTHS

Total Public Debt Outstanding March 31, 2002; $6,006,031,606,265.38. Total Public Debt Outstanding March 31, 2001: $5,773,739,949,951.53. Increase in Public Debt Outstanding in 12 months: $232,291,656,313.85.

DEBT OWED TO TRUST FUNDS

Total Owed to All Government Accounts	$2.546 trillion
Total Owed to Social Security Trust Funds	$1.24 trillion
Old-Age and Survivors Insurance	$1.097 trillion
Disability Insurance	$144.7 billion
Total Owed to Medicare Trust Funds	$257.0 billion
Hospital Insurance (Part A)	$214.2 billion
Supplementary Medical Insurance (Part B)	$42.8 billion
Military Retirement	$156.0 billion
Civil Service Retirement and Disability	$529.8 billion
Unemployment Trust Fund	$75.9 billion

Source: Monthly Statement of the Public Debt, March 2002.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

☐ 1400

Mr. INSLEE. Mr. Speaker, the Arthur Andersen accountants are really confused today. For the last several weeks, they have been listening to the Republican Party trooping in front of the television cameras and calling them irresponsible, reckless and fiscally negligent. The Republican leadership then comes to the floor today and proposes a bill that will blow a trillion dollar hole in Social Security below the water line, ensure deficits for decades; and they call the Arthur Andersen accountants irresponsible?

Mr. Speaker, the Republican leadership is on a course to do to Social Security and Medicare and fiscal responsibility what Ken Lay and Arthur Andersen did with Enron. We ought to reject it.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in brief response, I would remind the gentleman, as I know the gentleman was not here during part of the debate, that the 10-year cost for the tax cut that is being considered is $374 billion, and the most recent Congressional Budget Office numbers project a $2.3 trillion surplus over that period of time.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I am humored somewhat by the debate today. There seems to be a lot of hand wringing and shock and outrage over the deficit. It reminds me of a cross between the pit bull and a collie: It rips a person's arm off, and then it runs for help.

What we have heard from the other side, 40 years of managing this process, of running up untold debt, placing it on the back of taxpayers, watching Social Security become insolvent, and all of a sudden we hear all of this outrage. When we have debates on appropriations, I do not hear the same kind of a conservative approach from the other side of the aisle in holding down spending.

April 15 just passed. I am hopeful that everybody on both sides of the aisle concluded their tax return. If Members are so outraged with the tax cut, they could have easily used the old numbers from the old charts. When we handed out the $500 or $600 checks to individuals, $300 checks, I did not see this rush of Members from the other side of the aisle coming to hand their checks back to the Treasury.

The American hard-working taxpayers, police officers, teachers, nurses, doctors, lawyers, janitors, have benefited from this tax policy that we have initiated. Americans are getting to spend more money on their kids. People are talking about buying a new washer-dryer, or get to go on vacation. The appetite for spending in this process is unbelievable. If they hold up numbers of debt, let us talk about how it originated. Let us talk about the spending. Let us bring that into the debate. We cannot talk about doing it as the American family would do, because if we used that analogy, the neighbors would be being robbed by us because we would have encouraged them to take something that is not theirs, use it for someone else, and call it fairness.

This bill on the floor today gives every American a chance to project over their time how they will deal with their finances. It is certain, it is important, and it is fair.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I rise in opposition to this bill. We should not be borrowing trillions from Social Security to give huge tax breaks to the wealthiest 1 percent, and then have inadequate funding for education, prescription drugs, and veterans' needs.

Mr. Speaker, it may make sense to some people to borrow trillions of dollars from Social Security in order to give tax breaks to millionaires. It may make sense to some to raise the $6 trillion dollar National debt for our kids and grand kids, and increase the deficit—and then have inadequate funding for education, veterans' needs, prescription drugs, environmental protection, and other important social needs.

It does not make sense to me and poll after poll shows that it does not make sense to the American people.

Let's be honest. This bill has nothing to do with good social policy. It has everything to do with rewarding the rich folks who have contributed hundreds of millions to the Republican Party. Thirty eight percent of the benefits in this proposal would go to the richest one percent—people who have a minimum income of $375,000 a year.

Tax breaks for millionaires, inadequate funding for veterans, the elderly, the kids. That's what this bill is about. It is an outrage. Let's vote "no."

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, making this $1.35 trillion tax cut permanent is bad policy, bad for the economy, bad for the American people, and it is bad timing. This bill is not about tax cuts, it is priorities. Not Democratic or Republican priorities, but the priorities of the American people. Members favor tax cuts. The American taxpayers favor tax cuts, but our job in Congress is to enact sensible and affordable tax cuts. We should repeal the AMT because it is a stealth tax increase on millions of unsuspecting Americans. Many of us believe we should enact business tax cuts like depreciation reform to stimulate the economy.

Mr. Speaker, in good conscience, how can we support legislation that robs Congress of the resources today that we all know are needed to keep our promises to the American people.

Just last year, a $5 trillion surplus made everything seem possible. But even with then, with that rosy scenario, Congress knew it could not see clear to afford permanent tax cuts. That is why it sunset them in the first place. What has changed in a year? Everything, and none of it argues for making tax cuts permanent.

Mr. Speaker, if we pass these tax cuts, we are making a big mistake. It is plain wrong for our economy and for the American people. It is terrible timing. Oppose this legislation.

Mr. HULSHOF. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. RYAN), and I am reminded that in America, pessimists are seldom prophets, and the gentleman is an optimist, and a cosponsor of this bill.

Mr. RYAN of Wisconsin. Mr. Speaker, I would like to thank the gentleman for his leadership on this issue. The reason we introduced this bill, to reverse this arcane Senate rule that caused this problem, was to give the American taxpayer certainty so they know how to plan for the future, and to strike a blow for fairness and justice.

This issue, contrary to what we are hearing from the Democrats, is not an attempt to get another tax cut. We are not raising taxes, we are not cutting taxes, we are trying to keep taxes steady. If we do not pass this repeal of the sunset, we are raising taxes. Specifically, a family of 4 earning $36,268 will have their taxes raised in 2011 by $2,035; a family of 4 earning $46,756 will have their taxes go up in 1 year by $3,856; a family of 4 earning almost $85,000 will see a tax bill on January 1, 2011, of $8,000.

Mr. Speaker, I do not think Members realize the magnitude of the moment that is coming if we do not repeal this sunset. What will happen from New Year's Eve to New Year's Day, December 31, 2010, to January 1, 2011, will be this: The IRA contribution limit from New Year's Eve to New Year's Day will go from $5,000 down to $2,000; on New Year's Eve to New Year's Day that year, the education IRA will go from $2,000 down to $500; on New Year's Eve to New Year's Day in that year, the 401(k) limit plans will be cut from a $15,000 cap to $10,500. Every 401(k) plan in America will have to be cut by a third on that day in 2011.

Mr. Speaker, the death tax on December 31, 2010, will be zero percent; the next day it will be 55 percent beginning on estates over $675,000.

Income taxes: Small businesses right now pay a higher income tax rate than the largest corporations of America. Their taxes will be 35 percent on New Year's Eve; the next day, 39.6 percent, larger than the taxes paid by IBM or Chrysler or any large operation.

The child tax credit will go from $1,000 down to $500, and the marriage tax penalty will come back to haunt us. That is what awaits us on New Year's Day, January 1, 2011, if we do not repeal this arcane Senate rule sunset. This is a major tax increase if we do not act today.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, it was nonsense last June when President Bush and the Republicans argued that we could have a $1.5 trillion tax cuts and not raid Social Security and Medicare and Medicaid. It is nonsense on stilts after September 11, after the deficits, after all that has happened, that they now want to permanently extend those tax breaks for the wealthiest 2 percent because they are now going to permanently raid Medicare, permanently raid Social Security, permanently raid Medicaid, which provides nursing home care for every person in America with Alzheimer's. This is a shameful day in the history of this country when such a vote can be taken.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS of Oklahoma. Mr. Speaker, I think we have to understand when proceeding in this debate, there is a difference in philosophies that is driving this debate. One, the Democrats believe in creating more taxes; Republicans believe in creating more taxpayers.

When we give Americans more money to spend, to put food on the table, to help pay the car insurance, that is good for jobs. It is good for the economy, and it is good for creating more taxpayers. Let us look at the bottom line and forget all of the goop that we have heard over the last 2 hours.

The bottom line is that the Democrat leaders' plan for married couples is to raise taxes by reinstating the marriage tax penalty in 2001. The President's bipartisan plan that got 28 Democratic votes in the House will give couples $1,700 more per year to spend on themselves and their kids. The bottom line for families with kids, raise taxes by the Democrats, repealing the President's child tax credit in 2011. The bipartisan plan that the President proposed that we passed, cuts taxes by $1,500 for families every year.

The Democrats' plan for singles, the leadership's plan says in 1993 they raised taxes on Social Security. The President's bipartisan plan, we give seniors $920 more to spend for themselves.

The bottom line on education IRA, Democrat leaders' plan, raise taxes by reinstating tax on contributions to education IRA over $500. The President's bipartisan plan, that got 28 votes of Democrats in the House, it eliminates taxes on contributions up to $2,000. That is a good thing for people saving for their children's education.

The bottom line on child care, the Democrat leaders' plan raises taxes by $770 for single moms in 2011. The President's plan, the bipartisan plan that got 28 Democrat votes, cuts taxes by $770 for single moms.

The bottom line for low income families, the Democrat leaders' plan raises taxes for 3.9 million low-income families. The President's bipartisan plan eliminates 3.9 million people. Give Americans a fiscal break. Vote for the President's plan to eliminate higher taxes on the American people.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the minority whip.

Ms. PELOSI. Mr. Speaker, I rise in opposition to the Republican raid on Social Security that is being made on the floor of the House today. If we support Social Security as we know it today, which are benefits for America's retiring citizens, Members must vote no on this plan to make these tax breaks permanent.

Earlier today our body had the opportunity to vote for a resolution put forth by the gentleman from Illinois (Mr. PHELPS). It said that these tax cuts could go forward and be made permanent if the Congressional Budget Office certified that no Social Security funds will be used to cover them. Every Republican voted against that. Every Democrat voted for it. One has to wonder where all of the Republican deficit hawks have gone. It seems that they have become an endangered species.

I think it is very, very important to note that the only way to reconcile what the Republicans are doing is that they want the surplus to be reduced, and they want to change Social Security. They want to exact the huge cuts in benefits that President Bush's commission calls for that. That is the only way it would add up. I urge my colleagues to vote no.

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Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, bananaramma, Rubik's Cube, leg warmers, "Miami Vice," and a tax cut for the rich.

The Republican Party wants to go back to the future to 1981 and President Reagan's voodoo economics. And who is directing this remake? The House Republicans and this administration.

In just 1 year, this tax cut we have seen has virtually raided all of the Social Security and Medicare trust funds to provide for huge tax cuts to wealthy oilmen and other millionaires throughout this country. At the same time we have seen that Congress can no longer protect Social Security and the Medicare trust funds from bankruptcy because we need to pay for this Republican tax scheme somehow.

I ask the American people to stay home and not buy a ticket to this show. It is a flop and it is a sham.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ), an outstanding leader of our party.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding time.

The Bush tax cut is really a tax increase on seniors and on lower- and middle-income Americans because, for the wealthiest 1 percent to get a huge tax cut today, working Americans and retirees are going to end up paying back the debt tomorrow. It is like the Republicans giving a huge credit line increase to the wealthiest 1 percent who then rack up astronomical credit card bills, with working families and cash-strapped retirees being stuck paying the tab at a later date. That is not smart. That is not fair. That is not fiscally responsible.

We Democrats want a tax cut, but we want a tax cut that benefits working families and that does not bust the budget or raid Social Security to pay for it. The fact is after 8 years of fiscal responsibility and economic growth under a Democratic administration, it took Republicans less than 1 year to bring us back into long-term deficit spending. Making that reality permanent is not a good idea.

Let us defeat this tax on retirees and working families and defeat this unwise raid of Social Security.

Mr. RANGEL. Mr. Speaker, I yield the balance of my time to close this argument on behalf of the minority and the American people to the gentleman from Missouri (Mr. GEPHARDT), our minority leader.

Mr. GEPHARDT. Mr. Speaker, I urge Members to vote for the motion to recommit and, if that fails, against this legislation.

Last year, the Republicans passed their economic plan. Due to their plan, we lost $4 trillion in surplus in about 15 months. We lost the opportunity for long-term economic growth. We lost the chance to promote opportunity in people's lives. And, most importantly, we lost the chance to pay down the debt and be ready to stabilize and take care of Social Security for the baby boomers.

But, worst of all, the plan was dishonest. When you presented the plan, you could have gone ahead and not had a sunset in the plan and made the tax cut go out into the future, which is what you are trying to do today. I believe you did that because you wanted to mislead the American people and the Congress on what was actually happening.

You had another chance when you presented your budget a few weeks ago to say that the tax cut should not have a sunset, that it should go out into the future. Once again, you did not do it. You did not do it because we are already back into the Social Security trust funds spending those dollars for current revenue needs. We are already back into the Social Security trust fund spending those dollars for current needs.

We passed in this House five times a lockbox that said we would never spend the Social Security funds. Majority Whip DELAY vowed the people's hard-earned money would be saved so they can enjoy their well-deserved retirement. Majority Leader ARMEY vowed that the House is not going to go back to raiding Social Security and Medicare. In 2001, Chairman NUSSLE vowed that this Congress will protect 100 percent of the trust funds. Period. No speculation. No supposition. No projections.

I think that everybody here probably voted at least once for the lockbox. Well, if you vote for this bill today, you are throwing the lockbox on the ground, breaking it open and taking all the money out of it finally.

This is the definitive vote in this Congress on whether you want the economic plan to be permanent or whether you want to save Social Security, stabilize Social Security and ensure that it will always be there for every citizen.

In truth, the bill that we ought to have in front of us today is not this bill. The bill we ought to have in front of us is how to make certain that Social Security will not be privatized, that it will not be raided, that it will always be there for everybody in the future. The Republicans have a plan of privatization. We think it leads to cuts in benefits and raising the retirement age. You do not want to bring it up this year because you do not want it to be an issue in the election. But mark my words, it is going to be an issue in the election, and the issue is, who is for Social Security and who is against it? Who is for saving Social Security and who is for reducing it? Who is for making it stable and who is for tearing it apart? The lockbox is broken open. This is the definitive vote of this Congress, not on taxes. That has been decided. The issue is, what is going to happen to Social Security?

I urge Members to vote "no" against this bill. Vote for the motion to recommit. Save Social Security and Medicare.

PARLIAMENTARY INQUIRIES

Mr. THOMAS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state it.

Mr. THOMAS. Was the minority leader's statement accurate? Is there a vote on the motion to recommit?

The SPEAKER pro tempore. A motion to recommit is not in order.

Mr. THOMAS. There will be no motion to recommit. The minority leader's statement was inaccurate.

Mr. RANGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Is it true that the Republicans crafted a rule that denied us the motion to recommit?

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered to final adoption of the motion without intervening motion. There is no opportunity under the rule for a member to offer a motion to recommit.

Mr. RANGEL. I thank the Chair.

Mr. HULSHOF. Mr. Speaker, to conclude the debate on our side, it is my honor and privilege to yield the balance of my time to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House.

Mr. HASTERT. Mr. Speaker, we hear a lot of rhetoric at times like this when we talk about taxes, when we talk about Social Security, when we talk about our future. But we need to also talk about promises and commitments that we make to people. The fact is, every dollar in a trust fund of Social Security is tied in that trust fund. And every promise we make not to cut benefits and not to raise taxes on Social Security is a commitment that we have made. It is there. It is there for a long time.

The real issue that we are talking about today is a commitment that this House made to cut taxes of American working people and to keep a strong economy and trying to make commitments so this economy will work.

I have heard a lot of rhetoric. Some try to bring class warfare into this whole issue. That is not the right thing to do, in my opinion. But let us set the record straight. On September 30 of this year, less than 6 months ago, we paid down $450 billion in public debt. This Congress said, "We are going to do it." This Congress did exactly that.

We also said that we think American working people ought to have a fair tax break. We said that if you are a married couple, it is not common sense, it is not fair to be taxed $1,400 more if you are married than if you are single. Are we going to say, we are going to do that now, now you see it, now you don't? Nine years from now that is going to disappear and you are going to be taxed more just because you are married rather than being single?

We also made a commitment that if you are raising a family, if you have four children, you are going to get a $1,000 tax credit instead of a $500 tax credit. That is important. You are buying shoes and paying tuition, putting gas in the car to get kids back and forth to school and to practice and those types of things. That is important to an American family, an American family that punches a clock every day, an American family that brings a paycheck home every other week. Are we going to say that 9 years from now we are going to raid, we are going to do away with, we are going to take that $4,000 deduction, that tax credit that that family gets? Is that fair? Does that make common sense? No.

We know that we have this limit because we have to deal with the other body. It is their rules, and they did not have 60 votes to change it. So we live with that. But we do not have to live with it forever. We do not have to tie the American people down to a now-you-see-it-and-now-you-don't promise.

What about the family that spent their whole life building a small business, not taking vacations so that you put a little extra money and capital into that business so you can build it up, and you want to pass it on to your kids and your grandkids? If you do it and that thing slides down, if you do it 9 years from now, you can pass that on to the next generation; but if it is 10 years from now, you will not be able to do it. The Federal Government will come in and confiscate 52 percent of that business.

Mr. Speaker, we are talking about common sense. If this tax break that we passed is good for the American people, it is good for families, it is good for small business, it is good for American farmers. If it is good today and good tomorrow and next year, it ought to be good 10 years from now. It is a promise. It is a commitment we made to the American people. We need to live up to that commitment. We will do that. Pass this legislation this afternoon.

Mr. KIND. Mr. Speaker, last year we passed a budget that boasted a ten-year unified surplus totaling $5.6 trillion. The leadership claimed that an expensive tax cut plan and other costly initiatives were eminently affordable and would leave enough of the budget surplus to eliminate most or all of the national debt. Thus Congress passed a tax cut costing $1.3 trillion. Unfortunately, since then, most of that surplus has disappeared, due to the war on terrorism, homeland security, the economic downturn in the economy, and most significantly, the large tax cut. The Congressional Budget Office (CBO) recently projected that the budget surplus decreased this year by $4 trillion.

Now, the leadership wants to make the $1.3 trillion tax cut, due to expire in 2010, permanent. This extension will cost over $4 trillion and will severely undermine the Social Security and Medicare trust funds just as 77 million baby boomers begin to retire. In fact, it will spend the entire Medicare surplus and 93 percent of the Social Security surplus in the next five years. Given the current forecasts, it appears that permanent tax cuts mean permanent deficits.

Furthermore, the House passed legislation five times vowing that every single dollar of the Social Security and Medicare trust fund would be saved. And be put into a "lockbox". Now they are going back on their word, and spending the very money that people who are working now are counting on for their retirement security. Rather than shoring up Social Security and Medicare, the leadership intends to pay for this tax cut extension with the payroll taxes, which will raise interest rates and return us to deficit spending for the next ten years.

After decades of deficit spending, it is our responsibility to reduce the debt future generations will inherit. We must give them the capability and flexibility to meet whatever problems or needs they face. I cannot, in good faith, support legislation that will put our country further into deficit spending, with a tax cut that will benefit only the wealthiest one percent of taxpayers.

Tax relief, however, is a bipartisan issue. My colleagues on both sides of the aisle recognize the need for tax relief, but making the $1.3 trillion tax cut percent is not the result of bipartisanship. The tax cut passed last year has already derailed the opportunity we had to reduce our large national debt and prepare for our future obligations to our aging population and children's futures. Making the tax cut permanent will only further exasperate our nation's poor fiscal health.

Mr. Speaker, now is not the time for the House Leadership to pursue its own individual agenda to score political points in an election year. This is purely a symbolic vote timed as millions of Americans filed their income tax returns.

Mr. Speaker, I urge my colleagues to oppose this fiscally irresponsible tax cut. We must shore up Social Security and Medicare and reduce the national debt before passing such an expensive tax cut that we cannot afford. I did not come to Congress to saddles my two boys with a debt burden they did not create.

Mr. ETHERIDGE. Mr. Speaker, I rise in strong opposition to H.R. 586, the so-called Tax Relief Guarantee Act.

Mr. Speaker, I have supported responsible, common sense tax relief for hardworking Americans in the past, and I will continue to do so. Unfortunately, this irresponsible legislation mortgages the fiscal future of America.

The House Republican Leadership is proposing to make permanent the parts of the 2001 tax cuts that most benefit the wealthiest Americans while leaving behind millions of middle-income families and putting the future of Social Security in jeopardy. The cost of the first two years of this legislation is nearly $400 billion and the cost in the second ten years—when the baby boomers will be retiring and relying on their Social Security benefits—will exceed $4 trillion. If the tax cut is made permanent, every single penny of the cost over the coming decade will come out of the Social Security and Medicare trust funds.

Mr. Speaker, the unfortunate reality of our situation is that we have witnessed—in just one year—the most dramatic fiscal reversal in the history of our nation. The projected surpluses are gone. Following eight straight years of fiscal responsibility, the Republican Leadership has decided to throw fiscal discipline out the window. Making the tax permanent will take our nation further down the road of fiscal denial.

Mr. Speaker, making the tax cut permanent will hurt my home state of North Carolina. In North Carolina, we are already facing a $1 billion budget shortfall this year. If North Carolina adopts changes to make its tax law consistent with changes made by the Bush tax cut, it would cost the state $258 million next year. That money will have to be replaced by higher taxes or reduced services. Mr. Speaker, states all across the nation are facing the same budget crunch. It is clear that we can ill-afford to make the tax cut permanent when all of our home states are hurting so badly.

Mr. Speaker, today's debate reminds me of a statement by my friend Gene Sperling, the former economic advisor to the President. Mr. Sperling said that the American Government these days reminds him of a family with 14-year old triplets who are all heading to Ivy League schools. The family will be fine for five or six years,but maybe in trouble down the road. But instead of saving their money for the future and paying down their debt, this family decides to buy a yacht and take a trip around the world. Making this tax cut permanent does the exact same thing with our nation's fiscal future. Mr. Speaker, let's not be the family that buys the yacht. Let's be the family that saves wisely to ensure our continued fiscal health. I urge my colleagues to join me in opposing H.R. 586.

Mr. BEREUTER. Mr. Speaker, as stated on the record many times, this Member continues his strong opposition to the total elimination of the estate tax on the super-rich. The reasons for this opposition to this terrible idea have been publicly explained on numerous occasions, including statements in the CONGRESSIONAL RECORD.

This Member has every expectation that this legislation in total is going nowhere in the other body. Furthermore, this Member has every reasonable assurance, in this unpredictable place, that there will be a straight up-and-down vote specifically on the elimination of the inheritance tax. At that time, this Member will most assuredly vote "no" and do everything in his power to defeat the total repeal of the inheritance tax for the wealthiest Americans.

However, this Member is strongly in favor of substantially raising the estate tax exemption level and reducing the rate of taxation on all levels of taxable estates and introduced legislation, H.R. 42, to this effect. This Member believes that the only way to ensure that his Nebraska and all American small business, farm and ranch families benefit from estate tax reform is to dramatically and immediately increase the Federal inheritance tax exemption level, such as provided in H.R. 42.

This Member's bill (H.R. 42) would provide immediate, essential Federal estate tax relief by immediately increasing the Federal estate tax exclusion to $10 million effective upon enactment. (With some estate planning, a married couple could double the value of this exclusion to $20 million. As a comparison, under the current law for year 2001, the estate tax exclusion is only $675,000.) In addition, H.R. 42 would adjust this $10 million exclusion for inflation thereafter. The legislation would decrease the highest Federal estate tax rate from 55% to 39.6% effective upon enactment, as 39.6% is currently the highest Federal income tax rate. Under the bill, the value of an estate over $10 million would be taxed at the 39.6% rate. Under current law, the 55% estate tax bracket begins for estates over $3 million. Finally, H.R. 42 would continue to apply the stepped-up capital gains basis to the estate, which is provided in current law. In fact, this Member would be willing to raise the estate tax exclusion level to $15 million.

Since this Member believes that H.R. 42 or similar legislation is the only way to provide true estate tax reduction for our nation's small business, farm and ranch families, this Member must use this opportunity to reiterate the following reasons for his opposition to the total elimination of the Federal estate tax. First, to totally eliminate the estate tax on billionaires and mega-millionaires would be very much contrary to the national interest. Second, the elimination of the estate tax also would have a very negative impact upon the continuance of very large charitable contributions for colleges and universities and other worthy institutions in our country. Finally, and fortunately, this Member believes it will never be eliminated in the year 2010.

At this point it should be noted that under the previously enacted estate tax legislation (e.g., the Economic Growth and Tax Relief Reconciliation Act), beginning in 2011, the "stepped-up basis" is eliminated (with two exceptions) such that the value of inherited assets would be "carried-over" from the deceased. Therefore, the Economic Growth and Tax Relief Reconciliation Act could result in unfortunate tax consequences for some heirs as the heirs would have to pay capital gains taxes on any increase in the value of the property from the time the asset was acquired by the deceased until it was sold by the heirs—resulting in a higher capital gain and larger tax liability for the heirs than under the current "stepped-up" basis law. Unfortunately, the bill before us today (H.R. 586) apparently would also make the stepped-up basis elimination permanent resulting in a continuation of the problems just noted by this Member—higher capital gains and larger tax liability for heirs.

In closing, Mr. Speaker, while this Member is strongly supportive of provisions in this bill making most of the earlier tax cuts permanent, he cannot in good conscience support the total elimination of the inheritance tax.

Mr. CRENSHAW. Mr. Speaker, last year this Congress passed the Economic Growth and Tax Relief Reconciliation Act of 2001, which reduced tax rates on individuals, married couples and estates. When the House considered this legislation, it was our intent to permanently enact these cuts. In an effort to circumvent a Senate procedural roadblock, the House compromised with "the other body" and our conferees settled on the legislation with an expiration after 10 years. It is now time to revisit the intent of the peoples' House and make this relief permanent.

Unless these cuts are made permanent, the American people will face the largest single tax increase in history when the cuts expire on January 1, 2011. On that date, the Marriage penalty will return—penalizing millions of married couples who file their taxes jointly. The child tax credit will be cut in half. The Death Tax will be reinstated—undermining estate planning for family owned farms and small businesses. Estates that would have no tax liability on December 31, 2010 could experience a 55 percent tax liability on January 1, 2011. Furthersome without a permanent fix, Americans will experience a major shift in their ability to save for retirement. Contribution limits for IRA's will drop from $5,000 to $2,000. Contributions to 401k plans will be cut by one-third from $15,000 to $10,000 annually. Parents saving for college will only be able to set aside 40 percent of what they could save the day before in their children's education savings accounts.

Congress needs to finish the job we started of promoting long-term economic growth by making these cuts permanent. Without it, economic growth, job creation and individual taxpayers' ability to save will be thwarted.

I am proud to have supported legislation that is allowing Florida's First Coast families to keep more of their hard earned money. For many families, the advance payments that were sent out last year as part of the relief package arrived just in time to pay for school clothes and school supplies. Family expenses like these are not one-time-expenses however, Mr. Speaker. We need to look down the road to make sure that the family with a child currently in elementary school is not hit with an increased tax burden just as they are getting ready to pay that first tuition bill. Mr. Speaker, we need to let those planning their retirement know that they will be able to contribute to their retirement accounts at current or higher levels in the future without the fear of more of their income being diverted to pay for an increase in income tax rates instead of supporting them in their golden years.

We should never underestimate the good that can be accomplished when families are able to keep more of their money and make spending decisions based on their needs. Let's do what is right for the American economy and America's families and make the tax relief contained in the Economic Growth and Tax Relief Reconciliation Act of 2001 permanent.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 586, an irresponsible bill to extend the Bush tax cuts beyond 2010. At a time when Social Security is threatened, our seniors can't buy drugs, our children attend crumbling schools, and our environment is under attack, the Republicans can think of nothing better to do than extend their enormous tax cuts into perpetuity. This is a disgrace. And it's a sad day for America.

The Bush tax cut that passed last year has already thrown our economic stability into disarray. Prior to enactment of the tax cut, our Nation enjoyed a record $5.6 trillion surplus. With that money, we could have saved Social Security, provided a prescription drug benefit for our seniors, strengthened our children's education, and protected the environment. Now, $4 trillion of that surplus is gone, and the rest is fading fast.

Who in their right mind would vote for this bill? The people in my district certainly wouldn't, and neither would most American families. If a family knows that one spouse is going to be laid off and that they will soon lose a substantial portion of their income, they don't go buy a Ferrari on credit! As we watch our Nation's resources disappear because of the current tax cut, why do the Republicans want to throw the rest away?

My greatest concern today is for the people who will needlessly suffer because of the carelessness and recklessness of this sorry bill. Our Nation made a promise to its citizens that we would not abandon them as they grew older. Making these tax cuts permanent would eliminate the money needed in 2010 and beyond to ensure that we keep this promise to our seniors—through the Social Security and Medicare programs—and fulfill our bipartisan promise to enact a Medicare prescription drug benefit.

The simple, unmistakable fact is that Republicans don't care about Social Security or Medicare. They never have and they never will. They care about their corporate contributors. And they care about the wealthy. The rest of America, however, gets nothing but the cold shoulder.

If the fact that this bill endangers our seniors wasn't bad enough, look at what it does to our children. The President and his Republican allies supported passage of the "No Child Left Behind Act" education bill last year. But this year, they have failed to provide funding to actually make those education reforms possible. As usual, the Republicans want to appear like they care about the important issues of working families, but they have no interest in actually funding them. This budget cuts last year's education bill by $90 million and calls for termination of forty educational programs. This forces my constituents to ask a very logical question: why can Republicans find enough money for tax cuts, but can't find enough money for our kids?

Again, the budget surplus has shrunk by $4 trillion in one year. Extending the tax cuts will cost $400 billion over just two years, in 2011 and 2012. Analysts estimate that the 10 years after that, the tax cuts will cost more than $4 trillion! The Center on Budget and Policy Priorities estimates that the size of the tax cut is more than twice as large as the Social Security financing gap. To make matters worse, these reckless tax cuts will go into effect when the baby boom generation starts to retire, Medicare faces a funding shortfall, and prescription drug prices undoubtedly will be higher than ever.

I urge my colleagues to stop and think about what an additional tax cut today will mean for our families—especially our seniors and children.

Republicans cut taxes for sport, but this is no game. This bill affects the lives of every American, the very people who have elected us to look out for them and to represent their interests here. Today's bill does nothing to help America. I urge a No vote.

Ms. DELAURO. Mr. Speaker, when Congress considered the president's tax proposal last spring, we had budget surpluses as far as the eye could see. Back then the Republicans argued that we could have it all, that the surpluses were so large we could strengthen Social Security and Medicare, make necessary investments in education and health and still have enough left over to pass their tax cut, half of which benefited the wealthiest one-percent of Americans.

Well, to put it simply: they were wrong. Since that time, the economy has slowed to a halt, layoffs have soared and $4 trillion of the surpluses have evaporated, the quickest turnaround in our history. The president's own numbers show that the tax cut is the main culprit, accounting for almost half of the disappearance of the surplus. And the Republican budget is already draining the Social Security Trust Fund.

So what is the Republicans' solution? They propose to make the tax cut permanent which will cost $4 trillion in the decade after 2012. That is $4 trillion gone at precisely the same time we will need the funds to shore up Social Security and preserve Medicare. At a time when we have serious budgetary challenges before us, we should be meeting the priorities of the American people. not giving away the farm. Making the tax cut permanent for the wealthiest 1 percent alone will total an amount one-and-a-half times the entire Department of Education budget. We should be investing in our kids, not giving away their future.

Mr. Speaker, it is not fair, it not responsible and it is terrible policy. I urge my colleagues to reject this bill and leave this money in the Social Security Trust Fund where it belongs.

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 586, the Tax Relief Guarantee Act of 2002. While I support the bill in its entirety, I am particularly enthusiastic as regards to the chairman's amendment to this legislation.

Last year we passed historic tax reform legislation. I am proud to have supported it in the House and I am very pleased that, on June 7, 2001 President Bush signed the largest tax reduction in 20 years into law. The measure reduced the "marriage penalty," starting in 2005; it doubled the child tax credit by 2010; it repealed the death tax in 2010 after cutting the top rate from 55 percent to 45 percent; and it increased annual contribution limits on individual retirement accounts (IRAs) and other retirement accounts. The measure also temporarily increased the income limits exempting taxpayers from the alternative minimum tax. This provision is in effect for 2001 through 2003.

The President's tax relief plan was eminently fair. It cut taxes for every taxpayer. No one was targeted in and no one was targeted out. It provided enormous tax relief to lower-income taxpayers and will take millions off the tax rolls altogether. It left the tax system even more progressive than previous law. Unfortunately, as enacted, all of the measure's provisions will be repealed on December 31, 2010. That's right, Mr. Speaker, January 1, 2011, the tax code will revert back to the provisions that were in effect before President Bush's tax relief legislation was signed into law. For example, beginning January 1, 2011, taxpayers in the lowest bracket (currently 10 percent) will see their tax burden increase by 50 percent when the lowest bracket reverts back to 15 percent. When that happens, we will have the single largest tax increase in the history of our country. This could result in one of the largest tax increases in American history, one that could also destabilize long-term economic growth. A family of four with an income of $47,000 in 2002 would face a tax hike of $1,928 in 2011—a 100 percent tax increase! Mr. Speaker, that is unacceptable.

So we are left in a situation whereby the marriage penalty tax, the death tax, and higher marginal rates will all rear their ugly heads come 2011 unless we take action to eliminate them permanently. In the words of Speaker HASTERT, "How can a family make plans to pass on the family farm or small business if there is no death tax on Dec. 31, 2010, and there is a death tax on Jan. 1, 2011?" How indeed, Mr. Speaker?

This legislation also includes a package of taxpayer rights provisions, which I support. The bill also moves up—from 2003 to 2002—the effective date of the special needs adoption tax credit provided in last year's legislation.

Mr. Speaker, this bill is not perfect. There is even more that we can do to ease the burdens placed on American taxpayers. For example, I believe we must eliminate the individual alternative minimum tax. This tax was never sound policy, but it is rapidly becoming an onerous and grossly inappropriate levy. Unfortunately, this legislation does extend exemptions to this individual alternative minimum tax that will expire in 2003. I would also like to see additional disincentives to charitable giving removed, such as is provided for in my bill to remove charitable contributions from those itemized deductions that are subject to an income cap.

Mr. Speaker, I will continue to fight for these and other tax reductions. In the meantime, I would like to commend Chairman THOMAS and the Rules Committee for crafting such a fine amendment. I urge my colleagues to vote in favor of the amendment, and in favor on final passage.

Mr. EVANS. Mr. Speaker, making last years tax cut permanent endangers our ability to fund many of our shared priorities and is fiscally irresponsible.

I joined many of my fellow colleagues in opposing last year's tax cut because we knew it would cause a budget deficit and fleece Social Security. And we were right. Now we are being asked to make these extravagant tax cuts permanent. Many of my colleagues whom used to preach fiscal responsibility in this house, now blindly vote to bankrupt our government further and burden our children with a mountain of debt. These tax cuts were the wrong remedy for an ailing economy and now making them part of our fiscal sustenance is just bad medicine. We all know these tax cuts grossly benefit the rich. We had an opportunity to pass a Democratic alternative which would have greatly increased the tax relief for working families. Instead we chose to steal from our senior citizens by robbing from Social Security and dumping off more debt on our children. And today the Republican leadership asks us to continue on this reckless fiscal path.

When I was first elected, I told my constituents I would fight for our common interests and priorities. I promised our seniors that I would protect Social Security and support a prescription drug benefit. I promised our veterans there would be money for their health care. I promised our soldiers and sailors a well deserved pay raise. And I promised our young people that I would expand their educational opportunities and not rack up more debt. I am still fighting for them, and making these tax cuts permanent makes it even harder to meet these priorities. While, the Republican Congress is running the government's budget on a credit card spending plan, I am explaining to my constituents why their government cannot pay the bills.

Mr. Speaker, I urge my colleagues to vote down making permanent these fiscally irresponsible tax cuts. Let us consider our children, our working families, and our senior citizens before increasing the national debt, raiding Social Security, and cutting the taxes of the very wealthy.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 586, the Tax Relief Guarantee Act of 2002. I urge my colleagues to support this important measure.

H.R. 586 was an important measure that made significant changes to the penalty and interest sections of the Internal Revenue Code and strengthened taxpayer protections against unfair IRS collection practices and procedures. The full House passed it by voice vote in May 2001, and was subsequently approved by the Senate.

When the other body attached an amendment to H.R. 586 to advance the effective date of the adoption credit provision by one year, it necessitated additional approval from the House. The Rules Committee then approved further amending the bill to make the tax cut provisions passed by Congress last year permanent.

In the landmark tax relief legislation passed last year, the various provisions were set to be phased in over the following 10 years. However, all of these various tax reduction provisions, including the repeal of the death tax, marriage penalty relief, the lowering of marginal rates, and the creation of the new 10 percent tax bracket, are set to sunset after 2010.

This legislation will repeal those sunset provisions, outlined in Title IX of H.R. 1836, making the important tax relief passed last year permanent. By doing this, H.R. 586 will demonstrate to the American people that Congress was serious about enacting tax cuts, and that last year's action was not a mere short-term phenomenon. The American people deserve to know that the tax relief they enjoyed last year, especially the extra money from the $600 rebates, will be around for years to come, and will not arbitrarily disappear after 2010. This bill will accomplish this objective, and is deserving of our support.

Mr. SANDLIN. Mr. Speaker, it is time to honor the commitment we made to American families when we passed the tax cuts last year. It is time to help family farmers and family business owners plan for their retirement. It is time to pass legislation that makes those tax cuts permanent.

Since my election to Congress in 1996, I have consistently supported efforts to eliminate the federal estate tax. Over the years, as I have visited with folks all over my district in northeast Texas, I have heard horror stories from families who were forced to sell all or part of their family business or farm just to pay the estate taxes—which reduced their inheritances by over 55 percent. I found that only about 30 percent of family businesses make it beyond one generation, and only 13 percent make it to the third generation. That simply isn't what America is about.

Farmers, especially, struggle every day to just get by. Farmers were left out in the cold during the economic boon of the late 1990's and suffered as others were acquiring riches. Eliminating the estate tax is one way to help farmers pass along their limited savings to their children, and their children's children. Not only does this punitive tax cause financial problems for families, some of whom are forced to sell property that has been in the family for generations or businesses built over a lifetime, but local economies are also hurt when jobs are lost and businesses close. Clearly, the social and economic costs of the estate tax far outweigh the revenue it provides for the federal government.

Last year, I supported efforts to eliminate the federal estate tax, voting for legislation that phased-out the estate tax over 10 years. Unfortunately, the final version of the tax bill would not fully eliminate the estate tax until 2010 and then would re-establish the estate tax in 2011. The tax cut needs to be made permanent now so that American families can make long-term plans when planning for retirement and planning to pass their assets on to their children.

The tax cut legislation also contained many other important provisions that together have helped mitigate the recession by pumping nearly $40 billion into the economy. Among the other important provisions are the phase-out of the marriage tax penalty—which removed the disincentive to marriage contained in the U.S. tax code. Making the tax cuts permanent means that American couples can count on their taxes being lower—rather than facing a big increase in their taxes in 2011.

Like many of my colleagues, I am concerned about Social Security and making sure that it continues to provide our nation's seniors with income security. When I first voted for the tax cuts in 2001, I was assured that there was plenty of money to pay for the tax cuts without tapping into either the Social Security or Medicare trust funds. Since that time, the economic conditions in our country have changed. However, it appears that by 2011 and 2012, even under revised estimates, there should still be plenty of money to pay for extending the tax cuts.

I would have preferred that my Republican colleagues would have allowed a vote on an important amendment to this legislation that would have made the tax cuts permanent while ensuring that the Social Security and Medicare trust funds were protected. As I mentioned last year, when I supported the original tax cut legislation, I would have preferred that the tax cuts include a trigger allowing delay of the tax cuts in times of national emergencies.

This legislation also contains some important provisions, commonly referred to as the Taxpayers' Bill of Rights. These provisions make a number of changes to Internal Revenue Service (IRS) practices and procedures including debt collection practices, penalties for overdue taxes, privacy of taxpayer information and IRS employee conduct. These are common sense provisions that will make the IRS work better for American taxpayers while balancing enforcement with customer service.

I believe that this legislation is both important and good policy. Today's vote simply changes tax law beginning in 2011. It does nothing to change taxes today. I urge my colleagues to support making the tax cuts permanent and to honor the commitment we made last year to America's families.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this proposition. I think everyone in the chamber knows what is going on today. We all know why the Republican leadership has brought this bill forward. They are more interested in trying to score some political points than in trying to work in a bipartisan way to address the budget and the economy. I do not think that the supporters of this proposal expect it to become law this year. So, it might be said that there is no reason not to vote for it. But that would not be the responsible thing to do. A vote for this would be a vote for the underlying tax legislation in the form that it passed the House last year. I voted against that bill because it was based on economic projections that were very doubtful then—and that now have been shown to have been wildly over-optimistic.

When that bill was passed, the economic weather seemed bright—we did not yet know that we already were in recession—and the sponsors of the bill claimed that we could rely on that to continue not just for a matter of months but for a full decade. Now, considering the dramatic change in economic conditions and the need for increased resources to fight terrorism and for homeland defense, it would seem reasonable to review the legislation to see if it needs adjusting. But instead, the supporters of the legislation are calling on us to say that nothing has changed and that we should permanently lock into place all of its provisions.

I am not opposed to cutting taxes. I have supported—and still support—a substantial reduction in income taxes and the elimination of the "marriage penalty." I have supported—and still support—increasing the child credit and making it refundable so that it will benefit more lower-income families. And I have supported—and still support—reforming, but not repealing, the estate tax. But the affordability of last year's tax bill depended on uncertain projections of continuing budget surpluses that now may inspire nostalgia but are otherwise meaningless. As I said last year, the tax bill was a riverboat gamble. It put at risk our economic stability, the future of Medicare and Social Security, and our ability to make needed investments in health and education. For me, the stakes were too high and the odds were too long, and I had to vote against it.

Those same considerations still apply. I agree with the Concord Coalition that we should not "compound the problem by making the entire package permanent," and so I cannot vote for this proposal.

Mr. ENGLISH. Mr. Speaker, we have the unique opportunity before us to help American families. In my district, the average working family of four makes about $36,000 a year. Failing to make these tax cuts permanent, effectively is a vote for significantly increasing the taxes of working Americans.

By making the tax cuts passed by the House almost a year ago permanent, Americans will not face a $2,000 increase in their taxes in 2011. If these tax cuts were allowed to sunset, we would again be taxing those saving for higher education—putting it out of reach for many middle-class Americans. It has always struck me as odd that the federal government taxes balances in prepaid tuition programs which in my mind defeats the whole purpose of these valuable programs. Failing to enact this legislation would reinstate taxes on this valuable tool used by middle-class Americans to pay for their children's higher education. And make no mistake—this is a tax on middle class Americans. In Pennsylvania, families with an annual income of less than $35,000 purchased 62 percent of the prepaid tuition contracts sold in 1996. Refusing to make this tax cut permanent will also cost families up to $20,000 a year as the contributions to education savings accounts shrink from $2,000 to $500 in 2011.

But beyond that college graduates—many of whom have substantial debt—would be restricted on claiming a tax deduction for their borrowing. They would again be limited to 60 months for deducting their student loan interest, but the expiration of this tax provision goes one step further. The income limits would regress to the 2001 limit meaning the $100,000 caps for single taxpayers would drop to $40,000 while $150,000 for joint returns would drop to $60,000. $40,000 in 2002 barely pays for most college educations. I can only imagine what this equates to in 2011 dollars.

College is no longer simply for the wealthy. More and more parents and children realize college is a prerequisite for attaining their dreams. Make no mistake, the debt loads are prohibitive. Congress recognized this and took the appropriate steps to help these students achieve their goals. By not providing permanency to these tax cuts, Congress would deal a severe blow to those who recognize that an education is an investment in the future. We should not further punish struggling families and college grads by reinstating taxes, which are the tools they depend on to make college more affordable.

Mr. JEFF MILLER of Florida. Mr. Speaker, we are considering this legislation today because this is the right course for America and the right course for our economic future.

Mr. Speaker, my colleagues across the aisle will continue to use scare tactics to say that by voting for this bill you are voting to strip seniors of their Social Security. We all know that this is simply not true. The fact of the matter is that there will be no reduction in Social Security or Medicare benefits as a result of the tax cut. Those are promises made and promises that will be honored. We owe it to our seniors to be honest about how Social Security works, similar to a bank, who takes in a depositor's money, credits the amount to the depositor's account, and then loans it out. In effect, what they are saying is that we are taking Treasury bills out of the trust fund to hand out as tax cuts. This is a ridiculous assertion. Social Security reform is a worthy discussion, but it is one for another day.

At the same time, many will argue that we are burdening our children with huge debt by voting for this measure. I could not disagree more strongly. We constantly hear from our "tax and spend" friends that our tax cuts need to be at a level "that we can afford." That is precisely the problem. Our government has become too large and is asking too much of the American people, to the point where it depresses economic growth. We must realize that our federal budget has gotten out of control and that Washington does not always know how best to spend the taxpayers' money.

Since the passage of last year's tax bill I have heard from many constituents that have benefited from the measure. The simple fact is that the federal government has long overcharged the American public, and now is the time to permanently change this disturbing trend. We cannot, and we should not, forgo this opportunity.

Mr. Speaker, my constituents sent me here to work for less taxes, less government and more personal freedom. For the sake of all hard-working Americans, let's make these tax cuts permanent. I rise in support of this important legislation.

Mr. BLUMENAUER. Mr. Speaker, one of the most disturbing trends for governance in America is the tendency to have short-term political expediency regarding budget, tax, and fiscal affairs trump responsible long-term policy. State and federal statutes and initiatives have been passed, which allow politicians and the public to feel good in the short term, give the illusion of solving problems, but setting up in the long term a fiscal train wreck.

We have seen in state after state where tax cuts in the 1990s were joined by formulas for education and corrections that basically put the services in a form of autopilot. Money went automatically to certain forms of education expenditure while corrections systems were mandated to incarcerate more people for longer periods of time. These "focus group" driven policy initiatives, many ratified by voters without a careful analysis of the consequences, effectively painted states and the federal government into a corner. Everybody appears or at least acts like they are powerless. In the short term, given a conflicting set of legislative and voter approved initiatives, a good argument can be made that they are. While policies and politics are sorted out, basic services suffer and public frustration grows.

On the federal level, we are in the midst of unraveling solid progress of the last decade to reign in federal spending and to impose some degree of fiscal discipline. While I didn't agree with all of the initiatives, and in fact voted against some as a Member of Congress, we were headed along a path that gave us choices to either restore draconian cuts or make other adjustments to help meet legitimate needs of our citizens.

One year ago, the projected 10-year budget surplus was $5.6 trillion and elimination of the public debt was projected by 2010. Now, with record increases in Defense spending and the impacts of last year's recession well analyzed, the Republican leadership is attempting to make permanent tax cuts that will destroy any semblance of fiscal sanity. To fund a tax cut that delivers 44 percent of the benefits to the wealthiest 1 percent, the Republican budget invades the Social Security Trust Fund for a total of $1.5 trillion over the next ten years and $4.0 trillion in the following decade. The absurdity of the Republican leadership's fiscal policy would have a devastating effect on the federal government's ability to fulfill its commitments, such as Social Security and Medicare, and respond to unexpected events, like war and recession, for decades to come.

The raid on Social Security and Medicare surpluses is not the only problem. The education of our children, the traffic congestion in our cities, and concerns about our drinking water and air quality are a few of the greatest challenges facing our communities. To put the size of the Republican leadership's tax cut and domestic priorities in perspective, when fully effective the tax cut will be—four times the budget for the entire Department of Education—more than three times as large as the Department of Transportation; and—twenty-four times the size of the Environmental Protection Agency.

This week's series of votes marks a culmination of the worst instincts of the political process on the federal level and the abrogation of our federal responsibilities. A year ago I voted against a tax cut that was based on faulty logic at a time when our economy was softening and when we had not kept commitments we said had priority. Our Medicare system is sadly out of date with modern medical realities and faces three serious threats: (1) It doesn't meet the needs of seniors today who rely on ever increasing amounts of expensive drug therapy; (2) It artificially reduces costs by squeezing providers with a reimbursement rate for doctors and hospitals that are dramatically below the actual cost of service; (3) The long term stability of the Medicare program is jeopardized, while costs of this jerry-rigged system are going to explode at precisely the time there will be more pressures for Social Security funding.

The consensus of people I meet in Oregon and around the country is that these policies are irresponsible. We ought to allow the majority in the House and Senate—both Republicans and Democrats—to work together to solve these problems. We ought not to have empty partisan maneuvering that is a calculated to further erode political trust and public confidence. This charade has only destructive results. It will further inflame partisan tensions, polarize people, and make it harder to do what responsible members of Congress and most of the public know needs to happen—put our fiscal house in order.

Were it to actually be enacted into law it would further tighten our fiscal straightjacket, making it harder to fulfill responsibilities and promises, while creating artificial crises that will haunt us for years to come. This isn't just shameless political posturing before an election. It is evidence of a political process that is rapidly losing its capacity to respond in a thoughtful, dignified, and public-spirited fashion.

Mr. DINGELL. Mr. Speaker, yet again I stand here perplexed by the actions of my Republican colleagues. Will they never cease to amaze me? Perhaps one day I will realize that there are no lengths my colleagues on the other side of the aisle won't go to in order to help their fat cat buddies.

I would note that the wealthiest one percent of the population will receive half of the benefits from this extension. The wealthiest one percent! I ask you, Mr. Speaker, do the wealthiest one percent of our population need our help? I think not.

Based on the most recent CBO estimates, permanently extending last year's ridiculous tax cuts will increase the deficit by another $374 billion through 2012.

Mr. Speaker, just over a year ago, I stood in this very spot and urged my colleagues to vote against the Republicans' ill conceived tax scheme. Here we are, one year later and already back in deficit spending. Because of these absurd tax cuts and the Republican budget, we are taking $1.5 trillion out of the Social Security Trust Fund over the next 10 years.

Mr. Speaker, the most simple laws of math dictate that we cannot carry out our priorities, Democratic or Republican, with this scheme. It is critical that we pass a Medicare prescription drug benefit and address the dramatically rising cost of Social Security as the baby boomers retire. Where will we get the money? How will we pay for homeland security and the President's war on terrorism? How does the President intend to fund his star wars program or increase the defense budget? How will the landmark education reform the President has advocated by carried out without any funding?

Making this tax cut permanent will raise the 10 year cost of last year's tax bill to $2 trillion. Can we afford it? The answer, Mr. Speaker, is no.

George Santayana, whose writings and wisdom I have found to serve those in politics, said: Those who cannot remember the past are condemned to repeat it. It is clear, Mr. Speaker, that my Republican colleagues have a very short memory.

Not only do I strongly urge my colleagues to reject this bill, I would also ask that they join me in cosponsoring a bill introduced by my good friend from Massachusetts, Representative FRANK. His bill, H.R. 2935, would repeal the reduction in the top income tax rate. This would add about $100 billion to federal revenue over the next 10 years. All of this money would go into the Social Security and Medicare Trust Funds, where it is needed.

Mr. PASTOR. Mr. Speaker, I rise today to oppose this legislation to extend last year's tax cut beyond 2010. Passage of this bill will only serve to further erode the Social Security Trust Fund and leave those who will be retiring in the next decade wondering if promises made will be kept.

Almost a year ago, we passed an unfair tax cut which gave the top one percent of income earners almost 40 percent of the tax benefits. It was not right then, it is not right now, and it will not be right in 2011, when this legislation takes effect.

The world changed on September 11. We are now fighting a war on terrorism which I strongly support. We now must provide additional funds for homeland security. I support this also.

But within the last ten months, since the $1.35 trillion tax cut was passed, we have gone from a projected surplus of $5.6 trillion to deficit spending. Forty percent of the disappearing surplus, the greatest chunk, is attributed to the tax cut. I supported a tax cut, but not this one which did nothing, in my view, to stimulate the economy. It only served to make the wealthier among us better off. In my view, it would be unwise to make it permanent.

Instead, I believe it would be more prudent to address the issues that many of my constituency are talking to me about every weekend when I am home in Arizona. Seniors are worried about where they will find the money to pay for their prescription drugs. Parents are trying to find the best schools for their children; schools that are not overcrowded, and that are not in disrepair, and that have the most modern equipment and qualified teachers. Young adults are searching for ways to afford college and they need Pell Grants and other means of financial support. While it appears the economy is on its way to recovering, unemployment continues to rise and people want to know that there are training opportunities out there if they don't have a job or if they should lose the one they do have. With the tremendous growth in Arizona, people are worried about affordable housing.

These are the issues that are important to most Americans.

Mr. Speaker, we all support tax cuts. We all believe that Americans should keep more of their hard earned money. But we also know that there are many needs out there is our country.

I regret that I will not able to support this extension of last year's tax cut. Nor will I be able to support any further tax cuts that are being considered. New tax cuts or the extension of this tax cut means we will continue to raid Social Security and further neglect the people who are not among the top income earners in this country.

I urge my colleagues to reject this unfair, unwise, and unjust legislation.

Mr. COYNE. Mr. Speaker, I rise in opposition to this misguided legislation.

Last year the House, against my opposition, passed a massive tax cut. That legislation will reduce federal revenues by more than a trillion dollars. If the additional interest costs of this tax cut are added in, the total change in the federal government's financial standing comes close to two trillion dollars. I should add that many of the provisions in last year's tax cut bill were phased in gradually, so that the total annual impact of the bill would not be felt for nearly a decade. The provisions in the legislation enacted last year would expire after ten years—but if we make those provisions permanent, as the bill currently under consideration would do, recent estimates indicate that in the decade after 2012, they will reduce federal resources by four trillion dollars.

As I said last year during House consideration, of the tax cut bill, "the revenue loss to the federal government will explode after the year 2001—just when millions of Baby Boomers retire, the cost of Social Security and Medicare will explode." Given the current challenges that face Social Security and Medicare, it seemed to me then—and it seems to me now—that we ought to spent the coming decade preparing for the anticipated increased future demands that will be placed on Social Security and Medicare by paying down some of our $5 trillion national debt. Instead, Republicans in Congress cut taxes dramatically and produced budget deficits for the foreseeable future.

It is a shame that we squandered the opportunity last year to invest in our nation's future. It is a disgrace that today our Republican colleagues propose to dig the hole deeper. I urge my colleagues to do the sensible thing and pursue a conservative, fiscally responsible federal budget policy.

I will oppose this misguided legislation, and I urge my colleagues to do the same.

Mr. McDERMOTT. Mr. Speaker, here comes the train again. Last month, my Republican colleagues passed a fiscally irresponsible budget that called for spending hundreds of billions of dollars from the Social Security Trust Fund on tax cuts for the wealthy.

Mr. Speaker, we gambled with tax cuts last year, we gambled again last month, and here we are today, rolling the dice one more time.

In 1999, 2000, and 2001, Republicans in this chamber voted seven times to fully protect the Social Security Trust Fund. George W. Bush echoed the theme on the campaign trail and during the Presidential debates—he wanted to put those reserves in a "lock-box" to prevent it from being used to pay for tax cuts or additional spending. Even the beloved Speaker of the House stated, "We are going to wall off the Social Security Trust Funds . . . We are not going to dip into that at all." Remember when you said that, Mr. Speaker?

Now it appears that the government will raid the Social Security surplus for as far as the eye can see. And extending the tax cuts permanently would only worsen the deteriorating fiscal outlook.

Mr. Speaker, this bill amounts to an intergenerational mugging. Our children will pay for the debt we incur today. The 75-year cost of making the tax cuts permanent would be more than twice as great as the entire shortfall projected in the Social Security Trust Fund.

Furthermore, this bill, and you won't hear the Republicans mention this during the debate, will also cost the U.S. Treasury $4 trillion during the decade after 2012—just when the Baby Boomers are retiring in earnest and both the Social Security and Medicare systems are coming under mounting financial strain. If the congressional Republicans continue to sacrifice the safety of Social Security and Medicare, for the sake of tax cuts for the wealthy, America will be a country where the rich stay healthy and the sick stay poor. If we simply look at the budget forecast, it is clear that permanent tax cuts mean permanent deficits.

Mr. Speaker, these tax cuts are so heavily skewed to benefit the wealthy that the richest one-percent of taxpayers would receive tax breaks that equal one and one half times the entire budget of the Department of Education. If we completely repeal the estate tax, in particular, we'll be essentially creating intergenerational gated communities. Our capitalist friend, Adam Smith, said, "A power to dispose of estates for ever is manifestly absurd. The earth and the fullness of it belongs to every generation, and the preceding one can have no right to bind it up from posterity.

Mr. Speaker, this chamber sometimes seems like the House of Lords, because it attempts to do everything in its power to protect the pseudo-aristocracy. Mr. Speaker, we need this bill about as much as we need a runaway train. I urge my colleagues to oppose this campaign sop, disguised in the form of H.R. 586.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 390, the previous question is ordered.

The question is on the motion offered by the gentleman from California (Mr. THOMAS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HULSHOF. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 198, not voting 8, as follows:

[Roll No. 103]

AYES—229

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—198

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Clement
Delahunt
Hastings (FL)
Jones (OH)
Oberstar
Rogers (KY)
Roukema
Traficant

☐ 1450

Ms. WOOLSEY, Mr. ACKERMAN, and Mr. OWENS changed their vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. OBERSTAR. Mr. Speaker, this afternoon I greatly enjoyed the opportunity to visit with high school students from Becker, Minnesota who are participating in the Close-Up program. As a result of our visit, I was unable to record my vote during the consideration of the misguided tax legislation that will undermine Social Security.

Had I been present, I would have voted "no" on rollcall 103, for I strongly opposed last year's irresponsible tax bill, and I certainly do not support making these tax law changes permanent. If enacted, this fiscally reckless plan would spend $400 billion on tax cuts for the wealthy, every penny of which comes directly out of Social Security.

LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I rise for the purpose of inquiring about the schedule of next week.

Mr. ARMEY. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am pleased to announce that the House has completed recorded votes for the week.

The House will next meet for legislative business on Tuesday, April 23 at 12:30 p.m., that is for morning hour, and at 2 o'clock p.m. for legislative business. On Tuesday I will schedule a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. The House will also take any recorded votes on motions to instruct conferees offered later today. On Tuesday, recorded votes will be postponed until 6:30 p.m.

For Wednesday and Thursday, I have scheduled H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, reported out of the Committee on Financial Services on Tuesday, and H.R. 3231, the Immigration Reform and Accountability Act of 2002, reported out of the Committee on the Judiciary last week.

Mr. Speaker, I thank the gentlewoman for yielding.

Ms. PELOSI. Mr. Speaker, reclaiming my time, I thank the gentleman for informing us of the days for the INS restructuring bill and the Committee on Financial Services accounting bill.

While I have the floor, Mr. Speaker, may I say to the distinguished majority leader, I wish to register a point of deep concern to our side of the aisle. There seems to be a recurring pattern this year where there are no substitutes or alternatives allowed on major, major bills. Today, the procedure did not even permit a motion to recommit to protect Social Security. Despite repeated promises to always guarantee the motion to Democrats, today it was denied on one of the most important votes in this Congress. I want to register objection and disappointment to this and ask the leader if he wishes to comment.

Mr. ARMEY. Again, Mr. Speaker, I thank the gentlewoman for her inquiry. I do appreciate the concerns expressed by the gentlewoman. The parliamentary rules between our two respective bodies on an exchange between the two bodies do not allow for motions to recommit on legislation action taken today. The action we took today, of course, was to advance the work that was sent to us by the other body with respect to adoption of the tax credit, a very important objective of all of the body, and we were able to in this way manage all three things.

But I want to appreciate again the gentlewoman's concerns, her expression, and say that it is indeed something that we pay most concern and credibility to.

Ms. PELOSI. Mr. Speaker, there were those among us who would have tried to, by procedure, hold up the proceedings of the House; but we wanted, such as it was, to have as much of a debate as we could on an issue of major concern to the American people. I think that we all recognize that we come to this floor with differences of opinion, or range of opinion, on issues. Sometimes we can act in a bipartisan way, and that is great for the American people. They expect and deserve us to try and seek a common ground.

Where we do not have it, though, we must stand our ground; and I do not see why we could not have an opportunity to have a fuller debate on the subject. I do not understand why the Republicans would be afraid of a motion to recommit to save Social Security; and I hope that this does not proceed, because I think it could be very damaging to our relationships in this House; and I know that we want to proceed in as much of a bipartisan fashion as possible.

I thank the gentleman for the information.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, APRIL 22, 2002, TO FILE REPORT ON H.R. 3231, THE BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight on Monday, April 22, to file a report to accompany H.R. 3231.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Transportation and Infrastructure:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 17, 2002.

Hon. J. DENNIS HASTERT,
The Office of the Speaker, House of Representatives, Washington, DC.

DEAR DENNY: This is to notify you that effective today, April 17, I am resigning my seat on the House Transportation Committee.

Sincerely,

JOHN COOKSEY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO COMMITTEE ON EDUCATION AND THE WORKFORCE AND COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 391), and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 391

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Education and the Workforce: Mr. Wilson of South Carolina.

Transportation and Infrastructure: Mr. Sullivan of Oklahoma.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 3763, THE CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY AND TRANSPARENCY ACT OF 2002, AND H.R. 3231, THE BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, today a "Dear Colleague" letter will be sent to all Members informing them that the Committee on Rules is planning to meet next week to grant a rule which may limit the amendment process for H.R. 3763, the Corporate and Auditing Accountability, Responsibility and Transparency Act of 2002.

Any Member who wishes to offer an amendment to this bill should submit 55 copies of the amendment, one copy of a brief explanation of the amendment by 2 p.m. on Tuesday, April 23, to the Committee on Rules up in H-312 here in the Capitol.

Amendments should be drafted to the text of the bill as reported by the Committee on Financial Services, which is expected to be filed on Monday, April 22. The text will be available on the Web sites of both the Committee on Financial Services and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the Rules of the House.

In addition, today a "Dear Colleague" will be sent to all Members informing them that the Committee on Rules is also planning to meet next week to grant a rule on H.R. 3231, the Barbara Jordan Immigration Reform and Accountability Act of 2002. The Committee on Rules may grant a rule which may limit the amendment process for H.R. 3231.

Any Member who wishes to offer an amendment to this bill should submit 55 copies of the amendment and one copy of a brief explanation of the amendment by 12 noon on Wednesday, April 24, to the Committee on Rules in H-312 in the Capitol.

Members should draft their amendments to the bill as reported by the Committee on the Judiciary, which will be available on the Web sites of both the Committee on the Judiciary and the Committee on Rules.

Once again, Mr. Speaker, Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

ADJOURNMENT TO MONDAY, APRIL 22, 2002

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 23, 2002

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the

House adjourns on Monday, April 22, 2002, it adjourn to meet at 12:30 p.m. on Tuesday, April 23, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT of 2001

Mr. DOOLEY of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. DOOLEY of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 (an Act to provide for the continuation of agricultural programs through fiscal year 2011) be instructed: to agree to the provisions contained in section 335 of the Senate amendment, relating to agricultural trade with Cuba.

□ 1500

The SPEAKER pro tempore (Mr. OTTER). Pursuant to the rule, the gentleman from California (Mr. DOOLEY) and the gentleman from Florida (Mr. DIAZ-BALART) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion that I am offering today is one which is advancing and continuing the policy of economic engagement that this country has embraced. It is a policy to ensure that we can provide economic opportunities for all sectors of our economy, whether it be the farmers in California, Missouri, or Washington, or wherever else in this country.

It ensures that we are going to be able to provide for the sale of goods to Cuba, and to make one minor modification to our existing law, which is to allow private financing of the sale of those goods. This is an important step forward if we truly are committed to trying to provide for additional markets for our farmers in this country.

It is also an important step forward because many of us believe by advancing a policy of economic engagement which is consistent with this motion, it will also do more than we could otherwise in terms of ensuring that we are going to see progress in the advancement of democracy, the advancement of personal freedoms in Cuba itself.

We have been able, I think, to have a case study in terms of what a policy of isolation has done in Cuba over the past 40 or 50 years, when we have seen very little progress in seeing the advancement of personal freedoms in Cuba. We have found in other areas of the world where we have reached out and we have engaged in trade, we have actually seen not only economic opportunities, but we have seen significant progress on the social front with the advancement of democracy, the advancement of human rights, the advancement of religious freedoms.

I am confident if this body instructs the conferees to adopt the Senate position, we will be providing benefits for U.S. citizens, but also we will be empowering the citizens of Cuba to be more successful in improving the quality of their lives.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to oppose the Dooley "sell them the rope" motion. The section in the compromise legislation of the year 2000 on this issue relating to financing specified that "United States persons" cannot finance sales to the Cuban dictatorship, and "United States persons" was defined as "the Federal Government, any State or local government, or any private person or entity."

The Senate provision strikes that entire section, including, thus, the prohibition on financing by "the Federal Government." So the Senate financing provision is not as limited as its supporters here allege. It will make available public financing to the Cuban dictatorship.

Last year, the dictatorship was forced to close over 12,000 hotel rooms in its all-important tourist industry. Its currency is worthless. The dictatorship defaulted on $500 million in loans just in the year 2001. So what is the dictator betting everything on? U.S. tourism dollars and the agricultural lobby in the U.S. Congress.

Today we see the agricultural lobby at work here for the dictatorship, despite the current realities of the bankrupt Cuban dictatorship, despite the fact that the Cuban dictatorship continues to provide safe harbor to terrorists throughout the world, despite the fact that Castro serves as the world's primary money launderer for international terrorism, providing his so-called "revolutionary banks" not just for Puerto Rican FALN terrorists, like those who took their stolen millions from the U.S. to Cuba, but laundering money as well for drug dealers, international terrorists, and corrupt politicians.

A few months before 9/11, the Cuban dictator visited Syria, Iran, and Libya. In Iran, he declared "Together, Iran and Cuba will bring the United States to its knees."

In August, Irish IRA terrorists based in Cuba were arrested in Colombia helping the FARC terrorists there improve their urban bomb-making capabilities.

Basque ETA terrorists continue to be based and trained in Cuba to this day.

More than 90 U.S. felony fugitives wanted by the FBI for hijacking, murder, armed bank robbery, the sales of explosives to Libya, and kidnapping remain in Cuba and continue to receive protection by the dictatorship to this day.

The only one of the seven terrorist states that has had 17 spies arrested in the last 3 years, 17 spies arrested, awaiting trial or already convicted, agents spying for the Cuban regime in the United States, the only one of the seven terrorist states that has had those spies arrested and convicted is the Cuban regime.

On September 21, a senior analyst at the Defense Intelligence Agency was arrested for spying for the Cuban government. The FBI was forced to arrest her before they would have wanted to, because according to intelligence community sources, Castro shares intelligence with Middle Eastern enemies of the United States.

Last month, on March 19, the State Department's Office of Intelligence and Research declared that the Cuban dictatorship has "an offensive biological warfare research and development effort. Cuba has provided dual-use biotechnology to rogue states. We are concerned that such technology could support biological weapons programs in those states."

And, as we speak, the U.S. administration is encouraging governments throughout the world to say no to pressure from totalitarian elements in their countries, and to vote in favor of the resolution criticizing the human rights situation in Cuba at the U.N. Human Rights Commission in Geneva.

Mr. Speaker, my high school teacher, Judd Davis, used to tell me that Lenin was fond of saying that "some capitalists will sell even the rope for us to hang them with." What we are seeing here today is that on that matter, Lenin was right: There are some capitalists who would sell even the rope with which they would be hung.

Cuba is in this hemisphere. It is the only country oppressed by tyranny in this hemisphere. In this hemisphere, democracy is required by international law. So while my heart goes out to the Chinese people, the use of the China analogy is hypocritical and it is wrong.

The signal that we need to be sending to Cuba is that there will be no normalization until all the political prisoners are freed and free elections are scheduled. That is President Bush's position, and that is what this Congress has stated repeatedly in the past.

This "sell them the rope" motion is as untimely as it is wrong. There will be a democratic transition in Cuba soon, and the people will do business with those who did not do business with their jailers. It is unfortunate that so many are working so hard to put themselves on the blacklist of those who a free and democratic Cuba will never do business with. For those interested in sales to Cuba, democratic Cuba will not do business tomorrow and forever with those who today worked to provide dollars to the totalitarian dictatorship.

Mr. Speaker, I reserve the balance of my time.

Mr. DOOLEY of California. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking member on the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, let me congratulate the gentleman from California (Mr. DOOLEY) and those who would direct that the conferees accept the Senate provisions to remove the restrictions on financing agricultural products to Cuba.

I am not known to be a hostage to the agricultural lobby, but certainly I do believe that trade is essential if we are going to attempt to persuade those people who have dictatorships that democracy is the way that they have to go.

I do not really believe we can just shut ourselves off from these people, and continue to have an embargo and deny them access to food and medicine, and at the same time expect that the people are going to look at us as an example of what a better way of life is. I do not really think that we should be held hostage by the People's Republic of Miami in our foreign and our trade policy.

It seems to me that when we take a look at a billion people in China, we are taking a look at a dictatorship. When we take a look at the people in north Vietnam or North Korea, we are taking a look at dictatorships. As a matter of fact, Members do not have to be as old as I am to know that we have taken a look at dictatorships in the past, and even so today, without denying our ability to export to these countries.

So it just seems to me that after the hurricane in Cuba, Americans, for humanitarian reasons, decided that we would offer food and medicine to the people in Cuba. That led to some provisions being made that we could have limited exports to the people in Cuba.

Well, what is wrong, if the House has said and the Senate has said that American farmers should be allowed to export their products, why can we not assist them in making certain they get paid for their products?

So I know this is a very emotional issue, but we cannot allow ourselves to be blinded by emotion at a time when we are saying, look at democracy, look at our farmers, look at productivity, look at better products, look at lesser prices, and allow us to go into that market and compete with everyone else. Let our kids get over there, let them be ambassadors for good will, remove the restrictions in terms of the Cubans and Americans, and let us all work hard for a better understanding, and to bring democracy to Cuba.

Do not threaten those people who vote one way or the other that the new government in Cuba is going to punish those people who voted to relax the embargo. Nobody has designated who is going to lead the new Cuba. If we knew that, maybe we could take a different foreign policy. If some people know who is going to succeed Castro, maybe they should share it with us, because it could be worse than we might expect, than what we are getting today.

But we do not know these things. That is why we should not allow our food policy to be governed by our political policies. For 40 years, those people who said, no, no, no, no, no, have found out that this guy that runs Cuba has survived half-a-dozen Presidents.

Let us give freedom a chance, let us give trade a chance. I congratulate those who have put this motion together to instruct the conferees.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as she may consume to my distinguished colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding time to me.

I am sure that the gentleman from New York (Mr. RANGEL) considers the reference to my hometown as "the People's Republic of Miami" to be an example of his piquant wit. I find it to be personally offensive, and I would ask him to please refrain from such characterizations.

But it is a shameful day today. It is shameful today that as former Cuban political prisoners stand before the United Nations Commission on Human Rights in Geneva calling for the international condemnation of the Castro regime's systematic violations of human dignity, civil liberties, and fundamental freedoms, today in this Chamber, a vivid symbol and an instrument of democracy, we are discussing a measure that will provide the Castro dictatorship with the financial means to continue its oppression and its enslavement of the Cuban people.

It is shameful that, as the U.S. State Department Report on Human Rights Practices reports, the use of child labor and forced labor in Cuba's farming sector is mandated, yet this Congress is considering a measure which our assistant secretary of state for democracy, human rights, and labor underscored at a recent congressional hearing would serve to promote the use of child and slave labor by the Castro regime in the agricultural sector.

It is shameful that, as we approach the commemoration of our Memorial Day, when we pay homage to our courageous veterans, some would seek to provide funds to a regime which sent Cuban agents to torture American POWs at a camp in Vietnam called the Zoo.

It is shameful that, as a global war on terrorism intensifies, some in the Congress would be seeking to provide funds to the Castro dictatorship, a country which every recent administration, be it Republican or Democrat, has officially labeled as a State sponsor of terrorism.

It is shameful that, as Columbian President Pastrana, in visiting Capitol Hill this very week, just yesterday outlined, among other details, Cuba's role in supporting narco-terrorists, and its support and training, directly or through such entities as the IRA and the Basque terrorist group ETA, of terrorist operations in the Western Hemisphere, that this body today would consider providing funds to that Castro regime to further these terrorist efforts which undermine the stability of our region.

It is shameful that, as the Castro regime expands its biological weapons capabilities and builds even stronger cooperative agreements in this arena with Iran and Iraq, some would seek to facilitate these efforts, which directly threatens U.S. national security. In 1998, a Department of Defense report raised concerns about the potential of Cuba's biotechnology sector to be used for offensive purposes.

In October of 2001, Dr. Ken Alibek, the former head of Russia's biological weapons program, testified before the Committee on Government Reform on the very real threat posed by Cuba's biotech sector.

□ 1515

In the October 2001 edition of the journal "Nature Biotechnology," Jose de la Fuente, the former director of research and development at the Center for Genetic Engineering and Biotechnology in Havana, disclosed that technology and agents for treatments of a number of diseases were sold by Cuba to Iran's terrorist regime, technology and lethal agents which can be used to produce anthrax bacteria or smallpox virus.

It is shameful that we would be considering a measure that would provide funds to a regime whose leader, Fidel Castro, joined Iran's Ayatollah in May of last year to underscore their commitment to "bring America to its knees." Those were Fidel Castro's own words just months ago, months before 9-11. Castro said, "Together, we can bring America to its knees."

It is shameful that we are going to support a tyranny whose so-called attorney general, Juan Escalona, and I say "so-called" because there is no real justice system in Cuba. It is a dictatorship, a totalitarian state with no respect for civil liberties and which pays none of its debt. So we will be actually subsidizing with our tax dollars all of these great sales that my colleagues would like to make to Fidel Castro.

Juan Escalona, when referring to the transfer of al Qaeda prisoners to Guantanamo Naval Base, was quoted in January of this year saying that he hoped that 15 or 20 of these anti-American terrorists would get out and kill Americans stationed at our base in Guantanamo.

These were the words of a high-ranking Cuban official. He wants the al Qaeda prisoners to kill our American servicemen and -women in Guantanamo base in Cuba and Castro says nothing. This is the attorney general.

It is shameful that as our FBI, CIA, and Defense Intelligence Agency work to repair the significant damage already done to U.S. national security by Cuban espionage in our country, we would be seeking to reward that Castro regime by providing it with access to financing to continue its terrorist and espionage activities against the United States.

It is shameful that we would allow a regime that has killed American citizens to continue to act with impunity by rewarding it with access to much needed funds, funds which will never reach the Cuban people. Do not fool yourselves. Do not try to fool the Congress. Funds which only help maintain Fidel Castro in power.

Mr. Speaker, the provision referenced in this motion to instruct conferees has nothing to do with helping the small farmers of America because these small farmers are the heart and soul of our country, the core of American values and principles, values which they would never seek to betray in this manner. No. The provisions in this Senate farm bill that this motion refers to is to benefit agricultural giants who wish to make profit from trading with America's enemies.

If this was truly about helping America's farmers, then the Senate would have moved the Andean Trade Promotion Act, and it would have given the gentleman from California's (Mr. DOOLEY) farmers those free markets to sell to.

Mr. Speaker, yesterday marked the anniversary of a failed attempt to restore freedom and democracy to Cuba: the Bay of Pigs invasion. In a month we will commemorate the centennial anniversary of Cuban independence. So, Mr. Speaker, today I stand here and I ask my colleagues whom we wish to emulate: those who betrayed the Cuban freedom fighters in 1961 by not providing aerial support to those who landed at the Bay of Pigs, or do we wish to emulate those Rough Riders who, 100 years ago, stood side by side with the Cuban liberators and charged up San Juan Hill and helped Cuba gain its independence?

Do we wish to support the Cuban people in their struggle to free themselves from their bondage, or do we wish to help their oppressor to continue its subjugation of its people and continue threatening the U.S. and, indeed, the hemisphere and the free world?

If we are to stand for what is right and just, as we did with the Afghan people, we must vote "no" on this motion to instruct conferees and hold the House position on the farm bill.

I thank my colleague, the gentleman from Florida, for yielding me the time.

Mr. DOOLEY of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, I rise in support of the motion to instruct conferees offered by the gentleman from California (Mr. DOOLEY).

This motion would instruct conferees to recede to the Senate provision in the farm bill to lift current limitations on the financing of private sales of food and medicine to Cuba.

My reasons are very simple. It is good farm policy, it is good trade policy, and it simply is the right thing to do. It also is the position that reflects the will of the House.

On July 20, 2000, the House voted 301 to 116, 301 to 116, to lift all sanctions on the sale of food and medicine specifically to Cuba. Mr. Speaker, the House has spoken on this issue. It has spoken with a clear, strong, bipartisan voice.

Unfortunately, the will of the House, and I might add the will of the Senate, has been frustrated and undermined. Cumbersome restrictions remain on private financing for food and medicine sales to Cuba. Unlike farmers everywhere else in the world, American farmers cannot obtain credit from a U.S. entity to finance private sales to Cuba. Instead, our farm exporters must either arrange for credit through an overseas bank or insist on cash in advance from Cuba.

The current restrictions on securing private financing are a competitive barrier for our farmers. They need to be eliminated. The Senate provision does so. The House should recede to the Senate and open up the markets between Cuba and our agricultural exporters.

Mr. Speaker, our farmers and banks are savvy enough to weigh the risks in doing trade with Cuba. I trust them. I ask my colleagues to trust them.

We hear a lot of talk about democracy. Well, we need a little democracy in the House of Representatives. Let us uphold the will of the majority. Let us uphold the mainstream opinion in this Congress and vote to support the Dooley motion to instruct the conferees.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5½ minutes to the gentleman from Texas (Mr. DELAY), the distinguished whip, great friend of freedom and democracy for the Cuban people.

Mr. DELAY. Mr. Speaker, America has forces deployed all around the world as we root out the international terrorist networks. We have served notice to every Nation that there is no middle ground in the struggle to vindicate freedom.

President Bush divided the world into two camps with a very basic guiding principle: either you are with us or you are with the terrorists. Every country must choose between freedom and a culture of murder and destruction.

This misguided campaign to relax the embargo against Fidel Castro's evil regime is a retreat from a very bright line division between freedom and tyranny. We risk clouding our resolve against terror here in our own hemisphere. The supporters of this initiative may believe that by engaging Cuba their approach would bring constructive results, but nothing in Cuba takes place without Castro's blessing, and Castro profits by every business transaction in Cuba. Easing the embargo would only empower a tottering dictator.

For decades, Fidel Castro's Cuba has cultivated, trained, and harbored both individual terrorists and groups using murder to make political statements. Castro's Cuba is a temple to violence. Their handiwork cost American lives like the New Yorkers murdered and maimed by the Fraunces Tavern bombing carried out by Cuban-trained terrorists.

There is no denying that Cuba is a safe haven for terrorist fugitives. Castro shelters Basque ETA terrorists, Colombia FARC and ELN terrorists, and terrorist officials from the Irish Republican Army. Castro is intertwined in the axis of evil.

Just 1 year ago, Castro visited three other state sponsors of terrorism: Iran, Syria, and Libya. In Tehran, Castro said: "Iran and Cuba, in cooperation with each other, can bring America to its knees. The U.S. regime is very weakened and we are witnessing this weakness from up close." That was Castro talking.

Castro sold advanced biotechnology to the Iranian government. The United States believes that Cuba has at least a limited offensive biological warfare capability. Castro is sharing dual-use biotechnology with rogue states.

Ken Alibek, the former Soviet Union's top chemical and biological warfare expert, told Congress that

"Cuba has a perfectly developed system of engineering and is capable to develop genetic engineering agents. They've got the desire to develop genetically engineered biological weapons." That is what a former Communist in the Soviet Union said.

In other words, Castro is funneling resources to develop the world's most diabolical weapons, and he shares these evil exports with the world's most dangerous and unstable regimes.

We can be certain that any economic activity between the United States and Cuba will only serve to supply additional fuel to Castro's engine of repression. The proceeds of joint ventures and trade and terrorism do not empower the men and women of Cuba. They are bled into the Castro regime.

We also know that Castro is continuing his attempts to penetrate U.S. intelligence agencies and even our Armed Forces. Last month, last month, the Defense Intelligence Agency's top Cuba specialist pled guilty to spying for Castro over 16 years. There is little doubt that Castro's espionage is made available to our enemies. Perhaps it even makes its way to the al Qaeda.

There is no sign that September 11 did anything to shift Castro's reflexive hostility toward democracy and freedom. He smeared America's response to terrorism. Said Castro: "Their capacity to destroy," their being us, "capacity to destroy and kill is enormous, but their traits of equanimity, serenity, reflection and caution are, on the other hand, minimal."

We know with dead certainty that Castro systematically brutalizes and oppresses the Cuban people. He drags his people through hardship, servitude, and despair; and any fair appraisal of Cuba's long support for terrorist groups and Castro's current behavior leads to an unavoidable conclusion. Without a clear break from terrorist sponsorship and the adoption of fundamental human rights and democratic reforms, the embargo must be upheld.

Even if we set aside our deep reservations about empowering Castro through economic activity with the United States, there are other doubts that remain. What is the likelihood that any American farmer would actually be paid by Castro for the goods exported to Cuba?

Castro's track record is just abysmal. Two years ago, Cuba failed to pay money owed to the French. Last year Castro also defaulted on over $500 million in debt owed to Spain, South Africa and Chile. Castro is a bad credit risk. We should be seeking to open real markets with the actual capacity to pay for the products exported to them.

Members should reject this motion to instruct by standing with the President against state-sponsored terrorism and tyranny. Vote "no" on the motion to instruct.

[From the New York Times, Sept. 8, 1985]

F.B.I. AIDE TESTIFIES TO ESPIONAGE CONFESSION

Less than an hour after his arrest last fall on espionage charges, Richard W. Miller confessed passing a secret document to a Soviet intelligence agent, the head of the Federal Bureau of Investigation office in Los Angeles testified Friday in Federal District Court here.

It was the fifth straight day the jury heard evidence that Mr. Miller, then an F.B.I. agent, had admitted passing classified documents to the K.G.B., the Soviet intelligence agency. The previous testimony focused on admissions Mr. Miller made in five days of interrogation before his arrest last Oct. 2.

But Richard T. Bretzing, the chief F.B.I. agent here, testified that after Mr. Miller was taken into custody he said he had given the secret 53-page "Reporting Guidance: Foreign Intelligence Information" to his lover, Svetlana Ogorodnikov, a Russian emigre, Mr. Bretzing said Mr. Miller made the admission while he was being taken from his home in Bonsall, Calif., to the bureau's San Diego office.

Arrested on espionage charges the same day as Mr. Miller, who is 48 years old, were Mrs. Ogorodnikov, 35, and her husband, Nikolay, 52. Both pleaded guilty at their trial earlier this summer and were sentenced to prison.

EARLIER TESTIMONY SUPPORTED

The Government contends that Mr. Miller was involved in a sexual liaison with Mrs. Ogorodnikov and agreed to provide Soviet intelligence agents with classified material through the Ogorodnikovs in return for $65,000.

The defense, which will open its case next week, contends that Mr. Miller cultivated a relationship with Mrs. Ogorodnikov as part of a one-man mission to infiltrate the K.G.B. and rescue his 20-year career as an F.B.I. agent.

Earlier this week a Portland, Ore., woman testified that hours before his arrest Mr. Miller telephoned her and told her he was in trouble. The woman, Marta York, testified that Mr. Miller had said he had "only passed one" classified document to Soviet agents.

Mr. Miller's attorneys, who characterized the woman's testimony as "very damaging," were surprised Friday when the prosecution presented a witness to buttress her testimony.

The witness, Gary Allan, an Oregon social worker, testified that he was in Mrs. York's home last Oct. 2 when she received a phone call from a "close friend" named "Richard" who was in the F.B.I.

After the call Mr. Allan said Mrs. York was "agitated" and "excited," and talked about it. "She said she had learned he had gotten into trouble as a result of his relationship with a woman who she identified as a Soviet agent," Mr. Allan testified. Information Termed Secret "Did she tell you that Richard's relationship with the Russian woman was an intimate relationship?" asked Russell Hayman, an Assistant United States Attorney.

Mr. Allan responded, "It's fair to say that, yes." He then said Mrs. York had told him that her F.B.I. friend "had shared information with the Russian agent."

Mr. Hayman asked, "What type of information?" Mr. Allan replied, "She described the information as secret."

Mr. Bretzing testified Friday that, in the five days before Mr. Miller's arrest, he urged the agent to "unburden" himself.

The defense contends that Mr. Miller was so overcome by Mr. Bretzing's spiritual appeal that he began confessing. Mr. Miller was excommunicated from the Mormon Church early last year for adultery. Mr. Bretzing is a Bishop in the church.

But Mr. Bretzing rebuffed defense suggestions that he exploited Mr. Miller's ties to the Mormon Church to elicit a false confession.

"I believed that he had done things he knew to be unlawful and a betrayal of the country," Mr. Bretzing said, referring to Mr. Miller. "I believed from his teachings in the F.B.I. and as a youngster in the Mormon Church, he had every reason to feel guilt."

Stanley Greenberg, a defense attorney, asked "And you tried to appeal to that guilt?"

Mr. DOOLEY of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Speaker, I represent a district whose mainstay is agriculture, and for the last 4 years and now going into our fifth year our farmers are in very, very bad straits.

As a matter of fact, I would agree with the gentlewoman from Florida when she says that our farmers are the heart and soul of America. They are the heart and soul of our American values, but they are hurting; and our farmers overwhelmingly want to sell their commodities to Cuba. As a matter of fact, they have sold $73 million of commodities to Cuba in the last 6 months. Those have been cash sales, and Cuba has paid up front for those purchases.

Up until we imposed the embargo on Cuba 40-plus years ago, my farmers sold the bulk of their rice to Cuba. They lost that market when the embargo was imposed, and they have really never gotten those markets back again from any other country.

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Mr. Speaker, the other day, the Friday before last, I helped to load 250,000 bushels of my farmers' rice onto the barges in Carthersville, Missouri. It was my farmers' rice, not a company's rice, my farmer's rice. And I am absolutely shocked and saddened when I hear my colleague from Florida say that any firm or farmers who sell their commodities to Cuba will be blacklisted by the democratic government that may take over when Castro leaves office, dies or is elected. That is shameful, as my other colleague from Florida said.

Let me talk a little bit about a couple of other things. The administration has recently revoked the visas of several Cuban officials who represent their trading company, Alimport. Those officials were coming to Michigan, to North Dakota, to Missouri and other States to purchase commodities for future sales; and, unfortunately, our administration said it was not their policy to encourage agricultural sales to Cuba.

If our farmers are hurting, if our American economy is hurting and we want to have an open trade policy, it is pretty hypocritical not to allow people who want to purchase our commodities to come and do so.

When we are talking about private financing, we are talking about a company entering into a private financial agreement with the country of Cuba. It is a private company. If they want to take the risk, they should be allowed to take the risk because this is, I thought, a democracy where we were free to make those decisions on our own.

Mr. Speaker, our policy towards Cuba should not be one that is based on a family feud, but rather it should be a policy based on helping the American economy and the American farmer.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know what the family feud is about, but I do know that the shameful attitude is one of standing with the dictatorship; and it is normal and I think to be expected that people, once they are free, do not want to do business with those who collaborated with a dictatorship.

Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, let me say at the start that I admire my friend from California with whom I have worked so closely on so many issues. This is one issue where we disagree, and disagree strongly.

While I would like nothing more than to see democracy and free market trade with Cuba, and while my family in Cuba would like nothing more than to see democracy and free markets and greater access to food, subsidizing trade with a regime on the U.S. terrorist list that has threatened us in the past, that is one of the world's worst human rights abusers, that gives its citizens none of the religious or political freedoms we Americans hold here dear, is not helping the Cuban people, it is only helping the dictatorship.

I have taken that constant position, whether it be in China or any other totalitarian place in the world. I wish so many of my colleagues who take that position in those countries would take that position here. Cuba can get food from almost anywhere else in the world. But the fact is the Cuban regime and its failed economic models rations the food that eventually gets to the ordinary people; and rationing food is a control mechanism over the populous.

My family in Cuba gets a ration card, and no matter how much food comes into Cuba, they ultimately can only purchase that amount that they are controlled by the government to have access to. When a government rations food, they obviously control the people because they are waiting in long lines, not thinking about a democracy or overturning a dictatorship, but waiting in long lines to get a mere subsistence.

This is a regime that goes so far as to prohibit their own citizens from privately producing its own agricultural food. It is failed economics that does not give them the hard currency to purchase food. Financing Castro, whether it is food sales or any other kinds of sales, supports the very system that actually prevents the Cuban people from getting freedoms, rights, and, yes, even food without government control.

Some of us look at the motion which I understand my colleague is doing to help farmers in his district and throughout the country, but we look at it and say ultimately it finances oppression, totalitarianism, and I do not think that we can count on the regime to honor its debt. This is not about the private sector simply taking risks on their own because maybe we can make an argument for that, that if the private sector wants to take the risk, they should have the opportunity. If they lose, they lose.

But under this instruction and the Senate's provisions, in fact, the Federal Government's different programs of financing can finance the food sales. Therefore, it is not the private sector making their market decision, it is the taxpayers of this country ultimately who will lose when Castro, who has a long history of not paying debt, ultimately does not pay. That is, I think, a poor statement for American taxpayers to be subsidizing a regime, a dictatorial regime, that ultimately controls its people by rationing its food.

Mr. Speaker, I think what we need to do is deal with the Freedom to Farm Act which was a catastrophe for the farmers. Let us not foot the bill for oppression and dictatorship, and let us not allow the Cuban people to be controlled by food rationing. Let us stand with them against dictatorship and against the motion.

Mr. DOOLEY of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to provide some clarification, the motion and the Senate language retains section 908(a) which has the prohibition that does not allow for any public financing or assistance in the sale of products. So when Members are making contentions that this is going to result in a subsidization of trade and allow for public financing, this amendment does nothing of the sort because it retains the language in section 908(a).

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I want to first of all state my admiration for the sponsor of this motion. This motion is a promotion of democracy. It is for free trade and it is to replace a 40-year-old failed policy with a new idea on foreign policy.

As a new Democrat, as a member of the Cuban Working Group which is a bipartisan group of Members of Congress, I rise in strong support of this motion.

Mr. Speaker, unilateral sanctions on humanitarian products such as food and medicine have been ineffective, totally ineffective, in trying to influence and change the Cuban Castro regime for the past 40 years.

This motion is not even a motion to remove the embargo, which 85 percent of Americans would probably support, this motion simply lets the private sector move forward without restrictions for our agricultural community to do trade with Cuba. This is modest. This is a small step forward for freer trade and replacing a failed policy.

Unilateral sanctions have failed, and they have hurt our farmers across the board. It is not a way to implement American foreign policy. This embargo is hurting Indiana farmers. If we somehow were to get this embargo replaced, the impact on agricultural products, fisheries, and forest products to Cuba from Indiana alone would reach an annual export rate of $29 million, and create 791 new jobs in our State. That is a good policy for Indiana and for farmers and for our economy.

Mr. Speaker, let me close with this. We now trade with Vietnam, whom we fought a war with. We trade with China with 1.2 billion people; why can we not trade with Cuba? Eleven million people, a small island to the south of Florida, do not let it be held hostage to presidential electoral politics.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH), a fighter for human rights.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong opposition to the Dooley motion to lift current human rights limitations on the financing of private agricultural sales to Cuba. While the motion in support of section 335 of the Senate version of the farm bill purports to assist American commercial interests, it is absolutely clear that the prime beneficiary would be the Castro dictatorship.

Amazingly, it seems to escape the notice and concern of certain Members of Congress that the Cuban dictator not only tortures thousands of people in Cuba, but he is also a terrorist. Cuba continues to share the dubious distinction of being named a terrorist state by the U.S. State Department, joining countries like Iran, Iraq, Libya, North Korean, Sudan and Syria, great company, and we want to trade more with these individuals?

Last year as the gentleman from Florida (Mr. DIAZ-BALART) pointed out earlier, when Castro was in Iran, and this was in the Agence France Presse, he said after meeting with the Iranians, "The U.S. regime is weak, and we are witnessing this weakness close up." He also said that Iran and Cuba, tightly together, in cooperation with each other, can bring America to its knees.

Mr. Speaker, "bring America to its knees," and we want to reward this terrorist, Castro, by trading more with him? The mention was just made that in China and Vietnam, we trade with them, why not Cuba. There has been no amelioration of human rights abuses in those countries.

I would ask my colleague, the author of this motion, has the gentleman read the country reports on human rights practices with regard to Cuba? Has the gentleman read it? No.

Mr. Speaker, I ask the gentleman and every Member who wants to lift this part of the sanction to read this. It reads like an indictment of the Cuban dictatorship.

This report points out over and over again in this 21-page, single space country report, out of the State Department, that harassment, murder, killing, beatings—if one steps out of line in Cuba, bang, they come at you and beat you with their fists. And we want to reward this dictatorship?

The gentleman from California mentioned China. China has gotten worse in its human rights. Read that report. It is over 60 pages put out by the U.S. Department of State. We cannot aid and abet dictatorship. He is a terrorist. He is a mass violator of human rights, and he would be the prime beneficiary of the gentleman's motion and the Senate language. I urge a "no" vote on this. This is wrong. It makes us, however unwittingly, accomplices in crimes against humanity.

The Government's human rights record remained poor. The Government continued to violate systematically the fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully. Prisoners died in jail due to lack of medical care. Members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners, including human rights activists. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh and life threatening. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons, and it offered political prisoners the choice of exile or continued imprisonment. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association. It limited the distribution of foreign publications and news, reserving them for selected faithful party members, and maintained strict censorship of news and information to the public. The Government restricted some religious activities but permitted others. The Government limited the entry of religious workers to the country. The Government maintained tight restrictions on freedom of movement, including foreign travel and did not allow some citizens to leave the country. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and child prostitution were problems. Racial discrimination was a problem. The Government severely restricted worker rights, including the right to form independent unions. The Government prohibits forced and bonded labor by children; however, it required children to do farm work without compensation.

Mr. DOOLEY of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion is not about condoning any of the human rights abuses or any of the infringements upon personal freedoms in Cuba.

Those of us who are advancing this policy and this motion believe very strongly that a policy of engagement is one that is going to do more to improve the situation in Cuba, just as many of us believed when we were advancing a policy of economic engagement with China, it was a policy that was going to result in improvement in religious freedoms and human rights that are so important to the citizens there.

Mr. Speaker, many of us would take exception to the characterization that in our offering of this motion, we are actually working to the detriment of the interest of people in Cuba and elsewhere.

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Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in favor of the motion to instruct conferees. I rise because I represent a lot of farmers in California, farmers who traveled with me to Cuba a month ago, people who want to sell what they grow to the Cuban Government, to the Cuban people. The irony is that it is not the Cuban Government that will not let them sell it to them, it is our government.

That is why they are asking us to instruct these conferees to lift what they consider just un-American restrictions on their ability as businesspeople in this country who grow food for people, regardless of their political affiliation, and see that that food can be sold to Cuba. In fact, the rice farmers from California and the wine grape growers from California that were with us indicated that they had sold, the rice growers had sold rice to Cuba, were very pleased with the sale, had gotten paid in a timely fashion and President Castro asked them right across the table, "I'll buy a billion dollars more of American product if you will get your licenses to sell."

So that is what this is about. It is about getting the ability for American farmers to sell their crops. What does it mean to a place like California? We looked at what we could trade in Cuba. It comes out to about $98 million in lost trade of the products that we produce in California that we could be selling to Cuba. About $280 million would be to agricultural-related industries. Cuba is a market for rice, feed, grains, oilseeds, beans, wheat flour, animal products, fertilizers, forest products, herbicides, pesticides and farm machinery. Many of these products are big business in California.

Currently with restrictions, the U.S. has had $35 million in sales to Cuba in the last 3 months. So the interchange is happening, but it is a very difficult one. I would just ask, and there is a lot of emotion in here, but I cannot understand why people would care if President Castro gets credit for feeding hungry children. My God, our country can rise above that and start helping 11 million people eat.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BURTON), who knows that Castro has never been elected to anything, much less that he deserves to be called Mr. President like the prior speaker called him in an embarrassing, shameful way.

Mr. BURTON of Indiana. Mr. Speaker, let me just say to my colleagues, Fidel Castro can buy products from the United States today, and he has been. But he has to pay cash. And what we want to do with this, what you want to do with this motion is you want to allow him to get credit.

Let me just tell you what credit he has honored in the past. He owes $120 million to Spain. No payments. They are trying to restructure the loan. He owes $170 million to France. He defaulted on $10.5 million. They are trying to restructure that loan. He owes $20 million to Chile. No payments on that. $400 million to Mexico; past due, but they are trying to restructure the loan. If he wants to pay cash, he can buy it. But the reason he wants to get credit is because he knows long term that he is going to be able to get out of the debt. And ultimately, I think my colleagues who have made this point in the past are accurate; it will be borne by the taxpayers of America. The money will be borrowed and eventually when it gets up to such a level, the financial institutions that lend it are going to be complaining to high heaven and the government will bail them out. And so henceforth the taxpayers of the United States will be paying for the food that Castro gets.

Let us look at what Castro is. He is still a terrorist. He is working with the FARC guerillas in Colombia. They are selling heroin and cocaine by the carload to American youth. And they are terrorists. They are kidnapping and killing Americans down there, and they are holding them hostage and he works with them. They even wear Che Guevera hats, berets, because they support Castro. They go back and forth to Cuba on a regular basis. He is not for democracy. He is not for human rights. He supports terrorism, and now he wants credit from the United States.

The fact of the matter is, my colleagues, we should not be giving it to him. I have businesspeople in my district that have come to me and say, "We want to do business with Fidel Castro." My answer to them is, when Fidel Castro starts allowing democracy in Cuba, when he starts allowing human rights, when he starts taking steps in the directions that we believe ought to be taken, then we will consider those things. But so far Fidel Castro has done none of these things. He goes around the world condemning the United States, saying he is going to bring us to our knees and we want to kiss him on both cheeks. I think that is a mistake. Until we see a manifest change in Castro's behavior, we should not be giving him credit. If he wants to buy American products, let him pay cash. Let him pay cash. And when he starts showing some changes in human rights and moving toward democracy, we will start looking at credit.

Mr. DOOLEY of California. Mr. Speaker, I yield myself such time as I may consume just to make a couple of observations. I find it remarkable that some of my Republican colleagues have so little confidence in our private financial institutions that they do not think and trust that they will do the due diligence in terms of making a determination on the ability of an entity within Cuba to make good on the loans that they might offer in order to finance a sale of U.S. products into Cuba.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I rise in support of my good friend's, the gentleman from California, motion to instruct our conferees to agree to the Senate provisions repealing the existing restrictions against the use of American private sector financing of our agricultural exports to Cuba.

It is high time that we bring our trade policy with Cuba, a market with solid potential for a number of job-creating export industries, in line with the fundamental principles and objectives which govern our trade policy with the rest of the world. I for one as a matter of principle have never been a supporter of unilateral sanctions as an effective instrument of United States foreign policy. Such actions also often cost us shares in foreign markets. Other colleagues have also raised morally principled concerns on the inclusion of food in any sanctions policy. I am proud that this body has already moved in a bipartisan manner to exclude agricultural products from our embargo against Cuba. It was a step in the right direction to bring an outdated 20th century policy into the 21st century, a policy which has obviously not achieved the desired results and is ridiculed by our friends and allies across the world.

However, that small step was followed by a step backwards, when we excluded our own financial community from being able to provide financing to our own private sector. Our embargo has already cost our businesses and consumers billions of dollars. Do we really want to send American businesses who want to export American-made goods to banks in other nations?

Mr. Speaker, at a time when our economy is struggling to recover, when our farmers are facing difficult conditions, and when we seemingly find ways to take one step backward every time we take a step forward in reclaiming our global leadership and international trade, it is indeed high time we stop preventing our financial sector from financing legal exports to a $100 million market only 90 miles away from our shores.

I thank the gentleman from California for this motion, and I urge our conferees to follow the bipartisan leadership demonstrated by the other body; and let us end these sanctions on U.S. banking and financial institutions.

The SPEAKER pro tempore (Mr. OTTER). The Chair would advise that the gentleman from Florida (Mr. DIAZ-BALART) has 1¼ minutes remaining and the gentleman from California (Mr. DOOLEY) has 12 minutes remaining. The gentleman from California being the maker of the motion has the right to close.

Mr. DIAZ-BALART. I would ask the gentleman how many speakers he has.

Mr. DOOLEY of California. We have at least three.

Mr. DIAZ-BALART. Mr. Speaker, I reserve the balance of my time.

Mr. DOOLEY of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in support of the Dooley motion to instruct conferees to the farm bill. It repeals existing restrictions against private financing of agricultural sales to Cuba. It is an opportunity to help innocent people suffering under repressive regimes and truly help our farmers who are facing record low prices.

Our foreign policy must be to help, not punish, people who suffer under repressive regimes. Unilateral agricultural sanctions end up hurting the most vulnerable in a target nation, eroding their confidence in the United States as a supplier of food and as a supplier of hope. Human Rights Watch reports that the U.S. embargo has not only failed to bring about human rights improvements in Cuba, it has actually, and I quote, "become counterproductive to achieving this goal."

We are not defending the Cuban Government or its poor human rights record. We must always speak strongly against the abuse of human rights in this world. But current U.S. policy towards Cuba hurts 11 million innocent Cuban men, women, and children; and it denies our farmers a vital export market. This policy has cost America important export markets. The USDA estimates that trade sanctions reduce U.S. agricultural exports by over $500 million per year. U.S. wheat farmers have been shut out of 10 percent of the world wheat market. Soybean farmers could capture as much as 60 percent of the demand for soybeans. We need to help American farmers, but we need to help the innocent people of Cuba. We are talking about food.

I urge my colleagues to please support the Dooley motion. It makes sense. It is humanitarian and maybe in a change in policy we can help to bring about a change in a regime that, yes, in fact has abused human rights. Let us help to see if we can get this back on track.

Mr. DOOLEY of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. I thank my friend for yielding me this time.

Mr. Speaker, I want to thank the gentleman from California (Mr. DOOLEY) for showing the leadership on this important issue. I rise in support of the motion to instruct to adopt the Senate language to lift the embargo that has existed against Cuba all of these years. A sensible and fair trade policy is an essential feature of economic growth in this country, but the 40-year trade embargo against Cuba has not only been unfair, it has been a failure. Castro is still there. Yet it is our American farmers that are hurt the most by the inability to export to a country just 70 miles off from our coast.

It is time to try engagement. At a time as we live in today when we are importing oil from such regimes as Saudi Arabia and Yemen, even Venezuela and even Iraq, to claim that we should not be trading with Cuba is the height of hypocrisy. Yet what is funny about this whole debate is the American people have been way out ahead of policymakers in this country, especially Presidential candidates as they go down to Florida and to the opposition to this very motion. In fact, in a recent poll conducted on this very issue, over 85 percent of the American people think that the United States should end all restrictions on the sale of food and medicine to the island of Cuba. And a majority of Members now are on record on repeated occasions of supporting lifting the embargo. The most recent vote in the House came down to a 301 to 116 opinion to lift the embargo. The most recent vote in the Senate passed 70 to 28. These votes indicate that there are veto-proof majorities in both the House and the Senate to deal with this issue. Yet it for too long has been tied up in Presidential electoral politics in the State of Florida. A majority of both the House and the Senate agriculture committee members favor lifting these restrictions. And even a majority of the conferees existing on the farm bill today favor lifting the restrictions. It is time to end this unfair trade policy. It is time to try engagement and let the sunshine in and also help the American farmers in the process. I thank my friend for his leadership.

Mr. DOOLEY of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise in support of the Dooley motion. Let me just say that I rise in support of what is best for America. As Americans, we have been negligent. We have allowed for this policy to be hijacked. It is now up to us to really look in terms of what is happening and begin to do the right thing. Nothing brought this to light any better than the situation with Elian, the young man who, when we saw that situation, it brought to light the fact that we need to begin to do the right thing. The right thing is to begin to trade.

When we look at American support as indicated earlier, there is support there for the sale of food and medicine to Cuba. An October 2000 public opinion poll found that over 85 percent of Americans support that. And so it is about time that we begin to do the right thing. The majority of the Members of this Congress have repeatedly voted in favor of that measure. But it continues to be hijacked. A majority of both the House and the Senate agriculture committees support unrestricted food and medicine sales to Cuba. The embargo prevents U.S. businesses from doing good business, and it does not make any sense. When we look at it and say we expect them to have an electoral process and vote, I believe that strongly. But if you hold that to every single country that has a dictator or has other forms of government that do not elect their officials, we would not be having too much trade throughout this world, and it does not make any sense.

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The other most important thing we need to remember is that when it comes to our national security, I have always said we should act unilaterally and act as quickly as possible. But when it is not in our interests in terms of national security, and I sit on the Committee on Armed Services, and I have never been given information in terms of the threats that are out there. Our major threats come from other countries.

So when we look at that, we ought to act in a multilateral perspective and reach out to Latin America. All of Latin America has always questioned why do we have this policy that is irrational and blinded.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. OTTER). The gentleman from Florida is recognized for 1¼ minutes.

Mr. DIAZ-BALART. Mr. Speaker, with regard to a couple of points made by the colleague who just spoke, he said that he has heard, and he is on the Committee on Armed Services, of no threats by the Cuban regime. Obviously he has not heard the debate that has gone on for one hour, because my understanding was that 17 spies were convicted or arrested in the last couple of years. No other terrorist state has had anywhere near that many spies arrested, in some instances, for spying on U.S. military installations, which is something that goes counter to national security. The highest ranking spy in the Defense Intelligence Agency, my understanding, is that spy was arrested for spying for the Cuban terrorist state, and that would be contrary to national security. My colleague said he never heard of anything along those lines, so I am glad we had this opportunity to inform him.

Our law is clear. Normalization requires freedom for political prisoners, legalization of unions, the press and political parties, and the scheduling of free elections. Now, if you ask the American people a question, do you support those three conditions for normalization, do you support in this hemisphere that all people should have the right to free elections and to no political prisoners and to freedom for political parties and labor unions and the press, I know what the answer to that question would be. It would be overwhelmingly supported. So it all depends on how you ask the question.

This Congress has always stood in favor of free elections and freedom for the political prisoners and freedom of political activity and free speech in effect for the Cuban people. Cuba, as has been said before, is in this hemisphere. The international law and inter-American law requires democracy in this hemisphere. It states that representative democracy is the only form of government in this hemisphere.

Cuba remains in this hemisphere, despite what some would like on the other side of this debate. It remains in this hemisphere, and the Cuban people deserve our continued solidarity, and not financing for the terrorist regime, which is what in effect this amendment would make possible. So vote down the Dooley amendment.

Mr. DOOLEY of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I respect the sincerity and passion of the gentleman's opposition to this amendment, but I think at times the rhetoric has probably gone beyond the issues that are at hand here.

This amendment, what we are talking about really relates solely to the sale of food and medicine from the United States to Cuba. Currently we allow for the sale of food and medicine to Cuba, but we require that it be paid for in cash, or the U.S. interest that is selling the food and medicine to Cuba would have to secure financing from a third party country. All this amendment does is says that a sale of U.S. food and medicine to Cuba can now be financed by a private institution in the United States.

That is what this debate is all about. It is about how we can facilitate the sale of U.S. agricultural products that are important to provide the sustenance to a lot of families in Cuba. It is about how can we facilitate the sale of U.S. drugs to a lot of the families in Cuba by providing an element of private financing.

I just want to clarify an issue that was brought up at times saying this will allow for the public financing of goods to Cuba. This bill does not do that. In fact, it retains the language that I wanted to read into the record, which is section 908(a). It says, "In general, notwithstanding any other provision of law, no United States government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees shall be available for exports to Cuba or for commercial exports to Iran, Libya, North Korea, or Sudan."

My colleagues need to fully understand that, again, what we are talking about here is simply a measure that will provide for the ability to provide for private financing of food and medicine.

There was also some contention made, well, why do we need to be providing for the U.S. be able to provide food and medicines to Cuba? They can get those from other countries. But what is clear is if the United States wants to have the most influence into Cuba, is that we need to enhance and expand upon our interaction and our engagement. That is what this measure will do.

I ask my colleagues to support this measure. It is a step forward in terms of providing greater economic opportunities in many sectors of our economy, and also is a step forward in ensuring that we will have a positive form of economic engagement which can make a difference in the quality of life of the residents and citizens of Cuba.

Mr. FARR of California. Mr. Speaker, I rise today to support my good friend from California and his motion to instruct the conferees on the Farm Security Act, which would repeal the existing restrictions against private financing of agricultural sales to Cuba.

Mr. Speaker, at issue here is whether we want to help American farmers, or leave in place restrictions that are costing them millions of dollars each year. Given that the national farm economy is depressed, it is important that we do what we can to help American farmers and their families. With one simple adjustment in our policy, we can help them recover billions of dollars in lost trade. According to a recent study, U.S. farmers are losing close to $1.26 billion in agricultural exports and about $3.6 billion in exports related to agriculture because of these restrictions.

The U.S. Senate has taken the first step in easing agricultural trade restrictions, and the House of Representatives should follow. The Senate position has garnered wide support from a broad array of agricultural interests. The National Farm Bureau, the USA Rice Federation, the dairy industry, wine sellers, all support lifting the restrictions. The California Farm Bureau supports lifting restrictions because it knows that California agriculture stands to reap great benefits from trade with Cuba. Up to $98 million in agricultural products, and $287 million in related sales could be generated, simply by lifting the restriction on private financing.

The Cubans are ready, willing, and able to purchase our goods. They have stated publicly that they would buy over a billion dollars' worth of agricultural goods if we would only lift restrictions, and help expedite licenses to allow them access to the same lending terms to which other countries have access. Let's help the American farmers. Let's trust them manage their own business and their own risks. Lifting the restrictions would give them this freedom.

This is a simple vote, will we agree to instruct the House conferees to agree with the Senate—which has already realized the necessity of this change in policy—or do we continue with a failed policy, which helps no one and hurts American farmers? I urge my colleagues to support this move, and vote "yes" on the Dooley motion to instruction the conferees.

Mr. PALLONE. Mr. Speaker, I rise today in opposition to the H.R. 2646, the motion to instruct conferees on the Farm Security Act to repeal restrictions against private financing of agricultural sales to Cuba.

Doing business with Cuba means doing business with Castro, it is that simple. So long as Cuba's dictator maintains his stranglehold on every aspect of Cuban life, lifting any aspect of the embargo would mean subsidizing Castro. The truth is that Cuba can get food from almost anywhere in the world. However the Cuban Government chooses to ration the food that it does receive and even goes as far as to prohibit its citizens from producing their own. Under Castro, every aspect of the economy is controlled by the Cuban Government. In Cuba there is no such thing as free enterprise. By sending our products into Cuba, we are only giving Castro the symbolic victory and propaganda he craves. By sending our agriculture products into Cuba, we are only providing assistance to a dictator and a terrorist.

The Cuban Government is characterized by its systematic trampling of civil rights and political freedom, the killing of civilians, the subhuman conditions of its prisons and by a legal system that perpetuates the violation of human rights. According to Amnesty International, no other country of Cuba's size has held so many political prisoners for so long under such inhuman circumstances of atrocity and terror. These atrocities are not some far off history of a generation ago. They are happening today, in jails closer to Miami than we are to my home in New Jersey.

By lifting these sanctions with nothing in exchange from the Cuban Government—no free elections, no commitments on human rights, no civil liberties—we are betraying the very people that this embargo was designed to help. Mr. Speaker, I urge my colleagues to oppose H.R. 2646 and to remain steadfast in their support for the Cuban people.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. DOOLEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DOOLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Mr. BACA. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BACA moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 2646, an Act to provide for continuation of agricultural programs through fiscal year 2011, be instructed to agree to provisions contained in section 452 of the Senate amendment, relating to restoration of benefits to children, legal immigrants who work, refugees, and the disabled.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BACA) is recognized for 30 minutes.

GENERAL LEAVE

Mr. BACA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my motion to instruct on H.R. 2646.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BACA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by thanking the Congressional Hispanic caucus, the gentleman from Texas (Mr. STENHOLM), the gentlewoman from North Carolina (Mrs. CLAYTON) and a bipartisan group of colleagues for working so hard within the conference committee to restore food stamp benefits to working, taxpaying legal residents, and I state, to taxpaying legal residents.

We all agree that the time has come for Congress to ensure that all legal residents are eligible for food stamps. America provides aid to hungry people all over the world, yet we do not take care of everyone who needs it right here at home.

Children of legal immigrants to our Nation are starving. It is as simple as that. With the passage of welfare reform in 1996, almost all legal immigrants lost food stamp eligibility. In 1998, Congress realized it had gone too far. But it only restored food stamps to benefit kids and elderly who arrived in our country before 1996. Thousands of immigrants who arrived here in the last 5 years will never receive any help from us for their nutritional needs.

The current law does nothing to help them feed their children, many of whom are United States citizens. Let me say that again, many who are United States citizens. Kids who are United States citizens are starving under the current law. This must stop. It can stop with us.

This motion instructs the 2002 Farm Security Act conference to restore much-needed food stamp benefit to legal, permanent residents. I state, to legal, permanent residents. It would allow legal residents who have been in the United States for 5 years to apply for food stamps if they are low income. This is what the President has proposed. I state, this is what the President has proposed.

It would allow children to be eligible for food stamps, regardless of when they entered the United States. This provision is also contained in the farm bill that the Senate brought to the conference committee. It would reduce the current requirement that an immigrant accrue 10 years of working history to qualify for food stamps to 4 years of work to qualify.

Why should all of us support this motion? Because it makes sense, both fiscally and morally, and because strong bipartisan support already exists for restoring food stamps to legal immigrants.

Support for restoring benefits crosses ideological and partisan lines. President Bush's 2002 budget includes a proposal to restore food stamps to legal immigrants, and I state, to legal immigrants, who have lived in the United States for 5 years. Newt Gingrich even stated that the restrictions on legal immigrants' eligibility for food stamps were one of the provisions in the welfare law that went too far; that went too far. Members from both sides of this aisle in both Chambers support restoration.

Also the children's restoration is very inexpensive. It is already built into the $6.4 billion allotment for the nutrition title. The cost is $200 million. That is a small price when compared to the entire $150 billion farm bill.

Restoration of the food stamps to immigrants with significant work history costs nothing. CBO scored the enhancement at zero. It will simplify the process and help people at no cost to the taxpayers, at no cost to the taxpayers.

Immigrant children need food stamps. Children, more than any other group, need access to healthy diets. I state, children, more than any other group, need access to healthy diet.

Research indicates that children who do not receive adequate nutrition have poor health development. We talk about imposing performance standards on kids in school, but how can kids perform when they go to school with an empty stomach? It is very difficult to perform if you have an empty stomach. Section 452 of the Senate farm bill and the alternative of the gentleman from Virginia (Mr. GOODLATTE) include this provision for children.

Immigrant children are twice as likely to live in homes where parents pay more than 50 percent of their income in rent. We will make sure that poor kids receive the nutrition they need to one day lift themselves out of poverty, and I state, to lift themselves out of poverty.

Restoring benefits to immigrant children will help with this effort to reach citizen children. Over 85 percent of immigrant families have mixed status, households that include at least one citizen child. Confusion about eligibility and fear about their immigrant status has caused these hard working parents to stay away from the program, even when these kids are eligible, and yet it affects their daily lives as they are going to school.

Our current anti-immigrant food stamp program causes that fear. These are American citizens, American children we are talking about, yet they do not have access at the same time that kids who are born citizens. According to USDA from 1994 to 1998, 1 million citizens of immigrant parents left the food stamp program, representing a 74 percent decline for this group. It is time that we helped these American children.

Working immigrants need food stamps. Low-wage working immigrants should be granted access to food stamp as work support. Legal immigrants are just as likely as natives to work, but they are two times as likely to be poor. Forty-three percent work in jobs paying less than $7.50 an hour, and wages have risen more slowly for immigrants than natives over the last decade.

This motion builds on principles already established under the current law. Currently legal immigrants, individuals or couples that can show a combined work history of 10 years, are exempt from food stamp restrictions on legal immigrants. The notion behind this exemption was that no family with a demonstrated work history should be prohibited access to critical work support.

The Senate bill builds upon the principles of fairness, and so should we. I state, the Senate bill builds upon the principles of fairness, and so should we. It would allow low-income individuals or married couples that can demonstrate, and I state, that can demonstrate, a combined workforce history of 4 years, to begin food stamp eligibility. Four years of work is measured by earning 16 quarters of earnings under the Social Security system.

It is time that all hard-working, tax paying, and I state, hard-working, tax paying residents of this country, are eligible for the same benefits in times of difficulty. Many of our veterans who served are legal permanent residents. This would allow them also to be eligible as well. When tax day rolls around, it just is not for us to ask people, are you a citizen or not?

□ 1615

We should not. When deciding whether to help and feed our children, we should apply the same law, not just when we need it for taxes, but at the same time, when applying the law to feed our children.

We need the President to pick up the phone and say, get it done. We need his leadership now. This is about fairness; this is about our children.

Mr. Speaker, I retain the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I claim the time in opposition, and I yield myself such time as I may consume.

As the chairman of the Subcommittee on Department Operations Oversight, Nutrition, and Forestry of the House Committee on Agriculture, I have been charged with the responsibility for attempting to work out this very difficult issue, and I commend the gentleman for his interest in the issue and for his efforts on behalf of people who are in need. However, I must strongly oppose the motion to accept the Senate language here, because to do so would be irresponsible.

The fact of the matter is that while there are certainly people here who are in need of assistance, it is definitely not the case that everybody that the Senate language would cover would fit into that category, and it is also not the case that the people that would be covered are as described by the gentleman.

For example, he refers to tax-paying legal residents. Well, it is not a requirement under the Senate language that the individual have ever paid a penny in taxes in order to receive these benefits. It only requires that they have been in this country as a lawful, permanent resident for 5 years. The fact of the matter is that some people who have been here for 5 years and may have been taxpaying, contributing members of our society and who, as a result of some misfortune, have fallen on hard times and need to receive food stamps, a good case could be made, as has been made by the President of the United States, that some individuals who have been here 5 years should receive them.

But the problem with the Senate language is that it has no definition of that. It does not say you have to have been a taxpayer; it does not say that you had to have been employed for a certain period of time.

Many people are not aware, but the fact of the matter is that a number of noncitizens receive food stamps right now. Children, the disabled, refugees, permanent residents who have been in the United States for more than 10 years and have 40 quarters of work history are just some of the categories for which people can receive these benefits right now.

The President has said that he would like to see that expanded. However, in making that expansion, we have to do it responsibly. We cannot just open the door and not say that there is no standard to be met, no criteria, such as having been a taxpayer, having had a work history, particularly for people who are able-bodied and are between the ages of 18 and 60, for example. Or we need to look at how long this should be allowed to be provided, because, for example, somebody who has been a lawful, permanent resident of the United States after they have been here for 5 years in that status are eligible to apply for United States citizenship; and when they do so, they then can receive the same benefits as any other American citizen.

There is a problem with that, however. The Immigration Service does not work very well. Sometimes it takes a long time for an individual who has qualified, met this 5-year criteria, that everybody has specified, the Republican conferees, the Democratic conferees, the President, have all talked about 5 years of lawful residence. But once you get to that point and you wanted to apply for citizenship to be treated exactly the same as any other American citizen, you cannot always get that done quickly. So we put forward a proposal that said that if you were to reach that point, that you would be entitled to 2 years of food stamps if you had a work history to support that.

The fact of the matter is that in 2 years' time, the vast majority of people who apply for citizenship would be processed and become citizens. We do not require you to become a citizen. If you do not wish to do so, then you had the opportunity to receive those benefits for 2 years anyway.

The point is that all of these things are in negotiation between the House conferees, the Senate conferees, and the White House to do the responsible thing, to do what recognizes the needs where they exist and provide them as the offer that the House conferees made, which included something the Senate conferees did not include in their most recent offer to us, which is for children, for disabled individuals, and for refugees to receive food stamps. Those are certainly areas that should be covered. But it should not be a blanket coverage where anybody gets it whether they have ever contributed anything or whether they have simply come to this country, stayed here for a period of time, and now want to receive government assistance.

So I would urge my colleagues to restrain themselves from saying that just because the Senate has put something out there that we should naturally rush to it. No, we should discuss this with the Senate, we should discuss this with the White House, we should work out a responsible plan, and that is what we are in the process of doing, and this motion to instruct the conferees, which is nonbinding, but nonetheless is an attempt to, I think, make a political statement is not helpful to that process; and I would urge my colleagues to defeat it.

Mr. Speaker, I reserve the balance of my time.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank the gentleman from California for yielding me this time. I commend him for his leadership and the leadership of the Hispanic Caucus in this conference in bringing up this important motion to instruct.

Mr. Speaker, as a new cochair of the Democratic Coalition, I am pleased to rise today in strong support of the Baca motion. This motion works to ensure that those who are here legally in the United States receive basic food stamp benefits. After the implementation of the 1996 welfare reform legislation, most legal immigrants lost their access to all welfare benefits, including food stamps. Although legal immigrants represent only about 6 percent of those on public aid, they took the brunt of the cuts made by the welfare law.

Many of those who lost benefits were people who could not support themselves. They were too disabled, too old, or too frail to work. Further, research has shown that since this legislation was passed, many immigrant children have experienced increased difficulty in obtaining the resources to purchase nutritionally-adequate food. The motion before the House today would restore food stamp benefits to legal immigrants.

Support for restoring this benefit crosses idealogical and partisan lines. A report issued by the bipartisan U.S. Commission on Immigration Reform, subsequent to the welfare law's enactment, recommended against denying benefits to legal immigrants solely because they were noncitizens. In fact, President Bush's 2003 budget includes a proposal to restore food stamps to legal immigrants who have lived in the United States for 5 years; but now, that is being blocked by the Republican majority in Congress during this conference meeting.

As a New Democrat, I believe it is essential to support our legal immigrants. Our welfare reform law broke the long-standing agreement between future citizens and their adopted homeland. Legal immigrants share the same responsibility as citizens. They pay taxes; they serve in the military. Many, if not all, are working hard to become full-fledged citizens. The United States has always embraced legal immigrants who enrich our culture and work hard to make our Nation stronger; but just like anyone else, immigrants can sometimes fall on hard times. We now have an opportunity to do the right thing and reestablish the contract between legal immigrants and American society. I urge my colleagues to support this motion.

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Wisconsin has accurately stated that the President has put forward a proposal providing food stamps for noncitizens beyond those who already have them now. The gentleman from California, in his earlier remarks, said that the proposal that he is asking us to adopt here was the proposal that the President supported, and that is not the case. He has put forward a different proposal.

At another point in his remarks he also made reference to the fact that this would be at no cost to the taxpayers. I did not follow that at all. This is a $2.485 billion cost to the taxpayers of this country, and I think people need to be aware of that.

Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, in 1996 we had much of a similar debate on an issue of this nature. We debated the whole concept of welfare and determined that some change had to be undertaken. After several attempts by this body, by this Congress, to pass legislation, in fact, they did; the previous President had vetoed it a couple of times and eventually he got on board with it and decided that, in fact, it was a good thing. It has proven to be a very good thing. It has proven to be even more successful than many of the folks who had originally supported it could hope for.

The numbers of people, as we all know, on welfare have gone down dramatically. Percentages in some States have gone down so dramatically that it boggles the imagination. Somewhere around 70 and 80 percent the caseload has been reduced subsequent to the 1996 act. A lot of people say it has everything to do with the economy being better. But historically we can look at it and find out that over the past century, as a matter of fact, and at least for the past 6 years when we have had a much more intensive welfare program in the United States operating, that the number of people on welfare continued to go up. Regardless of the economic conditions in the country, whether we were in a recession or whether we were in good times, it did not matter; the number of people went up, the number of people on welfare went up. So we cannot draw a conclusion to this phenomenon based upon simply a good economy.

Now, we now know that that plan worked and the plan was to get people off of welfare. It was to do everything we could to get people off of welfare. That is a good idea. We undertook it, and it worked. Here we have a proposal to reverse that, to put more people back on welfare; and frankly, I would be opposing it if it was for a nonimmigrant family, a native American family or anybody else. It is not a good idea basically; it is not a good idea to expand the opportunities and expand the number of people eligible for food stamps or welfare in this country.

The fact is that the proposal from the Senate side goes much farther than even the expressed intent as described earlier on. One part of it actually eliminates a part of the law, or at least a concept that has been in practice in the United States for well over 100 years, and that is making someone responsible. If someone is applying for immigration into the United States, a document has to be filled out. This is it. It is an affidavit of the U.S. Department of Justice Immigration and Naturalization Service. The fourth item on this is, and this is called, by the way, an affidavit of support. It says that "This affidavit is made by me for the purpose of assuring the United States Government that the person or persons named in item 3," the person coming into the country, "would not become a public charge in the United States." Number 5, that "I am willing to be able to receive, maintain and support the persons named in item 3. I am willing to deposit a bond, if necessary, to guarantee such persons will not become a public charge to the United States."

Now, there is again a reason for this to be in the law, and a part of the law, by the way, that has been there for well over 100 years. And of course it is to not make the welfare system in any way, shape or form a magnet for immigration. I think everybody would agree that that should not happen.

Now, it is true that even under the present change that is being proposed, someone would still had to have been here 5 years; but they actually wipe out this part of the law of the Senate amendment. It says for this purpose, for food stamps for this purpose, this affidavit would not be required.

Now, I am not going to suggest here that we have been very judicious in our approach of enforcing this particular provision of the law. I do not know the last person that was actually forced to do it.

□ 1630

It is nonetheless a good idea. I have a letter from the gentleman from Wisconsin (Chairman SENSENBRENNER) to the Attorney General asking him essentially why there has not been that kind of enforcement, and what we were going to do in order to try and begin the process of enforcing this particular provision. I hope, of course, that we will.

But we should certainly not eliminate it. We should not, and whether or not we forcefully employ it is one thing, but to actually strike it out of the law and say that we would not hold anybody responsible, if one comes here with a sponsorship, no one would be responsible for the financial well-being of the person coming into the country, as, of course, has been the case, at least in the law if not in practice; de jure, if not de facto, it is irresponsible of us to move ahead to accept the Senate amendments. It is especially irresponsible to abolish this part of the law.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. REYES), the Congressional Hispanic Caucus chair.

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding time to me.

I was sitting there listening to my colleague speaking on the other side of the aisle, talking about the Welfare Reform Act that has proven to be a good thing.

I would ask him, since when is hunger a good thing? Since when is the fact that there are children going to bed hungry and going to school hungry a good thing for this country? It goes contrary to everything that we stand for.

In regard to the affidavit of support, the answer to that is that if we file an affidavit for support and someone is intending to go on welfare, then the immigrant visa will not be issued. I know about that because I spent 26½ years working in the immigration service.

But today, Mr. Speaker, I rise in strong support of the Baca motion that instructs conferees on the Farm Security Act. The House has passed the Farm Security Act without any protection in the nutrition title for vulnerable populations, and any farm bill reauthorization would be incomplete without a well-founded nutrition title that includes a clean and simple restoration of the food stamp eligibility for legal residents; again, legal residents.

I am pleased that we have united in a very bipartisan manner in an effort to restore food stamp benefits to legal residents. I believe that my colleagues on the other side of the aisle as a whole are not committed to continuing an anti-immigrant, anti-Latino, anti-family pro-hunger campaign that we have come to equate with some of those on the other side of the aisle.

However, regrettably, the House Republican conferees have been relentless in their efforts to undermine a clean and simple restoration of food stamp benefits. It is unconscionable and regrettable that some Members in this House would use this issue and the issue of hunger that is faced by the most vulnerable of our population as a political ploy and a political tool. There is no compassion in withholding food from families and from children.

I welcome the administration's proposal to extend eligibility to legal residents who have lived in the United States for 5 years. The proposal is simple and straightforward, and every Member in this House ought to support it. I agree with the Baca amendment, and I hope my colleagues vote to support it.

Mr. GOODLATTE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would respond to the gentleman, who has absolutely misrepresented the position of the House conferees, the Republican conferees, on the farm bill.

The gentleman asks how welfare reform is good if children are going hungry. The fact of the matter is, the proposal that we put forward in the conference on the farm bill provides food stamp benefits for children from day one, from the first day they enter the country. The proposal that the Senate had put forward made them wait 5 years. That is a long time to be hungry, 5 years, before they qualified for food stamps.

So to say that this is something that the House Republicans are trying to drive a wedge through is absolutely wrong, absolutely wrong, and it is the kind of partisan statement that does not promote working out a serious and complicated problem. But we have provided for children, the disabled, and refugees from the day they arrive in this country.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to support the gentleman's amendment for the House. I serve as a ranking member of the committee on which the gentleman from Virginia (Mr. GOODLATTE) serves as a chair.

There is a fundamental disagreement over this issue. The issue is, indeed, to restore to legal residents or legal immigrants the right to food stamps. In 1996, we denied that. We took them off, for whatever reason, and perhaps, as one of our speakers have said, it was to reduce the incidence of welfare. We have re-examined that on many issues. We re-examined that on children, on senior citizens, and found it unacceptable and inconsistent with our moral values and the values of America.

Now, the Senate bill has certainly a more generous provision than the President's, but we must say, the President went a great step, and I support what the President has done. He said that legal residents who have been here 5 years indeed should have the right, the full right to be restored for food stamps. It also, in the Senate bill, the Senate bill said it would be only 4 years, so there is some room between what the President said and the Senate said.

But the core of this amendment is to say that every right should be given to legal residents. They serve us well in our employment. We do not complain about that. They serve us well in our military. We do not complain about that. It would seem inconsistent with our own stated views that we would not have consistency through that.

We indeed should support this amendment. I think it is very basic. In particular, the one that the President has offered is very basic: In 5 years you are legal and you have the right. It does not say that you would try to make differentials between ages of children. It does not try to make it more complex. Becoming a citizen is complex enough. We should not make having the right to food tied to citizenship. It is unacceptable to our moral values.

Mr. GOODLATTE. Mr. Speaker, I yield myself 2 minutes to respond to my good friend and colleague from the committee.

The fact of the matter is, the President's proposal is simple, but it leaves out children who have been here less than 5 years. They do not receive anything under that proposal. We are trying, in cooperation with the White House, and we very much respect the President's efforts in this area to work that out with the President and with the Senate conferees and the House Democratic conferees. But the fact of the matter is that it is not so simple as to say, you do it for 5 years and that is it.

Now, the other thing that is critically important to recognize here is that the proposal that the gentleman from California (Mr. BACA) is asking the conference to support, the Senate proposal, does not impose any standard whatsoever on an able-bodied working adult, whether or not they have children. If they have no children, they are between the ages of 18 and 60, they have absolutely no contribution. They do not have to have worked a day since they have entered the United States. As long as they have been a permanent, lawful resident of this country for 5 years, they are able to receive food stamps. Even if they have been in the country unlawfully, they are able to get food stamps.

There is absolutely no basis for giving food stamps to people who have made no contribution to the society. So all we are asking is, impose some guidelines and we can work this out.

Mrs. CLAYTON. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentlewoman from North Carolina.

Mrs. CLAYTON. Mr. Speaker, I was about to ask the gentleman if he is suggesting that he would be willing to restate it, all the legal immigrants, plus your provision, if they had some standard? Is that a 5-year standard, a 4-year standard?

Mr. GOODLATTE. I would tell the gentlewoman, we offered a standard. The Senate did not accept that. We have been continuing to negotiate with the Senate, with the White House, on what that standard would be. Yes, we have been talking about how long an individual has to have been working, if they are an able-bodied individual.

Mrs. CLAYTON. Would the gentleman put a time limit on what a legal immigrant would have?

Mr. GOODLATTE. Absolutely. We put a time limit on it, as well.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today in support of the motion to instruct conferees of the gentleman from California (Mr. BACA) to include Senate provisions on restoring the food stamp benefits for legal immigrants.

Food stamps are a critical part of the safety net, and they are woven into helping individuals and families in time of need. This should hold true for immigrants who are legal immigrants and play by the rules and pay taxes. We are not asking for special treatment, we are asking that they be treated the same. To do otherwise would be discriminatory.

We are simply asking that legal immigrants, and we are not talking about illegals, we are talking about legal immigrants, be treated in a fair manner. Despite the calls by President Bush to provide legal, permanent residents access to Federal nutrition programs, House Republicans, conferees on the farm bill, have refused to budge.

I cannot understand the lingering biases against these immigrants. The President would allow legal permanent residents who have been in this country for 5 years to be able to get access. Why would not the conferees do that? We are talking about individuals that might be disabled, we are talking about people that might have lost their jobs, we are talking about possible children that are in need.

In too many cases, immigrant children suffer from hunger right here in our own back yards. Their parents work hard, they pay their taxes, and they play by the rules, but they are in need and require assistance. Nutrition is just the first step to a host of health and social problems.

Let us not play any more games with immigrant children. Let us treat them as we would treat anyone else. When we ask them to join us and fight in our wars, in fact, I want to share with the Members that we have over 62,000 immigrants serving in our military right now. Twenty percent of the Medal of Honor recipients are immigrants. In addition to that, of those, 19,928 are permanent residents that are still not citizens but serving our country. By the way, as we do not pay them enough, a lot of those military people qualify for food stamps, but not these particular ones.

Mr. GOODLATTE. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the gentleman has it exactly backwards. The proposal that we have put forward provides food stamps for children, the disabled, and refugees. The proposal that the gentleman refers to, section 452, only refers to citizens who have been in the country for more than 5 years. So if you are a child who has been here less than 5 years, you are not covered by the proposal of the gentleman from California (Mr. BACA).

Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, I thank the gentleman for yielding time to me.

This legislation, or this proposal, I suppose, and the opposition to this motion has been characterized as anti-Latino and anti-family. Well, in a way I would suggest that it is an insult to suggest to anyone that in fact if you are doing something here to reform welfare, that the only people who would benefit by overexposure to welfare, give out more welfare, are Latinos. That, of course, I think is an insult to Latinos.

In fact, I believe everything we do to try to stop the expansion of welfare, especially, in this case, food stamps, we are doing as a pro-family activity. I will tell the Members why I believe that.

The welfare law, the reform law of 1996 to which I referred earlier, replaced AFDC with a brand new program, Temporary Assistance for Needy Families, often referred to around here as TANF. This reform has been widely acknowledged, once again I say, widely acknowledged by both opponents of it originally and its supporters as a tremendous success leading to a dramatic drop in dependence and child poverty.

Hear that: The TANF is an improvement, a reform of the system; something that had work requirements ingrained in it, something that had a number of other activities that were required before a recipient could get help. That improvement had a dramatic drop in dependence, a dramatic drop in child poverty, increases in employment, and it slowed down the growth of out-of-wedlock childbearing.

Critics of the original program said it would throw millions of children into poverty, and in fact, the opposite has occurred. Poverty rates of black children and children in single-parent families are now at the lowest point in our Nation's history. TANF requires people to work as a condition of receiving aid.

Food stamps continue to provide a long-term one-way handout. Work requirements are virtually nonexistent, and they are nonexistent in the proposal put forward by the Senate, the one this motion is designed to have our conferees accept.

So which of us is in fact here pro-family, which of us is in fact pro-Latino, if they continually reference that as part of this debate? Is it those who would suggest that welfare, especially the handout that does not have any work requirement tied to it, is not the best thing that we can do to the people of this country?

By all accounts, by empirical evidence, it is no longer theory, we now have 6 years of evidence to show that work requirements and a different kind of philosophy with regard to welfare is better. It does reduce poverty rates. It does do better things for families.

□ 1645

So I certainly take it as a personal affront when someone suggests that I would promote something that is anti-family, anti-Latino or any of the other anti- arguments that were thrown against it. I suggest to my colleagues that it is exactly the opposite.

Creating another system of welfare without the kind of requirements that TANF has intrinsically brought to bear in this discussion is anti-family. That is what we can do to screw up families; to increase poverty is to expand this program of food stamps. My opposition to this plan is not designed to be anti-family. It is just the opposite.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, what an interesting debate to talk about welfare when I know we are really trying to talk about hunger and poverty and children and the fact that legal immigrant children should not be treated differently just because maybe they speak a different language. Maybe they have parents from another country. Maybe they even have parents who are serving this country in the military. Some of those very parents represent children in my district. They are serving us right now proudly in Afghanistan and my colleagues are telling them that they cannot have food on the table, that they are not going to get a meal even though their dad or mom is probably out there serving our country on a 24-hour watch.

That is what we are talking about. The face of these children is not someone who just came over the border, and let me further say that some of these immigrant families, a majority happen to be children. They are not all on welfare. Many of them just lost their jobs. Believe it or not, there is a recession that is going on; and in our districts where unemployment is up to 9 and 10 percent, there are people who are very hungry.

They are not looking necessarily for a free handout. They are going to have to be here for 4 years and work. They are going to have to be here to prove themselves worthy of this kind of assistance that our great country should make available.

I think immigrants come to this country because they know there is a better life here for them; but most come with the thought that they are going to be working hard, and we should justly support this motion to instruct the conferees to reinstate those benefits and allow for children as well as seniors and as well as families, working families who are in this situation now, where recession is hitting them hard, they do not have enough food to provide three meals a day.

Some are lucky enough at school, our children, that they get maybe a snack there; and my colleagues are telling them that they cannot have the opportunity to have a full stomach for tonight. I think that is a bad message to send.

Mr. GOODLATTE. Mr. Speaker, I yield myself 1 minute.

I would say to the gentlewoman that I agree with a couple of the points she made, but the problem is she has not read the section that the gentleman from California (Mr. BACA) has cited of the Senate bill that he wants us to support because that section provides nothing for children who have been here for less than 5 years.

The proposal that we put forward covers children, refugees and disabled individuals who have been here less than that time, but she also said something else that is very important.

She said people would have to have been here and to have worked in order to receive these benefits, but the proposal that the gentleman from California asks us to support has absolutely no work-history requirement in it whatsoever, whereas the proposal we have put forward has a work-history requirement.

That is what we are asking for. Do not do this blindly. Let us help the people who truly need the help, but let us not give a blank check to people who have not contributed to our society.

Mr. Speaker, I reserve the balance of my time.

Mr. BACA. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. FERGUSON). The gentleman has 12 minutes remaining.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is great to be on the floor with a distinguished colleague like the gentleman from California (Mr. BACA), and I thank him so very much for his leadership on this issue along with my colleagues.

It is equally interesting to be on the floor with my distinguished colleague from the Committee on the Judiciary, and let me frame the argument that I believe has limited merit. I do not even know why we are here arguing a point that is obvious.

It is interesting, when we were looking and debating the H-1B visas, giving benefit to individuals who would come in and give businesses opportunities for enhanced talent from other countries, we had no opposition from the other side. In fact, it was a midnight train that they passed the H-1B visas because those individuals were of a certain economic level, and no one had any anti-immigrant conversation at that time. In fact, they were rolling across those of who were talking about jobs and the opportunity for Americans to be trained in high technology.

Interestingly enough, when we talk about feeding people and making sure that families have the opportunity to apply, that is the distinction here. These are not handouts. The provisions that the gentleman from California (Mr. BACA) is supporting is simply saying that people have an opportunity to, as a legal resident, to apply if they are in need. That is a legal resident who has worked. That is a legal resident who has children. That is a legal resident who is disabled. It is a legal resident who is fighting in the United States military right now, putting themselves on the line and offering themselves so that we might live free.

When it is good for the goose, and high profile, expensive businesses, roll over the folks over here on the other side of the aisle. Vote on it when we are in airplanes, gone in the dark of night or in the late of day; but when it comes to dealing with people who are in need and they are making a point, suggesting that we are throwing food stamps all over the world, we are not. It is an application process, based upon a criteria of need; and if someone does not need it, they will not get it.

This is a sham and a shame. I think we should support the gentleman from California's (Mr. BACA) motion to instruct, and we have got to realize that legal residents are serving this country and fighting for Americans and deserve fairness and equality.

Mr. BACA. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time, and I hope that the debate is not as confusing to folks who are watching this as to those of us who are sitting here and listening.

I want to first commend the gentleman from Virginia for his effort to try to deal with this issue. I do not believe he goes far enough, but I do want to recognize that my friend and colleague from Virginia has made some efforts; and he has always, I know, in committee made efforts to try to be reasonable, and quite honestly I believe is someone who has his heart in the right place. So I want to make sure I mention that.

The issue for many of us is that the proposal that I believe the gentleman from Virginia is bringing up that conferees from the Republican side of the aisle brought to the conference for discussion while it did do a good job when it came to children, it did not do a good job for the parents of those children; and as a result, many of the conferees on the Democratic side had to oppose the proposal by the gentleman.

If the gentleman would be willing to put forth his proposal with regard to his children and the disabled and with refugees and then we work out the disagreement with regard to adults, I think we could go somewhere because I think all of us want to take care of kids. None of us want to see a child go to school malnourished, because we know from our own experience, forget about the research. From our own experience as parents, what happens if a child goes to school hungry?

So we can get somewhere, and I believe there is a fix here; but I would hope that we would not undermine the ability to help families who are working. We are not talking about families on welfare, families who are working to make sure they sustain their families at the basic level.

We are not talking about giving these folks a chance to go buy the lollipops and the Popsicle and all the extra stuff. We are talking about basic food stuffs. Remember that the people we are talking about are for the most part working American families that have not yet become citizens, but have been here for quite some time; and the study shows most of them work longer hours than do most native-born Americans.

Unfortunately, because they work in jobs for the most part that pay $7.50 an hour or less, about 42 percent of those work in those kind of jobs, they have a hard time. They are working. They do not get benefits. They have no health care. They are the people that are mowing our lawns, caring for our seniors, for our grandparents. They are the people who are caring for our kids; and because those are professions, those are occupations which we have not yet in this country come to recognize as valuable, believe it or not, caring for our kids, the people who care for our kids we pay them less than $7.50 an hour, they suffer especially during recessions.

All we are saying, let us not do it to folks who are trying to do it the right way, not by applying for welfare: working, working long hours, working two jobs. Let us help them make sure that their kids are fed decently. Let us make sure we do not make them have to miss a rent payment to feed their kids, and we could do that without causing others to suffer.

I believe this is something we can work out. We should support this motion to recommit by the gentleman from California (Mr. BACA).

Mr. GOODLATTE. Mr. Speaker, I yield myself 1 minute.

I thank the gentleman from California (Mr. BECERRA) for his kind words, and we are trying to work this out. I would say to him, however, that this motion to instruct conferees is not well geared toward accomplishing that because it only deals with the section of the Senate bill that covers the 5 years and above. It does not take care of children, refugees, and disabled individuals who have been here a shorter period of time; and so that, I think, is why this is counterproductive.

The President has also shown considerable leadership on this issue. He would like to provide assistance for noncitizens who have been here for 5 years or more as lawful, permanent residents of the United States; but the fact of the matter is that when we do that we have got to have some guidelines. We have got to have some standards of what kind of work history they need to have shown before they get it and how long these benefits are going to be available to them.

That is all we ask is to work that out, but supporting this motion to instruct the conferees moves us in the opposite direction, does not move us toward that.

Mr. BACA. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI), the minority whip.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from California (Mr. BACA) for yielding me the time and for his leadership on this very, very important issue to this Congress and to this country.

Mr. Speaker, every day our country is blessed by the coming to our great country of many, many immigrants. We are constantly, as a society, reinvigorated by their courage, by their determination, by their family values, by their commitment to community and to a brighter future in America.

Every day from the day they arrive and throughout the contributions they make to our country it is a blessing to us. Indeed, I think just about every person in this House and in this room certainly at this time is a product of those aspirations and dreams.

Then it is sad to see how those immigrants to our country before they become citizens, but while they are legal immigrants, are not valued by our country. Many of them work, and I have good news for our colleague. The gentleman from California's (Mr. BACA) motion to instruct does allow children to be eligible for food stamps regardless of when they enter the country.

So the concern that the gentleman raised that the gentleman from California's (Mr. BACA) motion does not address children and their needs is incorrect, and I know that that will be good news to him; and his amendment and his motion to instruct does address work and does have a worker requirement in it, and it does allow refugees to be eligible for food stamps without a time limit. So the concerns that he raised, saying that his motion did not address it, I am happy to inform my colleague that he does because he is asking us to agree to the Senate language.

This is really unfortunate because it is the third incident in less than 2 months where the Republicans have brought to the floor amendments or motions which are unfriendly to newcomers to our country. We saw this first during the campaign finance reform bill where one Republican Member even referred to legal permanent residents in the United States who were not citizens as potential enemies of the State.

We saw it in the debate on 245(i), which is a very important correction in our immigration bill where we only won that vote by one vote, and some Republicans did vote for it, but many voted against it and voted with the Republicans who wanted to squelch that important initiative to the immigrant community.

What we are talking about today is really about fairness, fairness to our newcomers as our ancestors had anticipated and hoped for fairness when they came here.

□ 1700

We talk about family values. Nowhere are those family values stronger than the immigrant community. We talk about living the American dream and aspiring for a better life. Those people bring courage to our country. They are a constant source of invigoration to our society, and I hope that my colleagues will support the amendment of the gentleman from California (Mr. BACA). A family of four with two wage earners making the minimum wage are still eligible for Food Stamps because the minimum wage is so low.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I thank the gentleman for bringing this motion which I support. I would just suggest that there are two things that are pretty much universal in our country that ought to support this motion. One thing that is universal is the presence of hunger in all parts of the country. The reason that I have come to the floor to share the story that I represent, in a sense, a very upscale area. There are a lot of software millionaires in my district. I represent Microsoft Corporation. But even at the height of the economic boom in the year 2000, the food banks in my area of Washington were experiencing an increase of people coming into the food bank from anywhere from 12 to 50 percent depending on what time of the year.

I think that story is an untold story across America. Even in the midst of great prosperity, we have had individuals, because we have a wage structure in this country that does not sufficiently honor work for a lot of folks, that they are still hungry.

The second thing that I think is universal in this country, or ought to be, is respect for everyone that works at every wage level. I represent a lot of people who work in software countries, many of whom are legal immigrants, who are fairly well compensated, and their work is absolutely fundamental to the American economy. But I hope Members will agree with me that people who are working in our nursing homes caring for our parents, the people who are cooking our food in our restaurants, the people who are working in the hospitals helping clean the ER rooms after surgery of our relatives, those people deserve the same level of dignity and the same level of respect and legal protection as other folks who are here legally in this country working over 5 years.

Mr. Speaker, I would submit those two universalities of this country, which are pockets of hunger, and respect for all levels of dignity of work, ought to merit that we pass this motion and do it proudly, and turn our back to the sad statement that some people have been making lately in this Chamber that legal residents somehow are unAmerican.

Mr. GOODLATTE. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, I agree with much of what the gentleman from Washington

(Mr. INSLEE) said, but the problem is when he refers to lawful citizens working over 5 years, what the gentleman is asking us to support has no such work requirement in it. I think it is certainly negotiable within the conference, within the House and Senate Committees on Agriculture that are meeting to work this out, that we could come up with a work history requirement that would be acceptable for both sides. But the gentleman from California (Mr. BACA) does not have that in the language that he refers to in the Senate bill. For that reason, I have to oppose this motion.

Mrs. CLAYTON. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentlewoman from North Carolina.

Mrs. CLAYTON. Mr. Speaker, I thought there was a work requirement of 16 quarters?

Mr. GOODLATTE. Mr. Speaker, it is an either/or work requirement. Someone can be here 5 years and never work a day, or be here for 16 quarters of work and qualify, not both. That is the crux of the matter. There has got to be a work history requirement for an able-bodied adult, and there is no such requirement in the motion.

Mrs. CLAYTON. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentlewoman from North Carolina.

Mrs. CLAYTON. Mr. Speaker, is the gentleman in favor of the 5 years if the 16-quarter requirement is there?

Mr. GOODLATTE. We certainly could work that out. The proposal we put forward was 20 quarters.

Mrs. CLAYTON. But there was also a time line? It was only for 3.5 years?

Mr. GOODLATTE. Mr. Speaker, we limit it to 2 years, I believe, in the offer.

Mrs. CLAYTON. Mr. Speaker, if the gentleman would continue to yield, would the gentleman be willing to remove the time lines and give legal residents the same right?

Mr. GOODLATTE. No, because an individual, after they have been here for 5 years is a lawful, permanent resident, and they are entitled to apply for United States citizenship. And if there is a need to have benefits extended for a longer period of time, they have that option.

Mrs. CLAYTON. Mr. Speaker, the gentleman and I both know it takes a long time and is very expensive for people to become legal citizens, and tying food and hunger to citizenship is very difficult.

Mr. GOODLATTE. Mr. Speaker, that is why we allowed 2 years. That is a very long time to apply for citizenship. Almost all of the people who apply get their citizenship within 2 years.

Mr. Speaker, I reserve the balance of my time.

Mr. BACA. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

Mr. GEPHARDT. Mr. Speaker, I urge Members to vote "yes" on this motion. There have been some intimation here that this is a political debate. This is not a political debate. It is about people putting food on their table for their family and their children.

Last week in conference, House Republicans blocked a proposal to restore Food Stamps to legal immigrants. It is a proposal that has the support of House Democrats, the Senate, and the Bush administration. It benefits over 350,000 people. It helps keep people from starving until they can put food on their table on their own, and it provides a safety net for those less fortunate and need assistance.

House Republicans sought to block it, and block it they did. This is a responsible proposal, and it is simply the right thing to do. Legal immigrants who work hard, live by the rules, pay taxes, even serve in our Armed Forces deserve access to Food Stamps. Equal treatment, fair treatment, we should be promoting these values. But instead of supporting policies that embody these values, Republican House leaders prefer to dole out subsidies to corporate farms.

In this debate, that is their priority. In this debate, this is what they decided to do. It is bad policy and it is wrong to send people a message that responsibility is a value that we are going to ignore. Legal immigrants have not had access to Food Stamps in the past 5 years. In the past 5 years, children have gone hungry as a result. This Congress should not end until we have taken action to restore Food Stamps to legal immigrants. We should reward the value of hard work. We should reward immigrant families who strengthen our economy and our cultural life. Let us restore Food Stamps. Let us get the job done this year. Vote "yes" on the Baca motion.

Mr. GOODLATTE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in response to the gentleman from Missouri, what has transpired in the conference regarding the farm bill has been inaccurately portrayed. The Senate tendered to the House a proposal that had nothing in it for the children, the refugees, and the disabled individuals that the minority leader referred to.

We tendered an offer which provided Food Stamps for noncitizens who have been here from day 1 if they are disabled, they are children or if they are refugees.

The difference of opinion between the House and the Senate conferees in terms of our proposals are that for those people who are adults, they are able-bodied, they are able to work and between the ages of 18 and 60, they ought to have some work history and be able to show that they were contributing, tax-paying members of our society; but they do not require that in the proposal that the gentleman from California (Mr. BACA) has set forth. That is why I am opposed to this motion to instruct conferees.

Mr. Speaker, I yield 2½ minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, the gentlewoman from California earlier suggested that if we did not pass this motion, that this would be a signal to people coming into the country that we were denying them the American dream.

We have gone from suggesting that some help may be needed for families here who are not employed sufficiently, to saying that essentially welfare is the American dream. That this is what we should hold out, this is the carrot that we should hold out to people, because part of the American dream is access to welfare.

We have heard continual references to the degradation that would be the result of nonpassage of this motion and continuing the process of restricting Food Stamps to people who are not citizens for a period of time. But listen to what degradation, in fact, occurs. This is all documented. The reports from which I quote are reports that are available to anyone in this body. Again, they are empirical information. It is not something that we just make up or theorize about with regard to the effects of especially Food Stamps.

"The traditional welfare system comprised of programs such as AFDC, Food Stamps and public housing dramatically undermined work ethnic, reduced employment and generated long-term dependence. For example, the Seattle-Denver Income Maintenance Experiment, a massive controlled experiment on effects of welfare conducted in the early 1980s, showed that for each additional dollar of welfare aid led, on average, to a reduction of employment and earnings of 80 cents. These anti-employment effects should apply to cash as well as noncash aid."

Mr. Speaker, this is what we are trying to avoid. I suggest, and I must say that I would go further than the gentleman from California. I do not believe that Food Stamps are an improvement on one's condition. I do not think it is a good thing. I would be opposing an expansion for any group; but I guarantee, it is not a good thing for the people that we are identifying here. As all empirical evidence suggests, welfare, especially the old AFDC program and Food Stamps, are degrading.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first I commend the gentleman from Colorado (Mr. TANCREDO) for his contribution, standing up for welfare reform. This was a tremendous triumph, a bipartisan triumph, a law signed into effect by President Clinton, that was pushed by the

Republican Congress, supported by a great many Democrats, and he is simply, and I agree with him, trying to avoid unnecessary erosion of an important principle, and that is we should be giving people a hand up rather than a hand out.

Mr. Speaker, with regard to the motion to instruct conferees, the Republican offer in the conference is to give people a hand up and to help those people who are most in need: Children, the disabled and refugees. We also make Food Stamps available for others if they have a work history, and we make it available to them for a limited period of time.

What the gentleman from California is asking the House to accept in terms of what the Senate put forward does absolutely nothing for children who have been in this country for less than 5 years.

□ 1715

Secondly, it does not impose a work requirement that is not independent of the 5-year standard. In other words, what he is asking us to say is you can either have worked or been here 5 years, one or the other. You do not have to have both. That is not the position of the President of the United States, that is not the position of the House conferees, and it should not be what this House adopts as we take these negotiations forward.

I urge my colleagues to oppose this motion to instruct conferees and let the negotiations go forward in a good-faith way to come up with something that is fair to those people who are truly in need but does not give a blank check to people who have not contributed to our society and, therefore, have no work history to justify receiving these benefits.

Mr. Speaker, I yield back the balance of my time.

Mr. BACA. Mr. Speaker, I yield myself the balance of my time.

First of all, I thank the gentleman from Virginia in reference to the debate, but I think he has not really read the bill and does not have his facts together. The bill itself and the instructions do have a work requirement. Apparently he opposes the President's proposal that actually states this, and it does have a work requirement. And no individual is eligible unless they have demonstrated that they have worked. So a lot of false statements have been made here. And these people have contributed to our society. They have. These are legal, permanent individuals who have contributed to our society, who have worked, are working citizens, are taxpayers who have contributed. These are individuals who are veterans and children who deserve assistance.

This is about meeting our needs. This is about allowing legal immigrants who are in the United States for 5 years or more to have the opportunity to apply for food stamps if they are low income. This is the President's proposal. It allows children eligible for food stamps regardless of when they enter the United States. So we talk about not offering to children, yes, we are offering to children. Yes, we are providing assistance to them.

And then it does cover the work requirement, too, as well. This restores the disabled opportunities to apply for food stamps, regardless of the date that they entered. I believe that we have the responsibility to all of us in America to provide assistance for many of our children. We want to make sure that our children are not starving and that our children have an opportunity to go to school on a full stomach. This is the right course. We should support the restoration of the 5-year plan, the plan submitted by the Senate that basically tells us what we should be doing in complying, in helping and assisting many individuals throughout our country.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong support of the Baca Motion to Instruct the Farm Bill Conferees to adopt the Senate provisions that provide eligibility for food stamps to lawfully present, hard-working immigrant families in their time of need.

Legal immigrants are individuals who have played by the rules. They work hard and pay taxes that support the food-stamp program to which they may be denied access if Mr. BACA's motion does not pass.

The fact is that many legal permanent residents lose their jobs because they work in industries hit hardest in times of economic downturn and as a result, lack the finances to buy food for their families.

When you consider that more than one in five low income children belong to legal immigrant families, it is even more unconscionable that in their time of need, they will be denied the most basic of safety-net programs.

As the world's wealthiest nation, it is inexcusable that a high rate of hunger exists among low-income legal permanent resident families living in this country.

We must not allow this tragic situation to continue. No one in this country, especially innocent children, should go hungry.

Therefore, Congress should follow the President's lead and expand access to the food stamp program for these hard-working, legal residents and their children.

Support the Motion to Instruct.

Mr. HINOJOSA. Mr. Speaker, I rise in support of the motion by the gentleman from California, Mr. BACA. Each day in this country, thousands of children go hungry because their families are ineligible for food stamps. Many of these children are American citizens and many are legal permanent residents.

No matter their status, or the status of their parents, there is no excuse for denying children access to food.

No doubt many Members on the other side of the aisle will oppose this motion. They want to make it impossible for hard working, taxpaying U.S. residents to feed their families just because they are not yet full citizens. We are not talking about people who have come to this country illegally or people who refuse to work.

Legal permanent residents, like our parents and grandparents, have followed the rules and come to America to work for a better life for their families. They serve in our military and in their communities and continue to make this country a vibrant, diverse nation that is the envy of the world.

Despite support by the Administration for benefit restoration, House Republicans continue to stall the Farm Bill conference by opposing help for minorities and the poorest among us. This is wrong, it is unfair and it is not in keeping with the spirit and ideals this nation was founded upon.

I urge my colleagues to support this motion and yield back the balance of my time.

The SPEAKER pro tempore (Mr. ROGERS of Michigan). All time has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. BACA).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BACA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

APPOINTMENT OF MEMBER TO JOINT ECONOMIC COMMITTEE

The SPEAKER pro tempore. Without objection, and pursuant to 15 United States Code 1024(a), the Chair announces the Speaker's appointment of the following Member of the House to the Joint Economic Committee:

Mr. HILL of Indiana.

There was no objection.

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the House amendment to the Senate amendment to H.R. 586 agreed to earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN MEMORY OF SCOTT BILLINGSLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, I rise today to deliver a tribute to M. Scott Billingsley, legislative director for Colorado's Sixth Congressional District from December 15, 2001, to March 25, the day of his death.

First and foremost, I am honored today to share with you Scott's dedication to his career, his fellow man and his country. Mr. Speaker, my staff and I were given the great privilege of working with Scott for the last few months of his life. When Scott became my legislative director this past December, he instantly gained my respect and, more importantly, generated a sense of enthusiasm in his office which empowered my staff to reach their personal best and to strive to work toward perfection. Scott's infectious personality and poise drew people close to him. We instantly enjoyed getting to know him and were eager to learn from him.

Scott possessed a rare gift that allowed him to do his job thoroughly, in a way that nurtured the work ethic of his peers while at the same time enabled him to act as a mentor.

Mr. Speaker, we were blessed to have Scott in our lives. Scott will always be remembered as a person who lived life to the fullest, with a passion for knowledge and a sincere desire to make a difference in the lives of those around him and the people of Colorado's Sixth Congressional District.

The news of his sudden death saddened all of us beyond words. His presence is irreplaceable, his character exceptional.

Mr. Speaker, I would like to submit Scott's eulogy delivered by both his father and fiancee for the CONGRESSIONAL RECORD.

It is important to let history know that Mr. Billingsley was a man who dedicated his life to improve the livelihood of his fellow citizens and America.

In closing, Mr. Speaker, I would like to quote a verse from the Bible. In the short time we were blessed with Scott in our lives, we believe he would say these words to help ease the hearts of all those who knew and loved him. The scripture is from Numbers 6:24–26:

"The Lord bless thee and keep thee. The Lord make his face to shine down upon thee and be gracious unto thee. The Lord lift up his countenance upon thee and give thee peace."

While losing Scott was tragic, his spirit remains with all of us.

EULOGY BY SCOTT'S FATHER, DR. MICHAEL L. BILLINGSLEY

(MARCH 30, 2002, GRACE EPISCOPAL CHURCH, COLORADO SPRINGS)

To the Family and Friends of Michael Scott Billingsley:

This is the most difficult thing that a father ever has to do, but I must say a few words about our son. Most of you have known and loved Scott for some or all of his 32 years, and I know you are devastated by this loss. His mother and I, his sister, and our family are crushed beyond words, and I don't know if we will ever completely recover from this. Scott and Rebecca have always been our life and our joy. I have no words to express the pain his passing has caused.

We are comforted, however, by our firm belief, that only Scott's physical presence is gone. His spirit is everlasting, and is bound up in than mysterious force, that binds us all together, the Holy Spirit of God.

I will let others recount Scott's accomplishments and attributes. We all know that he achieved much in his short time with us. He was a gifted and talented young man, and contributed a great deal to the lives of all who knew him well.

I would like to focus for a moment on his spirit, the enduring essence of his being. Scott's spirit is fiercely independent. From the beginning, he asserted his uniquely individual style, never egotistical, but always assertive, and firm in his convictions. From his earliest use of words and phrases, Scott was an able debater and advocate. When Rebecca was only 2 years old, and Scott 5, she refused to talk, though able, because she had only to point at something she wanted, and Scott would instantly become her legal counsel, explaining in full sentences what Rebecca really meant to say. I don't remember a time, when he was at a loss for words. Blessed with a keen intellect, and once convinced of the merits of his position, he was a formidable partisan for his issue. His assertiveness was, more often than not, balanced with sincere sense of fairness, and respect for his opponent. His friends will tell you that he was always up to a debate on nearly any issue, and was even occasionally willing to consider other reasonable and well thought out points of view; that is, if he couldn't readily destroy their argument.

Scott's is a loyal spirit. His bonding to kindred souls, regardless of differences of opinion, was remarkable. Some of his best friends were often his polar opposites on world and political views. His spirit was able to transcend those differences and inspire comradeship in many of the "loyal opposition," as he might describe them. Finding and bonding with the essential goodness in others was one of his great strengths. Often through humor and wit, Scott could bridge strong differences in opinion and diffuse anger and confrontation. Scott's sense of humor was treasured by our family. He was always able to bring laughter to even the most contentious family matters. As many of you know, he could incite hysterical laughter in his sister with a mere gesture or an off-hand remark.

The real center of Scott's spirit is love. A great deal of this attribute certainly came from the unending love and nurturing of his mother, his wonderful relationship with his sister, his grandparents, his aunts and uncles, and his cousins. He was fortunate to have many long-lasting close friendships from high school, college, law school, and from his work experiences in Washington. My personal relationship with him was almost perfect. We agreed on almost every philosophical principal. Our last game, a week ago, was a tie. We didn't even have a playoff. All of these life experiences helped develop in Scott a strong sense of compassion and justice. There is more, however, that came from Scott himself. In the past few years, he has developed a closer relationship with God, and had been at last, able to make many life shaping decisions. The most important decision was to marry Katie, his soul-mate, to whom he had dedicated his life. She brought him great joy, laughter, and fulfillment. His mother and I know that since meeting Katie, he had more direction and contentment than ever before. After a recent reunion with Scott, Rebecca remarked that she had never seen so much happiness and joy in her brother's life. Our hearts weep for you Katie, God bless you.

Something that I had not been able to verbalize before, has occurred to me over the past few days. It is the realization that Scott is a rare and very special person, who has the gift of connecting to people in a way that most of us can only wonder at and admire. Scott is one of the glue people that hold us together, who can transcend our differences and make us feel part of the same whole. I have known a few other extraordinary people like this, whose presence remains with me, and we all have these feelings for members of our families. But Scott had a special ability to connect with even those of short acquaintance, to build and maintain special ties. I believe that God was and is doing his work, through Scott, and continues to use his spirit to connect us. His mother, sister, Katie, and I have certainly felt his continuing presence, as I am sure many of you have also. Let Scott's life, and continuing presence, help us all understand this binding of our spirits, the inescapable conclusion that we are not alone, now and forever.

We will miss your person so much, Scott, but we will always be comforted knowing that your spirit lives. This is not the end, but only the beginning. We know that you will always be with us, by the grace of God, the Father, the Son, and the Holy Spirit.

"SCOTT'S FAITH" BY KATIE MCNERNEY

(MARCH 30, 2002, GRACE EPISCOPAL CHURCH, COLORADO SPRINGS)

I look out today to a group of people, most of whom have known Scott far longer than me. During the last 10 years in DC, he was physically quite far away, although I know he did a great job of staying in touch by phone and e-mail and occasional visits. I thought it would be helpful to take some time to share with you some of the more recent aspects of Scott's life. After 3½ years of spending nearly every day with him, I was blessed to witness the increasing growth of this remarkable man I called my fiancé, best friend and soul mate. I'd like to start talking about Scott by focusing on an areas of his life that not many people knew about. His faith. When we first met, Scott and I were at about the same place in our spiritual lives. Scott's parents, grandparents, and other family and friends clearly influenced his strong value system and his faith. Similarly I was raised in a conservative Christian family, but neither of us felt very comfortable using Jesus' name in conversation and we were often wary of those who did. However, in the last few years, Scott and I together shared a number of experiences that introduced us to a new faith and began a relationship with Jesus that strengthened over time.

One of those experiences involved a routine surgery two years ago. After an adverse reaction to anesthesia, Scott's heart stopped and he had to be resuscitated, three times. When the doctor came into the waiting room and told me the news, my shock and fear quickly turned to relief and gratitude because Scott was going to be okay. And he was going to be okay. Scott left the ICU with a new perspective on life. And it's not like what you see in the movies when people all of the sudden start giving away their worldly possessions or vow to find the cure for cancer. Instead, Scott started focusing internally on how he could become a better person. And as you already know he was starting from an excellent foundation. But he knew there was something missing in his life.

We began to pray together, sometimes in thanksgiving for having found each other, our soul mates, and sometimes out of pain for friends who we lost or family tragedies or even challenges at work. Scott started joining me for church regularly and began to like the weekly practice. Of course, the hours after mass were the times when Scott really loved to debate the sermon with me. And, of course, he'd always win. But I could hear the passion in his voice and see the changes he was making in his life. Over time, this was one of the many ways that Scott and I fell in love. We were putting Christ at the center of our relationship and, if you can imagine a triangle with Jesus at the top, and Scott and me at the other angles, the closer we each moved to Jesus, the closer we moved to each other. Scott loved that image, and he became increasingly committed to making sure he was growing spiritually individually and together with me. Last fall, Scott began meeting with a good friend on Capitol Hill for regular Bible studies. Scott and I also enrolled in the Alpha Course, a course on Christianity many churches offer for new Christians or ones that need some brushing up. For those of you who knew Scott, he mastered the art of arriving fashionably late to most things, but to the Alpha Course he was on time, every week. Even in the midst of some of the busiest months at his job, he would leave work right at 6:30, pick me up, and we would drive over to the Falls Church together.

Last Thursday, Scott asked me to meet him for lunch, something we didn't often have a chance to do during the work week. He wanted to attend a forum by the Faith and Politics Institute. Heather Mercer, the young woman who was held in captivity by the Taliban for 90 days last fall, was there to address a small group of Congressmen and aides. I got the invitation at 12 noon and by 12:30, Scott and I were in the Longworth Building listening in awe as Heather recounted the story of her heroic and faith-filled mission. At one point, when Heather was describing that she loved the Lord so much that she was willing to give her life, Scott reached out and took my hand in his. His eyes welled with tears, as did mine, and I knew then that Scott had truly accepted Jesus as his savior. I was blessed to have witnessed Scott's spiritual growth and his family and I are at peace knowing that he is now with his everlasting father in heaven.

On Tuesday night, more than 40 people back in DC gathered to pay tribute to Scott and shared remarkable stories. A recruiting theme was Scott's unwavering passion for everything he did. At work, his love for sports, and his love for his family and friends. Scott approached his work with more passion than anyone I knew. From the moment he arrived to work until he left at night, oftentimes late into the night, he was committed to making sure his government was doing the right thing. Scott never questioned the value of his work or contributions. As a lawyer, you'd think this conviction would have made him want to be a prosecutor. But Scott also had a deep passion for policy. Just last week, Scott spent days working on the new immigration legislation for his congressman. After just spending a day on the Hill watching the legislation being made, I asked Scott about his day. Of course, he quoted Bismarck that you should never watch two things being made, "sausage and legislation". Despite his exhaustion, for the next three hours, he explained to me all the intricate details of immigration reform and why Congressman Tancredo was so right. For "fun", we spent the next Saturday morning watching a video on INS reform.

Prior to joining Congressman Tancredo's office, Scott took on one of his most important professional responsibilities, to bring justice to the former Presidential Administration's irresponsible handling of the pardons for the House Government Reform Committee. The Final report, released just weeks ago, is a clear reflection of Scott's diligence, consistent commitment to the pursuit of justice, and his dedication to his job and his coworkers. The report is one of those tangible reminders that we have of Scott's intelligence and his love of public policy. The Committee often required long hours of wading through document after document and typing up pages upon pages of footnotes. Scott never complained and once, when a coworker was staying late with the team, despite it being her boyfriend's birthday, Scott called her later to apologize. It wasn't anyone's fault. It was their job, but Scott felt compassion for his friend. Scott was a wonderful teacher and always shared what he knew about issues with people. I work in a mostly Democrat office, so as the lone Republican, I relied on Scott for material. He would often get e-mails from me two and three times a day saying "okay, how would you debate this issue and give me some facts to back it up" just so I could go back to my office mates with all my vast knowledge. No matter what he was doing or how busy he was, he would send two or three articles within two minutes, and he would add a line at the bottom of the e-mail saying "Go get 'em, sweetie."

Scott also loved to travel and learn about geography, languages, different cultures, and new people. There were few times, if any, where you didn't walk away from the conversion with Scott and not have learned something. The one book on his dresser that never collected dust was Scott's atlas. He loved looking something up and reading about places all over the world, places he hoped we would visit someday. This Christmas, Scott bought me an atlas, so he could have an extra copy at my place too! He would point out places he had visited like Brazil, where he lived in Germany, and where he visited in Italy for work in Dec. 2000. We joked with him that the trip to Italy was a boondoggle, but Scott genuinely felt that the trip's mission, to combat organized crime, was of critical importance. He also had fun stories when he returned, of being in the real town of Corleone. Isn't it ironic, he told me, that they stamped out crime in most of Sicily? In a weird way, Scott was saddened by this. The Godfather was his favorite movie.

Scott was so full of love, for his parents, Diane and Mike, whom he adored and whom he could not wait to return to Colorado to be near, for his sister Rebecca whom he so admired for her intelligence, strength of character, and sense of humor. Last night, I spent a few hours talking with Scott's high school friends. Of course, they were recounting stories that I had heard from Scott a hundred times before. I am in awe of the friendships that Scott created—life long friendships that Scott cultivated with great care. Steve, Joe, Mark and Mike were just a few of his closest high school friends. He had many others from college and law school, Andy, Rob, Vinnie, Adam, and Dan. His friends from Colorado and DC, Eric and Jen. If I've forgotten anyone, please forgive me. You know how much Scott loved you all, and he is honored here by your presence.

Of all the things that Scott gave me, the one thing I think will most sustain me is his sense of humor. We laughed hard. He had an array of talents in impersonations. He perfectly imitated the President's "I'm the governor of Texas" line. With his jokes, Scott could bring tears to my eyes. Mike Myers was one of his favorite comedians, and Scott did the best impression of Fat Bastard (Can I say that in church?) Please forgive me. He loved South Park, the Jerky Boys, and did a mean impression of James Brown.

Now, people pass away every minute of every day, but I find it especially fitting, that we are gathered here on Holy Saturday, the day the Christian faith weeps over the loss of our Lord's only son. We weep with God, but like Jesus, Scott is not sad. We are the ones that are sad. You see, Scott is already with God. The moment his last breath left his body on Monday, March 25th, was the moment that Jesus took his hand and brought him home to a beautiful place, to a place where Scott could be with his grandfather, uncle, Farfie, and Fritz and, as his friend Vin pointed out, all the philosophers and political theorists. In fact, he might not even be listening to us now because he's too busy telling off Rousseau.

Scott, we feel your presence with us, and we will love you and keep you in our hearts forever.

EQUAL PAY FOR WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, Tuesday was Equal Pay Day. That is the day when women rise to say they are not being equally paid. A year and 4 months into the next year is how long women had to wait this year in order to earn what the average man earned. I feel Equal Pay Day, I suppose, stronger than most. I feel like I have been working for equal pay for women at least half of my life. I am a former Chair of the Equal Employment Opportunity Commission, where I administered the Equal Pay Act. It is amazing to see that this act has not been touched in 40 years. It was the first of the great civil rights acts to be passed. It obviously needs to be revised because it is a very different world with a very different economy from the 1963 economy.

There is a bill here pending, the Paycheck Fairness Act, that would modestly revise this bill. Did we know, for example, that if women and men discuss their wages against the wishes of the employer in the workplace, he can sanction them? The Paycheck Fairness Act would bar that. And did we realize that class actions under the Equal Pay

Act are much harder to obtain because the act was passed so early? So it is an unequal civil rights law.

Actually there are two kinds of equal pay. One kind was violated right under our nose. A couple of months ago I went to the Ford Building to see the women who clean the House receive their checks from a class action they won against the Congress of the United States because women who clean our offices were paid a dollar less than men who clean our offices. And they won. This was the first class action brought under the Congressional Accountability Act. All I can say is the women who clean this House and this Senate held us accountable. But then there is another kind of equal pay, and that is the kind that affects the average woman. Senator TOM HARKIN and I have a bill to go at that pay. It goes at jobs that are underpaid because they are stereotyped as female jobs.

Women work in only three sectors: factory, service, and clerical. Those jobs are often paid according to the gender and not the sex. The Fair Pay Act would allow women to sue when the job she is doing is equal in responsibility and in content to the job a man is doing even though that job is not the very same job. It is interesting when you poll, you find that equal pay is among the top one or two issues for the American public. Why is that? Because equal pay is no longer a woman's issue. Equal pay has become one of the great family issues of our time. If there is a working woman in your family, you lose $4,000 annually because one of the breadwinners, or in some cases the only breadwinner, is a woman.

It is time we fixed the Equal Pay Act. It was a great breakthrough in 1963. Almost 40 years later it needs the kind of repair that you would need if you were 40 years old and had not seen a doctor since you were born. The EPA has not seen a doctor. It has not had us tend to it for 40 years. The Paycheck Fairness Act is certainly the place to begin; 194 Democrats have signed on. I am sure many Republicans also agree that this is the year to tell America that we understand that women and men work, that they are in the same families, that when they have been doing the same jobs, similar jobs or comparable jobs, they should be paid equally.

If we did not learn anything else on Equal Pay Day, I hope that is the message we sent. I certainly hope that before this session is out, this Congress will do more than rhetorically recognize the notion of equal pay. Let us pass the Paycheck Fairness Act.

PROTECTING AMERICAN INDIAN AND ALASKA NATIVE SACRED LANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, as a member of the Congressional Native American Caucus, I rise today in strong support of H.R. 2085, the Valley of Chiefs Native American Sacred Site Preservation Act, which would safeguard an area very sacred to a number of Indian tribes, and ask that my colleagues support this bill as well. In addition, I want to comment on the need to protect other threatened American Indian and Alaska Native (AI/AN) sacred lands.

Our many democratic forums establish an opportunity for discussions to take place to better understand the social, economic, legal and political complexity of AI/AN realities, before related legislation is brought to the House Floor for a vote. As Congressional history demonstrates, the decisions we make as Representatives can either positively or negatively impact AI/AN people, and their nations, tribes, bands, villages and communities.

For example, between 1887 and 1934, the U.S. Government took over 90 million acres of land from American Indians without compensation—including sacred lands. More recently, between 1945 and 1968, Congress decided that federal recognition and assistance to more than 100 tribes should be terminated. This termination policy created economic disaster for many American Indians, and their nations, resulting in millions of acres of valuable natural resource land being lost through tax forfeiture sales. This is a primary reason why AI/AN families have the highest poverty level of any group in the country, at a rate of 31 percent on some Indian reservations.

By holding hearings on the impact of legislation related to American Indians and Alaska Natives, Congress moved to rectify its prior decisions by passing self-determination and self-governance policies. As a result of such policies, AI/AN nations and villages have greater control over their lands and resources. They have made great strides toward reversing the economic blight that resulted from previous federal policies, and have revived their unique cultures and nations.

Congress must withstand pressure from those individuals and groups that call for back tracking to old AI/AN policies, such as termination and reduction of AI/AN sovereign rights. We must acknowledge and learn from our mistakes, and not repeat them in the future because AI/AN nations and people are relying upon our commitments.

The United States Constitution recognizes that American Indian Nations are sovereign governments. Hundreds of treaties, the Supreme Court, the President and the Congress have repeatedly affirmed that Indian Nations retain their inherent powers of self-government. In addition, the United States Government is committed to a trustee relationship with the Indian Nations. This trust relationship requires the federal government to exercise the highest degree of care with tribal and Indian lands and resources.

Sacred lands, and ceremonies associated with those lands, are a necessary expression of AI/AN spirituality, and often are key to individual and collective wellness. This necessity is situated deep in the ancient history of these Indian nations and maintains a prominent place in the fact-based stories handed down from one generation to another. Since the coming of the Europeans to these shores in the late 14th Century, these sacred lands have been subject to intrusions and disturbance as settlers laid claim to lands of the AI/AN peoples.

In 1978, Congress passed the American Indian Religious Freedom Act, recognizing the necessity of upholding the protection of AI/AN spirituality within the ambit of the religious freedom guaranteed by the First Amendment to the United States Constitution. Unfortunately, litigation in the courts since then to safeguard sacred lands, and the ceremonies associated with those lands, has, for the most part been unsuccessful.

Rather than safeguard sacred lands, these cases have upheld multiple intrusions upon them and maintained a history of subordination of AI/AN spirituality to the interests of dominating groups. Federal government representatives, leaders of historic religions and judiciary members must develop more tolerance and expand their definitions of what constitutes a proper sacred place.

Culture and legal scholar, Davis Mayberry-Lewis, writes: "American Indian religions consider the earth as sacred, whereas the secular culture that surrounds them considers the earth to be real estate. It is hard for the strong to give up their ingrained habit of overpowering the weak, but it is essential if we are to make multiethnic societies like our own work with a minimum of civility."

Anthropologist Elizabeth Brandt states: "The free practice of many Indian religions requires privacy and undisturbed access to culturally and religiously significant sites and their resources. It is irrevocably tied to specific places in the world which derive their power and sacred character from their natural undisturbed state."

Ultimately, how free are we, really, if the first religions of our great country cannot be protected? Therefore I strongly support H.R. 2085, the Valley of Chiefs Native American Sacred Site Preservation Act, which would safeguard an area very sacred to a number of Indian tribes, and ask that my colleagues support this bill as well.

I also call for additional Sacred Land legislation to be developed in consultation with the majority of AI/AN nations in the United States. Furthermore, the establishment of a government-wide, effective, and comprehensive procedure that safeguards the loss of further AI/AN sacred lands must be enacted. We must move swiftly in conjunction with AI/AN nations before more sacred lands, such as Mt. Shasta and Medicine Lake of California, Devil's Tower and Black Hills of South Dakota, to name a few, are further desecrated and damaged.

I ask you, what if, despite your objections to the contrary, your spiritual place was being bull dozed for economic activity or spiked for scaling purposes? How would you feel, what would you think and what would you do? I ask you to support H.R. 2085 and the initiatives I have discussed related to safeguarding the loss of further AI/AN sacred lands.

IN MEMORY OF SCOTT BILLINGSLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I come to the floor to pay tribute to Scott Billingsley. Scott died suddenly and unexpectedly on March 25, 2002. He was only 31 years old.

Scott had served ably as Counsel to the Committee on Government Reform for two years before recently leaving to become Legislative Director for Congressman TANCREDO. In his time with the Committee, Scott displayed the best characteristics of a Capitol Hill professional: idealism, honesty, dependability, and selfless devotion to his work. His endearing spirit and infectious good cheer were a blessing to his co-workers with whom he spent countless long hours and late nights. Everyone who knew Scott liked him, and those who knew him best will love and remember him forever. Scott wanted to make a difference in the world, and he did—not just professionally but personally as well. Others can speak more eloquently about Scott's unique personality, and they have done so in the eulogies that Mr. TANCREDO will place into the RECORD. I want to take this opportunity, however, to say a few words about Scott Billingsley's work for the Committee.

Scott's deeply held belief in the importance of integrity and accountably in government led him to become a Counsel for the Committee on Government Reform. In that position, he played a vital role in our oversight investigations in recent years. Most recently Scott was responsible for drafting the largest and most important section of the Committee's report on abuses of the Presidential pardon power—a chapter on the pardons of Marc Rich and Pincus Green. Scott's work on this chapter represented a substantial share of the final product and formed the solid foundation on which others built. Even though Scott left the Committee before the report was complete, he generously returned to our offices on many occasions to assist the staff in completing what he had begun. He did this under no obligation and on his own time, which says a lot about the kind of person he was. Now, we know how precious little time Scott had left, and we are honored that he chose to spend some of it at the Committee.

Scott's parents—and his fiance, Katie—should be proud of his professional accomplishments. Scott was an excellent lawyer who chose to defend the principles he held dear. He gladly sacrificed the lure of private sector salaries in favor of public service, working tirelessly to promote what he believed in so passionately. Scott's work reflected his strong conviction that public corruption should be opposed vigorously. His commitment to honesty and integrity in government deserves to be remembered and honored, as does his drive and determination to work toward those goals. Therefore, as a token of our appreciation for his service to the Committee, I will be presenting to Scott's family a special copy of the pardon report on which he worked so diligently—dedicated to the memory of an extraordinary professional: Scott Billingsley.

May he rest in peace.

PAYING TRIBUTE TO U.S. ARMY STAFF SGT. BRIAN THOMAS CRAIG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I rise today with a heavy heart. While serving his country in Afghanistan, U.S. Army Staff Sgt. Brian Thomas Craig, from my hometown of Houston, was killed on Monday, April 15, 2002, in a field near the former compound of the Taliban leader.

I ask my colleagues to join me in paying tribute to the life of a truly brave American.

Brian Craig was twenty-seven years old and had spent the majority of his adult life in service to our nation. He joined the Army in 1993, shortly after graduating from Klein Forest High School, where he was an excellent student.

Yesterday, the Houston Chronicle reported on Brian's truly patriotic life. I would like to share the following excerpt:

> A straight-A student with college potential, Craig wanted to join the Army first. A high school social studies teacher. Scott Boyer, who recently died, instilled a sense of patriotism in Craig as they studied the Gulf War. "We knew from his junior year that he would enlist after graduation," said Joe Georgiana, a retired marketing teacher from Craig's high school. "It was always his objective. He never wavered."

Brian is survived by his parents, Pastor Arthur and Barbara Craig, a brother, Kevin Craig and a sister, Elaine Hurtado.

The United States Army goes out every day to make a difference and Brian Thomas Craig certainly did—some days in a small way, some days in a big way, and on April 15, 2002, at the cost of his life. One cannot ask more from our brave military personnel.

The loss of any life is a tragic event. The Book of John, Chapter 15, verse 13 states: "Greater love has no man than this, that a man lay down his life for his friends."

I believe this message has a special meaning today and forever. As a father, I cannot begin to understand the pain and heartache felt by the Craig family. I can only say that his death was not in vain, and we all join together to pray for them.

Staff Sgt. Brian Thomas Craig's dedication and devotion to the citizens of our nation serves as a model for those who have dedicated their lives to defending our country and the ideals we hold dear.

It has been said that the ultimate measure of a person's life is the extent to which they made the world a better place. If this is the measure of worth in life, a grateful nation can attest to the success of the life that Staff Sgt. Brian Thomas Craig led.

Brian will be buried at Arlington National Cemetery, a fitting tribute, and a memorial service is planned for Friday at 2:00 p.m. at the First Baptist Church in Houston.

I ask my colleagues in the House of Representatives to join me in expressing our consolences to the Brian Craig family. Our thoughts and prayers are with you.

CONTRADICTIONS IN NATIONAL SOCIAL PROGRAMS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, our last debate today was very instructive when you combine the last debate of the day, which was a debate about whether or not our great Nation will feed legal immigrants by allowing them into the food stamps program, and you combine that debate with the debate we had earlier about making permanent a tax cut which will provide for the richest people of the Nation further tax relief. The tax cut is equal to four times the size of the budget of the entire Department of Education. It is more than three times as large as the Department of Veterans Affairs or the Department of Transportation.

When you look at that combined with the fact that next week we are going to be discussing the reauthorization of the Temporary Assistance to Needy Families Act, that replacement of the old Aid to Families With Dependent Children, we are looking in America at sort of contradictions. Let us add to that the fact that earlier today we debated the placement of a cap on the farm subsidies act, the farm bill.

☐ 1730

The farm subsidies were created in the same spirit that the Aid to Families with Dependent Children was created. It was created in the same spirit as food stamps were created. They were created on the assumption that there are certain Americans who need help. We need a safety net for them. The safety net is there for people who need food, and food stamps were a way to administer and process our assistance to people who need food.

Sometimes there are desperately poor people, most of them are desperately poor, and sometimes they are not so poor, but people who are caught in a temporary situation, where their income falls short and they are unemployed. Even some middle income people unemployed have taken advantage of the food stamp program. If they happen to be legal immigrants, however, we cut them off. In a Nation with plenty, we do not want to give food to legal immigrants.

At the same time, the farm subsidy program is overly generous and has been greatly abused, and the vote we took today was a vote to put a cap on farm subsidies for farmers. Let us forget about the complications of farm corporations, the fact that the agriculture business is not a business of small farmers anymore, but there are often many large corporations benefiting from the farm subsidies.

But it was not supposed to be a program to benefit anybody except those who were at risk of falling through the safety net, so earlier today we prided ourselves on voting to put a cap, to instruct the conferees who are considering the bill now to put a cap on the farm subsidies at $175,000. That is per year, my colleagues. $175,000 per year. That would be the cap. Right now there is no cap, so some get much more than that.

As I progress with this statement tonight, I am going to read some of the examples of the kind of benefits that are being received by America's farmers, who are, after all, not working. They do not have to put in any special volunteer work to do this, to do anything, in order to qualify for the safety net program for farmers. The farm subsidy program is a safety net program for farmers. The food stamp program is a safety net program for hungry Americans.

Legal immigrants, by the way, as one of the speakers pointed out, legal immigrants are allowed to fight in our Armed Forces, and a large number are out there in the Armed Forces right now, and more are being encouraged to enter our Armed Forces. In fact, the recruiting process of our military is such that they are making a special effort to reach immigrant communities. They have set up a large recruitment center just one block from my office in the 11th Congressional District in Brooklyn. They have set up a recruitment center at a place which is a transportation hub for immigrants. Large numbers of people who are immigrants, mostly immigrants from the Caribbean, come through this hub, and they have made an effort to reach them, in particular to get them to sign up for the military. They will reach their quotas faster, because a large percentage ever the people who are now signing up for our military are immigrants.

These people can know go off and fight for America, they can go off to meet our military needs, and yet they are not able to qualify for food stamps. I think one of the speakers previously pointed out that they could not, even if they are soldiers. Some of our soldiers are paid so low that they do qualify, their families do qualify for food stamps, but not if they are legal immigrants. They are soldiers. They can fight and die, but they cannot receive food stamps.

Those are contradictions which I do not think we ought to be content to live with. The American spirit ought to try to wrestle with greater fervor against some of these contradictions. We have, on the one hand, a very generous spirit, which leads us to send food throughout the world. We are feeding people all over the world with surplus American food.

Certainly, long before we were able to bring the Taliban down in Afghanistan, we were delivering food to Afghanistan, and we sometimes dropped food from airplanes. We understand the need for food, the power of food, and yet the contradiction here is we are not willing to feed legal immigrants within our own borders.

That contradiction will be further highlighted next week when we debate the Temporary Assistance for Families in Need bill. We approach families in need in this country with great contempt, and yet those people who are in need are certainly worthy of some help, worthy of being caught up in the safety net. They are falling in the safety net that is designed for them as much as for anybody else. I will talk a little bit about that.

If we have to talk in military terms, we will talk in military terms. We are all concerned about the fight against terrorism. We are all concerned. The first line of defense is, of course, to deal with the people who have attacked us and to confront them head on and to hit them where their bases are and to break up their whole conglomeration of evil and terror, and I applaud the President for moving in that manner.

I do not consider myself a hawk. I would generally be called a dove. But I think when we moved against bin Laden and the stronghold bin Laden had in Afghanistan, it was the right move. But in order to do that, we move with human beings, and many of those human beings are people who are the sons and daughters of folks that we hold in contempt back in America when we do the Temporary Assistance to Families in Need.

In other words, I am saying that a large number of the people who go off to fight our wars are poor people, and for us to take a position that we have contempt for them and we want to harass them and drive them off the welfare rolls and force them to go to work for less than minimum wage through "workfare" programs, what we are doing is attacking the people who are providing the foot soldiers, the foot soldiers to keep America great, to keep America free, to fight our battles.

I am going to talk a little later about the fact I have done an analysis of who dies in the wars, who died in World War I, who died in World War II, and who our casualties in Vietnam were. They were mostly poor, from the urban centers and from the rural areas. They were mostly poor soldiers, our foot soldier class.

We do not like to think of classes in America. We say there is no class warfare in America. That is an accurate statement. There is no class warfare, because the poor do not have any advocates. They do not have anybody to fight for them, so it is not warfare. There is no warfare. The rich are in control thoroughly, and the tax bill that we passed today is just one more indication of how thoroughly they control our American democracy.

Yes, you can have a democracy where the people vote against their own interests, or you can have a democracy where people act against their own interests, because those who do not vote are acting against their own interests. We know even in presidential elections, something close to 49 percent of the people do not go out to vote. If in our presidential elections, our most important elections, you only have 51 percent of the people voting, you can imagine how that falls down as you go down to the Senate, the House, local State and elected officials.

Those who do not vote have nobody to blame in the final analysis but themselves in a democracy, but their actions are part of a process by which the majority interests are not served in a democracy. A democracy allows a minority to usurp their prerogatives and to act in their interests. The tax bill that was passed today is an example of that.

The tax cuts represent the worst kind of priorities. What we do here in Washington and in the House is always an important thing involving priorities, how you set priorities, how you make use of available resources.

When I get back to my district, like during the period where we had a long work period, in my district I am constantly confronted by people that have special questions about what are you doing down there that makes any difference to me? Why are you not doing something to relieve my particular problems here?

Senior citizens are upset by the fact that in New York City now the Department for the Aging is cutting Meals-on-Wheels. They are proposing to close down some services for senior citizens, to make them pay a greater share for their lunches. They want to know what are you doing in Washington for me?

Well, the problem in New York is probably partially a problem of deep budget cuts because of a great loss of revenue caused by the fact that the World Trade Center was the heart of our financial districts and the financial district was a great generator of tax money, of revenue. So the folks in New York, senior citizens, are suffering from the budget cuts because of the fact that bin Laden and the al Qaeda terrorist network chose as a target a piece of America that happened to be in New York City.

He was not attacking New York City or senior citizens in the communities of Brooklyn. He does not care about the senior citizens in Brownsville and in East New York or Flatbush. He does not care about the people of New York. The terrorists and the people who attacked the World Trade Center were attacking the United States of America, but the suffering is disproportionately being borne by the people of New York City at this point.

Yes, we are getting a large amount of money to rebuild the Trade Center.

The President has promised more than $20 billion to rebuild and take care of the reconstruction and the removal of the wreckage and to help the businesses in the financial area. But there is no program that seeks to deal with the loss of revenue. There is no program offering New York City any assistance for the great loss of revenue which leads to the cuts in senior citizens programs or the loss of revenue which leads to the cuts in education, the school budget.

Now, that is not a phenomenon unique to New York. All over the country we are having problems with our school budgets. We have documented that in our Committee on Education and Workforce, that the majority of the States are cutting school budgets, cutting their aid to education, and localities are finding the necessity to cut aid to education.

So, what does it have to do with us here in Washington? We could, instead of giving a huge tax cut to the richest people in America, we could give more aid to education. I just said before that the tax cut that we voted, that the majority of the House voted, I certainly voted against it, along with most of the members of the Democratic Party, we voted against it, but we are outnumbered here, so the House voted for a tax cut which is four times as large as the budget for the entire Department of Education.

That is significant, that at a time when we are forced to make cuts in our school budgets, we get no more aid from the Federal Government than we get during prosperous times. One would say, well, there is the old adage about education being the responsibility of the States, the responsibility of localities, so why do you keep bringing up education as a Federal responsibility?

Well, education is our number one national security issue. We are a high-tech society. Our military is high-tech. Our ability to defend ourselves and to bring down the terrorist network in Afghanistan or anywhere else depends on high technology.

Even in small matters, and I do not want to invade the territory of the military experts, but even in small matters, which are not so small, I guess, even in matters which are detailed in terms of our performance on the battlefield, we are losing more men and women, more of our combatants on the battlefield, through human error in this war than we have as a result of enemy engagements.

We just lost the lives of four Canadians because of human error. One of our planes fired into a Canadian group just yesterday, and, if you hear all the different explanations for it, it was really human error. The pilot was not given an order to fire, because they were checking out the area. The information his headquarters had was greater than the information he had, and he panicked and fired, and human error cost four more lives.

We have lost a number of other lives as a result of human errors. It is not grounds for a detailed analysis of the war, but it is just one more indication of the fact that a high-tech army, high-tech military, will require more and more well-educated people in order to minimize human error. So even in the matter of combat, education becomes very important.

□ 1745

But the infrastructure which produces the weapons and the whole system that keeps our economy strong and allows us to afford a first-rate military is all dependent on education. So here we are at a time when education is suffering, and we are extending the tax cut to the richest people in America; and that is a part of the great contradiction. We have what I referred to in an earlier rap poem that I read a few weeks ago; we have great angels in America who understand our particular point, our pivotal point in history at this point. They understand that we are the key to civilization, which we are. Whether civilization goes forward and realizes its full potential or rolls backward and is caught up in the jaws of people like bin Laden who say that all the folks who want to roll back history, take away freedoms, oppress women, have no use for democracy and votes.

Mr. Speaker, the world is governed by more governments that are not democratic than are democratic. The world has leaders in power who have contempt for women, who have contempt for minorities. We are not in such good shape if we look over the entire Earth and we look at what is happening in terms of the leadership and the governments and those in control. We are at a pivotal point; and we are leading the charge for a more civilized world, a world where everybody has a right to life, liberty, and the pursuit of happiness, where we are in favor of equal rights for all. As I said in my poem, "Let's Roll, America" a few weeks ago, we can sing the high hallelujah note, because all of our races and women can vote. We can celebrate that.

In every language of the Earth, to the country of all nations, we have proudly given birth. All of the languages of the earth, those immigrants that some people want to deny food stamps for, they are part of what we have created. We have created a nation where all languages are spoken. We have created a nation where all of the people of the Earth aspire to get here and be a part of it.

I do not subscribe at all and do not have any patience for the notion that Americans are the objects of great anger, that people despise us. That is ridiculous. Throughout the world, most people, ordinary people, the vast majority of people, they envy us perhaps, and they admire us more so than despise us. There is a leadership out there that feels that it is on the spot. They do not produce for their people. They use the resources of their nations to make the rich richer. They do a lot of things that lead them to want to see America removed from the scene because we are examples of how a government and a nation can work for all of the people, all of the people.

We are an example of how you create a consumer market by being just, by having fair wage laws, by having working conditions, benefits, pension plans, all of which work and really do not swindle the people and that works. There is a lot of business leaderships and military leaders and government leaders across the world who hate that because they like to see those kinds of components of a government and of a civilization not displayed because they do not want to offer it to their own people.

So we are not hated in the world. The majority of the people, the ordinary people very much admire Americans because we are what I call "great angels." I said in the same poem, "Let's Roll, America" was the name of the rap poem that I did a few weeks ago, and I said at that time that the Olympics are forever. We will win all the races. We are great angels of tomorrow, with magic mongrel faces. We are a mixture of people but, most of all, the spirit of the great angels is there. The spirit of the great angels is there in competition with the spirit of what I call the giant Scrooges.

The giant Scrooges are always on stage here. The giant Scrooges are in command here in the House of Representatives. They have the majority. They can pass a tax bill which makes it impossible for Social Security to be secure over the next 25 to 50 years. They are the ones who combined, in a bipartisan move, to lock the box and make certain that Social Security would not be threatened. But what this tax cut does is threatens Social Security.

Those seniors back in my district who are worried about food stamps, who are worried about their centers being closed and the lunches that they have at the senior citizen centers, the rate that they pay will be going up, and they are worried about the Meals-on-Wheels programs being shut down. They have bigger worries if the Republicans continue to insist on a pattern of tax cuts that make it impossible to balance our budget, that drive us into deficit. All of this has to be looked at together. The same Republicans who would terrorize and harass welfare mothers, the mothers of the foot soldiers who go off to fight our wars, those same people insist on creating bigger and bigger tax cuts for the rich. They are jeopardizing in the process, they are jeopardizing Social Security, something that every senior considers to be most basic.

The last thing that they will tolerate from me is a statement which tells them that I am a Democrat, I cannot do anything about the forward march toward threatening Social Security, or privatizing Social Security. They do not want to hear from any elected official who says they cannot protect Social Security. And we must understand that there would be a revolution here in this Nation if we continue to threaten Social Security.

The kind of incremental threats that are woven into the Republican tax cuts are hard to get people, it is hard to get people to understand. But in just 1 year, the surplus projections for the next decade have declined by $4 trillion as a result of the Republican tax plan. They have broken the lockboxes by spending trillions of Social Security and Medicare trust funds on other things. The Republicans shamelessly will try to escape blame by pretending that the war on terrorism has caused a $4 trillion loss. Simple arithmetic will tell us that it has not been the case. According to the Congressional Budget Office, the war on terrorism costs $10.2 billion this year. That is a tiny fraction of the unprecedented deterioration and the position of the budget in terms of the surplus.

Where did all the money go? The bulk went to fulfilling Republican campaign promises to pass tax breaks for wealthy contributors to the Republican Party. According to the Citizens for Tax Justice, 37.6 percent of the benefits of the final tax bill will go to the top 1 percent of the income earners in this Nation. Mr. Speaker, 37.6 percent of the benefits of the tax bill will go to the top 1 percent of income earners. These are the giant Scrooges who want to more and more enrich the rich.

We now know that the money for these tax breaks comes from payroll tax contributions that every worker makes to Social Security and Medicare. In the final analysis, that is where the money is. Willy Sutton used to say when he was asked, why do you rob banks, and he would say, that is where the money is. Where do you get the money to balance the budget if you are going to give huge tax cuts? You get it from Social Security and Medicare, because that is where the money is.

Our Leader GEPHARDT has called for a bipartisan summit to work out a blueprint for how America will get itself out of this mess. As it stands, the extending of the tax cut will further raid the Social Security and Medicare trust funds which the Republicans claim not to touch. We need a bipartisan truth commission to tell the truth about what the real threat to Social Security is and how the tax cut becomes a threat to Social Security, and a tax cut becomes the problem behind the problems that the people in my district are complaining about. You cannot have some relief on education expenditures coming from the Federal Government if the relief that might have been there is being poured into a tax cut.

The Federal Government, at a point in history like this, when we not only have great budget cuts in education in New York City, but across the whole country, we should have some relief for the States and for the local governments, and that relief has been proposed in our education legislation. We propose that the Federal Government take on the full responsibility for special education. If we took on the full responsibility for, not full responsibility, but that we live up to the original legislation on special education which said that the Federal Government would pay 40 percent of the cost, and right now we are paying something like 10 or 11 percent of the cost of special education. If we were just to assume the 40 percent costs for special education instead of pouring our money into tax cuts, take a portion of that, a relatively small portion and put it into special education, we would free up funds at the local level to be spent on education in some other way.

Forty percent of the cost, instead of 11 percent of the cost, means that local education agency would be able to take that money and fill in some of these budget cuts that are resulting, not only in New York, which has suffered probably more than most big cities because of the 9–11 attack which took away our taxes, our revenue to pay for education, but across the country. One gesture like that would be beneficial to education right across the board.

In addition to that, the President should go ahead and fund title I. They promised to begin the process by, increase title I by adding to the title I fund in each year until within 5 years we would have twice as much funding in title I as we presently have. But right away, despite that promise, the President backed away in his budget that was sent to Congress. Two items live up to our promise to fund special education by going all the way to the 40 percent and increase the funding for title I, and we would bring a great deal of relief already to the education budgets out there that are suffering right now.

So it all relates, Mr. Speaker. I hope that I am not confusing any of our colleagues. We have had a discussion about the tax cut and what the impact of that is. We have had a discussion about the farm bill and setting a cap, putting a cap on farm subsidies. We are going to have a discussion next week, and preliminary discussions are taking place right now, and all of the committees, the committees of jurisdiction, the Committee on Ways and Means and the Committee on Education and the Workforce are discussing the temporary assistance to families in need. We had a discussion, of course, earlier here today on food stamps for immigrants. It all relates.

I think that the challenge of leadership in America nowadays is not a challenge of knowing the facts; it is a challenge of how we put it all together once we get the facts. Probably the challenge of leadership anywhere in the world is understanding the complexities of the world and understanding how one thing relates to another, and being able to provide some leadership which will make use of the existing resources so that everybody benefits.

The great angels of tomorrow we are. As Americans, one side of our personality says we are great angels and we want to do the right thing for everybody, including the people in this country, and then beyond that, to provide help for other people throughout the world. That is one part of our spirit. The other part of our spirit is demonic. It is giant Scrooges. People who want to take food stamps away from legal immigrants; people who want to give welfare recipients, a family of three, I think in Wisconsin they get less than $300 a month for a family of three. That is considered a successful program for welfare recipients, aid to families in need.

□ 1800

All of these things are related. Setting priorities and determining how does our great wealth get utilized to push civilization forward is a great question. It is there in all of these issues. They do relate very much.

I want to make certain that I make it clear that the class problem is at the heart of the way we make decisions in America. We do not have class warfare, we hate to bring up the whole issue of class, but class is very much a problem.

There is among the giant Scrooges, there is also contempt for the poor. The giant Scrooges are people who have contempt for poor people, just as Scrooge did in Charles Dickens' novel. They have great contempt for poor people.

The giant Scrooges of America have a lot of racism also woven into that. The harshness with which we treat people on welfare, the way the law is formulated, is partially due to the perception that this is thought that this is a program mostly for minorities. If we treated farmers in the same manner, we could say, well, it is people who want to make certain that the taxpayers get their money's worth; people who are frugal, who have respect for the taxpayers and want to make certain that we spend money wisely. If that was the case, then why do we not apply the same standards to farmers or to the farm subsidy program that we apply to welfare recipients?

We will be reauthorizing the temporary assistance to families in need, and in that bill we say nobody, no matter how needy, they can only have assistance from the Federal Government for 5 years. The 5-year limit has been imposed. We say it has been very successful. It has made people more conscious of the fact that they need to go to work and get off welfare.

There may be some truth to that. Why do we not impose a 5-year limit on the farm subsidy program? Why did we not impose a 5-year limit on the farm subsidy program a long time ago? Why do we have unlimited amounts of money being paid out in the case of the farm subsidy program when we have very paltry amounts being paid to families who are in need under the TANF, the Temporary Assistance for Needy Families, Act?

If we are considering frugality and the best use of taxpayers' money, what motivates us to pay $20 to $22 billion out to the farm community when less than 2 percent of the people of America are farmers? What is going on as we set our priorities?

And why do we pay 40 percent of the farm subsidy money, why do we pay most of the farm subsidy money to 40 percent of the farmers, so that 60 percent of the farmers get nothing? Family farms who are really poor in that 60 percent get zero, while 40 percent of the agricultural businesses, I will not call them farms, in America are receiving most of the money.

If we are only concerned about the best use of our taxpayers' money, why do we let the farm program continue to rob us blind? In addition to the subsidies, there are also farm home loans, special loans for farmers, disaster loans for farmers. Less than 2 percent of the population walks away with a great part of the budget. What is going on in terms of our priority-setting?

If we are great angels of tomorrow, as I think some of us are, the great angels would want to make certain that we use our resources across-the-board to help the greatest number of people. Why can we not have a prescription drug benefit for senior citizens, and save some of the money from the abuses in the farm subsidy program in order to finance a program for prescription drug benefits? What is going on here? Why do we let the Scrooges prevail?

Evidently, the same Scrooges, giant Scrooges who are in charge of our tax cut program, are also funneling money to a small percentage of the farming businesses. I might not object to the farm subsidy program if we could guarantee that it went to the poor farmers, but we admit that it is going to farmers who are getting large amounts of money.

In fact, we consider it a victory today that we voted for a motion to instruct the conferees that was prepared by the gentleman from Michigan (Mr. SMITH). The gentleman's motion was to instruct the conferees who are considering the farm bill now to put a cap on the program, accept the Senate proposal for a cap; that is, an amount, a limit on the amount of money that farmers can get. We, I think, voted for a cap of $175,000 per year, $175,000 per year. That would be the cap. We consider that a victory. How wonderful it is that we have put a cap of $175,000 on a subsidy that farmers can get.

It is a safety net program. It is a handout, if we want to get into the slang that is used by the Scrooges when they are considering giving $300 to a family of three on welfare; it is a handout. They hand it out with great contempt, and they complain about it, and they look for ways to push a person off the welfare rolls who is maybe getting $300 a month. We can see how much that adds up for a year.

The gentleman from Michigan (Mr. SMITH) wrote a letter to all his colleagues. If we want to talk about bipartisan cooperation, the gentleman from Michigan (Mr. SMITH) is a Republican.

"Dear Colleague: You have received letters from many Members supporting limitations on farm subsidy payments. Some farms now receive millions of dollars. On Wednesday, I will offer a motion to instruct House conferees on the farm bill, H.R. 2646. It will direct them to accept the farm subsidy caps added to the legislation in the Senate. The caps will limit farmers to $225,000 in subsidies per year; if they have a spouse, $275,000 per year.

"The purpose of subsidies since the beginning has been to protect family farmers. Unfortunately, about 82 percent of all subsidies now go to just 17 percent of the farmers. By providing unlimited subsidies, we have encouraged huge corporate farm operations to get bigger and bigger, squeezing out family farmers.

"You may have heard from some farm and commodity groups in opposition to this idea, but make no mistake about it, they do not speak for the majority of farmers and ranchers. Last year, 27 of the Nation's land grant colleges from all the Nation's regions came together to poll farmers and ranchers on their opinions of the farm bill.

"On the issue of farm payment caps, there was enormous consensus: Nationwide, 81 percent of farmers and ranchers agreed that farm income support payments should be targeted to small farms. Limiting subsidies to any particular farmer will help traditional-sized family farms.

"Please consider supporting the motion to instruct on Wednesday," et cetera, et cetera, by the gentleman from Michigan (Mr. SMITH), Member of Congress.

Mr. Speaker, I include for the RECORD this letter from the gentleman from Michigan (Mr. SMITH) to his colleagues.

The letter referred to is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 15, 2002.

PROTECT FAMILY FARMS!

CAP FARM SUBSIDIES!

DEAR COLLEAGUE: You have received letters from many members supporting limitations on farm subsidy payments. Some farms now receive millions of dollars.

On Wednesday, I will offer a motion to instruct House conferees on the farm bill (H.R. 2646). It will direct them to accept the farm subsidy caps added to the legislation in the Senate. The caps will limit farmers to $225,000 in subsidies per year ($275,000 with spouse).

The purpose of subsidies, since the beginning, has been to protect family farmers. Unfortunately, about 82% of all subsidies now go to just 17% of the farms. By providing unlimited subsidies, we've encouraged huge, corporate farm operations to get bigger and bigger, squeezing out family farmers.

You may have heard from some farm and commodity groups in opposition to this idea, but make no mistake about it—THEY DO NOT SPEAK FOR THE MAJORITY OF FARMERS AND RANCHERS!

Last year, 27 of the nation's land grant colleges from all the nation's regions came together to poll farmers and ranchers on their opinions of the farm bill. On the issue of farm payment caps, there was enormous consensus. Nationwide 81 percent of farmers and ranchers agreed that farm income support payments should be targeted to small farms.

Limiting subsidies to any particular farmer will help traditional-size family farms. Please consider supporting the motion to instruct on Wednesday. For additional information, please contact me or Dan Byers on my staff at 5–5064.

Sincerely,

NICK SMITH,
Member of Congress.

Mr. Speaker, I want my constituents at home to understand that the great angels who care about fairness, who want to see our resources spread to all the people, do not come necessarily in just certain parties. I have criticized the Republicans for their actions, but the gentleman from Michigan (Mr. SMITH) is a Republican.

A large number of people are offended by the fact that the giant Scrooges take over, and they are shameless in the way they use the taxpayers' money. If there is ever a program which shows us what the giant Scrooges are doing in the mismanagement of America's resources, it is the farm subsidy program.

I have indicated, I think, before on this floor that there is a special group called the Environmental Working Group, and they have done us all a great service to let Members really see how outrageous the farm subsidy program is.

Again, the farm subsidy program is supposed to be a safety net program for small farmers, for the poor. All of our safety net programs are designed to help people who cannot help themselves. After all, this is a capitalistic economy. Farming is a business. Do we want to have socialistic supports for the agribusiness when we do not have socialistic supports for any other business? Farming is a business.

It is okay, it is part of our credo, to take care of those who are in danger in some way of falling through the safety net. We wanted to support family farms and keep our farmers, family farms, out there, not have them all migrate to the cities and turn over the whole agricultural production to great corporations, big corporations. That is an objective that I certainly concur with. It is in the spirit of the great angels of America.

But the Scrooges have taken over, and long ago, for years now, it has been totally out of hand. I am talking to rural Congressmen, I am talking to big city Congressmen. We all deserve to be able to tell our constituents a better story than "This is necessary to keep the food prices cheap in our supermarkets."

It actually keeps the prices higher, Mr. Speaker. It keeps us in a situation where we are paying more than we would pay if capitalism were to go to work in our farm, in the agricultural business.

But in addition to not violating the tenets of capitalism, which I do not take exception to. I think we have a capitalistic economy. There are a lot of socialistic elements in it. When we apply those socialistic elements, I do not complain. I do not think we should be stuck in a rut, that capitalism is so great that it cannot learn from some other forms of economic production.

We have capitalism in the banking industry that helped bail out the savings and loan associations. That socialism in the banking industry recently came to the aid of some of our big investing groups, so we have across the world capitalist economies like Korea and others who have taken steps to have the government intervene to prop up businesses.

Those are socialistic elements of economic dealings that make sense, they are pragmatic. We bailed out Mexico when they were about to go under by intervening with $20 billion in loans. So it is not automatically an evil to have socialistic actions being taken in the economy. But if we do that, at least we ought to have an end game which produces fairness.

This Environmental Working Group, they created a website on the Internet, so Members can go and see every person, family, or business in America that gets farm subsidies. Members can find out who they are, where they are located, and exactly how much they are getting, or how much they were getting in the year 2000. It is http://www.ewg.org/farm/. Members can look in the CONGRESSIONAL RECORD and get the website address, and go to the website and find out exactly what farmers are getting State by State, county by county.

What Members will find is that whereas the State of Wisconsin, and I am going to take Wisconsin as an example because next week we are going to hear a lot about Wisconsin. When we start discussing the reauthorization of the Temporary Assistance to Needy Families Act, we are going to talk about Governor Thompson, who had the model program, it has been cited as a model program, in Wisconsin. Governor Thompson did such a great job until President Bush asked Governor Thompson to come to Washington and head the Health and Human Services Agency, because he has a model program.

Well, in Wisconsin, their program might have been a few degrees better than the New York City program under Mayor Rudy Giuliani. Rudy Giuliani, who performed so magnificently during the crisis precipitated by the attack on the World Trade Center, has more contempt for poor people probably than any leader in America. The workfare program in New York City was one of the worst. But I think the present administration admires the Giuliani program even more than it admired Governor Thompson's program.

Governor Thompson's Wisconsin program, the model program, is a program that provided less than $300 a month for a family of three, less than $300 a month. The Governor of Wisconsin, Mr. Thompson, who is now Secretary of Health and Human Services, saved money by pushing people off the welfare rolls. The caseload went down. He saved money.

He did not put that money back into the program to provide more money for education or transportation, or in some way benefit the recipients who needed help in getting more training, more education, in order to get jobs.

□ 1815

He used the money instead for other kinds of activity. He did what we call supplanting. He supplanted money meant for the poor. He moved it about in the budget until he could free up money so he could use it for other State projects. That is what we are saluting in Washington right now as a model program. He took money from the poor and used it for other State projects and that is supposed to be wonderful.

He has minimum programs to allow people to get education. Vocational education is permitted under the TANF program; higher education is not. If someone wants to go to junior college, community college, become a hygienist or a technician of some kind, the kinds of jobs that are available that pay decent salary, that have a future, they cannot do that under the program that Governor Thompson put forth and has now become the model for Federal programs. Cannot do that.

The same Governor Thompson in the State of Wisconsin, according to the record, has never raised his voice against farm subsidies. If Governor Thompson is a hero because he pushed those terrible people off the welfare roll, and sent them out to get a job, he wants to make the best use of the taxpayers money, then I ask him to tell us, tell us, Secretary Thompson, why do you not deal with the farm subsidy abuses in Wisconsin?

I have a list of the top 100 farm subsidy recipients in Wisconsin. Again, like Wisconsin, like every other place, the poorest farmers are not getting the money. It is the top 40 percent who get all of the money, just about.

The first 100 recipients, according to amounts, the first top recipient Dane County Growers. That is a corporation in Edgerton, Wisconsin. They get $457,646 per year, the annual amount they received in year 2000.

Let us go down to some individuals and skip over what looks like corporations. Jeffrey M. Hahn, Cambria, Wisconsin, $268,998.57. This man, of course, would be against the cap that we just passed because the cap that is being proposed by the Senate is $225,000. He is getting $268,998.

What do these people have to do to get the taxpayers' money? Do they have to do volunteer service? This Congress, under the leadership of the Republicans a few years ago, voted to make people in public housing do 8 hours of service per month because they are recipients of subsidized housing. The law now says, as a result of an amendment passed on this floor when the Republican majority votes, that a person has got to do 8 hours of public service if they are in a publicly subsidized housing development, public housing. Do we make any of these recipients of these large amounts of money do public service? What is it that we are getting in exchange for this? It is supposed to be a program for people who need it very badly; but if someone is getting year after year $400,000, $200,000, are they needy, really?

When we go down the list all the way, there are people getting $170,394 per year. Again, the welfare recipient in Wisconsin will get $300 a month times 12 months. That is $3,600 for a family of three; but in Wisconsin, the man whose 100th on this list, down at the very bottom in terms of the first 100 recipients, Mr. Thomas P. Sayre, Jr., Edgerton, Wisconsin, is getting $157,227. What is the criteria in America for giving somebody $157,227 of tax payers money versus giving a family of three $3,600?

The list that I am referring to is as follows:

EWG FARM SUBSIDY DATABASE—TOP 100 RECIPIENTS OF FARM SUBSIDIES IN 2001 WISCONSIN

Rank name	Location	Farm Subsidy Total 2001
1 Dane County Growers Ptrn	Edgerton, WI 53534	$457,646.10
2 Metcalf Farms	Janesville, WI 53546	454,011.85
3 Hamp Haven Farms	Reedsville, WI 54230	453,442.97
4 Wilks Brothers	Union Grove, WI 53182	398,193.39
5 Weeks Farms	Sharon, WI 53585	395,499.43
6 Kippley Farms	Waunakee, WI 53597	351,146.14
7 Bolton Farms	Burlington, WI 53105	336,608.86
8 Roger Rebout & Sons Farm	Janesville, WI 53545	324,424.02
9 Noble Grain Farms	Burlington, WI 53105	323,642.02
10 John E Walsh and Sons	Mauston, WI 53948	307,842.42
11 Kuiper Family Farms	Union Grove, WI 53182	302,465.26
12 Steinacker Farms Inc	Hortonville, WI 54944	293,647.02
13 Horizon Farms	Janesville, WI 53545	292,665.30
14 Oneida Nation Farms	Seymour, WI 54165	276,977.24
15 Jeffrey M Hahn	Cambria, WI 53923	268,998.57
16 Falkers Farms	Viroqua, WI 54665	267,386.17
17 Rossi Grain Farms	Bristol, WI 53104	266,540.81
18 Gunderson Grain Farms	Waterford, WI 53185	259,442.55
19 Hawkins Farms Inc	Bristol, WI 53104	254,481.46
20 Riley Brothers	Mauston, WI 53948	253,606.67
21 Hartung Farms	Arena, WI 53503	247,256.02
22 Keske And Keske	East Troy, WI 53120	245,384.58
23 Twin City Farms	Beloit, WI 53511	244,416.83
24 Mullikin Farms Partnership	Janesville, WI 53546	234,826.38
25 Emmert & Sons	Baldwin, WI 54002	232,827.87
26 Bach Farms Llc	Dorchester, WI 54425	228,155.79
27 Furseth Bros Real Estate Partners	Stoughton, WI 53589	225,066.67
28 Gorton Farms	Racine, WI 53406	223,020.94
29 Huntsinger Farms	Eau Claire, WI 54702	220,761.30
30 Riesterer Farms	Milton, WI 53563	219,778.57
31 Dempsey Farms Partnership	Eagle, WI 53119	212,660.50
32 Timothy Robert Leidig	Prairie Du Sac, WI 53578	211,268.76
33 J-r Farms	Waunakee, WI 53597	210,231.22
34 Schroeder Farms Partnership	De Forest, WI 53532	206,742.08
35 Luanne M Prochnow	Menomonie, WI 54751	203,117.53
36 Ronnie Prochnow	Menomonie, WI 54571	203,117.50
37 West Bros	Rice Lake, WI 54868	202,831.88
38 Paul Olsen	Wautoma, WI 54982	202,808.29
39 Reichling Farms	Darlington, WI 53530	202,426.82
40 D & S Farms	Shullsburg, WI 53586	201,940.38
41 David Olsen	Berlin, WI 54923	201,673.25
42 Wysocki Produce Farms Inc	Bancroft, WI 54921	200,647.60
43 Larry C Sahm	Chippewa Falls, WI 54729	199,963.03
44 Tab J Wiegel	Darlington, WI 53530	199,955.71
45 Runyard Grain	Oconomowoc, WI 53066	198,840.88
46 Borzynski Brothers Properties	Franksville, WI 53126	198,396.38
47 Brenengen Family Farms	Trempealeau, WI 54661	197,598.17
48 Randall S Shotliff	Evansville, WI 53536	195,306.68
49 Jerome J Laufenberg Inc	Alma Center, WI 54611	194,668.65
50 Thunder Branch Acres Inc	Darlington, WI 53530	193,454.39
51 Henderson And Erickson	New Richmond, WI 54017	191,719.41
52 Kevin L Klahn	Brooklyn, WI 53521	188,835.33
53 Robert J Miller Jr	Oconomowoc, WI 53066	188,290.95
54 Halleen Farms	Woodbury, MN 55125	187,491.67
55 Heartland Farms Inc	Hancock, WI 54943	187,243.77
56 Jay R Sorensen	Pleasant Prairie, WI 53158	187,096.48
57 Kenneth L Russell	Barron, WI 54812	184,458.18
58 Trelay Farms Inc	Livingston, WI 53554	184,218.80
59 Mike Bergel	Darlington, WI 53530	183,920.50
60 Kelly Farms	Sun Prairie, WI 53590	183,810.75
61 Blue Star Dairy Farms Ptrn	De Forest, WI 53532	182,942.62
62 Lentz Farms Inc	Ridgeland, WI 54763	182,440.04
63 Meyer Dairy Grain Frm Inc	Chilton, WI 53014	180,882.47
64 Triple K Farm	Hartland, WI 53029	179,927.34
65 Vasby Farms Inc	Cambridge, WI 53523	177,594.63
66 Kau Farms	Eagle, WI 53119	177,005.21
67 Elmer Weis	Kenosha, WI 53142	175,011.91
68 James G Reu	Fort Atkinson, WI 53538	174,322.56
69 Henry Thomas	Menomonie, WI 54751	174,294.01
70 Triple S Farms	Monroe, WI 53566	173,911.97
71 Douglas Farms Inc	Janesville, WI 53545	173,090.12
72 S&I Farms	Hammond, WI 54015	172,376.00
73 Charles Pearce Farms, Llc	Walworth, WI 53184	172,008.24
74 Michael J Zimmerman	Beaver Dam, WI 53916	171,708.55
75 Patrick J Place	South Wayne, WI 53587	170,394.80
76 Howard & Floyd Wileman Farms Inc	Edgerton, WI 53534	170,108.57
77 Fenrich Farms Inc	Evansville, WI 53536	169,859.30
78 David Rieck	Elkhorn, WI 53121	169,537.06
79 ShaferOs Acres	Rosendale, WI 54974	168,963.26
80 Thomas P Sayre	Edgerton, WI 53534	168,386.57
81 Debra L Zimmerman	Beaver Dam, WI 53916	167,410.55
82 Jack Sauer	Darlington, WI 53530	166,905.83
83 S&S Grain Farms	Rio, WI 53960	166,884.62
84 Gary A Larson	Elk Mound, WI 54739	166,488.26
85 D&D Partnership %dan Dumke	Markesan, WI 53946	166,482.98
86 B Frms Inc	Marshall, WI 53559	164,882.07
87 Steven J Voda	Janesville, WI 53546	164,003.13
88 J G & L Reynolds	Genoa City, WI 53128	162,913.35
89 Malchine Farms Inc	Waterford, WI 53185	162,760.42
90 William Overbeck	Sturgeon Bay, WI 54235	162,235.49
91 Stephen Schwartz	Shullsburg, WI 53586	160,392.01
92 Custer Farm Inc	Chippewa Falls, WI 54729	160,265.59
93 Walter Farms, Inc	Elkhorn, WI 53121	160,200.95
94 New Age Custom Farming Llc	Prairie Du Sac, WI 53578	159,963.83
95 Robert C Traiser	Osceola, WI 54020	159,280.25
96 Edward H Montsma	Fond Du Lac, WI 54937	159,213.90
97 Larry V Pravechek	Luxemburg, WI 54217	158,312.30
98 David R Faschingbauer	Bloomer, WI 54724	157,905.30
99 David A Sayre	Edgerton, WI 53534	157,227.54
100 Thomas P Sayre Jr	Edgerton, WI 53534	157,227.17

Source: USDA. Compiled by EWG.

I would ask Governor Thompson to give us the answer. If he is a great advocate for the best use of the taxpayers money, why has he never spoken out against the farm subsidies that are clearly being abused in Wisconsin, and I cited Wisconsin only because Governor Thompson is from Wisconsin and he happens to be the man who is pushing now for an even more regressive and even more punitive bill than we have presently, a law that will give no room to breathe for people on welfare in terms of they must get a job but we do not want to give them an education, a chance to get an education.

The present law will not allow anybody to go for a single day to an institution of higher learning. Vocational education is all they can do. Once we had in New York City, and the Federal Government did not prohibit it, a program which allowed people to go to junior college, 2 years of junior college while they were on welfare in order to get their education, complete it to the point where they could become a tax payer.

Study after study has shown that once people get even a degree from a junior college or from a senior college, once they get into that realm, they pay back far more to the tax rolls than they ever received as welfare recipients. It is common sense and yet the Federal law now forbids any State to allow people to go in an institution of higher learning. They have to be vocational education only; and yet the jobs that are needed are the nursing job, the dental hygienist job, the jobs in information technology. They are all in an area which requires about 2 years of college.

If we want to give a person a chance to get off welfare, to not receive a safety net subsidy, then let them go all the way to the point where they can get a decent job. That is not allowed under current law.

So I am trying to make it understood to my constituents, to the constituency of others; and I think that when we have our debate next week on temporary assistance to families in need we will find out, needy families, we will find out whether there are any advocates for the poor.

Are the Democrats going to advocate for that group out there that has nobody here to speak for them? They are far more than 2 percent of the population.

Farmers are very well organized. The farmers have great, giant scrooges among them who did their homework years ago. The Department of Agriculture is the second largest agency in the Federal Government. Why at this time in America, when the population producing agricultural product is less than 2 percent of the population, why is the Department of Agriculture still the second largest agency in the Federal Government?

Somebody has done their homework very well. Those Scrooges know how to organize. Those Scrooges know how to take from those in need and make certain that they always have subsidies greater than they should be getting, farmers home loans, disaster for farmers, et cetera.

If there are Members of Congress listening who represent poor people, as I do, I am sure they are telling them what I tell them, that in America, people have the same opportunity. People have got to organize. People have got to come out and vote. Forty-nine percent of the American people who are not voting are the answer to all these problems.

The great angels of America need them. Those people have the spirit of wanting to spread our wealth and our know-how and our system of government throughout the world. They want to combat terrorism. They want to make certain that civilization is not subject to all these dark and negative forces that are seeking to pull us down, the al Qaeda network and the people who think women ought to be treated like cattle and the people who have great contempt for democracy and do not want everybody to have a vote, the people who are stealing their countries blind, all of the resources of the country going to the hands of a few.

There are forces out there which are in numbers greater than we are, and the only way we are going to conquer those forces is to have our own forces released. The great angels of America have to overcome the giant Scrooges. The giant Scrooges are always pressing to give our resources to the smallest number of people, and that is no way to keep America great.

A nice way to defend our interests. Our interests have to be defended because we are generous. We are willing to use our know-how and our constitutional civilization to the advantage of every American, willing to use our constitutional civilization to the advantage of people all over the world.

"Let's roll, America. Set the tracks of destiny straight. Don't look back but close the gate, toast the past but change the cast. In every language of the earth to the country of all Nations we have proudly given birth. At the Olympics of forever we will win all the races; we are Great Angels of tomorrow with magic mongrel faces.

"Let kindergartners take a poll, full baby bellies is our favorite goal, usher in the age of soul."

"America, let's roll."

CORRECTION TO THE CONGRESSIONAL RECORD OF APRIL 17, 2002

The following general leave statement by Mr. BEREUTER was inadvertently placed under the motion to recommit offered by Ms. JACKSON-LEE of Texas. It should have been placed under the motion to instruct conferees offered by Mr. SMITH of Michigan for H.R. 2646, on page H1382.

Mr. BEREUTER. Madam Speaker, this Member rises in strong support of the motion to instruct conferees on the issue of payment limitations which the distinguished gentleman from Michigan (Mr. SMITH) has offered.

It is clear that strong payment limitation language would improve the integrity of the farm program payments and help to retain public support for these programs essential to rural areas. Making this change will also help prevent the overwhelming consolidation of farms that has resulted in a decrease in small- and medium-sized family farm operations. The savings achieved from this provision could then be directed to other worthwhile agricultural programs.

A survey conducted by 27 land grant universities found that 81 percent of the agricultural producers across the country supported placing limits on support payments thereby directing dollars to where they are actually intended. Furthermore, a 2001 General Accounting Office report found that in recent years, more than 80 percent of farm payments were made to large- and medium-size farms. In 1999, for instance, 7 percent of the nation's farms—those with gross agricultural sales of $250,000 or more—received about 45 percent of the payments. With Congress facing so many spending priorities, we must demonstrate to our constituents that we are using taxpayers' money more efficiently.

It is important to note that this motion to instruct expresses support for redirecting these funds to agricultural research and conservation. Our choice is clear—we can continue to funnel millions of dollars to some of the wealthiest farms or we can make an investment in the future of agriculture which will benefit all producers and all Americans.

Mr. Speaker, this Member strongly supports the motion to instruct and encourages his colleagues to vote for it.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. ROUKEMA (at the request of Mr. ARMEY) for today after 2 p.m. on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. OWENS) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. BERKLEY, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. KIND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. TANCREDO) to revise and extend their remarks and include extraneous material:)

Mr. TANCREDO, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 27 minutes p.m.), under its previous order, the House adjourned until Monday, April 22, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6242. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revocation of Certain Obsolete Tolerance Exemptions [OPP–2002–0010; FRL–6833–3] (RIN: 2070–AB78) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6243. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Foramsulfuron; Exemption from the Requirement of a Tolerance [OPP–301227; FRL–6829–8] (RIN: 2070–AB78) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6244. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Furilazole; Pesticide Tolerance [OPP–301223; FRL–6828–4] (RIN: 2070–AB78) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6245. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Propiconazole; Extension of Tolerance for Emergency Exemptions [OPP–301221; FRL–6828–3] (RIN: 2070–AB78) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6246. A letter from the Secretary, Department of Energy, transmitting the annual report of the National Institutes of Health Loan Repayment Program for Research Generally for FY 2001, pursuant to 42 U.S.C. 8262g(d); to the Committee on Energy and Commerce.

6247. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report for FY 2001 of the National Institutes of Health Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds (CR–LRP) and the Extramural Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds (ECR–LRP), pursuant to 42 U.S.C. 2541—1(i); to the Committee on Energy and Commerce.

6248. A letter from the Secretary, Department of Health and Human Services, transmitting the Annual Report of the National Institute of Child Health and Human Development (NICHD) Contraception and Infertility Research Loan Repayment Program (CIR–LRP) for FY 2001, pursuant to 42 U.S.C. 2541—1(i); to the Committee on Energy and Commerce.

6249. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, South Coast Air Quality Management District [CA 210–0306a; FRL–7165–2] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6250. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA 071– 0335; FRL–7164–6] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6251. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District [CA 251–0326a; FRL–7160–8] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6252. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Interim Final Determination that the State of California Has Conditionally Corrected Deficiencies and Stay of Sanctions, San Joaquin Valley Unified Air Pollution Control District [CA 255–0320b; FRL–7164–7] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6253. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Interim Final Determination that the State of California Has Corrected Deficiencies and Stay of Sanctions, South Coast Air Quality Management District [CA 259–0332c; FRL–7158–9] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6254. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Nevada [NV 021–0049a; FRL–7167–3] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6255. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Section 112(I) Authority for Hazardous Air Pollutants; State of West Virginia; Department of Environment Protection [WV001–1000a; FRL–7166–6] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6256. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Commonwealth of Kentucky: Approval of Revisions to the 1-Hour Ozone Maintenance State Implementation Plan for the Edmonson County and the Owensboro-Daviess County Area; Correction [KY–200215; FRL–7168–6] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6257. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to India [Transmittal No. DTC 174–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6258. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to India [Transmittal No. DTC 173–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6259. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan, France, and Canada [Transmittal No. DTC 015–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6260. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan [Transmittal No. DTC 028–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6261. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan [Transmittal No. DTC 17–02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6262. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan [Transmittal No. DTC 170–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6263. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan [Transmittal No. DTC 011–02], pursuant to 22 U.S.C. 2776(c)and 22 U.S.C. 2776(d); to the Committee on International Relations.

6264. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Exemptions for U.S. Institutions of Higher Learning—received March 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6265. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 2002 through March 31, 2002 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 107—201); to the Committee on House Administration and ordered to be printed.

6266. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Closure [Docket No. 010413094–1094–01; I.D. 010902A] received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6267. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Department's final rule—Fisheries of the Exclusive Economic

Zone Off Alaska; Groundfish by Vessels Using Non-pelagic Trawl Gear in the Red King Crab Savings Subarea [Docket No. 011218304–1304–01; I.D. 020402F] received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6268. A letter from the Acting Director. Office of Substainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Halibut and Sablefish IFQ Cost Recovery Program [Docket No. 991207325–0063–02; I.D. 100699A] received March 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6269. A letter from the Director, Office of Substainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administratration's final rule—Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection Measures [Docket No. 010710169–1169–01; I.D. 060401B] (RIN: 0648–AP31) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6270. A letter from the Program Manager, Department of the Treasury, transmitting the Department's final rule—Identification of Transferee [ATF Rul. 2001–5] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6271. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and A300 B4 Series Airplanes; Model A300 F4–605R Airplanes; Model A300 B4–600 and A300 B4–600R Series Airplanes; and Model A310 Series Airplanes [Docket No. 2001–NM–205–AD; Amendment 39–12662; AD 2002–04–05] (RIN: 2120–AA64) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6272. A letter from the FMCSA Regulations Officer, Department of Transportation, transmitting the Department's final rule—Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States [Docket No. FMCSA–98–3299] (RIN: 2126–AA35) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6273. A letter from the Chairman, Surface Transportation Board, Department of Transportation, transmitting the Department's final rule—Consolidated Reporting By Commonly Controlled Railroads [STB Ex Parte No. 634] received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6274. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Flightcrew Compartment Access and Door Designs [Docket No. FAA–2001–10770; SFAR 92–4] (RIN: 2120–AH55) received March 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself, Mr. MICA, and Mr. DUNCAN):

H.R. 4481. A bill to amend title 49, United States Code, relating to airport project streamlining, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GEPHARDT:

H.R. 4482. A bill to amend the Internal Revenue Code of 1986 to provide for Universal Retirement Savings Accounts in lieu of the various individual retirement plans; to the Committee on Ways and Means.

By Mr. ARMEY (for himself and Mr. ENGEL):

H.R. 4483. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes; to the Committee on International Relations.

By Mrs. BIGGERT:

H.R. 4484. A bill to suspend temporarily the duty on 2,4-Dicholorophenoxyacetic acid, its salts and esters; to the Committee on Ways and Means.

By Mrs. BIGGERT:

H.R. 4485. A bill to suspend temporarily the duty on 2-Methyl-4-chlorophenoxyacetic acid, its salts and esters; to the Committee on Ways and Means.

By Mr. BOOZMAN (for himself, Mr. BERRY, Mr. SNYDER, and Mr. ROSS):

H.R. 4486. A bill to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the "Clarence B. Craft Post Office Building"; to the Committee on Government Reform.

By Mr. BRYANT (for himself and Mr. HILLEARY):

H.R. 4487. A bill to amend the Internal Revenue Code of 1986 to allow residents of States with no income tax a deduction for State and local sales taxes; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 4488. A bill to amend the unrelated business taxable income provisions of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4489. A bill to suspend temporarily the duty on Black Alc Powder; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4490. A bill to suspend temporarily the duty on Black 263 Stage; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4491. A bill to suspend temporarily the duty on Magenta 364 Stage; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4492. A bill to suspend temporarily the duty on Magenta 364 Liquid Feed; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4493. A bill to reduce temporarily the duty on Thiamethoxam Technical; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4494. A bill to suspend temporarily the duty on Cyan 485 Stage; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4495. A bill to suspend temporarily the duty on Cyan 1 Press Paste; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4496. A bill to reduce temporarily the duty on NMSBA; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4497. A bill to suspend temporarily the duty on Fast Cyan 2 Stage; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4498. A bill to reduce temporarily the duty on R118118 Salt; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4499. A bill to suspend temporarily the duty on Fast Magenta 2 Stage; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4500. A bill to suspend temporarily the duty on Fast Black 286 Stage; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4501. A bill to suspend temporarily the duty on mixtures of Fluazinam; to the Committee on Ways and Means.

By Mr. CASTLE:

H.R. 4502. A bill to reduce temporarily the duty on Prodiamine Technical; to the Committee on Ways and Means.

By Mr. ENGEL:

H.R. 4503. A bill to amend the Immigration and Nationality Act in regard to Caribbean-born immigrants; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA:

H.R. 4504. A bill to amend title 38, United States Code, to extend the eligibility for housing loans guaranteed by the Secretary of Veterans Affairs under the Native American Housing Loan Pilot Program to veterans who are married to Native Americans; to the Committee on Veterans' Affairs.

By Mr. FRANK (for himself and Mr. LAFALCE):

H.R. 4505. A bill to repeal subtitle B of title III of the Gramm-Leach-Bliley Act; to the Committee on Financial Services.

By Mr. JENKINS:

H.R. 4506. A bill to suspend temporarily the duty on T-Butyl Acrylate; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 4507. A bill to suspend temporarily the duty on 2,4-Xylidine; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 4508. A bill to suspend temporarily the duty on Tetrakis ((2,4-di-tert-butylphenyl)4,4-biphenylenediphosphonite); to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 4509. A bill to suspend temporarily the duty on palmitic acid; to the Committee on Ways and Means.

By Mr. KANJORSKI:

H.R. 4510. A bill to amend chapter 171 of title 28, United States Code, with respect to the liability of the United States for claims of military personnel for damages for certain injuries; to the Committee on the Judiciary.

By Mr. KOLBE:

H.R. 4511. A bill to suspend temporarily the duty on certain carbon dioxide cartridges; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 4512. A bill to amend the Internal Revenue Code of 1986 to encourage the use of safety devices in firearms; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 4513. A bill to strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of Social Security numbers and Social Security account numbers, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas (for himself and Mr. FILNER):

H.R. 4514. A bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MORAN of Kansas (for himself, Mr. Turner, Mr. Thune, Mr. Pickering, Mr. Walden of Oregon, Mr. McIntyre, Mr. Berry, Mr. Sandlin, Mr. Lucas of Kentucky, Mr. Phelps, Mr. Carson of Oklahoma, Mr. Paul, Mr. Bereuter, Mr. Shows, Mr. Shimkus, Mr. Kind, Mr. Otter, Mr. Watkins, Mr. Young of Alaska, Mr. Barrett, Mr. Boucher, and Mr. Latham):

H.R. 4515. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MYRICK:

H.R. 4516. A bill to suspend temporarily the duty on 12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl, 1,3-propanediamine, dimethyl sulfate, quaternized; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4517. A bill to suspend temporarily the duty on 40% Polymer acid salt/polymer amide, 60% Butyl acetate; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4518. A bill to suspend temporarily the duty on 12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl- 1,3-propanediamine, dimethyl sulfate, quaternized, 60 percent solution in toluene; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4519. A bill to suspend temporarily the duty on Polymer acid salt/polymer amide; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4520. A bill to suspend temporarily the duty on 50% Amine neutralized phosphated polyester polymer, 50% Solvesso 100; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4521. A bill to suspend temporarily the duty on 1-Octadecanaminium, N,N-di-methyl-N-octadecyl-, (Sp-4-2)-[29H,31H-phthalocyanine-2- sulfonato(3-)-.kappa.N29,.kappa.N30,.kappa.N31,.kappa.N32]cuprate(1-); to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4522. A bill to suspend temporarily the duty on Chromate(1-),bis{1-{(5-chloro-2-hydroxyphenyl)azo}-2-napthal enolato(2-)}-,hyrogen; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4523. A bill to suspend temporarily the duty on Aryl substituted copper phthalocyanine; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. LaFalce, Mr. Bachus, Mr. Frank, Mr. Leach, Ms. Waters, and Mr. Kucinich):

H.R. 4524. A bill to ensure that the Enhanced Highly Indebted Poor Countries Initiative achieves the objective of substantially increasing resources available for human development and poverty reduction in heavily indebted poor countries, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAUZIN:

H.R. 4525. A bill to suspend temporarily the duty on Phytol; to the Committee on Ways and Means.

By Mr. TAUZIN:

H.R. 4526. A bill to suspend temporarily the duty on kresoxim-methyl; to the Committee on Ways and Means.

By Mr. TAUZIN:

H.R. 4527. A bill to suspend temporarily the duty on Chloridazon; to the Committee on Ways and Means.

By Mr. TAUZIN:

H.R. 4528. A bill to suspend temporarily the duty on diethyl ketone; to the Committee on Ways and Means.

By Mr. TAUZIN:

H.R. 4529. A bill to suspend temporarily the duty on PDC; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. Ballenger, and Mr. Burr of North Carolina):

H.R. 4530. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Blue Ridge Heritage and Cultural Partnership Study Area in North Carolina, and for other purposes; to the Committee on Resources.

By Ms. WATSON:

H.R. 4531. A bill to award a congressional gold medal to Dr. Dorothy Height in recognition of her many contributions to the Nation; to the Committee on Financial Services.

By Mr. WATT of North Carolina:

H.R. 4532. A bill to suspend temporarily the duty on Disperse Orange 30, Disperse Blue 79:1, Disperse Red 167:1, Disperse Yellow 64, Disperse Red 60, Disperse Blue 60, Disperse Blue 77, Disperse Yellow 42, Disperse Red 86, and Disperse Red 86:1; to the Committee on Ways and Means.

By Mr. WATT of North Carolina:

H.R. 4533. A bill to suspend temporarily the duty on Disperse Blue 321; to the Committee on Ways and Means.

By Mr. WATT of North Carolina:

H.R. 4534. A bill to suspend temporarily the duty on Direct Black 175; to the Committee on Ways and Means.

By Mr. WATT of North Carolina:

H.R. 4535. A bill to suspend temporarily the duty on Disperse Red 73 and Disperse Blue 56; to the Committee on Ways and Means.

By Mr. WATT of North Carolina:

H.R. 4536. A bill to suspend temporarily the duty on Acid Black 132 and Acid Black 172; to the Committee on Ways and Means.

By Mr. WATT of North Carolina:

H.R. 4537. A bill to suspend temporarily the duty on Acid Black 107; to the Committee on Ways and Means.

By Mr. WATT of North Carolina:

H.R. 4538. A bill to suspend temporarily the duty on Acid Yellow 219, Acid Orange 152, Acid Red 278, Acid Orange 116, Acid Orange 156, and Acid Blue 113; to the Committee on Ways and Means.

By Mrs. WILSON of New Mexico:

H.R. 4539. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide market rate payments for child care services provided under such Act; to the Committee on Education and the Workforce.

By Mr. BRADY of Texas:

H. Con. Res. 381. Concurrent resolution expressing the sense of the Congress with respect to pulmonary hypertension; to the Committee on Energy and Commerce.

By Ms. LEE (for herself, Mrs. Meek of Florida, Ms. Eddie Bernice Johnson of Texas, Mr. Meeks of New York, Mrs. Clayton, Mr. Payne, Mr. Conyers, Mr. Cummings, Ms. Brown of Florida, Mr. Owens, Ms. Jackson-Lee of Texas, Mr. Hastings of Florida, Mr. Jefferson, Mr. Hilliard, Mr. Clay, Ms. Carson of Indiana, Mrs. Christensen, Mr. Davis of Illinois, Ms. McKinney, Mr. Towns, Ms. Watson, Mr. Bishop, Mr. Rush, Mrs. Jones of Ohio, Ms. Kilpatrick, Mr. Fattah, Ms. Waters, Mr. Ford, Mr. Scott, Mr. Wynn, Mr. Thompson of Mississippi, Mr. Jackson of Illinois, Mr. Rangel, Ms. Millender-McDonald, Mr. Clyburn, Ms. Norton, Mr. Lewis of Georgia, and Mr. Watt of North Carolina):

H. Con. Res. 382. Concurrent resolution urging the President to end any embargo against Haiti and to no longer require, as a condition of providing humanitarian and development assistance to Haiti, the resolution of the political impasse in Haiti, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. RIVERS:

H. Con. Res. 383. Concurrent resolution commending the NephCure Foundation for its sponsorship of National Kidney Cure Week and encouraging the Secretary of Health and Human Services to make more information available to the public concerning kidney diseases; to the Committee on Energy and Commerce.

By Mr. VITTER (for himself and Mr. McCrery):

H. Con. Res. 384. Concurrent resolution recognizing the United States Air Force B-52 Stratofortress bomber on the occasion of its 50th anniversary and honoring the pilots and crew members who have served aboard that aircraft; to the Committee on Armed Services.

By Mr. ARMEY:

H. Res. 391. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. DeLAY (for himself, Mr. Lantos, Mr. Ackerman, Mr. Gilman, Mr. Frost, Mr. Blunt, Mr. Crowley, Mr. Reynolds, Mrs. Lowey, Mr. Cantor, Mr. Waxman, Mr. Berman, Mr. Wexler, Mr. Engel, Mr. Cardin, Ms. Berkley, Mr. Schiff, Mr. Deutsch, Mr. Nadler, and Ms. Schakowsky):

H. Res. 392. A resolution expressing solidarity with Israel in its fight against terrorism; to the Committee on International Relations.

By Mr. CROWLEY (for himself, Mr. Hastings of Florida, Mr. Tom Davis of Virginia, Mr. Lantos, Mrs. McCarthy of New York, Mr. Engel, Mr. Ackerman, Mrs. Maloney of New York, Mr. Kennedy of Rhode Island, Mr. Nadler, Mr. Hinchey, Mr. Weiner, Mr. Rohrabacher, Mr. Berman, Mr. Israel, Mr. Ferguson, Mr. Hilliard, Mr. Schiff, Mr. Rodriguez, Mr. Holt, Ms. Eshoo, Ms.

BERKLEY, Mr. LANGEVIN, Mr. WAXMAN, Ms. SCHAKOWSKY, Mr. CAPUANO, Mr. KING, Mr. MEEHAN, Mr. LARSON of Connecticut, Mr. SANDERS, Mr. DEUTSCH, Mrs. LOWEY, Mr. McNULTY, Mr. FROST, and Mr. BLUMENAUER):

H. Res. 393. A resolution concerning the rise in anti-Semitism in Europe; to the Committee on International Relations.

By Mr. DeFAZIO (for himself, Mr. HINCHEY, Mr. STARK, Mr. RAHALL, Mr. FARR of California, Mr. DINGELL, Mr. KUCINICH, Mr. ISSA, Mr. SNYDER, Ms. LEE, Ms. WOOLSEY, and Mr. MEEKS of New York):

H. Res. 394. A resolution expressing grave concern about the continuing escalation in violence between Israel and the Palestinians; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the followingtitles were introduced and severally referred, as follows:

By Mr. FRELINGHUYSEN:

H.R. 4540. A bill to provide for the liquidation or reliquidation of certain entries of pasta; to the Committee on Ways and Means.

By Mr. LINDER:

H.R. 4541. A bill to provide for reliquidation of entries prematurely liquidated by the United States Customs Service; to the Committee on Ways and Means.

By Mr. MALONEY of Connecticut:

H.R. 4542. A bill to provide for the reliquidation of certain entries of vanadium carbides and vanadium carbonitride; to the Committee on Ways and Means.

By Mr. WICKER:

H.R. 4543. A bill for the relief of Richi James Lesley; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 292: Ms. CARSON of Indiana.

H.R. 425: Ms. SANCHEZ and Ms. RIVERS.

H.R. 536: Mr. BLUMENAUER.

H.R. 537: Mr. SCHIFF.

H.R. 774: Mr. CLEMENT.

H.R. 826: Mr. FORBES and Mr. RILEY.

H.R. 840: Ms. BROWN of Florida.

H.R. 854: Mr. WATT of North Carolina, Mr. HAYES, Mr. GOODE, and Mrs. CLAYTON.

H.R. 877: Mr. DIAZ-BALART.

H.R. 914: Mr. FORBES.

H.R. 937: Mr. JONES of North Carolina and Mrs. CUBIN.

H.R. 951: Mr. CHAMBLISS.

H.R. 1089: Mr. GRAHAM.

H.R. 1090: Mr. GEKAS and Mr. COOKSEY.

H.R. 1177: Mr. ISRAEL.

H.R. 1232: Mr. FOLEY and Mr. PETERSON of Minnesota.

H.R. 1305: Mr. STUPAK, Mr. DREIER, Mr. FLAKE, and Mr. JOHNSON of Illinois.

H.R. 1322: Ms. DeGETTE.

H.R. 1331: Mr. ROHRABACHER.

H.R. 1356: Ms. DeLAURO.

H.R. 1377: Mr. PHELPS.

H.R. 1462: Mr. FALEOMAVAEGA.

H.R. 1475: Mr. ROGERS of Michigan.

H.R. 1517: Mr. COMBEST.

H.R. 1532: Mr. GEKAS.

H.R. 1556: Mr. KLECZKA and Mr. RILEY.

H.R. 1581: Mr. KINGSTON, Mr. PETRI, and Mr. BOYD.

H.R. 1642: Mr. HOEFFEL.

H.R. 1723: Mr. WALSH.

H.R. 1789: Ms. JACKSON-LEE of Texas.

H.R. 1798: Ms. CARSON of Indiana.

H.R. 1808: Mr. BISHOP.

H.R. 1841: Mrs. BIGGERT, Mr. HASTINGS of Florida, Mr. PASCRELL, Ms. SANCHEZ, Mr. SANDLIN, Mr. CUMMINGS, Ms. WATERS, Mrs. DAVIS of California, Mr. SWEENEY, Ms. LOFGREN, Mr. PLATTS, Mr. SERRANO, Mr. KING, Mr. ALLEN, Mr. SCHIFF, and Mr. BISHOP.

H.R. 1908: Mr. KINGSTON, Mr. SOUDER, and Mr. BURTON of Indiana.

H.R. 1911: Mrs. LOWEY and Mr. AKIN.

H.R. 1917: Mr. McNULTY.

H.R. 2009: Mr. STENHOLM.

H.R. 2014: Mr. SENSENBRENNER.

H.R. 2027: Mr. GEKAS.

H.R. 2068: Mr. CONYERS.

H.R. 2073: Mr. AKIN.

H.R. 2117: Mr. STUMP, Mr. BENTSEN, Mr. SWEENEY, Mr. SHOWS, Mr. BRYANT, Mr. RODRIGUEZ, Mr. TOWNS, Mr. DeFAZIO, Ms. WATSON, Mr. STUPAK, Mr. GILMAN and Mr. LARSEN of Washington.

H.R. 2125: Mr. KENNEDY of Rhode Island and Ms. BERKLEY.

H.R. 2154: Mr. GONZALEZ.

H.R. 2207: Mr. LARSEN of Washington.

H.R. 2211: Mr. SHAYS.

H.R. 2222: Ms. CARSON of Indiana.

H.R. 2347: Mr. LAHOOD.

H.R. 2348: Mr. BERMAN and Ms. SOLIS.

H.R. 2466: Mr. BOEHNER, Mr. BARTON of Texas, Mr. CRANE, Mr. GANSKE, Mr. SPRATT, Mr. GRAHAM, Mr. PASTOR, Mr. BISHOP, Mr. BURR of North Carolina, Mr. DEAL of Georgia, Mr. VITTER, Mr. LINDER, Mr. MANZULLO, Mr. JOHNSON of Illinois, Mr. GOODLATTE, Mr. GOODE, Mr. McINTYRE, Mr. CHAMBLISS, Mr. JONES of North Carolina, Mr. FLETCHER, Mr. KELLER, and Mr. POMEROY.

H.R. 2521: Mr. HEFLEY and Mr. GEKAS.

H.R. 2570: Mr. DAVIS of Illinois and Mr. BONIOR.

H.R. 2576: Mrs. JO ANN DAVIS of Virginia.

H.R. 2629: Mr. JENKINS and Mrs. KELLY.

H.R. 2637: Mr. THOMPSON of Mississippi.

H.R. 2638: Ms. PELOSI.

H.R. 2692: Mr. SWEENEY.

H.R. 2695: Mr. INSLEE.

H.R. 2706: Mr. YOUNG of Alaska and Ms. WOOLSEY.

H.R. 2714: Mr. PUTNAM, Mr. DAN MILLER of Florida, Mr. STUMP, Mr. WICKER, Mr. BACHUS, Mr. BONILLA, Mr. BOOZMAN, Mr. COBLE, Mr. COLLINS, Mr. CUNNINGHAM, Ms. GRANGER, Mr. HORN, Mr. HYDE, Mr. McINNIS, Mr. NETHERCUTT, Mr. NEY, Mr. NUSSLE, Mr. ROHRABACHER, Mr. SHADEGG, Mr. SMITH of New Jersey, and Mr. WATTS of Oklahoma.

H.R. 2763: Mr. LUCAS of Kentucky.

H.R. 2820: Mr. LUTHER, Mr. BAIRD, Mr. BLUNT, Mr. RUSH, Mr. WYNN, Mr. DeFAZIO, Mr. LANTOS, Mr. BLAGOJEVICH, Mr. PAYNE, and Mr. RANGEL.

H.R. 2874: Mrs. MINK of Hawaii and Ms. DeLAURO.

H.R. 2878: Mr. KUCINICH.

H.R. 2908: Ms. DeGETTE.

H.R. 2953: Mrs. MALONEY of New York.

H.R. 3094: Mr. QUINN and Mr. LEACH.

H.R. 3113: Mr. FATTAH.

H.R. 3185: Mr. LAMPSON and Mr. MALONEY of Connecticut.

H.R. 3231: Mr. FRANK.

H.R. 3244: Mr. FORBES.

H.R. 3320: Mr. BOEHNER.

H.R. 3321: Mr. BISHOP.

H.R. 3363: Mr. OLVER.

H.R. 3375: Mr. BURTON of Indiana.

H.R. 3414: Mr. CLEMENT, Mr. LYNCH, and Mr. BERMAN.

H.R. 3424: Mr. NEAL of Massachusetts.

H.R. 3450: Mr. DOYLE, Mr. SCHIFF, Mr. DeFAZIO, and Mr. FATTAH.

H.R. 3476: Mrs. NAPOLITANO.

H.R. 3478: Mr. HILLEARY, Mr. REYES, Mr. ORTIZ, and Mr. RYUN of Kansas.

H.R. 3479: Mr. SIMPSON, Mr. LATHAM, and Mr. MORAN of Kansas.

H.R. 3482: Mr. SCHIFF.

H.R. 3509: Mr. OWENS, Mr. FROST, and Mr. DAVIS of Illinois.

H.R. 3512: Ms. ROS-LEHTINEN, Mr. KENNEDY of Minnesota, Mr. CARSON of Oklahoma, Mr. LUCAS of Oklahoma, and Mr. SOUDER.

H.R. 3545: Mr. SIMMONS, Mr. ROSS, and Mr. BALDACCI.

H.R. 3561: Mr. SHUSTER and Mr. KINGSTON.

H.R. 3567: Mrs. JO ANN DAVIS of Virginia.

H.R. 3585: Ms. LEE and Ms. WOOLSEY.

H.R. 3605: Mr. NORWOOD.

H.R. 3625: Mr. COYNE, Mr. FATTAH, Mr. PRICE of North Carolina, and Mr. WEXLER.

H.R. 3634: Mrs. CLAYTON, Mr. PAYNE, and Ms. LEE.

H.R. 3659: Ms. McCOLLUM, Mr. HOEFFEL, Mr. BLUNT, Ms. McKINNEY, Mr. KILDEE, Ms. DeLAURO, Mr. CLEMENT, Mr. BARCIA, Mr. CONYERS.

H.R. 3681: Mr. SANDLIN, Mr. BARR OF GEORGIA, Mr. WU, Mr. ABERCROMBIE, Mr. STENHOLM, and Ms. BALDWIN.

H.R. 3686: Mr. PETERSON of Minnesota.

H.R. 3705: Mr. OTTER.

H.R. 3706: Mr. OTTER.

H.R. 3717: Mr. CRAMER.

H.R. 3770: Mr. MEEKS OF NEW YORK.

H.R. 3794: Mr. LARSEN of Washington, Mr. UDALL of Colorado, and Mr. McHUGH.

H.R. 3802: Mrs. CUBIN.

H.R. 3805: Mr. HILLEARY, Mr. HERGER, Mr. GRAHAM, and Mrs. JO ANN DAVIS of Virginia.

H.R. 3808: Mr. BARR of Georgia, Mr. OTTER, and Mr. GREEN of Wisconsin.

H.R. 3826: Mrs. CHRISTENSEN, Mr. BISHOP, Mr. KILDEE, Mr. LYNCH, Mr. FROST, Mr. FRANK, and Mr. HOSTETTLER.

H.R. 3831: Mr. JENKINS.

H.R. 3894: Mr. HINCHEY.

H.R. 3895: Mr. ROGERS of Kentucky.

H.R. 3899: Mr. HINCHEY and Ms. McKINNEY.

H.R. 3915: Ms. McCARTHY of Missouri.

H.R. 3916: Mr. WAXMAN, Mr. BENTSEN, Mr. THOMPSON of California, Ms. McCOLLUM, Mr. ENGEL, and Ms. SCHAKOWSKY.

H.R. 3972: Mr. TAYLOR of Mississippi.

H.R. 3973: Mr. SAM JOHNSON of Texas and Mr. TAYLOR of Mississippi.

H.R. 3989: Mr. LANTOS.

H.R. 3990: Mr. UNDERWOOD.

H.R. 4001: Mr. PAUL.

H.R. 4002: Mr. MEEKS of New York.

H.R. 4011: Mr. FRANK.

H.R. 4013: Ms. SLAUGHTER, Mr. McDERMOTT, and Ms. WOOLSEY.

H.R. 4014: Ms. SLAUGHTER, Mr. McDERMOTT, Ms. WOOLSEY, and Mr. PLATTS.

H.R. 4018: Mr. FATTAH, Mr. DeFAZIO, and Mr. LANGEVIN.

H.R. 4019: Mrs. CUBIN and Mr. UDALL of Colorado.

H.R. 4047: Mr. RAMSTAD and Mr. SAM JOHNSON of Texas.

H.R. 4066: Ms. SLAUGHTER, Mr. FATTAH, Mr. KUCINICH, and Mr. LANTOS.

H.R. 4071: Mr. STARK.

H.R. 4112: Mr. LEWIS of Kentucky, Mr. POMEROY, and Mr. LATHAM.

H.R. 4119: Mr. FROST, Mr. BISHOP, and Mr. DUNCAN.

H.R. 4122: Mr. PICKERING, Mr. PITTS, and Mr. WHITFIELD.

H.R. 4152: Mr. SKEEN.

H.R. 4169: Mr. CALVERT and Mr. TOOMEY.

H.R. 4197: Mr. NEAL of Massachusetts.

H.R. 4198: Mr. NEAL of Massachusetts.

H.R. 4209: Ms. SLAUGHTER, Mrs. CLAYTON, Mr. DOOLEY of California, Mr. BAIRD, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. SHAYS, Mr. HOLT, Ms. LOFGREN, Mr. EDWARDS, Mr. BENTSEN, Mrs. THURMAN, Mrs. TAUSCHER, Mr. INSLEE, Mr. KUCINICH, and Mr. MICA.

H.R. 4235: Mr. BOUCHER.

H.J. Res. 41: Mr. AKIN and Mr. FORBES.

H. Con. Res. 180: Mr. HASTINGS of Florida.

H. Con. Res. 188: Mr. ROGERS of Kentucky.

H. Con. Res. 260: Ms. MCCOLLUM.

H. Con. Res. 269: Ms. SOLIS.

H. Con. Res. 315: Mr. OTTER, Mr. DEMINT, Mr. HERGER, Mr. RILEY, and Mr. TIAHRT.

H. Con. Res. 345: Mr. MCINTYRE.

H. Con. Res. 346: Ms. SLAUGHTER.

H. Con. Res. 371: Mr. MCHUGH, Mr. BLUNT, Ms. SOLIS, Mr. SAXTON, Mr. ROGERS of Michigan, Mr. DOOLITTLE, Mr. BERMAN, Mr. SAM JOHNSON of Texas, Ms. ROYBAL-ALLARD, and Mr. SIMMONS.

H. Res. 98: Mr. MALONEY of Connecticut.

H. Res. 133: Mr. HASTINGS of Florida, Mr. ALLEN, and Mr. SOUDER.

H. Res. 387: Mr. SMITH of Washington.

SENATE—*Thursday, April 18, 2002*

The Senate met at 9:45 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

The PRESIDING OFFICER. This morning our guest Chaplain, Reverend Samuel L. Green, St. Mark African Methodist Episcopal Church, in Orlando, FL, will lead the Senate in prayer:

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Oh God, our God. How excellent is Your name. You are wonderful. You are glorious. You are sovereign and majestic. You alone are God. We offer to You today thanksgiving. Thank You for the many blessings You have so graciously bestowed upon us. Thank You for blessing America. We pause as a nation today to bless You. Give us strength and courage to work together as a nation to create environments of liberty and justice throughout our land.

Dear Lord, grant unto this Senate an agenda that will speak to the issues that affect every citizen of our Nation. As these women and men convene, cause them to remember that our Founders established this Nation under God. Then as they deliberate, their thoughts and actions will be led by You.

God of grace, God of glory, on these Senators pour Your power. Grant them wisdom; grant them courage for the facing of this hour in America. Give them a strong resolution against the evils that we as a nation deplore. Search their souls, be their glory so that these women and men who have been elected to serve as Senators will not fail those they represent or Thee. In the name of Jesus, the Christ, we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 18, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the energy reform bill. The ANWR amendments are pending. The time until 11:45 is divided equally between the two leaders or their designees. At 11:45 the Senate will vote on cloture on the Stevens ANWR amendment. If cloture is not invoked on the Stevens amendment, the Senate will immediately vote on cloture on the Murkowski ANWR amendment.

I ask that Senator NELSON of Florida be recognized to give remarks regarding our guest Chaplain.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

WELCOMING THE GUEST CHAPLAIN

Mr. NELSON of Florida. Madam President, the minister who is our guest Chaplain is a personal friend of mine from Orlando. It is noteworthy that I make a couple of remarks concerning him.

Reverend Sam Green of St. Mark AME Church in Orlando is a rather extraordinary minister of the gospel. He comes from a family that has four brothers who are all ministers, in Orlando, Tallahassee, Gainesville, and Miami. Reverend Green's pastorate and his ministry are an outreach to the community of Orlando, for he has created businesses to fill the needs of the Orlando community that are all occupied by parishioners of his church. And so it is with a great deal of pleasure that we welcome Reverend Sam Green of Orlando to be our guest Chaplain this morning.

Thank you, Madam President.

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RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Schumer amendment No. 3030 (to amendment No. 2917), to strike the section establishing a renewable fuel content requirement for motor vehicle fuel.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security.

Stevens amendment No. 3133 (to amendment No. 3132), to create jobs for Americans, to strengthen the United States steel industry, to reduce dependence on foreign sources of crude oil and energy, and to promote national security.

Mr. REID. Madam President, I ask unanimous consent that the full 2 hours be given and the votes occur at 10 minutes to the hour rather than 15 minutes on the hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, I understand I have up to 15 minutes to speak at this time, is that correct?

The ACTING PRESIDENT pro tempore. No time was specifically allotted to any particular Senator.

Mr. DOMENICI. I thank the Chair. I am supposed to proceed on our side. As the majority whip knows, I have a hearing beginning shortly. The Senator from Pennsylvania wanted to use 2 minutes of my time. Could we let him proceed for 2 minutes?

Mr. REID. That would be fine if the three Republican Senators wish to speak.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Madam President, I want to speak for a couple of minutes on this amendment on steel. We had an opportunity to do something to profoundly help the steel industry this year. The President has done the right thing. He did something tremendously important to help steel jobs by creating the tariff decision a few weeks ago. But the second piece of this puzzle was to do something about the legacy cost, so the steel industry can consolidate and be much more efficient.

We had an opportunity in this bill, because we had a pot of money, to be able to fund this program. I don't see any other pot of money out there that is substantial enough to meet the needs of people who are basically without health insurance now because of the failure of so many companies in the steel industry. We had the money. All we needed was the will. Fortunately, you had the steel companies saying let's do it and make this our chance because the money is here, the will is here. The steelworkers passed. Many people here who are advocates for steelworkers are taking a pass. The reason is because they cannot get a commitment from the President to sign this exact piece of legislation.

I am going to vote for this legislation, but if that now is the standard, I am going to adopt that standard. I will not vote for another piece of steel legacy legislation on the floor of the Senate. I will not advocate for another piece of steel legacy legislation until we have a commitment from the President, before it leaves the Senate, that he will sign it. Since that is the commitment that was necessary here, that will now be the commitment to get my support and advocacy on this side of the aisle for any future steel legacy bailout. You have made your bed, and it is an uncomfortable one, and it is not going to be a satisfying one for the people who could today be realizing health care, could be realizing a restoration of the health care benefits that were promised them. But some people decided to take a political pass. Go ahead and take your political pass, but the impact on all of these workers is profound, and the impact on all of these retirees is profound. It is a very sad day for the steelworkers and the retirees as a result of the politics being played on this issue.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, this side has asked me to ask unanimous consent that the time consumed by the quorum call be equally divided on the unanimous consent the Senator from Nevada just requested.

Mr. REID. I hope we don't have a quorum call.

Mr. DOMENICI. That quorum time be equally divided. That is what we are trying to clear up.

Mr. REID. I am sure it is OK. I'm not sure I understand.

Mr. DOMENICI. Madam President, today we are debating an amendment that, simply put, has a profound impact on our future. This legislation is American jobs and national security. And I will say, what could be more compelling than these two very simple, but profound and obviously important considerations: American jobs and national security.

Our Nation, whether we like it or not, whether we should have done something about it sooner or not, moves on oil. We can wish for a future in which there are other options, but it is not here now. Absolutely nothing changes the stark fact that now, and for the foreseeable future, we need expanded supplies of oil, and we are dangerously dependent on foreign sources.

Our economy grinds to a halt without oil. Our tremendous military capabilities require oil. Today, for example, it takes 8 times more oil to meet the needs of each American soldier than during World War II.

Senator after Senator has noted that we are now importing almost 60 percent of our oil. We all know that the past crises occurred when we were half as much dependent. Those crises occurred when other nations followed their own best interests. That will always be the case. Our interests will not always drive the actions of our neighbors and countries that call themselves our friends.

We know that oil is going to become an increasingly precious resource. Supplies are not infinite, but it is not a question of whether we have enough oil for the foreseeable future; but will America be able to be assured—or can we do things that will make us more assured that we will have what we need?

We know that oil is getting to be a more precious resource. Obviously, we have become vulnerable to disruptions. That vulnerability has never been larger. But I submit that it will get larger in the future because we are not taking any action, in my opinion, that either short-term or long-term will change that situation.

At this instant, we see tremendous instability in the Middle East. We have been getting at least 1 million barrels of oil per day from Iraq. And instability doesn't stop in the Middle East. Whatever it is that is causing instability in our world, has moved over into our hemisphere. Obviously, Venezuela is another very major supplier of the United States. It does not take a genius to look into the cloudiest of crystal balls and forecast that there are likely to be immense shortages of oil in the near future.

Some argue that ANWR oil will not be ready for 10 years, while experts note that oil could be flowing in 1 to 2 years. Others will argue that even with the shorter time, ANWR cannot impact today's crisis sufficiently. Sure, it cannot, but it will be better and it will enable us to withstand the next crisis much, much better. In fact, it might postpone one crisis or another crisis in the future. And there is no question that prices at the oil pump are now being impacted by this situation that I have just described with reference to our dependence on the Middle East and other world conditions. Whether you're shopping at the neighborhood gas pump or reading the papers, the signs are all around us, oil is approaching $26 a barrel versus $18 earlier this year.

There are headlines such as "Gas Prices Put Some Budgets Running on Empty," and "The Oil Market is Running Scared." Those kinds of signs are plastered in newspapers and magazines. Right here in Washington, gas prices have climbed 20 percent in the past month. Besides giving us more control over our own gas prices, ANWR has other far-reaching impacts. After all, we are just coming out of recession.

This is the time when good jobs are especially precious. ANWR oil, valued at $300 billion or more, means thousands upon thousands of jobs for Americans. It is estimated that the President's whole energy package delivers about 700,000 jobs for Americans. Many of those jobs are represented by some of our strongest unions, and we have seen a number of them support the passage of the ANWR legislation.

It is obvious to me there will be many jobs in special areas of oilfield exploration, and extensive logistic support will be needed at every step of exploration and development.

In one sense, this is a huge jobs opportunity for Americans. These are highly paid jobs. They will go elsewhere. They will not stay in this country. Salaries will be lost as we become more dependent, and without us having the advantage of the ANWR oil activities, the oil money will go elsewhere. We will pay more money to foreign countries rather than keep it for ourselves.

We would rush to the floor to vote for any project or program that we could put into effect that would produce the kind of jobs that ANWR will bring. There is no question it is the biggest job-producing activity that anyone could plan during the next decade and perhaps thereafter.

If we import more oil, we are encouraging more pumping from places in the world with less stringent environmental regulations. If we import more, what sense does it make to ban our exploration and drilling under rigid environmental mandates and tell the rest of the world to use whatever approaches they want, with whatever environmental damage, just to satisfy our needs and our thirst?

We cannot, by defeating ANWR, mandate the environmental conditions that will exist across this world when the oil that would have been ANWR oil is produced by other countries in other places.

ANWR critics need to remember that this amendment limits the total footprint of all operations to 2,000 acres, a tiny piece of a gigantic area encompassing more than 20 million acres. That means 99.99 percent of ANWR is untouched by this development. If the same fraction of New Mexico, my home State, was developed as is being proposed in ANWR, it would consume an area roughly the size of the Albuquerque Sunport and Kirkland Air Force Base.

That piece of geography in the southwest in New Mexico—the Sunport in Albuquerque plus Kirkland Air Force Base—is the entirety of property that would be used. It would leave no destruction or damage or in any way harm the 2,000 acres. That can be done.

For those who wonder whether we can drill that many wells and get that much oil from such a small piece of geography, that is what the law says; that is the only activity the President would be allowed to do if either of the pending amendments were to be adopted.

If the same fraction of New Mexico were developed as is being proposed in the ANWR drilling, it would consume the area I have just described. There are some who do not believe that, but I repeat, we have become such technological experts in drilling for oil that, indeed, 2,000 acres will suffice because we no longer drill straight down, perpendicular. We drill horizontally so there will be many wells many distances from this 2,000 acres, but it will not be visible on the surface nor will it impact the surface.

We have spent a lot of resources—a lot of businesses invested money and we invested money in the research to permit that, to get us to this point where we can stand in this Chamber and talk about horizontal drilling and about a footprint of 2,000 acres that could drain the entirety of ANWR, the entirety of the 1.5 million acres or at least sufficient quantities to make it worthwhile.

If we import more, then we are only encouraging more pumping in places in the world with less stringent regulations, which I have just commented on. If we want to move environmental degradation elsewhere—which will be minuscule in the United States, in Alaska, in ANWR—then shame on us and doubly shame on us if we, with the same set of events, deny an opportunity to produce it under stringent requirements as we have been referring to for ANWR.

It is likely that the ANWR supply would replace about 30 years of oil imports from Saudi Arabia and about 50 years of oil imports from Iraq. Right now, we pay Saddam Hussein about $4.5 billion a year for oil. Do we really want to be dependent on this regime? Do we want it to grow rather than diminish? If we want his regime to grow, then reject the two pending amendments. If we want Saddam Hussein's influence to lessen, then we ought to vote in such a way as to permit American business, American working men and women to proceed to produce on our behalf.

To me, this is a very easy issue. We should drill in the United States using our best environmentally friendly technology under our rigid environmental controls. We should drill where we can find our own oil to satisfy our national needs and, at the same time, we should work to develop new technologies that lessen our dependence on oil and petroleum-based fuels. There can be no doubt, ANWR will not solve our problem, but clearly it will help solve our problem, and with that, there are so many pluses in terms of where the wealth will go, where the money will be invested, which workers will get the jobs, which businesses will be part of the very complicated drilling techniques and apparatus that will be on American soil drilling for oil for Americans, instead of part of the international pool produced by some other country, the benefits of which are absolutely nil to the United States.

It is an easy issue because this is an American issue and a jobs issue with very little downside. Actually, this should not be an environmental issue. This should not be an issue that oil companies favor. This should not be an issue that the labor unions favor. This is an American issue that we should have come to the floor shoulder to shoulder saying: Let's give it a try.

I submit that just as happened in the Prudhoe Bay activity—after lengthy debates and passing by the narrowest of margins, with all that was going to happen environmentally in that area, from what I can tell and on what I have been briefed from people who live there, nothing of significant damage to the environment has occurred—I predict the very same thing will occur if we proceed to drill on the 2,000 acres set aside.

I regret, if it turns out this cannot be passed, that the argument apparently will prevail that we should let the environment be degraded in other countries to produce commodities that we desperately need, but we should not produce this product on our own land under far more stringent environmental controls. To me it makes no sense as an environmental issue.

To me, it is abandoning hundreds, and hundreds of thousands, of jobs and billions of dollars that are American. We are going to be sending those off to others saying: You enjoy them because, after all, America is so powerful, so strong, we do not need any.

I believe this amounts to something very close to economic arrogance on the part of those who promote it. It is kind of like walking out and saying: America is so robust, we do not need to worry about hundreds of thousands of jobs and billions of dollars that could be ours instead of some other country in the world. It would seem to this Senator that it is a very clear issue. I, for one, am sorry we have taken so much time, and I do hope when we finish with this issue that we will proceed.

I note my colleague from New Mexico has been in this Chamber for an inordinate amount of time trying to get this bill done. I want to say to him, I am not one who wants further delay. When we get this finished, I am for getting on with it. I hope that happens in a few days rather than weeks. The issue has been joined. Both sides have had a good shot at it. Perhaps none of us have understood it correctly, but I think we have all tried.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Nevada.

Mr. REID. Mr. President, the Senators on the Democratic side who have requested time will be given this amount of time: Senator BINGAMAN, 10 minutes; Senator BOXER, 5 minutes; Senator DASCHLE, 10 minutes; Senator KERRY, 10 minutes; Senator LIEBERMAN, 5 minutes; Senator REID, 5 minutes; Senator ROCKEFELLER, 10 minutes.

Mr. President, some of my colleagues have advocated opening the Arctic National Wildlife Refuge to drill for oil. Those who favor exploiting the Arctic Refuge for whatever oil might be there often suggest this Coastal Plain is desolate and unforgiving.

The Arctic Refuge is a very different landscape than most of the wildlife refuges in the lower 48 States. This unique Coastal Plain is worthy of protection, and that is an understatement.

I am from a place called Searchlight, NV, a small town in the heart of the Mojave Desert. The Mojave Desert is the driest and one of the most unforgiving regions in North America. It is also one of the most beautiful and awe-inspiring places on Earth. This desert, because of its extreme climate, is very slow to heal from impacts people make in it. The Mojave Desert is hot, it is dry, and it is fragile.

The Arctic Refuge, though so different from the desert, is actually similar to the Mojave in that it is another of North America's most unforgiving landscapes.

Like the Mojave Desert, the Arctic Refuge is a beautiful, irreplaceable and shared national treasure. The Arctic Refuge belongs to all Americans and all Americans should have a voice in determining its future. Those pushing to drill for oil in this American wilderness claim drilling would not have a harmful impact, but we know that due to extreme climate the Arctic would be slow to heal from the wounds caused by oil and gas exploration and development.

The Arctic Refuge is cold, it is wet, it is fragile, and it is also unique and irreplaceable. The Arctic Refuge is not a wasteland. We must not allow it to become one. I am fortunate to be able to return home to the Mojave Desert and enjoy visits with my family. That is where my home is.

Congress should guarantee, for the sake of our children and grandchildren, the Arctic National Wildlife Refuge also remains pristine, unharmed and free from wasteful exploitation.

Behind the misguided drive to drill in the Arctic Refuge is a fundamental issue on which we should all agree: America is too dependent on oil. We must be honest with the American people about this simple truth: America has 3 percent of the world's oil reserves; 90 percent of the oil reserves are elsewhere, but we use 25 percent of the world's supply of oil. America will never again produce all of the oil it uses. As long as America depends on oil, we will have to depend on foreign oil. That is too bad. There is no question that reducing our use of foreign oil is a critical goal for our Nation.

Improving fuel efficiency in cars would significantly reduce our debilitating dependence on foreign oil. If all cars, trucks and pickups had a corporate average fuel economy, or CAFE standard, at 27.5 miles per gallon, the country would save more oil in 3 years than could be recovered economically from the entire Arctic National Wildlife Refuge ever.

It is easier to save a barrel of oil than to produce one. Reducing our demand for oil means eliminating the inefficiencies that plague our Nation's energy use. Our energy policy must promote responsible production of oil and gas. This legislation will provide tax incentives to do just that, but that does not mean we should drill in the pristine Arctic wilderness. Although drilling in the Arctic refuge might seem like a solution to our energy challenges and could be profitable for oil companies, America cannot afford to cut corners at the expense of this refuge.

The refuge can only supply 6 months' worth of oil to meet America's energy needs. This is not a solution. We must find a long-term solution because once the oil is extracted and used it is gone. We will soon find ourselves facing the same dilemma, only this refuge would be destroyed and/or damaged.

There are solutions. Substituting alternative energies, solar, wind and, of course, geothermal, as well as biofuels for fossil fuels or using them as fuel additives can help offset some of our demand for petroleum and at the same time dramatically reduce pollution.

As fantastic as it sounds, with the use of hydrogen fuel cells, as the Senator from Idaho spoke recently, oil will eventually be phased out as a primary transportation fuel. Yes, our Nation will some day abandon oil as its primary energy source in favor of natural gas and renewable energy. The day is coming. I hope it is a day when we can all look back and be proud that we made the right decision to protect the Arctic Refuge for centuries to come.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I welcome a chance to speak for a few additional minutes on this important issue. In my view, opening the Arctic National Wildlife Refuge is not good environmental policy for our country and also it distracts us from the effort we are making to craft a comprehensive energy policy the country can support and with which we can move ahead.

I urge my colleagues to vote against the cloture motions. I have several reasons for that. One point that needs to be made very clearly is one that I think has sort of not been said but has been part of the background discussion, and that is that nothing that is proposed with regard to drilling for oil in the wildlife refuge would in any way reduce the price of gas for Americans.

The suggestion has been made, well, the price of gas is going up. Therefore, we have to rush out and drill in the Arctic Wildlife Refuge. The truth is, there is nothing in these proposals that is going to affect the price of gas to the American consumer. I think everyone sort of concedes that point when asked the question, but I wanted to make it very explicit.

Also, there is nothing in this proposal to help us with our short-term needs. The Energy Information Agency says that even if we were to pass legislation this year to permit drilling in the Arctic Wildlife Refuge, there would be no production out of that area for at least 7 years, perhaps for as long as 12 years.

We had a hearing in the Energy Committee where the representative from ExxonMobil said it would be at least 8 years, and more realistically probably 10 years. So there is no solution to our short-term needs in these proposals.

I would also make the point, which we have tried to make in several ways, that there is really no solution to our long-term needs in this proposal to open the wildlife refuge either. I have a chart that we have shown before, but I think it is a very instructive chart. It is based on information from the Energy Information Agency, which is part of our Federal Government, part of the administration. We asked them first a pretty obvious question. We said, let us look long-term in the year 2020. How dependent will we be on foreign oil if we do not open ANWR to production?

They said, we will be 62 percent dependent. The exact figures they gave us show we are about 55 percent dependent this year on foreign sources of oil. In 2020, we will be 62 percent dependent if we do not open ANWR.

Everybody said, great. Let us think about opening ANWR then. We said, how dependent would we be if we did open ANWR to drilling? They said we would be 60 percent dependent. That is the issue. It is a 2-percent difference in the year 2020.

Then we asked the next question: Longer term, what about 2030? How dependent will we be in 2030 if we don't open ANWR to drilling? The answer is, 75-percent dependent upon foreign sources of oil. This is assuming we don't change any of our other policies with regard to CAFE standards, with regard to use of hydrogen power for fuel cells or anything else. They said 75 percent; we said, if we do open ANWR to drilling, how dependent? And they say 75 percent. The truth is, their projections indicate that whether ANWR is opened or is not opened for drilling and production, by the year 2030 it is all gone and we are at 75-percent dependence upon foreign sources of oil. So there is nothing in these proposed amendments we are going to be voting on that solves our long-term problems.

The controversy, I do believe, has diverted our attention from other real opportunities to enhance our domestic energy production. Let me recount briefly what some of those are.

Senators from Alaska made the point very strongly, and I agree with them, that a tremendous opportunity for our country as far as meeting our energy needs in the future is concerned is getting the gas that is produced in the

Arctic down to the lower 48 so we can use it. We have 32 million cubic feet of natural gas that is immediately available, substantially more natural gas that is expected to be available if there is a way to transport that—a pipeline—from the North Slope down to the lower 48. We have provisions in this bill that will facilitate the construction of that pipeline.

We have worked with the Senators from Alaska to try to devise other provisions, incentives, ways to reduce the risk, the financial risk involved, so that pipeline can be constructed. It is very much in our national interest that be done. I very much hope as a result of the legislation, we are able to do this.

Talking now again about oil rather than natural gas, there are substantial prospects for increased production of oil on the North Slope of Alaska in the National Petroleum Reserve, Alaska. There are 23 million acres of Federal land that have been set aside to secure our petroleum reserves. That is the orange area on this map. This is very promising. The previous administration leased a substantial area for drilling. Those leases were certainly sought by the industry. There is another lease sale being prepared for this June. There are additional lease sales planned in the future. They all have the very high interest of the oil and gas industry. I strongly support going ahead with that development. It is something we need to do to meet our needs. I hope we do.

In addition, there is a substantial area of State and Native lands between the Arctic Refuge and the National Petroleum Reserve, Alaska, between the green area, which is the wildlife refuge area, and the orange area, which is the National Petroleum Reserve, Alaska area. That is State and Native land. There is an aggressive State leasing program going forward there. That benefits, of course, everyone and increases domestic production.

Even when we get away from the North Slope of Alaska and look at the Gulf States, we have today 32 million acres offshore of Louisiana, Texas, and Mississippi, that have been leased for drilling and have not yet been drilled and developed. We need to figure out what we can do through policies and incentives to encourage the development of those resources. Clearly, there is a substantial benefit to our country there.

The point I made repeatedly throughout the 5 or 6 weeks we have been on this bill—I am losing track at this point—the point I have made repeatedly is we need to begin looking to other sources of energy. We need to be looking at other ways to meet our energy needs: Better energy conservation, more attention to research and development, more attention to renewable energy sources. Clearly, that needs to be a major thrust of what we do.

There are provisions in one of the amendments we will vote on related to the steelworkers and to the steel industry. The Senator from Pennsylvania was here a few minutes ago and spoke to that. Many Members in the Senate are sympathetic to the problems the steel industry has encountered, particularly the workers, the retirees from that industry, the legacy issue relating to the steel industry. I am persuaded this is not the right place to try to deal with that issue. We should not be trying to deal with that issue as an add-on to a proposal related to the opening of the Arctic Refuge.

I also don't believe we should be trying to deal with any of our commitments or assistance to Israel as part of this effort to open the Arctic Refuge for drilling. Those are separate issues. There is strong support in the Senate for dealing with both of those issues, but it is not appropriate, in my view, to try to roll those into these amendments.

This energy bill has got enough on it and enough issues to deal with without adding these provisions. Clearly, they complicate the issue substantially and do not hold out a real prospect for solving either of those problems.

There is a lot of talk about jobs. I believe sincerely this energy bill overall, if we can pass it, if we can get it to the President for signature, will create substantial jobs in this country. We will do that in a variety of ways. We will create substantial jobs if we incentivize construction of the gas pipeline from the North Slope down to the lower 48. We will create substantial jobs if we are able to move ahead with more use of renewable energy throughout our country. That will create substantial jobs. There are all sorts of provisions in the bill that will create jobs. I believe it is far better in the job creation arena than the bill passed by the House of Representatives last summer.

I conclude by saying I hope Senators will vote against cloture on these two amendments so we can move on to some other issues and conclude action on this very important energy bill.

Mr. MURKOWSKI. How much time remains on each side?

The PRESIDING OFFICER. Forty minutes remain to the Senator from Alaska.

Mr. REID. And Senator DASCHLE's time?

The PRESIDING OFFICER. Forty-three minutes.

Mr. REID. I make a unanimous consent request. I suggested earlier what we would do in our time remaining: Senator DASCHLE, 10 minutes; Senator ROCKEFELLER, 10 minutes; Senator KERRY, 10 minutes; Senator LIEBERMAN, 5 minutes; and Senator BOXER, 5 minutes; and I ask that be in the form of a unanimous consent request for how the time is distributed on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, it is my intention to try to follow a similar pattern on our side. I reserve 10 minutes at the end at my discretion as manager on this side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I yield to Senator STEVENS such time as he needs.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am delighted the Senator from New Mexico has indicated his support for the Alaska natural gas pipeline. I hope we can proceed during this Congress to carry out that commitment.

The gas we will transport is from State land, not Federal land. Obviously, we are going to have to have some changes in Federal law to permit the construction of the largest project in the history of man. It will take some incentives. I tried to provide some incentives to that through the second-degree amendment. That is obviously not going to be adopted by the Senate.

I will speak for a moment about the defeatist attitude of the Democratic Party. The Senator from New Mexico has said we have 75-percent dependence on foreign oil coming. Why? We closed all the coast lines in the United States to oil and gas exploration—except the gulf and a little bit in Alaska on State lands. Those are State lands where oil and gas drilling and production take place. The Federal lands, because of the demands of the Sierra Club and other radical environmental organizations, are closed to oil and gas leasing, almost. The administration is going to try to reopen some of them in the Rocky Mountain area. We will see how the Democratic Party reacts to that. But as a matter of fact, the Clinton administration closed NPRA. The Senator from New Mexico talks about opening it. It is closed. We tried to open it several times.

I welcome the attitude that we are going to open up the reserve set aside for Alaska in 1925 by President Coolidge to try to make up for the Teapot Dome scandal. It has been closed since that time. We had one well drilled during the war by the Navy. By the way, it was a pretty good well. It was very shallow, but it was good.

The Sierra Club and all the radical organizations have brought about the closure of offshore drilling, the closure of Federal lands drilling, the closure of Alaska lands now. What more do they want? If we follow this defeatist attitude that we are going to face 75-percent imports in the future as far as our oil energy is concerned, it is going to happen. It will not happen if we decide we are going to use our technology base to do what President Truman wanted to do, go offshore and research the seabed. Two-thirds of the world's surface is covered by water and there is very little production in that water around the United States. Half of the Continental Shelf—probably even more than that—off the United States is off our State. Not one well has been drilled out there. Why? The environmental organizations oppose it.

We will have 75-percent dependence on foreign oil if the Democratic Party has its way. It is part of the platform of the Democratic Party to oppose drilling on these lands. So it is a political issue, and it is high time we faced up to it.

We think we have a right to transport that gas. As a matter of fact, in the State of the Senator from New Mexico, the Indians in his State can drill on their lands. They are producing gas on their lands. They are producing oil on their lands. What happens in our State? They cannot drill on privately owned Native land, Eskimo land that is within the 1002 area in the Alaska Coastal Plain, the 1.5 million acres. There are 92,000 acres owned by those Eskimos, and they cannot drill. Why? Because the administration at the time they got the lands, the Clinton administration, demanded that they agree to a provision that they could not drill until we were able to drill within the 1002 area itself.

Talk about discrimination. Not only is the State discriminated against but our Natives are discriminated against. We are going to have an amendment before we are through with this bill. That amendment will be to allow the Alaskan Eskimos to drill on their own land, to stop this discrimination against our people. It is bad enough to discriminate against the State, but to discriminate against Alaskan Eskimos who own that land is just atrocious as far as I am concerned.

I welcome the support of the Senator from New Mexico, as I said, for the Alaska natural gas pipeline. It is going to take some incentives. If we want that gas down here—the equivalent, by the way, of a million barrels of oil a day—if we want that gas down here before 2030, 2050—when they talk about the real demand for energy—if we want it, even then, we are going to have to start now. If we started right now to build the Alaska natural gas pipeline it would be finished in 2011; 9 years minimum. That is nonsense.

It is nonsense that we cannot drill on our lands. It is nonsense they will not keep the commitment that two famous Democratic Senators made.

I have learned a lesson from this in the last 21 years and that is this, something that every Senator should know: Do not depend on future Congresses, particularly future Senators, to keep commitments that were made by a previous Congress and President. In 1980, the commitment was made that this area would be subject to drilling, if it did not—if the environmental impact showed there was not going to be permanent harm to the area as far as the fish and wildlife was concerned. We relied upon that commitment in December of 1980 to go ahead with this whole idea of withdrawing 104 million acres. We relied on a commitment made by an administration and Congress, in law, that we would be able to do that.

In subsequent Congresses the House has carried it out, strangely enough. The Senate has not—except for twice when we sent it down to the President and President Clinton vetoed it.

So if you want a continuum of what is causing the 75-percent dependence upon foreign oil that the majority says is inevitable, then follow the Democratic Party. Follow them to dependence upon foreign oil, the exporting of U.S. jobs, and the total dependence upon the philosophies of foreign nations in order to keep our Nation going.

Just think of that. We are saying it is inevitable, in order to keep this country going—this country, the greatest economic engine the world has ever seen—we have to be totally dependent upon foreign oil; 75 percent is total as far as I am concerned.

The Senator from New Mexico says this will not affect the price of gas. How would you like to make a bet? Do you want to make a little bet? I bet before the end of the year, the price of gas is up again 25 cents at least. As a matter of fact, as the trendline goes up on dependence on foreign oil, the price is going to go up. That happens every time we have seen that line go up in terms of dependence on foreign oil.

If you do not believe that, go back and look at the price of gas before the embargo in the 1970s and then see that as that embargo was lifted, we increased our dependence on foreign oil. It was less than 35 percent in 1973, and it is now 57 percent, they say. If it is going up to 75 percent, just follow the trendline of the price of gasoline.

It may be so. As a matter of fact, it is so. If we pass our amendment, it would not change the price of gas now, but it will change the price of gas in 6 years. We will be more dependent upon foreign oil in 6 years if we do not open up the Arctic Plain.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield to the Senator such time as he wishes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank the senior Senator from Alaska. I congratulate him. But I especially want to congratulate the junior Senator from Alaska for his leadership on this issue. I have been here a long time—some would say too long—but I have seen few people who have done a better job in trying to promote what I perceive to be the public interest than Senator MURKOWSKI.

Today, we are going to vote on cloture on ANWR. I think it is clear that we do not have the votes, and there are many reasons for that. But no one can fault the Senator from Alaska, Mr. MURKOWSKI, because no one has done more to put together a coalition, which now involves labor unions, involves people who are concerned about Israel and the Middle East, and involves people who are concerned about the national security implications of not producing energy here at home to turn the wheels of industry and agriculture, energy that can be produced efficiently, and that can be produced in an environmentally sound way.

Because we are not producing energy at home, we are becoming dependent on foreign oil, and the national defense and security implications and the foreign policy implications are overwhelming.

I could understand opposition to opening up ANWR if a realistic case could be made that it will not produce this energy or create 750,000 jobs in the process. By the way, that is why organized labor is for opening ANWR, in my opinion—that and their legitimate concerns as citizens about national security.

If the price we had to pay to produce this energy was the rape and pillage of the land, and massive environmental destruction, and if we will create something that looked like Azerbaijan in the wake of the efforts of the Soviets to exploit oil and gas there, then I think we could have a legitimate debate on the floor of the Senate about this. Under those circumstances, I think the case we are trying to make here would be a lot harder. But the amazing thing is no one has proposed such a program. What is astounding to me is how extreme the environmental movement in America has gotten in relation to how modest the proposal that we are getting ready to defeat is.

Let me remind people of these numbers.

There are 319.7 million acres in Alaska. Some people claim it is the largest State in the Union. There could be a debate about that.

When you look at the ANWR area where there is the potential for oil and gas production, there are 20 million acres of land in that area. That's just 20 million of 319.7 million.

In 1980, Congress decided to reduce the area open for production from 20 million to 1.5 million acres. But the proposal of Senator MURKOWSKI is so modest that it says let us reduce that even further, down to only 2,000 acres.

So we have now come from 319.7 million acres to 20 million to 1.5 million to the point where we are talking about a relatively tiny footprint for oil and gas exploration of 2,000 acres.

Now, what kind of technology will be employed? Well, we are talking about the most expensive technology on the planet being used to assure that even in the 2,000 acres, we have a very modest environmental impact.

In addition to that, while we would allow the potential for production in 2,000 acres out of 319.7 million acres under the most restrictive covenant for oil and gas exploration in American history, still, under the Murkowski amendment as offered, you couldn't engage in exploration even on the 2,000 acres unless the President of the United States made a decision through a Presidential finding that the national security interests of the United States dictated that such action be taken.

The provision before us bans export of the oil assuring that every bit of it will be used in the United States.

It has other provisions related to Israel and its special circumstance in terms of oil needs.

Finally, to compensate for 2,000 acres that will have minimal disruption if a national security waiver permits production to occur, the amendment before us reclassifies 1.5 million acres in Alaska as wilderness.

I think if you really thought this was some kind of rational debate about the public interest, you would have to ask yourself: How in the world could anybody be opposed to this amendment? When you are talking about being responsible and moderate, how could you do more than this amendment does? Yet this innocuous proposal has attracted enormous opposition. The opposition basically boils down to the fact that we have gotten into a political situation where vested political interests are dictating the outcome of the debate. God bless them because some of them make up the interests of America, and they have every right to be extreme because that is what having rights is about. A news article from the New York Times which somebody read to me this morning reports that if we could stop global warming in exchange for drilling in ANWR, the environmental groups in this country would be against it. How can that be?

It can be because this has become a debate about symbolism, not energy or the environment. This has become a debate about fundraising and the kind of extremism that creates political causes and that has political impact but that in no way reflects the public interest.

How can it not be in the public interest to take 2,000 acres in a State that has 319.7 million acres, and on the most environmentally responsible basis, over the next 30 years, produce more oil than we are importing from Saudi Arabia?

To offset any negative impact we might have on these 2,000 acres, we put 1.5 million additional acres into the wildlife refuge.

How in the world can such a proposal be controversial? Why don't we have 100 votes in favor of it?

Is no one awake to the fact that we have problems in the Middle East, that we have a growing dependence on oil, that there are profound national security implications of producing as much oil as we will import from Saudi Arabia in the next 30 years on 2,000 acres of land in a State with 317 million acres?

I know I am not going to sway anyone's vote, but I want people to understand this has become a debate not about America's interest, but about political symbols.

Opposition to this amendment cannot be supported on the basis of rationality. It cannot be based on any realistic weighing of the national interest. It can only be based on blind loyalty to symbolism.

When you get into these extreme positions where you are putting political symbolism in front of America's interest, I don't think you are serving the public purpose.

I remind my colleagues that when Greeks went to ask advice from the Oracle, they found this inscription above the gate at Delphi: "Moderation In All Things."

I believe this is an issue where we need to step back and ask ourselves: to whom do we owe allegiance? What are we trying to promote? Whose interest are we trying to advance?

I think when one special interest group becomes so demanding as to jeopardize national security and the public interest to try to make a point for them, when symbolism becomes more important than the security of America, then something is badly wrong.

I just wanted to make that point.

I am going to vote with Senator MURKOWSKI. I see that he has come back to the Chamber.

I just want to say this: I have watched him debate. I have been involved in many of them. But I have not seen anybody do a better job than Senator MURKOWSKI has done on this issue. I have never seen a better political base built for an issue.

If we were having a rational debate in this body about a proposal with a broad spectrum of political support—which it has from labor unions, to people concerned about peace in the Middle East, to national security, to working people, and to people who want to be able to use their cars and trucks, and who want to turn the wheels of industry and agriculture with American-produced energy—this vote would be 100 to nothing. It is simply a measure of how extreme this issue has become that Senator MURKOWSKI is not going to prevail on this issue.

Finally, let me say we are going to have two votes to bring to an end debate on this issue. I am going to vote in favor of the ending debate on the Murkowski amendment. We deserve an up-or-down vote on this amendment. I do not know if it will be this year or next year or sometime in the future, but I am confident that the public interest will ultimately be served. Someday we will produce this energy. Someday, when we have felt pain from not acting rationally, that rationality and the public interest will override the wishes of extreme special interests. The sooner we can do it the better. We ought to do it now. Even if we started preparing today, it would take years to get the oil and gas in ANWR. I think is an indication that time is wasting, and that we need to get on with this.

We will also have a cloture vote this morning on the so-called steel legacy issue. I intend to vote against cloture. I am adamantly opposed to that amendment. It is a bad idea whose time has not come. I would like to remind my colleagues that the majority of the members of the Steel Manufacturers Association oppose the amendment because it rewards inefficient producers and those who granted benefits they could not pay for at the expense of efficient producers.

Secondly, I think it is important to note that some of these steel companies are still in business and have roughly 200,000 retirees. If we are going to come in and start paying benefits for operating companies that are irresponsible in promising benefits that they cannot afford, then we are going to encourage other companies act in a similar manner.

I think it is very important we recognize that by doing this, we are adding to the problem in the steel industry by keeping excess capacity in business when everybody knows capacity should be reduced, not maintained. I think spending $7 billion to bail out these steel companies is a misuse of taxpayer money.

Finally, all over the world today, socialist countries are trying to get out of the business of bailing out inefficient, feather-bedded companies. All over the world, in every socialist country on Earth, people are trying to undo this stuff. Yet, here we are, in the United States of America, trying to get into the business of subsidizing companies that overpromise and underdeliver.

It is a very bad idea. It richly deserves to be killed, and I am hopeful it will be.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, the manager of this bill, Senator BINGAMAN, will use up to 3 minutes, if necessary, at this time. I yield that to him.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in response to some of the comments that have been made, I want to make two points, very simply.

First of all, the projections for the extent of our dependence on foreign oil in the future are not my projections. They are the projections of the current administration, the Bush administration, the Department of Energy, the Energy Information Agency within the Department of Energy. They have said if we do not change policies in some other significant respects, we will be 75-percent dependent upon foreign sources of oil by the year 2030 if ANWR is opened, and we will be 75-percent dependent on foreign sources of oil if ANWR is not opened. So that is the point I was trying to make.

The second issue I want to clarify—I believe Senator STEVENS raised the question or disputed that the National Petroleum Reserve, Alaska, had been opened for drilling. My information, which I believe is accurate, is that the Bureau of Land Management held a sale, an oil and gas lease sale in May of 1999, during the Clinton administration. It generated a high level of industry interest. There were 3.9 million acres that were offered for lease at that time. In fact, 132 leases were issued covering 867,000 acres. The bonus bids on that lease sale were $104.6 million.

So there has been a significant lease sale in the National Petroleum Reserve, Alaska.

I know there is another lease sale scheduled for June of this year, which I support, with which Secretary Norton is going forward. And I know there are plans being made for even a more substantial lease sale in the next few years. So there certainly is the opportunity for oil and gas development in those areas.

I have a press release dated May of last year, 2001, saying Phillips Alaska, a wholly owned subsidiary of Phillips Petroleum, and Anadarko Petroleum have announced the first discoveries in the National Petroleum Reserve, Alaska, since the area was reopened for exploration in 1999. So there has been real success for developing oil and gas in that area.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the time under my control be changed to allow Senator BOXER 7 minutes, Senator ROCKEFELLER 9 minutes, and Senator KERRY 9 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Fourteen minutes 22 seconds.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senators BINGAMAN and REID for their generosity in giving me this 7 minutes of time. I have been trying to get some time on this matter for quite a while.

Mr. President, I am not going to get into a number of details today. What I really want to do is paint more of a broad-brush argument as to why it is so important to preserve this beautiful area.

Some 2 years ago, I sent my eyes and ears, my top environmental adviser on the Arctic, Sara Barth, who is in the Chamber today, to the area in my stead. I think it is fair to say that she came back a changed person because of what she had seen because she really, truly was stunned by the beauty of this area.

Many times in the debate, when people have been talking about this area, it has sounded as though this area is not really a beautiful area. So what I thought I would do today is put in the RECORD information that has been taken off the Web site of the Bush administration's Interior Department. This was given to me by Chairman BINGAMAN. I think it is a good way for me to lead off.

It is not BARBARA BOXER's words or the Sierra Club's words or the wildlife people's words. It is the Bush administration's words. If you go on their Web site, you get it. It says:

> The Unique Conservation Values of Arctic Refuge.
>
> The Arctic National Wildlife Refuge is the largest unit in the National Wildlife Refuge System. The Refuge is America's finest example of an intact, naturally functioning community of arctic/subarctic ecosystems. Such a broad spectrum of diverse habitats occurring within a single protected unit is unparalleled in North America, and perhaps in the entire circumpolar north.
>
> When the Eisenhower Administration established the original Arctic Range in 1960, Secretary of Interior Seaton described it as—

And this is a quote from Eisenhower's Secretary of Interior—

> one of the world's great wildlife areas. The great diversity of vegetation and topography in this compact area, together with its relatively undisturbed condition, led to its selection as . . . one of our remaining wildlife and wilderness frontiers.

I think nothing says it better than the words of our own former Interior Secretary under President Eisenhower. And this is from the Web site of Interior Secretary Norton today.

I want to show a few beautiful photographs. I know the Senators from Alaska live in a magnificent place. Some of these photos are just unbelievable.

Here in this photo we see an area in the Coastal Plain, the 1002 area of the Arctic National Wildlife Refuge. It is a photograph by Pamela Miller. The incredible colors are stunning.

We will go to the next photo because we have so little time and so many photos.

This is a beautiful picture of a songbird that you can find in the refuge. It makes clear why these words are up on the Web site of our own Interior Department.

This is a magnificent photograph as well.

Here is a polar bear, which I know we have seen walking across a pipeline, but here it is walking in its natural surroundings—very beautiful. Here are the caribou. I think you have seen a lot of this before. Here are the musk oxen—quite beautiful.

I have another beautiful landscape to show of another view of this magnificent area. We do have drilling in a national wildlife refuge there in Alaska. Everyone says there is no damage done. Remember the pictures I just showed. Now look at how it is all left with these floating barrels. It is a pretty devastated site.

I think you need to come back to the question of what is a refuge. You could look it up in the dictionary: a place to find comfort and peace and tranquility. Therefore, it seems to me it doesn't make any sense to disturb a refuge. When you do this, if you go this way and drill there, we are going to disturb it.

Someone sent me a cartoon. I think it was a constituent. It never ran in the newspaper, but it basically says: The George Bush Arctic National Wildlife Refuge. It shows that cars are lapping up the oil on the plain. And it says:

> Where S.U.V.s are free to roam without fear of regulation.

That is somebody's sense of humor about what we are going to do to the wildlife refuge. I hope we don't. I hope we hold the line.

It is very fair for people who don't agree with me on this to ask: What is your solution? I really want to talk about that.

We know when something isn't a solution. In my opinion, the amount of oil there, from everything we know, is hardly going to make a dent. Here is a chart that shows that. We have a chart that shows the projected consumption of U.S. citizens of oil. Right down here on this little black line is the amount of oil we will get, 3.2 billion barrels over 50 years.

I have another chart that tells the tale. You save 2.38 billion barrels more oil from the Arctic if you have just better tires. With just better tires, you get more oil. And then if you close the SUV loophole, which is really not that hard to do—they are going to have hybrid SUVs coming up shortly—you save about 10 billion barrels. And if you just go up to 35 miles per gallon—Senator KERRY led us so well on that issue; I think we made a huge mistake—we save 18 billion barrels.

So look at this. Out of all these options, you get more oil if you just use better tires. Some of the people who want to drill seem to oppose a lot of these other easy ways to govern.

The PRESIDING OFFICER (Mr. REED). The time of the Senator from California has expired.

Mrs. BOXER. I would like to sum up in 1 more minute, if I might.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I will go to the Los Angeles Times editorial which I thought was right on point. They say:

> Wilderness is or it is not. There is no mostly wilderness with just a little bit of development.

It continues: No matter what Dick Cheney says, U.S. energy security does not depend on drilling for fuel in the Arctic refuge. The Alaskan oil would not come on line for 10 years. It goes through that.

It says: The fastest way to gain more energy security is to use less oil and use it more efficiently. It shows that better tires alone will give you more oil than lies in the refuge.

Then it ends up:

> The nation doesn't need a muscle-bound energy policy. It needs a smart one—one that does not rely so heavily on fossil fuels and fossil thinking.

The choice is clear. I respect my friends from the other side on this debate, but I hope we will defeat the proposal to open the refuge.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself 9 minutes.

Let me begin by paying respect to both Senators from Alaska. Though I disagree with them and they know that, they waged an effort that represents their principles, their views, their beliefs and, most especially, the beliefs of the people of Alaska, as they understand their responsibility.

I emphasize as strongly as I can, none of us in the U.S. Senate are cavalier or dismissive of Alaska's interests. There are many ways to serve those interests. I certainly am one Senator who is prepared always to try to help with respect to economic development issues, other hardship issues that exist in a State that faces a different set of challenges from many of us in the Senate. I hope they understand that, that this is a difference based on an equally fervently held set of beliefs and a different interpretation of the facts.

I think they are facts. There are some profound differences in that regard.

With respect to the amendment on steel, I believe Congress must act to deal with the plight of steelworkers, retired steelworkers and their families. Steelworker retirees are being devastated by the loss of health care benefits. More than 125,000 steelworkers have lost those benefits due to the liquidation of 17 American steel companies, and another 500,000 steelworker retirees stand to lose their health care unless we act to protect them.

I am glad that some of our Republican friends have discovered this issue. I regret that they want to trade their concern for steelworkers with the opening of the Arctic Wildlife Refuge. It would be disappointing if down the road our Republican friends are only prepared to try to deal with steelworkers in the context of the Arctic wildlife refuge and not in the context of their personal human plight. We will have an opportunity in a short period of time to try to deal appropriately with the problem of steelworkers.

Yesterday Senator WELLSTONE made a very powerful statement in the Senate Chamber. There is nobody in the Senate who has fought harder or will fight harder for steelworkers than Senator WELLSTONE, but he will work in a bipartisan way, as he is now, to help us deal with this issue at the appropriate time.

One of the things with which I disagree with my colleagues, as they have presented this issue, is that there has been this moving target of rationale for why we should be asked to drill in the Arctic wildlife refuge. We have heard on the other hand that those of us who oppose it somehow oppose job creation or we are in favor of high gasoline prices or we oppose energy independence or we support electricity brownouts, blackouts, that we oppose Israel, that we support Saddam Hussein. There have been a series of insinuations in the course of this argument that really don't do proper service to the merits of the argument or to the good faith of most U.S. Senators.

It is interesting also that this moving target of support for this issue has found different rationale at different points of time. When California faced an electricity crisis last year in January, we heard Senators come to the floor and suggest that ANWR would help solve that problem. We actually had those arguments made. But only 1 percent of all of the electricity of California comes from oil-based, oil-fired electricity.

ANWR has nothing to do with it. The Middle East has nothing to do with California's brownout problems or electricity problems. Then we heard when heating oils spiked and gas prices spiked, of course: ANWR is the answer. But the Arctic Wildlife Refuge drilling will not come online for about 7 to 10 years. When it does come online, it doesn't produce a sufficient amount of oil under anybody's scenario to have an effect on the world price or world supply. So that argument simply doesn't stand scrutiny.

The Arctic Wildlife Refuge, at its best offering, will not affect the price of oil globally, and it cannot affect America's supply. Then, when we were hit with a recession and layoffs, we were told: the Arctic Wildlife Refuge is the solution. It is going to produce 700,000 jobs. But now the very people who made that study and talked about those numbers of jobs have repudiated that number and have acknowledged that that number was based on a 12-year-old study that had oil at the price of $45 a barrel in the year 2000, and all of us know it has been at about $25 or less, and that provides a different economic reality.

The truth is that one might be talking about somewhere in the vicinity of 50,000, 60,000, 100,000 jobs, which is the number of jobs produced in the American economy in a 3-week period and anytime we are doing what we were doing in the period of 1997 to the year 2000. So this is really not even a jobs program. In fact, the very people who produced the faulty study acknowledged that, until the year 2007, the Arctic Wildlife Refuge doesn't provide any jobs at all—zero. That is according to the American Petroleum Institute's funded study that is faulty—maybe it was faulty to the wrong side, but they suggested there would be zero jobs in that period of time. So it is certainly not an antidote to recession, to the current economic problems we face.

Promise after promise after promise about what it will do has been punctured by the truth. Here is a truth with which our colleagues on the other side of the aisle can never adequately deal. The truth is, even with the best, most optimistic prognosis of what you might get out of the Arctic Wildlife Refuge—even with that, and all of the other oil we possess in the United States of America, we have a problem: God only gave our country 3 percent of the world's oil reserves. The Middle East, Saudi Arabia, the gulf states, all of the countries from which we import, including Iran and Iraq, which have been the subject of much vilification, for good reason, have the largest share of the world's oil reserves. Saudi Arabia alone has 46 percent, compared to our 3 percent.

Here is the other truth they don't want to deal with: Every year, the United States of America uses 25 percent of the world's reserves. Of the available oil, 25 percent goes to America, even though we only have 3 percent of the oil reserves. The simple equation, the truth that they don't want to deal with, is that the United States of America has an ultimate confrontation with its dependency on oil.

Oil is a finite resource. One day, it is going to be used up. One day, we are going to have to move to a different form of transportation dependency. The question to be asked of Americans is: If we have to do it one day, and with all these ills that are associated with the dependency today, why don't we make the choice today to begin to define that dependency?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. I ask unanimous consent that I may yield myself 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, on every category with respect to independence, this will not affect the independence of the United States. We have to invent the new technologies that provide the new fuels for America. This will not affect the price for America. This will not liberate us from our dependency in the Middle East. This will not bring home one of America's young men or women who are in harm's way as a consequence of opening the Arctic Wildlife Refuge. What it will do is destroy forever this precious resource, designated as a pristine wilderness, that can never be returned to that state, which has been cherished by Republican Presidents, Democratic Presidents, Republican administrations, Democratic administrations, and by all Americans for all of these years. Let's not vote today to give that up when there is a better set of choices for our country.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There are 14 minutes 20 seconds.

Mr. MURKOWSKI. I yield 4 minutes to my friend from Wyoming.

I would like to put up a picture that shows a producing well from the Don Edwards Bay National Wildlife Refuge out of San Francisco, CA. It is a wildlife refuge, Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I thank my friend from Alaska. I served with him on the Energy Committee for some time when he was chairman. I served closely with him in this idea of doing something to develop an energy policy in this country. I want to speak very briefly about our need for a balanced energy policy.

Obviously, we are on ANWR here, of course, which is part of that total policy. That has been and should be the emphasis. It is only part of the policy, but a very important part of it. I am amazed at the opponents who talk about how we face these problems in the future, and we need to do something about it and refuse to move forward on one of the things we can most reasonably do.

I come from a State where we have a good deal of production, where we have a great deal of public lands. I can tell you that multiple use of those lands is one of the things we really believe in and can do and have proven can be done.

The lands I am talking about in Wyoming are really a little different from the ones in Alaska. I have visited there, and I can tell you that we can use those in multiple use. We can continue to have the uses that are there. We can use it for energy.

It has been years since we have moved on an energy policy—years. It is time we do that, and it is time we do a balanced bill that has in it one of the things that are most clearly needed, and that is domestic production. I am amazed that particularly my friends from New England, who use most of the energy in this country and don't produce any, are very concerned about the fact that we are trying to use multiple use ideas in the rest of the country where we can help provide these kinds of resources. There is nothing more important. What is more important than our energy?

Mr. KERRY. Will the Senator yield for a question?

Mr. THOMAS. No. I think the Senator from Massachusetts has had ample time to discuss this issue.

One of the things we need to do is take a real look at this, of course. ANWR was set aside for future exploration, no question about that. ANWR, obviously, will reduce our dependence on foreign oil. We are nearly 60-percent dependent on foreign oil in an unstable world such as we have now. ANWR is the largest onshore prospect for oil and gas. That is clear. It is clearly there. ANWR would require the toughest environmental standards ever imposed on energy production, and that goes back to this idea of having multiple use, to be able to do it with this 2,000-acre footprint and, at the same time, preserve that environment. We can do that. It creates jobs, of course, for the whole country and for Alaska, for the Native Americans who live there. It gives us a more affordable and reliable energy. That is the basis.

Many of us have been working on energy for a very long time. We need to have that reliable source. We are going to look for new ways, and we will find new ways.

I remember going to a meeting in Casper years ago, and someone, I think from Europe, said we would never run out of the fuel, and we will. We don't know. We need oil, and we need domestic oil.

Mr. President, I am not going to take more time. We have had thousands of people come here—veterans, Jewish folks, labor unions.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMAS. They are very aware of what we need to do. I urge we do it, including drilling in ANWR.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I believe I have 5 minutes to speak.

The PRESIDING OFFICER. That is correct.

Mr. LIEBERMAN. I thank the Chair. Mr. President, this debate about the proposal to drill for oil in the Arctic Refuge has been simmering for a long time, and it has finally been joined in this Chamber over the last 2 days.

It has been a good, spirited debate. I have great respect for those who are proponents of drilling, particularly my two colleagues and friends from Alaska. I never question their sincerity. We have a good-faith difference point of view.

Let me try, if I can, for a few moments to summarize what I believe are our arguments against drilling and then talk about where I hope we go after we have voted on these cloture motions.

First, we are talking about 5 percent of the North Slope in Alaska. Ninety-five percent is now open for oil exploration and development. A lot of it is happening now. A lot of it is planned. This 5 percent is the heart of a thriving, beautiful ecosystem described by someone as the American Serengeti.

The question is, Do we want to disrupt it, develop on it, some would say destroy its natural state—I would say that—for the oil that we could get out of it? And would that development for oil affect the health of that beautiful part of Alaska?

I contend and we have contended in this debate that the development of the refuge as proposed in the pending amendments would irreversibly damage this natural treasure. The U.S. Geological Survey recently produced a 78-page report encapsulating 12 years of research which, in my opinion, concludes that very fact of irreversible damage to this natural treasure.

For what? As we have said over and over, maybe oil coming out of there in 10 years and how much, will it break our dependence on foreign oil? By the Energy Department's own estimate, in 2020, if we allow drilling for oil in the Arctic Refuge, our dependence on foreign oil would drop from 62 percent to 60 percent, still painfully dependent. The only way to break our dependence on foreign oil is to break our dependence on oil and develop new homegrown sources of energy and conserve.

Second, what effect would the drilling have on prices? We are all worried about gas prices going up now. The development of the refuge for oil would do nothing to affect oil and gas prices. Drilling would have no impact, even under the inflated estimates for petroleum potential that are cited by the proponents of the amendment because the price of oil is determined on the world market no matter from where it comes.

As we approach these votes, I am confident that the cloture motions will not succeed. I thank my colleagues for listening to the debate and moving in this direction which I think reflects the opinions of the American people. The question is, What do we do then? I hope we will set aside this divisive amendment and join around the underlying bill which does offer progress, a balanced energy plan for America, including some development within our American sovereignty, our land, but also has the kind of incentives we need for new technologies and conservation, which is the only way for this great Nation to remain great and not dependent on foreign sources of oil.

I say to my colleague from Wyoming that we in New England actually believe we do contribute to the energy supply. My guess is about 50 percent of the energy in the New England States comes from nuclear powerplants right in our region. I know in Connecticut, we have two plants functioning. Forty-five percent of our electricity comes from those plants. More hopefully, New England has become a center for technology development using the brilliance of American ingenuity and innovation and capitalism to create new sources of energy.

One of our great companies, United Technologies, is investing hundreds of millions of dollars in fuel cell technology—clean, efficient, and ours.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. I ask unanimous consent for 30 seconds more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair. Nearly 100 years ago, President Teddy Roosevelt, a great American, great conservationist, great Republican—this really is not a partisan issue—said that the conservation of our natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of national life.

It is a century later, but there is still a lot of wisdom in T.R.'s statement. I hope we will heed it, defeat these motions for cloture, and then move on to work together side by side for the kind of balanced progressive energy program that is in the underlying bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. I thank the Chair and yield the floor.

Mr. CHAFEE. Mr. President, I rise today to explain my opposition to the Murkowski and Stevens amendments to S. 517, the Energy Reform bill.

Drilling in the Arctic National Wildlife Refuge is not the only solution to our dependence on foreign oil. I am opposed to drilling in the Arctic Refuge because I believe there should be a comprehensive national energy policy.

During the Senate's ongoing consideration of S. 517, I have voted in favor of strengthening Corporate Average Fuel Economy (CAFE) standards for SUVs and light trucks. By increasing oil savings, stronger CAFE standards would make us less dependent on foreign fuel and demonstrate a real commitment to conservation. The CAFE amendment failed. I voted in support of increasing the amount of renewable fuels in our energy portfolio. This provision failed. I have also supported tax credits for domestic marginal well production and providing incentives to consumers for purchasing alternative technology vehicles and improving the efficiency of their homes and offices. I am optimistic that these efforts will be successful.

I am prepared to support a national energy policy that balances our energy needs with strong environmental protection. Reducing our dependence on foreign oil is a national priority, but should not come solely at the expense of our nation's precious natural resources.

First established by President Eisenhower in 1960, the Arctic National Wildlife Refuge was created and later expanded to preserve the area's unique wilderness and wildlife values by protecting fish and wildlife populations in their natural diversity. The 1.5 million acres of the Refuge's coastal plain proposed for oil exploration and drilling, known as the "1002" area, is the most biologically productive part of the Refuge. The coastal plain is home to a diverse collection of wildlife including polar and grizzly bear populations, musk oxen, 180 bird species, and one of the largest caribou herds in North America.

Each year, the Porcupine Caribou herd—over 129,000 members strong—migrates 400 miles from wintering grounds in the north central Canadian Yukon to the Arctic Refuge coastal plain where they give birth to their young. In a typical year, the herd can birth up to 40–50,000 calves.

The importance of the Porcupine Caribou herd can best be illustrated by a 1987 Conservation Agreement between the Governments of Canada and the United States. The Agreement recognizes the value of the Porcupine herd and the importance of protecting their birthing grounds to ensure the future sustainability of the population as a vital part of the Refuge's ecological system. In Canada, land north of the Porcupine River was withdrawn from development in 1978. Oil exploration and drilling in the Porcupine Caribou herd's prime calving grounds remains an item of contention between the United States and Canada and threatens the future of the Conservation Agreement.

I am prepared to support a national energy policy that balances our energy needs with strong environmental protection. Reducing our dependence on foreign oil is a national priority, but should not come at the expense of our nation's precious natural resources. Allowing oil and gas development in the coastal plain promises only short-term benefits that may irreparably damage the wildlife values and unique vitality of the Arctic Refuge.

Opening the Arctic Refuge to oil exploration and drilling should not be the primary component of the effort to reduce our dependence on foreign oil. There are other steps we should take that would provide more benefits in the long term.

Mr. CORZINE. Mr. President, I rise in strong opposition to the Murkowski amendment, which calls for oil drilling in the Arctic National Wildlife Refuge. My opposition is based, primarily, on the critical importance of protecting this special part of the world. But my objection is also based on my view that this proposal represents a fundamental endorsement of a skewed and misguided energy policy.

ANWR is a unique and pristine area. It is the only unbroken continuum of arctic and subarctic ecosystems on the planet. It is home to a wide variety of plants and animals, including 135 bird species. It is the central area for the huge Porcupine caribou herd. It is home to polar bears, wolves, grizzly bears, muskoxen, and wolverines.

And there is no doubt that drilling there would despoil the area. It would risk and potentially harm wildlife. And it would destroy ANWR's unique character as wilderness, regardless of whether that is an applicable legal term or not.

So there is a very serious downside to drilling.

So what is the upside? Why are we even thinking about despoiling a place that so many Americans want us to protect? What's the risk-reward quotient?

We have heard several arguments here on the Senate floor. But they just don't hold up. Notwithstanding claims to the contrary, ANWR oil won't create 735,000 jobs. It won't give an assurance of a reduction in the price of oil, certainly not anytime soon. And it surely won't make us energy independent, lowering our import needs only marginally.

The fact is, there is just not all that much oil in ANWR. Based on estimates from the U.S. Geological Survey, it is likely to have little more than 6 months' worth of capacity relative to 1 year of U.S. demand. The oil wouldn't even begin to be available for at least 10 years. And it wouldn't reach peak production for 20 years.

According to a recent Department of Energy study, even at its peak, total oil production from ANWR would be 800,000 barrels a day. That is only about 0.7 percent of global production.

Who are we kidding here? Is it really worth risking such a treasured space for the prospect of increasing global production by 0.7 percent in 20 years?

I, for one, don't think so.

Now, let me address the issue of jobs.

Yesterday, drilling proponents claimed that drilling in ANWR could create 735,000 jobs. That's a significant number. But it just doesn't hold up. The estimate comes from a study conducted for the American Petroleum Institute more than 10 years ago. And it's fundamentally flawed.

For example, the study assumed that peak ANWR production would be 3.5 percent of world supply. Yet, as I have discussed, the real level, based on government estimates, is less than 1 percent.

The study also badly overestimated the world price of oil. It forecasted that the world price of oil would be $46.86 per barrel by 2015, and that price was a driver of the jobs estimate. But when the authors of the study issued a similar forecast recently, they forecast a price of $25.12, a huge difference.

Because of these and other mistakes, the study relied on by ANWR proponents simply has no credibility. And nobody should be fooled by it.

I would point out, that if we want to create jobs, there are much better ways to do that while promoting energy independence. For example, there is no reason why America can't lead in next-generation energy technologies the way we have in information technology and biotechnology. Renewables and fuel cells will be growth industries, and the United States ought to get out front and then export those technologies to the world. That, to me, sounds like a better job creation strategy then drilling in ANWR.

Another argument made by drilling proponents is that drilling in ANWR would reduce the price of world oil. But the oil market is a global market. And it is dominated by players far larger than the United States. We have only 3 percent of the world's oil reserves.

As I mentioned earlier, ANWR's peak production would amount to less than 1 percent of world production. And it's just not realistic to claim that this will have more than negligible impact on the world oil price.

Why? Because it's a huge global market, one that currently has about 7 million barrels a day of excess capacity in the system today.

So a modest decrease in supply, such as the recent disruptions in Iraqi and Venezuelan supplies, can be made up by other producers.

And this process can just as easily work in reverse. Any increase in world oil supply resulting from bringing ANWR on line could simply be offset by decreases in production elsewhere in the world.

Aggregate supply and demand conditions in the global market will set the marginal price, and the prices will be determined by the cumulative decisions of individual producers. The United States simply cannot control the price of oil in the world market, because we don't control the aggregate supply. And drilling in ANWR is not going to change that.

That leads me to the next topic I want to address, national security.

We're now importing about 57 percent of the oil we consume. According to the Department of Energy, if we don't drill in ANWR, we'll be importing 62 percent of our oil by 2020.

If we do drill in ANWR, the Department of Energy estimates that imports would be reduced to 60 percent of U.S. consumption in 2020. That's only a 2-percent decrease in import share resulting from peak ANWR production.

How can anyone pretend that this will make a difference in our national security? It just won't. That 2-percent differential, when it finally comes, simply won't matter.

As I said earlier, the oil market is a world market. No nation or company has a monopoly on supply. So the relatively small amount, in a global context, that ANWR could produce could easily be offset by decreased production elsewhere.

So we are going to be just as vulnerable to price shocks in 2020 if we drill in ANWR as if we don't.

Rather than pretending that ANWR is the answer to our energy security needs, we ought to take steps that can have a real impact. And the most effective step we can take is to reduce consumption. Unfortunately, we have already voted down a CAFE increase, and I think that was a big mistake. But if we are serious about reducing our dependence on foreign oil, we simply have to deal with demand.

Another thing we should do is diversify our sources of oil. And to a large extent, we have already done that. Only 13 percent of the oil we consume comes from the Middle East. The rest is produced here, and in places like Canada, Mexico, the United Kingdom, and Norway.

These particular producers are our closest allies. Are we really supposed to believe that importing oil from these countries is a threat to our national security?

Having said that, I recognize that the Middle East does contain the lion's share of the world's oil reserves. And political turmoil there has clear implications for the world oil market, as does instability in Latin America. But getting a relative trickle of oil from Alaska 10–20 years from now won't make the problems in the Middle East magically disappear, or change the supply of oil enough to impact the price of oil. Instead, we need to engage now and work consistently to bring a lasting peace to the region. Until instability is eliminated, our national security will always be at risk from turmoil in the Middle East. That is an issue that is much larger than oil.

Finally, I wanted to take a moment to briefly discuss energy policy more broadly. As many have said, we need an energy policy that is balanced. But that balance needs to be weighted toward the future, not the past.

That means that our first priority should be to create incentives and standards that encourage the development of next-generation energy technologies. I am talking about technologies like wind, solar, and fuel cells.

Second, we should set tougher energy efficiently standards for appliances, buildings, and vehicles so that we can grow our economy while we use less energy.

And third, we should increase our domestic supplies of fossil fuels in an environmentally responsible way so we can continue to power our economy as we transition to new technologies and energy sources.

In my view, ANWR doesn't fit anywhere in this framework, certainly not as the centerpiece. And it just doesn't make sense as a matter of macroenergy policy.

I think the American people believe that we should leave ANWR alone. That is certainly the sentiment in New Jersey. I have received letters from more than 9,000 New Jerseyans urging me to oppose drilling in ANWR, that's more than I received on any other topic in my 16 months as a Senator.

The people who wrote to me about ANWR aren't "radical environmentalists," as some drilling proponents have suggested. They're ordinary Americans who believe that ANWR is one of those special places that should be preserved in its natural state. And they are convinced, like I am, that drilling might well cause unacceptable environmental damage.

In conclusion, we know that drilling in ANWR will harm the Arctic wilderness. And the economic and national security benefits just aren't there. So I will vote against cloture, and I urge my colleagues to do the same.

Mr. GREGG. Mr. President, I believe that a comprehensive energy plan is absolutely critical security and economic well-being of this nation. A national energy policy needs to balance our growing demand for energy with conservation and supply. I believe that this balance should include the use of sustainable, renewable energy sources along with continued responsible development of traditional fuels including limited, environmentally-sensitive exploration in a small fraction of the Arctic National Wildlife Refuge, ANWR. Energy exploration in ANWR has become a very contentious and highly polarized issue. I would like to take this opportunity and talk frankly about energy exploration in this area and dispel some of the many myths associated with this issue.

An overwhelming majority of the Arctic Refuge is protected from energy development. In fact, 92 percent of the refuge is not eligible for development at all. However, more than 20 years ago, Congress set aside 8 percent of ANWR—1.5 million acres of the Refuge—for possible energy exploration. In 1980, under the Alaska National Interest Lands Conservation Act, Congress expanded ANWR to 19 million acres, and designated 8 million acres as wilderness area. Under this act, the designated wilderness area cannot be considered for development.

However, the current debate regarding drilling in ANWR surrounds the 1.5

million acres—outlined in Section 1002 of the act—that was set aside by Congress for further study into the development of mineral resources. Under Section 1002, Congress called upon the Department of Interior to conduct a study on the biological resources and oil and gas potential of the 1.5 million acre coastal plain. This study, commonly called the 1002 Report or the Final Legislative Environmental Impact Study, was released in 1987 and recommended full leasing of the coastal plain. The Section 1002 area has always been a potential site for mineral recovery, and is not, as has been expressed by some, part of a wilderness designation.

It is true that Section 1002 makes up at most 8 percent of the total refuge or 1.5 million acres. However, this number is misleading. In reality, the entire 1.5 million acres would not be developed. Current estimates place the total acreage of development at far less than a million acres. In fact, HR. 4, the House-passed energy bill, and the current Senate amendment contain provisions to limit development to 2,000 acres or 0.01 percent of the refuge. Our opponents say that the "2000 acres" grossly underestimates the infrastructure required to support energy development, that it merely describes the exact imprint of the core facilities, and does not include the area encompassed by those facilities, nor any of the supporting infrastructure. However, the nature of the facilities covered by the House bill and the exact shape of the 2000 acres was not specified. I believe that the amendment offered by Senator MURKOWSKI better clarifies the scope of development for these 2000 acres.

The use of new technologies will further limit the foot print of development. Thanks to our nation's ingenuity and technological advances, the footprints of energy development infrastructure are drastically reduced. Production of oil is safer and cleaner than ever before. Smaller gravel pads, advances in horizontal drilling, the re-injection of drilling wastes, and ice roads, all decrease the "footprint" of development. Furthermore, several new technologies have increased the success rate of exploratory wells from about 10 percent to as much as 50 percent. Such technologies include: 3–D seismic imaging, 4–D time lapse imaging, ground-penetrating radar, and enhanced computer processing. The greater percentage of successful wells, the fewer number of pads and the lower the exploration costs. Our experiences at Prudhoe Bay are testament to our technological successes. If Prudhoe Bay were built today, the footprint would only be 1,526 acres, 64 percent smaller than it is today.

But no matter how minimal the intrusion, opponents argue that any development will permanently degrade the sense of pristine wilderness found in the refuge. While most of the refuge has little sign of human encroachment, the coastal plain is home to the Inupiat tribe and their village of Kaktovik. Additionally, the nearby Distant Early Warning line (DEWline) for missile detection, the remnants of former or uncompleted DEWline installations, a garbage dump, and a runway are scattered in or near the 1002 area.

Typically, development of mineral resources is often extremely controversial in neighboring state and local communities. That is not true in this case. A majority of Alaskans, 75 percent, the entire Alaskan delegation, and the closest Native American tribe support energy development in ANWR. These constituencies all see ANWR as a tool for supporting a modern economy to meet such basic human needs as health care and education.

More specifically, the Inupiat tribe supports development. This tribe lives on 92,000 acres of privately held land within ANWR, and inhabits the only village within the 1002 area. According to Tara Sweeney, an Inupiat, "We believe that responsible development of this area is our fundamental human right to self-determination." She goes on to say, "When oil was discovered in our region in the late 1960s we were fearful of development. . . . Over thirty years later we have changed our opinion. Development has not adversely impacted our ancient traditions or our food supply. The caribou population . . . has thrived."

Opponents argue that the Gwich'in tribe is strongly opposed to drilling in ANWR. The Gwich'in Tribe depends upon the Porcupine Caribou for food and reveres its calving area and rituals. According to some, developing ANWR is effectively raping and pillaging the land of one of the last great traditional tribes. However, the often quoted Gwich'in Tribe in fact lives over 100 miles away, on the other side of the mountains. The Gwich'in are not and never have been—indigenous to the North Slope. On the other hand, the Inupiat, who live within the 1002 area, support development and feel strongly that it will improve their way of life. It is my firm belief that the people of Alaska, the people who live closest to the refuge, should be allowed to determine their future and the future of ANWR. These people see that development of ANWR will lead to both a healthy economy and a healthy environment.

Opponents also raise concern about animals, such as the polar bears and the Porcupine Caribou, which reside in and around the 1002 area. Some believe that drilling would endanger both populations. For polar bears, the concerns have focused on how modern winter technology will affect winter dens and if pregnant polar bears denning on the coastal plain would be affected. Despite these concerns, the record is clear. Over the past 20 years, the population of polar bears has remained exceedingly healthy. In fact, over ninety percent of Alaska's 2,000 polar bears den in the offshore pack ice and would not be affected by onshore development along the Arctic coastal plain.

Ill-founded concerns regarding the welfare of caribou have been raised during the discovery of oil at Prudhoe Bay. Yet, following the development of Prudhoe, the herd seemed to adapt, and even prosper. In 1969, when oil was first discovered in the region, the Central Arctic caribou herd was estimated at 3,000 animals. Today, the same herd has grown to almost 20,000 animals. The herd is healthy and continues to calve and nurse their young alongside the oil field operations. Opponents suggest the following: that the Porcupine Caribou cannot be compared to the Central Arctic herd; that the narrower coastal plain off the 1002 area results in a smaller calving area than Prudhoe; that the pictures of caribou on drilling pads and near pipelines are misleading; that the encroachment of development facilities will force the animals into the more dangerous foothills; and furthermore, that Porcupine Caribou is sacred to the Gwich'in tribe.

While a few of these concerns may be valid, empirical evidence suggests that the Porcupine Caribou population is robust, nearly 130,000 stronger, compared to the present Central Arctic Herd, only 20,000. Therefore, I am confident that development of a few thousand acres of the coastal plain will not harm the far stronger 130,000 member Arctic Porcupine Caribou herd which inhabits the Arctic Refuge. This is not to say that impacts on animals—even in the slightest and most unexpected form—are not possible. Should such impacts become apparent, the federal government may establish special protections for impacted animals, such as wilderness designation, delayed exploration, or a special regulatory regime.

On a larger scale, development of ANWR could reduce America's dependence on foreign oil. Currently, the United States imports 57 percent of our oil supply. By 2020, experts project that this country could be importing up to 65 percent of our oil supply. This reliance on foreign oil jeopardizes our national security and makes our economy susceptible to the frequent and recurring crises that occur around the world. As we have experienced over the last few weeks, we can not afford to rely on rogue nations like Iraq for oil, a resource vital to the economy and security of our country. Dependence on foreign sources of oil holds Americans hostage, by exposing the United States to every crisis within every nation we depend on for oil. For instance, over the last few weeks, we have witnessed turmoil within Venezuela that resulted in reduction of Venezuelan oil being shipped to the United States. Prior to this crisis, Venezuela was the third largest supplier of oil to the U.S. If this crisis continues, Americans could suffer price increases at the gas pump, the grocery store, and in their heating bills this winter.

However, if this country is allowed to move forward with development in the 1002 area, and we are again faced with oil embargoes, war, or further terrorist attacks, it will be possible to mitigate those hardships, by increasing our reliance on domestic production from Alaska's North Slope.

The fields in ANWR are the best bet for significant oil finds in the United States. Assuming 9.4 billion barrels are economically recoverable at a world market price of $24 per barrel, development of ANWR's oil fields would be roughly 1.4 million barrels per day. By 2015, projected U.S. oil imports will be 15.25 million barrels per day and petroleum use is estimated at 24.26 million barrels per day. This would mean that peak production in the 1002 area could reduce U.S. imports by a significant 9 percent by 2015.

As our technologies advance, more and more of the oil present in the 1002 area will become technically recoverable. Should the prices of oil significantly increase over time, more oil from ANWR will become economically recoverable. The amount of economically recoverable oil estimated in the 1002 area is comparable to the giant field at Prudhoe Bay, now estimated to have held 11–13 billion barrels.

Opponents insist that drilling in ANWR will not alleviate our dependence on foreign oil. They assume that ANWR's oil will be sold to the highest bidder and therefore can just as easily be sold abroad as sold domestically. The amendment currently being debated in the Senate would limit the exportation of oil from ANWR to Israel alone. In addition, H.R. 4 contains a provision which prohibits the exportation of oil under a lease in the 1002 area, as a condition of the lease.

Development of ANWR's resources could bring jobs to every state in the union. Further development of the North Slope is expected to create between 60,000 and 735,000 new jobs, depending on the amount of oil found, the price of oil, and the unemployment rate at the time of development. For this reason, the International Brotherhood of Teamsters and several other labor unions have spoken out publicly in support of ANWR development. According to James P. Hoffa, Teamsters general president, "Working families are about to be caught between a recession and a deepening energy crisis. By tapping into petroleum resources in Alaska, we can create jobs and stabilize our economy by lessening our dependence on foreign oil."

Revenues from any recovered resource will be split between the Federal Government and the State of Alaska. According to the Alaska Statehood Act and the Mineral Leasing Act, Alaska should be treated like any other State where revenues are split 90/10, in favor of the State. However, Congress could, as they have in HR. 4, establish a different arrangement, where the revenue sharing formula is 50/50. Federal revenues would be enhanced by billions of dollars from bonus bids, lease rentals, royalties and taxes. Estimates in 1995 on bonus bids alone were $2.6 billion. The Inupiat tribe sees development as a good move for their economy too, since they are only allowed to develop their subsurface mineral resources, if the Federal Government develops the 1002 area.

Opponents argue that a six month supply of oil hardly seems worth destroying America's Serengeti. However, the "6-month" argument is misleading. This figure assumes that all U.S. consumption will be met by ANWR, that we will not produce any oil domestically, and that we will not import any oil whatsoever. This is actually an impossible scenario. All of the oil in the 1002 area can not be removed within a 6-month time frame. Furthermore, it would be impossible to move that much oil via the Trans-Alaskan Pipeline during such a short time frame. A much more realistic scenario is to say that there is enough oil in the 1002 area to curtail all imports from Iraq over the lifetime of the 1002 oilfields.

Drilling in ANWR will not alleviate an immediate energy crisis or solve any of our immediate needs. Depending on the time it takes to navigate through the permitting process, full scale production in the 1002 area is likely to take 7–12 years. However, development in the 1002 area will help to mitigate future problems stemming from a reliance on foreign oil and a shortage of domestic energy sources.

We need a comprehensive energy policy which, while developing conventional resources, also includes energy conservation and research into renewable power generation. There are many very promising renewable energy sources currently being researched and developed. However, it will likely take at least a decade to bring renewable technologies into the market place. I feel it is important that as we pursue new and innovative technologies, we continue to develop our conventional fuels to guarantee a vibrant economy, jobs, and our national security.

Mr. SMITH of New Hampshire. Mr. President, I rise in opposition to amendment No. 3132 to the energy bill allowing for the opening of the Arctic National Wildlife Refuge to oil exploration and development. My decision to oppose this amendment was not made lightly. It was made after much thought and deliberation and after carefully reviewing all of the information available.

I think it is important to put today's debate in context with the 1980 decision by Congress to set aside the Arctic National Wildlife Refuge. In 1980, just before the election of Ronald Reagan, this country was in the middle of economic disaster, the Carter "malaise." Our Nation was just exiting a terrible energy crisis; we were suffering from stagflation; the Middle East was in crisis with Americans being held hostage in Iran; and gas prices, adjusted for 2002 dollars, were well over $2 per gallon. Yet it was in that atmosphere that the United States Senate established, by a 78–14 vote, the Arctic National Wildlife Refuge and prohibited drilling in the refuge. That strong bipartisan decision was supported by the overwhelming majority of both Republicans and Democrats, conservative and liberal, including many of both parties who are still in the Senate today. I believe that was the right decision then, and I believe the Senate should maintain its support for protecting this wildlife refuge.

My support for the Arctic National Wildlife Refuge is nothing new. In fact, in 1990, I was a cosponsor of legislation in the House of Representatives to designate the wildlife refuge as wilderness in order to ensure protection from oil and gas exploration. I believed then, as I do now, this area represents one of our last complete and unspoiled arctic ecosystems in the world. It is a very special place deserving protection. While I have been a supporter for exploration of many areas of this country, in fact some areas that arctic drilling proponents have opposed, I believe it is a different case to drill and develop in a designated wildlife refuge that was set aside because of its wilderness qualities by Congress.

I would like to quickly address the provisions in the amendment that limit the exploration and development infrastructure to 2,000 acres. I think that there are misconceptions about what these provisions actually do. This provision reads, "the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain." Supporters of this amendment believe that this provision will limit production to just 2,000 acres of the coastal plain, an area about the size of a large airport.

What needs to be kept in mind, is that the oil reserves in ANWR are not found in a concentrated area. They are spread out over the coastal plain in various pockets that differ in size. Production activities will not be limited to just one section of the coastal plain. Oil rigs, pipelines and other facilities will be spread throughout the area, resulting in a spider-web effect of infrastructure than could cover much of the coastal plain. This is especially true since pipelines are not included in the amendment, just the support beams. To put this all in perspective, the infrastructure associated with existing oil development on the North Slope has a "footprint," as defined in this amendment, of 12,000-acres, but in reality covers an area of more than 640,000 acres, or 1,000 square miles. It is safe to assume that in this amendment the so-called 2,000 acre limitation in ANWR would likely impact an area over 50 times that size.

This Nation must have a comprehensive energy strategy that ensures a reliable, environmentally friendly, safe and economic supply of energy. I applaud President Bush for his commitment and I am proud to be a strong supporter of nearly all of his plan. I have been a long advocate of incentives for next generation vehicles and alternative fuels. These are vehicles that will not only provide clean transportation, but will dramatically reduce our oil dependency. I have also introduced legislation providing incentives for the construction of energy efficient buildings. However, I do not believe that allowing oil development in the Arctic National Wildlife Refuge is the right answer.

Mr. SHELBY. Mr. President, I rise today to discuss the Arctic national Wildlife Refuge or ANWR. As my good friend and colleague from Alaska Senator STEVENS has outlined, oil and gas exploration in ANWR is not a new issue. In fact, it is an issue that was contemplated when Congress expanded the boundaries of the Arctic national Wildlife Refuge in 1980, by requiring the Department of Interior to prepare a detailed study on the Coastal Plain area and recommend how it should be managed.

The Department of Interior's study recommended that the entire area be made available for oil and gas leasing, describing it as "the most outstanding petroleum exploration target in the onshore United States." Despite this recommendation, no action has been taken an ANWR the intervening years except for the 1996 Budget Reauthorization Act authorizing the opening of ANWR which was retold by President Clinton.

I understand that there is a push and pull between those who believe we should strive to achieve energy independence by drilling in ANWR and those who feel that we should protect the environment and preserve ANWR. But, I believe that we can do both. We have come a long way since the very first oil fields were drilled. Today we have the ability, the technology and the know-how to drill in ANWR and protect and preserve the environment.

What is more, we are not proposing to drill in the entire Arctic National Wildlife Refuge as one might assume when they listen to our debate. In fact, this amendment will only allow for drilling on 2,000 acres of the total 19 million acres that encompasses the Arctic National Wildlife Refuge.

The events of September 11th have made it glaringly obvious that the time has come for the United States Congress to step up to the plate and take an active interest and an active role in securing our nation's energy future. We can no longer sit on the side lines and assume that wind energy, solar panels, and battery packs are going to advance our Nation's energy interest. No matter how many tax credits we force on alternative fuels or how much money we devote to research into these technologies, the fact remains that our country is increasingly dependent on foreign sources of oil.

The reality of the situation is that our Nation is more reliant on foreign sources of oil today than it was during World War II. This despite CAFE standards and other investments in alternative fuel vehicles. The Energy Information Administration estimates that in the next 20 years America's demand for oil is projected to increase by 33 percent. Yet as consumption increases, U.S. production continues to decrease. I think that is a frightening fact and I believe that we must address it by increasing domestic production. If this means that we need to drill in ANWR, then we must drill in ANWR.

Today, foreign imports supply 60 percent of our Nation's consumption. This dependence makes us vulnerable. It is not in our national interest to continue to be beholden to volatile foreign countries for our energy needs.

This country needs a rational energy policy. And we need a national energy policy that includes new sources of production so that we have access to our own energy supplies. Without our own energy supplies, this country will continue its increasing dependence on volatile foreign sources that could be terminated at any moment.

We cannot continue to put more and more power in the hands of foreign suppliers, foreign countries. ANWR has the potential to produce over one million barrels of oil a day. One million barrels a day is enough to replace the volume that we currently import from Saudi Arabia or Iraq for more than 25 years.

Energy independence should be our long-term goal. But reducing our reliance on foreign energy sources should be our short-term goal. This country needs a balanced national energy policy that encompasses these goals. We need an energy policy that protects the environment, increases the efficient and effective use of renewables, encourages diversification of generating capacity AND most importantly, increases our domestic production. ANWR presents the United States with enormous potential for increasing domestic production. I think that we would be fools to pass up such an important opportunity for our Nation.

I encourage my colleagues to join with me in supporting this amendment to allow oil and gas exploration in ANWR.

Mr. SPECTER. Mr. President, in my 22 years in the Senate, there has not been a more heavily lobbied issue than ANWR and there has not been a tougher vote. It is especially difficult because of my commitment to protecting the environment for future generations, including my own grandchildren, as evidenced by my strong environmental voting record.

After extensive deliberation, I have decided to vote for cloture, to cut off debate, for a composite of reasons: 1. The United States needs to become independent of OPEC oil; 2. this modified legislation greatly reduces the environmental impact; 3. Federal funds from ANWR would cover legacy retiree health costs for steel workers to allow for re-structuring to save the American steel industry and tens of thousands of jobs, including thousands for Pennsylvanians.

Many steps must be taken to free the U.S. from dependence on OPEC oil. To rely on the Saudis, let alone Iraq and Iran, is to court disaster. Our reliance on Arab oil has broad-ranging implications on our policy in the Mid-East including our support for Israel.

In this bill, I have voted for a significant increase in renewables to generate more energy from wind, the sun, biomass, hydropower and geothermal sources. I have supported expanded tax credits for clean coal and conservation measures including increasing mileage requirements for motor vehicles.

While I would prefer not to open ANWR to drilling if we could become independent of OPEC oil without it, I have visited ANWR and believe that significant steps have been taken to reduce the incursion, such as a reduced footprint through multi-directional drilling, ice roads and winter season drilling.

This legislation also allows for the use of funds from ANWR to cover so-called legacy costs for retired steel workers which would enable re-structuring of the domestic industry which is vital for national security. More than thirty steel companies have filed for bankruptcy in the past few years and tens of thousands of steel workers have lost their jobs. The recently imposed tariffs on imported steel gives the industry a three-year period for restructuring with consolidation of many potentially failing companies into a company which could compete with foreign steel producers. That consolidation could not take place if the acquiring company has to assume the legacy costs. Federal funds derived from ANWR would be used to cover such legacy costs and permit consolidation.

Another consideration in my vote to invoke cloture is my view that the Senate should not require 60 votes for passage, a super majority, unless there is a great principle at issue, such as civil rights or civil liberties. Regrettably, a practice has evolved in the Senate to require cloture or 60 votes to pass legislation which is contrary to the fundamental principle, that in a democracy, decisions should be made by a majority.

Ms. COLLINS. Mr. President, today I express my opposition to drilling in the Arctic National Wildlife Refuge. I oppose drilling in the Arctic Refuge because it is both poor energy policy and poor environmental policy.

A sound energy policy is critical to our Nation's security. The United States is currently 56 percent dependent on foreign oil. By 2020, this number could rise to 70 percent. At that time, over 64 percent of the world's oil exports will come from Persian Gulf nations, a prospect that causes me great concern.

In light of our increasing dependence on a profoundly undependable source of oil, we must ask ourselves what course do we now chart for our Nation's energy policy? Should we rush to deplete our last major reserve of oil, or should we increase conservation and develop alternative technologies that will allow our children to enjoy a better quality of life?

President Teddy Roosevelt once said: "I recognize the right and duty of this generation to develop and use our natural resources, but I do not recognize the right to waste them, or to rob by wasteful use, the generations that come after us."

Americans have a right to develop our energy resources, but not to waste them. We could do far more to reduce our reliance on foreign oil by increasing the efficiency of our automobiles than by drilling in the Arctic. Drilling in the Arctic National Wildlife Refuge today would be akin to wasting resources that should rightfully be there for future generations. We must embrace an ethic of stewardship of our most treasured national resources.

Instead of rushing to deplete what is likely the last major oil reserve in the United States, we should instead promote energy efficiency and develop alternative technologies. Doing so will not only make more of an immediate difference than drilling in the Arctic, but it will also ensure that we leave our children with ample energy supplies and a broader array of energy options.

We can achieve greater and more immediate energy security by increasing our energy efficiency. According to testimony heard before the Senate Government Affairs Committee, the United States could cut our dangerous reliance on foreign oil by more than 50 percent by increasing energy efficiency by 2.2 percent per year. This would do far more to reduce our reliance on foreign oil than would drilling in ANWR, and the benefits could start almost immediately, not in 10 years. I note that the United States has a tremendous record of increasing energy efficiency when we put our minds to it: following the 1979 OPEC energy shock, the United States increased its energy efficiency by 3.2 percent per year for several years. With today's improvements in technology, 2.2 percent is attainable.

I am disappointed that the Senate last month failed to adopt higher automobile fuel economy standards. The Senate had the chance to save more than twice as much oil as is in the Arctic Refuge by simply increasing fuel economy standards. That proposal, which I cosponsored, would have saved consumers billions of dollars in annual gasoline bills while doing more to reduce our reliance on foreign oil than any other single measure.

It was Republican President Dwight Eisenhower who first set aside the Arctic National Wildlife Refuge. In his parting words from the Oval Office, President Eisenhower told the Nation: "As we peer into society's future, . . . [we] must avoid the impulse to live only for today, plundering for our own ease and convenience, the precious resources of tomorrow." Although the Arctic Refuge may seem to some to be the easiest and most convenient source of oil available, drilling in the Arctic Refuge will not solve our energy problems. I urge my colleagues to increase our energy efficiency, develop alternative energy sources, and preserve our precious Arctic resources so that our children will have the freedom to make their own choice concerning this vast wilderness reserve.

Mr. McCAIN. Mr. President, I would like to speak about today's vote to end debate on the two pending amendments to authorize oil and gas development in the Arctic National Wildlife Refuge.

In past years, I have voted in support of exploring development options in ANWR as part of budget reconciliation measures. I believed that was the right vote. I was not an expert on the issue and I believed that further deliberation was warranted.

Unfortunately, the information presented to us consistently reveals widely varying predictions of actual oil potential and economic benefits, as well as various scenarios of possible impacts on wildlife and the environment. Even government studies are not conclusive and raise more questions than they answer. The various interpretations have already been debated by each side, and I need not rehash them now.

However, several factors are clear to me.

Oil and gas could be recovered from ANWR many years from now, but not without considerable costs to taxpayers.

Most scientific analyses conclude that both the land and wildlife would adversely be impacted by development. The two Alaska Native communities most impacted by this debate are split in their positions on this issue.

Even if ANWR were authorized for development, we would still rely on imported oil supplies and require other sources of energy development and generation.

I, too, am concerned about our Nation's dependence on foreign oil supplies. Unless we act in some comprehensive manner on several fronts, including conservation measures and greater use of nuclear and other forms of alternative energy generation, our current dependence on foreign oil could increase from 56 percent to 70 percent in less than 20 years.

With respect to taking truly effective action to reduce our oil dependence, regrettably the Senate rejected a more effective measure to modestly increase fuel efficiency standards, a proposal that would substantially decrease our Nation's dependence on foreign oil and also reduce greenhouse gas emissions. Had we adopted an increase of fuel efficiency standards to 36 mpg average by 2013, we could have potentially saved 2.5 million barrels of oil per day by 2020 which is about equal to present imports from the Persian Gulf. This prudent conservation measure would also save twice as much, if not more, oil than what is in ANWR.

Opening the refuge could only meet about 2 to 5 percent of the Nation's oil needs, at best. Even some oil company executives have expressed doubts about drilling in ANWR, as stated by one: "Big oil companies go where there are substantial fields and where they can produce oil economically . . . does ANWR have that? Who knows?"

Let me also say that the answer to threats posed by the regime of Saddam Hussein is not to drill in ANWR but to end his regime sooner rather than later. Drilling in ANWR will not remove the clear and present danger posed by Hussein and will not stop in any way whatsoever his weapons of mass destruction program or for that matter his "inspiring and financing a culture of political murder and suicide bombing," as Defense Secretary Rumsfeld so aptly described his lawless and murderous behavior.

I also wish to comment briefly about the second-degree amendment offered to the underlying ANWR amendment to divert a majority of revenues derived from oil and gas development to retirement and other benefits for the steel industry.

I am not against our steel workers. They helped build our Nation and are among the hardest working people in America. But to underwrite their retirement in a transparent effort to attract more votes is very bad policy. What do we say to all the other workers who are also suffering during economic hard times? Are we going to say, "sorry, but giving royalties to folks in your industry won't get us the votes we need to pass our bill"?

Miners, teachers, construction laborers, and many other hard-working Americans have seen their jobs, benefits, and pensions endangered by the recent hard economic times. Yet, they would not benefit from this proposal. Nor would our veterans, who undoubtably could use more help paying for their medical bills. These last-minute tactics are not a credit to this deliberative body and only serve to increase the public's skepticism of government.

America will need oil for the foreseeable future. What gives this generation the right to deplete this vital resource when we have the opportunity to preserve it for the benefit of future generations? At the end of our day, we still have prudent alternatives to ANWR to meet our energy demands and we should aggressively pursue them. A more acute energy need than our own in the future may require development, where assurances of improved technology may better protect the environment. With other viable energy options available to us today, to approve ANWR drilling would be a dereliction of our duty to posterity.

Teddy Roosevelt, the champion of conservation, once said: "Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or rob, by wasteful use, the generations that come after us."

I have thought long and hard about this debate and the vote that I will cast. I still hope we can achieve a more balanced national energy strategy, but I am not convinced that a key component of that policy should be to drill in ANWR. I will vote against the motions to invoke cloture on these amendments.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska controls 10 minutes. The Senator from New Mexico has 14½ minutes.

Mr. BINGAMAN. Mr. President, I am informed Senator DASCHLE wishes to speak and is going to be coming to the floor in a few minutes to do that. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, is time running off the side of the majority at this time?

The PRESIDING OFFICER. It is running off the time of the majority.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. We are playing games here, Mr. President, so I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I will take a few minutes at this time, and I would appreciate the Chair reminding me when half my time is up. My understanding is that is in 5 minutes.

I want to show a chart. We had the Senator from California talk a little bit about refuges. This happens to be a producing well in a refuge in California. It is near San Francisco. The point is, there are refuges in many States, as additional charts will show.

Be that as it may, I am not going to belabor that point because there are a few other issues on which we need to reflect.

Today we are seeing headlines: "Summer Gasoline Prices Again Headed Higher."

We also see information coming at us from the Mideast relative to the crisis, and Saddam Hussein advises that oil is going to be used as a weapon.

Oil as a weapon. We remember the last time we saw a weapon in this country, it was an aircraft being used as a weapon—two aircraft, three aircraft. There was the Pentagon, there was the New York Twin Towers, and there was the terrible crash in Pennsylvania.

This is as a consequence, to some degree, of our continued reliance on imported oil. We have heard a lot on the other side relative to ANWR and what it would contribute. Let me identify for the record—and this is from the Energy Institute—crude oil imports relative to the annual report for the year 2002. Opening ANWR would reduce oil dependence from 66 percent in 2020 to 62 percent by 2024; 58 percent by 2020 in a high case. So we have a low case, a mean, and a high.

The significance is what it does relative to domestic production. Assuming the USGS mean case for oil in ANWR, there would be an increase of domestic production by 13.9 percent; assuming a higher case for oil—and this is USGS figures—25 percent of total domestic production, an increase—well, the increase is clearly substantial.

I think what a lot of people have forgotten in this debate is what we are debating. This second degree amendment, of course, provides funding for the rejuvenation of the American steel industry, with the proceeds from ANWR. But for a moment, let us reflect on the fact that passing the underlying amendment does not automatically open ANWR. In this amendment, we have given the President the authority to open ANWR. The President has to certify to Congress that the exploration, development, and production of the oil and gas resources in the ANWR Coastal Plain are in the U.S. national, economic, and security interests. I think we should trust our President to make that decision. Clearly, at a time when the Mideast is in an inferno and we are 58 percent dependent, we should trust our President to make this decision.

Further, there is a 2,000-acre limitation on surface disturbance. That is in the House bill. There is an export ban, with the exception of exports to Israel. Under the Israeli oil supply agreement, we are extending it through the year 2014. There are 1.5 million acres of wilderness in ANWR, in exchange for opening approximately the 1.5 million acres of the Coastal Plain. We believe that is a responsible exchange.

We talk about a process. This is what I find totally unacceptable. One might say we were defeated before we even started on this project. Why? Well, because the majority leader basically pulled away from the committee of jurisdiction the process of developing out of that committee an orderly transition and development of a bill that could be brought to the floor and voted on by 50 votes.

We had 50 votes. We were victorious, and the Democratic leader knew it, but he pulled the bill from the Energy Committee and put us in a position of having to come up with 60 votes, and that is where we are today.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MURKOWSKI. I guess one could say when we had control of the Senate the last time, 55 to 45 in 1995, we passed ANWR. President Clinton vetoed it. Now it is a different story in the Senate. We have 50/49/1. That is the reality associated with this issue.

The final point I want to make relative to the majority leader and his handling of this bill is one that I think bears consideration by all Members of this body. He said, even if we get 60 votes, we are not going to get ANWR because he will pull the energy bill.

I reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, Senator ROCKEFELLER was scheduled to speak. Of his time, which is 10 minutes, we yield 3 minutes to the manager of the bill, Senator BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will summarize some points we have made several times before. I think this debate has been useful in that all the arguments have been heard extensively. I do think it is an important issue.

I commend the Senators from Alaska for their efforts to move ahead. I do not favor going ahead with opening ANWR to drilling, and I think this is a debate which has continued, frankly, for decades in this Senate and in this country.

My own view is the long-term energy needs of our country can be best met with a balanced, comprehensive bill, which we are trying hard to enact and perfect in the Senate, that encourages domestic production in ways that are not environmentally objectionable to a substantial portion of our population. I mentioned those.

There are substantial opportunities for us to increase production on the North Slope of Alaska. There are substantial opportunities for us to increase production in the Rocky Mountain region, and I know that is going to be objectionable to some people, but we have a lot of production in my State. I think there are opportunities for additional production. There is a lot of opportunity for increased production in the gulf that we can benefit from substantially.

In addition to that domestic production, though, we need to have a heavy emphasis on increased efficiency. There is no reason we cannot use the new technology that has been developed to reduce dependence on foreign sources of oil. I regret some of the earlier votes we have had on this bill in that regard. I will not revisit that right now, but I will say there are opportunities for us to pursue an enlightened policy that positions us better in the future with regard to our energy needs. Meeting those needs and opening ANWR to drilling is not a necessary part of that.

I do not support it as an environmental policy, and I do not support it as part of this energy bill. We will have a good opportunity to express views on that in these upcoming two votes, and Members know exactly what the issues are. There is no mystery about that.

With regard to the first of the votes we are going to cast, it is complicated by the fact that we have had loaded in there provisions relating to the steel industry and the legacy issues related to the steel industry. I have said before, and I reiterate, this is not the right place to deal with those issues. I support trying to find a solution to those problems, but this is not the right place to do so.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. REID. How much time is remaining now on the majority side?

The PRESIDING OFFICER. Ten minutes is available to the Senator from New Mexico.

Mr. REID. That time is yielded to the Senator from West Virginia, Mr. ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to read one paragraph of a letter from the United Steelworkers of America which was given to me last night. It says:

> The United Steelworkers of America support you—

That happens to be me——

> now and will continue to support you as you go forward to explore every avenue for the passage of this vital legislation [the legacy costs for health care].
>
> In the last 2 weeks, despite every effort, the White House and the Republican leadership in the House and Senate refused to grant the ironclad assurances necessary to go forward with legacy costs legislation as part of the energy bill. In fact, the inaction of the White House and the Republican leadership shows a total lack of concern for the 600,000 steelworkers who have or are about to lose their retiree health care.

I ask unanimous consent that the remainder of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> UNITED STEELWORKERS OF AMERICA,
> *Pittsburgh, PA, April 17, 2002.*
>
> Hon. JOHN D. ROCKEFELLER IV,
> *U.S. Senate, Senate Hart Office Building, Washington, DC.*
>
> DEAR SENATOR ROCKEFELLER: I want to thank you for your continuing efforts to obtain a retiree health care program that will address the needs of hundreds of thousands of Steelworker retirees. The United Steelworkers of America support you now and will continue to support you as you go forward to explore every avenue for the passage of this vital legislation.
>
> In the last two weeks, despite every effort, the White House and the Republican leadership in the House and Senate refused to grant the ironclad assurances necessary to go forward with legacy costs legislation as part of the Energy bill. In fact, the inaction of the White House and the Republican leadership shows a total lack of concern for the 600,000 steelworkers who have, or are about to lose, their retiree health care.
>
> Without your consent or the support of the United Steelworkers of America, the Republican leadership has attached the legacy costs legislation to an amendment that would open Alaska to new oil exploration and production. The United Steelworkers of America oppose this action. The issue of ANWR stands alone. This is not the way to obtain legacy costs relief.
>
> What the Steelworkers do support is the legacy costs legislation that you will introduce today, co-sponsored by Senator Specter of Pennsylvania.
>
> In the coming weeks, we will work with you and other Senators on both sides of the aisle in order to build a broad-based grassroots campaign to ensure the speedy enactment of legacy costs relief. We urge the Republican leadership not to call for a vote on the Stevens' Amendment. Our members, and in particular our 600,000 retirees, their dependents and surviving spouses, deserve serious consideration of this problem, not political exploitation.
>
> Sincerely,
>
> LEO W. GERARD,
> *International President.*

Mr. ROCKEFELLER. Mr. President, I have consistently, over the years, voted against drilling in the Arctic National Wildlife Refuge area. I will oppose both the Murkowski and the Stevens amendments. As a refuge, ANWR is protected land, intended to ensure the national diversity of wildlife, to ensure quality in water and conservation, and to provide subsistence living for Native Americans who have lived in that region for many generations.

The Coastal Plain within the refuge is targeted by some, as we well know, for oil exploration while only 8 percent of this refuge, the plain, is home to a wide variety of wildlife, including polar bears, caribou, and 100 species of birds.

ANWR is likely to produce, at best, 2 percent of America's oil demand in a given year if the oil, in fact, is there. Extracting it, if it is there, will be extremely costly. According to the Congressional Research Service, ANWR would not under any circumstances start producing oil for at least 7 years, or perhaps as many as 12 years.

The limited amount of oil and the problems extracting it make it clear we should not risk opening the refuge, which is the last 5 percent of Alaska's vast North Slope that remains protected. There are other, better ways to promote domestic oil production and other more effective ways to deal with our country's energy needs.

In addition to opening ANWR to oil exploration, Senator STEVENS—who in my work with him acted in total honor and integrity, which is part and parcel of his nature—adds a provision that appears to provide health care benefits to retired steelworkers and also coal miners. They relate to ANWR. He links the two. If that were a real possibility, it would be very hard to resist for somebody like me, who has been fighting for steelworkers who have been going downhill.

However, no matter how genuine the Senator from Alaska is—and he is—he has been unable to secure any kind of support for either himself, myself, or anybody else from the White House that it would support it through the conference committee. Remember, the House has passed this bill. ANWR is in it; there is no steel. Therefore, no matter what we do, it has to go to conference. The whole problem is they would then drop legacy costs for steel and coal miners and keep ANWR, and that would be easy, unless, of course, the White House committed and the House committed not to do so. Senator STEVENS asked for that kind of commitment and was given no such commitment whatsoever. That leaves an empty promise.

It basically says: Vote for me on what I want and when your turn comes, I will consider what you want. In addition, the White House said they would not even consider sending a letter of any sort until they had 60 votes on ANWR. That is the same thing as saying: Give us 60 votes; we will write you some kind of a letter, and steel will get dropped in conference.

No. No. I represent West Virginia, as well as the United States of America and steelworkers and other people everywhere. I am not a part of anything of that sort. I will not and cannot support the effort of the Senator from Alaska to add steel retiree legacy costs to the ANWR amendment, although I am very sympathetic with what his predicament is. It is the same predicament I face. I have great respect for the Senator. His amendment offers nothing to steelworkers across this Nation, through no fault of his own.

The American steel industry and retired steelworkers were struggling in the face of an unprecedented steel crisis. They deserve help from their Government and need help. The steel industry is not a casual industry. It is no less strong in its meaning to America than the oil industry, but nobody seems to care about the steel industry. Not that many States produce steel, and half the Senators from those States do not care. It is a discouraging situation.

The steelworkers deserve straight talk about what the administration is prepared to do to help them, not political gain. There are nearly 100,000 steelworkers without health care benefits today. Most are former LTV workers who lost their benefits less than 8 months ago. Some are workers of American steel companies that went bankrupt waiting for the President to act on section 201, which was the matter of tariffs for unfair trade practices. There are hundreds of thousands of steelworkers whose health benefits are in imminent jeopardy without some help. There is an urgent need for legislation to restore the health benefits and to protect the steelworker health benefits that are at risk.

I want my colleagues to know for months and months I have tried in every way I possibly could to try to get the White House to have some sense of empathy for this situation. They did the tariffs. All that did was buy time. It did nothing for the steel industry. You have to have legacy followed by consolidation. Without consolidation, there is no steel industry. Without legacy there is no consolidation. It has to be tariffs, legacy, consolidation. They said no to legacy.

Don Evans, Secretary of Commerce, was on one of the Sunday shows. He said: That is up to the Congress to pass.

Well, there is a Republican House, a one-vote organizing majority in the Senate, and a Republican White House. What do you think that says? We are not interested.

It is, unfortunately, the steel industry that is not a priority for this administration. I am disappointed but not surprised. I am disappointed. I am bitter about it. I will be back about it. I will be back on this because I represent steelworkers.

There has never been a single solitary indication that this administration would support the concept of legacy relief. The President's refusal to make a commitment to retired steelworkers at this point sends a very chilling message to every steelworker, every steel company in the United States of America that this White House simply does not care about the long-term well-being of the steel industry. I don't know how I can reach any other conclusion. I tried to work with them, but there could be no other conclusion.

For our own industrial manufacturing base, of which steelworkers are 14 percent in West Virginia, for our national security interests, we all have a vested interest in doing something about steel. I conclude by saying, again, please do not be fooled by the linking of drilling and legacy costs. This amendment is misleading. There will be legislation introduced in this body that will represent a meaningful way to protect steel retiree benefits, but this is not the vehicle. Drilling in and of itself is wrong.

I urge my colleagues to vote against both the Stevens amendment and the Murkowski amendment.

I thank the Presiding Officer. I yield the floor.

Mr. MURKOWSKI. I ask how much time remains on the other side?

The PRESIDING OFFICER. The Senator from Alaska controls 4 minutes and the other side controls 8 seconds.

Mr. MURKOWSKI. Mr. President, how much time remains on the side of the majority?

The PRESIDING OFFICER. The majority has no time remaining.

Mr. DASCHLE. Mr. President, obviously, I have the availability of leader time, but in the interest of moving these votes along, it is important we try to stay as close to schedule as we can.

Mr. DASCHLE. Mr. President, we have now been debating how best to reshape our Nation's energy policy for 24 days.

Time and again, we have heard our Republican colleagues say that opening Alaska's arctic wilderness is the cornerstone of their energy policy.

Time and again, we have said, if that is the case, then offer an amendment to that effect.

Time and again, they declined.

I am mystified as to why it has taken us so long to get to this point, but now that we are here, I want to talk about the substance of this amendment, because I support policies that will encourage domestic production of oil and gas.

I also believe that we need a comprehensive and balanced energy policy that will help to meet our Nation's critical energy needs.

But, given the fact that drilling in the Arctic Refuge won't increase our energy independence, but will have an adverse impact on the wildlife refuge—I believe that it does not belong as part of our Nation's energy policy.

America's appetite for energy continues to grow each year. Over the next 10 years, the United States is expected to consume roughly 1.5 trillion gallons of gasoline. At the same time, the United States holds only 3 percent of the known world oil reserves.

Even if we drilled in everybody's back yard, we could never meet our own demand with our own supply.

That is not to say that we shouldn't drill for oil and gas in the United States—to the contrary, we can and we should.

But we cannot simply drill our way out of this problem, and we should not be drilling in environmentally sensitive areas.

Supporters of drilling in the Arctic Refuge have used every possible opportunity to justify their position.

When we were experiencing rising oil prices, supporters said it would make oil available quickly and drive prices down in the process.

But even if Congress were to authorize drilling in the Arctic National Wildlife Refuge today, we would not see significant quantities of oil produced from the refuge for 8 years at the earliest.

When our economy began to slow, supporters began billing it as an economic stimulus measure, saying it will create 750,000 jobs.

Yet that number comes from an outdated and biased study commissioned by the American Petroleum Institute. Recent, more credible estimates by the Congressional Research Service, the Joint Economic Committee and others suggest that less than one-tenth that number would actually be created.

And now, as we see volatility in a number of oil-producing nations, those same supporters are saying that drilling in ANWR is vital to increasing our energy independence.

But estimates of the amount of oil that might potentially be available if we drilled in the Arctic Refuge average around 3.2 billion barrels.

Let me give you an important point of comparison: if we all put replacement tires on our cars that were as good as the ones that came with the cars when they were new, the resulting increase in efficiency would save 5.4 billion gallons of oil—70 percent more than the total amount of oil in the Arctic Refuge.

Perhaps the most cynical attempt to justify drilling in the arctic refuge was the most recent. It was an attempt to link drilling in ANWR to an issue that many of my colleagues care about—the issue of health and retirement benefits for laid-off steelworkers.

All I can say is that I hope those who proposed this addition to the ANWR amendment remember their newfound commitment to steelworkers when it comes time for us to debate trade adjustment assistance.

The bottom line is this: anytime you see a policy so desperately in search of a justification, you can count on one of two things—either it's not that good a policy, or it doesn't have much support.

Drilling in ANWR falls into both categories.

And here's why: right now, more than 95 percent of the Alaskan North Slope is already open to oil and gas drilling.

I find it ironic that by focusing this debate on ANWR, we are missing the other opportunities to produce oil and gas in Alaska that we should be encouraging.

The first amendment that we passed to this bill authorizes the construction of a pipeline to bring natural gas from Alaska to the lower 48 States.

There are 35 trillion cubic feet of known natural gas reserves on the North Slope of Alaska.

There is more we can do to encourage sensible production. We should explore ways to pump the heavy crude oil that remains in the ground in northern Alaska.

And we should explore for oil and gas in the National Petroleum Reserve in Alaska—the area where the 3 largest onshore oil reserves in the last 10 years were found.

Faced with so little evidence that drilling in the Arctic Refuge would do anything significant to help our economic situation or increase our energy independence, some are now arguing that at the very least it can be done without harming the environment, or without exploiting too much land.

But those arguments are flawed as well.

For 12 years—over the course of a Democratic and a Republican administration—the U.S. Geological Survey studied the impact that drilling in the Arctic Refuge would have on the local wildlife.

In March they came out with their final report—and it couldn't have been more straightforward: the wildlife in the region will be seriously hurt by oil development.

Now, some Republicans are saying that they will limit the operation to a 2,000 acre "footprint," and the environmental damage will be minimal.

Well, "footprint" is a misleading term.

In reality, oil production on the coastal plain area would require central production facilities, drilling pads, roads, airstrips, pipelines, water and gravel sources, base camps, construction camps, storage pads, powerlines, powerplants, and possibly a coastal marine facility.

When you add those logistical necessities to the fact that those 2,000 acres doesn't include an additional 93,000 acres of Native American land—you begin to see how that 2,000 acre footprint could easily trample a substantial amount of the coastal plain.

Finally, we need to recognize that this debate is about more than just drilling in the Arctic Refuge.

It is about whether we are willing to recognize that decreasing our dependence on foreign oil means decreasing our dependence on oil, period.

It is about whether we choose to pursue an energy future based upon the old philosophy of dig, drill, and burn—or whether we embrace innovative approaches to our energy future.

We need to expand production of renewable fuels, such as ethanol and biodiesel, develop cars and trucks that do not run on gasoline, but on fuel cells or other energy technologies that we can produce here in the United States, and, in the meantime, build more innovative and efficient automobiles.

Let me give you just one example of what the innovative new approach could achieve:

If we had fully implemented the vehicle fuel-efficiency provisions that were originally in this bill—something that could have been done without affecting safety or performance—we would have saved American drivers billions of dollars—and saved our Nation the same amount of oil we are currently importing from the Persian Gulf.

Bold steps like that are the path to energy independence—not backward steps like this.

Most Americans will never have the opportunity to visit the Arctic National Wildlife Refuge and see the beauty and wonder of land that has been largely untouched by humans since the dawn of time.

It is a tribute to the best of America that Americans still want to protect that ecologically rich expanse.

It is a tribute to the best of America that so many people today want to give future generations the opportunity to see that land as it once was, and always should be.

So I urge my colleagues to use these votes to show that we have the creativity to meet our energy needs, and the character to resist violating the few natural sanctuaries that we have set aside to protect in the process.

Let's defeat these amendments. I urge all my colleagues to vote against cloture.

Mr. MURKOWSKI. Mr. President, I yield myself the remaining time.

I want my colleagues to note there is not one single thing in here that increases domestic oil production in this energy bill. I find that unconscionable at a time when energy prices are increasing. We face continued crisis in the Middle East, and the intention of Saddam Hussein is, in his words, "use oil as a weapon." We have seen that.

I am very pleased to stand with Senator STEVENS and recognize the support on this issue, from seafarers, teamsters, ironworkers, laborers, operating engineers, plumbers, pipefitters and many other unions in America that recognize this legislation as good for the American worker. A vote on the second degree which Senator ROCKEFELLER just talked about is a vote for America's steel industry.

He didn't talk about rejuvenating the industry. This is money that could come from opening ANWR, some $12 billion. It is unconscionable that they are not giving serious consideration to this because we are talking about passing a law; the conference is something else. Finally, a vote for this amendment is a vote for the Native people of my State of Alaska. They were promised they would have access to their lands. The underlying amendment would give them that.

We talk about truth today. I am going to close with one reference from the New York Times.

> A Democrat from the northeast who considers himself a strong environmentalist also said he once tried quietly to see if he could broker a deal in which Democrats would back limited exploration in the wildlife reserve and Republicans would support much tougher fuel efficiency standards for cars and trucks.
>
> The Democrat said he quickly gave up when it became apparent that the environmental organizations would not budge in their opposition to new drilling.
>
> "If you told the environmentalists we would end global warming once and for all in return for ANWR," he said, "they'd still say no."

The truth is, what is going on here is simply the word "greed." The so-called environmentalists are not interested in science; they are not interested in the health of this planet; they are not interested in the welfare of the people of my State; they are interested in only one thing—fundraising and keeping their high-paid jobs.

They know that we can explore Alaska safely; and that the wildlife will not be hurt. But they know that if we win ANWR, and we will, their chief fundraising tool goes away. That's what this entire debate is about—it is about raising money and keeping jobs for people who call themselves environmentalists.

That is the bottom line. We could pull this bill but the people of Alaska are entitled to a vote and Members are entitled to stand and be heard. They are going to be held accountable, and that is the way it should be.

I urge my colleagues to do what is right, what is right for America, not what is right for America's environmental community that has lobbied this issue hell-bent for election.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Stevens amendment No. 3133, regarding drilling in ANWR:

Tom Daschle, Kent Conrad, Harry Reid, Ben Nelson, Barbara Mikulski, Patty Murray, Dianne Feinstein, Tim Johnson, Tom Carper, Jeff Bingaman, Byron Dorgan, Richard Durbin, Mark Dayton, Jay Rockefeller, Patrick Leahy, Jack Reed.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the Stevens amendment, No. 3133, to amendment No. 3132 to S. 517, a bill to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnership for fiscal years 2002 through 2006 and for other purposes shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 36, nays 64, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—36

Akaka
Allard
Allen
Bond
Breaux
Bunning
Burns
Byrd
Campbell
Cochran
Craig
Crapo
Domenici
Frist
Grassley
Hagel
Hatch
Helms
Hutchinson
Inhofe
Inouye
Landrieu
Lott
Lugar
McConnell
Miller
Murkowski
Santorum
Sessions
Shelby
Specter
Stevens
Thompson
Thurmond
Voinovich
Warner

NAYS—64

Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Brownback
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Graham
Gramm
Gregg
Harkin
Hollings
Hutchison
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Smith (NH)
Smith (OR)
Snowe
Stabenow
Thomas
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER (Mrs. CARNAHAN). On this vote, the yeas are 36, the nays are 64. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

AMENDMENT NO. 3133, WITHDRAWN

Mr. STEVENS. Madam President, I withdraw amendment No. 3133.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Murkowski ANWR amendment No. 3132 to S. 517, the Energy Bill:

Tim Johnson, Tom Carper, John Kerry, Jeff Bingaman, Patrick Leahy, Tom Harkin, Tom Daschle, Harry Reid, Hillary Rodham Clinton, Max Cleland, Maria Cantwell, Jack Reed, Ron Wyden, Carl Levin, Patty Murray, Max Baucus.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Murkowski ANWR amendment No. 3132 to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—46

Akaka
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
Domenici
Ensign
Enzi
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Kyl
Landrieu
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—54

Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith (NH)
Smith (OR)
Snowe
Stabenow
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senate duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT. Madam President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, I call for regular order.

AMENDMENT NO. 3144 TO AMENDMENT NO. 2999

Mr. GRAMM. I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator specify the amendment.

Mr. GRAMM. The Kerry-McCain amendment is the pending business, as I understand the regular order. I think we have about 10 amendments that are in the stack of regular order, but I think it is at the top.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. KYL, proposes an amendment numbered 3144 to amendment No. 2999.

Mr. GRAMM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make permanent the repeal of the death tax)

Strike all beginning on page 2, line 1, and insert the following:

SEC. . PERMANENT REPEAL OF DEATH TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than Title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.", and

(2) by striking ", estates, gifts, and transfers" in subsection (b).

Mr. GRAMM. Madam President, I called for the regular order, which brought up the Kerry-McCain amendment as the pending business. I have sent a second-degree amendment to the desk sponsored by myself and the Senator from Arizona, Mr. KYL. It is an amendment that makes the repeal of the death tax permanent.

I say to my colleagues this is a revenue bill. This may very well be the only revenue bill we have for the remainder of this Congress. Perhaps there may be others, but as of today there is no guarantee that there will be.

The House is voting today to make the tax cut permanent. Senator KYL and I thought the Senate should have an opportunity to have a vote on that issue, and we decided if we were going to try to focus on one part of the tax cut, this would be the relevant part to focus on. We now have a revenue measure before us, and therefore we believe this is an opportunity for us to fix something that is very broken.

I will not belabor the point because our colleagues are very familiar with it, but basically because of a quirk in the Budget Act, we made the tax cut temporary, and it expires in 10 years. We could have made it permanent had we had 60 votes, but we only had 58 votes. So we had to use a procedure called reconciliation.

Under that procedure, the tax cut expires when the reconciliation expires, which is in 10 years. This produces the extraordinary anomaly that every year for the next 10 years, the death tax—that is the tax that is imposed on small businesses, family farms, and the wealth that people build up over their lifetime by working, sacrificing, and saving—will be reduced. Before we passed the tax cut, when these people died, their children often have to sell the business or the family farm to give the Government up to 55 cents out of every dollar they have accumulated in their lifetime.

We decided to repeal the death tax in our tax cut, and we decided to phase it out over a 10-year period. Yet because of this anomaly in the budget law, if you die 9 years from now, your family does not have to sell your farm or business, and your children get to keep every penny of wealth you have accumulated on which you paid taxes once before. It will belong to them. But if you die in the 10th year after the passage of the tax cut, the death tax returns, and they will have to sell the business, sell the farm, or sell your assets, and give the Government up to 55 cents out of every dollar you have earned in your lifetime.

Senator KYL and I believe that is outrageous tax policy. We think it is very unfair, and this is a tax measure that is in the Senate on the very day the House is moving to rectify this problem by making the tax cut permanent.

Therefore, I have sent this amendment to the desk on behalf of Senator KYL and myself. I hope my colleagues will look very closely at it. I cannot imagine we would want to let stand a provision of law whereby we repeal the death tax with great fanfare, we trumpet the fact that we had done away with this evil and unfair tax, and yet 10 years from now it all comes back in its full force, its full vengeance, and its full negative impact on every business and every farm in America. The amendment which is now pending is Senator KYL's amendment, which I have cosponsored, and I ask others who want to cosponsor it to do so. The amendment would make the repeal of the death tax permanent. I thank my colleagues for their indulgence. I ask them to look at this amendment.

I think someone could always say, this is an energy bill. Well, this bill is many different things. It has literally hundreds of different provisions that are more or less related—and many are less related—to energy. I do not know anything that has more to do with energy than giving people an incentive to work and save, with the knowledge that when they build up a farm or a business the Government is not going to take it away from their children. That unleashes the most powerful energy source in the universe, and that is the energy that is in the soul of men and women who want to better themselves and their family.

In my mind, this is the clearest energy provision in this bill if we adopt it, and I commend it to my colleagues.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate the remarks of the Senator from Texas and would reiterate that this is really a propitious time for us to deal with this issue, for the following reasons: The House of Representatives, as we speak, is taking action to pass a bill that would make permanent all of the tax reform we enacted less than a year ago. That includes the death tax repeal.

Second, we all recall what we did 4 days ago, on April 15, and I know at that time there were a lot of calls by friends on both sides of the aisle in both bodies talking about how the tax burden was too great for most Americans and we wished we could do something about it. We now have an opportunity to do something about it, as Senator GRAMM said.

Third, in his Saturday radio message—and I know there are still a lot of Americans who listen to the President's radio message on Saturday morning; I know I do—he explicitly called for us to do what Senator GRAMM and I are suggesting.

I read briefly from the remarks of President Bush in his radio address on Saturday morning:

> One thing that is pretty interesting to note is that some of these tax reforms are going to expire at the end of ten years, or in 2011. It is a quirk in the law. I think that doesn't make much sense. It is going to be hard to plan your future. If you think all of a sudden these things get kicked in full time and then go away, they need to make these tax cuts permanent. For the good of the working people of America, for the good of families, for the good of small businesses, for the good of farmers and ranchers, we need to make the tax relief plan permanent in the Tax Code.

President Bush was saying the reform the Congress passed, and he signed about 10 months ago, is going to expire now in 9 years, and if we really meant it when we passed those reforms, we should make those reforms permanent, especially the death tax. The reason I say "especially the death tax" is because people have to plan to deal with the death tax. They have to think ahead. If they don't know what the Tax Code is going to be when, say, the head of the household dies, they don't know what to do to plan for it.

The tax relief we voted on gradually reduces the death tax burden until the 10th year when it goes away altogether. When the sunset expires, the entire Tax Code, the way it was before, comes back into play, and people are then paying the death tax at a rate of up to 55 percent, with an exemption of only $675,000.

How do they plan? Are they going to die in the year 2009, 2010, or 2011? It makes a big difference in which year they die. The irony is that one of the major reasons for eliminating the death tax was that they wouldn't have to spend the enormous amounts of money they spend each year—to plan, to buy the insurance, do the estate planning, and all that goes with planning—to preserve as much of their estate as possible.

We have found, and I have quoted the statistics in the past, Americans spend about the same amount of money each year on lawyers and insurance companies planning their estates as other Americans do in actually paying the estate tax, just about the same amount of money. It turns out to be a double tax, except each year, every single year, Americans spend $20 to $30 billion on estate planning.

The President is saying: Since you can't plan because you don't know what the law is going to be, we have to figure out what that is, and make it permanent so that everybody knows what the rules are and what they need to plan against.

Obviously, we believe what the rules should be is what the Congress decides and what the President signed into law, which is that the death tax should be repealed, as it is in the year 2010. That is what everybody was gearing toward. That was the whole idea, get to final repeal. That is what we voted for. We want to give our colleagues the opportunity to make that repeal permanent so people can plan for the future, so they will know what the rules of the road and the Tax Code are at the time of death.

We could probably have picked some other way to bring this to our colleagues, but the distinguished Presiding Officer will recall the only way we have had an opportunity so far to bring this question before our colleagues is through a sense of the Senate. The distinguished Presiding Officer and many others were supportive of that sense of the Senate, saying we need to get on about the business of doing this. We all agreed—not all, but most Members agreed—with that. There are very limited opportunities to do that in the Senate. We have to have a bill that has revenue factors involved. This bill before the Senate now has a feature from the Finance Committee that deals with revenue and therefore it is one of the few opportunities—maybe the only opportunity, quite possibly the only opportunity—we will have all year long to bring this issue to the floor when it is germane to the legislation pending.

There is some talk that on down the road we may or may not have a pension bill. If we did, and it got to the floor, the issue would be germane to that, as well, but that is very uncertain. Therefore, Senator GRAMM and I believed the best way to bring this issue before the body in a way we could express ourselves on this once and for all was through the only vehicle that existed, which is the vehicle of the Finance Committee work on the energy bill. That is why we do it at this time.

As I said before, there is a secondary reason, and that is because most Americans are focused this week on having paid their taxes, and at least for those who are listening to what the President had to say, we are well aware of the fact that the President wants to make the tax cuts permanent. He especially mentioned the death tax.

Now, it is one thing to do this because the House of Representatives is doing it this week and the President has called for it, the other reason to do it obviously is it is the right thing to do. I will spend a few minutes talking about that.

We knew when we debated a few weeks ago, when we had the sense of the Senate before the Senate, which was, of course, adopted, that one of the things on people's minds at that time was stimulating the economy, getting the economy going, and making sure the economic growth we were beginning to see signs of—it is almost like the flowers of spring coming up out of the soil; we can see economic recovery coming. But there is a question whether we can sustain that with oil prices that are now probably going to increase substantially. That could knock out the economic recovery.

For our families back home thinking about what they can afford this year and whether it will be a good year economically and whether they will save their job, we need to do everything we can to let them know we will work as hard as we can to make sure the economic recovery is sustained, they keep their job, we keep oil prices as low as possible, and all the rest.

We found during the previous debate that pumping money back into the economy, which occurs as a result of the capital formation from repeal of the death tax, is one of the surest ways of creating jobs and maintaining this economic expansion. There were several experts who made that point in one way or another. There are studies that make the point.

One study talked about a $40 billion stimulus to the economy from the repeal of the death tax. Let me refer to some of these in order.

What Alan Greenspan said on this issue is instructive. He was asked a question during a hearing at the House of Representatives: What's your thought on what we ought to be doing here with regard to permanency—meaning making the tax cuts permanent? Chairman Greenspan's reply stresses the need for certainty in the Tax Code, which is what I was talking about. It is the key.

He said:

> Whatever you do, Congresswoman, I think it has to be clear where the longer term tax structure in this area is. You cannot do estate planning, as you point out, unless you have a judgment as to what these numbers are. And wherever the Congress comes out, I think it is far more important that it come out clearly and unequivocally and not have an issue pending as to an issue which would create a degree of uncertainty which could make estate planning very difficult to implement.

Those are almost the exact words I used before. I had forgotten Chairman Greenspan expressed it in exactly this way. However, that is the point. When there is certainty, people know how to plan, they know how to invest. As a result, the capital formation that our economic recovery requires is available for investment.

What Mr. Greenspan is saying is, this is an area where this is most important, where planning is most critical, the area of the estate tax. We have to have clarity. We have to have, as Mr. Greenspan said, the code "come out clearly and unequivocally," with a degree of certainty so that estate planning is not difficult to implement.

Mr. Greenspan testified in another forum in response to a question from one of our colleagues in the Senate. He very clearly rejected the notion that making the tax cut permanent would complicate efforts to meet the Federal Government's long-term financial obligations to Social Security and Medicare.

I read:

> I don't know of any economist who does long-term forecasting and presumes that the tax cuts will fall off a cliff at the end of the period in which they are statutorily in place. I don't think it is an economic issue because I don't know anyone who seriously believes the world works the way legislation stipulates.

That is the end of the quote by Chairman Greenspan.

He is absolutely right. Nobody would imagine that at the end of 10 years all the work toward eliminating the estate tax simply disappears and we go back to the way it was in the year 2000. Who would think that? My friends back home, with whom I talked, to whom I kind of came home and bragged about repealing the estate tax, were very surprised when I said: You understand when I said repeal it, what it meant was it was phased down to the 10th year and then on the 11th year it comes back again. They said: How could it be?

I had to explain to them the arcane—I should not say arcane—the rule under which the Senate operated to get this adopted was the reconciliation procedure. That has a 10-year limit to it. That means whatever you do can only have an effect of 10 years. That means if you reform taxes and repeal a section, at the end of 10 years, the 11th year it goes right back the way it was before.

That is not the way we should have to do it. Unfortunately, it was the only way to get the matter before the Senate at the time it was brought forward, and it was the only way to get the number of votes necessary to effect all the reforms we wanted to adopt. So there we are with a procedure that Alan Greenspan says nobody would understand—but it is the reality, so at the end of 10 years we are faced with this absurd situation that the repeal that we effected disappears and we are right back where we started.

Mr. Greenspan is saying that is unacceptable. We are saying that is unacceptable. The President is saying it is unacceptable. The House of Representatives today is going to invoke saying it is unacceptable. We have now an opportunity in this body to make sure that unacceptable result does not continue, that we have an opportunity to finally, once and for all, repeal the death tax so people can get about their planning, get about their business, and we do not have this immoral tax hanging around our heads.

Both the President and I have spoken about this, and the Senator from Texas has made the point as well, that not only is this a bad tax in terms of what it does to capital formation and economics, but it is an unfair tax. I know some of my colleagues on the other side have made the point that we have to find a way that rich people can pay a tax on the unrealized gain. In other words, if an asset is purchased, there are a lot of folks who want to make sure a tax is paid when that asset is finally disposed.

In the real world we call it a capital gains tax. We say when you buy something, buy it at $100 and sell it at $500 and you do not do any improving on it, then you have a gain of $400 and the capital gains tax rate is going to apply against that $400 gain when you decide to sell the asset.

So you stop and think, I have this piece of property that is worth $500. I know if I sell it I am going to have to pay a capital gains tax because I did not pay that much for it at the beginning; it has really appreciated in value. Do I want to do that? And you make a judgment in your mind to either sell it or not sell it. You know what the tax liability will be. You make an economic decision.

With the death tax, it is totally different. There are two or three other examples in our Tax Code. You didn't decide to die or you didn't decide for your father to die. It happens. It is an unfortunate circumstance, but it is not or should not be a taxable circumstance. The Tax Code should tax behavior. It should tax action. It should tax decision.

In other words, when Americans decide to do a certain thing that we have said is taxable, we do it knowing what the tax consequences are. The Tax Code should not penalize you for dying. It should not tax you for the act of having died or, to be more precise, it should not tax your heirs because you died. You didn't intend it; they didn't intend it. But people say you should still pay a tax or your heirs should pay a tax on the unrealized gain from the assets.

So what we did in constructing this estate tax repeal was to say: You are right. That unrealized gain will be taxed. To be fair, we are not going to let anybody off the hook. No asset is going to be untaxed—even though, by the way, in most cases this is the second tax. The first tax was the income tax that was paid and then this will be the second tax on the investment income, in effect. But in any event, in order to make sure nobody would go untaxed with the unrealized gains, in effect we have not just repealed the estate tax, we have substituted for the estate tax a capital gains tax on those assets, saying that if and when the heirs ever decide to sell that property, then and only then will they pay the tax. It will not be the estate tax of 55 percent; it will be a capital gains tax on the gains at the appropriate capital gains rate, whatever that applicable rate may be at that time.

We did one other thing. Today under the Tax Code the minute you die your property has a new value attributed to it. It is not the value at the time you purchased it but the value now at the time you die, so the value is much higher. If you were to sell that—let me use an example. Let's say a billionaire in our country today dies and his widow inherits all the assets. The very next day that widow decides to sell those assets. How much capital gains tax does the widow pay? The answer is none. The reason is that the value of the estate is now the value at the day of death. Technically, if she sold it immediately it would be none. There might be a little appreciation of a few hours. But the point is, if she sold it the next day there would be no capital gains tax due because the value would be increased to the value at the time of the death rather than at the time acquired.

What we say is it is going to be a capital gains tax based on the appreciation of the original value of the property. If it had been acquired 10 years earlier and had a value of $100 and the value at the time of death is $500, A, when the property is sold, it is sold by the lawyers, it is going to have a gain of $400, but again the tax rate is the estate tax rate, which is in some cases less than half of the estate tax rate and, B, the tax is only due if the heirs make an affirmative decision to sell the property knowing what the tax consequences will be.

That is fair. I certainly do not attribute this to any of my colleagues, but there are those on the outside who like to demagog this issue. They like to say this is just a rich man's tax and we are going to let all the rich people in the world off because we are going to repeal the tax that applies to them. They are not telling you the truth. The truth is, a tax will be due on those estates, but it will be a tax due at the time the assets are sold.

It is the same rule in the Tax Code that applies to other situations in which, by fate, in effect, something happened to you and then you got income as a result and you should not have to pay income tax on that immediately. It is the same thing that applies when something is stolen from you and you are recompensed for the theft. It is the same thing that applies when you have property condemned and the State pays you money.

It wasn't your choice to have the property condemned so you should not have to pay tax on the money at that time.

As a result, there are few provisions of the Tax Code that recognize, where there is involuntary behavior that resulted in gain, or income, that people ought to have the ability to defer the tax on that until they want to sell the asset and at that point in time the capital gains tax is the appropriate tax.

I hope my colleagues appreciate when we talk about the repeal of the death tax here, what we voted for and what was signed into law is not a provision that says those assets are never taxed. It is a provision that says they are taxed when the assets are sold by the heirs at the capital gains tax rate.

I want my colleagues to understand this because I think when we explain to our constituents back home how we voted on this, whether we voted to make this tax cut permanent or not, we also need to appreciate that we can demonstrate what we have done is eminently fair; that people shouldn't have to pay a tax at the involuntary time of death. That is a most unfair thing to do at the worst time in a family's life, that they should have to pay a tax on the unrealized gains. But they should do that as we do in the other parts of the Tax Code when an economic decision is made based upon, among other things, the tax consequences that pertain.

When we have an opportunity to vote on this amendment, I hope my colleagues will consider the economic improvement that would result; the fact that we will be following what the President and House of Representatives have in effect asked the Senate to do; that we will be keeping faith with our constituents whom we told we repealed the tax and who now would want to know that we did in fact do it permanently; and that it wasn't just a charade for a 1-year period of time in the year 2001 and then go back to the way it was before.

If my colleagues can appreciate those points, I hope they will join us when we have an opportunity to make this permanent, and join Senator GRAMM and me in accomplishing that result.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, Members on this side of the aisle have concerns about the structure of the estate tax. In fact, we voted to change it significantly. I think the estate size threshold could be even higher. We don't want small businesses to be hurt by people who, upon death, have to lose a family business or lose jobs in communities.

There is a lot we need to talk about. But I think this is not the moment given what we are discussing. It is perhaps better that we save it for a different point in time.

My amendment, No. 2999, is the pending business. Is that correct?

The PRESIDING OFFICER. Amendment No. 2999 is the pending question.

AMENDMENT NO. 2999, WITHDRAWN

Mr. KERRY. Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. REID. Mr. President, I have spoken to the Senator from Texas. He has indicated that during the course of the debate on this matter he is going to offer his amendment at a subsequent time. I certainly appreciate that.

It is my understanding that the pending business is amendment No. 3008. Is that correct?

The PRESIDING OFFICER. That is the regular order.

Mr. REID. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The Senator has that right.

AMENDMENT NO. 3145 TO AMENDMENT NO. 3008

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3145 to amendment No. 3008.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available)

In lieu of the matter proposed to be added, insert the following:

SEC. 8 . FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is available at a competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol (or the highest available percentage of ethanol), rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which biodiesel-blended diesel fuel is available at a competitive price—

"(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

"(c) EXEMPTION FOR MILITARY VEHICLES.—This section does not apply to fuel used in vehicles used for military purposes that the Secretary of Defense certifies to the Secretary must be exempt for national security reasons.".

Mr. REID. Mr. President, for edification of the Senators, what the two leaders have suggested we do is early this afternoon move to border security. There is a unanimous consent that has been prepared. It is being circulated now. We should be able to enter into that agreement hopefully very soon.

In the meantime, I think the Senate would be well advised to continue working on the bill that is now before us—the energy bill. There are a number of amendments that have been cleared.

In a moment, the Senator from New York will be here to speak on ethanol. There are a number of amendments dealing with that subject in this legislation. Until the Senator from New York returns, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I ask for the regular order and call up amendment No. 3030.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If the Senator will allow me to make a suggestion?

Mr. SCHUMER. Please.

Mr. REID. The Senator should call up his amendment, that it be the pending business.

AMENDMENT NO. 3030, WITHDRAWN

Mr. SCHUMER. Mr. President, I call up amendment No. 3030.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I withdraw this amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

Mr. SCHUMER. Thank you, Mr. President.

Mr. President, I plan, along with several of my colleagues, to discuss this amendment. We are going to offer it again for a vote at a time that is agreeable to everybody. The only reason I withdrew it is I didn't want there to be a motion to table it where we wouldn't have a full debate on this very important amendment.

This is, of course, the amendment that would remove the ethanol mandate from the energy bill, not removing either of the other parts. It keeps the clean air standards, and it keeps the ban on the MTBE, but it does not require that ethanol be used as an oxygenate. It does not even require an oxygenate as long as the MTBE standard is met.

Before I begin, I want to say how much I respect and admire our majority leader, TOM DASCHLE. He is just a leader par excellence. He is a principled, compassionate, and extraordinary public servant, and a true friend to the people of my State. I consider it a privilege to serve under him and to be his friend.

For that reason, believe me, I do not enjoy opposing a provision in a bill about which I know Senator DASCHLE cares very deeply. I thought long and hard about whether to oppose the amendment and came to the conclusion that I had no choice, that I was compelled to do so because I sincerely believe this provision will hurt consumers dramatically in my State of New York and throughout the country.

So I do rise to my feet in this Chamber to speak on amendment No. 3030, reluctantly, with some sadness, but nonetheless, bolstered in the belief that it is the right thing to do and that I would be derelict in my responsibilities as a Senator to the people of my State and to our country if I did not offer my amendment. I had hoped that someone else would have, but they did not, so here I am.

I have been in Congress for 22 years. Every so often there is an amendment that people vote for that becomes part of the law that isn't paid too much attention to, and then, a year or two later, it turns out to be a big disaster. Our constituents turn to us and ask: How, the heck did you do that? How could you have done this? How could you have created something that has caused so much hardship without even thinking about it, without debating it, without opposing it?

I remember the catastrophic illness amendment 10, 12 years ago. I know some of my colleagues disagree about the analogy, but I think it is an apt one. We passed that amendment in the House, when I was in that body, with, I believe, minimal debate. I may be mistaken, but I think it was even on a two-thirds vote on the consent calendar. Everyone thought they were doing a good thing.

When the bill bit—when people realized how much they had to pay for a service that they would have liked to have had, but it was not essential to them, when people realized they all paid for it, even though many of them did not need it because they had other coverage—there was a public outcry, and there was almost a rush to the floor by House Members to get up and say why they really did not vote for what had happened, why they did not mean to do what had been done.

That happens every so often around here. It does not happen often. We are generally pretty careful, and the slowness of the legislative process stops it.

I say to my colleagues: Beware. If there were ever an amendment quietly put in a bill that should have a "tread cautiously" label on it, that should have perhaps a skull and crossbones on it, this is it. This is not an innocuous amendment. This is not an amendment that simply helps some farmers and does no harm to the rest of us. It is a deep and profound change in terms of how we use our motor fuel. It will require dramatic changes in investments throughout the land. It will create consequences that none of us are sure of because we are jumping into this pool of ethanol, if you will, without having put our toe in first. I fear the consequences.

So today I rise with my fellow Senator from New York, Mrs. CLINTON, our colleagues from California, and now a small but growing band of Members throughout the Senate, to oppose the unprecedented new ethanol gas tax which was quietly inserted into the Senate energy bill a few weeks ago without any debate.

My amendment may be adopted, but I do not fool myself. It may not. There is a huge group—some of whom I have often allied with, some of whom I usually oppose—arrayed against it. But I am convinced we will be the better for this debate, whatever our view is, because of the breathtaking change that the ethanol mandate imposes throughout the land.

The antioxygenate provisions in the bill accomplish two goals that are not disputed by my amendment. One is banning the use of MTBE. We have found that MTBE has resulted in ground water pollution all over the country. In my home State, on Long Island, where drinking water comes from one big single aquifer, MTBE that is spilled on the ground is slowly seeping into the soil, and it actually permanently pollutes that precious aquifer which close to 3 million people depend upon for their drinking and bathing and their washing.

My State, along with many others, has banned MTBE and many more States are planning to do it. This bill does that. We are not changing that.

The second is the scrapping of the oxygenate mandate that led so many States to make such heavy use of MTBE in the first place. The proposal in the bill provides an antibacksliding provision that says if you don't use MTBE, you can't backslide on clean air. Some believe those provisions could be stronger, but we are not opposing either of those two parts: the ban on MTBE or the antibacksliding provisions, the provisions that require the air to stay as clean as we require it now. It is not those provisions we are opposing.

Beyond those two provisions, this new provision added to the energy bill—again, without any debate—adds an astonishing new anticonsumer, antifree market requirement that every refiner in the country, regardless of where they are located, regardless of whether their State mandates it or not, regardless of whether the State chooses a different path to get to clean air, regardless of whether the refiners in that State say that ethanol doesn't work or works very expensively, it requires them to use an ever-increasing volume of ethanol.

Here is the kicker—there are a lot of kickers in this provision, the ethanol provision that was quietly added to the bill. If your State or your region does not want to use ethanol, you still have to pay for ethanol. You have to buy what is called ethanol credits. It costs you the same as if you bought the ethanol yourself. When have we done that before? When have we said, even if you choose not to use a product, an expensive product, a product that affects just about everyone, anyone who owns a car, any company that drives trucks, when have we ever said in such a dramatic way that you are forced to use something? It is astounding. It would be similar to saying to people who needed heating in their homes, you have to use oil rather than gas, and if you choose to use gas for whatever reason, you still have to pay for the oil.

That is what we are doing here, no less, except we are doing it with gasoline, and it sounds sort of complicated, ethanol sounds chemical, and all that. The effect is very simple.

This is a gas tax. In 1993, many of us debated whether there ought to be a gas tax. Some say the whole Congress changed on the basis of that debate; that in 1994, the House and Senate switched parties in part because of that debate. This is, for most States, a larger gas tax than the one that was proposed. And, to boot, it doesn't even go to a useful purpose. The gas tax at least built new highways to help the driver, and there was a theory about it. This makes you buy ethanol—hardly a return to motorists the way the gas tax was to be.

It will affect every employee driving to work. It will affect every mom driving the kids to school. It will affect every Teamster driving a truck. It will affect every company that uses automobiles and cars and trucks. I don't think there are many that don't. Every gasoline user in this country will pay.

The mandate is so steep that sure as we are sitting here, it is not just the added cost of the ethanol—which will be great enough; I will talk about that in a minute—but it is going to cause price spikes. Currently, refiners across the Nation use 1.7 billion gallons of ethanol. That is the total amount. Starting in 2004, 2 years away, they would be required to use 2.3 billion gallons of ethanol. Almost immediately, we are requiring a large amount of ethanol. You know what happens when you place a huge demand on a product and you don't have the supply? Simple economics: The price goes through the roof.

I am opposed to this substantively. But I say to my colleagues who are running in 2004: Beware. Let's say the proponents of the bill are wrong. Let's say I am right and all of a sudden next summer, the summer of 2004, gasoline goes up 30, 40, 50 cents a gallon, which is very possible. What are you going to say?

I want to help the corn farmers, too. I vote for everything that comes up to help the middle western and southern farmers. But this is not the way to do it. We can do it a lot more efficiently and with a lot less harm to the driver.

You don't need a degree in economics to know that if ethanol producers can't meet the demand, there are going to be price spikes, big price spikes. That is just the beginning. It is going to get worse. We ratchet up the number from 2.3 billion in 2004, up to 5 billion gallons of ethanol in 2012. Then we increase it by a percentage equivalent to the proportion of ethanol in the entire U.S. gas supply after 2012 in perpetuity. We are locking people into one method of cleaning the gasoline and the air forever. That means from 2012 on, the Nation's ethanol producers will have a guaranteed annual market of over 5 billion gallons, which every consumer in this country will pay for at the pump.

Here is how much you are all going to pay. This is a conservative estimate. They use Department of Energy numbers, but it is called Hart/IRI Fuels Information Services. They are a well-established group. They are not part of the petroleum industry or anybody else. The estimates are conservative because that is without price spikes and that is assuming the best of circumstances, that everything works smoothly.

Here is how much each of your States will pay. The minimum is 4 cents, 4 cents a gallon every time you go to the pump. But I am going to read all the States where it is greater than 4 cents a gallon, how much you would pay.

In Arizona, you would pay 7.6 cents a gallon; in California, you would pay an extra 9.6 cents a gallon; in Connecticut—I see my colleague from Connecticut here in the Chamber—it is estimated you would pay an extra 9.7 cents a gallon; District of Columbia, 9.7 cents a gallon; Illinois, 7.3 cents a gallon; Indiana, 4.9 cents a gallon; Kentucky, 5.4 cents a gallon; Louisiana, 4.2 cents a gallon; Maryland, 9.1 cents a gallon—that is a lot of money—Massachusetts even more, 9.7 cents a gallon; Missouri, 5.6 cents a gallon; New Hampshire, 8.4 cents a gallon; New Jersey, 9.1 cents a gallon; New York, 7.1 cents a gallon; Pennsylvania, 5.5 cents a gallon; Rhode Island, 9.7 cents a gallon; Texas 5.7 cents a gallon; Virginia, 7.2 cents a gallon; Wisconsin—I see my friend from Wisconsin here; we have worked on agricultural issues together—5.5 cents a gallon.

Every one of those States pays more than the 4 cents.

If you hear the name of your State now, your drivers will pay, under the best of circumstances by these estimates, an extra 4 cents a gallon: Alabama, Alaska, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Mexico, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

The annual aggregate impact is $8.3 billion. That is a lot of money. Even in the Middle West, where there is a lot of ethanol production, where it would be less onerous than in other places, the cost of gasoline goes up 4 or 5 cents a gallon. That is a lot of money.

I know there are some supporters here. We have had many good arguments privately and on the floor and some are going to say these numbers are inaccurate. They include the cost of banning MTBE. The cost of forcing the entire country to use 5 billion gallons of ethanol will be a mere pittance.

Remember this, my friends: Ethanol is very hard to transport. It cannot be carried through our existing pipeline infrastructure because it is so volatile. It has to be put on a truck, a barge, and sent down the Mississippi to New Orleans, usually, and then sent by boat around the country, and then loaded back onto a truck and taken to a local refinery and put into the gasoline. You can see why it is so expensive.

Then some people say they will build ethanol plants closer to the big users, particularly on the coast and in the South, where this has the greatest effect. There is not enough corn and ethanol production down there. Who is going to pay for the cost of all those new ethanol plants? It will be the drivers of all of our States. Because of its volatility, because you cannot create a pipeline and pipe it through to the refinery and add it in, because you have to transport it in this particular way, you can see that ethanol is not the cheapest way to do what we want to do in terms of cleaning our air.

With all due respect, I think the cost estimates I am citing are based on more realistic assumptions than those that went into my opponents' number. We tried to be as careful and conservative as we could. To forecast how much a 10-year, 5-billion-gallon ethanol mandate is going to cost consumers across the country, you have to look at interplay of a host of complex factors: growth in auto travel, gasoline prices, corn prices, ethanol price, and how many new ethanol plants are expected to come online. That is all inextricably linked to how high the price of ethanol is going to go. If the price is high and manufacturing ethanol becomes profitable, yes, the private sector will build the plants. If it is not, they will not. Yet in the numbers I have seen circulated by the proponents of this issue, they use contradictory figures. They say ethanol prices will be unusually low for the next 10 years. At the same time, the private sector is going to build plants all over the country.

You cannot have it both ways. If the price is low, you are not going to build new plants. If the price is high, then you will. I am willing to concede that modeling this unprecedented, inefficient, untested, jerry-built contraption, a nationwide mandate on every refiner in the United States to pay for billions and billions of gallons of ethanol whether they use it or not is difficult.

I know my staff has been working with Senator DASCHLE's staff and a number of technical experts to see if we can reach agreement on the numbers. If we can do so, that would be great.

In truth, whether it costs a penny a gallon or a dollar a gallon—my guess is, from the estimates I read, the State-by-State numbers I read are low, because those are under the best of market conditions—why are we mandating it? There is no public policy reason for the use of ethanol other than the political might of the ethanol lobby.

I say to colleagues from the farm States, the fact that we are getting rid of MTBE and keeping the air standards high is going to increase demand for ethanol. I think you are going to do better than you have ever done before. Without casting aspersions on colleagues and individuals, the proposal is kind of greedy. Yes, ethanol is going to be needed more. But a mandate to the ethanol world? You are going to do well under this. Once MTBE is gone, your main competitor is gone.

For States such as mine, where the refiners believe they can find a better method that is cheaper, why would you require us to use ethanol? That is the fundamental weakness.

I was having a good discussion with my friend from Iowa, who does a great job defending farmers and farm States. He has even tried to help us in an unprecedented way in the Northeast. He says: What will replace ethanol if you don't mandate?

The first and best argument is to let the market come up with something. If you mandate it, there is going to be no alternative; you are stuck with it. If it is the best in the market, it will prevail in the marketplace.

There are alternatives. Refiners have told me—those away from the Middle West—that they will use a combination of aromatics and alkaloids. Alkaloids are about as clean as ethanol. Aromatics are kind of dirty. Aromatics break down so you cannot use all of them. But a form called Alkaloids are clean. Alkaloids could be used, plain and simple. I don't know if they work better than ethanol or not. But I will tell you, the people in my State say they will. Why mandate that?

So the bottom line is, there is no sound public policy reason for mandating the use of ethanol. We live in a free market economy. We hardly mandate anything, especially when there is a choice.

Well, the new ethanol gas tax will contribute to market volatility and price spikes, especially since the industry is concentrated in the Midwest. It is going to increase costs in general. That is the second issue. But you are going to create price spikes all over the place. When you increase the amount that is needed, you know when there is one big boy, one producer, they are going to go to town.

Archer Daniels Midland, alone, controls 41 percent of the market—a monopoly. Certainly, somebody is asserting huge market control. When they have to build more refineries, who is going to have the best access to capital and technology? They are. My guess is their market share will actually increase. Who knows, 41 percent is a lot.

Well, let me tell you, the mandates frighten people even in the Middle West. I want to make a point. Two States in the heartland of America—two of the biggest corn-producing States in the country considered mandating ethanol—Iowa and Nebraska. Both of them rejected it. If the people of Iowa, through their legislature, and the people of Nebraska withdrew the legislation—it was not a referendum—and rejected this, why now are we in the Senate imposing it on Iowa, Nebraska, and everybody else who is in a far worse position?

Let me read what some of the newspapers in those areas said:

> An ethanol mandate would deny Iowans a choice of fuels and short circuit the process of ethanol establishing its own worth in the marketplace. . . . The justification is to marginally boost the price of corn. Cleaner air is offered as a reason, too, but that's an afterthought. If that were the goal, other measures would be far more effective. . . .

That is the Des Moines Sunday Register, 9–19–1999, headlined "Let Ethanol Prove Itself."

The Quad City Times from Davenport, IA, in an editorial entitled "Ethanol Only Proposal Doesn't Help Consumers":

> With research and continued refinements, it might someday become an economically viable alternative to gasoline—but until that day, it is ludicrous to argue that Iowa's gas stations be required to sell only ethanol. . . . Ethanol might be worth some level of support, but it will never be so valuable as to justify scrapping our free enterprise system.

That is not the New York Times. That is not the Los Angeles Times in California. That is the Quad City Times at the border of Iowa and Illinois.

Nebraska, as I mentioned, considered an ethanol mandate and rejected it. Here is what the Grand Island Independent said about a year ago in an editorial:

> "Ethanol Use Shouldn't Be a Forced Buy." Americans don't like to be forced to do anything and Nebraskans are no different. Yet the Legislature is considering forcing all gas stations throughout the state—

This was a State mandate—

> to start selling ethanol blends. . . . That just doesn't seem fair. Our country and our business system is based on supply and demand. Consumers determine the products they want and businesses meeting those needs succeed. While many in Nebraska may want ethanol-based fuels, many Americans traveling our highways don't.

Finally, the Omaha World Herald, in the year 2000, editorialized:

> Now the Nebraska Legislature is considering eliminating the competition altogether. Support is building for a proposed state law to require most general purpose automotive fuel sold in the state to contain ethanol. . . . As a general principle, government should not take sides in such matters

> unless a strong case can be made that intervention serves a major public purpose. In this instance, the arguments for eliminating competition haven't been persuasive.

Even editorials, as well as voters, in the heartland of America, where there is much more corn and ethanol is far more likely to succeed, argue against a mandate, which is what we are about to impose.

My opponents also argue that this ethanol gas tax is needed to help family farms, and I take those arguments very seriously. I know that many of my colleagues from the Middle West want to help their family farmers who are struggling. I want to help those farmers, too, and I have stood by my Senate colleagues from Illinois, Iowa, Nebraska, the Dakotas, Montana, Minnesota, Wisconsin, and I have voted for billions and billions of dollars in agricultural subsidies to help the farmers in the West and South. That is a decision I think I can make in good conscience. Commodity subsidies, by the way, do very little for New York.

Since I have been in the Senate, I have supported the Midwestern farmers. I know how important they are to the economy of those States. I know how important they are as a breeding ground for American values. I say to my colleagues, I think a majority in this Senate Chamber—a big majority—are willing to help some more. But find a way that works. Do not do it by imposing a gas tax on all of our drivers.

I speak for my State of New York. Our economy is hurting after 9–11. We do not need this which particularly affects the east and west coasts worse than other places.

Guess what. In addition, what pains me is this has not trickled down. Do you think corn growers of the Middle West are going to make most of the money? I have heard our farm State folks complain over and over that it is the middleman who gets most of the farm dollar. It is the people in the middle who make the money and a few bits trickle down to the family farmer. Yet that is just what we are doing here.

We are giving Archer Daniels Midland, Williams Energy Company, Minnesota corn processors, and giant corporations the real control in the market. They are the ones who will make most of the money. When the price spikes the way electricity spiked in California, do you think that money will trickle down to your farmers? Forget it. Maybe if they own stock in Archer Daniels Midland they will do well, but they will get very little bang for the buck. If the past is any indication, for every nickel that our drivers pay throughout the country, the farmer will receive certainly less than a penny.

This policy does not even do its best to help the farmers. Take this $5 billion mandate and put it into some kind of direct subsidy that goes to small family farmers, main-line it directly to them, and you will get my support. That will not make the drivers in my State pay.

I say to my colleagues from the Middle West, figure out better ways we can help our farmers and I will support you, but not this one.

Let me read to you from the CRS report on ethanol. It is on energy security. They say:

> Another frequent argument for the use of ethanol as a motor fuel is that it reduces U.S. reliance on oil imports, making the U.S. less vulnerable to a fuel embargo of the sort that occurred in the 1970s, which was the event that initially stimulated development of the ethanol industry. According to the Argonne National Laboratory, with current technology, the use of E–10 leads to a 3-percent reduction in fossil fuel energy per vehicle mile, while use of E–95 could lead to a 44-percent reduction in fossil energy use. However, our studies contradict the Argonne studies suggesting the amount of money needed to produce energy is roughly equal to the amount of energy obtained from its combustion—

So you have to create as much energy to use it as you would save in using it.

Continuing the quote:

> which could lead to little or no reductions in fossil energy use. Thus, if the energy used in ethanol production is petroleum-based—

Which it is likely to be—

> ethanol would do nothing to contribute to energy security.

That is CRS, not somebody with an ax to grind.

Remember, in terms of conserving energy, ethanol is basically a wash.

The final argument my opponents will make, I believe—I think this is somewhat cynical, but it will be made, I guess; that has never been a bar to any of us on the floor of the Senate—is that if New York and California and other States want to clean up their water by banning MTBE and maintain clean air, they should have to pay the price of an ethanol gas tax, and that it is political naivete to think otherwise.

My State has already banned the use of MTBE, and so have 12 other States, including: Arizona, California, Colorado, Connecticut, Illinois, Kansas, Michigan, Minnesota, Nebraska, New Hampshire, South Dakota, and Washington.

A number of other States are also in the process of taking action, as well, because MTBE pollutes the groundwater. But everyone in those States who banned MTBE is going to be in an impossible dilemma. Their citizens are demanding they ban MTBE, but with the oxygenate requirement in place, they cannot successfully do so.

Last year, President Bush's administration denied California's petition to waive the oxygenate requirement, despite the State's ability to comply with air quality standards without it. They deny the waivers, even though you can get there a better way. This denial forced the State to defer its critical ban on MTBE and suffer groundwater contamination.

New York State is considering requesting a waiver. Although I call on President Bush and Administrator Whitman to look favorably on New York's waiver request, my guess is if and when New York applies, we will be met with the same denial as that of the Governor of the State of California. States such as New York, California, States on the coasts, many States in the South, even States that are large urban States in the Middle West, such as Illinois, are between a rock and a hard place.

Our citizens' health and the environment are being held hostage to the desire of the ethanol lobby to make ever larger profits.

Let us meet the same clean air standards we now have in the way we think is best. Let us use reformulated gasoline. Let us use these outlets which are as clean as ethanol and cheaper if one is not near corn. If ethanol is better, the marketplace will prevail.

What makes me doubt all the virtues of ethanol, when my colleagues propose it, is that they mandate. If it is going to be so cheap and so clean and so good, let the market prevail. As I said before, the ethanol producers and corn growers are going to be in a better position, even with my amendment, than otherwise because MTBEs are banned. The clean air standard stays, and in many cases ethanol will be the best way to go.

It is an outrage that Congress is telling Americans across the country that we refuse to clean up their air and water unless they pay off ADM. That is unconscionable. There is no public policy reason on Earth not to allow States to ban MTBEs and remove the oxygenate requirement and keep clean air standards in place without requiring them to buy ethanol.

Ironically, the ethanol mandate, because ethanol is exempt, reduces the highway trust fund in State after State. It is going to reduce it in California by $900 million, in New York by $493 million, in Pennsylvania by $446 million, in Massachusetts by $183 million. It can be looked up to see how much less highway money each Senator's State will get as a result of this mandate. In New York, we need that money. We have a great need for transportation dollars, especially with the damage done to our subway system on 9–11.

Other States such as Virginia that suffered an attack and had to struggle to accommodate transportation needs of its fast growing suburbs need it as well.

So for consumers throughout the country, this is a one-two punch. First, one pays more at the pump to meet arbitrary goals that boost the sales of ethanol but are not necessary to achieve clean air. Second—and this is another zinger in this bill; it is loaded with boobytraps consumers will face restrictions from suing manufacturers, and oil companies will have less incentive to ensure that the additives they manufacture and use are safe.

There is a provision that says not only can States such as California, New York, and so many others—not only do they have to use ethanol, but we are banning MTBEs and we are prohibiting anyone from suing companies that may have polluted their water. My goodness, how much can they pile on us?

This is no longer an academic discussion. Three oil companies have been found liable in California—I am sure my colleague from California, the senior Senator, knows about this—of knowingly polluting the ground water around Lake Tahoe with MTBEs. My colleague from California, our junior Senator, Mrs. BOXER, will have a lot more to say about that case and what these provisions that exempt the refineries and oil companies from being sued mean. But the case demonstrates something truly disturbing.

The petroleum industry opposed ethanol mandates for years, but now, facing a raft of MTBE lawsuits, including the first defeat in California, they have signed off on this deal in return for a really disgraceful liability provision.

Mrs. FEINSTEIN. Will the Senator yield for a question?

Mr. SCHUMER. I would be happy to yield to my friend from California.

Mrs. FEINSTEIN. If I understand the context of the Senator's argument, what he is saying is that New York does not need an oxygen requirement, that New York can use reformulated gasoline and can meet the clean air standards by this reformulated gasoline, and California as well does not need an oxygen requirement; we can meet clean air standards without an oxygenate requirement and, where we do not meet clean air standards—summer months in Southern California—can use ethanol and we do not need an around-the-year requirement.

So if I understand the Senator correctly, his position then is exempt New York, exempt California, from the strictures of this bill, and exempt us from an oxygenate requirement. Is that the position of the Senator?

Mr. SCHUMER. Well, my position is we should not have this mandate anywhere, but obviously if we were offered an exemption for New York, and for California, the vehemence against this opposition would disappear. We are defending the vital interests of our States. I would simply argue with my friend from California, this is not just a New York and California problem; this is a problem in many States.

Mrs. FEINSTEIN. I realize that. I find myself in agreement with the Senator. What I have wanted all along is for California—because we do not have an infrastructure in place in the state and we know there is going to be a price spike—to have the EPA sign off on a waiver.

Mr. SCHUMER. Right. I apologize.

Mrs. FEINSTEIN. So I want to identify myself with where the Senator is going. If these two States were to receive a waiver from the oxygenate requirement, we would certainly be satisfied.

Mr. SCHUMER. I misinterpreted what my friend from California was saying, for which I apologize. California applied for a waiver from the oxygenate standard and was rejected by the current administration. No good reason was given. I think, again, this was a sop to the ethanol lobby.

New York would like to apply. If we knew these waivers would be granted, if we knew that consideration would be made on the merits, we would not be debating today. But if someone tells us, well, you can get the standard waived, forget it; they are not waiving it. The administration is not waiving it. If we were to get a letter from President Bush saying he will waive States that can find a better way, we are in; but we are not. As I had mentioned earlier, we are between a rock and a hard place.

In conclusion, I ask my colleagues to support the amendment sponsored by myself and the senior Senator from California, the Senator from New York, Mrs. CLINTON, the Senator from California, Mrs. BOXER, and some others, to strike the ethanol mandate. If we believe Congress has an obligation to protect the health of our citizens and environment, if we believe that maintaining clean air standards is important but also believe there are different ways to get there, do not support forcing American consumers to pay for ethanol.

If my colleagues believe Congress has the obligation to protect consumers and keep our market economy running as efficiently as possible, then I would ask them not to mandate ethanol and impose a gas tax.

I say to my colleagues who support this amendment, the heart of which is in the Middle West, find us a better way. We do not want to hurt their farmers. In fact, we want to help them, as our record has shown, but not at undoing the entire fuel economy of much of the country.

I say to my colleagues that as they listen to this debate, I think it is very hard not to be persuaded that we have a good argument. I urge them to listen to the debate. I urge them to look at the substance. I urge them to look at the politics. I urge them to defeat the ethanol gas tax, the mandated ethanol gas tax, by supporting our amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. REID. Will the Senator from Wisconsin yield for a unanimous consent request?

Mr. KOHL. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. So Senators understand what we are trying to do this afternoon, we are going to ask unanimous consent the Senator from Wisconsin proceed for up to 5 minutes as if in morning business. Following that, the Senator from New Mexico, the manager of this bill, has a significant number of amendments that have been cleared, almost 20 amendments that have been cleared. He will have cleared those.

Senator MURKOWSKI has been called away for a funeral this afternoon. He will be back in about an hour.

Senator DAYTON wishes to speak on the ethanol provision, following the statement of the Senator from Wisconsin and the work done by the manager of the bill.

Then Senator FEINSTEIN and Senator MCCONNELL have some business they want to do. That will also be in morning business, as I understand it.

As I say, when Senator MURKOWSKI returns, the two leaders, Senator DASCHLE and Senator LOTT, agree it would be appropriate for him to offer an amendment dealing with Iraqi sanctions. We hope after he gets back to complete the debate on that within a relatively short period of time, perhaps an hour or less. Then we would go this evening to border security. Senator KENNEDY and others have been working on that matter, and we would be in a position in the near future to offer a unanimous consent request. That should take us into the evening time with several votes during the next several hours.

I ask unanimous consent the Senator from Wisconsin be recognized for up to 5 minutes.

Mrs. FEINSTEIN. Reserving the right to object, so that I can advise Senator MCCONNELL, my understanding of the unanimous consent agreement is Senator KOHL, Senator DAYTON, and then Senator MCCONNELL and I will have a chance to introduce legislation in morning business.

Mr. REID. I say to my friend from California, the only unanimous consent request I requested was Senator KOHL. I was relaying what I hope will happen. As soon as Senator BINGAMAN finishes his business, Senator DAYTON will speak for 15 or 20 minutes, at the most, and then there will be time for you and Senator MCCONNELL to take up your matter for up to a half hour.

That is not in the form of a unanimous consent agreement, but I think everyone should recognize that is the courteous thing to do, to allow people to proceed in that manner.

The ACTING PRESIDENT pro tempore. Is there objection to allowing the Senator from Wisconsin to speak?

Without objection, it is so ordered.

(The remarks of Mr. KOHL are printed in today's RECORD under "Morning Business.")

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

AMENDMENTS NOS. 3015, AS MODIFIED; 3024, AS MODIFIED; 3078, AS MODIFIED; AND 3141, EN BLOC

Mr. BINGAMAN. Madam President, I ask unanimous consent the Senate now proceed to the consideration en bloc of the following amendments: Amendment No. 3015, relating to a National Academy of Sciences study on certain spent nuclear fuel shipments; amendment No. 3024, relating to nuclear powerplant licensing and regulation; amendment No. 3078, relating to a review of Federal procurement initiatives, and that those amendments be modified with changes at the desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments will be so modified.

Mr. BINGAMAN. I further ask unanimous consent that it be in order to also consider amendment No. 3141, relating to fuel cell vehicles, and that all four amendments I have referred to be agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments (Nos. 3015, 3024, 3078, and 3041) were agreed to en bloc, as follows:

AMENDMENT NO. 3015 AS MODIFIED

(Purpose: To require a National Academy of Sciences study of procedures for the selection and assessment of certain routes for the shipment of spent nuclear fuel from research nuclear reactors)

At the end of title XVII, add the following:

SEC. 1704. NATIONAL ACADEMY OF SCIENCES STUDY OF PROCEDURES FOR SELECTION AND ASSESSMENT OF CERTAIN ROUTES FOR SHIPMENT OF SPENT NUCLEAR FUEL FROM RESEARCH NUCLEAR REACTORS.

(a) In General.—The Secretary of Transportation shall enter into an agreement with the National Academy of Sciences under which agreement the National Academy of Sciences shall conduct a study of the procedures by which the Department of Energy, together with the Department of Transportation and the Nuclear Regulatory Commission, selects routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department of Energy facilities currently licensed to accept such spent nuclear fuel.

(b) Elements of Study.—In conducting the study under subsection (a), the National Academy of Sciences shall analyze the manner in which the Department of Energy—

(1) selects potential routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department facilities currently licensed to accept such spent nuclear fuel;

(2) selects such a route for a specific shipment of such spent nuclear fuel; and

(3) conducts assessments of the risks associated with shipments of such spent nuclear fuel along such a route.

(c) Considerations Regarding Route Selection.—The analysis under subsection (b) shall include a consideration whether, and to what extent, the procedures analyzed for purposes of that subsection take into account the following:

(1) The proximity of the routes under consideration to major population centers and the risks associated with shipments of spent nuclear fuel from research nuclear reactors through densely populated areas.

(2) Current traffic and accident data with respect to the routes under consideration.

(3) The quality of the roads comprising the routes under consideration.

(4) Emergency response capabilities along the routes under consideration.

(5) The proximity of the routes under consideration to places or venues (including sports stadiums, convention centers, concert halls and theaters, and other venues) where large numbers of people gather.

(d) Recommendations.—In conducting the study under subsection (a), the National Academy of Sciences shall also make such recommendations regarding the matters studied as the National Academy of Sciences considers appropriate.

(e) Deadline for Dispersal of Funds for Study.—The Secretary shall disperse to the National Academy of Sciences the funds for the cost of the study required by subsection (a) not later than 30 days after the date of the enactment of this Act.

(f) Report on Results of Study.—Not later than six months after the date of the dispersal of funds under subsection (e), the National Academy of Sciences shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a), including the recommendations required by subsection (d).

(g) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

AMENDMENT NO. 3024 AS MODIFIED

(Purpose: To promote the safe and efficient supply of energy while maintaining strong environmental protections)

On page 123, aftger line 17, insert the following:

Subtitle C—Growth of Nuclear Energy

SEC. 521. COMBINED LICENSE PERIODS.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking "c. Each such" and inserting the following:

"c. License Period.—

"(1) In general.—Each such"; and

(2) by adding at the end the following:

"(2) Combined licenses.—In the case of a combined construction and operating license issued under section 185(b), the duration of the operating phase of the license period shall not be less than the duration of the operating license if application had been made for separate construction and operating licenses.".

Subtitle D—NRC Regulatory Reform

SEC. 531. ANTITRUST REVIEW.

(a) In General.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

"d. Antitrust Laws.—

"(1) Notification.—Except as provided in paragraph (4), when the Commission proposes to issue a license under section 103 or 104b., the Commission shall notify the Attorney General of the proposed license and the proposed terms and conditions of the license.

"(2) Action by the attorney general.—Within a reasonable time (but not more than 90 days) after receiving notification under paragraph (1), the Attorney General shall submit to the Commission and publish in the Federal Register a determination whether, insofar as the Attorney General is able to determine, the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws.

"(3) Information.—On the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate or necessary to enable the Attorney General to make the determination under paragraph (2).

"(4) Applicability.—This subsection shall not apply to such classes or type of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.".

(b) Conforming Amendment.—Section 105c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

"(9) Applicability.—This subsection does not apply to an application for a license to construct or operate a utilization facility under section 103 or 104b. that is filed on or after the date of enactment of subsection d.".

SEC. 532. DECOMMISSIONING.

(a) Authority Over Former Licensees for Decommissioning Funding.—Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the semicolon at the end the following: ", and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility".

(b) Treatment of Nuclear Reactor Financial Obligations.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) Treatment of Nuclear Reactor Financial Obligations.—Notwithstanding any other provision of this title—

"(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

"(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

"(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.".

Subtitle E—NRC Personnel Crisis

SEC. 541. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

"y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.".

SEC. 542. NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2003 through 2006.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

AMENDMENT NO. 3078, AS MODIFIED

(Purpose: To require the General Services Administration to conduct a study regarding Government procurement policies)

On page 244, after line 23, add the following:

SEC. 840. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

AMENDMENT NO. 3141

(Purpose: To promote a plan that would enhance and accelerate the development of fuel cell technology to result in the deployment of 2.5 million hydrogen-fueled fuel cell vehicles by 2020)

On page 213, after line 10, insert:

"SEC. 824. FUEL CELL VEHICLE PROGRAM:

Not later than one year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timetables for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of Energy budget."

Mr. BINGAMAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3141

Mr. DORGAN. Madam President, I believe it is in our national interest to improve the efficiency of our vehicles, for example, through new vehicles and vehicle fuel technologies, so that we can reduce our oil dependence and better protect the environment.

Several months ago, I test drove a fuel cell vehicle. A fuel cell vehicle produces electricity from the reaction of hydrogen and oxygen. The only byproduct is water. Fuel-cell vehicles are similar to battery-powered electric cars in that the fuel cell produces electricity that powers motors at the wheels.

But while a battery must be recharged after all of the fuel inside it has reacted, a fuel cell is a "refillable battery," in the sense that recharging the vehicle only requires refilling the fuel tank. The hydrogen fuel required to power it can be stored directly on the vehicle in tanks or extracted from a secondary fuel, like methanol or ethanol, that carries oxygen. So, a fuel cell car can get double or triple the mileage of cars on the road today.

This new technology would decrease emissions, help reduce global climate change, and protect our national security by reducing the amount of oil we would need to import from unstable regions.

All we need to do is look at the political conditions in Venezuela and the situation in the Middle East, coupled with Saddam Hussein's sanctions against exporting oil to the United States, to realize the precariousness of our dependence on these imports. At this point, we still have other countries that can meet the global oil market requirements and we are not in a crisis, but this could change at any moment.

Our transportation sector consumes the largest amount of energy in our society. Passenger vehicles account for 40 percent of the oil products the Nation consumes each year, or nearly 8 million barrels of oil each day. And, in 2001, the United States imported 53 percent of the Nation's oil and this is expected to increase to 60 percent or more by 2020, according to the Energy Information Administration. So we can and must change our oil consumption habits. We can do this by implementing new technologies that will increase fuel efficiency and help create jobs.

A Ford Motor Company representative has stated "the technology . . . has the potential to significantly improve the fuel economy of [vehicles], which could reduce U.S. dependence on imported oil, reduce greenhouse gas emissions and save consumers money at the pump."

That is why I am introducing an amendment directing the Energy Department to develop a program that would create measurable goals and timetables with the aim of putting 100,000 hydrogen-fueled fuel cell vehicles on the road by 2010 and 2.5 million by 2020, along with the needed hydrogen infrastructure. DOE would have to report annually on its progress toward achieving these goals.

The amendment is designed to have DOE work with the auto manufacturers to ensure that these goals are met. With this amendment, we are sending a strong message that our goal is to accelerate and enhance the development of fuel cell vehicle technologies with concrete targets and timetables.

Most major automakers are racing to produce prototype fuel cell vehicles. DaimlerChrysler has plans to have fuel-cell cars in production by 2004.

California's clean air act requirements also will ensure that many fuel cell vehicles are on the road in the near future. Specifically, by next year, 2003, 2 percent of California's vehicles have to be zero-emission vehicles and around 10 percent of its vehicles must be zero-emission vehicles by 2018. This means that California could have nearly 40,000 or 50,000 fuel cell cars on the road by the end of the next decade. Federal fleet purchase requirements also would help realize the targets established in my amendment.

I am pleased that my amendment is supported by United Technologies, the Alliance to Save Energy, and Senators CANTWELL, BAYH, and REID.

I know there are a number of other Members that also share my enthusiasm for hydrogen-fueled fuel cell vehicles, and I look forward to working with my colleagues to move this important and promising technology off the shelves and onto our streets.

AMENDMENT NO. 3024

Mr. VOINOVICH. Madam President, I rise today to propose an amendment to the energy bill that will promote the safe and efficient supply of nuclear energy while maintaining strong environmental protections. My amendment, the Nuclear Safety and Promotion Act, supports the growth of nuclear energy, provides regulatory reform to the Nuclear Regulatory Commission, and addresses the personnel crisis at the NRC.

According to the Department of Energy, we are going to have to increase the amount of energy we produce by 30 percent by 2015 in order to meet our demand. Nuclear power must be a significant part of meeting this demand.

My amendment addresses an unintended consequence of the Energy Policy Act of 1992 that will help nuclear energy grow in our country. This act created a combined construction and operating license of 40 years. However, it inadvertently caused the clock on the 40-year period to begin ticking when the license is issued, not when the facility actually begins operating. Since this could result in a difference of several years, this amendment fixes the quirk in the law by making the clock on a license start when a facility begins operating.

In addition, the Energy Policy Act of 1954 requires the NRC to perform antitrust reviews when considering initial licensing. However, these reviews are currently also performed by the Department of Justice and the Federal Energy Regulatory Commission. This duplication is unnecessary and inefficient. My amendment establishes antitrust review authority firmly in the hands of the Justice Department, who has the experience and background to best perform these reviews.

Under this new provision, the NRC would have no authority to either review the application or impose conditions regarding antitrust matters on any new or renewed license for commercial reactors. The NRC simply would be required to notify the Attorney General when the NRC proposes to issue a license for a reactor, and if the Attorney General requests, the NRC would provide general information about the facility and the applicants. Thus, the Attorney General would make a determination as to whether the proposed license for the reactor would create or maintain a situation inconsistent with antitrust laws.

The licensing process and the antitrust review are two different matters and should be treated as such. The NRC would continue with its licensing action while the Justice Department makes its determination. In fact, this determination would not affect the NRC's licensing action in any way. If it is determined that the license would create or maintain a situation inconsistent with the antitrust laws, then the Attorney General could take action, but these actions would and should be independent of NRC's licensing process.

While removing this inefficient duplicative burden on the NRC, my amendment also ensures that NRC maintains authority of a facility regardless of its status. In most cases, where a nuclear power reactor licensee sells ownership of a reactor to a new licensee, the responsibility for funding decommissioning is the new owner's, and decommissioning funds that have been set aside in a trust fund are transferred to the new licensee as part of the transfer.

However, in license transfers involving the Indian Point 3 and Fitzpatrick reactors, the former licensee has retained the trust funds. Although the NRC, in approving the transfer of the reactors, imposed conditions aimed at ensuring that the former licensee may only use the decommissioning funds for that purpose, I, as well as the NRC, am concerned about this situation not being clearly provided for in law. My amendment would provide the explicit statutory authority to ensure that decomissioning funds are used for that purpose and that decomissioning is done in accordance with NRC regulatory requirements. Furthermore, the NRC would be able to retain a decomissioning fund over sellers of nuclear facilities even though the seller may no longer be a NRC licensee.

Additionally, a provision of this amendment would prevent any funds or other assets held by a licensee or former licensee of the NRC to be used to satisfy the claim of any creditor until the decontamination and decomissioning of the nuclear power reactor is completed. Both of these provisions ensure that decomissioning funds are used for decomissioning.

One of the biggest problems in our country and government is the human capital crisis, and the NRC is no different. The NRC currently has six times as many employees older than 60 as it does under age 30, meaning that a potential wave of retirements could leave the agency without the expertise it needs. Adding to this problem is the fact that former employees cannot consult for the NRC without jeopardizing their pensions. These are people with critical skills that cannot provide their expertise without being penalized.

Fortunately, the Office of Personnel Management has provided the NRC with a limited-scope, temporary pension offset waiver to rehire former employees. My amendment would eliminate this pension offset to help preserve the knowledge base by allowing individuals with critical skills to be hired as consultants in future years. Under this amendment, individuals like the former Deputy Director of the Office of Nuclear Regulatory Research, who has 44 years of experience in the nuclear industry and is currently consulting with the NRC due to the temporary waiver, would be paid for their consulting services to the NRC while still receiving their federal pensions.

The NRC is also facing extreme shortages of individuals with critical safety skills. The numbers of education and training programs in the two basic disciplines, nuclear engineering and health physics, are declining. From 1996 to 2001, university programs in nuclear engineering have declined 26 percent, from 50 to 37, and healthy physics programs have declined 12 percent, from 49 to 43. Within the general disciplines, the NRC is experiencing shortages of people with a variety of critical skills, including: nuclear process engineering, thermal hydraulics, geology, structural engineering, and transportation. The shortages in these fields are a result of NRC's aging workforce and nuclear industry requirements. Over the next decade, the demand for nuclear engineers is projected to be twice the supply, and for health physicists, one and one half times the supply.

To help train and recruit the next generation of nuclear regulatory specialists, this amendment authorizes the NRC to fund academic fellowships to address shortages of individuals with critical safety skills. Instead of the funding coming from user fees, $1 million would be authorized per year for 2002–2005. The ability to fund training programs in specialized areas at universities would enable the NRC to implement more timely and effective strategies to close future skill gaps identified through the agency's planning processes.

Our Nation needs to be responsible to future generations. We must allow nuclear energy to grow today to meet future needs. We also must realize that our resources are scarce and we should not waste them on duplicative and costly regulatory burdens that place us into further debt. We also must plan for the future by ensuring that nuclear plants are cared for properly when they are closed, that we fully utilize the people who have spent years in this industry, and that have future generations with the necessary critical skills.

AMENDMENTS NOS. 3148 THROUGH 3156, EN BLOC

Mr. BINGAMAN. Madam President, I ask that the Senate now proceed to the following amendments that are at the desk. There are nine.

First is an amendment for Senator CANTWELL relating to the high-power density industry program; the second is an amendment for Senator REID relating to precious metal catalysis research; the third is an amendment for myself relating to energy savings associated with water use; the fourth is an amendment for Senator SCHUMER relating to appliance rebates; the fifth is an amendment for Senator LANDRIEU relating to small businesses; the sixth is an amendment for Senator CORZINE relating to public housing; the seventh is an amendment for Senator KENNEDY relating to schoolbuses; the eighth is an amendment for Senator LINCOLN relating to a decommissioning pilot program; and the ninth is an amendment for Senator MURKOWSKI relating to a clean coal technology loan.

I ask for the immediate consideration of these amendments, en bloc.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments, en bloc.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. BINGAMAN] proposes amendments No. 3148 through 3156, en bloc.

Mr. BINGAMAN. I ask unanimous consent reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3148

(Purpose: To improve energy efficiency in industries that use high power density facilities)

On page 403, after line 12, insert the following:

SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

AMENDMENT NO. 3149

(Purpose: To authorize the Secretary of Energy to carry out research in the use of precious metals in catalysis for the purpose of developing improved catalytic converters)

On page 403, after line 12, insert the following:

"SEC. 1215. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.

"The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysts, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, through national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.".

AMENDMENT NO. 3150

(Purpose: To provide for a report on energy savings and water use)

At the end of title XVII, add the following:

SEC. 17 . REPORT ON ENERGY SAVINGS AND WATER USE.

(a) Report.—The Secretary of Energy Shall conduct a study of opportunities to reduce energy use by cost-effective improvements in the efficiency of municipal water and waste water treatment and use, including water pumps, motors, and delivery systems; purification, conveyance and distribution; upgrading of aging water infrastructure, and improved methods for leakage monitoring, measuring and reporting; and public education.

(b) Submission of Report.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for implementation of measures and estimates of costs and resource savings, no later than two years from the date of enactment of this section..

(c) Authorization.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

AMENDMENT NO. 3151

(Purpose: To provide funds to States to establish and carry out energy efficient appliance rebate programs)

At the end of subtitle A of title IX add the following:

SEC. 9 . ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) Definitions.—In this section:.

(1) Eligible State.—The term "eligible state" means a State that meets the requirements of subsection (b).

(2) Energy Star Program.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) Residential Energy Star Product.—The term "residential Energy Star product" means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) State Energy Office.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) State program.—The term "State program" means a State energy efficient applicants rebate program described in subsection (b)(1).

(b) Eligible States.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type.

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satifactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) Amount of Allocations.—

(1) In general.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) Minimum allocations.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) Use of Allocated Funds.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) Issuance of Rebates.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.

AMENDMENT NO. 3152

(Purpose: To assist small businesses to become more energy efficient)

On page 301, line 22, strike "organizations.'." and insert the following: "organizations.

"(d) Small Business Education and Assistance.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.'.".

AMENDMENT NO. 3153

(Purpose: To establish energy efficiency provisions for public housing agencies, and for other purposes)

At the end of subtitle D of title IX, add the following:

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437(g), as amended by section 934, is amended—

(1) in subsection (d)(I)—

(A) in subparagraph (L), by striking the period at the end and inserting "; and";

(B) by redesignating subparagraph (L) as subparagraph (K); and

(C) by adding at the end the following:

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The" and inserting the following:

"(i) In general.—The"; and

(B) by adding at the end the following:

"(ii) Third party contracts.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident paid utilities, adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

"(iii) Term of contract.—The total term of a contract described in clause (i) shall be for not more than 20 years to allow longer payback periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renewable energy generation.".

SEC. 938. ENERGY-EFFICIENT APPLIANCES.

A public housing agency shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

SEC. 939. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2002";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting a semi-colon; and

(iv) by adding at the end the following:

"(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development; and

(B) in paragraph (2) by striking "Council of American" and all that follows through "life-cycle cost basis" and inserting "2000 International Energy Conservation Code";

(2) in subsection (b)—

(A) by striking "the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2002"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code"; and

(3) in subsection (c)—

(A) in the heading, by striking "MODEL ENERGY CODE" and inserting "THE INTERNATIONAL ENERGY CONSERVATION CODE"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code".

SEC. 940. ENERGY STRATEGY FOR HUD.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) ENERGY MANAGEMENT OFFICE.—The Secretary of Housing and Urban Development shall create an office at the Department of Housing and Urban Development for utility management, energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing energy usage, and development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.

AMENDMENT NO. 3154

(Purpose: To provide for cleaner school buses)

On page 183, line 15, strike "and" and all that follows through line 19, and insert the following:

(2) the term "idling" means not turning off an engine while remaining stationary for more than approximately 3 minutes; and

(3) the term "ultra-low sulfur diesel school bus" means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

(k) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

AMENDMENT NO. 3155

(Purpose: To direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas)

On page 123, after line 17, insert the following:

SEC. 514. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

AMENDMENT NO. 3156

(Purpose: To provide for certain clean coal funding)

On page 443, after line 8, insert the following:

SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.

There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE-FC22-91PC99544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3148 through 3156) were agreed to.

Mr. BINGAMAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3152

Ms. LANDRIEU. Mr. President, last week I joined with Senator KERRY in offering an amendment dealing with small business energy efficiency. That particular amendment dealt with the Energy Star Program, which is an important program in helping small businesses become more energy efficient. The amendment I offer today, which was developed with the help of Senators KERRY, ENSIGN, CANTWELL, LIEBERMAN, and CARNAHAN, complements that language.

First I would like to take a moment to thank Senators BINGAMAN and MURKOWSKI and their staffs for helping us to address this issue given relatively short notice. Despite the fact that they have been very busy with many other aspects of this bill, they took the time to help us work out some language that everyone could accept. I would also like to echo Senator KERRY's remarks last week thanking Byron Kennard at the Center for Small Business and the Environment and Carol Werner at the Environmental and Energy Study Institute for their role in bringing this important issue to the forefront.

Simply put, this amendment addresses the need for Federal agencies to help small businesses become more energy efficient. I just want to take a minute to explain why I believe this language is necessary. Small businesses are often the hardest hit by energy unreliability and big price hikes. Many operate on slim profit margins, so the threat of big increases in electric bills can force small businesses to lay off workers or even to close their doors.

Restaurants, for example, are highly energy intensive and they tend to use energy inefficiently. As my colleagues know, restaurants were some of the hardest-hit businesses following the slump in tourism after the September 11 attacks. Restaurants are also unique because they also operate on narrow margins of profit, so money saved on energy bills can easily equal a big boost in revenue. According to EPA, saving 20 percent on energy operating costs—something that's easily achievable—can increase a restaurant's profit as much as one-third.

Small firms, however, often lack access to capital and the know-how to purchase and install new energy efficient products, and to fund the research and development stage of such innovations. As Senator KERRY expressed in his remarks yesterday, Federal agencies, the Small Business Administration in particular, have the resources, contacts and personnel necessary to give a real helping hand to small businesses in these situations.

The SBA, for instance, deals with thousands of small businesses across the country on a regular basis, serving as a clearinghouse for information, a counselor, and a guarantor of loans for these businesses. It would be quite simple for the SBA to expand its role to provide assistance in the area of energy efficiency. The Environmental Protection Agency, the Department of Energy, the Federal Emergency Management Agency, and the Department of Agriculture also have roles to play in these efforts.

Let me share a success story from a small business in my own State of Louisiana. There is a law firm in Baton Rouge, Jerry F. Pepper, APLC. The firm recently remodeled its offices to make them more energy efficient. Thermostats, air filters, and lights were all replaced with newer, more efficient models.

The firm believes that, in addition to a savings of $6,100 annually—let me repeat that amount, $6,100 per year—the upgrades will improve employee morale and productivity, reduce indoor pollution, and improve safety. Additionally, the upgrade for this firm—for one law firm in Baton Rouge—is estimated to reduce over 100,000 pounds of carbon dioxide annually.

I want my colleagues to imagine for a moment that every small business in America upgraded its energy efficiency with similar results. The savings in energy, pollution, and money would be incredible. But these businesses cannot do it on their own. Their profit margins are too tight; their resources are too limited. But Federal agencies like the SBA have the resources and know-how to assist these businesses in these efforts.

That is why I am proud to join other members of the Small Business Committee to offer this important language to help our Nation's small businesses become more energy efficient.

Mr. KERRY. Mr. President, as chairman of the Committee on Small Business and Entrepreneurship, I am pleased to join my colleague, Senator LANDRIEU, in introducing an amendment regarding the need to assist more small businesses become energy efficient.

This legislation reinforces a small business amendment that Senator LANDRIEU and I put forth last week regarding the Energy Star Program. It was successfully adopted as part of the Energy Policy Act of 2002, and I thank Senators BINGAMAN and MURKOWSKI for that.

There is an obvious missing player in our efforts to increase the number of small businesses that are using or developing products and processes that save energy, and it is the Small Business Administration. This amendment directs the Administration to develop and coordinate a government-wide program that educates small firms about the cost-benefits and business advantages of energy efficiency.

I was astounded to learn last year, during a hearing I held on the business of environmental technologies, that SBA is not actively working with DoE and the EPA to advertise their joint program for promoting energy efficiency of small business. This is particularly hard to understand given that there is so much work to be done. There are an estimated 25 million small businesses in this country, and they account for more than half of all the commercial energy used in North America. However, according to Paul Stolpman, who testified on behalf of the EPA, only 3,000 small businesses have partnered with EPA in committing to improve their energy performance.

I am not criticizing the EPA or the Department of Energy; they have a good initiative, and I support their efforts. I am simply pointing out that there are millions of small businesses left to reach, millions of opportunities to reduce energy consumption in this country. It is basic common sense that SBA could help significantly in that effort. After all the financial hardships small businesses suffered over the last couple of years because of price spikes and unreliability, energy isn't even a prominent issue on SBA's website.

To illustrate the power of education and the need to coordinate outreach efforts through the SBA, I would like to share a story about one of the small businesses in my home State of Massachusetts that benefitted greatly from making energy modifications. Carl Faulkner is the owner of the Williams Inn in Williamstown. Years ago, he was approached by his energy company to receive a free energy audit and rebates to off-set the cost of upgrading his lighting systems. It seemed like a good idea, so he went ahead and took them up on their offer. After all was said and done, between the rebates and his new energy savings, he recovered his expenses in just 1 month. But that is not the end of the story. The results of those simple changes were so positive that he was inspired to learn even more about energy savings and to investigate where else his business was losing money on unnecessary energy usage. Since then he has put on special roofing, replaced air conditioner units, put insulation around pipes, and installed meters to determine when and where his business uses the most energy. With this information, Mr. Faulkner can bring down usage, saving even more energy and money.

These simple changes have yielded vast results. In January and February, he saved more than $10,000. Mr. Faulkner now considers energy efficiency a never-ending process. He says if it weren't for outreach, he never would have made these important changes to his business. He changed his business from one that was consuming energy at an unmonitored level to one that has an energy management system that allows him to identify other savings.

In addition to increasing energy efficiency of small businesses in order to reduce consumption, to reduce pollution, and to reduce reliance on foreign oil, there is a need for Federal agencies to increase their work with small business to research and develop new technologies and processes that are more energy efficient. In 1999, the SBA investigated the role of small business in technological innovation and found that when a market demands progress, change, and evolution, small firms play a key role. Just looking back to 1997, there were more than 33,000 small firms operating in the environmental industry, with combined revenues of $52 billion. That is billion. In Massachusetts alone, environmental technology businesses employ more than 30,000. No matter how you cut it, revenues, jobs, pollution reduction, energy supply, national security, there is a very good reason to encourage the innovation of efficient technology. And the Federal Government needs to make a serious effort to use small businesses to do that research and development as much as possible. At the very least, I would like to see a focus on these topics through the small business research and development projects through the Small Business Innovation Research and Small Business Technology Transfer initiatives. We have got the finest research universities in the world and certainly the most dynamic small business sector. I want a coordinated and heightened effort to use these resources for national energy policy.

As I said yesterday when we were debating the proposal to drill in the Arctic National Wildlife Refuge, we cannot drill our way out of our energy problem. We must innovate our way out of our energy problem. Not just innovation in more fuel efficient cars, but also appliances. If the Bush administration would fully implement efficiency standards for appliances that were issued in 1997 and last year, the Department of Energy estimates the total savings to business and consumers to be $27 billion by 2030. Why? Simply because of less energy use and generally less demand when using more efficient appliances. We can go further with more innovation. And we need to use Federal agencies to increase the interplay between small businesses, innovation, and the Nation's environmental and energy goals.

I thank Senator LANDRIEU for offering this amendment. And again I thank Senators BINGAMAN and MURKOWSKI, and their staffs, for their help in passing this small business amendment.

AMENDMENT NO. 3153

Mr. CORZINE. Mr. President, I would like to thank my colleagues Senators BINGAMAN and MURKOWSKI for their support of and efforts to pass my amendment to improve energy efficiency in public housing, which cleared the Senate Floor earlier today. I would also like to thank my colleagues on the Banking Committee, Chairman SARBANES and Ranking Member GRAMM for their assistance in passing this amendment.

My amendment will help reduce our Nation's energy consumption and reduce long-term energy costs in public housing. The amendment accomplishes this by giving the Department of Housing and Urban Development, HUD, and the public housing authorities, PHAs, it oversees the tools they need to increase energy efficiency in public housing developments.

HUD and public housing authorities oversee approximately 1.3 million units of residential low-income public housing across the country. The Federal Government spends approximately $1.4 billion each year just to cool, heat, light, and supply water to these units. Utility costs make up anywhere from 25 to 40 percent of a typical housing authority's operating budget.

Despite the large amount of Federal dollars spent on energy usage in public housing, there are virtually no resources to help public housing authorities manage their utility expenditures. Furthermore, there are few incentives for them to utilize energy efficient technologies.

My amendment addresses these issues, first, by establishing an Office of Energy Management at HUD. This office will coordinate energy management activities throughout the public housing system so that energy management is less fragmented and technical expertise is made available to all public housing authorities.

The amendment will also improve financial incentives available to public housing authorities to implement energy saving strategies, such as window replacements, heating system retrofits, and other efficiency and renewable measures. The amendment also encourages public housing authorities to purchase Energy Star appliances and equipment when replacing outdated building systems and equipment.

Finally, my amendment requires that all new public housing construction meet current energy codes where cost effective. Most States have not adopted the most recent codes and, in some cases, do not require adherence to any code. Meeting these updated codes will save public housing authorities as much as 15 percent in annual energy costs.

The bottom line is that this legislation would expand the resources available to provide low-income housing without increasing Federal spending. HUD has conservatively estimated that improved energy management processes throughout all of its public housing programs could save about $200 million annually. These savings could be used to build more affordable housing and improve the quality of life of public housing residents. Improving energy efficiency in public housing units will also decrease utility costs for low-income residents, who often pay a portion of their utility expenses.

At a time of skyrocketing utility costs and decreased public housing funds, my amendment offers commonsense solutions that will reduce public housing's reliance on fossil fuels and free up resources to improve housing for low-income families.

AMENDMENTS NOS. 3028 AND 3070, WITHDRAWN

Mr. BINGAMAN. Finally, I ask unanimous consent amendment No. 3028 and amendment No. 3070 be withdrawn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DAYTON. Madam President, like most of my colleagues, I have lived through a number of the energy crises which have afflicted our country. I was living and working on the East Coast during the first oil crisis in 1973 and 1974. People lined up at gas stations, starting at 3 or 4 in the morning to purchase a few gallons before the day's scarce supplies ran out.

In January 1977, during one of the coldest winters ever recorded in Minnesota, I serve as the Energy Policy Adviser to our State's Governor, when he declared Minnesota's first official energy emergency.

From 1983 to 1987, I served as commissioner of the Minnesota Department of Energy and Economic Development, where I was constantly monitoring the State's energy supplies. I will never forget one Christmas Eve, which I spent trying to locate a refinery that would reopen and provide desperately needed home heating oil to people in northern Minnesota who had run out of their own supplies.

From these experiences, I have become a hard-headed realist and a pragmatist about energy policy. I am well aware of the fragility of our country's energy supplies, pipelines, transmission lines, and refineries, where even a small disruption can trigger major dislocations which quickly create a crisis. In a cold-weather State like Minnesota, the consequences of a disruption in energy supplies can be very serious and even fatal.

I have viewed "renewable" or "alternative" forms of energy with hope but also reservations. While sometimes viable on a small scale, most of them are not capable of supplying the large-scale energy needs of our vast and complex society and our economy. That is why the percentage of U.S. energy consumption from renewable sources has remained essentially the same for the last 40 years. In 1960, renewable provided 6.6 percent; and in the year 2000, renewable energy provided 6.9 percent of our country's total energy consumption. Why, despite their promise, despite the encouragement and the financial assistance they have received, has the usage of renewable energy sources in this country not increased in 40 years?

It is because none of them can compete in price, supply, or public acceptance with the traditional energy sources of oil, natural gas, coal, and nuclear energy. As long as sufficient supplies of these fuels remain reliably available at current, stable prices, they will be preferred over the alternatives. They cost less per BTU; they can be supplied in the quantities necessary for our large and diverse economy; and their production, transportation, and distribution systems are all well established.

Thus, our Nation's de facto energy policy has been for many years and continues to be to maintain the status quo. Despite all the warnings and dire predictions, despite the occasional, but so far short-lived crises, the status quo has been the right short-term policy during the last 30 years. However, the question before us now is: Will these primary fuels continue to be as less expensive, as available, and as reliable during the next 10 years, 20 years, or 30 years? If there is sufficient doubt, are we willing to design and implement a transition willing to design and implement a transition over the next 10 or 20 years to include a viable alternative? That is what a national energy policy should do.

From my personal and professional experience, I know that the so-called "bio-fuels" or "renewable fuels," such as ethanol, soy-diesel, and other fuels derived from agricultural commodities could be used in this country today to replace 10 percent, 20 percent, or soon 50 percent or more of the gasoline used on our Nation's roads and highways.

Presently, the United States consumers 25 percent of the world's entire oil production. About 44 percent of it is produced domestically, and 56 percent is imported from other countries.

Although the United States is currently the second largest producer of oil, our domestic production, either with or without ANWR, will not be able to supply even half the amount we consume. Since most of our remaining oil supplies are more costly to extract, it will be less expensive for us to buy more of our oil from other countries. That equation means we will continue to become more dependent upon imported oil. The only way to reduce significantly the amount of foreign oil we need is to reduce the amount of oil we consume.

Seventy percent of the oil we produce or import is used in our transportation and most of that goes into our cars, SUVs, trucks, and other motor vehicles. In fact, about 1 of every 7 barrels of oil produced in the entire world goes into an American gas tank. So, if we are ever going to reduce the amount of oil we consume, motor fuel consumption is the place to start.

Unfortunately, as I said earlier, we are going in the other direction. As a Nation, we are using more gasoline, not less. More people are driving more vehicles greater distances than even before. And more of their vehicles are less fuel efficient. In fact, last year the total fleet fuel efficiency in this country dropped below that in 1980.

What are we doing about it? Nothing. Government-mandated fuel efficiency standards have not changed since 1985, and an amendment to increase them in this bill was defeated by a two-thirds majority. Then light trucks were removed entirely from future mileage standards review. Light trucks and SUVs, are the fastest growing segments of the U.S. market, and they are among the least fuel efficient vehicles.

Some people advocate a significant increase in Federal or State gasoline taxes, to reduce fuel consumption to encourage the purchase of more fuel-efficient vehicles, and to increase the amount of money going into the Highway Trust Fund. How many Members of Congress who voted for a 10 cent per gallon, of 20 or 30 cent per gallon tax increase, would survive their next election?

So, barring a severe jolt to the world market, barring a large and lasting jump in gasoline prices, everything points toward increased gasoline consumption, which means increased oil consumption above the 25 percent of all the world's oil supply production that we now consume.

Everything points in that direction except for ethanol and other biofuels. Ethanol is now made mostly from corn, although other commodities such as sugar beets, sugar cane, wheat, and even wood chips have been converted into ethanol. Ethanol has been around for many years. Many Minnesota farmers have distilled some of their grains, drank the best of it, and refined the rest into ethanol, which they put in their trucks, tractors, and even cars. With a few adjustments to the carburetors, they worked just fine. Until recently, however, ethanol could not be used in most conventional American engines, because it burned too cleanly and acted as a solvent which dislodged the grime attached to the walls of engines.

Finally, the combustion process in modern engines improved so that ethanol could be blended with gasoline. That is how it has been used, and that is how it is viewed in the debates this week and last week—as an additive to gasoline.

In fact, ethanol's potential goes far beyond that. It is not just an additive to gasoline; it is an alternative to gasoline. An alternative which today could be substituted for 20 percent of all the gasoline consumed in the United States, and with the near-term potential to substitute for over 50 percent of the oil-based gasoline used in this country. Imagine reducing the motor consumption of gasoline in this country by more than half, with no change in the types of cars, SUV's, and light trucks on the road. It would require only slight engine modifications which have been made to 2 million vehicles already sold in the United States.

How do I know this? I know it because 5 years ago, the Minnesota Legislature passed a law which mandated that every gallon of gasoline sold in our state be comprised of at least 10 percent ethanol. It was very controversial then, and opponents used the same scare tactics we have witnessed in this debate: Prices would increase; supplies would be inadequate and unreliable; engines would be damaged; lives would be disrupted. Today, in Minnesota, it is a total non-issue. Most people have forgotten it is even in every gallon of gas they buy. Last week, the price of a gallon of regular, unleaded gasoline in Minnesota was 20 cents less than in California, a penny more than in New York, two cents less than in Wisconsin, and almost a nickel less than in Illinois.

We have heard of a study, referred to here, which is misunderstood and has been presented as predicting that this legislation would cause a 4-cent to 9-cent increase in the cost of a gallon of gasoline. That study by the Energy Information Administration, isolating the effect of ethanol, the ethanol mandate in the legislation, actually found the price of a gallon of gasoline would go up by less than 1 cent.

But let us set aside the study and conflicting opinions about what that study says because that is projecting into the future. I am talking about current reality. What I am talking about is the price of 10 percent blended ethanol in today's gasoline in Minnesota compared to other parts of the country. Again, that is just 10 percent ethanol blended with 90 percent gasoline.

I lease a Chrysler Town & Country, which has the "flexible fuel" modification to the regular engine, and it travels throughout most of Minnesota on E85 fuel. E85 is a blend of 85 percent ethanol and 15 percent gasoline. It has now been driven over 20,000 miles, in all kinds of weather, through all four seasons, and we have had no trouble with it whatsoever.

The price of a gallon of E85 in Minnesota last week was $1.24, 21 cents less than a gallon of regular unleaded in Minnesota—forty-two cents less than a gallon of regular unleaded gasoline in California; 20 cents less than in New York; and 26 cents less than in Illinois.

That price differential is not as good as it seems. First, a gallon of ethanol contains fewer BTUs than a gallon of gasoline. Second, ethanol benefits from a federal subsidy. As I said earlier, no alternative fuel is less expensive per equivalent BTU as our traditional energy supplies. But ethanol is already close. And at higher levels of production, the price will go down. As car and truck manufacturers better adapt their engine to ethanol, fuel efficiency will improve. And, trust me, we have plenty of corn, beets, and sugar cane, and other agricultural commodities suitable for ethanol conversion all across this country.

However, for ethanol production and consumption to increase enough to cause a significant reduction in the amount of gasoline consumed in this country, it needs what Minnesota provided—a mandate; a mandate such as this bill contains; a gradual, graduated, achievable increase over a decade. With that mandate, ethanol providers and would-be providers will know there is a reliable and growing market nationwide for ethanol.

Opponents have made much of the fact that one company—Archer Daniels Midland—produces 41 percent of this country's ethanol. What they don't tell you is that 25 years ago ADM produced almost 100 percent of this country's ethanol. ADM's market share has gone down every year for the last 25 years, and it will continue to go down as more companies, and farm Coops, make it possible and profitable to produce ethanol. For unlike gasoline, ethanol's raw products are available all over this country. They can be grown in most parts of this country. Where there are large markets, like California or New York, refineries will locate there. Just as California, as its population grew, declined to depend on milk and cheese from Minnesota and Wisconsin, and developed its own instate industry which supplies, actually oversupplies, its State's entire need.

If ethanol must be transported by truck, or tanker, or rail from one part of this country to another, it is far shorter and thus less expensive than importing oil, gasoline, and MTBE from all over the world. Seventy-five percent of California MTBE currently arrives by barge, the majority of it from Saudi Arabia. That is why the price per gallon increases which have been used on this floor defy common sense. And they are wrong.

The alternative to doing nothing with ethanol is doing nothing at all—nothing except increasing our national consumption of gasoline and oil. If world prices remain the same as today, and if world and domestic supplies can reliably satisfy our nation's ever-growing demand, then that "continue the status quo" strategy will continue to be less expensive than a transition to 10 percent or 20 percent or 50 percent ethanol.

But those who live by the sword, die by the sword. Those who want to bet this Nation's entire transportation sector on the status quo continuing indefinitely are taking a big gamble. Anyone who believes the United States can continue to get 25 percent of the world's entire oil production at today's prices are making a hugely optimistic assumption.

Yes. There will likely be an incremental cost to a transition to ethanol nationwide. There is always a short-term cost to diversification. A business that has one produce line incurs a cost to developing a second or a third product. As long as the first product continues to sell, overall profits will be slightly down. But when that product falters, and the others come on line, the company will prosper and grow, rather than decline.

Someone who owns only one stock incurs a short-term cost diversification. But someone who is betting their entire future on that one stock is a foolish person to do so. For the United States to bet our country's entire energy future on uninterrupted consumption of our ever more traditional energy sources is to make a very unwise bet.

We can afford the small incremental costs of transition if they lead to really substantial alternatives. That is what ethanol and biodiesel would do—replace 20 percent of today's diesel fuel over this entire country.

I am a Senator from a corn- and soybean-producing State. Is ethanol production an economic boon to many Minnesota farmers? Yes; it is. I hope it will continue to raise market prices for these agricultural commodities, which will reduce the need for and the amount of taxpayer subsidies. However, I would not stand on the floor of the Senate today and advocate ethanol as an alternative fuel for the entire country if I did not believe—if I were not certain—that it would be good for the entire country.

It will take the decade which this bill uses to increase ethanol production to an amount where it can be used as a consistent 10 percent blend nationwide. That is what Minnesota uses today. That would be 10 percent less oil-based gasoline. And that is twice as much oil alternative as ANWR would produce at that point in time.

It will take another decade to increase ethanol production to replace up to 50 percent of our current gasoline consumption. We should hope we have that long as a nation before a significant increase in the price of gasoline or a lack of supply causes a serious disruption in our economy and in our lives. If, however, at that point in time we are using 50 percent less gasoline, we will have a real alternative fuel at a lower cost and a more reliable supply based right here in the United States.

If we don't undertake this transition, then we will have nothing—nothing that we can do. That is what the amendment that strips this bill of any fuel alternative will leave this country in the future—nothing, no alternative. That is a very bleak future.

Thank you. I yield the floor.

(The remarks of Mr. MCCONNELL and Mrs. FEINSTEIN pertaining to the introduction of S. 2194 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, may I be recognized as in morning business?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida.

DRILLING IN ANWR

Mr. NELSON of Florida. Mr. President, I congratulate the Senate for the tremendous vote we had today on basically dispensing with the attempt to amend the bill of the Senator from New Mexico to drill in the Arctic National Wildlife Refuge. The vote ended up being a lot stronger than a lot of people expected. For us just to talk about the sensitive environment and the drilling is certainly a very important component of the question. But the question is so much more comprehensive. It is a question of when is America going to be energy reliant, and are we going to ween ourselves from our dependence on foreign oil, and how are we going to produce that energy?

As the chairman of the Energy Committee has reminded us many times, the biggest part of our energy consumption is in the transportation sector. And if we don't ever address the enormous consumption of energy in the cars that we drive, then we will remain dependent on all that foreign oil. There is an easy way to do that, and that is to use this beneficence of American ingenuity called technology and apply it to the problem and increase the miles per gallon in our automobiles and SUVs and light trucks, which we can do so well.

Already we have hybrid vehicles that, because of a computer, go back and forth between an electric generation and gasoline generation, and you cannot tell the difference as the driver and the passenger, with all the creature comforts that we enjoy in our automobiles.

So I congratulate the Senate and I congratulate the chairman of the Energy Committee—who now graciously has offered to take the Chair so that I might make these few remarks—for an extraordinary effort. I hope that now he is able to proceed with the energy bill and finally get it passed out of this body.

I also want to take a moment to state, with a sober and heavy heart, what we are facing in the Middle East. From the standpoint of the United States, it is very clear what is in our interest, and that is peace in the Middle East, a cessation of firing, a creation of an environment where the parties can come together.

A week and a half ago I was in Damascus, Syria, and met with the new young President who took over after his father died, President Assad. We said: President Assad, now is the time for leaders outside of the Palestinians and the Israelis to emerge in the area and to realize that it is in your interest that there be peace in the Middle East.

We thanked him for his help and his intelligence network with regard to our efforts in going after the al-Qaida terrorists.

We said: President Assad, you have to go after the groups, such as Hezbollah, that you are offering facilities to, which are also fostering terrorism.

Of course, he rejected that. His point of view was that they were freedom fighters. There is a lot of politics in it.

It will take leaders such as Assad and the leader of Lebanon, with whom I met yesterday, the Prime Minister of Lebanon, Rafiq Hariri, to emerge as leaders in the Arab world and say: We have to change the old ways; we have to do it differently, and violence and killing is not in our interest.

Those Arab leaders are going to have to say vigorously to their colleagues that it is in their interest that they create an environment where they can solve this violent situation in the Middle East and bring the Palestinians and Israelis together. As the Good Book says, "Come let us reason together."

I am very grateful that the Senator took the Chair so I could come to my desk and make these remarks.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, we are waiting, as I have indicated, for Senator MURKOWSKI. As I indicated an hour or so ago, he had to go to a funeral in Arlington. We are going to hopefully agree on bringing up an amendment he has dealing with Iraq. That will probably take about 45 minutes, and then we will move to the border security matter. So those Senators wishing to speak in morning business, the time may be limited today.

We certainly have time for Senator CORZINE to speak for up to 10 minutes. I ask unanimous consent that Senator CORZINE be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

SOCIAL SECURITY TRUST FUND, THE SECURITY AMERICANS NEED

Mr. CORZINE. Mr. President, today I rise to speak out on a subject that is both timely and extremely important to the American people. A few hours ago, the House of Representatives, showing an unimaginable indifference to the retirement security of American families, and further undermining the integrity of the Social Security trust fund, made permanent the tax cuts that were enacted last year.

The bill they passed really frames a stark choice for the American people: Do we take payroll tax revenues that working people, working Americans, thought were being dedicated to the Social Security trust fund and use them instead to pay for this huge new tax cut, a tax cut that really goes to the wealthiest of Americans or should we be using Social Security revenues, payroll taxes, for their intended use, securing the Social Security trust fund for this and future generations?

It is a pretty fundamental choice. It is pretty starkly laid out by the nature of the tax cut that was endorsed by the House Republicans today. It is a choice that will impact all Americans.

I believe if Americans were asked, they might come up with a different answer. I think they would choose security, Social Security, not tax breaks that would take the security out of Social Security.

I want to give one perspective. The tax cut that was implemented today in the House is about $400 billion more in the next decade, and 60 percent of that upcoming tax cut goes to those with incomes over $500,000. That is hard to believe. Of the additional $400 billion, 60 percent is going to people with incomes over $500,000. I have a hard time understanding why we are taking payroll taxes and the Social Security trust fund to fund that kind of tax cut.

The effort to make that tax cut permanent is not only misallocating resources, but in my view it is draining the resources that are badly needed to protect Social Security in the years ahead for those millions of baby boomers who will be retiring in the coming decades. It is really quite substantial.

Right now, Social Security has about 46 million folks retired. In another 20 years, that will be 72 million. So it is a big change in the population. That is what the demographic bubble is all about. How are we going to pay for it if we are going to implement tax cuts that are going to take as much as $4 trillion away from the ability of the American public to have revenues to pay for Social Security in the years ahead in the second 10 years? It is hard for me to understand.

More importantly, I want to consider two numbers. The 75-year cost of the tax cut is $8.7 trillion. That is a lot of money. It will take awhile to count that far. By contrast, the shortfall in the funding to maintain the currently guaranteed benefits for Social Security beneficiaries, of all generations over the next 75 years, is only $3.7 trillion. So we have more than two times coverage by the tax cut that was implemented. If it were to be followed in the way the House did it, we would be giving up those revenues to cover the needs of Social Security. I do not get it. We have the resources, if we have the will, to make sure that Social Security is there for each and every generation.

So that is part of the trouble. Unfortunately, these drains on Social Security revenues that are caused by this tax cut are step 1 in the administration's plan to undermine the security of Social Security. Step 2 is to privatize that program; that is, taking $1 trillion out of the trust fund—it is actually a little more than $1 trillion, but for round numbers, and it is a big number—in the next decade so we can provide funding for these private accounts. That is going to lead to a dramatic cut in benefits which are absolutely necessary.

If one has any doubt about it, they just have to look at the report released by the President's Commission on Social Security. They talk about it themselves. That, when it gets translated into individual lives, as we move to the next chart, will reduce benefits for a 30-year-old about 20 percent when they retire in about 2032.

For those who are a little younger than that, it will be almost 45 percent by 2075, a cut in Social Security benefits, 20 percent for 30-year-olds, 25 percent for people who are starting in the workplace, and about 45 percent for younger Americans.

If one thinks Social Security benefits are lavish, I think we all have another review to go through. That 25- to 45-percent cut, that goes against benefits that average about $10,000 a year for most Social Security beneficiaries. For most seniors, Social Security is their only source of income, about two-thirds of them. I do not know what happens in Florida, but in my State of New Jersey $10,000 is not a princely sum. It is not going to allow our seniors to have a tremendously flush lifestyle.

To the President's commission, that $10,000 looks like too much because they are instituting a program that, in fact, will undermine the ability to maintain those guaranteed benefits at that level. I think that is hard to believe as well. That is step 2.

They do not want us to have the ability to maintain those guaranteed benefits. What they want to do is have that tax cut that I talked about before.

So I have to say that both for myself and for my colleagues, most of us on this side of the aisle, we have a different view about protecting Social Security. We think protecting the security of working American families must be our top priority. We are going to fight long and hard and steady to make sure Social Security is not undermined—not today, as was done through the passage of this tax bill in the House, not tomorrow, or in the years ahead, not ever.

Today's choice that was put in front of us is whether Social Security is really about the security of all Americans in their retirement years. I do not think we should be taking the term "security" out of Social Security. We ought to stand firm with it. That is what this debate will be about as we go forward day after day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the Senator from Nebraska be recognized for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

RENEWABLE FUELS STANDARD

Mr. NELSON. Mr. President, perhaps no issue related to the energy debate in the Senate has suffered more as a result of misinformation than the renewable fuels standard agreement. This historic agreement was arrived at after years of careful and considerate negotiation from all sectors of interest; environmentalists, fanners, oil industry representatives, and politicians included.

Simply stated, it directs the gradual increased production and integration of ethanol and other biofuels—renewable fuel sources—into the U.S. fuel supply. The increase in available alternative fuels such as ethanol and biodiesel are sure to result in a cleaner environment, an ease on supply, and a reduction on the U.S. dependence on foreign oil—a national security imperative.

Opponents of the renewable fuels standard have raised the specter of an increase in gas prices as a result of increased ethanol production. Some claim that motorists could pay as much as 4 to 9 cents extra per gallon. However, in parts of the Nation where ethanol constitutes a significant share of the market, over the past 10 years, there has been essentially no difference in price between ethanol and nonethanol gasoline.

According to a consulting firm working for the Oxygenated Fuels Association, whose members produce and market MTBE, 70 percent of which is imported—the defeat of the RFS will keep the MTBE market alive—it is 4 to 9.75 cents per gallon. According to the Department of Energy's Energy Information Administration it is .5 to less than 1 cent per gallon. The marketplace reality is: 20 years' experience in Nebraska—$.01 less than ethanol-free gasoline at the pump; 10 years' experience in Minnesota—$.08 less than gasoline at the wholesale level; 1.5 years' experience in California—no essential difference to the public; and 10 years' experience nationwide—no essential difference to the public.

The question is which numbers do you believe. Furthermore, the availability of ethanol blends has been shown to drive down the price of all gasoline as a result of market forces.

Another false argument against ethanol's we've heard is that producing ethanol consumes nearly as much nonrenewable oil as the ethanol replaces. The latest U.S. Department of Agriculture report demonstrates that ethanol production has a positive energy balance of 1:1.34 and only 17 percent of that energy comes from fossil oil. The bulk of the energy used in fertilizing the crops and to power ethanol production plants comes from natural gas or coal. Additionally, with farmers using more ethanol and biodiesel in their vehicles, and the advance of biorefineries using cellulosic biomass including agricultural and forestry crops and residues, as well as other biomass and animal waste with disposal problems, the use of fossil fuels to produce biofuels could approach zero.

Where opponents really miss the point is in their failure to recognize the threat posed to America's national, energy, and economic security by our dangerous dependence on oil imports. In 1999, America was importing over 55 percent of its oil and petroleum products. Just 2 years later, our dependency increased to over 59 percent—and part of those supplies are in jeopardy because of the unpredictability of Saddam Hussien and political instability in other oil-producing nations.

Failure to provide an adequate market for ethanol is a major factor in preventing the emergence of biofuels made from cellulosic biomass. The renewable fuels standard is critical to advance biorefinery technology that will produce urgently needed refined, domestic, renewable, and clean burning biofuels. The biorefineries, very small compared to oil refineries, will be well disbursed throughout the country and much less prone to terrorists' attacks.

Opponents wail about a monopoly in the ethanol industry and that only a small group of producers will benefit from the renewable fuels standard. This is inaccurate on two fronts.

Essentially all the ethanol and biodiesel plants under construction and in planning phases are smaller plants owned by cooperatives and community enterprises. More importantly, the RFS will provide the impetus to launch the construction of biorefineries across the Nation.

Some perceive the RFS as a targeted massive Federal Government subsidy to benefit only farm belt States. In fact, the renewable fuels standard will encourage technology advancements that could be located and employed in any region of the United States, not just the "corn states." It will enhance the Nation's economy, surely in agriculture-based economies, but also through support industries, new jobs, research and development, and opening new markets for agriculture products.

This may displays existing ethanol plants, plants under construction and ethanol, biodiesel, and other biofuels plants under consideration. As you can see, with the renewable fuels standard, biorefineries will soon be operating in most State of the Nation.

There is no question that the renewable fuels standard will reduce our dependence on foreign oil. It will slow the deterioration of the environment through the reduction of fossil fuel emission and spills, enhance national, energy and economic security, create a new industrial base with tens of thousands of new, high quality jobs, and strengthen homeland security by providing hundreds, perhaps thousands, of community-oriented biorefineries producing biofuels, biochemicals, and bioelectricity.

There are those who believe that ethanol's current tax incentives are sufficient, and obviate the need for the renewable fuels standard calling for an expanding market for biofuels. For the past 10 years the price of ethanol was generally below the price of 87 octane at both the wholesale and the retail levels. At current capacity, there is a surplus of ethanol driving wholesale price of ethanol well below the wholesale price of gasoline.

On April 11 of this year, the wholesale price of gasoline in New York was 84 cents while the national average cost of wholesale ethanol was 55 cents. If ethanol was available in New York City gasoline today, the price to the consumer should be considerably less than ethanol-free gasoline. I say should because the ethanol industry is always at the pricing mercy of the gasoline marketers. Routinely, the octane value of the ethanol accrues to the gasoline industry not to the ethanol producers. Again, historically, the availability of ethanol in the marketplace drives down the cost of all gasoline because of market forces.

According to the Society of Independent Gasoline Marketers of America,

> The federal benefits afforded ethanol-blended fuels have been an important, pro-competitive influence on the nation's gasoline markets. By enhancing the ability of independent marketers to price compete with their integrated oil company competitors, this program has increased independent marketers' economic viability and reduced consumers' costs of gasoline.

Then there is the issue of the overall cost of the ethanol industry. Opponents claim that the cost of the program exceeds the benefits. This is refuted by a recent study: the Economic Analysis of Legislation for a Renewable Fuels Requirement for Highway Motor Fuels, conducted by AUS Consultants.

It will displace 1.6 billion barrels of oil over the next decade; reduce our trade deficit by $34.1 billion; increase new investment in rural communities by more than $5.3 billion; boost the demand for feed grains and soybeans by more than 1.5 billion bushels over the next decade; create more than 214,000 new jobs throughout the U.S. economy; and expand household income by an additional $51.7 billion over the next decade.

The RFS in this bill represents a continuation of sound public policy supporting the biofuels industry that has brought benefits to the Nation over the past quarter a century.

Two States are showing us the way—Minnesota and Nebraska. We can also look to the major advances being made in Europe and Brazil.

I am unabashedly proud of what my home State has accomplished. The formation of the National Governors' Ethanol Coalition was one of the important steps. Nebraska and several other Midwestern States created this coalition that now consists of 26 States and one U.S. territory, as well as Brazil, Canada, Mexico, and Sweden. Since its formation in 1991, the Governors' Ethanol Coalition has worked to expand national and international markets for biofuels. American firms are working with India, Thailand, Colombia, and other countries to help them establish biofuels industries.

Within the State of Nebraska, during the period from 1991–2001, seven ethanol plants were constructed and several of these facilities were expanded more than once during the decade. Specific benefits of the ethanol program in Nebraska include:

$1.15 billion in new capital investment in ethanol processing plants.

1,005 permanent jobs at the ethanol facilities and 5,115 induced jobs directly related to plant construction, operation, and maintenance. Average salaries at the ethanol processing facilities range from $38,000–$56,000 depending on geographic location. The permanent jobs generate an annual payroll of $44 million.

More than 210 million bushels of corn and grain sorghum is processed at the plants annually. Economists at Purdue University and the USDA estimate that the price of corn increases from 9.9 cents–10 cents per bushel for every 100 million bushels of new demand. Local price basis increases in Nebraska range from 5–15 cents.

The trend of marketing wet distillers grains for cattle feeding generates at least $41 million in increased economic activity annually according to a 1999 report by the University of Nebraska. Of the $41 million increase, 85 percent accrues to cattle feeders in the form of reduced costs and increased gains, and 15 percent accrues to the plants.

Local tax bases are more diversified in areas where plants are located. Several smaller communities have experienced increases in housing construction and new business start-ups associated with services related to plant operations.

Jobs among the skilled trades have increased. Pipe fitters, steamfitters, steel workers, and construction engineering trades are involved in plant construction.

Value is added to grain processed at ethanol plants. Today, a $2.00 bushel of corn is processed into products worth at least $5.00. Gasoline purchased from refineries outside Nebraska is displaced by ethanol produced in the State, thereby retaining energy dollars in the local economy.

These economic benefits have increased each year during the past decade due to plant expansion, employment increases, and additional capital investment.

If each State followed the Minnesota and Nebraska models, which are different in several respects, and produced 10 percent of its own domestic, renewable fuels, America will have turned the corner and that noose of oil-import dependency and climate change will begin to loosen.

I know there is doubt among my colleagues from States without farm crops about the ability to provide the needed starch, sugar, or oil seed crops to produce biofuels and other biorefinery products. There are more than adequate supplies of cellulosic biomass in each State to meet the 10 percent goal: agricultural and forestry crops and residues; rights-of-way, parks, yard and garden trimmings; and the clean portion of the biomass fraction of our municipal waste.

A major resource commitment is needed in this country to ensure that, 10 years from now, we have established the commercial technology base to produce many billions of gallons per year of renewable fuels, in dispersed and decentralized installations around the nation. The feedstocks must be diversified with the end uses ranging from gasoline to diesel to aviation fuels. We also need to quantify the "externality costs" of our current imported oil dependence, in order to ensure we are not paying those costs 10 years form now.

Over the past few days, we have learned that we cannot drill our way out of our dangerous oil dependency. We have decided to support a renewable energy portfolio standard that will increase our use of renewable resources like solar, wind, geothermal, hydro, and biomass to produce electricity.

We sue very little oil to produce electricity. We use oil to power our transportation sector. That is where we are most vulnerable.

The renewable fuels standard is absolutely necessary in order to expand the biofuels industry into the use of cellulosic biomass, which is in great abundance throughout the United States.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, Senator MURKOWSKI is present. As I indicated, he was obligated to attend a funeral this afternoon. We have a unanimous consent request we would like to offer. I want to make sure it is cleared on the other side. Until we get that done, what I ask is Senator STABENOW be recognized as in morning business for 10 minutes, and then the Senator from Missouri, Mrs. CARNAHAN, be recognized as in morning business for 6 minutes. Then we will proceed to offering the unanimous consent agreement with Senator MURKOWSKI.

As I indicated earlier, what we will do is ask that there be 60 minutes equally divided and a vote, so there will be a vote at about 5:15 today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

PRESCRIPTION DRUG COSTS

Ms. STABENOW. Mr. President, I appreciate the opportunity to speak to my colleagues today about an incredibly important issue, and that is the question of the rising costs of health care, particularly as it relates to the cost of prescription drugs. I think the headline in this week's Washington Post column by David Broder said it all: Our health care system is in a "death cycle."

The greatest country in the world, the most extensive health care system in the world, most sophisticated system, and we have a respected columnist saying it is in a death cycle. I suggest one of the major reasons for this is the uncontrollable cost of prescription drugs in this country.

There is something wrong when we are involved as taxpayers, as Americans, in funding research for prescription drugs—which I support—providing tax credits for research and development for the companies to be able to do incredibly important, lifesaving research. Yet we in the United States of America pay the highest prices of anyone in the world. That is not an exaggeration—higher than anyone in the world.

If you are uninsured—and particularly for our seniors who may use 18 different medications in a year; that is the average—if you are uninsured, if you are someone walking in and paying retail, you pay the most of anyone anywhere in the United States and the world.

This is extremely troubling. We are not talking about buying something that is optional; we are talking about lifesaving medications. Whether I am talking to my hospital administrators or the Big Three auto companies or small businesses or senior citizens or a family with a disabled child or anyone who is involved in purchasing prescription drugs, I hear the same thing over and over: We have a system that is broken. It is broken. We have to fix it.

I am here today asking my colleagues on the other side of the aisle to join with us in that sense of urgency about fixing this problem.

Whenever we talk about costs, we hear from the companies that in order to lower costs we will lose valuable research. None of us wants to lose research. We support that. We support funding research. We will do that again this year. But the facts do not show us that we have to suffer and lose research in order to lower costs.

We know that among the largest companies, on average, they spend twice as much on advertising and promotion as they do on research. We also know in an average year there will be about 88,000 people working to promote and to advertise prescription drugs and on average 48,000 people involved in research. There are 88,000 people involved in promoting and advertising, 48,000 involved in research.

I think every American knows, just by turning on the television set, that we have seen an explosion in advertising. Unfortunately, what has happened is we have seen that explosion in advertising causing an explosion in our costs of 18 percent to 20 percent a year.

Something is wrong when there are almost twice as many people involved in promoting a drug and advertising a drug as there are people researching new medications. There is also something wrong when we can go across the bridge or through the tunnel to Canada—Mr. President, that is 5 minutes in Michigan. We can go across the bridge and we can cut our costs in half for American-made, FDA-approved medications.

I have twice taken a group of seniors across the border, going through the Canadian medical society, and then going into the Canadian pharmacies. We have seen dramatic results. I will just share a couple.

In Michigan, Zocor, a drug to reduce cholesterol, costs $109.73 for 50 5-milligram tablets. In Canada, the exact same prescription costs $46.17—$109.73 and $46.17. Since we as taxpayers in the United States have helped to subsidize the research—which I support doing—I also want to see us get a price break for the tax dollars that are helping to do this.

I also know that tamoxifen, a breast-cancer-treating drug, is available for about $136 in Michigan. When we went to Canada, with breast cancer patients, they got it for $15. There is something wrong with the laws that say our people cannot freely go back and forth—our hospitals, our businesses—and get those lower costs.

There is something wrong with a system where small businesses are seeing 25, 30, 35 percent or more increases in their health care premiums. I have had small business people come to me saying they will have to drop their insurance because they cannot afford the premium increases. The majority of that is the cost of prescription drugs.

We have a lot of work to do. There is something wrong in a country as blessed and as wealthy as the United States when there are seniors who got up this morning, sat at the kitchen table, and said: Do I eat today or do I take my medicine? Do I pay the electric bill or do I take my medicine?

We can do better than that. We have an obligation to do better than that. I believe one piece of that is Medicare coverage and updating our Medicare system to cover prescription drugs. But I believe it is also much more than that. I believe it is making generics available once the patent has run its course and finding ways to make sure those laws are enforced and not undermined. It is making sure that research is done, and we reward and help fund that, and invest in that more than we are investing in advertising. It is making sure our business community can afford premiums, that we have competition across the border, making sure we are able to provide prescriptions at the lowest possible cost while still allowing important research to happen and our pharmaceutical industry to thrive.

I believe we can do all of that if we have a focus on the right values and priorities when it comes to this debate.

I simply say it is now time for a sense of urgency. If a child in our family is sick or if we have a parent who needs lifesaving medication and can't afford it, if we have someone in our family who needs an operation, we feel a sense of urgency. We feel a sense of urgency if someone needs nursing home care or if someone needs some other kind of health care.

We need that same kind of sense of urgency when it comes to public policy on health care.

I urge my colleagues on both sides of the aisle to join with us in the coming weeks to lower the fastest growing part of that health care dollar; that is, the cost of prescription drugs and lifesaving medication.

We can do better than we are doing for our seniors and our families. We can do better than we are doing for the business community. We can do better than we are doing for everybody in our country if we are willing to get to work. I hope we are going to do that.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that when the Senator from Missouri completes her statement, Senator MURKOWSKI be recognized to offer his Iraqi oil import amendment; that there be 60 minutes for debate prior to the vote in relation to the amendment with the time equally divided and controlled in the usual form; that there be no intervening amendment in order prior to the vote in relationship to the Murkowski amendment; that upon the use or yielding back of the time without further intervening action or debate the Senate proceed to vote in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Missouri.

LEAVE NO CHILD BEHIND ACT

Mrs. CARNAHAN. Mr. President, last year, Democrats and Republicans joined together with President Bush to enact a monumental and far-reaching education bill.

This new law, the Leave No Child Behind Act, will bring new resources and meaningful reform to our Nation's schools.

It establishes new academic standards for students, increases teacher training, and demands new levels of accountability, while increasing flexibility with Federal funds at the State and local level.

I am hopeful that this law will help close the achievement gaps that separate many poor and minority students from their peers.

Indeed, I am optimistic that it will improve education for all students.

But Congress has, as Harry Truman once said, some "unfinished business' when it comes to our schools.

We have left out a critical component when it comes to ensuring that our schools and our teachers and, most importantly, our students will succeed.

Today, one in five schools fails to meet building or safety codes or needs extensive repairs, renovations, and maintenance.

Across the country, run-down, overcrowded, dilapidated schools jeopardize the health and safety of our students.

Across the country, deteriorating schools inhibit the ability of our children to learn.

And yet, with the exception of the Impact Aid program, which I strongly support, the new education reform law did not include funds for school renovation and repair.

Nor were any funds for renovation and repair made available through the appropriations process.

The administration's most recent budget even eliminates the Emergency School Repair Program.

And yet, data from the National Center for Education Statistics tells us that nearly $127 billion in renovations and repairs are needed to upgrade existing schools to good physical condition.

Furthermore, this figure does not include the funding needed for construction to accommodate increasing enrollments in districts across the country.

We have these pressing needs at a time when resources are scarce. Our States and local governments are still feeling the effects of the recession.

And for too many years, Congress has failed to provide States and localities the funding it promised long ago to share the cost of special education.

The Federal Government cannot ask States and localities to shoulder the burden of school renovation and repair costs alone.

If the Federal Government stands on the sidelines, it will be at the expense of our children.

But neither should Washington attempt to single-handedly solve this problem. Congress should not be in the business of giving direct grants to communities to build schools.

I strongly believe that education is a national priority but a local responsibility.

The legislation being introduced today, the "Investing for Tomorrow's Schools Act," answers this call for partnership.

Our bill provides initial funding for the creation of State and regional infrastructure banks. These banks will make loans to districts for school construction or modernization needs.

This mechanism helps to alleviate the financial burden for States and localities but provides sufficient flexibility to meet local needs.

The structure of the bill ensures that states and localities have the requisite flexibility to tailor programs to meet their unique needs.

The bill requires a 25 percent State match, which ensures the commitment of State government to the program while allowing States to leverage their dollars four-to-one.

It is a voluntary program—only for those states who choose to participate.

To those who have argued that the Federal Government should have no role in school facilities, and likewise to those who call for overly intrusive Federal programs, this bill offers a common-sense compromise.

I remember visiting a school in Nixa, MO, where every fourth-grader in the district attends class in trailers behind the school.

I have subsequently learned from teachers and administrators in other districts that the kids in trailers often have the best deal because conditions in the actual school buildings are often far worse than they are in the trailers.

Every State in this country has districts in need, in both urban and rural and suburban communities. The needs span the social economic strata of our Nation.

Disadvantaged and minority students are most likely to attend school in decrepit and obsolete buildings.

I would imagine that we have all seen schools that are either freezing cold or unbearably hot, that have poor lighting or inadequate bathroom facilities.

But students in more affluent suburbs—where there is often explosive growth in the community—also suffer from overcrowding.

Most parents would agree that they would like their children to attend schools where the student to teacher ratio is low, where class size is small.

Yet, without enough space, small class size is an impossibility.

And despite these conditions, we are asking our children for more than ever before.

A fellow Missourian, Mark Twain, once told the following story:

> When I was a boy on the Mississippi River there was a proposition in a township there to discontinue public schools because they were too expensive. An old farmer spoke up and said, "If they stopped building the schools they would not save anything, because every time a school was closed a jail had to be built."

I have great faith in America's children. The time to invest in them is now. The investments we make in them will be returned to us many times over.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, for the interest of Senators, I have been in consultation with the distinguished Republican leader throughout the day. We are momentarily going to propound a unanimous consent request which would do several things.

First of all, it would accommodate Senator MURKOWSKI and his desire to bring up an amendment on the energy bill relating to Iraq.

We would then move to complete our work on the border security bill. There would be a number of amendments offered by Senator BYRD. Once those amendments have been disposed of, it would be our intention to then go to final passage. Then, prior to the end of the day, we would also take up a judicial nomination that has been on the calendar.

We would, throughout this period, have further discussions about our schedule for the remainder of the week—tomorrow—and early next week, as we attempt to bring some final closure to the energy bill.

So that is the current schedule. It is my expectation we will get this request which would allow us to complete our work on border security today. Senators should be forewarned there will be additional votes, probably several additional votes, yet today on the border security bill, I assume on the Murkowski amendment, as well as on the judicial nomination.

So that is the current plan. Just as soon as we have cleared it a final time with our Republican colleagues, I will propound this unanimous consent request. Until that time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 3525

Mr. DASCHLE. Mr. President, I ask unanimous consent that upon disposition of the Murkowski amendment relating to Iraqi oil, the Senate resume consideration of H.R. 3525, the border security bill, and that it be considered under the following limitations: that there be 30 minutes of debate on the bill, with the time equally divided and controlled between Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL, or their designees; that the amendments listed in this agreement be the only amendments in order; that any debate time be equally divided and controlled in the usual form; that upon disposition of all amendments, the bill be read a third time and the Senate proceed to vote on final passage of the bill, without further intervening action or debate: Kennedy-Brownback-Feinstein-Kyl managers' amendment, 20 minutes for debate; that debate on the following Byrd relevant amendments be limited to 20 minutes each: Byrd amendment regarding review of educational institutions' compliance provisions, Byrd amendment regarding penalty increase for manifest noncompliance, Byrd amendment with regard to change of deadlines for implementation of biometrics, and Byrd amendment regarding tightening requirements for participation in the visa waiver program.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I thank my colleagues for their cooperation.

Under this order, the Murkowski amendment relating to Iraqi oil is now the pending order of business. I encourage Senators, if they want to be heard on the amendment, to come to the Chamber.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENT NO. 3159 TO AMENDMENT NO. 2917

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 3159 to amendment No. 2917.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make the United States' energy policy toward Iraq consistent with the national security policies of the United States)

At the appropriate place, insert the following:

TITLE—IRAQ OIL IMPORT RESTRICTION

SECTION 1. SHORT TITLE AND FINDINGS.

(a) This Title can be cited as the 'Iraq Petroleum Import Restriction Act of 2001.'

(b) FINDINGS.—Congress finds that—

(1) the government of the Republic of Iraq:

(A) has failed to comply with the terms of United Nations Security Council Resolution 686 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction.

(B) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions.

(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 661 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people.

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced "No-Fly Zones" in effect in the Republic of Iraq.

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States.

(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians.

(2) Further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. 2. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. 3. TERMINATION/PRESIDENTIAL CERTIFICATION.

This Title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that:

(a) (1) Iraq is in substantial compliance with the terms of

(A) UNSC Resolution 687 and

(B) UNSC Resolution 986 prohibiting smuggling of oil in circumvention of the "Oil-for-Food" program; and

(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli citizens; or that

(b) resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

SEC. 4. HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

SEC. 5. DEFINITIONS.

(A) "661 committee." The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the UN Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(b) "UNSC Resolution 661." The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(c) "UNSC Resolution 687." The term UNSC Resolution 986 means United Nations Security Council Resolution 687, adopted April 3, 1991.

(d) "UNSC Resolution 986." The term UNSC Resolution 986 means United Nations Security Council Resolution 986, adopted April 14, 1995.

SEC. 6. EFFECTIVE DATE.

The prohibition on importation of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

Mr. MURKOWSKI. Mr. President, earlier this month Saddam Hussein indicated that he was terminating oil production for 30 days. That would terminate oil from Iraq to the United States.

I have a chart in the Chamber that shows currently the oil that we are receiving from Iraq. This chart shows the historic trend of crude oil imports from Iraq to the United States. In January, it was about 294,000 barrels. In June, it went up to 973,000 barrels.

One of the extraordinary things occurred in September. In September, it was at a high of almost 1.2 million barrels. Lest we forget, during September we had a terrorist attack in New York, in Washington, DC, and the downing of the aircraft in Pennsylvania.

What does this have to do with Iraq? Well, we have known for some time that Saddam Hussein has been fostering and supporting terrorist activities. And to give you some idea, let me show you this little replica of an acknowledged statement from his Government relative to providing funding to the Palestinian suicide bombers. There is a check for $25,000. Previous to this, he was providing payments of up to $10,000. With an incentive of $25,000, God only knows to what extent terrorist activities will continue.

Yet as we look at the United States and the trends we have seen in oil imports, as the Mideast crisis worsens, we see the price of oil rise.

We also have another chart. We have seen this oil come into the United States. People probably don't really know from where their oil comes. Probably most of them don't care. It comes in to identified areas of New Jersey, Ohio, Indiana, Illinois, Minnesota, Missouri, Arkansas, Mississippi, Louisiana, Texas, California, and Washington.

The irony here is obvious, if we go back to 1992 and look at the desolation associated with the burning of the oilfields in Kuwait. Recognize that we are now importing or have been importing about 1 million barrels of oil a day from Iraq. Then with the notice by the Government of Iraq that they are going to terminate production, clearly one has to wonder if it is in the principal interest of the United States to rely on this source.

Earlier in the day, we voted on the issue of ANWR. It was a cloture motion. We did not obtain 60 votes. So far on the energy bill, it is fair to say that the only increase in domestic production identified was associated with ANWR. Perhaps it is ironic that Saddam Hussein should terminate production. But I think it is appropriate, from a principle point of view, that the United States, by formal action, end our imports from Iraq until a couple of things happen.

One is that the United Nations certifies that Iraq has complied with the Security Council resolution No. 687 and has dismantled their programs to develop and construct weapons of mass destruction; and that Iraq cease to smuggle oil in contravention of Security Council resolution No. 986; and finally, Iraq no longer pays bounties to the families of suicide bombers wreaking havoc in Israel.

I recognize the Iraqi oil program is intended to be used for the benefit of the Iraqi people. But that is not the case. My amendment also seeks to ensure that the President use every means available to support humanitarian needs of the Iraqi people, notwithstanding the ban on oil imports.

Most Members consider themselves internationalists. I believe firmly in the importance of engagement with other countries, particularly economic engagement. I am a strong believer in free trade and have worked with many of my colleagues to reform economic sanctions and policies. However, it is time to draw the line on economic engagement when national security is compromised.

Our increasing dependence on unstable overseas sources of oil is compromising our national security. We have seen Saddam Hussein last week urge fellow Arab OPEC members to use oil as a weapon. We have seen what an aircraft can do as a weapon. Saddam Hussein did that by imposing this 30-day embargo of oil exports to the United States until the United States forced Israel to cave in to the demands of the Palestinian extremists.

In 1973, the Arab League used oil as a weapon during a time of similar crisis in the Mideast. At that time, the United States was 37-percent dependent on imported oil. Still the Arab oil embargo demonstrates how powerful a weapon oil can be. And the United States was brought to its knees. Several of us remember during that time of the Yom Kippur War, there were gas lines around the block. The public was blaming everybody for the inconvenience, including Government.

During that particular timeframe, however, the TransAlaska Pipeline was completed. Oil began to flow. And within a few years, 25 percent of our domestic oil production came from Prudhoe Bay. As a consequence, imports dropped dramatically. But that was then and this is now. Times change. On the other hand, how much they stay the same.

Nearly 30 years after the Arab oil embargo, we are faced with a similar threat that we faced in 1973, but there is a difference. The difference is now we are 58-percent dependent on imported oil. Back in 1973, we were 37 percent. The stakes are higher. The national security implications are more evident. One wonders what we have learned. From the vote earlier today, I wonder that, too.

Before us is the reality that Saddam Hussein has called on his Arab neighbors to use oil as a weapon and begin a 30-day moratorium on exports. The United States was importing over 1 million barrels of oil from Iraq.

As we look at the situation in the Mideast today, our Secretary of State, having made every effort to bring the parties together, understanding withdrawal, whatever it took, and the appearance at least that Egypt has refused to meet with our Secretary of

State, Mubarak, what that means, I guess one could look between the pages of history and come up with some kind of an evaluation. Things certainly are better but they might get worse.

Reality dictates if you filled up your tank, chances are at least a half a gallon of the gasoline in your tank originally came from Iraq. Think about that. This is the same guy who pays bounties on suicide bombers of $25,000, who fires at our sons and daughters flying missions in the no-fly zones in Iraq, who has used chemical weapons on his own people, who has boasted that he has the weapons to scorch half of Israel.

But when you innocently filled up your tank, you paid Saddam Hussein perhaps a nickel of every dollar you spent at the pump that day. You contributed to some extent to the suicide bombings. You bought shells targeted at American forces. You paid for chemical and biological weapons being developed in Iraq which are targeted at Israel and those Iraqis who would challenge Saddam Hussein.

Haven't we learned our lesson before? I was looking around the house the other night. I ran across a Life magazine from March 1991. In a profile of the gulf war, they wrote of Saddam:

> When he finally fought his way to power in 1979, after an apprenticeship of a few years as a torturer, his first order was the execution of some 20 of his highest-ranking government officials, including one of his best friends. He likes to say "He who is closest to me is farthest from when he does wrong." He grew up in dirt to live in splendor. . . . He is cheerless. And he currently possesses Kuwait.

This article can be used as a reminder of the costly mistakes of not dealing with him. It is more or less a play-by-play review of the gulf war that we are in now but new names and a new era from 2002 could just as easily be inserted into the article. These lessons must not be lost. We recognize he is our enemy. The world must isolate him, cut him off and coax his regime to an early death.

But we haven't learned our lesson, have we? He is still there because we are still buying his oil. Sure, these purchases are masked in the Oil for Food Program, but is it really working? He is still there.

I know the Oil for Food Program isn't supposed to work this way. Saddam is supposed to use the money from Oil for Food to feed the Iraqi people and buy medicine. But we know he cheats on the program, buying all kinds of questionable materials, and that he smuggles billions of dollars of oil out of Iraq, which directly funds his armies, his weapons programs, and his palaces.

I had an opportunity to be in Baghdad several years ago with a number of Senators. We met with Saddam Hussein. This was just before the gulf war. Regarding the circumstances of that meeting, I won't go into any detail, but they are very interesting. He invited us to lunch and never brought lunch. What we got out of the meeting was the recognition that this was a force to be dealt with.

No matter how you look at it, Mr. President, our purchase of Iraqi oil is absolutely contrary to our national security interests. It is indefensible and must end.

My amendment would do just that; it would end new imports of Iraqi oil until Iraq is proven a responsible member of the international community and complies with the relevant Security Council resolutions.

I began the statement by affirming my support for economic engagement. I believe deeply in the principle of free trade. I do not, however, believe in economic disarmament. When, as is the case with oil, a commodity is not only important to our own economic health but also important to our military's ability to defend the Nation, self-sufficiency is a crucial matter. No country or group of countries should have the ability to ground our aircraft, shut down our tanks, or keep our ships from leaving port. Yet allowing ourselves to become dependent on imports of this nature threatens to do just that.

In the case of Saddam Hussein, we are dependent for some 5 percent of our imports from a sworn and defiant enemy. There he is on that chart. But our reliance on other foreign sources of oil is not risk-free. We have a very uneasy relationship with our friends in the gulf. September 11 clearly demonstrated that our enemies in such staunch allies as Saudi Arabia may outnumber our friends.

We already have some form of economic sanction on every single member of OPEC—a reflection of the uneasy relationship that we have with these nations. So this is risky business relying on countries such as these for our national security.

Some Members have long recognized the folly of importing oil from our enemies—some more than others. But on July 25, we extended sanctions on importing oil from Iran and Libya. We have not imported any oil from those countries for some time because the sanctions were in existence. We didn't initiate sanctions against Iraq. Well, it is time we did.

Does relying on Iraq make more sense than relying on Iran and Libya? I don't think so. I know that many of my colleagues advocate production in less risky parts of the globe, including here in the United States. The trouble is, we have to drill for oil where we are likely to find it. The fact is, the ground under which most of the oil is buried is controlled by unstable, unfriendly, or at-risk governments.

Look at Colombia and the oilfields being developed in the pristine rain forests down there. We get some 350,000 barrels a day from Colombia.

The 408-mile-long Cano Limo pipeline is at the heart of the Colombian oil trade, and it frequently is attacked by FARC rebels. They have declared the pipeline to be a "military target." They are anticapitalist, anti-United States, anti-Colombian Government rebels.

The trouble is, the half of the country these rebels control has the Cano Limo pipeline running through it—a convenient target to cripple the economy, get America's attention, and rally their troops for their cause. Countless attacks have cost some 24 barrels in lost crude production last year and untold environmental damage to the rain forest ecosystem.

Last year, rebels bombed the Cano Limo 170 times, putting it out of commission for 266 days, costing Colombia roughly $500 million in lost revenue.

Our administration wants to spend $98 million to train a brigade of 2,000 Colombian soldiers to protect the pipeline. Now, last week, another rebel faction called American oil companies running the pipeline "military targets."

I wonder if we are truly unfazed about the close connection between oil, money, and national security. Are we willing to turn our heads on the Mideast crisis to finance the schemes of Saddam Hussein? Are we willing to allow our policy choices in the Middle East to be dictated by our thirst for imported oil from this particular source? Are we willing to let our oil be used as a weapon against us?

We should not allow our national security to be compromised. I know some today have dismissed ANWR as a solution. But the relevance here is principle. Our military cannot conduct a campaign associated with dependence on such unreliable sources.

I sympathize with the desire to eliminate the use of fossil fuels. I believe we will get there with continued research and new technologies. I understand the urge to deny the importance of oil in the national security equation. But all of my colleagues will eventually have to look in the mirror after this debate and ask themselves, again, to what extent we are willing to sacrifice our national security in order to appeal to the fantasies associated with the desires of Saddam Hussein.

One of the things I think is testimony to the severity of how we deal with Iraq is the responsibility of the President and Joint Chiefs of Staff, his Cabinet, and others, as we have observed the reality that he is developing weapons of mass destruction. He has a delivery system capable of sending a missile to Israel. But he has been working on a nuclear capability. When is the world going to deal with that? Had we known what was about to occur relative to the tragic events associated with September 11, we would have taken action against Osama bin Laden. Had we only known.

In the case of Saddam Hussein, the exposure is there. The question is, When and how? Buying oil and increasing our dependence on that country is certainly not the answer because we are funding whatever mischief Saddam Hussein is up to. So that is the purpose of this amendment, Mr. President.

I urge my colleagues to think a little bit about the principle involved and join me in support of the amendment. Again, the irony is that he has cut us off for 30 days. The ramifications of that, the future will tell. Will the OPEC nations increase production and make up for the shortfall? They have indicated they might. Will the price of oil likely go up because of the shortage of supply? It is already going up.

Clearly, by an action taken by the Senate to formally terminate imports from that country, we will send him a message, but will somebody else simply take our place and buy Saddam Hussein's oil?

In any event, I think it is appropriate, from a principle point of view, for the United States to terminate its relationship with Iraq, as the amendment proposes, until such time as he commits to abide by the U.N. agreement, which requires that we have inspectors in Iraq to ensure that he is not a threat to the world; further, that he commits to halt any further funding of suicide bombers associated with the terrible activities occurring in Israel and Palestine.

I have no further comments. Seeing no other Senator seeking the floor, I yield back the remaining time on this side, and defer to Senator BINGAMAN.

I believe the yeas and nays have been ordered, Mr. President.

The PRESIDING OFFICER. Yes, they have.

Mr. BINGAMAN. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. Thirty minutes.

Mr. BINGAMAN. Mr. President, let me make a few comments with regard to the amendment, and I do not know that I will be in opposition, but I have some concerns I wish to express—and perhaps ask a few questions—I have the amendment in front of me—my understanding of what the amendment is that first of all, it does not in any way prohibit Iraq from exporting oil. I think that is clear. Iraq has made a decision just recently to suspend its exports of oil for 30 days. So that is in place, as I understand it. But this amendment does not prohibit Iraq from exporting oil or does not commit us to any action which would in any way prohibit Iraq from exporting oil.

Second, it does not prohibit us from importing oil from other sources. What it basically says is, we can continue to import whatever the percentage is—50 percent, 56 percent—of our oil needs from the world market. We just cannot import from this source.

Also, it does not really by its language impose a legal prohibition against importing from Iraq. What it says is, as I read it and this is on page 3 of the amendment. It says:

> This Act prohibits imports until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

Basically, it takes the decision, which has been our national policy, that we would import legally exported Iraqi oil, just as we would import other oil. It says that in order for us to continue with that activity, the President has to give us a certification that it is not inconsistent with our national security or foreign policy interests to do so.

Obviously, our relations with Iraq are a very serious foreign policy issue for our country at this time, and I am persuaded that most Members of the Senate would be very anxious to work in cooperation with the administration and with the President in formulating our policy toward Iraq.

I do not know where the administration stands on this amendment. I do not know if there has been any request for their views on it. I would be anxious to hear from the sponsor of the amendment if he has had a reaction from the administration. We have made some informal inquiries, and we have been unable to get a response from the administration.

I, frankly, think the responsible course would be for us to give the administration a chance to tell us its views. If the President wants this legislation enacted, then obviously that would carry great weight with many Senators. If the President believes this puts him in an awkward position, in that it requires him to issue a certificate to permit continued imports of Iraqi oil, then I think we should know. Obviously, there are many Members of this body who do not want to put the President in an awkward position relative to our relations with Iraq.

I also have concerns about how an amendment such as this could be interpreted in world oil markets. We are very concerned that the price of gasoline has been going up in recent weeks, and we heard a lot about that during the ANWR debate that just concluded. Of course, that is a reflection, to some extent at least, of the rising price of oil on world markets. The price is up around $26 a barrel today, which is substantially higher than it was a few months ago. People are concerned about that.

However, the information I have is that one reason why we import oil from Iraq is that we are able to do so at a discount. Why is Iraq forced to sell its oil at a discount in the world market? Because it is considered by the market to be a somewhat unreliable source for oil, so they are not able to get the premium price that some other producers are able to get. U.S. refiners benefit from that, and U.S. consumers benefit from the fact that we are buying that oil at a discount.

I have an article that I will ask be printed in the CONGRESSIONAL RECORD after my statement, from the April 15 edition of the Dallas Morning News. The title of it is: "In Oil, Profit Often Beats Politics." I ask unanimous consent the article be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, the key part of this is some comment on the amendment my colleague, Senator MURKOWSKI, is now offering. It says:

> Mr. MURKOWSKI wants to ban Iraqi oil imports. We have done this before. Libyan oil was banned. Iranian oil was banned. But oil is a commodity, and import bans make little difference in the global market. Unless all importers join the boycott, the oil will find a buyer.

The main point is pretty clear: If Iraq is going to decide at the end of this 30 days to commence exports again, it will find a buyer for that oil. It will likely continue to sell at a discount in the world market. If we prohibit the importation of that oil into the United States, that is not going to hurt Saddam Hussein. That is not going to hurt Iraq. Iraq will find a buyer for that oil. We will be buying the oil we need from another source, but we will be buying on the world market just as we are today.

As I say, I think there is less here than meets the eye as far as actually trying to impact or strike a blow against Saddam Hussein. I do not see that this amendment does that. I think, if anything, it puts our President in the awkward position of having to send a certificate to the Congress saying that, in his view, we should go ahead and continue to import Iraqi oil.

Maybe that is what the President would like. Maybe that is what the Secretary of State would like. Maybe that is what the Secretary of Energy would like. I have not heard that from any of them, and I think the appropriate course would be for us to solicit their opinion on an important amendment such as this before we adopt it.

My initial reaction to this kind of amendment, and I am sure the initial reaction of most Senators, is: Fine, this is an anti-Saddam Hussein vote. How do you go wrong, how do you lose support in your home State by voting against Saddam Hussein? I would venture to say nobody does.

However, this is a sensitive area of foreign policy and I do not know whether the Foreign Relations Committee has considered anything like this. It might be something they would be interested in looking at. I do not know if Senator BIDEN, who is chairman of that committee, has had a chance to look at this and formulate a position on it.

I do not know that many Senators would want to vote against an amendment of this type, but if it is going to be pushed to a vote, I hope before the vote occurs—and I know it is expected to occur very soon under the unanimous consent agreement—I hope we can get some communication from the White House as to whether or not they support the amendment.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Dallas Morning News, Apr. 15, 2002]

IN OIL, PROFIT OFTEN BEATS POLITICS

WASHINGTON.—Gasoline prices climbed 31 cents a gallon in the last eight weeks. Israelis and Palestinians are at war again. Saddam Hussein says Iraq will halt oil production for 30 days to protest. None of this is encouraging, but neither is it a description of an oil crisis. When one spigot closes, another opens. There's 7 million barrels a day of spare production capacity available to make up for Iraq's 1.7 million barrels a day of exports. The 11 members of the Organization of the Petroleum Exporting Countries hold 90 percent of that spare capacity. OPEC has tried since the 1973 Arab oil embargo to convince the world that it is an economic club rather than a political weapon. Saudi Arabia, with 3 million barrels a day of spare capacity, is expected to cover any Iraqi-induced shortage, as it has before.

Gasoline prices have risen rapidly in recent weeks but remain about 10 cents a gallon below last year's levels. Dallas experienced its highest price for unleaded regular on May 12, when the average was $1.66 a gallon. Oil is the most political commodity. It was largely Saudi Arabia's political will to produce more that sent oil prices down after Sept. 11, and Saudi curbs on oil that sent them back up again. The oil workers in Venezuela and Nigeria flexed their political muscles last week in showdowns with their governments that coincided with the agonies of the Middle East.

Nigeria's unrest centered on unpaid oil workers, and quieted quickly.

Venezuelan oil deliveries were disrupted, and the strikers persuaded the military to join them in an abortive coup Friday against Venezuelan President Hugo Chavez. Mr. Chavez returned to office Sunday, 48 hours after being ousted.

Iraq and Venezuela supply a major portion of oil refined in the United States. Venezuela sends half its 2.4 million barrels a day of exports to the United States, both as gasoline and crude oil. More than half of Iraq's exports also land in the United States. Given the enmity between our countries, that seems crazy. But economics beats politics with Iraqi oil, whose price discounts seem irresistible to U.S. refiners.

Republican Sens. Frank Murkowski of Alaska and Larry Craig of Idaho are incensed by Iraq's presence in the market. They say that every time a U.S. motorist fills up, he or she is putting money in the pockets of suicide terrorists. (Iraq has offered $25,000 to their families.)

Mr. Murkowski wants to ban Iraqi oil imports. We have done this before. Libyan oil was banned. Iranian oil was banned. But oil is a commodity, and import bans make little difference in the global market. Unless all the importers join the boycott, the oil will find a buyer.

The same logic applies to export bans. Iraq can quit producing, and Saudi Arabia covers the deficit. Iraq and Venezuela can stumble together, and if the Saudis don't cover it all, prices will rise around the world and tempt other nations to increase their production.

OPEC, in fact, can ill afford to see its oil production used as a political weapon. The U.S. Energy Information Administration expects OPEC production to be down 1.9 million barrels a day this year as the cartel tries to defend a price band. This lures others, particularly the Russians, to fill the gap. Non-OPEC production is expected to increase this year by 1.1 million barrels a day. Because profit has more pull than political kinship, rival producers will rush to capitalize upon a slowdown in Iraqi and Venezuelan oil exports. That logic founders if something happens to disrupt Saudi oil production. No one can take Saudi Arabia's place in the market. Today's regime in Saudi Arabia shows no sign of repeating the 1973 oil embargo. Tomorrow's regime? Who knows?

Mr. BIDEN. Mr. President, I oppose the amendment of the Senator from Alaska. I do not disagree with most of the findings in his amendment. Saddam Hussein is clearly in violation of his obligations under United Nations Security Council resolutions. He has repeatedly demonstrated his callous disregard for the plight of the Iraqi people. Humanitarian aid under the oil for food program has been diverted, languished in warehouses, or simply not purchased at all. As much of the Iraqi population goes without adequate health care and nutrition, Saddam lavishes luxury goods on his cronies and builds palaces.

While the Senator may be correct in his diagnosis of the illness, it is not clear to me that his amendment is the cure.

I have just spoken to a senior official at the State Department, who believes this amendment is a serious mistake. I believe that this amendment puts the President in a very difficult position at a difficult time.

I have concluded that we need a regime change in Iraq. In my view, that effort will require us to lay the groundwork by making a solid case and building as broad a coalition as possible. I am concerned that this amendment may make the President's task more difficult. At the very least, we should provide him the opportunity to make his views known on this amendment.

While the potential impact of this amendment is great, it has not been scrutinized sufficiently. The Foreign Relations Committee has certainly discussed the issue of Iraq policy, but we have not examined this specific proposal. I also understand that the Energy Committee has held no hearings on this proposal.

As I stated at the outset, I do not see how this amendment will address the legitimate issues that the Senator cites. The proceeds for the legal purchase of Iraqi oil made by American companies are deposited in an escrow account controlled by the United Nations. Money in that account is then released for purchases of civilian goods. Before any money is spent, the sanctions committee, on which the United States sits, must approve every contract. In other words, we have a veto on how the money gets spent.

To be sure, the oil for food program has flaws. Saddam gets illegal revenues by selling oil outside the program and by collecting illegal surcharges from shady middlemen. It is these revenues that are used by Saddam to prop up his regime, pursue weapons of mass destruction, and pay the families of Palestinian suicide bombers. The Senator's amendment does not address the problem of illegal surcharges or smuggling.

I am also concerned that by effectively pulling the United States out of the oil for food program, we may be sending the signal that we are not interested in the welfare of the Iraqi people. I know that is not the Senator's intention, but it may be an unintended effect of his amendment. This could have an impact on the ability to pull together an effective coalition to confront Saddam.

This is just one example of the potential unintended impact of this amendment. I think it is important that we understand all of the ramifications of this proposal before proceeding.

Mr. MURKOWSKI. Mr. President, recognizing I have yielded back my time, I wonder if the majority would allow me to respond for a few minutes to the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I have no objection. Following that, I expect to yield back most of my time. I gather we are ready for a vote.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank my friend, Senator BINGAMAN.

It is the intention of the prohibition on Iraqi-origin petroleum imports to terminate the imports, and they could then be addressed by the President and the President, after consultation with relative committees of Congress, can certify to the Congress that Iraq is substantially in compliance with the U.N.S.C. Resolution 687 and Resolution 986.

Resolution 986 prohibits smuggling of oil in circumvention of the Oil for Food Program, and 687 mandates inspections by U.N. inspectors. So the intent is clear. It is to terminate oil exports in the United States.

The Senator from New Mexico suggested we contemplate and be somewhat sensitive to the attitude of the White House. I think during our extended debate on ANWR we had an extended discussion about the attitude of the White House that did not prevail in this body.

I think what is germane, however, is the attitude of the White House with regard to the sanctions on Iran and Libya. They are quite clear, and I think there is a notable similarity. Those sanctions were initiated in retaliation to terrorist activities associated with Libya. What was it? The downing of Pan American flight 103 over Scotland. That is why we took that action. It was most appropriate. In Iran, in 1979, it was the Embassy takeover and the terrorist activities associated with that.

So we have a parallel. I do not think there is any question about it. We terminated a relationship in the sanction action against Libya and Iran for fostering terrorism.

If what is going on with Saddam Hussein is not an act of terrorism, I do not know what is. I indicated in my statement pretty much throughout, this is a matter of principle for the United States. I do not think there is any question about the justification. It is the same justification. Saddam Hussein is fostering terrorism, and I think we would all acknowledge that. So I think, with all due respect, that is the justification for this action.

Today, who is more of a threat to the world? Is it Iran, is it Libya, or is it Iraq? Well, no question in my mind.

I am happy to respond to any questions.

I yield back the remainder of my time.

Mr. BINGAMAN. Mr. President, I yield back the remainder of our time as well.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3159. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES), is necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 10, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—88

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carnahan
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—10

Biden
Bingaman
Byrd
Carper
Chafee
Fitzgerald
Gramm
Hagel
Lugar
Nelson (NE)

NOT VOTING—2

Inouye
Nickles

The amendment No. 3159 was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table. The motion to lay on the table as agreed to.

CAPACITY-BASED STANDARDS

Mr. DOMENICI. Mr. President, I have discussed with Senator BINGAMAN a concern with his amendment No. 3016. In particular, I question whether we should structure the renewable portfolio standard to refer to the "capacity" of a renewable system or, as done in Senator BINGAMAN's amendment, to the "energy generated." I think we would simplify compliance by staying with a "capacity-based" standard, but I realize that this is a complex issue. I strongly recommend that we return to this issue in conference and carefully evaluate the pros and cons of these two approaches.

Mr. BINGAMAN. I concur with my colleague that this issue deserves more discussion. I look forward to further analysis and discussion of this in conference in order to arrive at a final position.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3525, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3525) to enhance the border security of the United States, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I understand that we have a time limit on both the bill and the particular amendments. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. And the time on the overall bill is?

The PRESIDING OFFICER. Thirty minutes equally divided.

Mr. KENNEDY. And 40 minutes on each amendment equally divided. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I am very pleased that we are enacting the Enhanced Border Security and Visa Entry Reform Act of 2002.

I would like at the outset to thank my colleagues and fellow sponsors, Senators BROWNBACK, FEINSTEIN, and KYL, as well as their dedicated staff, David Neal, LaVita Strickland, and Elizabeth Maier. We began working together on this legislation in November and have moved through every stage of this process as a united team.

I would also like to thank Senator HOLLINGS and Senator GREGG for their invaluable contributions to the bill. I thank Senator BYRD for steadfastly working with us to make important improvements to the legislation.

Finally, I thank all of our colleagues in the Senate for withdrawing their unrelated amendments to assure the swift passage of this vital legislation, the Enhanced Border Security and Visa Entry Reform Act, which will strengthen the security of our borders. It will improve our ability to screen visitors, monitor foreign nationals, and enhance our capacity to deter potential terrorists.

Our bill provides real solutions to real problems. It closes loopholes in our immigration system. Our solutions include expanding intelligence and law enforcement capabilities, upgrading 21st century technology, and establishing an electronic interoperable data system. Vital information will be shared in real time among our front line agencies.

Our legislation sets realistic deadlines for the Attorney General and the Secretary of State to issue to all foreign nationals machine-readable, tamper-resistant travel documents with biometric identifiers. It also sets a realistic deadline for our ports of entry to be used with biometric data readers and scanners.

It also recognizes the valuable role of our border security and INS personnel by ensuring that these offices receive adequate pay and training and have the technology they need to secure our borders without obstructing the efficient flow of persons and commerce.

It also recognizes the demands on our consular offices, and provides them with the additional training and resources to screen for security threats.

In this legislation, we preserve the visa waiver program but require a stringent reporting requirement on passport theft and more frequent evaluation of participating countries' compliance with the programs' conditions.

Our bill honors our proud immigration tradition. It safeguards the entry of the more than 31 million persons who enter the United States legally each year as visitor students, temporary workers, and the 550 million who legally cross our borders each year to visit family and friends.

We recognize that immigration is not the problem—terrorism is. We must identify and isolate potential terrorists—not isolate the United States. "Fortress America" is not a solution that we would consider.

In defending America, we are defending the fundamental constitutional principles of diversity, cultural exchange, and civil rights that have made America strong in the past and which will make us even prouder in the future.

This legislation strikes the appropriate balance. I hope we will receive overwhelming support for it.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I join my colleague, Senator KENNEDY, as ranking member on the Immigration Subcommittee to support this bill.

This bill cleared the House of Representatives twice on a unanimous consent calendar. It is important. We still have problems at our borders. This bill deals with trying to get at the terrorists who seek to enter our land and not the legitimate people who are seeking to come here for reasons that are positive to the United States.

This bill is a testament to the dedication of this body and in Congress. It is bipartisan. It has had the input of many Members. The bill reflects how truly united we as Americans stand before the threat of terrorism.

The bill is the product of a lot of dedicated people, too many to name—elected officials from both sides of the aisle, from both Houses, and experts from both inside and outside of Government. The entire community in and around Washington and the country came together for this common goal of defending America.

The bill is endorsed by the entire immigration spectrum. The groups that are the most impacted by it endorse it. They appreciate the hard decisions that have to be made after September 11 and see the wisdom in this legislation.

We have legislation here that protects our borders without compromising our values or our economy. This legislation is a measured, intelligent response to an evil that we will defeat. I am proud to be a part of this bill.

I will describe quickly, what we are trying to do—and we will get it done—is to get information sharing from the various governmental agencies—the INS, the State Department, but also the CIA, the FBI, the DIA, and, hopefully, even other intelligence sources—so that we will have information sharing so we can catch before they enter this country people who seek to do harm. That information sharing is not taking place to the degree it needs to be today. Senator KENNEDY noted how many people yearly enter this country legally—over 300 million entries—and we are looking for those few who seek to come in here to do us harm. We are looking for a needle in a haystack, so we have to have that information sharing.

We are trying to expand the perimeter around the United States. This would include working with Canada and Mexico to get our perimeter broader and more secure.

I visited the El Paso INS detention facility 1 year ago. There at the detention center were people who had tried to enter our country illegally from 59 different countries, coming in through Central America, going up by land through Central America, through Mexico. We need to get the Mexican Government's support and help in protecting our perimeter.

We require manifests from other countries before the flights leave so we can check those when they come in. We provide more monitoring of foreign students in this country once they come here.

On September 11, unfortunately, some of those terrorists were here under student visas. We have to monitor the foreign students better in this country.

This bill provides biometrics. It provides more information we can use in checking people at the border. We have a number of other provisions that are in the bill. It provides for more border security officials to be able to check to make sure we are getting our job done.

In short, Mr. President, this bill has received a lot of work. We need to pass this legislation. I believe we will get it passed today.

Mr. President, I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Will the Senator yield for a question from the Senator from New Mexico?

Mr. BROWNBACK. I would be happy to yield for a question. I have yielded back the floor.

If I could secure the floor, Mr. President, I would be happy to yield for a question from the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOMENICI. I say to the Senator, I would just like to eliminate a little bit of confusion. This bill is going to pass unanimously—or almost—today. And stories are going to say we provided 1,000 new agents for the INS and all the other things you provide in this bill.

I wonder if you might tell me, is any of this money appropriated by this bill?

Mr. BROWNBACK. If I could respond to that question, within the President's budget is allocated $742 million in the first year for the implementation of this bill. It is within the President's budget. It is believed that the budget needs for the first year are $1.3 billion total. We have over half of that in the President's budget, and we are going to be seeking the approval for additional resources. We think we can compete for the necessary funding with the homeland security issues within it. It is going to take authority, and this is the authority it is going to take appropriations to be able to get this implemented. The Senator from West Virginia has been raising in hearings and in this Chamber this issue about the implementation.

Mr. DOMENICI. I say to the Senator, as I indicated, I do not doubt it has wonderful provisions in it. I have read them. I come from the border, and I confirm that they are all good; our border people would like to have them.

I just want to make sure we understand that there is no money provided in this bill. So the public will get the story today or tomorrow that we passed this bill, but 3 or 4 months from now, when the appropriations bill comes that funds these kinds of activities, the Appropriations Committee has to have the money or we will just have another bill that expresses, in beautiful words, what we would like to have happen for our country. Is that about right?

Mr. BROWNBACK. No. I would disagree, if I could, with my colleague. The appropriate way to proceed is authorization language, then appropriations, of course. What we are doing here is the authorization language. The President has built into his budget request over half of the funding for this already. Now we will have to appropriate it. But to get there, first we are supposed to authorize. This is authorizing language.

Mr. DOMENICI. Sure. There is nothing tricky about my question. I am not trying to put anyone on the spot. I am just trying to establish that unless the money is appropriated later on by another act of Congress, and signed in another act by the President, we do not have 200 new agents this year in each of the Departments, we don't have the research money that is in this bill for new technology, because this bill does not provide for any money to be spent. If that is not a correct statement, then I withdraw it.

Mr. BROWNBACK. That is correct. This is authorizing language.

Mr. DOMENICI. I thank the Senator very much.

Mr. BROWNBACK. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield myself a half a minute.

I want to add to what my colleague said. There is also $100 million in fees here. We have raised the fee part of it, which will be self-funding, making the total $843 million. This agency has a budget of $6 billion. It is our intention to try to work within that $6 billion to find the additional money and to work with the Appropriations Committee.

But I think that the point the Senator from New Mexico makes about the difference between authorization and appropriations is always worthwhile to point out so people have a very full understanding of the process.

Mr. DOMENICI. I thank the Senators.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, before the distinguished Senator from New Mexico leaves the floor, I say to the Senator from New Mexico, he has made a very important observation.

I am going to vote for this bill. But we do not have a CBO estimate of the cost. We have no estimate of the cost. There is an estimate by the Immigration and Naturalization Service. Now, that may be off a great deal or it may not be off a great deal.

I think it is important to keep in mind what the distinguished Senator from New Mexico has pointed out. There is a great difference between authorizations and appropriations. And it is the money that counts. Cicero, that great Roman orator, said: "There is no fortress so strong that money cannot take it." So it is the money that counts. And the Senator has made an important observation. I made that observation, too, early on. And I don't know what the estimate of the cost is going to be in here. We have certain estimates, the $1.1 billion for the first year, and the $3.2 billion—or something like that—$3.2 billion for 3 years. But those are estimates. They are by the Immigration and Naturalization Service. And, of course, that is not a great bank to put your money into when the INS estimates it. We have seen that agency fall on its face so many times in recent years.

But, in any event, I thank the Senator.

Mr. DOMENICI. Will the Senator yield for 1 minute?

Mr. BYRD. Yes. I would be glad to yield.

Mr. DOMENICI. A question along with this observation: I say to the Senator, it seems to me that what we do—and what we are doing in this crisis, which is a very big crisis, with the President putting large numbers of billions of dollars in homeland security and saying this is new money—we come along and pass bills that authorize the new programs that he is saying he wants new money for, but the truth of the matter is that very seldom are any existing programs that are being paid for eliminated.

So you are going to have a subcommittee of your Committee on Appropriations, maybe two, that are going to fund this authorization bill—or maybe not, or maybe part of it; who knows? But the President had in mind canceling a whole bunch of programs in order to pay for this. And the point I make is, nobody helps with that part of the burden. Nobody carries any weight on trying to make room within the Government. They just pass on to the appropriators a very good, wonderful, new set of authorizations that we have all passed, and we go home and tell our people it is going to help solve the crisis that is before us with reference to taking care of our borders, which are porous and should not even be called borders, they are so bad.

I thank the Senator.

Mr. BYRD. Well, the Senator is correct. There will be a lot of eyes looking toward the Senator from New Mexico and toward me, and the other 27 members of the Senate Appropriations Committee, when it comes time to put the money on the barrelhead.

But having said that, I am going to vote for this bill. I am still going to seek a CBO estimate of the cost because I think that would be helpful in the coming days as we proceed to the conference and then to the conference report, and so on.

AMENDMENT NO. 3161

(Purpose: To revise provisions relating to the compliance by institutions and other entities with recordkeeping and reporting requirements with respect to nonimmigrant students and exchange visitors)

Mr. BYRD. Mr. President, the opportunity to seek a quality higher education has long enticed men and women to leave their homelands to travel to America.

We are, by and large, a generous Nation when it comes to providing an education to foreign citizenry. Indeed, American colleges, universities, and technical schools have opened wide their doors to students from foreign lands. And all levels of schooling are available to foreign nationals of every age—from preschool to post-graduate work, from public grade schools to private technical-training institutions.

In fact, foreign students have proven to be a lucrative source of revenue for U.S. educational institutions. Private-sector analysts estimate that foreign students contribute between $9 billion and $13 billion to the U.S. economy every year. Any number of marketing efforts are made by colleges and universities to recruit foreign students, whose tuition fees serve to bulk up college budgets.

As a result, we have opened our borders to a stream of foreign students with precious little oversight of their movement through the American educational stream. According to the INS, there are currently 2 million foreign students admitted to study in this country—649,000 of whom were admitted just last year. These include nuclear engineering scholars, biochemistry students, and pilot-trainees, who have access to sensitive technology, training, and information.

Yet while our schools have been training would-be pilots in the art of flying airliners, we have been asleep at the switch! There has been too little accountability, and too few checks, largely because oversight has proven too burdensome and costly for the government and the U.S. educational industry.

The lax government oversight of these student visa beneficiaries was underscored by the fact that three of the September 11 hijackers were awarded student visas—not to mention the fact that the INS was still processing the student visa applications for two of them 6 months after they had crashed two planes into the World Trade Center towers and gone on to meet their eternal destiny.

Clearly INS has not been up to the job of monitoring foreign students, and, in its current condition, placing new burdens on that agency alone is no solution. Therefore, as we look at our Nation through the prism of the new realities of terrorism, we must reconsider ways to involve those who have the best opportunity to prevent attacks. We need the assistance of our educational institutions.

In recent years, efforts to impose more stringent reporting requirements on schools have faltered because educational institutions have been reluctant to get into the job of monitoring foreign students. In fact, colleges and universities have lobbied heavily against such requirements, and the current lack of a national program to monitor foreign students indicates the effectiveness of that lobbying effort.

The pending legislation takes some important steps toward closing many of the loopholes in our foreign student policies that could be exploited by a potential terrorist. If the student monitoring provisions in this bill are to be successful, however, we must ensure the participation of our schools. These institutions are best suited to inform the INS and the State Department as to which students have been accepted to attend a school, whether they actually show up for class once they enter the country on a student visa, and whether they continue their classes or merely drop out of sight after checking in with the admissions office.

Monitoring the student via program requires a partnership between the government and all colleges, and technical schools that accept foreigners.

The pending bill gives the INS and the Secretary of State too much discretion in determining whether or not these educational institutions should be penalized.

Section 502(c) of this bill reads:

> EFFECT OF FAILURE TO COMPLY.—Failure of an institution or other entity to comply with the record keeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J)

of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)) or Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), may, at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, result in the termination, suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

What's more, in section 502 of this bill, the “periodic reviews,” which the INS Commissioner, Secretary of State, and Secretary of Education are required to make to determine whether institutions are complying with this legislation, are not defined. A “periodic review” could mean every 5 years or it could mean every 20 years or it could mean every 50 years.

That is very soft language.

My amendment would require reviews by the relevant agency heads at least once every two years. Further, if they found that U.S. educational institutions were materially not complying with the reporting requirements in this bill, my amendment would require the relevant agency heads to terminate or suspend, for at least one year, the right of those institutions to accept foreign students.

This amendment makes clear the serious concern about this Nation's ability to help foreign students while also protecting our homeland. Educational institutions are essential partners in our efforts to ensure that foreign students really are “students” with no other agenda but learning.

I thank Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL for their support of this amendment. I hope that the Senate will adopt it.

Mr. President, I have made my statement prior to calling up the amendment. I ask unanimous consent that the time I have consumed in reading my statement come out of my time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3161:

On page 49, beginning on line 4, strike “The” and all that follows through “reviews” on line 7 and insert “Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review”.

On page 49, lines 22 and 23, strike “The Secretary of State shall conduct periodic reviews” and insert “Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review”.

On page 50, line 16, strike “(c) EFFECT OF FAILURE TO COMPLY.—Failure” and insert “(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure”.

Beginning on page 50, line 24, strike “may” and all that follows through the period on line 5 of page 51 and insert the following: “shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.”.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I will urge our colleagues to support this amendment for the excellent reasons that the sponsor gave in support and in justification of the amendment.

There are now 26,000 universities and schools that can effectively approve a foreign student to come and study. But the foreign student has to qualify for the visa project at the current time. We have included some very important requirements in this legislation because this has been one of the great loopholes in our monitoring of who comes into this country and who does not.

The State Department must first receive the electronic evidence of the acceptance from an approved U.S. institution prior to issuing a student visa. The State Department must inform the INS that a visa has been approved. The INS must inform the approved institution the student has been admitted into the country, and then the approved institution must notify INS when the student has registered and enrolled. If the student doesn't report for class, the school must notify the INS of this absence not later than 30 days after the deadline for the classes.

So the colleges and universities have to develop that kind of system in order to be qualified for these programs, which is enormously important and a very significant, dramatic change from the current situation.

Currently, there are sporadic inspections of the universities. So now the Byrd amendment comes along and says, well, what you have in here looks good on paper, but what we take note of is the fact that, even if it is good on paper, the INS, in its history, has been sporadic in inspecting and finding out whether the schools and colleges are doing what they said and what they are supposed to do. That has been true. This tightens that provision up in a very important way.

If there is a material breach, then there will be a suspension of that institution from being able to receive the foreign students. So I believe it is going to make a very important difference in terms of compliance with one of the most important aspects of this legislation, which is understanding the students who are coming here, monitoring the students when they are here, knowing when the students are leaving, and if the students are not attending the schools, having access to that kind of information as well.

I thank the Senator from West Virginia for the amendment. What it does is put real teeth into this provision which we had worked out in the committee to achieve the kind of oversight the INS has not had up to this time.

Mr. BYRD. Mr. President, I thank the Senator for his statement.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I urge my colleagues, as well, to support the Byrd amendment. The reasons have been stated by both Senators BYRD and KENNEDY. I think the important thing to look at and see here is that we have a number of foreign students in the United States, and this has been a very positive thing, overall, for the United States and for the rest of the world. I don't think anybody would disagree with that statement. Yet what we have had taking place is a system that, over time, has gotten far too loose, and we saw the effects of that on September 11, where a couple of these individuals who came into the United States and did this operation, this horrific thing that happened, came in under student visas because they were looking for weaknesses in the system to get into the United States in a less restrictive, reviewed area. So that is why this has been at the very heart of this bill.

Senator BYRD puts in a good provision. There have been sporadic reviews by the Government of the educational institutions to see that they are doing this right, that they are taking the program seriously and not just finding some way of being able to bump up their student account and the number of students coming to the United States. We will have a regular reporting requirement and we will be able to monitor this much more closely. It should not inhibit legitimate students from coming here, nor the institutions that are legitimate and serious about what their projects are. It will be a bit more of a hindrance to those looking to increase their foreign student accounts and, hopefully, it will help us to get at those students who are here to do us harm.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, this amendment actually came into the bill from the original parts of the bill, Senator KYL's and my investigations from the Terrorism and Technology Subcommittee. What we found is the student visa program was greatly in disarray. We found that we have about 660,000 students coming in a year, and there is no tracking of any of them. Nobody knows whether they are really at a school.

Up to this point, the schools have had no responsibility to report that a student has arrived, that a student is taking this or that course and, yes, that the student has stayed in school. So I think Senator BYRD's amendment strengthens what is already in the bill. I think it makes it a better bill. We intend to follow up on this. Senator KENNEDY and I have discussed it. We intend to see, in fact, that the schools do keep their word and do, in fact, do the reporting they are required to do under this legislation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, Senator FEINSTEIN and I were upstairs a moment ago during the time allotted for discussion of the bill in general. Let me take a couple of minutes, if I could, to express my support also for the amendment pending that Senator BYRD offered. As Senator FEINSTEIN said, it will strengthen what we are trying to do with the student visa program.

Mr. President, the Judiciary Committee has a couple of subcommittees of jurisdiction. Senator KENNEDY and Senator BROWNBACK are the chairman and ranking member of the Immigration Subcommittee, and I have the honor of serving on that committee, as does Senator FEINSTEIN. She chairs and I am ranking member of the Terrorism Subcommittee. So we have had the ability in both of these subcommittees to hold hearings and to discover after September 11 areas in which we can improve our immigration laws to make it much more difficult for terrorists to enter this country or to stay here illegally.

This legislation is designed to close as many of those so-called loopholes as we can. I think it is a good effort in that regard. Each of the amendments that will be offered by Senator BYRD, in one way or another, strengthens the bill we have already offered.

I wanted to make two quick comments. Eighteen of the terrorists who entered the country and flew airplanes into the World Trade Center, the Pentagon, and into the ground in Pennsylvania came in using B-1, B-2 tourist visas. According to the Department of State, 47 foreign-born individuals, including these 19, have been charged with, pled guilty to, or been convicted of involvement in terrorism over the past decade. All 47 of these people had contacts with an INS inspector. Yet, somehow, they were able to get into the country. The 19th of the 19 was Hani Hanjour. He entered the country on an F1 student visa, the subject of the specific amendment now before us. He supposedly came here to attend classes and study English. He never showed up for class. The school did not notify the authorities that he never attended classes. He overstayed his visa and just melted into our society.

Another example of one of the terrorists, Mohamed Atta, came in on a tourist visa. According to several sources, he was placed on the FBI watch list 6 weeks before the terrorist attacks. But his name was never entered into INS's system. Before his visa expired in December of 2000, Atta actually went to the INS to change his status to that of student. After December of 2000, even without the information that showed his placement on a watch list, he should not have been allowed to reenter the country.

Yet, on June 3, 2000, at Newark International Airport on a Czech Air flight from Prague, after being questioned by INS for an hour, he was admitted back into the United States.

My point of illustrating with these two examples is to point out that the INS had contact with all of these people. They clearly should have been caught, but they were not caught because the INS officials either did not have the information they should have had or for some other reason did not ask the right questions.

Mary Ryan, who is one of the people who testified before Senator FEINSTEIN's subcommittee—her title is Assistant Secretary for Consular Affairs, Department of State—actually said: we felt like the woman driving through the school zone at 15 miles an hour and the little girl runs out behind the parked cars. She gets hit, and we feel terrible, but what could we do about it? That is why we set about trying to figure out what we could do about it.

One provision is to tighten up the student visa requirements. Without going into anything further, I think it sets the stage for what we are trying to accomplish and trying to close some of these loopholes, how we hope it will have some good, positive effect—not the overall answer to terrorism, but it will help to some extent.

As I said, the amendments Senator BYRD offers strengthen the bill. I am supportive of them, and I hope we can get to final passage.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, if it is agreeable with Senator KENNEDY and the other cosponsors of the amendment, I will yield back the remainder of my time on the amendment. Some Senators have been promised that there will be no votes until about 7:15 p.m. If it is agreeable with all the cosponsors, I will be happy to ask unanimous consent that the vote on this amendment occur upon the expiration of all time on the amendments and further statements can be made in regard to the bill so that the votes would be stacked for beginning, say, around 7:15 p.m.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, stacking the votes is fine with me. I would rather have our colleagues available so that we can move along. It is just 6 o'clock now. Maybe my cosponsors want to spend time describing the amendments. I do not think so. I know Senator FEINSTEIN has not had a chance to address the whole issue as a prime sponsor. It seems to me we should be able to consider these amendments in a timely manner. I would like to see if we can move the votes to prior to 7:15 p.m. If the leader set that time, then that will be the time, but I hope we can make progress prior to that time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, if we stack these votes, I certainly think our colleagues will appreciate that. I believe there is going to be, if I understand the intention of the Senator from West Virginia and the amendments he is putting forward, broad agreement amongst the cosponsors of the amendments.

All of these are strengthening amendments. I see no reason why we cannot do all of the amendments together in an expedited fashion. What the Senator is doing is really making the bill better. I do not know if it is possible, but if we could do it, we could have a limited number of votes for which we would call our colleagues back.

These are good amendments. I do not anticipate anybody coming to the Chamber in opposition to them. Possibly we could adopt these together as one. Of the ones I have looked at, they appear to look quite good. My hope is to complete them quickly. If we need to do it at 7:15 p.m., fine, and we can do them possibly altogether.

Mr. BYRD. I think it will work out all right if we just proceed.

I ask unanimous consent, Mr. President, that the vote on this amendment occur at the expiration of the time on all the amendments with the yielding back of that time and yielding back or making final statements on the bill, if that is agreeable with the cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3162

Mr. BYRD. Mr. President, I send to the desk the second amendment, and I ask that the clerk read the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3162.

(Purpose: To require as a condition of a country's designation or continued designation as a program country under the Visa Waiver Program that the country reports to the United States Government the theft of blank passports issued by that country)

Beginning on page 32, strike line 23 and all that follows through line 5 on page 33 and insert the following:

(a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by adding at the end of subsection (c)(2) the following new subparagraph:

"(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country."; and

(2) in subsection (c)(5)(A)(i), by striking "5 years" and inserting "2 years"; and

(3) by adding at the end of subsection (f) the following new paragraph:

"(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.".

Mr. BYRD. Mr. President, I yield such time as I may consume from my time on the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, in my testimony before the Immigration Subcommittee last week, I spoke about the safety of the American people and how that safety within their own borders often takes a back seat to such issues as commerce and diplomacy.

The visa waiver program, I believe, is a clear example of what I was talking about.

The program allows 23 million citizens from 28 countries to enter the United States without first obtaining a visa from a U.S. consulate abroad. This program, by eliminating the visa requirement and the subsequent State Department background check, expedites travel and commerce, but waives the usual first step by which foreigners are screened for admissibility when seeking to enter the United States.

Consequently, in a 1999 study, the Justice Department's Office of the Inspector General found that terrorists, criminals, and alien smugglers have attempted to gain entry into the United States through the waiver program. The inspector general's office also commented on the danger of stolen passports from visa waiver countries being used by terrorists to enter the United States without a visa.

It has been noted that in 1992 one of the conspirators in the 1993 World Trade Center bombing tried to get into the United States through the visa waiver program with a fake Swedish passport. Fortunately, he was caught, and a search of his luggage revealed bomb-making instructions.

In recent years, tens of thousands of blank passports from visa waiver countries have been stolen. These passports are sold on the black market to terrorists, criminals, and anyone else who may wish to avoid a State Department background check before entering the United States.

While only countries deemed "low-risk" are allowed to participate in the visa waiver program, and they must meet certain qualifications, the Attorney General is only required to review these countries' participation once every 5 years. Moreover, the Attorney General is not required to consider the efforts to prevent theft when determining whether to accept the country into or allow the country to continue to participate in the visa waiver program.

My amendment would require the Attorney General to review the countries that participate in the visa waiver program at least once every 2 years to help ensure that those countries continue to meet the programs's standards, and it also requires the Attorney General to remove countries from the program that do not report stolen passports. I am hopeful that my amendment will foster the kind of review that will result in greater scrutiny of this program and of those who enter the country through it.

This is a commonsense amendment, and I hope that Senators will support it.

I have discussed it with Senator KENNEDY, and he in turn has discussed it with the other authors of the bill and I hope that all Senators will support the amendment. I believe it to be a good one, a very worthwhile amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I urge our colleagues to support this amendment as well. It strengthens an important provision in the legislation. The Senator has outlined what the visa waiver program is, available now to 28 different countries.

Why the visa waiver? It was the judgment and the determination that if 2 percent, or less than 2 percent, of the visa applications were going to be rejected, then it probably made sense in terms of the efficiency to grant a visa waiver to that particular country. These are generally our oldest allies and friends as nations. A country has to stay at 2½ percent in order to stay in the program. Six countries a year is the general rule.

So what the Senator's amendment does is it says, look, given the changed circumstances, that exist in the world, at least every 2 years we want to see countries reviewed. This is certainly supportable.

One of the principal reasons, obviously, in reviewing a country in terms of a visa waiver, may be because there are national security issues that are different. There may be law enforcement issues that are different. If there are security issues that are different, then we would want to know it and know about it in a timely way.

We have seen in recent times, a month ago, Argentina was dropped from the visa waiver program because of the turmoil that exists there and the enormous numbers of people who were leaving with very little intention perhaps of returning. So the amendment of the Senator will ensure that the visa waiver program will carry forward its real intention, and it will be carefully reviewed every 2 years with the idea that the review, which will be by the State Department and the Attorney General, will look at the country and see if there are new issues of security that may pose a potential threat to the United States. If they do, they can take the action of removing the country, or make other recommendations.

The second feature of this amendment, which is enormously important, is the requirement that we are going to have the report of stolen passports. That has been a very slipshod process in the past. The Byrd amendment puts teeth into that provision. If the countries themselves are not going to be reporting these stolen passports, they will no longer be participating in this favored position in terms of the visa waiver.

Getting a handle on stolen passports is enormously important. It is going to be even more important as we move on into the future. This amendment makes sense. I hope our colleagues will support it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I urge my colleagues to support this second Byrd amendment. It is a strengthening amendment, for the reasons that have been articulated by the Senator from West Virginia and the Senator from Massachusetts.

I wish to focus on the final point that Senator KENNEDY put forward with an exclamation mark. This is an important program. The visa waiver program has certainly been a very valuable one for the countries that work closely with the United States. They like it. A number of people who travel really like and appreciate it, and yet in some places we are having thefts, losses of passports with which people can penetrate our borders. That has not been as forcefully enforced by other countries on this visa waiver provision.

Now, with the Byrd amendment requiring an every 2-year review, if they are not enforcing this provision when there is a loss or a theft of a passport, it is not being reported aggressively, there is a real hammer here: No more visa waiver.

I rather imagine there are a number of countries that are in this visa waiver program that do not like this amendment, but for us and for our security this is an excellent provision given the world of today. If this were 10, 20 years ago and we did not have quite the present threat on us of terrorist attacks in the United States and people trying to slip through our borders, one might say this is going to be an added burden that maybe we should not have. But given the situation we are in today, I think we would have been wise to have had it 10 or 20 years ago. It is clearly a needed provision, and it will cause people who are working closely with the United States, that have this visa waiver, they will scrutinize their practices more closely and report these passports if they have been stolen.

This is an excellent strengthening provision. I urge my colleagues to support it as well.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. I yield back the remainder of my time. I ask unanimous consent that the vote on this amendment occur immediately after the vote on the student monitoring amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back the remainder of his time?

Mr. KENNEDY. I yield back all of the time.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3163

Mr. BYRD. I now offer a third amendment. I anticipate we could have a voice vote on this amendment, unless enough Senators wish to have a rollcall vote.

I send the amendment to the desk.

The PRESIDING OFFICER. The pending amendment is laid aside. The clerk will report.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3163.

The amendment is as follows:

> (Purpose: To substitute October 26, 2004, for October 26, 2003, for the achievement of requirements with respect to machine-readable, tamper-resistant entry and exit documents)
>
> On page 25, line 21, strike "October 26, 2003" and insert "October 26, 2004".
>
> On page 26, lines 12 and 13, strike "October 26, 2003" and insert "October 26, 2004".
>
> On page 26, lines 24 and 25, strike "October 26, 2003" and insert "October 26, 2004".
>
> On page 28, line 2, strike "October 26, 2003" and insert "October 26, 2004".
>
> On page 28, line 16, strike "October 26, 2003" and insert "October 26, 2004".

Mr. BYRD. Mr. President, I yield myself such time as I may consume of the time allotted to me on the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, as we strive to respond to the new challenges of terrorism, we must be cognizant of the essential component of public trust. Without the confidence of the people, our efforts to improve domestic security, including our efforts to tighten our border defenses, cannot succeed.

To help ensure that we do not undermine the public's confidence in our efforts to secure our borders, we must set realistic mandates—that is, guidelines and time frames that are measurable and achievable.

This bill, in two separate instances, sets an October 26, 2003, deadline for the Attorney General and the Secretary of State to meet two separate mandates.

Section 303(b)(1):

> Not later than October 26, 2003, the Attorney General and the Secretary of State shall issue to aliens only machine-readable, tamper-resistant visas and travel and entry documents that use biometric identifiers.

Section 303(b)(2).

> Not later than October 26, 2003, the Attorney General, in consultation with the Secretary of State, shall install at all ports of entry of the United States equipment and software to allow biometric comparison of all United States visas and travel and entry documents issued to aliens, and passports issued pursuant to subsection (c)(1).

A third October 26, 2003, deadline applies to visa waiver countries issuing to their nationals machine-readable passports that are tamper-resistant and that incorporate biometric identifiers.

I question whether the Attorney General and the Secretary of State will be able to meet these deadlines. When I asked one of the authors of this bill, Senator KYL, about this deadline during the floor debate on Monday, Senator KYL said:

> The Senator from West Virginia raises a good question with respect to those deadlines. Frankly, on two of the three, there is no good answer. The Senator is absolutely correct about that. . . . As to precisely how long it will take to get those [systems] online, there is not a good specific answer, nor is there an answer as to when we can have the interoperable system developed, which is one of the central features of the bill.

These dates are not based on the availability of technology, or even projections about the availability of technology. Nor are they based on any realistic expectation about the availability of funding. As far as I can tell, these deadlines are based solely on the fact that the USA PATRIOT Act was signed into law on that same day in 2001.

I appreciate the notion that, without deadlines, it is difficult to press the agencies to act expeditiously. But, when this deadline comes and goes, and the Attorney General and the Secretary of State have not met these goals, the public will have reason to become disillusioned with our efforts to tighten our border defenses. Considering the public's current skepticism regarding the INS and its ability to safeguard our borders, I suggest that we be careful about committing our border defense agencies to deadlines that they cannot meet.

Under the regular appropriations process, Congress cannot make the necessary funding available to the agencies before October 1, 2002, and that assumes that all 13 appropriations bills are completed on time, by the end of the fiscal year. Even if the bills are completed on time, it could still take months before funds are released to the agencies to meet these mandates.

With the support of Senator KENNEDY, I am offering an amendment that would move the October 26, 2003, deadlines back by one year to October 26, 2004. This amendment allows the Congress more time to appropriate the necessary funds, and help to ensure adequate time for the State and Justice Departments to meet these deadlines.

Our efforts to tighten our border defenses will require the long-term support of the American people. It is an effort that will require the trust and confidence of the American people. We should not place that trust at risk by setting deadlines we know to be unrealistic. So it is for that reason Senator KENNEDY and I and the other authors of this amendment have worked together to fashion this amendment. I urge adoption of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise in support of the Byrd amendment. This is a positive amendment in the overall bill, it is appropriate, and it was the topic of a great deal of discussion previously as we were putting together this bill overall. The bill, in its design, had a number of people working together to try to figure it out. One of the most contentious issues was this issue about the time deadline in which we would be able to accomplish these biometric identifiers.

The administration had a great deal of concern about meeting the very aggressive dates set in the overall bill. A number of our colleagues involved in the negotiation said: We realize this may be aggressive, but we need to push it because this is such an important issue. A lot of people within the executive branch were saying: I don't know that we can meet this deadline.

This amendment will be well received by a number of people who believed the time deadlines put forward in the original bill were just too aggressive to be accomplished. This will set a far more realistic date as to when we accomplish it. I know people in the executive branch will try to do this as quickly as possible. They are clearly going to be far more comfortable with this date as being more realistic, one that can be accomplished.

For those reasons, I urge my colleagues to support this Byrd amendment to the bill.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I have a different take on it. I urge my colleagues to support this amendment, but I think we need to send a message to the INS that it can't be business as usual any longer and that instead of a "can't do" attitude, they have to have a "can do" attitude.

I personally spoke with Governor Ridge about this deadline and asked him what he thought. He said: Let me get back to you. When he did get back to me, he said: We have to move forward as quickly as possible. I support the date that Senators KENNEDY, BROWNBACK, and FEINSTEIN and I agreed upon. We have to show the American people we will get on with this and the delay will no longer be acceptable.

Senator BROWNBACK is correct when he says that this will make some people a lot happier. There were people who were saying: We are not sure we can meet this deadline in the bill. To that extent, the amendment of the Senator from West Virginia will be well received.

I want to make it clear, we are not sending a signal by agreeing with the Senator from West Virginia tonight—and I know he doesn't mean to, either, as I understand this amendment—because we have decided it is OK to sit back and relax because we have extra time. It is simply a reflection of the fact that it will not be easy. It will take time. Nobody knows for sure exactly how much. However, all five of us, I am sure I can say, are strongly of the view that we have to get on with this. Business as usual is not going to cut it.

The good news is that while technology may be a little more difficult to implement in the very beginning, and a little costly, in the long run it will be both cheaper and much more efficient in enabling analysis of the data in this huge country of ours with all of the millions of people who come into it by visas and other means. The technology will help enforce the provisions of this bill and other legislation on the books.

Technology will be the answer eventually. It will take time to get going. But by agreeing to the amendment of the Senator from West Virginia, I can speak for everyone by saying to those folks who have to implement it, we do not mean for you to relax; we mean for you to get on with it. We have to do our part by giving you the resources to do it.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I, too, hope our colleagues will support the amendment. There really is not any difference in the views that are being shared on the Senate floor this evening. That is, we want to get the best technology, and we want to then get a process so that it can be utilized effectively in order to protect our security.

I want to give assurances to those who favor the earlier date that our committee will be meeting with the Commissioner, with Mr. Ziglar, and we welcome other colleagues, to try to monitor this as aggressively as we possibly can. This is the final date, but it is certainly the sense here for the INS to understand we want it done as early as possible. But we want to make sure it is complete, and we are going to have the best technology. Then we are going to have the best technology in terms of the implementation of the legislation.

We give assurance to our colleagues that our committee will monitor this very carefully and periodically give reports back to the Senate because this is enormously important.

What we are basically saying is with 550 million people moving in and out of the United States, there is a limited number who pose a security threat. The immigrants are not the danger, terrorists are the danger. We have to be able to use that knowledge to detect them. We have great opportunities to do it. We want to get the right technology and implement it and we want to do it in the shortest possible time.

This legislation will establish sending that message. I agree with those who say we want to get started, we want to get it done right, but we have altered the date to take into consideration those who believe we would not have done the right job if we had the earlier date. We think this makes sense, and we hope colleagues will support the amendment.

Mrs. FEINSTEIN. Mr. President, I rise to join my colleagues supporting this amendment. There is one thing I would like to point out. I have serious concerns about the visa waiver program. I have concerns about its wisdom in the first place.

When you have 23 million people coming in without visas, from 29 different countries, it becomes so easy for passports to be misplaced and for people who are threats to get into this program. I think we have to watch it very carefully. We have to depend on the fact that the strictures in this bill are meant to be carried out.

I, for one, would not have a problem with doing away with the program if we find any more irregularities in it. We have actual instances where terrorists have used this visa waiver program. We know 100,000 passports were missing. We know they were not reported in a timely way. This bill requires, first of all, the thefts of passports, or that passports are missing, be reported immediately. Then the INS, within 72 hours, would have to enter them into an interoperable database, assuming we get to that interoperable database. Until that system is established, the INS would enter the information into an existing data system.

I, for one, am going to ask my staff to watch very carefully as to how these passport numbers get entered, and I will try to do my level best to see it is carried out. If it is not, I think we will have to go back and assess the wisdom of this entire program.

I yield the floor.

Mr. BYRD. Mr. President, I am happy to yield the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 3163) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3164

(Purpose: To increase the penalty for noncompliance with the requirements to provide manifest information)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3164:

On page 39, line 25, strike "$300" and insert "$1,000".

Mr. BYRD. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, the border security bill before the Senate requires ships and aircraft entering the United States to provide to our immigration officials a manifest of all passengers and crew on the vessel before they arrive in U.S. ports. If a commercial carrier fails to do so, this bill imposes on the carrier a $300 fine for each person not mentioned, or for each person incorrectly identified, in the manifest.

This penalty is wholly inadequate in my judgment. It is really a slap on the wrist for an airline or sea carrier that fails to provide important information to our immigration officials. This amendment would increase this penalty to $1,000 for each person that a commercial carriers fails to list accurately on the passenger manifest.

Airlines and sea carriers must be more than a passive conduit for information between ticket agents and our border defense agencies. We need the commercial carriers that bring people to this country to be partners in identifying persons who might have suspicious travel documents or travel plans.

Increasing the fine for noncompliance is one way to emphasize to commercial carriers that they have an important role in border security.

This amendment has the support of the managers of the bill and I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

I support the amendment. I think it demonstrates support for a very important provision in the legislation, and that is for the INS to receive the manifests of those who are coming into the United States in a timely fashion. It demonstrates, by increasing the penalty, that we are serious about this issue.

The American carriers, as I understand it, do this regularly, routinely. In any event, there are a number of carriers that do not. What the amendment does is underline the importance of this function and establishes the seriousness with which we take this function of information by increasing the penalty. I think it helps the legislation and I support it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, this is another strengthening amendment. We have teeth in this provision. They get bigger with the Byrd amendment. I think that is a good provision for us on the prearrival of aircraft coming into this country. For whatever reason, we have had some difficulty with airlines providing this manifest ahead of time. This is going to make this a more significant penalty.

We need to have this information. We should have this information ahead of time. This is a key security issue. It is part of this extension to try to deal with terrorists trying to enter our land.

This is a good strengthening amendment. I urge my colleagues to support it.

I congratulate and thank the Senator from West Virginia once again for helping to make what I think is a good bill better.

I yield the floor.

Mr. BYRD. Mr. President, I yield the remainder of my time on this amendment.

Mr. KENNEDY. Mr. President, I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3164) was agreed to.

Mr. KENNEDY. Mr. President, I thank the Senator from West Virginia for the study that he has given to this issue, and for the recommendations that he has made on this legislation. We are urging our colleagues to support this.

I thank him for his cooperation and for the seriousness which he has given to this legislation. I thank him.

Mr. President, under the consent agreement we still have the additional item; that is, the managers' amendment. I ask that we now proceed to the consideration of the managers' amendment.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question prior to proceeding?

Mr. KENNEDY. Yes.

Mr. BYRD. Mr. President, I move to reconsider the vote on the previous amendment.

Mr. BROWNBACK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3160

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. BROWNBACK, Mrs. FEINSTEIN, and Mr. KYL, proposes an amendment numbered 3160.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. KENNEDY. Mr. President, I hope we will approve the managers' amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3160) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I understand that two rollcalls have been ordered. I ask unanimous consent that it be in order to ask for the yeas and nays on final passage of H.R. 3525, the underlying measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Madam President, I am very pleased that the Senate is considering H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act. This bill mirrors S. 1749, which Senator KENNEDY introduced with Senators FEINSTEIN, BROWNBACK, KYL, and others. I am one of 58 cosponsors of S. 1749, which has commanded extraordinary bipartisan support and the sponsorship of most of the members of the Judiciary Committee, from which H.R. 3525 was discharged. Indeed, this bill reflects the results of sustained bipartisan negotiation, and represents the consensus view of Senators across the ideological spectrum. In other words, this is legislation the Senate should pass without delay.

As a Senator from Vermont, I know what a serious issue border security is. For too long, Congress has taken a haphazard approach to border security, meeting many of the needs of our southwest border but neglecting our border with Canada. Since the terrorist attacks of September 11, we have taken a far more comprehensive approach. Congress took its first steps to strengthen our borders in the USA PATRIOT Act, which authorized tripling the number of Border Patrol personnel, INS Inspectors, and Customs Service agents serving along our northern border, and $100 million in funding for improved technology for the INS and Customs Service's use in monitoring the border. As the author of those provisions, I am pleased that the administration has requested substantial increases in funding for border security personnel. I urge the Congress not only to fund this priority, but to ensure that the northern border receives at least half of any new supply of border security enforcement officers.

The legislation before us today builds on the first steps taken in the USA PATRIOT Act to strengthen substantially the security of our borders. It will further increase the number of INS Inspectors and INS investigative personnel, and authorize raises for Border Patrol agents and inspectors so that we can retain our experienced border security officers, who have been so overworked over the past 7 months. The bill also authorizes funding for training of INS personnel for more effective border management, and for improving the State Department's review of visa applicants abroad. In addition, it authorizes $150 million for the INS to improve technology for border security, another important follow-up to the USA PATRIOT Act.

Beyond authorizing badly needed funding for our borders, this legislation includes a number of important security provisions, a few of which I would like to highlight today. First, it requires the Attorney General and Secretary of State to issue only machine-readable and tamper-resistant visas, and travel and entry documents using biometric identifiers, by October 26, 2003. They must also have machines that can read the documents at all ports of entry by that date.

Second, the bill requires the Secretary of State to establish terrorist lookout committees within each U.S. mission abroad, to ensure that consular officials receive updated information on known or potential terrorists in the Nation where they are stationed.

Third, the bill will foster information sharing between other Government agencies and the State Department and INS, and shorten the deadline established in the USA PATRIOT Act to develop a technology standard to identify visa applicants.

Fourth, the legislation requires all commercial vessels or aircraft entering or departing from the United States to provide complete passenger manifests.

Fifth, this bill would substantially strengthen existing law for the monitoring of foreign students. The Government would be required to collect additional information about student visa applicants, and educational institutions would be obligated to report visa holders who did not appear for classes. In addition, the INS Commissioner would perform periodic audits of educational institutions entitled to accept foreign students.

I will vote for this bill because it will help protect our Nation and our borders. More than ever since September 11, those issues are fundamental priorities for this Congress. I urge my colleagues to join me in supporting this bill, and look forward to its becoming law.

Ms. CANTWELL. Madam President, today we are considering legislation on one of the most important issues in our fight against terrorism—how we can effectively secure our borders.

For me and for my State, one of the most critical things this bill does is to build on our efforts last year to increase staffing at the border by authorizing annual staffing increases on the borders for each of the next 5 years.

Those of us who represent States along the northern border knew before September 11 that the northern border was woefully understaffed. While we were able to double staffing across the border last year, the northern border will need a yearly infusion of staff to guarantee our security for the future.

This bill also incorporates many of the ideas of our colleague from California, Senator FEINSTEIN, to create a workable entry and exit system and better tracking of those in this country on student visas, and I would like to thank her for her many years of work on these issues.

Finally, this bill is about better use of technology to provide the enhanced security and border efficiency we need. But with every technological solution, comes the very real risk that the technology could be misused to invade personal privacy.

I have worked hard to make sure that provisions of this bill preserve the right to privacy. As we come to rely more on technology, including voluntary programs that require our citizens to provide personal information to government agencies, we will need to make very sure that we have sufficient safeguards in place to protect how that information is stored and used.

Many of the provisions of this bill are based on and cross-reference a provision I was able to include in the USA PATRIOT Act. That provision requires the State Department and the Department of Justice to develop a technology standard for the purpose of exchanging law enforcement and intelligence information necessary to screen applicants for U.S. visas and individual's using visas to enter the country.

Within that standard, there are specific privacy safeguards to limit the application of the standard of aliens; limit the purposes the date collected could be used to background checks and border verification; limit the distribution of the data to consular officers and border inspectors; require that any changes to expand access to the data has to be done by regulation so that the public can have input; finally, we require Congressional oversight of the implementation of the technology standard.

I am pleased that this legislation incorporates these safeguards and adds others specific to the "interoperable database system" that facilitates the sharing of law enforcement and intelligence information with the State Department and INS.

The bill before us today limits re-dissemination of information accessed through the system; ensures that the information is used solely to determine the admissibility or deportability of an alien to the United States; requires accuracy, security and confidentiality; requires protection of any privacy rights of individuals who are subject of the information in the system; and requires the timely removal and destruction of obsolete or inaccurate information.

Even with these provisions, Congress must keep a watchful eye on the implementation of the provisions of this legislation. We need to be vigilant to make certain we are achieving the proper balance between the need for national security and the need to protect the privacy of our citizens.

I am concerned about protecting the privacy of my constituents and citizens across our country, and I thank the authors of this bill for working with me to address these concerns.

I support this legislation because I believe that the security measures are well balanced against privacy concerns—and both security and privacy must be served.

Mr. WELLSTONE. Madam President, I rise today to support H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2001. This bill includes important provisions that will enhance our overall security. As a member from a border State, I am especially supportive of provisions that improve our ability to provide security on the Northern border.

H.R. 3525 authorizes the addition of 200 Immigration and Naturalization Service agents on the border, raises their pay and improves their retirement benefits, increases funding for their training, and authorizes money for them to improve and buy new technology. In Minnesota, some of our borders crossings, such as the crossing at Crane Lake, are staffed only part-time in the summer and even then are not staffed around the clock. Some parts of the border are staffed via telephone and video. For example, a person wanting to cross into the United States from Canada arrives at a border station, picks up a telephone or videophone, and calls Border Patrol personnel located elsewhere to announce his arrival. We must address this security risk. We must address the vulnerability of our borders.

The situation on our northern border demands immediate attention but simply putting new staff there is not enough. We must retain experienced officials and provide adequate training to identify and intercept would-be terrorists. By raising the pay grade of INS border personnel and improving their retirement benefits, we can ensure the retention of dedicated, experienced officials. By providing them adequate training and improving their ability to share information, we can prevent the entry of people who intend to do this country harm.

The Enhanced Border Security and Visa Entry Reform Act of 2001 also has provisions to help us determine who is coming to the US before they arrive. It requires our consulates to transmit to INS officials electronic versions of the visas they issue so that information is available on the person prior to this arrival. It requires commercial flights and ships to provide manifests about each passenger prior to their arrival and it fills the gaps in the foreign student monitoring program to ensure we know who is coming to the United States to study at our universities before they get here. The more we can do to know who is coming to the United States before they actually arrive, the more secure we will be.

I would like to take a moment to address the issue of civil liberties. Many of us have concerns about the changes taking place in regard to our Federal agencies sharing intelligence information. Today, more than ever, we must ensure that Federal law enforcement and other agencies have the ability to share information in a timely and effective manner. Nothing is more distressing than to think that the horrible events of September 11 may have been prevented through better interagency communication and organization. Yet, we must ensure that we vigorously monitor the effects structural changes now underway will have on our civil liberties. We must continue to monitor implementation of laws that question the fundamental balance between our security and liberty.

We are doing that here today. The USA PATRIOT Act which we passed last October required the FBI to provide the State Department and INS with access to certain FBI databases. During the debate on that bill there were serious concerns over how to determine what information those agencies needed and how to protect that information. The bill before us requires the President to report to Congress on exactly what information the State Department and INS need, and to develop a comprehensive information-sharing plan with adequate privacy protections. I support this important provision and believe it is a good example of what needs to be done in the future. We must review, and improve legislation if necessary, to ensure protection of our fundamental freedoms.

Colleagues, H.R. 3525 is a comprehensive bill which will strengthen the security of our borders, secure our visa entry system and enhance our ability to deter potential terrorists. It is another important step towards ensuring that we will never again witness the tragic event of September 11. I urge my colleagues to support it.

Ms. SNOWE. Madam President, I am pleased to rise today in support of the Enhanced Border Security and Visa Reform Act of 2001.

I have worked with Senators KYL and FEINSTEIN, first on their Visa Entry Reform Act of 2001, and subsequently with them and Senators KENNEDY and BROWNBACK on this legislation. These sponsors have worked feverishly to bring this bipartisan bill to fruition and I have very much appreciated the opportunity to work with them in assembling a strong and meaningful package to help secure our homeland.

The bottom line is, at this extraordinary time, in the wake of horrific attacks from without against innocent lives within our borders, we must take every conceivable step with regard to those variables we can control in securing our Nation. How can we do anything less when it has become so abundantly and tragically apparent that admittance into this country cannot and must not be the "X-Factor" in protecting our homeland?

Entry into this country is a privilege, not a right, and it is a privilege that has clearly been violated by perpetrators of evil who were well aware of inherent weaknesses in the system. Just look at the story of Mohamed Atta, coming into Miami, he told the INS that he was returning to the U.S. to continue flight training, despite the fact that he presented them with a tourist visa, not the student required visa for his purposes, and they let him in. INS has since said that Atta had filed months earlier to change his status from tourist to student so they let him in, despite long-standing policy that once you leave the country, you're considered to have abandoned your change of status request.

What this bill is about is stopping dangerous aliens from entering our country at their point-of-origin and their point of entry by giving those Federal agencies charged with that responsibility the tools necessary to do the job. Now, some say the tools we need are better technologies, some say better information, some say better coordination. The beauty of this bill is that it stands on all three legs, because I can tell you if there is one thing I learned from my experience in working on these issues on the House Foreign Affairs International Operations Subcommittee is that we are only going to get to the root of the problem with a comprehensive approach.

This was clear from the aftermath of our investigation of the comings and goings of the mastermind of the 1993 World Trade Center bombing, the radical Egyptian cleric Sheikh Rahman. We found that the Sheikh had entered and exited the country five times totally unimpeded, even after the State Department formally revoked his visa and even after the INS granted him permanent resident status. In fact, in March of 1992, the INS rescinded that status which was granted in Newark, NJ about a year before.

But then, unbelievably, the Sheikh requested asylum in a hearing before an immigration judge in the very same city, got a second hearing, and continued to remain in the country even after the bombing, with the Justice Department rejecting holding Rahman in custody pending the outcome of deportation proceedings and the asylum application, stating that "in the absence of concrete evidence that Rahman is participating in or involved in planning acts of terrorism, the assumption of that burden, upon the U.S. government, is considered unwarranted."

To address the trail of errors, I introduced legislation to modernize the State Department's antiquated Microfiche lookout system, but as we have painfully learned in the interim, such a system is only as good as the information it can access. That is why we fought tooth and nail to require information sharing between the FBI and the State Department. In 1994 Congress passed my legislation to give State Department officials access to FBI criminal records for every visa application, whether for immigrant or non-immigrant purposes. Addressing non-immigrants who enter the U.S. using student visas was particularly important, as was demonstrated by the inexplicable errors by INS, and in the case of the bomber who entered the U.S. on a student visa before dropping out of school, remaining undetected for two years on the expired visa, and driving a truckload of explosives into the World Trade Center in 1993. Unfortunately a revised provision limited this access only for purposes of immigrant visas, dropping my requirement for the non-immigrant visas initially used by all 19 of the September 11 hijackers.

So I am pleased that the USA PATRIOT counterterrorism bill we passed last year does require information sharing between the State Department and the FBI, but we can and must do more, we must also require information sharing among all agencies like the CIA, DEA, INS, and Customs.

And that is what this bill does, along with my measure that is included to establish "Terrorist Lookout Committees" at every embassy, which are required to meet on a monthly basis and report on their knowledge of anyone who should be excluded from the U.S.

I am also pleased to have worked further with Senators KENNEDY and KYL to include in the managers' amendment a provision increasing accountability by requiring the Terrorist Lookout Committees to report to the Secretary of State after each monthly meeting and with reports from the Secretary to Congress on a quarterly basis.

We ought to ensure that the person standing in front of the INS agent at the border is the same person who applied for that visa. It does no good to do every background check in the world overseas, only to have someone else actually show up at our doorstep. The fact is, we have the so-called "biometric technology" available to close this gap, and I am pleased that my measure requiring the use of this biometric technology such as fingerprinting for visa applicants both abroad and at the border has been included, although not exclusively limited to fingerprinting. The information collected by the consular officer issuing the visa must then be electronically transmitted to the INS so that the file is available to immigration inspectors at U.S. ports of entry before the alien's arrival.

In addition to these protections, the bill provides funding for an increase in border patrol personnel and for training of those agents and other agency staffs at U.S. ports of entry and in our consular offices to improve the ability of these officers, our first line of defense on our borders, to more easily identify and intercept would-be terrorists.

As the President has said, "We're going to start asking a lot of questions that heretofore have not been asked." By giving the Director of Homeland Security the responsibility of developing a centralized "lookout" database for all of this information, along with instituting tighter application and screening procedures and increased oversight for student visas, we will close the loopholes and help bring all our Nation's resources to bear in securing our Nation.

This is a crucial bill in our war on terrorism and I urge my colleagues to support this bill. I yield the floor.

Mr. LEVIN. Madam President, I first want to commend the chairman of the Immigration Subcommittee, Senator KENNEDY, my colleague from Massachusetts, for his leadership on this bill. The Enhanced Border Security and Visa Entry Reform Act gives law enforcement and immigration authorities greater access to the tools they need to improve border security. The legislation enhances our ability to identify terrorists and other individuals who should not be allowed to enter the Untied States and establishes new programs to ensure that people whom we welcome as visitors live up to their responsibilities under our immigration laws.

I am particularly pleased that the bill contains two amendments that I authored: one extending training opportunities to Border Patrol agents and another requiring the Department of Justice to provide Congress information on aliens who fail to appear at removal hearings.

It is critical that every law enforcement agent who works on the border understands and correctly applies our immigration laws. The Enhanced Border Security and Visa Entry Reform Act authorizes appropriations for such training for various law enforcement and immigration personnel at the border. My first amendment ensures that these training opportunities are extended to Border Patrol agents.

My second amendment requires the Department of Justice to report to the Congress how many aliens arrested while entering the country outside ports of entry fail to show up for their removal hearings. The amendment is the result of a hearing I held last November at the Permanent Subcommittee on Investigations.

At that hearing, members of the subcommittee heard from current and past employees of the U.S. Border Patrol who came forward to express their concerns with INS practices involving the release on recognizance, that is on their promise to return, of people arrested while trying to gain illegal entry into the United States outside ports of entry. While the problems raised by the Border Patrol agents at the hearing would have been serious in normal circumstances, they carried particular weight following the attacks of September 11.

What the agents told my subcommittee is that when people are arrested by the Border Patrol, at places other than ports of entry, most who don't voluntarily return to their country of origin, usually Mexico or Canada, are given a notice to appear at a removal hearing. The Border Patrol initially decides whether the person should be detained, released on bond or released on his or her own recognizance while awaiting the hearing. The removal hearing can take several months to occur.

But detention decisions are not made by the Border Patrol alone. If the Border Patrol decides to detain a person or set a bond to help assure that a person shows up at the hearing, the INS deportation office can revise that decision and order the person released on a lower bond or on his or her own recognizance. It was revealed at the hearing that the Border Patrol and the INS simply release on recognizance a large percentage of people who are arrested for illegal entry. That means people who get caught and are arrested at the border while attempting to enter the country illegally are nonetheless allowed to move at will in this country with no constraints other than a written instruction to appear at a hearing, the purpose of which is to remove them from the country.

This practice is absurd. And statistics from the Detroit Sector illustrate the extent of the absurdity. In fiscal year 2001, the Detroit Sector of the Border Patrol arrested slightly more than 2100 people. A significant percentage of these people were arrested while actually attempting to enter the country illegally. Of those 2100 or so, slightly less than two-thirds were voluntarily returned to their country of origin and 773 were issued notices to appear at a removal hearing. Pending their removal hearing, 595 or more than 75 percent of those issued notices to appear were released on their own recognizance. Many of these people were released without a criminal background check and some were not even able, or perhaps willing, to provide the Border Patrol with an address. We learned that people released on their own recognizance who don't have an address are simply given a form to mail to the INS when they get an address so the agency can mail them a notice of their hearing date. That is the extent of the follow-through by the INS.

So, how many of these 575 people actually showed up for their hearings? One former INS District Director and Border Patrol Chief has said that in one of his sectors he thought the percentage of persons arrested outside a port of entry and released on their own recognizance who don't show up for their hearing was 90 percent. When I asked the INS what the actual number was, the agency couldn't tell me. The INS doesn't even keep this statistic.

Moreover, we learned at November's hearing that there was no requirement that, before releasing them, the Border Patrol complete a criminal background on people arrested for crossing the border illegally. I found that situation unjustifiable, and apparently so did the INS when they were made aware of it. As a result of my November hearing, the INS issued a memorandum requiring that a criminal background check be conducted on all aliens arrested and released on bond or recognizance. That change is important but additional improvements in both policy and practice are necessary.

The manner in which the Border Patrol and INS process aliens arrested between ports of entry remains unacceptable. That is why my second amendment to the Enhanced Border Security and Visa Entry Reform Act requires the Department of Justice to provide the Congress an annual report containing the number of aliens arrested outside ports of entry who were served a notice to appear for a removal hearing and released on recognizance and who failed to attend their removal hearing. It is my hope that once the INS and the Congress comprehend the extent of the problem, we will change the way we process aliens who are arrested at the border while attempting to enter the country illegally.

We are an open and generous country and we welcome people from around the world who share our commitment to hard work, common decency and egalitarian values. But we are also a Nation of laws. And with the privilege of living in America comes an obligation to follow the law. The hearing I held at the Permanent Subcommittee on Investigations highlighted a situation where our immigration laws were simply not being followed. My amendment ensures that Congress is able to track whether or not this situation improves.

Mr. KYL. Madam President, this is a good day for the security of the United States. The terrorist attacks that so changed our nation occurred over seven months ago. Seven months is too long to wait to pass a measure as important, as potentially life-saving, as this one is.

After months of meetings about these issues, it is time to do what is right—to fix our immigration and via-processing systems so that terrorists cannot enter or remain in the United States in violation of our laws.

Congress took an important first step shortly after the terrorist attacks. The USCA PATRIOT Act, signed into law on October 26, 2001, provided us with better tools to fight terrorism. Among other provisions, that bill changed the definition of a terrorist—and, therefore, changed who is inadmissible to the United States. It clarified that the FBI can share information on its terrorist watch-list with other relevant Federal agencies. It provided the Attorney General with additional limited authority to detain would-be terrorists for a limited amount of time.

Our Nation, however, continues to face overwhelming infrastructure and personnel needs at our consular offices aboard, along both our southern and northern borders, in our immigration offices, and throughout other Federal law and intelligence offices throughout the United States.

The Border Security and Visa Entry Reform Act will provide for such resources, for such changes to existing law and infrastructure, the right way. As a result of this bill, resources will be efficiently targeted—funds, for example, will not be sent to the INS without a clear directive that explains to the agency exactly what it is responsible for producing. We have learned that it is only through direct instructions that we will see loopholes closed in our immigration system, our borders secured, intelligence shared appropriately and infrastructure modernized to achieve stated goals. If we do not provide this infrastructure and guidance, I fear that other unthinkable incidents will occur.

Sadly, the real-life terrorist incidents that we suffered gave us too many real-life reasons why this bill is so desperately needed.

In a hearing before the Senate Judiciary Committee's Subcommittee on Terrorism and Technology, Senator FEINSTEIN and I heard some very trenchant testimony from Mary Ryan, Assistant Secretary of State for Consular Affairs, about the gaping holes in the system. Secretary Ryan's statement points to the dire need for better intelligence-gathering and significantly improved intelligence-sharing among all relevant agencies. The Border Security Visa Reform Act will provide for better information-sharing among appropriate agencies.

Surprisingly to some, 18 of the 19 terrorists entered the country using B1/B2 tourist visas. According to State Department statistics, 47 foreign-born individuals, including the 19 terrorists, have been charged, have pled guilty, or have been convicted of involvement in terrorism over the past decade. All 47 had contact with an INS inspector. This, of course, points to the need for more inspectors, as the Border Security bill authorizes, and for better informed inspectors through the sharing of information, which the bill will facilitate as well.

Madam President, the Mohammed Atta case perhaps illustrates what is wrong with the system better than any other. Atta entered the country on a B1/B2 visa that expired at the end of 2000. According to several sources, he was placed on the FBI's watch list 6 weeks before the terrorist attacks but his name was not entered into INS's system. The border-security bill will help by facilitating the real-time sharing of this type of information to relevant Federal law-enforcement and intelligence agencies, including all Federal agents who are responsible for determining the admissibility of aliens to the U.S., and all officers investigating and identifying aliens.

An entry-exit system at our Nation's ports of entry, using biometric identifiers, linked to an interoperable data-sharing system, will go a long way toward ensuring that people like Mohammed Atta are never allowed to enter the country. This system, coupled with the significant increase in interior investigative personnel that this bill makes possible, will better enable authorities to find terrorists if they infiltrate our borders. Information about Atta would have been tapped at a port of entry's entry-exit system. And, three other terrorists among the 19 who overstayed their visas would have been identified at ports of entry as well.

Before his visa expired on December 2, 2000, Atta asked the INS to change his status to that of "student." After that expiration, and even without the information that showed his placement on a watch list, he should not have been allowed to reenter the country. Yet, in January 2001, he arrived back in Miami and, after he was questioned by the INS for an hour, he was admitted back into the United States.

Another terrorist, Hani Hanjour, entered the country in December 2000 on an F1 student visa to study English but he never attended class. The school did not notify authorities that Hanjour never attended class. He overstayed his visa and melted into obscurity in the United States. The Border Security and Visa Reform Act will address both of the loopholes that allowed Hanjour to stay in the country undetected by requiring strict reforms in our student-visa system and, again, by requiring that our entry-exit system employ biometric passports and other travel documents to protect against fraud and to find visa overstayers such as Hanjour.

Madam President, Senators KENNEDY, BROWNBACK, FEINSTEIN, and I have worked hard to craft this bill. The staff of each of those members, Esther Olavarria, Lavita Strickland, and David Neal, should also be personally commended. After Senators KENNEDY and BROWNBACK, and separately Senator FEINSTEIN and I, developed separate counter-terrorism bills, during a difficult time, while offices were closed on Capitol Hill, we all came together to produce the final product we now anticipate will be sent shortly to the President for signature.

This bipartisan, streamlined product, cosponsored by both the chairman and ranking Republican of the Senate Judiciary Committee, and the ranking Republican of the Senate Appropriations Committee, will significantly enhance our ability to keep terrorists out of the United States and find terrorists who are here.

Under the Border Security and Visa Entry Reform Act of 2001, at the direction of the President, all Federal law-enforcement and intelligence communities, the Departments of Transportation, State, Treasury, and all other relevant agencies will develop and implement a comprehensive, interoperable electronic data system for these governmental agencies to find and keep out terrorists. That system should be up and running by October 26, 2003, 2 years after the signing into law of the USA PATRIOT Act.

Under our bill, terrorists will be deprived of the ability to present fake or altered international documents in order to gain entrance, or stay here. Foreign nationals will be provided with new travel documents, using new technology that will include a person's fingerprint(s) or other form of "biometric" identification. These cards will be used by visitors upon entry into and exit from the United States, and will alert authorities immediately if a visa has expired or a red flag is raised by a Federal agency. Under our bill, any foreign passport or other travel document issued after October 26, 2004, will have to contain a biometric component. The deadline for providing a way to compare biometric information presented at the border is also October 26, 2004.

Another provision of the bill will further strengthen the ability of the U.S. Government to prevent terrorists from using our "Visa Waiver Program" to enter the country. Under our bill, the 29 participating Visa Waiver nations will, in addition to the USA PATRIOT Act Visa Waiver reforms, be required to report stolen passport numbers to the State Department; otherwise, a nation is prohibited from participating in the program. In addition, our bill clarifies that the Attorney General must enter stolen passport numbers into the interoperable data system within 72 hours of notification of loss or theft. Until that system is established, the Attorney General must enter that information into any existing data system.

Another section of our bill will make a significant difference in our efforts to stop terrorists from ever entering our country. Passenger manifests on all flights scheduled to come to the United States must be forwarded in real time, and then cleared, by the Immigration and Naturalization Service before the flight's arrival. Our bill also removes a current U.S. requirement that all passengers on flights to the United States be cleared by the INS within 45 minutes of arrival. Clearly, in some circumstances, the INS will need more time to clear all prospective entrants to the U.S. These simple steps will give appropriate officials advance notice of foreigners coming into the country, particularly visitors or immigrants who pose a security threat to the United States.

The Border Security and Visa Entry Reform Act will also improve our lax U.S. foreign student visa program, which has allowed numerous foreigners to enter the country without ever attending classes and, for those who do attend class, with little or no oversight of such students by the Federal Government. Our bill will change that, and will require that the State Department within 4 months, with the concurrence of the INS, maintain a computer database with all relevant information about foreign students.

America is a nation that welcomes international visitors—and should remain so. But terrorists have taken advantage of our system and its openness. Now that we face new threats to our homeland, it is time we restore some balance to our consular and immigration policies.

As former chairman and now ranking Republican of the Judiciary Committee's Terrorism Subcommittee, I have long suggested, and strongly supported, many of the antiterrorism and immigration initiatives now being advocated by Republicans and Democrats alike. In my sadness about the overwhelming and tragic events that took thousands of precious lives, I am resolved to push forward on all fronts to fight against terrorism. That means delivering justice to those who are responsible for the lives lost on September 11, and reorganizing the institutions of government so that the law-abiding can continue to live their lives in freedom.

Madam President, as I said, 7 months is too long a period of time for the American people to wait for action on legislation that will make it tougher for terrorists to infiltrate the United States. I, therefore, urge my colleagues to act quickly to pass this bill. It really could mean the difference between a secure nation and one that continues to be vulnerable to infiltration by those who mean us no good. Time is absolutely of the essence.

Mr. DASCHLE. Madam President, last September—5 days before the terrorist attacks on our Nation—President Vicente Fox delivered an historic address to this Congress on the importance of U.S.-Mexican relations.

On both sides of the political aisle, and on both sides of the U.S.-Mexican border, there was wide agreement that reforming our Nation's outdated immigration laws was an essential step in strengthening the relationship between our two countries.

Then came September 11.

One of the important lessons we learned on that horrific day is that border security is not simply a matter of immigration policy. It's a matter of urgent national security.

In the months since September 11, we have seen that the INS and the FBI lack the tools and resources to effectively track foreign nationals in our country. This includes even individuals with known links to terrorist networks. Not only are we unable to expel people who have violated their visas, very often we can't even find them.

Then last month, we were stunned to learn that the INS had just mailed confirmations of visa extensions to two of the terrorist hijackers responsible for the September 11 attacks.

I am proud to be one of the 61 sponsors of the bipartisan Enhanced Border Security and Visa Entry Reform Act, and I urge my colleagues to vote for it.

This act will strengthen America's border security and improve our ability to track visa holders—including foreign students.

It gives law enforcement agencies new tools and technology to share critical information, and to identify and intercept visitors who threaten our national security.

It also increases staffing and training for border security officers.

I want to thank Senator KENNEDY, the Chairman of the Subcommittee on Immigration, and Senator FEINSTEIN for their leadership. Without their hard work and determined persistence, we would not be here today.

I also thank Senator BYRD for his efforts to improve this bill—and for his invaluable leadership on the larger challenge of strengthening America's homeland security in general.

We all know that authorizing legislation is important. But it takes resources to turn policies into workable laws. No one in Washington has fought harder to protect America from future terrorist attacks than ROBERT C. BYRD. I look forward to working with him to ensure that this and other homeland security measures are given the resources they need to work.

We cannot strengthen America's homeland security on the cheap, and we should not try. We need to do this right.

Just before President Fox's visit last September, Congressman GEPHARDT and I outlined principles for comprehensive immigration reform. Enhanced border security is one of those principles.

Unfortunately, another of our principles—extension of section 245(i) of the immigration code—is not included in this bill.

Section 245(i) would allow immigrants who are in this country, who have applied to become permanent residents and who are contributing to our society, to remain in this country while they wait for their "green card."

Many of these immigrants are married to Americans, and have children who were born in this country. Without Section 245(i), many of them face the impossible choice of leaving their families for up to 10 years, taking their families back with them to a country they may have fled to escape poverty or terror, or breaking the law, thus forgoing the chance to ever become a lawful permanent resident.

The Senate voted to extend section 245(i) last year, the same week President Fox spoke to Congress.

We had hoped and expected that the House would quickly do the same. Instead, it delayed for six months. By the time it finally acted, key deadlines contained in the bill had become unworkable.

I remain strongly committed to a meaningful 245(i) extension—one that gives long-time, tax-paying residents a genuine opportunity to remain in this country—with their families—while they wait to become permanent legal residents.

My colleagues and I look forward to working with Senators LOTT, HAGEL and BROWNBACK and others, on a bipartisan basis, to send President Bush a 245(i) extension bill with realistic deadlines.

America needs an immigration system that is pro-family, pro-business and fair. Together, we can create such a system—one that sacrifices neither our security nor our ideals.

The new border security bill on which we are about to vote, and a meaningful extension of 245(i), are essential parts of such a system.

We also look forward to working with our Republican colleagues, and with the administration, to restructure and strengthen the INS, end the backlogs, provide meaningful access to earned legalization, and reunite families. We look forward to creating a new and better temporary worker program that treats workers with the respect they deserve and provides businesses with the employees they need.

Within hours after the twin towers collapsed, we heard some people say that America should close its doors to immigrants. Some people even said we should force out immigrants who are already here, working and contributing to our society.

People who say such things need to understand that our enemy is not immigrants, it is intolerance and hatred. America is strong not in spite of our diversity, but because of our diversity.

By passing this bill today, we are strengthening not only our border security, but our basic American values. It is the right thing to do, and I thank all of our colleagues who helped get us to this point.

Mr. BROWNBACK. Mr. President, as we are getting this matter wrapped up, I wish to recognize four key staff members who really helped shepherd this bill through. This is important safety legislation.

I, first, recognize Senator KENNEDY's lead staff on this, Esther Olavarria, who is a humble, diligent servant of the State and who does a wonderful job on these sorts of issues. She worked closely with my staff member, David Neal, who is relatively new to the process but has diligently worked to shepherd this legislation on through.

Also, for Senator FEINSTEIN and for Senator KYL, two wonderful staff members who helped make the core nucleus in negotiating this through; Elizabeth Maier and LeVita Strickland are excellent people.

I think at the end of the day when we look to strengthen the borders of this country to protect our people, these four great citizens really dedicated a lot of time and a lot of soul to be able to get this through. I want to note their tremendous activity in this regard.

Mr. BYRD. Mr. President, before we proceed to this series of votes, I would like to make a few remarks concerning the bill.

I believe there is a certain amount of time on the bill. Is there?

The PRESIDING OFFICER. There is time under the control of Senators Kennedy and Brownback.

Mr. KENNEDY. Mr. President, I ask unanimous consent to give whatever time we have remaining to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, in my long career of serving in various and sundry legislative branches, I have from time to time been awarded the honor of being the "legislator of the year" in connection with something. Let me say that as one who has served now in my 50th year in Congress this year, and having served as majority leader in this body during the years 1977, 1978, 1979, and 1980, and again during the years 1987 and 1988, and also having served as minority leader over a period of 6 years, and having served in the leadership in the Senate for 22 years, including my stint as majority whip and my stint as secretary of the Democratic Conference, I have had occasion to note some very successful and outstanding legislators. I would include among the most outstanding of those legislators Senator KENNEDY.

The late Senator Henry Jackson was another one of the outstanding legislators with whom I served. He was responsible for bringing a great deal of legislation to the floor dealing with energy, with the environment, and on various and sundry other matters. He was an outstanding legislator.

Senator KENNEDY is one who has proved to be an outstanding chairman of the committee. I think Senators will agree with me in observing that when Senator KENNEDY comes to the floor with a bill, especially if it is a bill that has been reported by his committee, a committee which he chairs, or by a committee on which he sits, he is always prepared. He has done his homework, and he makes a very forceful expression. He makes a very forceful expression of support of the managers of the amendment thereon. He is a formidable opponent of one who opposes a bill. Senator KENNEDY brings to the floor a formidable opponent of any Senators who offer amendments in opposition thereto. He is a well-rounded legislator in that his experience, and his knowledge of the subject matter of the legislation which he promotes, is, indeed, remarkable. As far as I am concerned, he is an outstanding legislator in the 50 years in which I have served in Congress.

Senator KENNEDY and I have not always been together on matters. We have been opponents in some instances. We have not necessarily, in the early days, held each other in terms of endearment.

But we have passed through those years and in the subsequent years—especially in the years when I served as majority leader, and the first time I served as majority leader in 1977, during those years, and in subsequent years, Senator KENNEDY has been one of my most supportive friends and fellow Senators. And I have counted his support as invaluable, particularly when I was majority leader. As the majority leader or the majority whip, sometimes one looks around and wonders where the troops are. And there are times when we look back over our shoulders and find that the troops are not necessarily there.

But Senator KENNEDY was always very supportive of me. There were times when he perhaps could not vote with me or could not exactly support a particular amendment of mine, but he was always most courteous and most considerate to me.

As we close the debate on this bill, I want to say once more, as I have said before, that Senator KENNEDY is a Senator who could well have graced the Senate at any moment of the Senate's long history, dating back to March 4, 1789. He would have been a worthy protagonist or antagonist, whatever the case might have been. I have learned to respect him and appreciate him as the years have come and gone. I have learned to appreciate him and respect him more and more.

So, Mr. President, I take this occasion to thank Senator KENNEDY for his courtesies during this debate. He invited me to testify before his Immigration Subcommittee last week. He visited my office several times over the last 4 months to listen to my concerns. He has always been very gracious to me, and I thank him for that.

I thank the other proponents of this legislation—Senator BROWNBACK, Senator KYL, and Senator FEINSTEIN. They have all been very fine authors of amendments. In particular, I think with respect to this bill, they have done an excellent job. They have been very kind to me, and they have been considerate. I want to take this occasion to thank them for their work on the bill. No one could be more patriotic than these Senators. No one could pay more attention to their duties in the Senate, their duties to their constituents whom they represent.

This is a bill that may still have some flaws in it. No piece of legislation, I would say, ever passes the Senate that is perfect, but they certainly have done their best in trying to improve it as we have gone along. I thank them all for the courtesies they have extended to me and the support they have expressed for these amendments I have offered.

So let me say, again, that with one of these Senators I have served since November 1962. And Senator KENNEDY well understands my interest in the institution of the Senate. To me, that is why I am here today, because of my interest in this institution and the Constitution. That is why I am here. I did not have to run last time to put bread and butter on my table. I could have retired and probably earned a bigger check in retirement. Since I have been paying into the retirement fund now for 50 years, this year, I could probably have earned a bigger check in retirement than I will have earned as a Senator.

But I am here to defend this institution. That is the only reason I am here. That is the only reason. I could have been better off if I had retired. Perhaps somebody would have had pity on me and asked me to serve on some board, and I could have raked in a little additional money. But that is neither here nor there.

I chose to serve here. This has been my career. I have loved this Senate from the first day I walked into it. And so I am proud to serve in it. The only reason I am here is that I believe in the Senate. I am not here because of any particular legislation. As a matter of fact, I am here because I love the Senate and want to do what I can to preserve the Senate prerogatives.

I believe there are three separate and distinct coordinate branches of Government. I believe that the legislative branch is the branch of the people. I think it is the people's branch. I believe that the Senate is the premier institution, the premier legislative institution—the U.S. Senate—in the world today. And there have been many senates. Perhaps the next greatest of all was the senate of the Roman people.

I am proud the people of West Virginia have seen fit to send me here, and send me back from time to time, and overlooked the warts and all in my makeup, politically and otherwise. But I reverence the Senate, honor it, and respect all Members of the body. It doesn't make a difference whether they are Republicans or Democrats or Independents; I respect them. We may not agree, but they are Senators. They are my equal any day. They are entitled to their viewpoint as much as I am entitled to mine.

So having said that, let me say, far too often Members of this body are willing to give up their right to debate and to amend legislation. I am pleased that at least some public debate has been generated on this bill and that the right of Senators to offer amendments was respected. I think the end product is a better piece of legislation than it was heretofore.

With regard to the amendment I offered on the importation of goods, especially Chinese goods, that are made using forced labor, I, of course, have determined not to press to include that amendment in this bill. But I continue to believe that the Congress needs to pass legislation to prevent goods made in foreign prisons and detention camps from crossing our borders. We also have a responsibility to protect our businesses from this unfair and reprehensible trade practice. I expect to raise the issue again at some point on some bill because much more needs to be done to discourage this blatant violation of our trade laws.

Senators should also be aware that we still do not have a cost estimate of this bill from the Congressional Budget Office. The INS estimates that the bill will cost $1 billion in the first year and $3.2 billion over 3 years, but those estimates likely underestimate the true costs. It is very well to authorize these funds—and I intend to vote for the bill—but this bill will require the appropriation of funds and the support of its proponents, and the support of the administration, for those appropriations if its provisions are to be implemented.

Again, I thank Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL for their interest in improving our Nation's border defenses. I thank them and I love them. I salute them for the work they have done in this respect. I hope we can maintain the bipartisan support we have seen on this bill when it comes time to appropriate the funds necessary to implement these provisions.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from West Virginia. He is my friend. I know I really can speak for all Members in saying he is the defender of all of the constitutional prerogatives of this great institution. We have heard him speak this evening. We have listened to that clear and compelling voice tonight, as we have heard it in defending the institution at other times.

I am wondering if I could ask a special favor of the Senator. He has been extremely kind. But what we have not heard tonight is the poem about the ambulance in the valley. I know it is late in the evening, but could the Senator—if we were to yield the Senator a few more minutes—recite that poem? Or would he prefer to wait for another time? If he would prefer not to, I would certainly understand.

Mr. BYRD. Mr. President, the distinguished Senator honors me by calling on me to repeat the lines of the poem by Joseph Malins titled "A Fence or an Ambulance." I am not sure I am really up to it at this point in the day. I am not sure I can do it on this short notice, but I will certainly try. It will not be the first time I have failed on a poem. Occasionally I do fail.

Let me think for a minute. Perhaps I could do that.

"Twas a dangerous cliff, as they freely confessed,
Though to walk near its crest was so pleasant;
But over its terrible edge there had slipped
A duke and fall many a peasant.
So the people said something would have to be done,
But their projects did not at all tally;
Some said, "Put a fence around the edge of the cliff,"
Some, "An ambulance down in the valley."
But the cry for the ambulance carried the day,
For it spread through the neighboring city;
A fence may be useful or not, it is true,
But each heart became brimful of pity
For those who slipped over that dangerous cliff;
And the dwellers in highway and alley
Gave pounds or gave pence, not to put up a fence,
But an ambulance down in the valley.
"For the cliff is all right, if you're careful," they said,
"And, if folks even slip and are dropping,
It isn't the slipping that hurts them so much,
As the shock down below when they're stopping."
So day after day, as these mishaps occurred,
Quick forth would these rescuers sally
To pick up the victims who fell off the cliff,
With their ambulance down in the valley.
Then an old sage remarked: "It's a marvel to me
That people give far more attention
To repairing results than to stopping the cause,
When they'd much better aim at prevention.
Let us stop at its source all this mischief," cried he,
"Come, neighbors and friends, let us rally;
If the cliff we will fence we might almost dispense
With the ambulance down in the valley."
"Oh, he's a fanatic," the others rejoined,
"Dispense with the ambulance? Never!
He'd dispense with all charities, too, if he could;
No! No! We'll support them forever.
Aren't we picking up folks just as fast as they fall?
And shall this man dictate to us? Shall he?
Why should people of sense stop to put up a fence,
While the ambulance works down in the valley?"
But a sensible few, who are practical too,
Will not bear with such nonsense much longer;
They believe that prevention is better than cure,
And their party will soon be the stronger.
Encourage them then, with your purse, voice, and pen,
And while other philanthropists dally,
They will scorn all pretense and put up a stout fence
On the cliff that hangs over the valley.
Better guide well the young than reclaim them when old,
For the voice of true wisdom is calling,
"To rescue the fallen is good, but 'tis best
To prevent other people from falling."
Better close up the source of temptation and crime
Than deliver from dungeon or galley;
Better put a strong fence round the top of the cliff
Than an ambulance down in the valley."

Mr. KENNEDY. Hear. Hear. I thank the Senator.

Madam President, it is my understanding now that we will proceed to three votes.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator is correct.

Mr. KENNEDY. The order of the votes will be the two amendments of the Senator from West Virginia in the order in which they were offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask unanimous consent that there be no intervening business in between the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I further ask unanimous consent that after the first vote, the remaining two votes be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. So that would include final passage; am I correct?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Nevada.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that following final passage of H.R. 3525, the Senate then proceed to executive session to consider the following nomination: Calendar No. 761, Legrome D. Davis to be United States District Judge; that Senator SPECTER be recognized for up to 5 minutes, and the Senate then vote on the nomination; the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements thereon be printed at the appropriate place in the RECORD, and the Senate return to legislative session, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent to ask for the yeas and nays on that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I ask unanimous consent to address the body for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Madam President, I note a word of thanks to Senator

BYRD. He has dealt with many of us for some period of time on this particular issue in some contentious situations. He has dealt with us privately, publicly, and in other forums. At the end of the day, we do come out with a better piece of legislation. For that I thank the Senator. At the time, going through it, I was not quite as thankful for that.

He has done a service to the country. And at the end of the day, we will have a better piece of legislation. I thank my colleagues, Senators KENNEDY, KYL, and FEINSTEIN. Together we crafted a good piece of legislation. I am thankful to be a part of it. I think it will be a very positive move for our country.

I yield the floor.

VOTE ON AMENDMENT NO. 3161

The PRESIDING OFFICER. Under a previous order, the question is on agreeing to amendment No. 3161. The yeas and nays have been ordered. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—97

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—3

Inouye
Nelson (NE)
Nickles

The amendment (No. 3161) was agreed to.

VOTE ON AMENDMENT NO. 3162

Ms. CANTWELL. The question is on agreeing to amendment No. 3162.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—97

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—3

Inouye
Nelson (NE)
Nickles

The amendment (No. 3162) was agreed to.

Mr. REID. Madam President, on the previous vote, amendment No. 3161, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. On this vote, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator frm Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—97

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—3

Inouye
Nelson (NE)
Nickles

The bill (H.R. 3525), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF LEGROME D. DAVIS, OF PENNSYLVANIA TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session.

The nomination will be stated.

The legislative clerk read the nomination of Legrome D. Davis, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Mr. LEAHY. Madam President, the confirmation of Judge Legrome Davis to the District Court for the Eastern District of Pennsylvania will be the 17th judge confirmed since the beginning of this session. Under Democratic leadership, in less than 4 months the Senate has confirmed as many judges as were confirmed in all 12 months of the 1996 session under Republican leadership. In fact, included among the 17 judges whom we will have confirmed since January this year are 2 judges to our Courts of Appeals. That stands in sharp contrast to the 1996 session in which the Republican majority did not allow even a single Court of Appeals nominee to be confirmed—not one. I submit that we have already done better in less than 4 months than our predecessors and critics did during the entire 12 months of the 1996 session.

The confirmation of Judge Davis today illustrates the progress being made under Democratic leadership and the fair and expeditious way in which we have considered nominees. Judge Legrome Davis was first nominated to the position of U.S. District Court Judge for the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999, President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned to the President on December 15, 2000, after 2 more years of inaction in a second full Congress while the Senate was controlled by a Republican majority. Under Republican leadership, Judge Davis' nomination languished before the Committee for 868 days without a hearing. Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania and to the Third Circuit during the years Republicans controlled the Senate. I want to note emphatically, however, that I know personally that the senior Senator from Pennsylvania, Mr. SPECTER, supported Judge Davis's nomination and worked hard to get him a hearing and a vote. The lack of Senate action on Judge Davis's initial nominations are in no way attributable to a lack of support from the senior Senator from Pennsylvania. Far from it. In fact, I give Senator SPECTER credit for getting President Bush to renominate Judge Davis earlier this year and want to commend him publicly for all he has done to support this nomination from the outset.

This year we have moved expeditiously to consider Judge Davis. Judge Davis was nominated by President Bush in late January 2002, the Committee received his ABA peer review on March 12, he participated in a confirmation hearing the next week on March 19, and he received a unanimous vote by the Judiciary Committee on April 11—less than 3 months after his nomination, and less than 1 month after his paperwork was completed. The saga of Judge Davis recalls for us so many nominees from the period of January 1995 through July 10, 2001, who never received a hearing or a vote and who were the subject of secret anonymous holds by Republicans for reasons that were never explained.

At Judge Davis' recent confirmation hearing Senator SANTORUM testified that Judge Davis did not get a hearing after President Clinton nominated him because local Democrats objected. I was the ranking Democrat on the Judiciary Committee during those years and never heard that before. My understanding at the time, from July 1998 until the end of 2000, was that Judge Legrome Davis would have had the support of every Democrat on the Judiciary Committee and in the Senate. He was not included in the May 2000 hearing for a few other Pennsylvania nominees. His not being included was a part of the discussion on the record, a discussion about unwillingness of some to act on nominees in a presidential election year although Senator SPECTER emphasized his personal commitment to supporting Judge Davis. Senator HATCH never indicated to me that he thought Democratic opposition was the reason he could not include Judge Legrome Davis in a hearing over those 3 years.

Judge Davis has served as a Judge on the Court of Common Pleas in the First Judicial District in Pennsylvania for more than 13 years. Prior to serving as a judge, he had an extensive career litigating criminal cases in State courts. He has participated in numerous task forces and a variety of pro bono projects aimed to improve the judicial system. He is well-qualified and has broad bipartisan support. I know that Judge Davis and his family are glad that this day has finally arrived. I expect that the people served by the Eastern District of Pennsylvania will be happy with the Senate's action today.

Judge Davis will be the 45th judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Senate majority changed. With today's vote on Judge Davis, the Senate will confirm its 45th judicial nominee in the less than 10 months since I became Chairman this past summer. The Senate has confirmed more judges in the last 10 months than were confirmed in 4 out of 6 full years under Republican leadership. The number of judicial confirmations over these past 10 months 45 exceeds the number confirmed during all 12 months of 2000, 1999, 1997 and 1996.

As our action today demonstrates, again, we are moving at a fast pace to fill judicial vacancies with nominees who have strong bipartisan support. Those partisan critics who assert that our rate of confirming President Bush's judicial nominees is bad are ignoring the facts. They willfully confuse the actual "pace," or rate, of confirmation with the misleading percentages they like to construct. The facts are that looking at the number of confirmations in similar time periods shows that we are confirming President Bush's nominees at a faster pace than the nominees of prior presidents, including those who worked closely with a Senate majority of the same political party.

The rate of confirmation in the past 10 months actually exceeds the rates of confirmation in the past three presidencies. For example, in the first 15 months of the Clinton administration, 46 judicial nominees were confirmed, a pace on average of 3.1 per month. In the first 15 months of the first Bush administration, 27 judges were confirmed at a pace of 1.8 judges per month. Likewise, in President Reagan's first 15 months in office, 54 judges were confirmed, a pace of 3.6 per month. In less than 10 months since the shift to a Democratic majority in the Senate in less than two thirds of the time period—President George W. Bush's judicial nominees have been confirmed at a rate of more than 4.5 judges per month, a faster pace than for any of the past 3 Presidents.

During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past 10 months in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path. At the end of today, we have confirmed 45 judicial nominees in just 10 months. This is almost twice as many confirmations as George W. Bush's father had over a longer period—27 nominees in 15—months than the period we have been in the majority in the Senate.

The Republican critics typically compare apples to oranges to mischaracterize the achievements of the last 10 months. They complain that we have not done 24 months of work in the less than 10 months we have been in the majority. That is an unfair complaint. A fair examination of the rate of confirmation shows that Democrats are working harder and faster on judicial nominees, confirming judges at a faster pace than the rates of the past 20 years. The double standards asserted by Republican critics are just plain wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority. I would like to commend the members of the Judiciary Committee and our Majority Leader and Assistant Majority Leader for all of their hard work in getting us to this point. The confirmation of the 45th judge in less than 10 months, especially these last 10 months, in spite of the unfair and personal criticism to which they have each been subjected, is an extraordinary achievement and a real example of Senators acting in a bipartisan way even when the other side makes it as difficult as possible.

Republicans have been imposing a double standard on circuit court vacancies as well. The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the Courts of Appeals. Well, the Democratic majority in the Senate has more than kept up with attrition, and we have been acting to close the vacancies gap on the Courts of Appeals that more than doubled under the Republican majority.

Just this week, the Senate confirmed Judge Terrence O'Brien to the United States Court of Appeals for the Tenth Circuit by a vote of 98 to zero. His confirmation was the eighth circuit court nominee to be confirmed in the almost 10 months since I became Chairman this past summer. Just today, the Senate Judiciary Committee voted on the 11th Court of Appeals nominee to come before the Committee in less than 10 months. Thus, another Court of Appeals nominee is already on the Senate Executive Calendar and being scheduled for floor action.

In a little less than 10 months since the change in majority, the Senate has confirmed 8 judges to the Courts of Appeals and held hearings on 3 others. In contrast, the Republican-controlled majority averaged only 7 confirmations to the Courts of Appeals per year. Seven. In the less than 10 months the Democrats have been in the majority, we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors. The Senate in the last 10 months has confirmed as many Court of Appeals judges as were confirmed in all of 2000 and more than were confirmed in 1997 or 1999, and 8 more than the zero from 1996. Another way to put it is that within the last 10 months, the Democratic majority in the Senate has confirmed as many Court of Appeals judges as were confirmed in the 2000 and 1996 sessions combined and confirmed more Court of Appeals judges than were confirmed in the 1999 and 1996 sessions combined or in the 1997 and 1996 sessions combined.

The Republican majority assumed control of judicial confirmations in January 1995 and did not allow the Judiciary Committee to be reorganized after the shift in majority last summer until July 10, 2001. During that period from 1995 through July 10, 2001, vacancies on the Courts of Appeals increased from 16 to 33, more than doubling.

When I became chairman of a Committee to which Members were finally assigned on July 10, we began with 33 Courts of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, 5 additional vacancies have arisen on the Courts of Appeals around the country. With this week's confirmation of Judge O'Brien, we have reduced the number of circuit court vacancies to 30. That is, we have kept up with attrition by confirming 5 Court of Appeals judges and then acted to lower the number of vacancies by already confirming 3 additional judges. Those are the facts.

Since our Republican critics are so fond of using percentages, I will say that we will have now reduced the vacancies on the Courts of Appeals by almost 10 percent in the last 10 months. In other words, by confirming 3 more nominees than the 5 required to keep up with the pace of attrition, we have not just matched the rate of attrition, but surpassed it by 60 percent. I add this facetiously to show how ridiculous their use of percentages is in this setting.

Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there are now 30 vacancies—that is more than keeping up with the attrition on the Circuit Courts. Republican critics unfairly seek to attribute to the Democratic majority the lack of action by the Republican majority before the historic change last summer.

While the Republican Senate majority increased vacancies on the Courts of Appeals by over 100 percent, it has taken the Democratic majority less than 10 months to reverse that trend, keep up with extraordinary turnover and, in addition, reduce circuit court vacancies overall. This is progress. Rather than having the circuit vacancy numbers skyrocketing, as they did overall during the prior 6½ years—more than doubling from 16 to 33—the Democratic-led Senate has reversed that trend. The vacancies numbers are moving in the right direction—down.

It is not possible to repair the damage caused by longstanding vacancies in several circuits overnight, but we are improving the conditions in the 5th, 10th and 8th Circuits, in particular. The confirmation of Judge O'Brien this week made the second judge confirmed to the 10th Circuit in the last 4 months. Next week we will proceed with a nominee to the 6th Circuit.

Overall, in little less than 10 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a Committee hearing and Committee vote from the Republican majority, which perpetuated longstanding vacancies into this year. Vacancies continue to exist on the Courts of Appeals in large part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000, and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

Despite the new-found concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate in the 107th Congress last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of circuit and district vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate, and held that hearing on the day after the Committee was assigned new members.

That initial hearing included a Court of Appeals nominee on whom the Republican majority had refused to hold a hearing the year before. We held unprecedented hearings for judicial nominees during the August recess. Those hearings included a Court of Appeals nominee who had been a Republican staff member of the Senate. We proceeded with a hearing the day after the first anthrax letter arrived at the Senate. That hearing included a Court of Appeals nominee. In a little less than 10 tumultuous months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations—including 11 circuit court nominees—and we are planning to hold another hearing next week for half a dozen more nominees, including another Court of Appeals nominee. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. The Republican majority never held 16 judicial confirmation hearings in 12 months and we have to do so in less than 10 months.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in Committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny Committee consideration of judicial nominees. We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope to hold additional hearings and make additional progress on judicial nominees. In our efforts to address the number of vacancies on the circuit and district courts we inherited from the Republicans, the Committee has focused on consensus nominees for all Senators. In order to respond to what Vice President CHENEY and Senator HATCH now call a vacancy crisis, the Committee has focused on consensus nominees. This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our nation.

The Committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senator GRASSLEY, Senator LOTT, Senator SPECTER, Senator ENZI and Senator SMITH from New Hampshire—five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May 2001. Next week's hearing will continue that effort and include a Court of Appeals nominee from Tennessee at the request of Senator THOMPSON.

Each of the 45 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the Committee. Only Judge Roger Gregory has had a single vote cast against his confirmation in all of the Senate votes on all of these nominees. The confirmation of Judge Davis is the 45th judicial nominee to be confirmed since I became Chairman last July. Like Judge Roger Gregory, this is the confirmation of a qualified nominee who could not get a hearing when the Republican majority controlled the Senate. I had hoped that at the end of the day, justice would be done. I am glad that this is that day, and that at the end of today Judge Davis will also have been considered and confirmed. These consensus nominees could and should have been acted upon before this year. I thank Judge Davis for his commitment and patience, and congratulate him and his family on this important day.

Mr. HATCH. Madam President, I rise in support of the confirmation of Judge Legrome Davis to the U.S. District Court for the Eastern District of Pennsylvania.

Judge Davis' nomination is yet another example of President Bush's bipartisan approach to judicial nominations. This is the second time, Judge Roger Gregory being the first, that this administration has renominated a candidate who was originally nominated by the previous adminstraiton. It is a rarity for a new adminstration to renominate a previous administration's judicial nominees, especially when the two administrations are of different parties. Clearly, the President is leading by example when he calls upon the Senate to rise above petty partisanship and provide fair hearings and prompt votes to every judicial nominee regardless of what party controls the White House or the Senate.

I have had the pleasure of reviewing Judge Davis' distinguished legal career, and I have come to the conclusion that he is a fine Pennsylvania State judge who will only add to the distinguished Federal bench in the Eastern District of Pennsylvania.

Judge Davis graduated from Princeton University and Rutgers-Camden School of Law. After graduation, he joined the Office of the District Attorney of Philadelphia as an Assistant District Attorney in the Law and Trial Divisions. Eventually, he rose to become Assistant Chief of Narcotics and then Chief of the Rape Unit.

One of the many examples of his fine character revolves around a defendant's rape conviction before Judge Davis led the D.A.'s Rape Unit. Upon examination of new evidence, it became clear that the alleged victim, in the case, suffered from paranoid schizophrenia and had hallucinated the criminal episode. The investigation that freed the defendant was conducted by Davis.

His record of rulings before the appellate courts is equally as impressive. Judge Davis has filed approximately 150 cases, of which only 3 were overturned on appeal—and the Pennsylvania Supreme Court reinstated his decision in one of those cases.

Judge Davis has been a champion in reforming the Philadelphia court system. He helped author and was an early proponent of Philadelphia's differentiated case management system. This system, which groups defendants with similar case dispositions into one of four "tracks," has resulted in a 47 percent reduction in the Felony-Waiver Unit's pending inventory.

I am very pleased that we will confirm Judge Davis today.

Mr. SPECTER. Madam President, in January 2002, Judge Legrome Davis was nominated by President Bush to serve on the United States District Court, Eastern District of Pennsylvania.

The American Bar Association rated Judge Davis as well-qualified for a judgeship on the United States District Court for the Eastern District of Pennsylvania.

Judge Davis presently serves on the Court of the Common Pleas of Philadelphia County, a position he has held since 1987.

From 1992 until January 2001, Judge Davis served as the Supervising Judge of the Criminal Division, with principal responsibility for all issues of policy, planning and administration involving criminal case processing.

During his tenure as Supervising Judge, numerous city, state and federal funding authorities awarded the First Judicial District more than nineteen million dollars to support supervisory endeavors for defendants developed by Judge Davis and administered under his direction.

He is the Coordinator of the Female Offenders' Criminal Justice Treatment Network, a collaborative project linking the criminal justice and treatment communities in addressing the complex and special challenges of women in the criminal justice system.

Judge Davis was integral in conceptualizing and implementing the court reforms which were integral to the suspension of the federal prison cap in 1995.

Previously he worked for Ballard, Spahr, Ingersoll & Andrews, and the Office of the General Counsel of the University of Pennsylvania. He was also an Assistant District Attorney for nine years, serving in the Homicide, Narcotics, and Career Criminal Units, and was the Chief of the Rape Prosecution Unit when he left office to seek a state court judgeship.

He has been honored by the Pennsylvania Trial Judges Association "Golden Crowbar" Award, the Philadelphia Common Pleas Court Board of Judges Exceptional Service Award, the Philadelphia Bar Association; Thurgood Marshall Award, the Philadelphia Coalition for Victim Advocacy; Victim Advocacy Award and the Fraternal Order of Police Honorary Lifetime Membership—Lodge 92.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, if I could announce to colleagues, this is the last vote tonight. There will not be any votes tomorrow. The Senate will not be in session tomorrow, and there will be no rollcall votes on Monday. The next rollcall vote will occur sometime Tuesday morning.

I thank my colleagues. Have a good evening and a good weekend.

I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Legrome D. Davis, to be United States District Judge for the Eastern District of Pennsylvania? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES), the Senator from Missouri (Mr. BOND), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 76 Ex.]

YEAS—94

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—6

Bond
Boxer
Inouye
Nelson (NE)
Nickles
Roberts

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

The majority leader.

WISHING MARY JANE OGILVIE A FULL RECOVERY

Mr. DASCHLE. Madam President, I wanted to come to the floor before the end of the day to alert our colleagues on a matter about which I know they would all be concerned. Mary Jane Ogilvie, wife of our Chaplain, a very treasured member of our Senate family, is battling bacterial pneumonia this week. She is in an area hospital and in serious but stable condition.

Dr. Ogilvie and his children are, of course, with her as they have been throughout this ordeal. Dr. Ogilvie has been our Chaplain now for 7 years, since 1995, and over the years he has been the source of real strength for many of us in times of sorrow, in times of difficulty. Especially these last difficult months, we have relied on his wise and compassionate counsel over and over again. Now it is our turn to be the source of strength for him, for Mrs. Ogilvie, and for their family.

The Chaplain's Office asked that we not send flowers because they are not permitted in intensive care, but if you believe in prayer, they say, please pray for Mrs. Ogilvie. We will certainly do so.

We want to extend—I know on behalf of all Senators, Republican and Democratic—our sincere best wishes for a complete and full recovery. We wish her strength, and we want her to know that our thoughts and prayers are with her tonight and will continue to be with her until she returns to good health.

I just talked to Dr. Ogilvie this afternoon. He has informed me that the prognosis is improving. We hope that that will be the case throughout the weekend. We wanted to make note of this at this time.

I know my colleague, the distinguished Republican leader, has also had a conversation with Dr. Ogilvie, and to accommodate his words at this time, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. I thank Senator DASCHLE for making our colleagues and those who follow the situation in the Senate aware of the struggle our Chaplain is going through now. He has been a chaplain and a minister for all of us.

As Senator DASCHLE said, each one of us has had moments of difficulty over the past 7 years. He is always there. Just recently, when my wife lost her father, she didn't get to talk to Dr. Ogilvie, but he left a message on the recorder. It was like a message from heaven, just magnificent; so meaningful, my wife saved it and listened to it more than once.

So at this time when our Chaplain is facing difficulty, certainly we need him to know of our thoughts and our prayers. When I spoke to him, I told him that I believe in miracles and that his wife can pull through this and rejoin the Senate family.

Mary Jane is very much a part of the family. She attends events; she goes with our Chaplain so many places. She is his helpmate. As I spoke with him a few minutes ago, I could just feel it in his voice; he is just really so worried.

I join Senator DASCHLE and all of the Senate in extending to them our love and our thoughts and prayers. We look forward to continuing to follow her improvements. We have the Senate physician, Dr. Frist, on the job. He is keeping us posted of how she is doing. We will be thinking about them over the next weekend and look forward to them being back in full form and with us on all these many occasions at which we enjoy their presence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. BAUCUS. What is the business of the Senate?

The PRESIDING OFFICER. S. 517 is the pending business.

Mr. BAUCUS. Madam President, I ask unanimous consent that there be a time limitation of 1 hour equally divided between myself and Senator GRASSLEY for debate on the Finance Committee energy tax amendment; that no amendments be in order to my amendment except a second-degree amendment by Senator GRASSLEY; that at the conclusion or yielding back of the time, the Senate vote in relation to Senator GRASSLEY's second-degree amendment and to my Finance Committee amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, I supported this tax section that Senator BAUCUS is trying to add to the energy bill at this time when we had it in the Finance Committee. Obviously, there are some things in there that I would prefer not be in there. But we had an overwhelming vote out of the Finance Committee in support of this package.

An energy policy that does not include a tax section is not a complete policy. We have to have some incentives for these hybrid cell vehicles and to try to get marginal wells back in production, to encourage biomass, to do everything we can, along with the policy that is included in this bill, to also encourage more energy production and more energy conservation through the Tax Code.

I support this. I will be glad to work with Senator BAUCUS to see that we get it included in the Senate package or certainly in the conference when a conference is completed. We have to do that.

But at this time, we do have an objection from our side of the aisle. And on behalf of a Senator who has a tax provision in which he is very interested, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Montana.

Mr. BAUCUS. Madam President, I hear the distinguished Senator from Mississippi. I very much understand the reasons for his objection. I deeply appreciate his statement in support of the Finance Committee title that we hope to offer to this bill.

The provisions in the Finance Committee title total roughly $15 to $16 billion over 10 years. The Senate hopefully will pass the Senate-passed version of tax incentives. It will be incentives for production, conventional production, renewables, unconventional production, for conservation. The House passed a tax title to their energy bill which totals about $30 billion.

I fully agree with the distinguished Senator that the Finance Committee provisions, which will help wean us away from OPEC by providing incentives on matters that I suggested, are vitally important. And I hope—in fact, I expect—that the Senate, before it passes an energy bill, will also include these provisions because they are such an integral and vital part of the bill.

I thank all concerned, particularly my good friend from Mississippi.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized.

CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle/Bingaman substitute amendment No. 2917 for Calendar No. 65, S. 517, a bill to authorize funding for the Department of Energy, and for other purposes:

Jeff Bingaman, Jean Carnahan, Edward Kennedy, Patty Murray, Mary Landrieu, Byron L. Dorgan, Robert Torricelli, Bill Nelson, John Breaux, Tom Carper, Tim Johnson, Hillary R. Clinton, Jon Corzine, John Rockefeller, Daniel Inouye, Max Baucus, Harry Reid, and Maria Cantwell.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF LABOR'S ERGONOMICS ANNOUNCEMENT

Mr. DASCHLE. Madam President, since President Bush signed into law a provision to overturn the ergonomics rule, over 1.8 million workers have suffered ergonomic injuries. At that time Secretary Chao promised "to pursue a comprehensive approach to ergonomics." However, now more than a year later, the Department of Labor has unveiled a plan that ultimately falls short of the substantive protections needed to protect America's workers.

In response, Senator JOHN BREAUX and others have introduced a bill that would require that the Department of Labor promulgate a new rule on ergonomics within 2 years.

I am deeply concerned that the administration continues to build on its record of putting special interests above working Americans. I believe that Senator BREAUX's bill is an important measure that clarifies that workers deserve real protections, not more studies and voluntary guidelines.

Unfortunately, the administration's late announcement fails to provide workers adequate protections. The administration's plan states an "intent" to develop voluntary guidelines for selected industries. Senator BREAUX's bill will ensure that the administration provides real protections and not hollow promises.

STATUS OF JUDICIAL CONFIRMATIONS

Mr. HATCH. Madam President, I would like to respond to some comments made yesterday on the topic of judicial confirmations. I had no intention of bringing up this topic today, but now I find myself with no choice but to again set the record straight with respect to the comments my colleague made earlier yesterday.

First, I would like to put my remarks in context. I began this Session of the 107th Congress by praising the way that Chairman LEAHY and the Senate's Democratic leader had begun to handle judicial nominations. One of the reasons I did so was that I had detected the possibility that the Judiciary Committee may be headed in a new direction as we began a new Session. I sensed a chance that, after more than eight months of Democratic control, the leaders might stop steering their course by staring at the rear-view mirror, and would begin to look forward through the windshield at the work ahead. I thought that they might begin to sense the American people's frustration at the Senate's stonewalling of President Bush's priorities—especially his selections for the judiciary. Obviously, now that we are in the eleventh month of Democratic control, my optimism has become tarnished not only by the continuing extremely slow pace of confirmations and the blatant mistreatment of Judge Pickering, but also by the kind of comments we heard this morning that actually attempt to persuade the American people that the Senate's record is acceptable.

I want to correct a couple distortions of the record and explain what is really going on in the Judiciary Committee.

My colleague began his comments with the assertion that the Democrats have only been in charge of the Judiciary Committee since the end of July rather than the beginning of June—which somehow adds up to 9 months. This particular exercise in make believe is apparently very important for some of my colleagues to repeat over and over. But the fact is—as everyone in the Senate knows—that Democrats took charge of the Senate on June 5, not at the end of July. Considering that it is now the middle of April, we are now in the eleventh month of Democratic control.

Why is this important? Playing make-believe that the month of June didn't exist last year helps some of my colleagues explain away the fact that they failed to hold any confirmation hearings during that entire month. There is no basis for the underlying assertion that the lack of an organizational resolution prevented the Judiciary Committee from doing so. It certainly didn't stop 9 other Senate Committees from holding 16 confirmation hearings for 44 nominees during that same month. And it did not prevent the Judiciary Committee from holding five hearings in three weeks on a variety of issues other than pending nominations.

Of course, the month-of-June distortion is simply part of the larger charade of pretending that the current judicial vacancy crisis has less to do with the last 11 months of foot dragging than with the Committee's work between the years 1994 and 2000. The fact is that, at the close of the 106th Congress, there were only 67 vacancies in the federal judiciary. In the space of one Democratic-controlled congressional session last year, that number shot up to nearly 100, where it remains today. The broader picture shows that the Senate confirmed essentially the same number of judges for President

Clinton (377) as it did for President Reagan (382), which proves bipartisan fairness—especially when you consider that both Presidents has six years of Republican control in the Senate.

So, how did we go from 67 vacancies at the end of the Clinton Administration to nearly 100 today? There can be only one answer: The current pace of hearings and confirmations is simply not keeping up with the increase in vacancies. We are moving so slowly that we are making no forward progress. President Bush nominated 66 highly qualified individuals to fill judicial vacancies last year. But in the first four months of Democratic control of the Senate last year, only 6 federal judges were confirmed. At several hearings, the Judiciary Committee considered only one or two judges at a time. The Committee voted on only 6 of 29 circuit court nominees in 2001, a rate of 21%, leaving 23 of them without any action at all. In fact, eight of the first eleven judges that President Bush nominated on May 9 of last year still have not had a hearing—despite being pending for 344 days as of today.

It is time for this Senate to examine the real situation in the Judiciary Committee, rather than listen to more inventive ways of distorting it. We have lots of work to do. There are 96 vacancies in the Federal judiciary—a vacancy rate of more than 11.2 percent—and we have 53 nominees pending—plus 4 nominees for the Court of Federal Claims. Twenty of the pending nominees are for circuit court positions, yet the Senate has confirmed only 2 circuit judges this session. This is despite a crisis of 30 vacancies pending in the circuit courts nationwide—virtually the same number of vacancies pending when the Democrats took control of the Senate in June of last year.

These numbers beg the question: If the Judiciary Committee is not making any progress on the judicial vacancy crisis, What is happening in the Judiciary Committee? What is the Committee doing in lieu of confirming President Bush's nominees?

Well, the judicial confirmation process appears to be falling into the hands of some extreme-left special-interest groups whose political purposes are served by launching invidious attacks on the good people President Bush has nominated to serve as judges.

We all know too well what happened to Judge Pickering, who was a decent, honorable man who is clearly qualified to be a judge on the Fifth Circuit Court of Appeals. So I won't recount that very unfortunate situation. But I would like to warn everyone that the stoves of the special interest groups are readying to boil up an attack on Judge Brooks Smith of Pennsylvania who had a hearing nearly two months ago but still has had no vote in the Judiciary Committee.

If you are waiting to hear that some profound issue has been raised about a complicated or important legal issue, I am sorry to disappoint you. The fact is that Judge Smith has a very distinguished record as a Federal judge for nearly 14 years, and no one has questioned his ability or competence. So what is the great issue that may well be endangering his nomination—you might ask? Well, believe it or not, some are trying to make hay out of the fact that Judge Smith used to be a member of a small family-oriented fishing club—like hundreds that exist from Vermont to Wisconsin to North Carolina to Utah, that happens to limit membership to men.

Let me note at the outset that Judge Smith's nomination is supported by the Women's Bar Association of Western Pennsylvania and the local Domestic Violence Board in Pennsylvania. The people who know him best are the ones who support him the most.

It is also important to recognize that the Judiciary Committee, in 1990, and the Judicial Conference, in 1992, each made clear that Judges or nominees can belong to single-gender clubs so long as the club exhibits certain attributes of privacy first articulated by Justice William Brennan for the Supreme Court in *Roberts v. Jaycees*.

In *Roberts*, Justice Brennan—the great liberal patriarch of American jurisprudence—first articulated the right of intimate association in furtherance of the Freedom of Association recognized by the Supreme Court in *NAACP v. Alabama* as an extension of First Amendment speech. Such intimate association, Justice Brennan said, must be protected "as a fundamental element of personal liberty," and "choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion . . . because of the role of such relationships in safeguarding the individual freedom central to our constitutional scheme." The Court went on to describe the attributes of such intimate associations as "relative smallness . . . a high degree of selectivity in decisions to begin and maintain the affiliation, and seclusion from others in critical aspects of the relationship."

I should note that the club that Judge Smith belonged to has only 115 members.

I for one, stand by the American people's Freedom of Association as defined by the Supreme Court. As Justice Thurgood Marshall pointed out, the ability to associate as we see fit is part of what makes this country great, and a freedom we honor. And I hope we can all recognize that Judges, or people who might want to be Judges someday, should be just as free as anyone else to exercise that right. There is no point to turning the nomination of Judge Smith into a referendum on the Freedom of Association. And there is certainly no sympathy among the American electorate to turn yet another of President Bush's judicial nominees into a mere single-issue caricature when Judge Smith has an outstanding record of service to our country.

I am very concerned that any further delay of Judge Smith's confirmation will lead to even more cynicism about the Senate in the minds of the American people. The voters who have watched the Judiciary Committee during the past eleven months already know that the vacancy crisis is not tit for tat or mere payback for anything that happened in the past. The voters know that the Democratic leadership has plunged into truly uncharted territory, holding up an absolutely unprecedented percentage of President Bush's nominees and, in the process, allowing leftist special interest groups to smear decent and accomplished public servants in order to serve highly partisan political aims.

There is no better way to understand the extreme partisanship of these powerful leftist groups than to look at the irony in their call for "diversity" on the circuit courts of appeal. I of course agree with having a diverse judiciary, but I do not believe that these groups mean what they say.

Let's look at judicial diversity. Right now, over 50 percent of the active federal judges in America were appointed by President Clinton. The best way to ensure diversity on the bench is for the Senate to confirm more Bush nominees who will enforce existing law and leave lawmaking to the people's elected representatives, including the President's nominees from Minority groups.

But I fear that nominees like Miguel Estrada, whom the President has nominated to be the first Hispanic to sit on the second most prestigious court in the land, are not getting a fair shake because out-of-the-mainstream liberal groups show increasing intolerance to Hispanics and African-Americans who don't subscribe to the left-of-mainstream ideology. The intolerance is not because of race, but because many liberals will not give the time of day to any minority or woman who have become accomplished in any field other than liberal activism. I fear that the Liberals are seriously thinking about shutting the door to our Courts of Appeal to any Hispanic, African-American or woman who does not toe the line of the radical, left-of center special interest groups. That would be a great tragedy for our country. I would be an end to the very diversity that is the strength of America and its judicial system.

We cannot allow outside groups to impede progress. In fact, what we need is to approve more circuit judges at a faster pace to address the vacancy crisis in the federal appellate courts. The Sixth Circuit is presently functioning at a 50 percent capacity. Eight of that court's 16 seats are vacant. President Bush has nominated 7 well qualified individuals to fill the vacancies on that court. Two of those nominees, Deborah Cook and Jeffrey Sutton, have been pending since May 9 of last year—344 days of inaction. They have languished in Committee without so much as a hearing while the Sixth Circuit functions at 50 percent capacity. Another appellate court that is in trouble is the D.C. Circuit, which is missing one-third of its judges: It has only 8 of its 12 seats filled. President Bush nominated two exceedingly well qualified individuals to fill seats on the D.C. Circuit on May 9 of last year. Those individuals, Miguel Estrada and John Roberts, are among the most well respected appellate lawyers in the country. Yet the Judiciary Committee has not granted them a hearing, much less a vote.

Part of the problem is a decision by the Committee not to consider more than one circuit judge per hearing. In fact, the Committee has not moved more that one circuit judge per hearing during the entire time the Democrats have had control of the Senate. When I was Chairman, I had 10 hearings with more than one circuit nominee on the agenda. If we are going to get serious about filling circuit vacancies, then I encourage my Democratic colleagues to move more than one circuit nominee per hearing.

The bottom line of all this is that America is facing a real crisis facing its federal judiciary, especially the circuit courts of appeals, due to the nearly 100 vacancies that plague it. The Judiciary Committee has decided not to make any progress toward remedying this situation. Instead, it is pouring its energy into creative accounting and make believe. But the American people are sick of the charades and are disgusted by the personal destruction for partisan purposes. They want the Senate to help—not hinder—President Bush. I urge my friends across the aisle to focus on this situation, to step up the pace of hearings and votes, to resist the powerful leftists who are the enemies of the independent judiciary, and to do what's right for the country.

HOMESTEAD EXEMPTION TO THE BANKRUPTCY BILL

Mr. KOHL. Madam President, the bankruptcy conference will meet on Tuesday to discuss and attempt to resolve the remaining differences between the House and Senate versions of the bill.

One of those issues is the Senate provision that addresses the single most offensive abuse in the bankruptcy system, the homestead exemption. As we all know, the homestead exemption allows debtors in five privileged States to declare bankruptcy but still shield unlimited millions of dollars in their homes from their creditors.

With every year that passes, we learn of new cases where scoundrels have declared bankruptcy in States like Florida and Texas but have continued to live like kings in multi-million dollar mansions.

Just 2 weeks ago, the New York Times ran a story on former Enron executives like Ken Lay and Andrew Fastow who are doing some bankruptcy planning of their own. They are selling numerous properties around the country worth millions of dollars, but retaining—or in some cases even building—luxury homes in Texas or Florida. Using the homestead exemption, Lay will be able to retain his $7.1 million condominium in the finest apartment building in Houston and Fastow will keep his multi-million dollar mansion currently under construction. They will be able to enjoy their mansions, even if they declare bankruptcy, as their former employees struggle to find a new paycheck or to cover the rent.

Last year, it was Paul Bilzerian—a convicted felon—who tried to wipe out $140 million in debts and all the while held on to his 37,000 square foot Florida mansion worth over $5 million—with its 10 bedrooms, two libraries, double gourmet kitchen, racquetball court, indoor basketball court, movie theater, full weight and exercise rooms, and swimming pool.

The Bankruptcy Conference has a real chance to put an end to this now. The Senate has repeatedly—year after year—voted overwhelmingly in favor of a provision that would put a hard cap on the amount of home equity that a debtor can retain even after bankruptcy. The Senate should insist on a real and meaningful solution to this problem.

But so far, the only compromises we have been offered are road maps that show debtors how to circumvent the law. We have been told that we can only impose a residency requirement of two and a half years

This will not do. First, it does nothing to stop lifelong residents of Texas or Florida. Ken Lay has lived there most of his life. So has Andrew Fastow. They get away scot free under this proposal. Second, most bankruptcy attorneys will tell you that anyone rich enough can plan 2 to 3 years in advance.

In the spirit of compromise, we have agreed to raise the homestead cap to $175,000—a figure that far exceeds the average amount of equity a Houston homeowner has in their house. So, the average homeowner will not be affected at all by this provision, only the extraordinarily wealthy debtor. And even now, we remain open to effective and practical proposals aimed at solving this inequity.

Yet, we may not have an opportunity to reach that compromise. Instead, those that want the bill so badly that they are willing to legislate unfairness into the bankruptcy code are trying to get their way.

We should remember that one of the central principles of the bankruptcy bill is that people who can pay part of their debts should be required to do so. But the call to reform rings hollow when the proposal creates an elaborate, taxpayer-funded system to squeeze an extra $100 a month out of middle-class debtors but allows people like Burt Reynolds to declare bankruptcy, wipe out $8 million in debt, and still hold on to a $2.5 million Florida mansion.

To put it another way, political expediency may well trump fairness. The rich will be able to pour millions of dollars into the value of their Florida home, their Texas ranch, or their unimproved plot of land secure in the knowledge that their creditors will never be able to touch it. Yet, the average debtor will lose their house and most of their personal possessions as they try to repay their debts.

We have made historic changes to the bankruptcy code, but have chosen not to remedy the worst abuse of them all. We can only hope that between now and the conference committee's meeting on Tuesday, the parties to this deal will have a change of heart.

ADDITIONAL STATEMENTS

TRIBUTE TO JAMES GRIMMER

• Mr. SHELBY. Mr. President, today I pay tribute to James B. Grimmer, a business pioneer in Birmingham, AL, and a dedicated community leader and family man. He was responsible for developing over thirty shopping centers throughout the Southeast, which helped to spur business and economic development in the region. Mr. Grimmer died in Birmingham on March 12 at the age of 81. I would like to take a few moments to reflect on the life of a man who brought opportunity to many in the Southeast and lived a life committed to family, friends and community.

James Grimmer was born on March 23, 1920 and raised in East Lake, AL. He attended Ramsay High School and graduated from Woodlawn High in Birmingham. Upon finishing high school and unable to join the armed forces due to age restrictions, James joined the Royal Canadian Air Force in 1937 before he turned eighteen. However, with America's imminent entrance into World War II, James dutifully returned to the United States to serve in the U.S. Army Air Corps. He eventually retired from the military as a Lt. Colonel in the U.S. Air Force.

After the war, James embarked on a long and stellar career in real estate development. In 1955, he joined the firm of Moulton, Allen & Williams. It was with this firm that he developed the Eastwood Mall, which was the Southeast's first enclosed mall. It had such a positive impact on the community that other developers soon followed James' lead and established numerous shopping centers in the Birmingham area. This led to new jobs, economic growth and was instrumental in Birmingham's expansion during the fifties and sixties. In 1962, James decided to build on his success and founded the Grimmer Realty Company. With his new independence, James went on to develop numerous other malls, including: the Western Hills Mall, the Montgomery Mall, Quintard Mall in Oxford, AL, and Jackson Mall in Jackson, MS. In fact, James Grimmer developed over eight and a half million square feet of retail space throughout the Southeast.

James was also closely involved with the Birmingham community and had close ties to real estate developers around the nation. He enjoyed scouting, golfing and fishing with family and friends, and was a member of the Independent Presbyterian Church. He was a member of the International Council of Shopping Centers, The Club, Summit Club; Vestavia Country Club and the New York Real Estate Board.

It is with sincere respect that I pay tribute to James Grimmer. He will be remembered as a pioneering businessman not only in the Birmingham community but the entire Southeastern region. He will be missed by the community as well as by his many close friends and relatives. My thoughts and prayers extend to his wife, Rose, children., Park and Susan, grandchildren, Leslie, Shelly and Jamie, and his sister, Evelyn Williams.●

IN HONOR OF THE RETIREMENT OF SUPERINTENDENT FOR CLOVIS UNIFIED SCHOOL DISTRICT, DR. WALTER L. BUSTER

● Mrs. BOXER. Mr. President, today I recognize and pay tribute to Dr. Walter L. Buster, Superintendent of Clovis Unified School District in Clovis, CA as he prepares to retire.

Dr. Buster has been in education for over 50 years, seventeen of those years as a school superintendent and the last 7 years as Superintendent for Clovis Unified School District. Dr. Buster is committed to educational excellence. He has taught all levels of school: elementary, junior high, high school and college, successfully serving many school districts in California and along the way has implemented visionary programs.

In Clovis Unified, Dr. Buster implemented Class Size Reduction and Early Literacy Instruction in grades 1-3. In these grade levels, only 20 students or fewer are enrolled in each class, thus giving the students a better ability to learn during these critical early years. Some of his most prized work in Clovis Unified School District has been in the following programs: Community of Readers, a program where volunteers in the community are trained to assist students with reading one hour each week; CHARACTER COUNTS, a program that teaches the six pillars of success—Responsibility, Respect, Fairness, Caring, Citizenship and Trustworthiness; and Laptops for Learners, a program developed to assist 7th, 8th and 9th graders in classes where laptop computer are used as learning tools.

Dr. Buster is truly a credit to the educational system. He has established as a standard a high level of integrity and decency. He is a man of great determination and dedication who has worked tirelessly to educate our children. I am honored to congratulate and pay tribute to him, and I encourage my colleagues to join me in wishing Dr. Walter L. Buster best wishes as he embarks on future endeavors.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 13, 1996 in Long Beach, CA. Two lesbians were beaten with a baseball bat. The attackers, a large group of people, were heard to yell anti-gay epithets.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

RECOGNITION OF MR. SEIJI OZAWA

● Mr. KERRY. Mr. President, I rise today to recognize and celebrate one of this Nation's brightest stars, Mr. Seiji Ozawa, who has presided over the Boston Symphony Orchestra as music director for the last 29 years. On April 20, Seiji will conduct the BSO in Mahler's Ninth Symphony and the conclusion of that performance will mark the final installation of his work in Massachusetts. The enthusiasm and precision he brings to his craft are legendary, and as he prepares to assume his new post at the Vienna State Opera, I want to take a moment to join people throughout Massachusetts and across the country in expressing our gratitude for the contributions he has made during his time with the BSO.

For the last three decades Seiji Ozawa has challenged colleagues with his innovative interpretations and charmed audiences with his playful energy and focus. Through award-winning recordings, and celebrated performances in cities around the world, he has brought the beauty and insight of classical music to life for people of all ages. His service to the BSO stands as the longest continuous directorship in the history of the symphony, surpassing even Serge Koussevitzky, who held the baton from 1924 to 1949. Throughout that time, Seiji has lent his skills to the Berlin Philharmonic, the Vienna Philharmonic, the Orchestre de France and the Paris Opera, where he presided over the debut of Messiaen's "Saint Francois d'Assise."

Seiji began his musical journey by enrolling at the Toho Music School in Tokyo, Japan, as a child. A rugby injury changed his original plans of becoming a concert pianist and soon after he shifted focus to the unique art of conducting. Once Seiji settled on this pursuit, his instructor at the Toho School, Mr. Hideo Saito, urged him to travel abroad and refine his skills. Following that advice, he won first prize at the International Competition of Orchestral Conductors, in Besancon, France in 1959. This accolade earned Seiji an invitation in 1960 from Charles Munch, then music director of the BSO, to study at the Tanglewood Music Center. That first Tanglewood visit resulted in Seiji winning the Koussevitzky Prize for outstanding student conductor, and it also marked the beginning of a mutual love affair between Massachusetts and the young conductor.

Upon completion of his studies, Seiji moved to West Berlin to work with Herbert von Karajan. It was here that Seiji's unique presentation and style caught the eye of Leonard Bernstein, and upon returning to the United States he accepted Bernstein's offer to serve as assistant conductor of the New York Philharmonic for 1961 and 1962. In 1964, he conducted the Boston Symphony Orchestra at Tanglewood, raising the baton in a concert hall where he had studied just 4 years before. Word continued to spread about the enthusiastic Ozawa, and offers came in from orchestras around the world. Seiji decided on becoming the music director of the Ravinia Festival in Chicago, where he remained for five summers, and then moved to the Toronto Symphony until 1969. After a brief period with the San Francisco Symphony, Seiji became artistic director at Tanglewood in 1970, and was subsequently asked to assume the role of music director for the Boston Symphony Orchestra in 1973.

It has been during his time with the BSO that Seiji became the cultural icon that we celebrate this year. In 1976, he was honored with an Emmy Award for the Boston Symphony Orchestra's PBS television series, "Evening at Symphony." In 1994, he won a second Emmy Award for Individual Achievement in Cultural Programming, in recognition of his work

"Dvorak in Prague: A Celebration with the Boston Symphony Orchestra." In a nod to his early instructor and the Japanese heritage he has proudly shared with the world, he co-founded the Saito Kinen Festival in Japan, which will provide young people the same chance he had to learn the arts of conducting and performing. The academic community of my home state has recognized Seiji's tremendous talent with honorary Doctor of Music degrees from the University of Massachusetts, the New England Conservatory of Music and Wheaton College, and certainly our beloved Red Sox have never had a more enthusiastic supporter.

Seiji arrived in Massachusetts as a young man finishing his education and beginning his professional ascension. After April 20, he will leave the Boston Symphony Orchestra a true master of his craft. While he has been guided by a deep respect for the past and its masters, Seiji remains the consummate modernist; a solitary individual fueled by an instinctual fascination and hunger for the unexplored frontier of the future.

My constituents and I have been so proud to host Mr. Ozawa over these last three decades. For the rest of his career we will proudly think of him as one of our own in Massachusetts, and I join my constituents in thanking Seiji Ozawa for the invaluable contributions he has made throughout his time at Tanglewood and with the Boston Symphony Orchestra.•

HONORING THE JEWISH COMMUNITY FEDERATION OF LOUISVILLE

• Mr. BUNNING. Mr. President, I rise today in order to thank and honor the 50 members of the Jewish Community Federation of Louisville, Ky for participating in Monday's Pro-Israel rally held outside our Nation's Capitol. I truly believe these individuals along with the entire Jewish Community Federation of Louisville deserve to be honored for their commitment to Israel and all that it stands for.

Monday's rally was quite a sight to see. Over 100,000 supporters gathered, including former Israeli Prime Minister Benjamin Netanyahu and former mayor of New York Rudy Guilani, to demonstrate support for Israel in its current struggle against terrorism. Since September 11, the citizens of the United States of America have unfortunately and tragically been forced to face the realities that accompany terrorism; the fear, the pain, and the struggle. The American people now have an understanding of what it means to live in fear of a cowardly and radical enemy.

The terrorist threat and presence Americans currently fear and feel everyday has been a reality for the people of Israel since 1948, when the state of Israel was officially established and recognized. For 54 years now, the Israeli people have fought for their freedom and right to exist. In recent weeks, the Israeli government has come under fire for their aggressive but necessary military actions in Palestinian-controlled areas of the West Bank. While I pray for the innocent Palestinians who suffer the consequences of their leader's failures, I cannot find it in myself to condemn Israel, doing all it can to protect its families, future, and freedom.

Since the time he was a 17-year old arms dealer in Cairo fighting to rid Palestine of all British and Jewish influence, Yasser Arafat has dedicated his time, thoughts, and efforts to bringing terrorism to the homes and streets of the Jewish people. In 1958, Arafat founded the Al-Fatah movement, an underground network of terrorist cells working as one to bring about the demise of the Jewish state. Just one year after the organization was established, Al-Fatah was publishing a radical magazine advocating the armed struggle against Israel and its people. Since Al-Fatah, under the leadership of Arafat, took control of the PLO in 1969, both Jordan, for attempting to overthrow King Hussein, and Lebanon, for using Palestinian refugee camps as bases for cross-border attacks against Israel, have expelled Arafat and his terrorist group from their land. Even today, Arafat continues to support the terrorist activity of such barbaric groups as Hamas and Palestine Islamic Jihad by agreeing to compensate the families of their homicide bombers. These homicide bombers are no different from the 19 Al-Qaeda terrorists who piloted two planes into the World Trade Centers, and one into the Pentagon killing thousands of innocent American citizens. They are all willing to kill innocent civilians as well as themselves for fanatical leaders such as Osama bin Laden and Yasser Arafat.

In 1988 at a special session of the UN, Arafat showed signs that he was willing to negotiate for peace. He renounced terrorism and vowed to prosecute those who took part in terrorist activities. This empty rhetoric however proved to be short-lived. In 1991, Arafat fully supported Saddam Hussein and Iraq in the Persian Gulf War just three short years after he gave his UN speech. He has also refused to take a tough stance on terrorism, failing to live up to his promise to prosecute those responsible for such horrific acts as we have seen in the past six months. Arafat has now had the opportunity to deal with multiple Israeli Prime Ministers and U.S. Presidents but to no avail. He has been offered land, statehood, and a peaceful existence with the state of Israel. In every instance, talks ended and violence ensued.

I once again would like to thank the Jewish Community Federation for sending 50 of its most devoted individuals to the rally. Israel has always been a good friend to both the U.S. and to democracy, and it always will be. I finally ask that my colleagues join me in praying that this situation ends as quickly and as peacefully as possible. I know that we all would like to see this conflict resolved without any further bloodshed, but we must be willing to stand by our in friends in Israel in our fight to eradicate terrorism from the globe.•

THE FUTURE OF AMERICAN STEEL

• Ms. MIKULSKI. I am proud to join Majority Leader DASCHLE, Senator ROCKEFELLER and the other cosponsors today in introducing the Steel Industry Consolidation and Retiree Benefits Protection Act, a bill that seeks to maintain the viability of a critical domestic industry, and maintain a safety net for its workers and retirees who today live in fear of losing their healthcare coverage.

I am on the side of steel and steelworkers. I will stand up for steelworkers and make sure that their voices are heard in the Senate.

On March 20th, President Bush announced that he would impose tariffs on steel imports, the tariffs weren't as high as we believe necessary to give America's steel industry the opportunity to consolidate and get back on its feet. The tariffs imposed under section 201 were a first step, but we can not afford half-measures. Congress now needs to take the next step and address retiree health care benefits.

I recently held a hearing to listen to the people behind "legacy costs"—the workers; the retirees; the widows; the executives; and worker representatives whose voices are not being heard. I heard from retirees and widows from the Bethlehem Steel plant at Sparrow's Point in Baltimore. I will never forget hearing Gertrude Misterka tell me that she would have to spend nearly $7,000 on her prescriptions if she lost her husband's health care benefits. She would be in tough shape if she lost those health benefits that her husband, a proud Korean War veteran, Charlie, worked so hard for.

I will not forget Jeff Mikula who has a job at Sparrow's Point but if that plant closed, he lose the benefits he has worked so hard for over the last 26 years. I will not forget McCall White, a retired steelworker, a proud veteran, who worked at Sparrow's point for nearly 40 years. It is for them and hundreds of thousands in similar situations that I will fight. I will fight to make sure legacy costs are addressed in a very serious way.

HOW WOULD THE ROCKEFELLER BILL HELP STEELWORKERS AND RETIREES?

This bill would help protect the U.S. steel industry and would provide health care and life insurance to steel retirees of those companies directly effected by unfair trade practices.

This bill helps companies consolidate by addressing the liability costs that have served as barrier to the restructuring that many argue that is needed by this industry in order to be able to compete. At my hearing on the steel industry, I heard how restructuring would help to maintain a competitive U.S. steel industry, which is in the national interest and would preserve American jobs today and tomorrow good paying, American jobs.

This bill would mean that promises made are promises kept. Steel retirees, their families and dependents would have the retirement security earned through decades of hard work and sacrifice. This bill would establish a health benefits program for retirees modeled on the most popular health care for Federal employees the Blue Cross/Blue Shield standard plan. This is not the Cadillac, gold-plated health plan that some claim these retirees have. These are the benefits that our steel workers worked hard for. Under this bill, any steelworker with at least 15 years of work in our nation's steel mills would have a basic health benefit package that they can count on. This bill would also provide a very modest death benefit of $5,000 to the widows of steel retirees.

WHO WOULD THIS BILL HELP?

Now, there are now about 142,000 active steelworkers, but there are about 600,000 retirees counting on these benefits. By helping those with more than 15 years of hard work in our mills, this bill would help many of our Nation's active and retired steelworkers. In my own State of Maryland, 3,700 people work at the Bethlehem Steel Sparrows Point facility, but there are 23,000 retired steelworkers, widows and dependents. These workers and retirees deserve a basic health benefit package that they can rely on.

I agree with President Bush when he said, "Steel is an important job issue. It is also an important national security issue." We need to see the President join us on this issue in fighting for American jobs and for national security. A sound domestic steel industry is critical as we fight the war on terrorism. Steel builds our tanks, our planes and our ships. Bethlehem Steel produced the armor to repair the USS *Cole*.

The policy of our government is to support producers when it is in the national interest. National interest means national responsibility. Congress voted for nearly $80 billion in farm support over the next 10 years. It is important to support farmers to make sure we have the producers to be food-independent. I voted for the bill that is now in conference, and I am happy to stand up for American farmers. Congress gave the airlines $15 billion after September 11 because of a national emergency. It was the right thing to do.

Now, we need to stand up for steel. We need to have producers here in America to be steel-independent and be ready for national emergencies. Make no mistake: This is a national emergency for steel. Standing up for steel is in the national interest just like farmers, just like airlines.

There is much to do to ensure that there is a viable U.S. steel industry. We need to make sure that the Section 201 tariffs are being implemented properly. Steel legacy costs are also a vital, necessary, crucial part of ensuring a viable U.S. steel industry. This is part of the comprehensive solution. We can not afford half-measures, not with a critical industry at the brink of collapse, not with the retirement security of hundreds of thousands at risk.

I urge my colleagues to join us to protect American steel.•

IN MEMORY OF CLAIRE T. SHADIE

• Mr. SPECTER. Madam President, I seek recognition today to acknowledge the service of the late Claire T. Shadie of West Nanticoke, PA, a very special woman whose untimely death on October 10, 2001, left a great void in the lives of her family and the many whom she touched.

Claire Shadie was Founder and Chairman of the Board of "Supporting Autism and Families Everywhere," or SAFE, Inc., which is a non-profit group of parents of autistic children that works to help people with autism live full and independent lives. From April 24 through April 26, 2002, the annual SAFE, Inc., conference on autism will bring together international experts on autism and families affected by the malady, and the meeting will be dedicated to the memory of Claire Shadie.

Claire was known throughout her community as the "Angel of Autism," and she dedicated her life to helping find effective ways to aid individuals with the condition, including her son Alexander. She worked diligently throughout the years, counseling families and organizations throughout the United States. In addition to SAFE, Inc., she helped establish the Coalition on Autism, whose goal is to bring together related agencies and support groups to help ease the bureaucracy and improve the quality of service in Northeast Pennsylvania. Through SAFE, Inc., she worked with the U.S. Department of Housing and Urban Development, the Wyoming County Housing and Redevelopment Authority, and other agencies to create New Hope Farm, a facility that will provide its learning-disabled residents with daily opportunities for social interaction, skill acquisition, and integration into the greater community.

For her leadership and work on behalf of autism, I would like to extend the gratitude and recognition of the United States Senate to Claire Shadie, "Angel of Autism."•

AN ESSAY BY BERNARD RAPOPORT ON ENRONICS

• Mr. HOLLINGS. Mr. President, I want to share with my colleagues an excellent essay by a long-time friend of this Senator, Bernard Rapoport. The essay points out that using any means to make money as those at Enron did, or evading taxes as too many American corporations do today by creating offshore schemes, are unpatriotic acts, which should outrage the American people.

As the message comes from someone who has distinguished himself as a business leader and whose generosity has made our society a little more just and equal, it is a message I hope all American business executives not only hear, but heed.

The essay follows:

"ENRONICS"—(LACK OF PATRIOTISM)

My father was a Russian Jewish revolutionist, (the Agrarian Revolution of 1905). He was a Marxist which advocated the philosophy that the "ends justified the means." It is, perhaps, an understandable point of view of someone subjected to the despotic czarist rulers of the Russia in the time in which he was raised. A few years after he escaped from Siberia, to which he was exiled for life for participation in the revolution, he came to America still convinced about ends and means from the Marxian view. I, too, was raised with that philosophy. Fortunately, and I think at the same time as he, I was influenced by Emerson's wonderful admonition that "character is that which can do without success," and it brought both of us to a new understanding. Yes, how one achieves is more important than if one achieves.

It's the "means" that in fact does determine the "ends." In my eight and a half decades of living I've had three poignant examples of unrestrained American patriotism. Of course, there have been many others, but what follows are the three that are most firmly imprinted in my memory.

The first was America's reaction to Pearl Harbor. Second, during World War II, on that day that General Dwight Eisenhower told us by radio that D-Day had begun and that there would be a large loss of lives, and, third, 9/11! The most essential ingredient in patriotism is love of country, which requires a commitment that we conduct ourselves in such a manner as to consistently do those things to make our country better.

The tragedy of "Enronics" is that these high-falutin' capitalists lowered themselves to a Marxian philosophy. Yes, their end was making money. Any means legal or otherwise, was justified because of their "ends!"

My reason for this essay is that I'm not angry—"I'm mad!" My father's daily plea was to me was to "have a sense of outrage at injustice." "Enronics." Gives just cause to understand outrage because it is unrestrained unpatriotism.

Here's another example of what I perceive to be unpatriotism. In the New York Times of February 18, 2002, the column headline on the front page was, "U.S. Companies Use Filings in Bermuda to Slash Tax Bills." I always thought I was fairly sophisticated when it came to finance, but I quickly learned after reading that article that I wasn't nearly as "smart" as I thought I was. This is an occurrence that happens often in my life. I majored in economics at the University of Texas. The bibliography included Adam Smith's "Wealth of Nations," which is the predicate for capitalism. Smith realized the greed instinct within all of us, but thought that the invisible hand, i.e. competition, would be the moderator or leveler of the greed instinct. Well, this particular article to which I've alluded is beyond my comprehension. Evidently intelligent lawyers and accountants had come up with schemes to "legally" avoid the rules by which the rest of us must play. Secondly, this was combined with lobbyists who appealed to members of Congress to include riders to particular pieces of legislation which would benefit one particular corporation, and enable it to escape the responsibilities that any patriotic company would observe. Competition is making a better product, merchandising it more intelligently, and paying the taxes that all the rest in the same category pay. Well, not in the legal sense, but morally. I ask the question, "Why do we put up with these kind of shenanigans? Why don't we have a sense of outrage at this injustice? Why don't we get mad?

I'm reminded of Murray Edelman's wonderful though, "Political history is largely an account of mass violence and of the expenditure of vast resources to cope with mythical fears and hopes. At the same time, large groups of people remain quiescent (that's us!) under noxiously oppressive conditions and sometimes passionately defend the very social institutions that deprive or degrade them."

For example, in the New York Times article, it points out that one company made $30 million additional profit because they didn't pay taxes. Now if they had played by the same rules as other companies, they would've shown $30 million less profit because of the payment of what it really owes. Guess what! Their stock sells at a much higher price because they are taking advantage of what I call an "Enronic" approach. At least, such companies should have the courtesy and be required to show what their earnings would be if they were paying on the same basis as their competitors. In the New York Times article it is pointed out that one corporation saved $400 million in taxes! Reducing taxes can really be a meaningful objective if these groups to which I've referred to were truly patriotic. All these companies do to avoid these taxes is to have an office in Bermuda or the Cayman's or some other island, and obtain this unfair advantage. As ridiculous as it may sound, a company with one of these offices in Bermuda, for example, can borrow money from its Bermuda account, charge out the interest that it pays, reducing their taxes in the United States. Let's be quickly reminded that there is no tax on the interest earned by the Bermuda parent. So an additional injustice is compounded as a result of this tax avoidance scheme.

The U.S. Treasury has to borrow money, sell bonds, and you know who buys them? These same corporations! Guess what! The interest they have received on their bonds as a result of their Bermuda office will not be taxable. It's a vicious circle! Where, of where, is there not a sense of outrage to their unconscientious acts of unpatriotism?

We must be constantly reminded of what Guiseppe Mazzini said, "God has given you your country as cradle, and humanity as mother; you cannot rightly love your brethren of the cradle if you love not the common mother."●

NINETY DAYS IS SIMPLY NOT ENOUGH TIME

● Mr. LEVIN. Mr. President, a letter released last week by the General Accounting Office highlighted serious problems that could result from reducing the period of time that National Instant Criminal Background System records are retained to only 24-hours after a firearm sale. Under current NICS regulations, records of allowed firearms sales can be retained for up to 90 days, after which the records must be destroyed. On July 6, 2001, the Department of Justice published proposed changes to the NICS regulations that would reduce the maximum retention period from 90 days to only one day.

According to FBI officials and the GAO letter, retained records that were more than 1 day old but less than 90 days old were used to initiate over 100 firearm-retrieval actions by law enforcement in the 4-month period beginning July 3, 2001, through October 2001. As a result, the GAO believes that next-day destruction of NICS records would likely obstruct the ability of law enforcement to retrieve firearms from individuals who were mistakenly approved to purchase firearms. Since its inception, NICS checks have prevented more than 156,000 felons, fugitives and others not eligible to purchase a firearm from doing so. While not infringing upon any law-abiding citizen's ability to purchase a firearm.

The retention of NICS records for a sufficient period of time is important. I am greatly concerned by the Attorney General's action and I support the "Use NICS in Terrorist Investigations Act" introduced by Senators KENNEDY and SCHUMER. This legislation would codify the 90-day period for law enforcement to retain and review NICS data. The GAO letter provides further evidence that the Schumer/Kennedy bill is common sense legislation that deserves enactment.●

ANDIE BUEL RETIRES AFTER 35 YEARS

● Mr. HOLLINGS. Mr. President, later this month, Andie Buel, Chief of the Congressional Operations Division at the Department of Defense, will be retiring after 35 years of government service. I wish her the very best.

No question, the congressional delegation trip to Normandy in 1994 commemorating the 50th anniversary of D-Day stands out as one of the great highlights of my years in the Senate. Mrs. Buel was the architect of that trip.

She has a long list of accomplishments, but to get right to the point: she has worked hard to ensure all our congressional trips are not only meaningful to our work in Washington, but that they run flawlessly. We thank her, and as she enters her new life we certainly will miss her.●

TRIBUTE OF DONALD LANGENBERG

● Mr. SARBANES. Madam President, as the end of the 200–2002 academic year approaches, I rise to pay tribute to Dr. Donald N. Langenberg, who at the end of this month will retire as Chancellor of the University System of Maryland, which for the past twelve years he has served with great distinction.

In 1990, when Dr. Langenberg came to Maryland from the University of Illinois-Chicago, the University System of Maryland was still in the earliest stages of its formation. It was established in 1988 to bring together thirteen diverse institutions, each with a distinctive and distinguished history, into a "family" dedicated to "nurturing minds, advancing knowledge, elevating the human spirit and applying (our) talents to the needs of the citizens of Maryland." The purpose of the new system was to be nothing less than to "achieve and sustain national eminence and become a model for American higher education and a source of pride" for all the people of my State.

In short, Dr. Langenberg had his work cut out for him, but no one could have been better suited to the challenge, by both temperament and experience, than he. It was his task as the first Chancellor of the University of Illinois at Chicago, established in the 1980s to bring together existing undergraduate, research and medical institutions, to guide the new university through its formative years; and he came to that position from the National Science Foundation, where he had served as acting and deputy director.

Dr. Langenberg's academic background, however, was not in administration but rather in physics. With degrees from Iowa State University, the University of California at Los Angeles and the University of California at Berkeley, he taught at the University of Pennsylvania, where he also directed the Laboratory for Research on the Structure of Matter and served as Vice Provost for Graduate Studies and Research. He has been a visiting professor at numerous institutions in this country and abroad; his work on superconductivity has resulted in the development of a new type of voltage standard, which is in use worldwide, and it led to the publication of a paper so frequently cited in other papers and journals that it is known as a "citation classic." Throughout his distinguished career, Dr. Langenberg has also maintained the highest level of engagement in numerous professional associations, for example as president and chairman of the board of the American Association for the Advancement of Science, AAAS, chairman of the board of National Association of State Universities and Land-Grant Colleges, NASULGC, President of the American Physical Society, APS, chairman of the President's Council of the Association of Governing Boards of Universities and Colleges, AGB. He recently completed a decade's service as a member of the University of Pennsylvania's Board of Trustees.

For the past twelve years the University System of Maryland has been the beneficiary of the great breadth and depth of Dr. Langenberg's experience, and above all from his abiding commitment to make our state system a model for higher education everywhere. The University System's campuses have never been more vigorous than they are today. The schools of medicine and law are thriving, and so are programs designed for adults wishing to resume or continue their education. Under Dr. Langenberg's leadership the University System has developed new measures of accountability and productivity, which are in use not only in Maryland but at universities around the Nation. The K 16 Partnership for Teaching and Learning, of which Dr. Langenberg was a founding member, works to ensure continuity and coherence in Marylanders' education, from kindergarten through the B.A. And in a State whose extraordinary diversity of human and natural resources is reflected in its public institutions of higher education, among them a major research university that is also one of the earliest land-grant colleges, three historically black colleges, professional schools and independent research institutes, he has played a leading role in building the University System family. Each of its thirteen very different member campuses determines its own focus and honors its own traditions, while at the same time all collaborate to offer better opportunities for higher education to Marylanders of all backgrounds, talents and persuasion.

Behind the formidable intelligence, zest for hard work, success in academic administration and distinction as a scholar that Dr. Langenberg brought to his position as Chancellor of the University System of Maryland there has always been a clear and steady vision, which he himself has most eloquently described. First, he remarked in a speech not long ago, "As a Midwesterner, I have always had tremendous admiration for great public universities because I know that they provide opportunities that might not otherwise exist." And then, he observed, "much of his long and distinguished career "has been about creating linkages and partnerships, between our citizens and higher education, between and among campuses, between higher education and public schools, and between higher education and the business community." For this he offered a compelling and moving explanation: "as the only child of deaf parents, I became my parents' translator and their link to the hearing and speak world."

Maryland has been deeply fortunate to have Dr. Donald Langenberg at the helm of its University System. I want to express my gratitude for all that he has accomplished, my congratulations on his retirement, my delight in the decision he and his wife have made to stay in Maryland, and my best wishes for the years ahead.•

OUTSTANDING VOLUNTEER PERFORMANCES BY FLORIDA SENIORS

• Mr. GRAHAM. Mr. President, I would like to extend congratulations to a group of outstanding citizens from Broward County, FL. Each of these men and women has given a special gift to their community—they have given of themselves. Their volunteer efforts should be an inspiration to all of us.

On May 3, 2002, these 10 individuals will be inducted into the Dr. Nan S. Hutchison Broward Senior Hall of Fame. These selfless volunteers have contributed time, talents and love toward their fellow residents of Broward County. Allow me to tell you about each of them:

Evelyn Denner helped found the We Care organization, providing assistance to the elderly and helping them to remain self-sufficient. Her work with many civic, political, and religious organizations continues to make Broward County a treasured place to live.

Clara Font has volunteered for 12 years at the Horizon Club's "Assisted Living Community." At 101 years of age, people young and old look to her service for inspiration. She has contributed time to those suffering from the debilitating effects of Alzheimer's disease, while also assisting friends and neighbors.

Joan Hinden, a retired teacher, has provided support to Florida's youth for many years. She was appointed to the Family Care Council by Florida's Governor and has worked with the Department of Children and Families, aiding and encouraging people through difficult times.

George Olferm has donated his time to many worthy organizations such as TRIAD, SALT, the Davie Fraternal Order of Police, and the Area Agency on Aging of Broward County. As a talented artist, George has donated stained glass artwork to help local charities raise thousands of dollars to support their ongoing projects. He has had a tangible impact on people's lives.

Casey Pollack has worked diligently to improve the lives of Alzheimer's patients. He has established training programs for care givers and founded the Crisis Respite Program, helping many citizens fill a temporary need for Alzheimer's care.

Sidney Spector has served as president of the Kings Point Culture Club of Tamarac. His leadership and energy have provided groups of senior citizens the opportunity to attend cultural events which enrich their lives.

William Teague has served as president of the South Broward Chapter of the National Federation for the Blind, helping to serve over 51,000 visually challenged individuals. He has educated drivers to yield to blind pedestrians, thereby reducing the number of individuals involved in traffic accidents.

Former State representative Jack Tobin has given over a decade of service as a legislator. He worked to secure continuing funding for Alzheimer's care and treatment centers, which has made an indelible impact on the quality of life for many Floridians. He participates on the board of directors for the Area Agency on Aging after serving as its president. He has contributed invaluable guidance as a Director of both the YMCA and Child Care Connection, helping to the continuation of social service programs for the future.

Dr. Murray Todd's medical services have contributed to the health and well-being of countless Broward County residents, especially those with Alzheimer's. As a teacher, speaker and volunteer, he has trained others to join in the fight for a cure for this disease.

Ellyne F. Walters has spent years serving her church, the city of Fort Lauderdale, and numerous organizations. As vice president of the Broward County Friends of the Library, she has helped strengthen local libraries and contributed to the opening of the African American Research Library.

These "volunteers for humanity" have served diligently and tirelessly in their quest to enhance the lives of their fellow man. Our State and Nation are fortunate to have such inspiring senior citizens.•

TRIBUTE TO ALEX MARION

• Mr. SMITH of New Hampshire. Madam President, today I show my support for Alex Marion for his heroic efforts at the McIntyre Ski Area. He, along with Shawn Page, Adam Anderson, and Andrew .Emanuel, helped to save the life of a fellow skier.

While enjoying a day of recreation at the ski slope, he noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the boy when he fell. Alex helped save the boy and prevent any serious injuries.

I commend this heroic act of Alex Marion. He helped to save the life of a fellow citizen and brought comfort to a worried family. As long as we have such dedicated citizens our nation will continue to be strong. Alex exemplifies the ideals of a Granite Stater and I am honored to represent him in the U.S. Senate.•

TRIBUTE TO CODI VACHON

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Codi Vachon of Manchester, NH. Her heroic actions saved the life of a drowning boy.

While life guarding she noticed twelve-year old Julio Velez at the bottom of the pool. Codi later learned that Julio had experienced a seizure and by acting quickly she was able to bring the boy to safety.

Codi Vachon is to be commended for her selfless actions. As long as we have such dedicated citizens, our nation will continue to be strong. Codi exemplifies the ideals of a Granite Stater. It is an honor and privilege to represent her in the U.S. Senate.•

TRIBUTE TO ANTHONY TRIPARI

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Anthony Tripari of Merrimac, MA. His heroic actions saved the lives of numerous Farmington, NH residents, including the life of a helpless baby. He put his own life on the line to rescue others from a burning building.

In August of 2001, Anthony was on his way to a fishing trip with his friend Derek Vitale, when they noticed smoke from a burning apartment building. It was about three o'clock in the morning so Derek honked the horn of his car in an attempt to wake the residents of the building to alert them to the fire.

I commend the altruistic acts of Anthony Tripari. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Anthony, our nation will continue to be strong. It is an honor and a privilege to represent you in the U.S. Senate. •

TRIBUTE TO ELIZABETH "BOO" MURRAY

• Mr. SMITH of New Hampshire. Mr. President, today I show my support to Elizabeth "Boo" Murray of Danville, NH. Her heroic efforts saved the life of an elderly neighbor.

Walking through her Danville neighborhood one day in June, Elizabeth noticed flames and smoke coming from her neighbor's house. Realizing that the elderly woman was likely to be still inside, Elizabeth raced in to save her. She found her in the home and removed her from danger. Although her neighbor later died of injuries she sustained, Elizabeth put her life in the foreground to rescue the life of another.

I commend you Boo for your commitment to life. You are an example of heroism to New Hampshire residents and the nation alike. I am honored to represent you in the U.S. Senate.•

TRIBUTE TO ARTHUR MOREAU

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Arthur Moreau of Manchester. Arthur, with the assistance of his friends Russ Lauriat and Russ VanderHorst, rescued the life of 28-year-old Scott Derendal.

The three friends came upon a wrecked, burning vehicle while driving through Wear last July. Feeling a civic duty to aid a fellow person in need, Arthur, Russ and Russ raced to rescue the individual trapped in the car. They managed to save the life of Scott.

I commend you Arthur for the selfless act of kindness you imparted on an unknown individual. You gave of yourself without a second thought as to how it might affect your life. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO RUSS VANDERHORST

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Russ VanderHorst of Goffstown. Russ, with the assistance of his friends Russ Lauriat and Arthur Moreau, rescued the life of 28-year-old Scott Derendal.

The three friends came upon a wrecked, burning vehicle while driving through Wear last July. Feeling a civic duty to aid a fellow person in need, Arthur, Russ and Russ raced to rescue the individual trapped in the car. They managed to save the life of Scott.

I commend you Russ for the selfless act of kindness you imparted on an unknown individual. You gave of yourself without a second thought as to how it might affect your life. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO SHAWN PAGE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to show my support for Shawn Page for his heroic efforts at the McIntyre Ski Area. He, along with Adam Anderson, Alex Marion, and Andrew Emanuel, helped to save the life of a fellow skier.

While enjoying a day of recreation at the ski slope, Shawn noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the boy when he fell. Shawn helped save the boy and prevent any serious injuries.

I commend this heroic act of Shawn Page. He helped to save the life of a fellow citizen and brought comfort to a worried family. As long as we have such dedicated citizens our nation will continue to be strong. Shawn exemplifies the ideals of a Granite Stater. I am honored to represent him in the U.S. Senate.•

TRIBUTE TO EDWARD ROY

• Mr. SMITH of New Hampshire. Mr. President, I rise today to show my support for Edward Roy of Manchester, NH. His heroic actions saved the lives of numerous residents sleeping inside their multi-story apartment building. He put his own life on the line to preserve the lives of others.

On a December morning in 2001, the off-duty firefighter was driving home from work when he noticed smoke in the distance. He raced to the site and found a burning apartment building. In an attempt to awaken and evacuate the residents, he knocked on all the doors of the building. In the process of knocking on residents doors, his coat caught on fire, but Edward continued to rescue people. Edward met the arriving fire fighters and helped them extinguish the fire.

Firefighters, like Edward, work valorously everyday. Every time they respond to a call for help, they are putting their own lives in jeopardy to help the community in crisis. Firefighters are among our country's bravest heroes, and I applaud Edward for his dedication to keep New Hampshire safe.

I commend the altruistic act of Edward Roy. It takes true courage and honor to put other's lives above one's own. I am confident that as long as we have people like Edward, our nation will continue to be strong. New Hampshire is proud to have such dedicated citizens. It is truly an honor to represent Edward Roy in the U.S. Senate.•

TRIBUTE TO DUSTIN SHERWOOD

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Dustin Sherwood of Barnstead. Dustin, along with his two friends John Lank and Nick Poulin, saved the life of a distressed boater.

While boating on Suncook Lake in July, the three boys noticed a boat that was moving erratically. Upon closer inspection, they realized the driver had lost control and had fallen into the water. Skillfully the three regained control of the boat and dragged the Vermont teen to safety.

I commend you Dustin for your selfless act of heroism. You gave of yourself to help another in need. There is no greater gift. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO JOHN HORAN

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to John Horan of Nashua, NH, for risking his life to save the life of a motorist trapped in a crashed vehicle.

In August of 2001, John was driving with his friend Nathan Langlais when they came across a vehicle that had plunged through a guardrail and down a hill. John and Nathan, without regard for their own lives, raced to the aid of the trapped motorist.

They discovered a smoking car and a semi-conscious driver. The men attempted to extract the driver from the vehicle but were unsuccessful in their first attempt. Loud noises began coming from the gasoline tank and the back of the car began to ignite. With little time to spare, the men rescued the driver from the passenger's side of the vehicle.

I commend John Horan for his bravery. His selfless act saved the lives of a fellow citizen, and set a positive example for the people of the Granite State. I am confident that as long as there are Americans like John Horan who are willing to put the well-being of others before themselves, our Nation will continue to be strong. It is truly an honor and a privilege to represent you in the U.S. Senate.•

TRIBUTE TO LIEUTENANT CASINO CLOGSTON

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Lieutenant Casino Clogston of New Hampshire. His heroic actions brought comfort to a family and community who endured a very tragic event.

On an early April morning in 2001, Casino arrived at the scene of a burning apartment. After giving commands to the rest of his crew, he entered the burning building. Putting his own life in jeopardy, the Lieutenant searched for any signs of life. He discovered the body of a burning man. Holding the body in one arm, he was able to kick down the door of the room and escape safely. After the victim received medical attention, he was pronounced dead. However, Clogston helped to bring comfort to the man's family and friends.

Firefighters, including Firefighter Clogston, work valorously everyday. Every time they respond to a call for help, they are putting their own lives on the line. In this instance, Casino truly did go above and beyond the call of duty in order to recover the body of a fellow citizen. Firefighters are some of our country's bravest heroes, and I applaud Clogston for his efforts to keep New Hampshire safe.

I commend the altruistic acts of Lieutenant Casino Clogston. It takes true courage to value the lives of others above one's own. I am confident that as long as we have people like Casino, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen, and it is truly an honor to represent Casino Clogston in the U.S. Senate.•

TRIBUTE TO THE PEMBROKE FIRE DEPARTMENT

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for the Pembroke Fire Department, including Deputy Chief Paul Gagnon; Lieutenants Rob Farley, David Bouffard and Brian Lemoine; Firefighters Patrick Maccini, Ricky Bilodeau, Jeff Bokum, Stacy Amyot, Josh Ginn, Mike Perron, Steve Perron and Eric Stromvall; and Engineers Brad Robertson, Chet Martel, Chuck Schmidt and Steve Ludwick. Their heroic actions saved numerous lives and helped preserve one of New Hampshire's historical landmarks. They placed their own lives at risk to protect and serve the people of New Hampshire.

On an early morning in July of 2001, the Pembroke Fire Department received what appeared to be a routine call. They learned that a historic Bed and Breakfast was in flames and worked tirelessly to extinguish the flames of the burning building.

Upon learning that guests were trapped in the residence, the firefighters successfully made several rescues. Leading six victims down their ladders, they brought them to safety. The firefighters further risked their lives to perform room-by-room searches to confirm that everybody was out of the building safely.

These firefighters work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of the hard work and dedication of New Hampshire's firefighters. By consistently operating above and beyond the call of duty, these men and women save the lives of fellow citizens and bring comfort to the community.

I commend the selfless acts of the Pembroke Fire Department. It takes courage to place somebody else's life above one's own. I am confident that as long as we have firefighters like those in Pembroke our Nation will continue to remain protected. New Hampshire is proud to have such dedicated citizens and it is an honor to represent you in the U.S. Senate.•

TRIBUTE TO CHRISTOPHER SMITH

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Christopher Smith of Seabrook, NH. His heroic actions, along with the help of Timothy Dillon, saved the life of a woman trapped in a burning vehicle. He put his own life on the line to rescue a fellow citizen.

In October of 2001, Christopher was riding with his mother when he noticed that a burning car had driven off the road. Christopher and Timothy raced to the scene of the accident and discovered an elderly woman trapped in the burning vehicle. She was pinned in the vehicle by the deployed air bag and the crushed dashboard.

Christopher attempted to break the driver's side window, while Timothy broke through the back of the car. Christopher smashed the window using a tire iron and then entered through the front of the car. Putting their own lives in jeopardy, the two men were able to pull the woman to safety.

I commend the selfless acts of Christopher Smith. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Christopher, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is truly an honor to represent him in the U.S. Senate.•

TRIBUTE TO MELISSA BOGACKI

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Melissa Bogacki of Chester, NH. Her quick action and bravery helped save the life of her drowning brother.

I commend Melissa for immediately responding to this stressful and dangerous situation. While she was taking a walk with her siblings, she noticed that her three-year old brother had fallen into a swampy area. Responding immediately, she jumped in to rescue him. After dragging him to safety Melissa immediately notified her mother for help.

Melissa's valorous deed serves as an example to the people of Chester as well as the Granite State. She saved the life of a family member and brought comfort to her family. I am confident that as long as we have dedicated citizens like Melissa our Nation will continue to be strong. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO RUSSELL KEAT

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Russell Keat of Grantham, NH. He helped recover numerous bodies that had been buried beneath the rubble at Ground Zero, as well as three American flags. He put his own life on the line to bring comfort to a grieving nation.

After the second airline crashed into the World Trade Center on September 11, 2001, one of the most catastrophic days in our Nation's history, Russell offered his support for the rescue efforts.

Russell specializes in rescue missions and had previously rescued individuals from airline crashes, collapsed buildings, and caves. However, no other rescue meant as much to this patriot as his work at Ground Zero. He recovered the bodies of victims and helped with the clean up effort. Russell also led a group of five other heroes who uncovered three United States flags. Russell risked working on unstable structures and inhaling hazardous materials in order to perform his patriotic duty.

I commend the selfless acts of Russell Keat. It takes true courage and honor to value one's Nation above their own life. I am confident that as long as we have people like Russell our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent Russell Keat in the U.S. Senate.●

TRIBUTE TO JOHN LANK

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for John Lank of Barnstead. John, along with his two friends Nick Poulin and Dustin Sherwood, saved the life of a distressed boater.

While boating on Suncook Lake in July, the three boys noticed a boat that was moving erratically. Upon closer inspection, they realized the driver had lost control and had fallen into the water. Skillfully the three regained control of the boat and dragged the Vermont teen to safety.

I commend you John for your selfless act of heroism. You gave of yourself to help another in need. There is no greater gift. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO KATHLEEN MOORE

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Kathleen Moore of Goffstown, NH. Her heroic actions, along with the help of Henry Gerlack Jr., saved the life of a man trapped inside a burning vehicle.

In April of 2001, Kathleen was driving down a local highway when she came to the aid of a motorist trapped inside a burning vehicle. She, and nearby resident Henry Gerlack, heard cries for help coming from the vehicle. The two found 34-year-old Mark Renaud wedged between a crushed steering wheel and the dashboard. Kathleen and Henry, putting their own lives in jeopardy, pulled the man out of the car through the driver's side window. The car exploded moments after they pulled Mark to safety.

I commend the bravery and heroism of Kathleen Moore. It takes true courage to place somebody else's life above your own. I am confident that as long as we have people like Kathleen, our State and Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is truly an honor to represent you in the U.S. Senate.●

TRIBUTE TO ANDREW EMANUEL

• Mr. SMITH of New Hampshire. Mr. President, today I show my support to Andrew Emanuel for his heroic efforts at the McIntyre Ski Area. He, along with Shawn Page, Alex Marion and Adam Anderson, helped to save the life of a fellow skier.

Last winter, while enjoying a day of recreation at the ski slope, he noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the dangling boy. When the boy fell, they saved his life and prevented him from sustaining any serious injuries.

I commend this heroic act of Andrew Emanuel. He helped to save the life of a fellow citizen and brought comfort to a worried family. I feel that as long as we have such dedicated citizens, our Nation will continue to be strong. Andrew exemplifies the ideals of a Granite Stater and I am honored to represent him in the U.S. Senate.●

TRIBUTE TO HENRY GERLACK

• Mr. SMITH of New Hampshire. Mr. President, I show my support for Henry Gerlack Jr. of Barnstead, NH. His heroic actions, along with the help of Kathleen Moore, saved the life of a man trapped inside a burning vehicle. Henry put his life on the line to preserve the life of another.

In April of 2001, Henry Gerlack noticed a burning vehicle on the side of the road. He heard cries for help and raced to the burning vehicle to find a 34 year-old man wedged between the crushed steering wheel and dashboard. Henry and Kathleen pulled the man out of the car moments before it exploded.

I commend the altruistic acts of Henry Gerlack, Jr. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Henry, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen and it is an honor to represent him in the U.S. Senate.●

TRIBUTE TO NICK POULIN

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Nick Poulin of Manchester. Nick, along with his two friends John Lank and Dustin Sherwood, saved the life of a distressed boater.

While boating on Suncook Lake in July, the three boys noticed a boat that was moving erratically. Upon closer inspection, they realized the driver had lost control and had fallen into the water. Skillfully the three regained control of the boat and dragged the Vermont teen to safety.

I commend you Nick for your selfless act of heroism. You gave of yourself to help another in need. There is no greater gift. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO JACK LEE

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Jack Lee for his heroic efforts in pulling a semi-conscious teenager to safety. He went above and beyond the call of duty to reach out to another in need.

Mr. Lee came upon a burning vehicle in Auburn, NH. Noticing a young individual was trapped inside, he began to try and free her from the burning wreck. Though not successful at his first few attempts to save the girl from the car, Mr. Lee did not give up. He finally pulled her to safety.

Not only do Jack's actions serve as an exemplary commitment to human life, they also highlight a selflessness we all should strive for. I commend Jack for being a hero to his community and nation. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO THE HOOKSETT FIRE DEPARTMENT

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for the Hooksett Fire Department, including Chief Michael Howard, Lieutenant David Carignan, Firefighter Bill Palmer and Firefighter Steve Davis. Their heroic actions saved numerous lives, and preserved one of New Hampshire's historical landmarks. They worked without regard for their own safety to preserve a treasure to the community.

On an early morning in July of 2001, the Hooksett Fire Department received a call that a historic bed and breakfast was on fire. The company worked tirelessly to save the burning building.

Upon learning that guests were trapped in the residence, the firefighters successfully made several rescues. Leading six victims down their ladders, they brought them to safety. The firefighters further risked their lives to perform room-by-room searches and confirm that everybody rescued.

These firefighters work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of the hard work and dedication of New Hampshire's firefighters. By consistently operating above and beyond the call of duty, these men and women save the lives of fellow citizens and bring comfort to the community. Firefighters are among are country's bravest heroes, and this company has served the State of New Hampshire for many years.

I commend the altruistic acts of the Hooksett Fire Department. It takes courage to place somebody else's life above your own. I am confident that as long as we have firefighters such as the men of the Hooksett Fire Department, our Nation will continue to be protected. New Hampshire is proud to have such dedicated citizens. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO KEVIN HEALY

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Kevin

Healy, a firefighter in the city of Manchester, NH. His heroic actions saved the lives of numerous residents caught inside an apartment building.

On a February 2001 morning, the off-duty firefighter was driving home from work when he noticed smoke in the distance. He found a burning apartment building which he immediately entered in search of victims. He could hear people coughing and used their sounds to locate burning victims. He successfully brought two people to safety and returned to the burning building to check for trapped victims. During the rescue Kevin suffered burns and respiratory injuries.

Firefighters, like Kevin, work valorously everyday. Each time they respond to a call for help, they are risking their own lives. Kevin went above and beyond the call of duty in order to save fellow citizens and bring comfort to his community. Firefighters are some of our country's bravest heroes, and I applaud Kevin's efforts to keep the citizens of New Hampshire safe.

I commend Kevin Healy's bravery and applaud his dedication to public service. It exemplifies true courage and honor to put other's lives above your own. I am confident that as long as we have people like Kevin, our State and Nation will continue to be strong. New Hampshire is proud to have such exemplary citizens and it is an honor to represent you in the U.S. Senate.•

TRIBUTE TO JEFFREY MORSE

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Jeffrey Morse of New Hampshire. His heroic actions, combined with help from Paul Gagne, saved a woman and numerous animals. He put his life on the line to rescue others from a house.

In September of 2001, the two telephone technicians were working on a cable problem when they noticed smoke coming from a nearby house. They raced to the scene of the fire. Paul hurried to call the emergency rescue services, while Jeffrey used a garden hose to prevent the flames from spreading. Jeffrey then noticed a sign indicating that live animals were living in the house, so he kicked down the door to the building and retrieved a cat.

After the animal was brought to safety, the two men heard screams. Paul and Jeffrey entered the burning building and worked their way through the thick smoke to find a choking woman. The two men picked her up and carried her to safety. They returned for a final trip to ensure they had rescued everyone.

I commend the selfless acts of Jeffrey Morse. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Jeffrey, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent Jeffrey Morse in the U.S. Senate.•

TRIBUTE TO RUSS LAURIAT

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Russ Lauriat of Goffstown. Russ, with the assistance of his friends Arthur Moreau and Russ VanderHorst, rescued the life of 28-year-old Scott Derendal.

The three friends came upon a wrecked, burning vehicle while driving through Wear last July. Feeling a civic duty to aid a fellow person in need, Arthur, Russ and Russ raced to rescue the individual trapped in the car. They managed to save the life of Scott.

I commend you Russ for the selfless act of kindness you imparted on an unknown individual. You gave of yourself without a second thought as to how it might affect your life. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO PAUL GAGNE

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Paul Gagne of New Hampshire. His heroic actions, combined with help from Jeffrey Morse, saved a woman and numerous animals. He put his life on the line to rescue others from a burning house.

In September of 2001, the two telephone technicians were working on a cable problem when they noticed smoke coming from a nearby house. They raced to the scene of the fire. Paul hurried to call the emergency rescue services, while Jeffrey used a garden hose to prevent the flames from spreading. Jeffrey then noticed a sign indicating that live animals were living in the house, so he kicked down the door to the building and retrieved a cat.

After the animal was brought to safety, the two men heard screams. Paul and Jeffrey entered the burning building and worked their way through the thick smoke to find a choking woman. The two men picked her up and carried her to safety. They returned for a final trip to ensure everyone had been rescued.

I commend the acts of Paul Gagne. It takes true courage and honor to put somebody else's life above one's own. I am confident that as long as we have people like Paul, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent Paul Gagne in the U.S. Senate.•

TRIBUTE TO RAY SUMMERS

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Ray Summers of Manchester, NH. His heroic actions and dedication to his country saved two fellow citizens and helped to discover numerous bodies that were buried beneath the rubble at Ground Zero. He put his own life on the line to bring comfort to a Nation.

Ray was interning at Shea Stadium when the World Trade Center Buildings collapsed on September 11, 2001, one of the most catastrophic days in our Nation's history. As a trained EMT, Ray answered a call from the New York City emergency authorities who desperately needed his support at Ground Zero. He was escorted to the scene, given rescue equipment, and immediately began to search for victims.

Ray searched for survivors and cleaned up rubble for about 72 hours, taking little time to rest or eat. He encountered several near death experiences, including nearly being crushed by the collapsing Liberty Plaza Building. He and another rescuer found two Port Authority officers still alive. They uncovered the two officers and carried them to safety.

I commend the selfless acts of Ray Summers. It takes true courage and honor to put somebody else's life and their country above one's own life. I am confident that as long as we have people like Ray Summers, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent him in the U.S. Senate.•

TRIBUTE TO ADAM ANDERSON

• Mr. SMITH of New Hampshire. Mr. President, today I show my support to Adam Anderson for his heroic efforts at the McIntyre Ski Area. He, along with Shawn Page, Alex Marion, and Andrew Emanuel, helped to save the life of a fellow skier.

While enjoying a day of recreation at a ski slope, Adam noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the boy. When the boy fell, Adam and his friends were able to save his life and prevent him from sustaining any serious injuries.

I commend this heroic act of Adam Anderson. He helped to save the life of a fellow citizen and brought comfort to a worried family. I feel that as long as we have such dedicated citizens our Nation will continue to be strong. Adam exemplifies the ideals of a Granite Stater and I am honored to represent him in the U.S. Senate.•

TRIBUTE TO CAPTAIN TOM BUINICKY

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Captain Tom Buinicky of the Claremont Fire Department. His heroic actions, along with the efforts of Firefighter Amos Chamberlain, helped to save the lives of several families caught inside a burning apartment building. Amos puts his life on the line everyday for the sake of others.

In January of 2001, the two men responded to what seemed to be a routine call. They were two of the first firefighters on the scene and they discovered a three-alarm fire. Witnesses told them of an infant trapped on the third floor of the building, so the men searched for the baby. The baby had already been brought to safety, but the men continued to make sure that the entire building had been vacated.

Firefighters Buinicky and Chamberlain work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of how they went above and beyond the call of duty in order to save the lives of fellow citizens and bring comfort to the community. Firefighters are among some of this Nation's bravest heroes, and I applaud them for their work to keep New Hampshire safe.

I commend the altruistic acts of Captain Buinicky. It takes true courage to put other's lives above one's own. I am confident that as long as we have people like Tom our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen and it is truly an honor to represent Captain Tom Buinicky in the U.S. Senate.•

TRIBUTE TO TIMOTHY DILLON

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Timothy Dillon of Hampton Falls, NH. His heroic actions, along with those of Christopher Smith, saved the life of a woman trapped in a burning vehicle. He put his own life on the line to rescue a fellow citizen.

In October of 2001, Timothy noticed a burning car that had fallen down an embankment. Timothy and Christopher raced to the scene of the accident and discovered an elderly woman trapped in the burning vehicle. She was pinned in the vehicle by the deployed air bag and the crushed dashboard.

Christopher attempted to break the driver's side window, while Timothy broke through the back of the car. Christopher smashed the window using a tire iron and he entered through the front of the car. Putting their own lives in jeopardy, the two men were able to pull the woman to safety.

I commend the selfless act of Timothy Dillon. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Timothy, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is truly an honor and privilege to represent Timothy Dillon in the U.S. Senate.•

TRIBUTE TO FIREFIGHTER AMOS CHAMBERLAIN

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Firefighter Amos "Buzz" Chamberlain of the Claremont Fire Department. His heroic actions, along with the efforts of Captain Tom Buinicky, helped to save the lives of several families caught inside a burning apartment building. Buzz puts his life on the line each day for the sake of others.

In January of 2001, the two men responded to what seemed to be a routine call. They were two of the first firefighters on the scene and discovered a three-alarm fire. Witnesses told them of an infant trapped on the third floor of the building and they searched for the baby. The baby had already been brought to safety, but the men continued to make sure that the entire building had been vacated.

Firefighters Chamberlain and Buinicky work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of how they went above and beyond the call of duty in order to save the lives of fellow citizens and bring comfort to the community. Firefighters are among some of this Nation's bravest heroes, and I applaud them for their work to keep New Hampshire safe.

I commend the altruistic acts of Amos Chamberlain. It takes true courage and honor to put others' lives above one's own. I am confident that as long as we have people like Buzz, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen and it is truly an honor to represent him in the U.S. Senate.•

TRIBUTE TO FRED AND JOYCE CORSER

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Fred and Joyce Corser of Concord, NH, for their heroic act of rescuing two young passengers from a vehicle on the verge of exploding.

In August of 2001, an automobile accident occurred outside of the Corser's home. Fred immediately rushed to assist the two passengers trapped inside the vehicle, while Joyce contacted rescue personnel and then joined her husband. Together, they risked their lives to remove the backseat passenger from the vehicle, who had sustained a compound leg fracture during the accident.

Moments before the vehicle exploded, Fred and Joyce put their lives in jeopardy once again and pulled out the second passenger. As they were carrying him to safety, the car burst into flames. Fred Corser quickly found a piece of plywood and used it to shield the victim from the explosion.

I commend Fred and Joyce Corser for their altruistic acts. Their selfless deeds saved the lives of two fellow citizens. I feel confident that as long as there are Americans like Fred and Joyce Corser, who are willing to put the well-being of others before themselves, our Nation will continue to be strong. It is truly an honor and a privilege to represent them in the U.S. Senate.•

TRIBUTE TO DEREK VITALE

• Mr. SMITH of New Hampshire. Madam President, today I show my support for Derek Vitale of Chester, NH. His heroic actions saved the lives of numerous Farmington, NH residents, including the life of a helpless baby. He put his own life on the line to rescue others from a burning building.

In August of 2001, Derek was on his way to a fishing trip with his friend Anthony Tripari, when they noticed smoke from a burning apartment building. It was about three o'clock in the morning, so Derek honked the horn of his car in an attempt to wake up all the residents in the building and alert them to the fire.

As the residents vacated, it was reported that a baby was trapped on the second floor. Derek sprinted into the flaming building, covering his mouth with only the collar of his shirt and found the baby. Derek carried the baby to safety and simultaneously knocked on the doors of every apartment to make sure the building was vacated.

I commend the altruistic acts of Derek Vitale. It take true courage to put somebody else's life above one's own. I am confident that as long as we have people like Derek Vitale, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent him in the U.S. Senate.•

TRIBUTE TO THE ALLENSTOWN FIRE DEPARTMENT

• Mr. SMITH of New Hampshire. Madam President, today I show my support for the Allenstown Fire Department, including Captain Dan Silva, Lieutenant Scott Eaton, as well as Firefighters Edward Higgins, Lee Cheney, Mark Jacobs, Ray Sevigny and Keith Lambert. Their heroic actions saved the lives of numerous hotel guests and preserved one of New Hampshire's historical landmarks. The men of the Allenstown Fire Department risked their lives, as they do everyday, to protect and serve.

On an early morning in July of 2001, the Allenstown Fire Department received a call that a historic bed and breakfast was in flames. The company worked tirelessly to extinguish the fire.

Upon learning that guests were trapped in the residence, the firefighters successfully made several rescues. Leading six victims down their ladders, they brought them to safety. The firefighters further risked their lives to perform room-by-room searches to confirm that everybody was out of the building safely.

These firefighters work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of the hard work and dedication of New Hampshire's firefighters. By consistently operating above and beyond the call of duty, these men and women save the lives of fellow citizens and bring comfort to the community. Firefighters are among our country's bravest heroes, and this company has been serving the State of New Hampshire for many years.

I commend the altruistic acts of the Allenstown Fire Department. It takes courage to place somebody else's life above one's own. I am confident that as long as we have firefighters like those of Allenstown our Nation will continue to remain protected. New Hampshire is proud to have such dedicated citizens, and it is an honor to represent you in the U.S. Senate.•

TRIBUTE TO NATHAN LANGLAIS

• Mr. SMITH of New Hampshire. Madam President, today I pay tribute to Nathan Langlais of Nashua, NH, for risking his safety to save the life of a fellow motorist trapped in a crashed vehicle.

In August of 2001, Nathan and his friend John Horan, noticed a vehicle that had plunged through the guardrail and down a hill on the side of Daniel Webster Highway. The men immediately, and without regard for personal safety, came to the aid of the car's driver.

They discovered a semi-conscious driver in the smoking car. The men attempted to extract the driver from the vehicle but were unsuccessful in their first attempt. Loud noises came from the gasoline tank and the back of the car began to ignite. With little time to spare, the men rescued the driver from the passenger's side of the vehicle.

I commend Nathan Langlais for his bravery and heroism. His selflessness saved the life of a fellow citizen, and set a positive example for the people of the State of New Hampshire. I am confident that as long as there are Americans like Nathan Langlais, our Nation will continue to be strong. It is truly an honor and a privilege to represent you in the U.S. Senate.•

MESSAGE FROM THE HOUSE

At 3:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 586) to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes, with amendments in which it requests concurrence of the Senate.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6523. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation entitled "Department of Veterans' Affairs Reorganization Act of 2002"; to the Committee on Veterans' Affairs.

EC–6524. A communication from the Chairman and Vice Chairman of the Federal Election Commission, transmitting, a report relative to emergency Fiscal Year 2002 supplemental appropriations associated with the Bipartisan Campaign Reform Act of 2002; to the Committee on Appropriations.

EC–6525. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on Agency Drug-Free Workplace Plans; to the Committee on Appropriations.

EC–6526. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenhexmid; Pesticide Tolerance" (FRL6829–9) received on April 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6527. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fuazinam; Pesticide Tolerance" (FRL6831–8) received on April 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6528. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sodium Starch Glycolate; Exemption from the Requirement of a Tolerance" (FRL6833–9) received on April 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6529. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act and Toxic Substances Control Act; to the Committee on Environment and Public Works.

EC–6530. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Hazard Mitigation Planning and Hazard Mitigation Grant Program" (RIN3067–AD22) received on April 12, 2002; to the Committee on Environment and Public Works.

EC–6531. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Post-1996 Rate of Progress Plans" (FRL7171–9) received on April 16, 2002.; to the Committee on Environment and Public Works.

EC–6532. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New York" (FRL7172–6) received on April 16, 2002; to the Committee on Environment and Public Works.

EC–6533. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan" (FRL7172–7) received on April 16, 2002; to the Committee on Environment and Public Works.

EC–6534. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Report on Abnormal Occurrences for Fiscal Year 2001; to the Committee on Environment and Public Works.

EC–6535. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Passenger Equipment Safety Standards" (RIN2130–AB48) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6536. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2C10 Series Airplanes" ((RIN2120–AA64)(2002–0181)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6537. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAe 146 Series Airplanes; and Model Avro 146–RJ Series Airplanes" ((RIN2120–AA64)(2002–0180)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6538. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes" ((RIN2120–AA64)(2002–0182)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6539. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airspace Actions Modification of Class E Airspace, Brainerd, MN" ((RIN2120–AA66)(2002–0059)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6540. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airspace Actions Modification of Class E Airspace; Frankfort, MI" ((RIN2120–AA66)(2002–0060)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6541. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere-Falcon 50 Series Airplanes" ((RIN2120–AA64)(2002–0191)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6542. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–90–30 Airplanes" ((RIN2120–AA64)(2002–0192)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6543. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airspace Actions Modification of Class D Airspace, Modification of Class E Airspace; Rockford, IL" ((RIN2120–AA66)(2002–0058)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6544. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Various Transport Category Airplanes Equipped With Air Traffic Control (ATC) Transponders Manufactured by Rockwell Collins Inc." ((RIN2120–AA64)(2002–0188)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6545. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes" ((RIN2120–AA64)(2002–0189)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6546. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–90–30 Airplanes" ((RIN2120–AA64)(2002–0190)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6547. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Request for Comments Boeing Model 767–300 Airplanes that have been modified in accordance with Supplemental Type Certificate STC00973WI–D" ((RIN2120–AA64)(2002–0185)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6548. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: SOCATA—Group AEROSPATIALE Models MS 892A–150, MS 892E–150, MS 893A, MS 894A, MS 894E, Rallye 150T, and Rallye 150ST Airplanes" ((RIN2120–AA64)(2002–0186)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6549. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rockwell Collins, Inc. TDR–94 and TDR–94D Model S Transponders" ((RIN2120–AA64)(2002–0187)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6550. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company P206, TP206, U206, 207, T207, 210, P210, and T210 Series Airplanes" ((RIN2120–AA64)(2002–0194)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6551. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–10–10, 10F, 15, 30, 30F KC–10A and KDC–10, 40, and 40F Series Airplanes and Model MD–10–10F and MD–10–30F Series Airplanes" ((RIN2120–AA64)(2002–0184)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6552. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd. Models P–12 and PC–12/45" ((RIN2120–AA64)(2002–0195)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6553. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Request for Comments Boeing Model 777–200 and 300 Series Airplanes" ((RIN2120–AA64)(2002–0183)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 243: A concurrent resolution expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and select other public safety officers who deserve special recognition for outstanding valor above and beyond the call of duty in the aftermath of the terrorist attacks in the United States on September 11, 2001.

S. Con. Res. 66: A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

S. Con. Res. 75: A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue and recovery efforts in the aftermath of those attacks.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Jeffrey R. Howard, of New Hampshire, to be United States Circuit Judge for the First Circuit.

Debra W. Yang, of California, to be United States Attorney for the Central District of California for a term of four years.

Frank DeArmon Whitney, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for a term of four years.

Percy Anderson, of California, to be United States District Judge for the Central District of California.

Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.

Michael M. Baylson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Cynthia M. Rufe, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

William C. Griesbach, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

John F. Walter, of California, to be United States District Judge for the Central District of California.

Barry D. Crane, of Virginia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Mary Ann Solberg, of Michigan, to be Deputy Director of National Drug Control Policy.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Coast Guard nomination of Vice Adm. Thad W. Allen.

*Coast Guard nomination of Rear Adm. Thomas J. Barrett.

*Coast Guard nomination of Rear Adm. James D. Hull.

*Coast Guard nomination of Rear Adm. Terry M. Cross.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. McCONNELL (for himself, Mrs. FEINSTEIN, Ms. COLLINS, Mr. SMITH of Oregon, and Mr. BENNETT):

S. 2194. A bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mrs. CLINTON, Mrs. CARNAHAN, and Mrs. FEINSTEIN):

S. 2195. A bill to establish State infrastructure banks for education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 2196. A bill to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 2197. A bill to provide for the liquidation or reliquidation of certain entries of roller chain; to the Committee on Finance.

By Mr. BREAUX (for himself, Ms. LANDRIEU, Mr. SPECTER, and Mr. SANTORUM):

S. 2198. A bill to establish a commission to commemorate the sesquicentennial of the

American Civil War, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 2199. A bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2200. A bill to amend the Ineternal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. BURNS, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. CLELAND, Mr. NELSON of Florida, and Mrs. CARNAHAN):

S. 2201. A bill to protect the online privacy of individuals who use the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS (for himself and Mr. BINGAMAN):

S. 2202. A bill to amend title III of the Public Health Service Act to increase professional and public awareness of the link between periodontal disease in pregnant women and pre-term, low-birth weight babies and the maternal transmission of caries; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself and Mrs. MURRAY):

S. 2203. A bill to provide grants for mental health and substance abuse services for women and children who have been victims of domestic or sexual violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself and Mrs. MURRAY):

S. 2204. To amend the Public Health Service Act to improve treatment for the mental health and substance abuse needs of women with histories of trauma, including domestic and sexual violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2205. A bill to amend title 38, United States Code, to clarify the entitlement to disability compensation of women veterans who have service-connected mastectomies, to provide permanent authority for counseling and treatment for sexual trauma, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BUNNING:

S. 2206. A bill to make technical correction with respect to the duty suspension relating to certain polyamides; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. HARKIN, and Mr. GRASSLEY):

S. 2207. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. BIDEN):

S. 2208. A bill to provide that children's sleepwear shall be manufactured in accordance with stricter flammability standards; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 2209. A bill to amend title 38, United States Code, to provide an additional program of service disabled veterans' insurance for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN (for himself, Mr. SANTORUM, Mr. KERRY, Mr. FRIST, Mr. SARBANES, Mr. CHAFEE, and Mr. DEWINE):

S. 2210. A bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative; to the Committee on Foreign Relations.

By Mr. HUTCHINSON (for himself and Mr. CLELAND):

S. 2211. A bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes; to the Committee on Armed Services.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 2212. A bill to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act and for other purposes; to the Committee on Indian Affairs.

By Mr. DAYTON (for himself and Mr. SESSIONS):

S. 2213. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain overseas pay of members of the Armed Forces of the United States; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, and Mrs. CLINTON):

S. 2214. A bill to provide compensation and income tax relief for the individuals who were victims of the terrorist-related bombing of the World Trade Center in 1993 on the same basis as compensation and income tax relief is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. SANTORUM):

S. 2215. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 246. A resolution demanding the return of the USS *Pueblo* to the United States Navy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 229

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 229, a bill to amend Federal banking law to permit the payment of interest on business checking accounts in certain circumstances, and for other purposes.

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 554

At the request of Mrs. MURRAY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 554, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 677

At the request of Mr. HATCH, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 1005

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1005, a bill to provide assistance to mobilize and support United States communities in carrying out community-based youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1370

At the request of Mr. MCCONNELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1370, a bill to reform the health care liability system.

S. 1449

At the request of Mr. GRAHAM, the name of the Senator from Maine (Ms.

COLLINS) was added as a cosponsor of S. 1449, a bill to establish the National Office for Combatting Terrorism.

S. 1549

At the request of Mr. LIEBERMAN, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1549, a bill to provide for increasing the technically trained workforce in the United States.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1749, supra.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Florida (Mr. NELSON), the Senator from Hawaii (Mr. INOUYE), the Senator from Delaware (Mr. CARPER), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1828

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1828, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 1981

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1981, a bill to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism.

S. 1990

At the request of Mrs. MURRAY, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1990, a bill to establish a public education awareness program relating to emergency contraception.

S. 1992

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1992, a bill to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes.

S. 2003

At the request of Mr. NELSON of Nebraska, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2003, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2046

At the request of Mr. CRAIG, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2046, a bill to amend the Public Health Service Act to authorize loan guarantees for rural health facilities to buy new and repair existing infrastructure and technology.

S. 2051

At the request of Mr. REID, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Maryland (Mr. SARBANES), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2078

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2078, a bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local political committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

S. 2134

At the request of Mr. HARKIN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. CLELAND), the Senator from Montana (Mr. BAUCUS), the Senator from Georgia (Mr. MILLER), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2134, a bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

S. 2179

At the request of Mrs. CARNAHAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2179, a bill to authorize the Attorney General to make grants to States, local governments, and Indian tribes to establish permanent tributes to honor men and women who were killed or disabled while serving as law enforcement or public safety officers.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day."

AMENDMENT NO. 3103

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3103 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3136

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3136 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3141

At the request of Mr. DORGAN, the names of the Senator from Connecticut (Mr. DODD), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Nevada (Mr. REID) were added as cosponsors of amendment No. 3141 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Ms. COLLINS, Mr. SMITH of Oregon, and Mr. BENNETT):

S. 2194. A bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes; to the Committee on Foreign Relations.

Mr. MCCONNELL. Madam President, on behalf of the Senator from California and myself, I offer the Arafat Accountability Act. This act seeks to create conditions more conducive to stopping the senseless violence and flow of innocent blood in the Middle East.

The act takes aim at the weakest link in ongoing efforts to negotiate a political solution to the Israeli-Palestinian conflict—PLO Chairman Yasser

Arafat. His leadership has been marked by repeated failures—failure to forcefully denounce and terminate the spree of horrific homicide bombings, failure to serve as a credible and reliable partner in peace, and failure to fulfill the aspirations of the Palestinian people for stability, economic opportunity, and a viable homeland.

Instead, he has acquiesced to terror and violence. Documents seized during recent counterterrorism operations on the West Bank reveal his personal involvement in financing and supporting terrorism against Israeli civilians. The successful interception of a cargo vessel from Iran earlier this year—loaded with offensive weaponry destined for the Palestinian Authority—should have conclusively proven that Chairman Arafat was, at best, a balky partner in peace, or, at worst, a foe of any meaningful reconciliation.

The terrorist attacks against Israel must come to an end. And they must end on terms that safeguard the lives and livelihoods of innocent Israeli and Palestinian civilians. Much like our war against the Taliban and al-Qaida in Afghanistan, Israel is rotting out terrorist cells and destroying their networks.

It is no understatement that the Israeli military is undertaking its operations with precision and professionalism that no other army in the region could exert.

The Arafat Accountability Act will not frustrate or derail the important efforts of the administration to secure a political solution to the ongoing strife. Rather, it places critical incentives to ensure that Chairman Arafat and the Palestinian Authority do not deliver a fatal blow to the prospects for peace.

Specifically, the act denies a visa to Arafat and other senior PLO officials to travel to the United States, downgrades the PLO's representative office here in Washington, restricts the travel of senior PLO officials at the United Nations, and seizes the assets of the PLO and the Palestinian Authority and Arafat in the United States. It also requires the administration to report to Congress on any acts of terrorism committed by the PLO or its constituent elements.

Importantly, the bill provides the President with flexibility in determining the sanctions, but it is my expectation that they would remain in place until a cease-fire is achieved and the Tenet plan implemented. These are the very same short-term goals that Secretary Powell has been trying to achieve over the last few days.

We should not forget that in 1993 Arafat himself committed the PLO to "a peaceful resolution of the conflict," so we are not holding Arafat to any higher standard than he established for himself already.

I would offer that Arafat should have listened more carefully to Secretary Powell when he said to the Nation and the world from the McConnell Center for Political Leadership at the University of Louisville last year that solutions to this conflict "will not be created by teaching hate and division, nor will they be born amidst violence and war."

I emphasize that it is not my intent to push this bill to a vote on the Senate floor at this time. We should give the President and his advisers more time to pursue their objectives in the region.

It is my intent, though, and the intent of the Senator from California, to send a powerful signal to Chairman Arafat and the Palestinian Authority that the Senate will not stand idly by while they talk peace in English and practice terror in Arabic.

No progress toward a political solution to this conflict will be made until and unless Yasser Arafat forcefully, clearly, and repeatedly condemns homicide bombings and other acts of terrorism against Israel and takes concrete measures to restrain Palestinian extremists.

The bill we introduce today puts added pressure on Arafat and the PLO to be responsible and responsive partners in peace. There is no room for further failure on Arafat's part. He must either lead his people toward peace or get out of the way.

Let me close by commending President Bush and his administration for their superb conduct in the ongoing war against terrorism. They certainly have my full support in this endeavor—be it in the West Bank or in Gaza or, for that matter, in Iraq.

My colleagues and I are looking forward to hearing from Secretary Powell when he appears before the Foreign Operations Subcommittee next week.

Mrs. FEINSTEIN. Madam President, I thank the Senator from Kentucky for his work and leadership on this issue.

We are here because we believe any hope for peace in the Middle East must begin with the complete renunciation of terrorism by the Palestinian Liberation Organization and a strong, unwavering commitment to bring such terrorism to an end.

We also believe that only with the leadership of the United States can there be a peaceful settlement and resolution of issues in the area.

For the past 18 months, as the violence of the second Intifada has increased, the United States has consistently called upon Yasser Arafat to halt the terrorism he pledged to end in the Oslo accords.

Unfortunately, Arafat has incited the violence and helped financially support the terrorists.

We now know that one of Arafat's top advisers is directly involved in financing the illegal weapons purchases and terror activities of the Al Aqsa Brigade.

We now know, according to documents seized by the Israeli Defense Forces, that Arafat was directly involved in efforts to illegally smuggle more than 50 tons of arms into Israel from Iran a few months ago.

We now know that Arafat has failed to confiscate weapons of terrorist suspects.

We know he has failed to arrest and hold suspected terrorists and is harboring suspects in the assassination of an Israeli Cabinet official in his own headquarters in Ramallah.

In fact, much of the terrorism emanates from the heart of the PLO, carried out by the Al Aqsa Martyrs Brigade, composed of members of Arafat's own Fatah faction.

Since the beginning of the year, 209 people have been murdered and more than 1,500 injured in these suicide bombings. These are children, women, men—innocent civilians.

The Al Aqsa Martyrs Brigade claimed credit for numerous of these attacks, including on March 31, central Jerusalem, killing 3 people; March 3, killing 10 people in west Jerusalem; and January 31, when the first female bomber killed an elderly Israeli.

A document seized by the Israel Defense Forces in Ramallah, signed by Arafat himself, approves funding for the Al Aqsa Brigades.

On February 3, Arafat wrote a New York Times op-ed opposing violence against Israel. Yet he declared a few days later, in Ramallah, that "we will make the lives of the infidels Hell" and led a chant of "A million martyrs marching to Jerusalem!"

And this past week, while Arafat spoke out against terrorism, his wife, in Paris, said she would be proud if she had a son who became a suicide bomber.

I believe, sincerely, that this is not a leader who wants peace for his people. In fact, I believe the suicide bombings have been precisely calculated to destroy any chance for peace.

If these suicide bombers cannot be stopped, the situation is going to continue to deteriorate, Israel will have to continue to exercise its legitimate right of self-defense, and the result will be full-scale military conflagration.

Israel has done no less—and certainly no more—than what any country would do to defend itself. There has been a lamentable loss of life in the West Bank. And I grieve for it because I believe, very deeply, every life—Israeli or Palestinian—has equal value.

But let us not forget that Israel's military operation has been one based on specific intelligence information, with specific military goals—to act directly against terrorists who before the start of the operation were carrying out daily suicide bombings against Israeli civilians—and carried out with considerable restraint.

Certainly, Israel has not gone beyond what the United States and our allies have been doing in Afghanistan, or the United Kingdom in Northern Ireland, or the bloody French campaign in Algeria—let alone, what Egypt, Saudi Arabia, Syria, Iraq, or Iran do on almost a daily basis to quell dissent.

Does anyone doubt that a suicide bombing in Cairo, or Riyadh, or Damascus, or Beirut, or Paris would be met with the strongest of reactions, as was the 9-11 terrorist incident here?

There simply is no excuse for arming a teenage girl with bombs around her waist to blow up women and children. And this kind of terror is happening over and over again.

So the time is now for this Senate to stand up, in a strong, unified voice, to condemn the actions of Chairman Arafat and his PLO and the terrorism that has spawned.

Chairman Arafat has said one thing in English and another in Arabic. Chairman Arafat fans the flames and incites the people.

We offer this bill, after witnessing the failure of efforts by Messrs. Tenet, Mitchell, Zinni, and, at least initially, Secretary Powell to break the deadlock largely because Chairman Arafat has not brought to an end the suicide bombing and other acts of terrorism.

This legislation would require the President to report to Congress every 90 days, detailing the acts of terrorism engaged in by the Palestinian Liberation Organization or any of its constituent elements and, based on that report, to designate the PLO or its constituent elements as terrorist organizations, or explain why not.

The legislation also finds that Chairman Arafat and the PLO have violated his commitment to peace through the recent purchase of 50 tons of offensive weaponry from Iran; that they are responsible for the murder of hundreds of innocent Israelis and the wounding of thousands more since October 2000, and that they have been directly implicated in funding and supporting terrorists who have claimed responsibility for a number of homicide bombings inside Israel.

Because of the failure by the Palestinian Liberation Organization to renounce terrorism, the act would, A, downgrade PLO representation in the United States to before Oslo; B, place travel restrictions on senior PLO representatives at the United Nations; C, confiscate assets of PLO or Palestinian Authority or Chairman Arafat in the United States; D, deny visas to Chairman Arafat or other officials of the PLO or the Palestinian Authority.

It is important to note that the President may, on a case-by-case basis, waive this provision based on national security considerations.

The legislation presents a sense of the Senate outlining the first steps needed to reach peace. First, the United States should urge an immediate and unconditional end to all terrorist activities and commencement of a cease-fire. Two, Arafat and the PLO should turn over to Israel for detention and prosecution those wanted by the Israeli Government for the assassination of Israeli Minister of Tourism, Mr. Zeevi. Third, Arafat and the PLO should take broad and immediate action to condemn all acts of terrorism, including and especially suicide bombing, which has resulted in the murder of over 125 Israeli men, women, and children in the month of March alone and the injury of hundreds more; confiscate and destroy the infrastructure of terrorism, including weapons, bomb factories and materials, as well as end all financial support of terrorist activities; and to take positive steps to urge all Arab nations and individuals to cease funding terrorist operations and the families of terrorists.

Finally, the President of the United States, working with the international community, with Israel and the Arab States, should continue the search for a comprehensive peace in the region.

There is no question that there are serious differences to be reconciled between Israel and the Palestinian people and that only a political settlement can hopefully bring the violence in this region to an end. I believe the 1967 borders, borders which have the imprimatur of the United Nations, hold the key to a settlement. Despite serious differences about the refugee problem, ongoing security, and the status of Jerusalem, I believe peace can be achieved through negotiation and agreement. But I know it cannot be achieved through violence.

The necessary first step is the end of the violence, the terrorism, and the suicide bombing. Once that is done, we are firmly convinced that if leaders on both sides want peace, the rest can all be worked out.

By Mr. HARKIN (for himself, Mrs. CLINTON, Mrs. CARNAHAN, and Mrs. FEINSTEIN):

S. 2195. A bill to establish State infrastructure banks for education; to the Committees on Health, Education, Labor, and Pensions.

Mr. HARKIN. Madam President, the need to rebuild our Nation's crumbling schools is clear. The National Center for Education Statistics estimates that it would cost $127 billion to repair, modernize, and renovate U.S. schools. Fourteen million U.S. students currently attend schools that report a need for extensive repair. And a study by the American Society of Civil Engineers concludes that public schools are in worse condition than any other sector of our national infrastructure.

And yet the Federal Government is doing far too little to help.

That is why I am introducing the Investing for Tomorrow's Schools Act of 2002. I am pleased to have Senators CLINTON, CARNAHAN, and FEINSTEIN join with me as co-sponsors.

This legislation allows States to create "infrastructure banks" for public schools and libraries. Modeled after State revolving funds, which have been used successfully to finance transportation projects, these banks would offer low-interest loans to school districts for building or repairing public schools, and to public libraries for building or repairing libraries. As the loans are repaid, the bank funds would be replenished, and the banks could make new loans to other schools and libraries. Once the banks got rolling, they would sustain themselves, without any need for ongoing Federal appropriations.

After more than a decade of fighting to rebuild our Nation's deteriorating schools, I am well aware that this bill is just one part of the solution. Two years ago, as the ranking member on the Senate Labor, HHS, and Education Appropriations Subcommittee, I led the effort to provide $1.2 billion in grants to schools that urgently need repairs. Last year, the Senate approved another $925 million on a bipartisan vote, but unfortunately that funding was eliminated during conference negotiations with the House.

I also introduced the America's Better Classrooms Act, which would provide tax credits to subsidize $25 billion in new construction. That legislation is still pending, and I am hopeful that it will succeed. The Investing for Tomorrow 's School Act is the final piece of the puzzle.

If the nicest buildings our kids see in their hometowns are shopping malls, sports arenas and movie theaters, and the most rundown place they see is their school, what kind of signal are we sending? We can and must do better for our children. The Investing for Tomorrow's School Act should be a critical part of our strategy to improve education, and I urge my colleagues to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investing for Tomorrow's Schools Act of 2002".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) According to a 1996 study conducted by the American School & University, $10,420,000,000 was spent to address the Nation's education infrastructure needs in 1995, with the average total cost of a new high school at $15,400,000.

(2) According to the National Center for Education Statistics, an estimated $127,000,000,000 in repairs, renovations, and modernizations is needed to put schools in the United States into good overall condition.

(3) Approximately 14,000,000 American students attend schools that report the need for extensive repair or replacement of 1 or more buildings.

(4) Academic research has proven that there is a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found that students assigned to schools in poor conditions can be expected to fall 10.9 percentage points behind those in buildings in excellent condition. Similar studies have demonstrated improvement of up to 20 percent in test scores when students were moved from a poor facility to a new facility.

(5) The Director of Education and Employment Issues at the Government Accounting Office testified that nearly 52 percent of schools, affecting 21,300,000 students, reported insufficient technology elements for 6 or more areas.

(6) Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

(7) The challenges facing our Nation's public elementary schools and secondary schools and libraries require the concerted efforts of all levels of government and all sectors of the community.

(8) The United States competitive position within the world economy is vulnerable if America's future workforce continues to be educated in schools and libraries not equipped for the 21st century.

(9) The deplorable state of collections in America's public school libraries has increased the demands on public libraries. In many instances, public libraries substitute for school libraries, creating a higher demand for material and physical space to house literature and educational computer equipment.

(10) Research shows that 50 percent of a child's intellectual development takes place before age 4. The Nation's public and school libraries play a critical role in a child's early development because the libraries provide a wealth of books and other resources that can give every child a head start on life and learning.

SEC. 3. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) COOPERATIVE AGREEMENTS.—The Secretary of Education (hereafter in this Act referred to as the "Secretary"), in consultation with the Secretary of the Treasury, may enter into cooperative agreements with States under which—

(A) States establish State infrastructure banks and multistate infrastructure banks for the purpose of providing the loans described in subparagraph (B); and

(B) the Secretary awards grants to such States to be used as initial capital for the purpose of making loans—

(i) to local educational agencies to enable the agencies to build or repair elementary schools or secondary schools that provide free public education; and

(ii) to public libraries to enable the libraries to build or repair library facilities.

(2) INTERSTATE COMPACTS.—

(A) CONSENT.—Congress grants consent to any 2 or more States, entering into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, to enter into an interstate compact establishing a multistate infrastructure bank in accordance with this section.

(B) RESERVATION OF RIGHTS.—Congress expressly reserves the right to alter, amend, or repeal this section and any interstate compact entered into pursuant to this section.

(b) REPAYMENTS.—Each infrastructure bank established under subsection (a) shall apply repayments of principal and interest on loans funded by the grant received under subsection (a) to the making of additional loans.

(c) INFRASTRUCTURE BANK REQUIREMENTS.—A State establishing an infrastructure bank under this section shall—

(1) contribute in each account of the bank from non-Federal sources an amount equal to not less than 25 percent of the amount of each capitalization grant made to the bank under subsection (a);

(2) identify an operating entity of the State as recipient of the grant if the entity has the capacity to manage loan funds and issue debt instruments of the State for purposes of leveraging the funds;

(3) allow such funds to be used as reserve for debt issued by the State, so long as proceeds are deposited in the fund for loan purposes;

(4) ensure that investment income generated by funds contributed to an account of the bank will be—

(A) credited to the account;

(B) available for use in providing loans to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(5) ensure that any loan from the bank will bear interest at or below the lowest interest rates being offered for bonds, the income from which is exempt from Federal taxation, as determined by the State, to make the project that is the subject of the loan feasible;

(6) ensure that repayment of any loan from the bank will commence not later than 1 year after the project has been completed;

(7) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (6); and

(8) require the bank to make an annual report to the Secretary on its status, and make such other reports as the Secretary may require by guidelines.

(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—An infrastructure bank established under this section may make a loan to a local educational agency or a public library in an amount equal to all or part of the cost of carrying out a project eligible for assistance under subsection (e).

(2) APPLICATIONS FOR LOANS.—

(A) IN GENERAL.—A local educational agency or public library desiring a loan under this Act shall submit to an infrastructure bank an application that includes—

(i) in the case of a renovation project—

(I) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with loan funds and the priorities to be applied; and

(II) a description of the criteria used by the applicant to determine the type of corrective action necessary for the renovation of a facility;

(ii) a description of any improvements to be made and a cost estimate for the improvements;

(iii) a description of how work undertaken with the loan will promote energy conservation; and

(iv) such other information as the infrastructure bank may require.

(B) TIMING.—An infrastructure bank shall take final action on a completed application submitted to it in accordance with this subsection not later than 90 days after the date of the submission of the application.

(3) CRITERIA FOR LOANS.—In considering an application for a loan, an infrastructure bank shall consider—

(A) the extent to which the local educational agency or public library desiring a loan would otherwise lack the fiscal capacity, including the ability to raise funds through the full use of such bonding capacity of the agency or library, to undertake the project proposed in the application;

(B) in the case of a local educational agency, the threat that the condition of the physical plant in the proposed project poses to the safety and well-being of students;

(C) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility in the proposed project; and

(D) the age of the facility proposed to be reconstructed, renovated, or replaced.

(e) QUALIFYING PROJECTS.—

(1) IN GENERAL.—A project is eligible for a loan from an infrastructure bank if it is a project that consists of—

(A) the construction of a new elementary school or secondary school to meet the needs imposed by enrollment growth;

(B) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or lighting equipment;

(C) an activity to increase physical safety at the educational facility involved;

(D) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

(E) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

(F) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

(G) work that will bring an educational facility into conformity with the requirements of—

(i) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect when the facility was initially constructed; and

(ii) hazardous waste disposal, treatment, and storage requirements mandated by the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or similar State laws;

(H) work that will enable efficient use of available energy resources;

(I) work to detect, remove, or otherwise contain asbestos hazards in educational facilities; or

(J) work to construct new public library facilities or repair or upgrade existing public library facilities.

(2) DAVIS-BACON.—The wage requirements of the Act of March 3, 1931 (referred to as the "Davis-Bacon Act" (40 U.S.C. 276a et seq.)) shall apply with respect to individuals employed on the projects described in paragraph (1).

(f) SUPPLEMENTATION.—Any loan made by an infrastructure bank shall be used to supplement and not supplant other Federal, State, and local funds available to carry out school or library construction, renovation, or repair.

(g) Limitation on Repayments.—Notwithstanding any other provision of law, the repayment of a loan from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

(h) Secretarial Requirements.—In administering this section, the Secretary shall specify procedures and guidelines for establishing, operating, and providing assistance from an infrastructure bank.

(i) United States Not Obligated.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(j) Management of Federal Funds.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

(k) Program Administration.—A State may expend an amount not to exceed 2 percent of the grant funds contributed to an infrastructure bank established by a State or States under this section to pay the reasonable costs of administering the infrastructure bank.

(l) Secretarial Review and Report.—The Secretary shall—

(1) review the financial condition of each infrastructure bank established under this section; and

(2) transmit to Congress a report on the results of such review not later than 90 days after the completion of the review.

SEC. 4. DEFINITIONS.

In this Act:

(1) Elementary school, free public education, local educational agency, and secondary school.—The terms "elementary school", "free public education", "local educational agency", and "secondary school" have the same meanings as in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

(2) Outlying area.—The term "outlying area" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau;

(3) Public library.—The term "public library"—

(A) means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds; and

(B) includes a research library, which, for purposes of this subparagraph, means a library that—

(i) makes its services available to the public free of charge;

(ii) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

(iii) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(iv) is not an integral part of an institution of higher education; and

(4) State.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

By Mr. BENNETT:

S. 2196. A bill to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Madam President, today it gives me great pleasure to introduce for the Senate's consideration legislation establishing the National Mormon Pioneer Heritage Area.

Spanning 250 miles, from the small town of Fairview, UT southward to our border with Arizona, the area encompassed by the National Mormon Pioneer Heritage Area includes outstanding examples of historical, cultural, and natural resources shaped by the Mormon pioneers. The story of the Mormon pioneers is one of the most compelling and captivating in our Nation's history. After traveling 1,400 miles from Illinois either by wagon or by pulling a handcart the pioneers came to the Great Salt Lake Valley. Along the way, the pioneers experienced many hardships including starvation, dehydration, exposure to the elements, Indian attacks, and religious persecution to name a few. Many people died during their journey. Shortly after arriving in and establishing Salt Lake City, Brigham Young dispatched pioneers to establish communities in present day Idaho, Wyoming, Oregon, and other regions of Utah. The vast colonization effort in no way ended the hardship experienced by the pioneers. Throughout the area included in my proposal are numerous stories of pioneers who perserved through challenging circumstances. Communities such as Panguitch have Quilt Days every year to commemorate the sacrifice and fortitude of its pioneers whose efforts saved the community from starvation in 1864. The Quilt Days celebration is a remembrance of an event known as the Quilt Walk, in which a group of men from Panguitch attempted to cross over the mountains to Parowan, a community to the west, to procure food during the community's first winter. Because of deep snows the pioneers were unable to trek across the mountains. Using their quilts, the pioneers formed a path which would support their weight and were able to reach Parowan, secure food, and return to Panguitch. There are other remarkable stories in the proposed heritage area that demonstrate the tenacity of the Mormon pioneers. At times in order to survive, the pioneers had to overcome major natural obstacles. One such obstacle was the Hole-in-the-Rock. In 1880 a group of 250 people, 80 wagons, and 1,000 head of cattle came upon the Colorado River Gorge. After looking for sometime to find an acceptable path to the river, the pioneers found a narrow crevice leading to the bottom of the gorge. Because the crevice was too narrow to accommodate their wagons, the pioneers spent six weeks enlarging the crevice by hand, using hammers, chisels, and blasting powder, so wagons could pass. Today the Hole-in-the-Rock stands as a monument to the resourcefulness of the Mormon pioneers.

The National Mormon Pioneer Heritage Area will serve as special recognition to the people and places that have contributed greatly to our Nation's development. Throughout the heritage area are wonderful examples of architecture, such as the community of Spring City, heritage products, and cultural events, such as the Mormon Miracle Pageant, that demonstrate the way-of-life of the pioneers.

This designation will allow for the conservation of historical and cultural resources, the establishment of interpretive exhibits, will increase public awareness, and specifically allows for the preservation of historic buildings. This is a locally based, locally supported undertaking. My legislation has broad support from Sanpete, Sevier, Piute, Garfield, and Kane Counties. Furthermore, nothing in my legislation affects private property, land use planning, or zoning.

I am very proud to introduce this legislation today. I look forward to working with my colleagues in the Committee on Energy and Natural Resources to pass this legislation this year.

By Mr. WYDEN.

S. 2197. A bill to provide for the liquidation or reliquidation of certain entries of roller chain; to the Committee on Finance.

Mr. WYDEN. Madam President, today I am introducing legislation whose purpose is to correct a gross injustice that has been carried out for more than two decades by bureaucrats at the International Trade Administration, ITA, and the U.S. Customs Service, Customs, against a small Oregon business, GS Associates, Inc., GS. What has been allowed to happen to this company at the hands of the federal government is a shocking and ultimately disturbing example of what can happen to ordinary, hardworking Americans when an overzealous Federal bureaucracy is allowed to run horribly amok.

In 1973, imports of Japanese roller chain, not bicycle chain, potentially became subject to dumping duties, and in 1980, Congress instructed the International Trade Administration, ITA, to conduct complete annual administrative reviews of outstanding dumping findings to determine whether any dumping duties should be assessed. But ITA failed to complete its reviews on a timely basis. In fact, for my small Oregon importer, GS, the ITA wasn't just a day or two late in reporting the findings of its review of the company's Japanese supplier for shipments imported from April 1, 1981 through March 31, 1982, they were nine-and-a-half years late. When ITA finally got around to issuing a notice regarding its administrative review on September 22, 1992, a court challenge was initiated by the Japanese supplier and a court decision was rendered on July 11, 1995. Not surprisingly, ITA failed to publish notice of the court's decision in the Federal Register within ten days, as required by law. That was in 1995. The year is now 2002, and ITA still has not published that notice. And as if all of this ineptitude were not enough, ITA then failed to instruct Customs to begin assessing dumping duties on and to liquidate GS Associates' shipments until the Spring of 2000. When Customs finally began assessing duties, they added on enormous amounts of interest, dating back almost 20 years, in sums that were two to three times greater than the original dumping duty assessments. This outrageous pattern of conduct by the federal government threatens GS with bankruptcy.

The level of ineptitude displayed in this case by bureaucrats at ITA and the Customs Service is egregious bordering on negligence. Legitimate small businesses in this country should have the expectation they will be treated fairly and forthrightly by their federal government. ITA and the Customs Service deserve a very strong rebuke. GS Associates deserves to have its case resolved quickly and fairly, and that is the point of my legislation. It will liquidate once and for all the $1.7 million in duties and interest that have accumulated over the past 20 years on these imports because of federal government negligence.

I intend to work with the Finance Committee to assure that this measure is included in the legislation the committee is preparing on temporary duty suspensions, and hope that the duty suspension bill will enable this Oregon company to be able to put this terrible experience behind it.

By Mr. CRAIG:

S. 2199. A bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance; to the Committee on Finance.

Mr. CRAIG. Madam President, I rise today to introduce the Long-Term Care Insurance Partnership Act.

In the early 1990's, with support from a grant by the Robert Wood Johnson Foundation, four States, California, Connecticut, Indiana and New York, initiated programs to create public-private long-term care partnerships to provide citizens with options for long-term care coverage without having to spend down to Medicaid eligibility. However, current law prohibits additional States from including asset protection in any public-private partnerships they may develop. Other States may set up the policies, but the beneficiaries receive no asset protection in the event they exhaust the long-term care insurance policies. They would be forced to spend down to Medicaid levels, thereby removing the key incentive behind the partnership program—asset protection.

Under the partnership program, States authorize the sale of approved long-term care insurance policies that meet certain benefit requirements. Individuals who purchase approved policies, would receive a guarantee from the State that should their policy benefits be exhausted, the State would then cover the cost of their continuing care through Medicaid. The primary incentive for purchasing partnership policies is asset protection.

In other words, the State Medicaid program would become a payer of last resort rather than providing first-dollar coverage, in effect becoming a long-term care "stop-loss" program.

The benefits of the program are significant for both seniors and government: Individuals are encouraged to take responsibility for their own long-term care needs rather than relying on a State benefit. It avoids forcing middle-class individuals to spend down to Medicaid levels, but gives these same individuals the knowledge that the government will be there if they need it. This program has been successful in the goal of keeping people from needing to use Medicaid. Under this program in four States, there are nearly 66,000 policies in force and so far only 28 policyholders have exhausted their long-term care insurance benefits and accessed Medicaid assistance. At a cost averaging $50,000 per year for long-term care services, the savings for State Medicaid budgets can be significant.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long-Term Care Insurance Partnership Program Act of 2002".

SEC. 2. PERMITTING ADDITIONAL STATES TO ENTER INTO LONG-TERM CARE PARTNERSHIPS TO PROMOTE USE OF LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) is amended—

(1) in clause (i), by striking "shall seek adjustment" and inserting "may seek adjustment"; and

(2) in clause (ii), by striking "had a State plan amendment approved as of May 14, 1993, which provided" and inserting "has a State plan amendment approved which provides".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2200. A bill to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property; to the Committee on Finance.

Mr. BAUCUS. Madam President, today I introduce legislation, along with Senator GRASSLEY, to clarify the tax treatment of the clergy housing allowance. It is a very simple bill that confirms established Internal Revenue Service policy that has lacked the force of law. Without this clarification, we risk losing a long-standing benefit that is terribly important to hundreds of thousands of ministers, priests, rabbis and other clergy all across America.

Since 1921, the Tax Code has allowed clergy to exclude from their taxable income the value of housing provided to them, and since the 1950's they have also been able to exclude a housing allowance provided for the same purpose. This section of the Code is similar to one for employer-provided housing for other taxpayers. The one for clergy is much simpler, in order to minimize the involvement of the Government in the affairs of churches, that is, to keep the separation between Church and State.

The IRS has always interpreted this exclusion to be limited to the fair market rental value of the housing. They clearly stated that position in 1971, but their statement lacked the force of law. Their position has been challenged in Court, and the Court has said that it was not clear that Congress meant to impose this limit. That is why we must act.

The vast majority of clergy across America work very hard for very modest pay. Especially in rural areas like we have in Montana, many congregations are small, pay is low, and ministers are very dependent upon their churches providing or paying for their housing. A dispute over this issue has led to a controversial attempt by a panel of court of appeals judges to call into question the constitutionality of the exclusion. If the exclusion is lost, it will cost America's clergy $500 million each year. That may seem like a small amount of money compared to many of our tax bills that add up to billions, but it is a lot of money to those who are directly affected, and to the millions of Americans in the congregations that they serve.

The House has passed similar legislation by a vote of 408 to 0. Senator GRASSLEY and I will try to expedite passage of the legislation here in the Senate.

It is good tax policy to keep a reasonable limit on the amount of this deduction, as the IRS has done for decades. And it is good policy to make our intent crystal clear so that government involvement with religious affairs is kept to a minimum. This bill will do both.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. BURNS, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. CLELAND, Mr. NELSON of Florida, and Mrs. CARNAHAN):

S. 2201. A bill to protect the online privacy of individuals who use the Internet; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Madam President, today I rise to introduce bipartisan legislation that will establish baseline requirements for the protection of personal information collected from individuals over the Internet. This bill, the Online Personal Privacy Act, represents the work of many months and important input from consumer groups, affected individuals, and most importantly, many Senators on the Commerce Committee. The origin of this emerging consensus position began to take shape at a Commerce committee hearing last summer that focused generally on whether there was a need for online privacy legislation. At that time, members of the committee began to articulate the notion that not all personal information is created equal. I agree. Some, highly sensitive personal information, such as personal financial or medical information or a person's religious beliefs are clearly more sensitive than other garden-variety types of information, such as a pair of slacks that an individual may purchase. Since that hearing, and in numerous meetings with members of the Committee, we have worked hard to develop a balanced approach to Internet privacy regulation that recognizes and builds upon best practices in the online community while establishing a federal baseline standard for the protection of individuals' privacy on the Internet.

Let me begin by expressing my gratitude to Senators ROCKEFELLER, INOUYE, BREAUX, and CLELAND, who worked closely with me during the last Congress to advocate the need for strong online privacy protections and who have agreed to be original cosponsors of this legislation. In addition, I would also like to particularly thank Senators KERRY, STEVENS, and BURNS for their invaluable contributions throughout this process and their willingness to join with us in working to craft a workable, bipartisan, consensus position on legislation that will provide individuals with better controls over the use of their personal information while fueling the growth of e-commerce as consumer confidence in the Internet spurs a significant increase in online activity.

Some have argued that Americans' concerns about privacy no loner exist in the aftermath of September 11. But poll after poll consistently demonstrates that the American people want companies they patronize to seek their permission prior to using their personal information for commercial profit. These concerns are heightened with respect to the Internet, which, in a digital age, enables the seamless compilation of highly detailed personal profiles of Internet users. Accordingly, fears about privacy have had palpable effects on the willingness of consumers to embrace the full potential of the Internet and e-commerce.

Distrust of false privacy promises has sparked a rage of online self-defense, especially the providing of false information by individuals. Industry analysts estimate that between one-fifth to one-third of all individuals provide false personal information on the Internet. This response is understandable given that consumers have few tools to discover whether their personal information is being disclosed, sold, or otherwise misused, and they have virtually no recourse.

Privacy fears are stifling the development and expansion of the Internet as an engine of economic growth. Because of consumer distrust, online companies and services are losing potential business and collecting bad data, blocking the Internet and its wide range of services from reaching its full potential. The lack of enforceable privacy protections is a significant barrier to the full embrace by consumers of the Internet marketplace. According to a recent Harris/Business Week poll, almost two-thirds of non-Internet users would be more likely to use the Net if the privacy of their "personal information and communications were protected."

Moreover, according to a recent Forrester study, online businesses lost nearly $15 billion, or 27 percent of e-commerce revenues, due to consumer privacy concerns. Those numbers are significant in light of the economic downturn and its disproportionate impact on the high-tech Internet sectors. Good privacy means good business and the Internet economy could use a healthy dose of that right now.

Accordingly, our legislation offers a win-win proposition for consumers and business: it will protect the privacy of individuals online and provide online businesses with a new market of willing customers. While protecting the necessary business certainty of a single Federal standard.

Online companies have long argued that privacy regulations would hamper their ability to efficiently conduct business on-line and give consumers the tailored buying experience they now expect from the Internet. Online merchants also touted self-regulation as sufficient privacy protection. We know otherwise.

Privacy violations continue to make headlines: a major outcry erupted last year after Eli Lilly disclosed a list of hundreds of customers suffering from depression, bulimia, and obsessive compulsive disorder over the Internet. Moreover, just last week, a New York Times article, "Seeking Profits, Internet Companies Alter Privacy Policy," recounted how Internet companies such as Yahoo had changed their privacy policies in order to require consumers to restate their privacy preferences even if they had previously withheld consent for the use and commercialization of their personal information. Accordingly, these companies expanded their ability to use an individual's personal information for online and offline marketing purposes notwithstanding that individual's prior policy preferences. Still other businesses confound consumers with opaque privacy policies that begin with, "Your privacy is important to us," but in the subsequent legalese, outline a series of exceptions crafted with double-negative verbs that allow virtually any use of a consumer's information. Still other commercial web sites fail to pass any privacy policy at all, safe in the knowledge that they face virtually no legal jeopardy for selling personal information.

To be fair, some companies have taken consumer privacy seriously. Earthink launched a national television advertising campaign touting its policy of not selling customer information. U-Haul's web site simply says: "We will never sell or share our information with anyone, or send you junk mail, we hate that stuff, too." Companies like Hewlett Packard, Intel, and Microsoft, giants of the high tech industry, already provide individuals opt-in protection with respect to their personal information. But, in the final analysis, despite the best of intentions and some successful efforts, reliance on self-regulation alone has not proven to provide sufficient protection. In its May 2000 Report to Congress, the Federal Trade Commission clearly recognized this shortcoming having studied this issue diligently for 5 years: "Because self-regulatory initiatives to date fall short of broad-based implementation of effective self-regulatory programs, the Commission has concluded that such efforts alone cannot ensure that the online marketplace as a whole will emulate the standards adopted by industry leaders. The Commission recommends that Congress enact legislation that, in conjunction with continuing self-regulatory programs, will ensure adequate protection of consumer privacy online."

Our legislation aims to do just that.

Fundamentally, our legislation is built upon the five core principles of privacy protection identified by the Federal Trade Commission in its 1995 report to Congress regarding online privacy: 1. Notice, 2. Consent, 3. Access, 4. Security and 5. Enforcement. Those principles are tried and true and formed the framework for the bipartisan Children's Online Privacy Protection Act of 1998. Which was hailed by industry far and wide as a template for protecting children's personal information that is collected on the Internet.

The bill we introduce today takes a singular approach. It divides online personal information into two categories: sensitive information and nonsensitive information. Sensitive information is narrowly tailored to include actual information about specific financial data, health information, ethnicity, religious affiliation, sexual orientation, and political affiliation, or someone's social security number. Nonsensitive information is all other personally identifiable information collected online.

In this respect, the legislation is also similar to the two-tiered approach taken by the European Union in which companies are required to provide baseline protections governing the use of nonsensitive information, and stronger consent protections governing the use of sensitive data. More than 180 American companies, including Staples, Marriott, Microsoft, Intel, Hewlett Packard, DoubleClick Kodak, and Acxiom, doing business in Europe have agreed to provide such protections with respect to the personal data of European citizens. They have signed up for the EU Safe Harbor and their names are listed on the Department of Commerce's web site. Our bill simply asks these and other companies to provide similar protections for U.S. citizens.

First, with respect to notice and consent, the bill would require web sites and online services to post clear and conspicuous notice of its information practices. In other words, plainly state to individuals what you plan to do with their personal information. To the extent that a web site collects sensitive information, it would also be required to obtain a consumer's affirmative consent, so-called "opt-in" consent, prior to the collection of such data. To the extent that a web site collects only non-sensitive personal data, it would be able to collect such data for other uses as long as it provides individuals with an ability to "opt out" of such uses and provides the consumer with actual notice at the point of collection, so-called "robust notice", which briefly and succinctly describes how the information may be used or disclosed.

Many Internet companies are doing this already. For example, on the same page where an individual provides his or her personal information, the web site for 1-800 Flowers states: "You will be receiving promotional offers and materials from our sites and companies we own. Please check the box below if you do not want to receive such materials in the future and do not wish us to provide personal information collected from you to third parties." Similarly, NBC's website says the following on the webpage where individuals register their personal information: "As our customer, you will occasionally receive email from shopnbc.com about new services, features, and special offers we believe would interest you. If you'd rather not receive these updates, please uncheck this box." It's as simple as that. And it provides the individual the ability to make an informed choice at the critical point at which he or she is providing a company with personally identifiable information.

Next, our legislation requires companies to provide individuals with the ability to find out what personal information a web site has collected about them. While important, this right of reasonable access is not unqualified. Rather, it considers a variety of factors including the sensitivity of the information sought by the consumer and the burden and expense on the provider in giving consumers access to their personal information. In addition, the bill would permit online companies to charge individuals a reasonable fee to access their personal data, as is similarly provided under the Fair Credit Reporting Act.

In addition, our bill requires that web sites adopt reasonable security procedures to protect the security, confidentiality, and integrity of personally identifiable information, just as Congress required in the Children's privacy legislation.

Moreover, the bill grants consumers important rights of redress. First, the Federal Trade Commission and state attorneys general are empowered to take action. If the FTC collects civil penalties, the bill creates a mechanism whereby those injured can petition to receive up to $200 of the award. For more serious violations involving sensitive information, the bill would additionally permit individuals on their own to pursue redress for damages in federal court.

Finally, in addition to following these fair information principles, the legislation also takes the critical step of establishing a uniform federal standard for online privacy protection by preempting State Internet laws. Inconsistent state regulation of privacy is already causing problems for online businesses. Vermont has adopted "opt-in laws" governing financial and medical privacy. In Minnesota, the state Senate has adopted "opt-in" online privacy legislation by a vote of 96-0. In California, state privacy legislation is again moving through the state legislature, offering the very real possibility that online businesses will sooner rather than later face the prospect of trying to bring their online operation into compliance with inconsistent state laws.

Because new technologies make privacy protection a constantly evolving issue, the bill requires the FTC not only to implement the requirements of the law, but further, to issue periodic reports about how the law is working; whether similar privacy protections should apply offline or to pre-existing data; whether standardized online privacy notices should be developed; if a meaningful safe harbor should be constructed; and whether privacy protection technologies in the marketplace such as P3P can help facilitate the administration of the Act.

Consumer participation in cyberspace should not be conditioned on a willingness to relinquish control over one's personal information. Rather, for the medium to truly flourish, we must establish baseline consumer protections that will eliminate the tyranny of convenience in which consumers are forced to choose between disclosing private, personal information, or not using the Internet at all. Congress has a moral obligation to protect American individual liberties, including the right to better control the commercialization of one's own personal, private information.

This bill is an important first step. The privacy protections in this legislation will instill more confidence in people to use the Internet and create a consistent legal framework for online businesses. It will provide better online privacy protections for consumers, better commercial opportunities for businesses who respond to consumer privacy concerns, and a better future for Americans who will embrace the Internet rather than fear it.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Online Personal Privacy Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Preemption of State law or regulations.

Title I—Online Privacy Protection

Sec. 101. Collection, use, or disclosure of personally identifiable information.
Sec. 102. Notice and consent requirements.
Sec. 103. Policy changes; privacy breach.
Sec. 104. Exceptions.
Sec. 105. Access.
Sec. 106. Security.

Title II—Enforcement

Sec. 201. Enforcement by Federal Trade Commission.
Sec. 202. Violation is unfair or deceptive act or practice.
Sec. 203. Private right of action.

Sec. 204. Actions by States.
Sec. 205. Whistleblower protection.
Sec. 206. No effect on other remedies.

Title III—Application to Congress and Federal Agencies

Sec. 301. Exercise of rulemaking power.
Sec. 302. Senate.
Sec. 303. Application to Federal agencies.

Title IV—Miscellaneous

Sec. 401. Definitions.
Sec. 402. Effective date.
Sec. 403. FTC rulemaking.
Sec. 404. FTC report.
Sec. 405. Development of automated privacy controls.

SEC. 3. FINDINGS.

The Congress finds the following:

(1) The right to privacy is a personal and fundamental right worthy of protection through appropriate legislation.

(2) Individuals engaging in and interacting with companies engaged in interstate commerce have a significant interest in their personal information, as well as a right to control how that information is collected, used, or transferred.

(3) Absent the recognition of these rights and the establishment of consequent industry responsibilities to safeguard those rights, the privacy of individuals who use the Internet will soon be more gravely threatened.

(4) To extent that States regulate, their efforts to address Internet privacy will lead to a patchwork of inconsistent standards and protections.

(5) Existing State, local, and Federal laws provide minimal privacy protection for Internet users.

(6) With the exception of Federal Trade Commission enforcement of laws against unfair and deceptive practices, the Federal Government thus far has eschewed general Internet privacy laws in favor of industry self-regulation, which has led to several self-policing schemes, none of which are enforceable in any meaningful way or provide sufficient privacy protection to individuals.

(7) State governments have been reluctant to enter the field of Internet privacy regulation because use of the Internet often crosses State, or even national, boundaries.

(8) States are nonetheless interested in providing greater privacy protection to their citizens as evidenced by recent lawsuits brought against offline and online companies by State attorneys general to protect the privacy of individuals using the Internet.

(9) The ease of gathering and compiling personal information on the Internet, both overtly and surreptitiously, is becoming increasingly efficient and effortless due to advances in digital communications technology which have provided information gatherers the ability to compile seamlessly highly detailed personal histories of Internet users.

(10) Personal information flowing over the Internet requires greater privacy protection than is currently available today. Vast amounts of personal information, including sensitive information, about individual Internet users are collected on the Internet and sold or otherwise transferred to third parties.

(11) Poll after poll consistently demonstrates that individual Internet users are highly troubled over their lack of control over their personal information.

(12) Market research demonstrates that tens of billions of dollars in e-commerce are lost due to individual fears about a lack of privacy protection on the Internet.

(13) Market research demonstrates that as many as one-third of all Internet users give false information about themselves to protect their privacy, due to fears about a lack of privacy protection on the Internet.

(14) Notwithstanding these concerns, the Internet is becoming a major part of the personal and commercial lives of millions of Americans, providing increased access to information, as well as communications and commercial opportunities.

(15) It is important to establish personal privacy rights and industry obligations now so that individuals have confidence that their personal privacy is fully protected on the Internet.

(16) The social and economic costs of establishing baseline privacy standards now will be lower than if Congress waits until the Internet becomes more prevalent in our everyday lives in coming years.

(17) Whatever costs may be borne by industry will be significantly offset by the economic benefits to the commercial Internet created by increased consumer confidence occasioned by greater privacy protection.

(18) Toward the close of the 20th Century, as individuals' personal information was increasingly collected, profiled, and shared for commercial purposes, and as technology advanced to facilitate these practices, the Congress enacted numerous statutes to protect privacy.

(19) Those statutes apply to the government, telephones, cable television, e-mail, video tape rentals, and the Internet (but only with respect to children).

(20) Those statutes all provide significant privacy protections, but neither limit technology nor stifle business.

(21) Those statutes ensure that the collection and commercialization of individuals' personal information is fair, transparent, and subject to law.

SEC. 4. PREEMPTION OF STATE LAW OR REGULATIONS.

This Act supersedes any State statute, regulation, or rule regulating Internet privacy to the extent that it relates to the collection, use, or disclosure of personally identifiable information obtained through the Internet.

TITLE I—ONLINE PRIVACY PROTECTION

SEC. 101. COLLECTION, USE, OR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—An internet service provider, online service provider, or operator of a commercial website on the Internet may not collect personally identifiable information from a user, or use or disclose personally identifiable information about a user, of that service or website except in accordance with the provisions of this Act.

(b) APPLICATION TO CERTAIN THIRD-PARTY OPERATORS.—The provisions of this Act applicable to internet service providers, online service providers, and commercial website operators apply to any third party, including an advertising network, that uses an internet service provider, online service provider, or commercial website operator to collect information about users of that service or website.

SEC. 102. NOTICE AND CONSENT REQUIREMENTS.

(a) NOTICE.—Except as provided in section 104, an internet service provider, online service provider, or operator of a commercial website may not collect personally identifiable information from a user of that service or website online unless that provider or operator provides clear and conspicuous notice to the user in the manner required by this section for the kind of personally identifiable information to be collected. The notice shall disclose—

(1) the specific types of information that will be collected;

(2) the methods of collecting and using the information collected; and

(3) all disclosure practices of that provider or operator for personally identifiable information so collected, including whether it will be disclosed to third parties.

(b) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION REQUIRES OPT-IN CONSENT.—An internet service provider, online service provider, or operator of a commercial website may not—

(1) collect sensitive personally identifiable information online, or

(2) disclose or otherwise use such information collected online, from a user of that service or website,

unless the provider or operator obtains that user's affirmative consent to the collection and disclosure or use of that information before, or at the time, the information is collected.

(c) NONSENSITIVE PERSONALLY IDENTIFIABLE INFORMATION REQUIRES ROBUST NOTICE AND OPT-OUT CONSENT.—An internet service provider, online service provider, or operator of a commercial website may not—

(1) collect personally identifiable information not described in subsection (b) online, or

(2) disclose or otherwise use such information collected online, from a user of that service or website,

unless the provider or operator provides robust notice to the user, in addition to clear and conspicuous notice, and has given the user an opportunity to decline consent for such collection and use by the provider or operator before, or at the time, the information is collected.

(d) INITIAL NOTICE ONLY FOR ROBUST NOTICE.—An internet service provider, online service provider, or operator of a commercial website shall provide robust notice under subsection (c) of this section to a user only upon its first collection of non-sensitive personally identifiable information from that user, except that a subsequent collection of additional or materially different non-sensitive personally identifiable information from that user shall be treated as a first collection of such information from that user.

(e) PERMANENCE OF CONSENT.—

(1) IN GENERAL.—The consent or denial of consent by a user of permission to an internet service provider, online service provider, or operator of a commercial website to collect, disclose, or otherwise use any information about that user for which consent is required under this Act—

(A) shall remain in effect until changed by the user; and

(B) shall apply to the collection, disclosure, or other use of that information by any entity that is a commercial successor of, or legal successor-in-interest to, that provider or operator, without regard to the legal form in which such succession was accomplished (including any entity that collects, discloses, or uses such information as a result of a proceeding under chapter 7 or chapter 11 of title 11, United States Code, with respect to the provider or operator).

(2) EXCEPTION.—The consent by a user to the collection, disclosure, or other use of information about that user for which consent is required under this Act does not apply to the collection, disclosure, or use of that information by a successor entity under paragraph (1)(B) if—

(A) the kind of information collected by the successor entity about the user is materially different from the kind of information collected by the predecessor entity;

(B) the methods of collecting and using the information employed by the successor entity are materially different from the methods employed by the predecessor entity; or

(C) the disclosure practices of the successor entity are materially different from the practices of the predecessor entity.

SEC. 103. POLICY CHANGES; BREACH OF PRIVACY.

(a) Notice of Policy Change.—Whenever an internet service provider, online service provider, or operator of a commercial website makes a material change in its policy for the collection, use, or disclosure of sensitive or nonsensitive personally identifiable information, it—

(1) shall notify all users of that service or website of the change in policy; and

(2) may not collect, disclose, or otherwise use any sensitive or nonsensitive personally identifiable information in accordance with the changed policy unless the user has been afforded an opportunity to consent, or withhold consent, to its collection, disclosure, or use in accordance with the requirements of section 102(b) or (c), whichever is applicable.

(b) Notice of Breach of Privacy.—

(1) In general.—If the sensitive or nonsensitive personally identifiable information of a user of an internet service provider, online service provider, or operator of a commercial website—

(A) is collected, disclosed, or otherwise used by the provider or operator in violation of any provision of this Act, or

(B) the security, confidentiality, or integrity of such information is compromised by a hacker or other third party, or by any act or failure to act of the provider or operator,

then the provider or operator shall notify all users whose sensitive or nonsensitive personally identifiable information was affected by the unlawful collection, disclosure, use, or compromise. The notice shall describe the nature of the unlawful collection, disclosure, use, or compromise and the steps taken by the provider or operator to remedy it.

(2) Delay of notification.—

(A) Action taken by individuals.—If the compromise of the security, confidentiality, or integrity of the information is caused by a hacker or other external interference with the service or website, or by an employee of the service or website, the provider or operator may postpone issuing the notice required by paragraph (1) for a reasonable period of time in order to—

(i) facilitate the detection and apprehension of the person responsible for the compromise; and

(ii) take such measures as may be necessary to restore the integrity of the service or website and prevent any further compromise of the security, confidentiality, and integrity of such information.

(B) System failures and other functional causes.—If the unlawful collection, disclosure, use, or compromise of the security, confidentiality, and integrity of the information is the result of a system failure, a problem with the operating system, software, or program used by the internet service provider, online service provider, or operator of the commercial website, or other non-external interference with the service or website, the provider or operator may postpone issuing the notice required by paragraph (1) for a reasonable period of time in order to—

(i) restore the system's functionality or fix the problem; and

(ii) take such measures as may be necessary to restore the integrity of the service or website and prevent any further compromise of the security, confidentiality, and integrity of the information after the failure or problem has been fixed and the integrity of the service or website has been restored.

SEC. 104. EXCEPTIONS.

(a) In General.—Section 102 does not apply to the collection, disclosure, or use by an internet service provider, online service provider, or operator of a commercial website of information about a user of that service or website necessary—

(1) to protect the security or integrity of the service or website or to ensure the safety of other people or property;

(2) to conduct a transaction, deliver a product or service, or complete an arrangement for which the user provided the information; or

(3) to provide other products and services integrally related to the transaction, service, product, or arrangement for which the user provided the information.

(b) Protected Disclosures.—An internet service provider, online service provider, or operator of a commercial website may not be held liable under this Act, any other Federal law, or any State law for any disclosure made in good faith and following reasonable procedures in responding to—

(1) a request for disclosure of personal information under section 1302(b)(1)(B)(iii) of the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.) to the parent of a child; or

(2) a request for access to, or correction or deletion of, personally identifiable information under section 105 of this Act.

(c) Disclosure to Law Enforcement Agency or Under Court Order.—

(1) In general.—Notwithstanding any other provision of this Act, an internet service provider, online service provider, operator of a commercial website, or third party that uses such a service or website to collect information about users of that service or website may disclose personally identifiable information about a user of that service or website—

(A) to a law enforcement, investigatory, national security, or regulatory agency or department of the United States in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or a properly executed administrative compulsory process; and

(B) in response to a court order in a civil proceeding granted upon a showing of compelling need for the information that cannot be accommodated by any other means if—

(i) the user to whom the information relates is given reasonable notice by the person seeking the information of the court proceeding at which the order is requested; and

(ii) that user is afforded a reasonable opportunity to appear and contest the issuance of requested order or to narrow its scope.

(2) Safeguards against further disclosure.—A court that issues an order described in paragraph (1) shall impose appropriate safeguards on the use of the information to protect against its unauthorized disclosure.

SEC. 105. ACCESS.

(a) In General.—An internet service provider, online service provider, or operator of a commercial website shall—

(1) upon request provide reasonable access to a user to personally identifiable information that the provider or operator has collected from the user online, or that the provider or operator has combined with personally identifiable information collected from the user online after the effective date of this Act;

(2) provide a reasonable opportunity for a user to suggest a correction or deletion of any such information maintained by that provider or operator to which the user was granted access; and

(3) make the correction a part of that user's sensitive personally identifiable information or nonsensitive personally identifiable information (whichever is appropriate), or make the deletion, for all future disclosure and other use purposes.

(b) Exception.—An internet service provider, online service provider, or operator of a commercial website may decline to make a suggested correction a part of that user's sensitive personally identifiable information or nonsensitive personally identifiable information (whichever is appropriate), or to make a suggested deletion if the provider or operator—

(1) reasonably believes that the suggested correction or deletion is inaccurate or otherwise inappropriate;

(2) notifies the user in writing, or in digital or other electronic form, of the reasons the provider or operator believes the suggested correction or deletion is inaccurate or otherwise inappropriate; and

(3) provides a reasonable opportunity for the user to refute the reasons given by the provider or operator for declining to make the suggested correction or deletion.

(c) Reasonableness Test.—The reasonableness of the access or opportunity provided under subsection (a) or (b) by an internet service provider, online service provider, or operator of a commercial website shall be determined by taking into account such factors as the sensitivity of the information requested and the burden or expense on the provider or operator of complying with the request, correction, or deletion.

(d) Reasonable Access Fee.—

(1) In general.—An internet service provider, online service provider, or operator of a commercial website may impose a reasonable charge for access under subsection (a).

(2) Amount.—The amount of the fee shall not exceed $3, except that upon request of a user, a provider or operator shall provide such access without charge to that user if the user certifies in writing that the user—

(A) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the certification is made;

(B) is a recipient of public welfare assistance; or

(C) has reason to believe that the incorrect information is due to fraud.

SEC. 106. SECURITY.

An internet service provider, online service provider, or operator of a commercial website shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personally identifiable information maintained by that provider or operator.

TITLE II—ENFORCEMENT

SEC. 201. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

Except as provided in section 202(b) of this Act and section 2710(d) of title 18, United States Code, this Act shall be enforced by the Commission.

SEC. 202. VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.

(a) In General.—The violation of any provision of title I is an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Enforcement by Certain Other Agencies.—Compliance with title I of this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of title I is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under title I, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating title I in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that subtitle is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that subtitle.

(e) Disposition of Civil Penalties Obtained by FTC Enforcement Action Involving Nonsensitive Personally Identifiable Information.—

(1) In general.—If a civil penalty is imposed on an internet service provider, online service provider, or commercial website operator in an enforcement action brought by the Commission for a violation of title I with respect to nonsensitive personally identifiable information of users of the service or website, the penalty shall be—

(A) paid to the Commission;

(B) held by the Commission in trust for distribution under paragraph (2); and

(C) distributed in accordance with paragraph (2).

(2) Distribution to users.—Under procedures to be established by the Commission, the Commission shall hold any amount received as a civil penalty for violation of title I for a period of not less than 180 days for distribution under those procedures to users—

(A) whose nonsensitive personally identifiable information was the subject of the violation; and

(B) who file claims with the Commission for compensation for loss or damage from the violation at such time, in such manner, and containing such information as the Commission may require.

(3) Amount of payment.—The amount a user may receive under paragraph (2)—

(i) shall not exceed $200; and

(ii) may be limited by the Commission as necessary to afford each such user a reasonable opportunity to secure that user's appropriate portion of the amount available for distribution.

(4) Remainder.—If the amount of any such penalty held by the Commission exceeds the sum of the amounts distributed under paragraph (2) attributable to that penalty, the excess shall be covered into the Treasury of the United States as miscellaneous receipts no later than 12 months after it was paid to the Commission.

(f) Effect on Other Laws.—

(1) Preservation of commission authority.—Nothing contained in this subtitle shall be construed to limit the authority of the Commission under any other provision of law.

(2) Relation to title II of communications act.—Nothing in title I requires an operator of a website or online service to take any action that is inconsistent with the requirements of section 222 of the Communications Act of 1934 (47 U.S.C. 222).

(3) Relation to title VI of communications act.—Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended by adding at the end the following:

"(i) To the extent that the application of any provision of this title to a cable operator as an internet service provider, online service provider, or operator of a commercial website (as those terms are defined in section 401 of the Online Personal Privacy Act) with respect to the provision of Internet service or online service, or the operation of a commercial website, conflicts with the application of any provision of that Act to such provision or operation, the Act shall be applied in lieu of the conflicting provision of this title.".

SEC. 203. ACTIONS BY USERS.

(a) Private Right of Action for Sensitive Personally Identifiable Information.—If an internet service provider, online service provider, or commercial website operator collects, discloses, or uses the sensitive personally identifiable information of any person or fails to provide reasonable access to or reasonable security for such sensitive personally identifiable information in violation of any provision of title I then that person may bring an action in a district court of the United States of appropriate jurisdiction—

(1) to enjoin or restrain a violation of title I or to obtain other appropriate relief; and

(2) upon a showing of actual harm to that person caused by the violation, to recover the greater of—

(A) the actual monetary loss from the violation; or

(B) $5,000.

(b) Repeated Violations.—If the court finds, in an action brought under subsection (a) to recover damages, that the defendant repeatedly and knowingly violated title I, the court may, in its discretion, increase the amount of the award available under subsection (a)(2)(B) to an amount not in excess of $100,000.

(c) Exception.—Neither an action to enjoin or restrain a violation, nor an action to recover for loss or damage, may be brought under this section for the accidental disclosure of information if the disclosure was caused by an Act of God, unforeseeable network or systems failure, or other event beyond the control of the Internet service provider, online service provider, or operator of a commercial website.

SEC. 204. ACTIONS BY STATES.

(a) In General.—

(1) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates title I, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exemption.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by the Commission.—In any case in which an action is instituted by or on behalf of the Commission for violation of title I, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that rule.

(e) Venue; Service of Process.—

(1) Venue.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) Service of process.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 205. WHISTLEBLOWER PROTECTION.

(a) In General.—No internet service provider, online service provider, or commercial website operator may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal or State agency or to the Attorney General of the United States or of any State regarding a violation of any provision of title I.

(b) Enforcement.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal agency.

(c) Remedies.—If the district court determines that a violation of subsection (a) has occurred, it may order the Internet service provider, online service provider, or commercial website operator that committed the violation—

(1) to reinstate the employee to his former position;

(2) to pay compensatory damages; or

(3) to take other appropriate actions to remedy any past discrimination.

(d) Limitation.—The protections of this section shall not apply to any employee who—

(1) deliberately causes or participates in the alleged violation; or

(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

(e) Burdens of Proof.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code (5 U.S.C. 1221 et seq.) shall govern adjudication of protected activities under this section.

SEC. 206. NO EFFECT ON OTHER REMEDIES.

The remedies provided by sections 203 and 204 are in addition to any other remedy available under any provision of law.

TITLE III—APPLICATION TO CONGRESS AND FEDERAL AGENCIES

SEC. 301. SENATE.

The Sergeant at Arms of the United States Senate shall develop regulations setting forth an information security and electronic privacy policy governing use of the Internet by officers and employees of the Senate that meets the requirements of title I.

SEC. 302. APPLICATION TO FEDERAL AGENCIES.

(a) In General.—Except as provided in subsection (b), this Act applies to each Federal agency that is an internet service provider or an online service provider, or that operates a website, to the extent provided by section 2674 of title 28, United States Code.

(b) Exceptions.—This Act does not apply to any Federal agency to the extent that the application of this Act would compromise law enforcement activities or the administration of any investigative, security, or safety operation conducted in accordance with Federal law.

TITLE IV—MISCELLANEOUS

SEC. 401. DEFINITIONS.

In this Act:

(1) Collect.—The term "collect" means the gathering of personally identifiable information about a user of an Internet service, online service, or commercial website by or on behalf of the provider or operator of that service or website by any means, direct or indirect, active or passive, including—

(A) an online request for such information by the provider or operator, regardless of how the information is transmitted to the provider or operator;

(B) the use of a chat room, message board, or other online service to gather the information; or

(C) tracking or use of any identifying code linked to a user of such a service or website, including the use of cookies or other tracking technology.

(2) Commission.—The term "Commission" means the Federal Trade Commission.

(3) Cookie.—The term "cookie" means any program, function, or device, commonly known as a "cookie", that makes a record on the user's computer (or other electronic device) of that user's access to an internet service, online service, or commercial website.

(4) Disclose.—The term "disclose" means the release of personally identifiable information about a user of an Internet service, online service, or commercial website by an internet service provider, online service provider, or operator of a commercial website for any purpose, except where such information is provided to a person who provides support for the internal operations of the service or website and who does not disclose or use that information for any other purpose.

(5) Federal agency.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) Internal operations support.—The term "support for the internal operations of a service or website" means any activity necessary to maintain the technical functionality of that service or website.

(7) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(8) Internet service provider; online service provider; website.—The Commission shall by rule define the terms "internet service provider", "online service provider", and "website", and shall revise or amend such rule to take into account changes in technology, practice, or procedure with respect to the collection of personal information over the Internet.

(9) Online.—The term "online" refers to any activity regulated by this Act or by section 2710 of title 18, United States Code, that is effected by active or passive use of an Internet connection, regardless of the medium by or through which that connection is established.

(10) Operator of a commercial website.—The term "operator of a commercial website"—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(11) Personally identifiable information.—

(A) In general.—The term "personally identifiable information" means individually identifiable information about an individual collected online, including—

(i) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(ii) a home or other physical address including street name and name of a city or town;

(iii) an e-mail address;

(iv) a telephone number;

(v) a birth certificate number;

(vi) any other identifier for which the Commission finds there is a substantial likelihood that the identifier would permit the physical or online contacting of a specific individual; or

(vii) information that an Internet service provider, online service provider, or operator of a commercial website collects and combines with an identifier described in clauses (i) through (vi) of this subparagraph.

(B) Inferential information excluded.—Information about an individual derived or inferred from data collected online but not actually collected online is not personally identifiable information.

(12) Release.—The term "release of personally identifiable information" means the direct or indirect, sharing, selling, renting, or other provision of personally identifiable information of a user of an internet service, online service, or commercial website to any other person other than the user.

(13) Robust notice.—The term "robust notice" means actual notice at the point of collection of the personally identifiable information describing briefly and succinctly the intent of the Internet service provider, online service provider, or operator of a commercial website to use or disclose that information for marketing or other purposes.

(14) Sensitive financial information.—The term "sensitive financial information" means—

(A) the amount of income earned or losses suffered by an individual;

(B) an individual's account number or balance information for a savings, checking, money market, credit card, brokerage, or other financial services account;

(C) the access code, security password, or similar mechanism that permits access to an individual's financial services account;

(D) an individual's insurance policy information, including the existence, premium, face amount, or coverage limits of an insurance policy held by or for the benefit of an individual; or

(E) an individual's outstanding credit card, debt, or loan obligations.

(15) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term "sensitive personally identifiable information" means personally identifiable information about an individual's—

(A) individually identifiable health information (as defined in section 164.501 of title 45, Code of Federal Regulations);

(B) race or ethnicity;

(C) political party affiliation;

(D) religious beliefs;

(E) sexual orientation;

(F) a Social Security number; or

(G) sensitive financial information.

SEC. 402. EFFECTIVE DATE OF TITLE I.

Title I of this Act takes effect on the day after the date on which the Commission publishes a final rule under section 403.

SEC. 403. FTC RULEMAKING.

The Commission shall—

(1) initiate a rulemaking within 90 days after the date of enactment of this Act for regulations to implement the provisions of title I; and

(2) complete that rulemaking within 270 days after initiating it.

SEC. 404. FTC REPORT.

(a) REPORT.—The Commission shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce 18 months after the effective date of title I, and annually thereafter, on—

(1) whether this Act is accomplishing the purposes for which it was enacted;

(2) whether technology that protects privacy is being utilized in the marketplace in such a manner as to facilitate administration of and compliance with title I;

(3) whether additional legislation is required to accomplish those purposes or improve the administrability or effectiveness of this Act;

(4) whether legislation is appropriate or necessary to regulate the collection, use, and distribution of personally identifiable information collected other than via the Internet;

(5) whether and how the government might assist industry in developing standard online privacy notices that substantially comply with the requirements of section 102(a);

(6) whether and how the creation of a set of self-regulatory guidelines established by independent safe harbor organizations and approved by the Commission would facilitate administration of and compliance with title I; and

(7) whether additional legislation is necessary or appropriate to regulate the collection, use, and disclosure of personally identifiable information collected online before the effective date of title I.

(b) FTC NOTICE OF INQUIRY.—The Commission shall initiate a notice of inquiry within 90 days after the date of enactment of this Act to request comment on the matter described in paragraphs (1) through (7) of subsection (a).

SEC. 405. DEVELOPMENT OF AUTOMATED PRIVACY CONTROLS.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) DEVELOPMENT OF INTERNET PRIVACY PROGRAM.—The Institute shall encourage and support the development of one or more computer programs, protocols, or other software, such as the World Wide Web Consortium's P3P program, capable of being installed on computers, or computer networks, with Internet access that would reflect the user's preferences for protecting personally-identifiable or other sensitive, privacy-related information, and automatically execute the program, once activated, without requiring user intervention.".

Mr. CLELAND. Madam President, just last week I read an article that described the practice of online companies placing prices on people's personal information in order to raise revenue. When the Internet revolution began, I do not believe anyone thought the buying and selling of our personal information would be where these companies would turn when they began to experience difficulties in the financial markets. My constituents have expressed to me their concerns over such practices, and I have responded by co-sponsoring Senator HOLLINGS' bi-partisan legislation to enact reasonable privacy standards on personal information gathered on-line.

In May 2000, the Federal Trade Commission, FTC, issued its third report to Congress on the state of online privacy. Due to the fact that there remained a great deal of concern by consumers over how their information is used by online companies, so much so that some consumers provided false information or did not utilize the commercial aspects of the Internet altogether, the FTC recommended legislation to establish online privacy guidelines. Introduction of this legislation is a step in the right direction, and a step closer to the FTC's recommendation.

This bill calls for sensitive, personally identifiable information, such as health information, race, religion, and social security number, to be protected by requiring consumers to provide affirmative consent for this information to be shared; in other words, they must "opt in." Under our proposal, the treatment of non-sensitive, personally identifiable information must be described through strict, robust notice in plain English. After some consumers received their privacy policies required by the Gramm-Leach-Bliley Act, they thought it would be easier to understand the tax code.

An important provision in the Hollings measure modeled on allowing consumers to access their credit report information would allow online consumers to access and correct any incorrect information companies may be listing. Additionally, to monitor the effectiveness of this legislation, the bill calls for the FTC to report to Congress on this matter and to recommend any needed changes in its provisions.

I am pleased to be an original cosponsor of this legislation which I believe moves us in the right direction to actually grow the Internet and its capability for commerce by easing people's fears over how their names, addresses, social security numbers and other important information will be secured. The Internet's possibilities are only beginning to be realized. In the business world, it creates an easy way to share information and conduct transactions. However, if the information is personal in nature, I, along with many of my colleagues, believe people deserve and are indeed entitled to expect the opportunity to elect whether to have that information shared or not, and in all cases for it to be securely monitored. I am proud to lend my support to this important bill.

By Mr. ROCKEFELLER:

S. 2205. A bill to amend title 38, United States Code, to clarify the entitlement to disability compensation of women veterans who have service-connected mastectomies, to provide permanent authority for counseling and treatment for sexual trauma, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Madam President, I introduce legislation today that would help VA continue to meet the needs of veterans who experienced sexual trauma while serving in the military. This legislation would also extend special compensation to women veterans whose service led to the loss of all or part of a breast, and would help us understand better how well VA is meeting the health care needs of women veterans.

Almost a decade ago, the Committee on Veterans Affairs took a hard look at the growing needs of women veterans in a hearing that helped VA improve its women's health care and services. Many studies grew from this hearing, including investigations that showed that women veterans are eight times more likely to report having experienced sexual assault during military service than women civilians of the same age.

In 1992, Congress authorized VA to provide counseling to women who experienced sexual trauma during active military service. Two years later, recognizing that sexual trauma is not limited to women, Congress expanded VA's mandate to offer counseling and treatment to victims of sexual harassment or sexual assault without regard to gender. The Veterans Millennium Health Care and Benefits Act of 1999 broadened VA's responsibilities toward victims of sexual trauma even farther, strengthening outreach efforts and extending the programs through December 2004.

VA has worked, internally and with the Department of Defense, to educate health care professionals about the physical and emotional legacies of military sexual trauma. Those who have endured such trauma need counseling and appropriate treatment, both during and following service. Although we must hope that education will eliminate sexual violence from our forces, the sad reality is that the programs that VA has established will continue to be needed. The legislation I introduce today would authorize VA to continue its counseling and treatment programs for veterans who have experienced military sexual trauma beyond 2004, so that veterans and health care professionals can depend upon these critical services.

The Committee on Veterans Affairs continues to await VA's report on rates of military sexual trauma among National Guard and Reservists, mandated in the Millennium Act and due in March 2001, to make a sound decision on the need for counseling services among these forces who might have experienced sexual trauma while on active duty for training.

Last year, Congress authorized VA to offer special monthly compensation to women who had lost one or both breasts, including through surgical treatment, as a result of their military service. VA recently issued regulations addressing this, which would require complete loss of a breast through simple or radical mastectomy in order to make a woman eligible for benefits. The intent of Congress in passing this legislation was to acknowledge that women who undergo such procedures face physical, emotional, and financial challenges in returning to health. The need for increased medical attention, and concomitant impairment in daily activities, remains consistent, whether the loss of a breast is complete or partial. Therefore, the legislation that I offer here would extend benefits to women veterans who have lost half or more of a breast's tissue as a result of military service, rather than drawing an arbitrary clinical line for compensation.

According to the Veterans Health Administration, women veterans now make up about 5 percent of enrolled veterans, a percentage that is expected to double over the next two decades. We must ensure that women veterans enjoy access to the best possible health care, including for gender-specific medical conditions, in the most appropriate setting. One of the challenges that Congress and VA face in assessing how well the needs of women veterans are being met is understanding exactly what services women veterans require, and whether these are being offered by VA's medical facilities.

Many of the advances VA has made in improving women's care and services has resulted from the hard work of the Women Veterans Coordinators who work within VA's medical centers. These coordinators assist women veterans who seek VA medical care, and help VA understand which needs still go unmet, frequently as a collateral portion of their jobs, while facing many competing demands on their time. As VA health care evolves from a primarily hospital-based system to a network of outpatient clinics, women veterans coordinators face an even more complex set of tasks and a shifting geography of care.

Women veterans increasingly receive care within general outpatient clinics rather than in women's clinics, an issue of special concern as women may comprise only a tiny part of the caseload for VA's general practitioners, unlike the private sector where women make up half or more of a doctor's patients, resulting in less expertise in women's health. The legislation I offer here would request a report on how many clinics and health care teams remain dedicated specifically to the needs of women veterans, and how many hours per week Women Veterans Coordinators can allocate to serving women veterans.

In 1983, Congress responded to the needs of the growing number of women veterans by establishing the Advisory Committee on Women Veterans. This committee advises the Secretary of VA on the adequacy of programs for women veterans, and helps ensure that women veterans have the same access to services and benefits as their male counterparts. Early this year, the Secretary renewed the charter for the Advisory Committee on Women Veterans. I hope my colleagues will join me in acknowledging both the Secretary's decision to foster this essential voice, and the service of the men and women who share their time and experience with VA on behalf of all women veterans. Together, VA and the advisory committee have worked to be sure that VA can offer women veterans the services they need and the respect they have earned.

I ask that the text of the bill and a list of the membership of the Advisory Committee on Women Veterans be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) IN GENERAL.—Section 1114(k) of title 38, United States Code, is amended by inserting "of half or more of the tissue" after "anatomical loss" the second place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 2. PERMANENT AUTHORITY FOR COUNSELING AND TREATMENT FOR SEXUAL TRAUMA.

Section 1720D of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "During the period through December 31, 2004, the Secretary" and inserting "The Secretary"; and

(B) in paragraph (2), by striking ", during the period through December 31, 2004,"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "establishment and"; and

(B) in paragraph (2), by striking "establishing a program" and inserting "operating a program".

SEC. 3. REPORT ON FURNISHING OF HEALTH CARE TO WOMEN VETERANS BY VETERANS HEALTH ADMINISTRATION.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the furnishing by the Veterans Health Administration of health care for women veterans.

(b) REPORT ELEMENTS.—The report under subsection (a) shall set forth the following:

(1) A list of each Women Veterans' Comprehensive Health Center within the Veterans Health Administration, including whether such Center is located in a Department of Veterans Affairs medical center or outpatient clinic.

(2) For each Center listed under paragraph (1)—

(A) the staffing level of such Center, expressed in terms of number of full-time equivalent employees (FTEEs);

(B) the health care services furnished by such Center to women veterans, including the health care services (including breast cancer screening and cervical cancer screening) that are furnished only for women; and

(C) the number of women veterans furnished health care services by such Center during the last fiscal year ending before the date of the report.

(3) A list of each facility without a Women Veterans' Comprehensive Health Center that furnishes health care services to women veterans through a full-service womens' primary care team, including whether such facility is located in a Department medical center or outpatient clinic.

(4) For each facility listed under paragraph (3)—

(A) the staffing level of such facility for the furnishing of health care services to women veterans, expressed in terms of number of full-time equivalent employees (FTEEs);

(B) the health care services furnished by such facility to women veterans, including the health care services (including breast cancer screening and cervical cancer screening) that are furnished only for women; and

(C) the number of women veterans furnished health care services by such facility during the last fiscal year ending before the date of the report.

(5) For each Veterans Integrated Service Network and Department medical center, the number of hours per week that the Women Veterans' Coordinator of such network or medical center, as the case may be,

is authorized to perform duties relating to the furnishing of health care services to women veterans.

CURRENT MEMBERSHIP OF THE VA ADVISORY COMMITTEE ON WOMEN VETERANS (AS OF JANUARY 2002)

Karen L. Ray, RN, MSN, Chair 2000–2002, Colonel, USA (Retired).

Constance G. Evans, RN, ARNP, Co-Chair 2000–2002, Commander, USPHS (Retired).

Marsha Tansey Four, USA.

Bertha Cruz Hall, USAF.

Marcelite J. Harris, Major General, USAF (Retired).

Edward E. Hartman, USA.

Consuelo C. Kickbusch, Lieutenant Colonel, USA (Retired).

Kathy LaSauce, Lieutenant Colonel, USAF (Retired).

M Joy Mann, Captain, US Air Force Reserve.

Lory Manning, Captain, USN (Retired).

Michele (Mitzi) Manning, Colonel, USMC (Retired).

Kahleen A. Morrissey, RN, BSN, Colonel, NJ. Army National Guard.

Joan O'Connor, Commander, Naval Reserve (Retired).

Sheryl Schmidt, USAF.

By Mr. DASCHLE (for himself, Mr. HARKIN, and Mr. GRASSLEY):

S. 2207. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DASCHLE. Madam President, last year I introduced S. 1378, the Access to Medical Treatment Act of 2001. This bill would allow patients to use certain alternative and complementary therapies not approved by the FDA.

Alternative therapies constitute an increasingly accepted part of medicine. At the National Institutes of Health's Office of Alternative Medicine, scientists are working to expand our knowledge of alternative therapies and their safe and effective use. Additionally, more Americans are turning to alternative therapies in those frustrating instances in which conventional treatments seem to be ineffective in combating illness and disease.

The Access to Medical Treatment Act support patient choice while maintaining important patient safeguards. It allows individuals, especially those who face life-threatening afflictions for which conventional treatments have proven ineffective, to try an alternative treatment. This is a choice rightly made by patients.

Treatments covered under the Access to Medical Treatment Act must be prescribed by an authorized health care practitioner. The practitioner must fully disclose all available information about the safety and effectiveness of any medical treatment, including questions that remain unanswered because the necessary research has not been conducted. The bill includes detailed informed consent requirements.

The bill carefully restricts the ability of practitioners to advertise or market unapproved drugs or devices or to profit financially from prescribing alternative treatments. This provision was included to ensure that practitioners keep the best interests of patients in mind and to retain incentives for seeking FDA approval.

The bill also protects patients by requiring practitioners to report any adverse reaction that could potentially have been caused by an unapproved drug or medical device. If an adverse reaction is reported, manufacture and distribution of the drug must cease pending an investigation. If it is determined that the adverse reaction was caused by the drug or medical device, as part of a total recall, the Secretary of the Department of Health and Human Services and the manufacturer have the duty to inform all health care practitioners to whom the drug or medical device has been provided.

While I believe that S. 1378 would give patients important new choices in health care while maintaining strong consumer protections, there has been little discussion or attention given to the issue. Meanwhile, some advocates of greater access to alternative therapies have urged me to reintroduce a version of the Access to Medical Treatment Act similar to the one I and 13 other Senators introduced during the 105th Congress in an effort to stimulate further discussion of this important policy issue. This measure includes less detail than S. 1378 but embodies the same goal of making alternative treatments more available to patients who want them.

I continue to believe that S. 1378, with its detailed informed consent and practitioner reporting requirements, is the version of the Access to Medical Treatment Act that provides the appropriate vehicle for legislative debate, and I am hopeful that the bill Senators HARKIN, GRASSLEY, and I are introducing today will generate momentum to get that debate started.

By Mr. ROCKEFELLER:

S. 2209. A bill to amend title 38, United States Code, to provide an additional program of service disabled veterans' insurance for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Madam President, I am tremendously pleased to introduce legislation that would establish a new service-disabled veterans life insurance program. Named in honor of Robert Carey, former Director of the Philadelphia Regional Office and Insurance Center until his untimely death in 1990, this bill will improve enormously the life insurance options available to those veterans who are unable to purchase commercial policies because they became disabled in service to our Nation. I look forward to its swift passage.

Since 1919, the Department of Veterans Affairs has provided life insurance for servicemembers and veterans in various amounts and with varying degrees of success, but with the overarching purpose of providing them with an insurance benefit comparable to the commercial coverage that they are unable to purchase due to their service in the Armed Forces. Unfortunately, as described in the Department of Veterans Affairs' Program Evaluation of Benefits for Survivors of Veterans with Service-connected Disabilities, which was released last May, the current Service-Disabled Veterans Insurance, or SDVI, program does not sufficiently fulfill this purpose.

The SDVI program insures service-disabled veterans who, but for their service-connected disability, would be eligible for commercial life insurance. The basic policy currently provides up to $10,000 in coverage. Veterans who are deemed totally disabled are eligible for an additional $20,000 in supplemental coverage and may apply to have the premium on their initial $10,000 policy waived.

However, according to VA's report, the current SDVI program uses mortality tables from 1941 to determine the premiums paid by its policyholders. This has led to premiums nearly four times greater than those paid by nonveterans. While SDVI policyholders would generally expect to pay somewhat higher premiums, many veterans still cited this extremely high cost as a major reason for not purchasing an SDVI policy. In light of this fact, it is not difficult to understand why only 3.5 percent of those eligible actually take advantage of the current SDVI program.

Also cited as a reason for non-participation was the limited benefit available under the current SDVI program. According to VA's report, the typical private sector employee possesses a life insurance policy two to three times his or her annual income, and most financial planners recommend even more coverage than that. However, half of all SDVI beneficiaries report receiving less than $15,000 in total insurance benefits from the loss of a loved one. On average, only $9,000 of this comes from their SDVI policy. Forty percent of all SDVI beneficiaries sole source of income are the benefits provided by VA. Their lack of other coverage, combined with the very limited benefit currently available through the current SDVI program, leaves disabled veterans woefully under-insured. We simply cannot accept this situation.

This bill would create a new life insurance program for service-disabled veterans offering as much as $50,000 in coverage at a price comparable to that of commercial coverage. It would also bring the premiums charged under the current SDVI program more in line with commercial policies by updating the mortality tables VA uses to set its rates.

The motto of the Department of Veterans Affairs is "To care for him that has borne the battle and for his widow and orphan." By introducing the "Robert Carey Service-Disabled Veterans' Insurance Act of 2002," I propose that we take yet another step toward fulfilling the obligation embodied in those words, and I encourage my colleagues to join with me in supporting this very important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Robert Carey Service Disabled Veterans' Insurance Act of 2002".

SEC. 2. ADDITIONAL PROGRAM OF SERVICE DISABLED VETERANS' INSURANCE FOR VETERANS.

(a) IN GENERAL.—(1) Subchapter I of chapter 19 of title 38, United States Code, is amended by inserting after section 1922A the following new section:

"§ 1922B. Service disabled veterans' insurance: level premium term insurance

"(a) Subject to the provisions of this section, any person described in subsection (b) shall, upon payment of premiums as provided in subsection (f), be granted insurance by the United States against the death of such person occurring while such insurance is in force.

"(b) A person described in this subsection is any person as follows:

"(1) A person insured under section 1922(a) of this title if such person applies for insurance under this section within the times provided for under paragraphs (2) and (3) of subsection (e).

"(2) A person (other than a person described in paragraph (1)) who—

"(A) is released from active military, naval, or air service, under other than dishonorable conditions;

"(B) is found by the Secretary to be suffering from a disability or disabilities for which compensation would be payable if 10 per cent or more in degree;

"(C) except for the disability or disabilities referred to in subparagraph (B), would be insurable according to standards of good health established by the Secretary; and

"(D) has not attained the age of 65 years as of the date of application for insurance under this section.

"(c)(1) Insurance under this section for a person described in subsection (b)(1) is in addition to the insurance of such person under section 1922(a) of this title and the insurance, if any, of such person under section 1922A of this title.

"(2) A person deemed insured under section 1922(b) of this title is not eligible for or entitled to insurance under this section.

"(d)(1)(A) Subject to subparagraph (B) and except as provided in paragraph (3), the amount for which a person described by subsection (b)(1) is insured under this section shall, at the election of the person, be—

"(i) $45,000; or

"(ii) an amount less than $45,000, but more than $5,000, that is evenly divisible by $5,000.

"(B) The amount of insurance elected under this paragraph by a person described by subsection (b)(1) may not cause the aggregate amount of insurance of the person under this section and sections 1922(a) and 1922A of this title to exceed $50,000.

"(2) Except as provided in paragraph (3), the amount for which a person described by subsection (b)(2) is insured under this section shall, at the election of the person, be—

"(A) $50,000; or

"(B) an amount less than $50,000, but more than $5,000, that is evenly divisible by $5,000.

"(3) Upon attaining the age of 70 years, the amount for which a person is insured under this section shall be the amount equal to 20 percent of the amount otherwise elected by the person under paragraph (1) or (2), as applicable.

"(e)(1) A person seeking insurance under this section shall submit to the Secretary an application in writing for such insurance.

"(2) The application of a person under paragraph (1) shall be submitted not later than 10 years after the date of the release of the person from active military, naval, or air service.

"(3)(A) Except as provided in subparagraph (B), the application of a person under paragraph (1) shall be submitted not later than two years after the date on which the Secretary finds the service-connection for the disability or disabilities of the person on which the application is based.

"(B) In the case of a person shown by evidence satisfactory to the Secretary to have been mentally incompetent during any part of the two-year period otherwise applicable to the person under subparagraph (A), an application for insurance under this section shall be filed not later than the earlier of—

"(i) two years after a guardian for the person is appointed; or

"(ii) two years after the removal of such disability or disabilities, as determined by the Secretary.

"(f)(1) Except as provided in paragraphs (2) and (3), a person insured under this section shall pay premiums for such insurance as determined under paragraph (4).

"(2) The provisions of section 1912 of this title shall apply with respect to payment of premiums for insurance under this section.

"(3) A person shall not be required to pay premiums for insurance under this section after attaining the age of 70 years.

"(4) The premium rates for insurance under this section shall be level, and shall be based on the Commissioners 1980 Standard Ordinary Basic Table of Mortality and interest at the rate of 5 per cent per annum.

"(5) All premiums and other collections for insurance under this section shall be credited directly to a revolving fund in the Treasury established for purposes of this section, and any payments on such insurance shall be made directly from such fund.

"(g)(1) Except as otherwise provided in this section, insurance under this section shall be issued on the same terms and conditions as are contained in standard policies of National Service Life Insurance, except that insurance issued under this section shall have no loan value or extended values.

"(2) All settlements on insurance under this section shall be paid in a lump sum.

"(h) Insurance under this section may be referred to as 'Robert Carey Service Disabled Veterans' Insurance'.".

(2) The table of sections at the beginning of chapter 19 of that title is amended by inserting after the item relating to section 1922A the following new item:

"1922B. Service disabled veterans' insurance: level premium term insurance.".

(b) COORDINATION WITH CURRENT SERVICE DISABLED VETERANS' INSURANCE PROGRAM.—Section 1922 of title 38, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(5) A person deemed insured under this subsection is not eligible for or entitled to insurance under section 1922B of this title."; and

(2) by adding at the end the following new subsection:

"(d) A person insured under subsection (a) may also be eligible for insurance under section 1922B of this title in accordance with the provisions of that section.".

(c) OTHER AMENDMENTS TO CURRENT SERVICE DISABLED VETERANS' INSURANCE PROGRAM.—Subsection (a) of such section 1922 is amended by striking "Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum" each place it appears in paragraphs (1) and (2) and inserting "Commissioners 1980 Standard Ordinary Basic Table of Mortality and interest at the rate of 5 per cent per annum".

(d) REVIEW OF APPLICABILITY OF MORTALITY TABLES.—(1) The Secretary of Veterans Affairs shall, from time to time, evaluate the standard ordinary table of mortality being used for purposes of service disabled veterans' insurance under sections 1922 and 1922B of title 38, United States Code, in order to determine whether such table of mortality continues to be suitable for such purposes.

(2) If as the result of an evaluation under paragraph (1) the Secretary determines that the standard ordinary table of mortality being used for purposes of insurance referred to in that paragraph is no longer suitable for such purposes, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report setting forth that determination and including a recommendation for an alternative standard ordinary table of mortality to be used for such purposes.

(e) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations for purposes of administering section 1922B of title 38, United States Code (as added by subsection (a)), and for purposes of administering the amendments to section 1922 of that title made by subsections (b) and (c). Such regulations shall take effect on October 1, 2003.

(f) AUTHORIZATION OF APPROPRIATIONS FOR REVOLVING FUND.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the revolving fund established pursuant to subsection (f)(5) of section 1922B of title 38, United States Code (as added by subsection (a) of this section), such sums as may be necessary for purposes of that section.

(g) EFFECTIVE DATE.—The amendments made by subsections (a) through (c) shall take effect on October 1, 2003.

By Mr. BIDEN (for himself, Mr. SANTORUM, Mr. KERRY, Mr. FRIST, Mr. SARBANES, Mr. CHAFFEE, and Mr. DEWINE):

S. 2210. A bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative; to the Committee on Foreign Relations.

Mr. BIDEN. Madam President, I rise today, along with my colleague, Senator SANTORUM, to introduce legislation to reform the way we provide debt relief for the poorest nations of the world. We are joined in this effort by Senators KERRY, FRIST, SARBANES, CHAFEE, and DEWINE.

Earlier today, our friends from the House, CHRIS SMITH, JOHN LAFALCE, SPENCER BAUCUS, MAXINE WATERS, BARNEY FRANK met with us to announce the introduction of companion legislation on their side of the Hill.

Looking around at that group of people, it would be fair to wonder what we all have in common. Some days, not much. Today, however, what we have in common is a shared concern about the fate of the men, women, and children in the poorest countries of the world.

It is true that the war on terrorism has brought home to us more clearly than before that conditions of grinding poverty in the rest of the world are ignored at our peril. Common sense tells us that our national security is at risk in a world where millions of people have little to live for, and are ripe for the seductions of radical, even violent action against the desperate conditions they face every day.

As Tom Friedman has said in another context, if you don't visit the bad neighborhoods, they will visit you.

But that cannot be the only reason that we all share a concern about poverty in the underdeveloped countries of the world. All of the world's great religions charge us to look after each other, and show special concern for those who need it most.

Common decency recoils at the conditions of disease and deprivation faced by others while we are so blessed with abundance here.

Common sense, and common decency. That is what brought us all together today.

Few things offend both common sense and common decency more than the situations faced by the poor countries of the world who lack the resources to provide the most basic public health care and the most basic education, but yet still send money to the international financial institutions established by the wealthiest nations of the world.

They send two billion dollars a year here to Washington, home of the World Bank and the International Monetary Fund, and to the regional development banks around the world, to pay interest on loans they have taken out over the years, money that they desperately need for basic human services.

We set up those institutions to promote conditions for global economic growth and stability, and to promote economic development. And they do many good things. But the blessings that came when those loans went out to poor countries in many cases have turned into a curse. Now many of those countries are stuck in a debt trap, where payments to simply service the interest on those loans weaken their ability to provide the kind of essential public services needed for basic human existence, much less sustainable economic growth.

Tragically, most of the countries with the greatest debt burdens are among the worst victims of the HIV/AIDS epidemic. The resources needed in African countries in the fight against HIV/AIDS are already beyond their reach. The burden of debt makes that fight even harder.

Two years ago, the United States joined with the other members of the IMF and the World Bank to reduce the debt burdens of the Heavily Indebted Poor Countries. The world's churches led that fight, the Jubilee 2000 fight, to undo some of the harm done by this cycle of debt. I was proud to be part of that effort.

The result was a real improvement in the debt situation of many countries. Our experience with that program shows that the money we free up with debt relief really does go for the important services the poor citizens of these countries really need.

As a matter of fact, about 40 percent of the debt savings in those countries is going for education, and 25 percent for health care.

But realistically, these countries will still be stuck in a debt trap far into the future.

In fact, just this week the Bank and the Fund honestly admitted that under the current formula, many countries will simply not reach a sustainable level of debt. James Wolfenson, President of the World Bank, has said that he is considering deeper debt relief to achieve the goals of the existing HIPC program. The legislation I am introducing today with Senator SANTORUM will make success under that HIPC program more likely.

Specifically, for the many countries facing a public health crisis, such as the HIV/AIDS epidemic, we say that no more than five percent of their budgets should go to service their debt to the international financial institutions. For those who do not face such a crisis, debt service should exceed no more than ten percent of their budget.

While the existing HIPC program sets a sustainable level of debt at 150 percent of a country's income from exports, our bill says that it is also important to measure the debt burden against a country's budget, as well. That's the best way to see the real impact on a country's ability to meet its own pressing domestic needs.

In fact, given the deep problems the eligible nations have with trade—most of them export basic commodities whose prices have been declining—using export income should not be the sole basis for determining their ability to pay. The HIPC program currently assumes that the eligible countries will enjoy much higher growth in that export income than they have ever been able to achieve. That is a formula for disappointment.

Deeper debt relief, more sustainable debt levels, measured by a country's actual ability to pay as a share of its budget, that is what our legislation would establish as the U.S. negotiating position at the Bank and the Fund. If those reforms are adopted, an additional billion dollars a year of debt service will be lifted from the poorest nations.

This weekend, the Bank and the Fund will be meeting here in Washington, and I expect those very issues will be under discussion. The legislation we are introducing today offers a way to achieve the original goals of debt relief, and the goals of our own foreign policy in the developing world.

Common sense, and common decency, should help us find some common ground to achieve those goals. The broad coalition of support this legislation already enjoys tells me that we can succeed.

By Mr. HUTCHINSON (for himself and Mr. CLELAND):

S. 2211. A bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes; to the Committee on Armed Services.

Mr. HUTCHINSON. Madam President, I rise today to introduce the Heroism Pay Equality Act. This legislation will restore fairness and equality to our country's retired military reservists who have been cited for extraordinary heroism, by affording them the same entitlements offered to their active component counterparts. Current law awards members with between 20 and 30 years of service who have been cited for extraordinary heroism in the line of duty an additional 10 percent to their retirement pay for their heroic acts. Typically, this equates to a service member who has received the Medal of Honor, the Distinguished Service Cross, or the Navy Cross. Yet a service member who has been awarded one of these medals, and whose retirement eligibility was achieved in the Reserves, is not recognized with the same benefit.

This bill erases this injustice, and is offered in the spirit of fairness to the total force. The United States is increasingly reliant on the Reserve component of the armed service to meet the challenges that face our military. Reserve and National Guard units have served with distinction in Bosnia, Kosovo, the Middle East, and are doing so today in Afghanistan and countless locations across the United States as part of our global war on terrorism. The additional pay for heroic acts is awarded for the act itself and has nothing to do with the component in which retirement eligibility was achieved. Thus, to honor our Nation's military reservists, I urge my colleagues on both sides of the aisle to support this legislation.

I ask unanimous consent that the text of the legislation, which Senator CLELAND and I are introducing today, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANDED APPLICABILITY OF ADDITIONAL RETIRED PAY FOR EXTRAORDINARY HEROISM.

(a) ARMY.—Section 3991(a)(2) of title 10, United States Code, is amended—

(1) by striking "If a member who is retired under section 3914 of this title" and inserting "If an enlisted member entitled to monthly retired pay under this subtitle"; and

(2) by inserting after the first sentence the following new sentence: "The first sentence does not apply with respect to retired pay computed under section 12733 of this title.".

(b) NAVY AND MARINE CORPS.—(1) Chapter 571 of such title is amended by inserting after section 6334 the following new section:

"§6334a. Computation of retired pay: additional 10 percent for enlisted members credited with extraordinary heroism

"If an enlisted member entitled to monthly retired pay under this subtitle has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under section 6333 or 6334 of this title, as the case may be, but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based. The first sentence does not apply with respect to retired pay computed under section 12733 of this title. The Secretary's determination as to extraordinary heroism is conclusive for all purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6334a. Computation of retired pay: additional 10 percent for enlisted members credited with extraordinary heroism.".

(c) AIR FORCE.—Section 8991(a)(2) of title 10, United States Code, is amended—

(1) by striking "If a member who is retired under section 8914 of this title" and inserting "If an enlisted member entitled to monthly retired pay under this subtitle"; and

(2) by inserting after the first sentence the following new sentence: "The first sentence does not apply with respect to retired pay computed under section 12733 of this title.".

(d) DISABILITY RETIREMENT.—(1) Section 1201 of such title is amended—

(A) in subsection (a), by striking ", with retired pay computed under section 1401 of this title,"; and

(B) by adding at the end the following new subsection:

"(d) COMPUTATION OF RETIRED PAY.—(1) The retired pay to which a member is entitled under this section shall be computed under section 1401 of this title.

"(2) If an enlisted member entitled to monthly retired pay under this section has been credited by the Secretary concerned with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under section 1401 of this title (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based).".

(2) Section 1202 of such title is amended—

(A) by inserting "(a) RETIREMENT.—" before the text of such section;

(B) by striking "with retired pay computed under section 1401 of this title" and inserting "and pay retired pay to the member."; and

(C) by adding at the end the following new subsection:

"(b) COMPUTATION OF RETIRED PAY.—(1) The retired pay to which a member is entitled under this section shall be computed under section 1401 of this title.

"(2) If an enlisted member entitled to monthly retired pay under this section has been credited by the Secretary concerned with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under section 1401 of this title (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based).".

(e) APPLICABILITY.—The amendments made by this section shall not apply with respect to months beginning on or before the date of the enactment of this Act.

By Mr. McCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 2212. A bill to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act and for other purposes; to the Committee on Indian Affairs.

Mr. McCAIN. Madam President, today I am introducing a discussion bill intended to provide the basis for further reform of the administration and management of the assets and funds held by the United States in trust for federally recognized Indian tribes and individual Indians. I'm pleased to be joined by my two distinguished colleagues from South Dakota, Senators DASCHLE and JOHNSON.

As a result of over 300 treaties and an extensive course of dealings between the United States and Indian tribes, the Federal Government holds the legal title to lands held in trust for Indian tribes and individual tribal members. The revenues derived from the use of these lands and the resources found on trust lands, along with the proceeds from claims that have arisen from the wrongful taking or the loss of use of the assets, comprise the funds that are held in trust by the United States for the benefit of individual Indians and Indian tribes.

Today, the United States maintains approximately 1,400 trust fund accounts for 315 Indian tribes with funds in excess of $2.6 billion, and over 260,000 individual Indian money, IIM, accounts with about $400 million in funds. Approximately 45 million acres of land are held in trust by the United States for the benefit of Indian tribes and about 11 million acres are held in trust for individual Indians. These lands contain vast amounts of minerals, coal, oil and gas, water, forest resources, and agricultural resources.

These funds, lands, and resources comprise the trust estate held by the United States for the benefit of tribes and individual Indians. The Interior Department distributes leasing and sales revenues of $300 million per year to more than 225,000 individual Indian money accounts and about $800 million a year to the 1,400 tribal accounts. It manages income from more than 100,000 active leases for tribes and individual Indians.

Indian tribes depend on the revenues from these trust assets to provide basic governmental services. IIM account holders are often living at, or near, the poverty level, and they rely on these revenues for basic essentials such as housing, food, and transportation. The manner in which trust assets and trust funds are managed by the Department has very real impacts on the lives of hundreds of thousands of Indian people every day. All too often, those impacts are not positive.

The administration and management of individual Indian trust assets and funds are extremely difficult due to the problem of fractionated heirship of lands that are a continuing legacy of the misguided and discredited allotment policies of the late nineteenth and early twentieth centuries. Today, the Department and individual Indians are left with the nightmare of 1.4 million fractional interests of two percent or less involving 58,000 tracts of individually owned trust and restricted lands, each of which requires administration and often provides nothing but frustration in return for all involved. For some of these accounts, it may cost more to print and mail statements annually than the assets themselves are worth. A lasting solution needs to be found that reconsolidates these assets under Indian ownership.

Many of my colleagues are familiar with the never-ending stream of GAO reports, news accounts, and hearings detailing the deplorable history of the Federal effort to manage these trust funds. Far less is known about the condition of trust assets and the history of their management. However, it doesn't take very long to recognize that the problem of mismanagement extends far beyond trust funds to the lands and resources that generate most of the funds. The Interior Department cannot provide accurate information on the number of leases on Indian lands for any purpose or the amount of revenues that should be attributed to any parcel of trust land despite repeated attempts to develop the necessary database and record keeping systems. In addition, the records for some lands and trust accounts have been lost or destroyed for entire time periods.

In 1994, the Congress enacted the American Indian Trust Fund Management Reform Act. This law was intended to bring about a series of major reforms in the management of Indian trust funds and assets under the auspices of a Special Trustee in the Interior Department. Some positive changes have occurred. Most trust account holders now receive regular statements on their accounts. Most of the revenues derived from Indian trust assets are now posted to the correct account in a reasonable period of time.

However, the major structural reforms that were called for in the 1994 Act have not been achieved. It is still not possible to tell with complete certainty what tribal lands and resources are leased and what revenues are generated from all tribal lands and resources. The original intent of the 1994 Act was for the Special Trustee to go out of business after completing a plan for the restructuring of the day-to-day management of tribal and individual trust funds and assets.

The Special Trustee did develop a plan that called for the creation of a government sponsored enterprise to take control of the entire Indian trust estate and manage it. The tribes and individual beneficiaries of the trust were nearly unanimous in their condemnation and rejection of this plan.

The 1994 Act also established a procedure through which tribes can withdraw their trust funds from federal trust and manage them directly. Only a few tribes have taken this course. The Interior Department has not encouraged tribes to withdraw their funds and the tribes have been reluctant to do so for the simple reason that the federal trust is terminated by the act of withdrawing the funds. Anyone who is familiar with the devastation brought about by the various efforts over the years to terminate the unique relationship between the tribes and the Federal Government will not be surprised by the lack of success in the implementation of this part of the 1994 Act.

The 1994 Act also called for the completion of audits of all individual and tribal trust fund accounts. After years of effort and the expenditure of millions of dollars, in 1997, the Interior Department finally provided the tribal account holders with a "reconciliation" of their accounts. These reconciliation reports only covered a small fraction of the years the accounts have been maintained and the reports were not audits as was required by the 1994 Act. Some tribes accepted the results of the reconciliation of their accounts. Most did not. None of the IIM accounts were reconciled and have not been to this day, despite the requirements of the 1994 Act. There are no plans to comply with the mandate of the 1994 Act for an actual accounting for any of the trust fund accounts. Conducting such an accounting would be difficult due to the lack of records. But it can be accomplished and every reasonable effort should be made to make sure this important work gets done soon.

Last fall, Secretary Norton unveiled a proposal to take all of the trust fund and asset management functions out of the Bureau of Indian Affairs, in order to vest them in a new Bureau of Indian Trust Asset Management, BITAM. This proposal is estimated to have a price tag of about $300 million in its first year or two.

Secretary Norton's proposal was intended to respond to the short-comings of the 1994 Act and the orders of Judge Lamberth in the Cobell v. Norton litigation that has been in the Federal District Court for the District of Columbia since 1997. This litigation involves the individual trust accounts and seeks an accounting of the funds managed by the Departments of the Interior and Treasury since 1887. Past failures to reconcile accounts led to contempt orders against former Secretaries Babbitt and Rubin. Judge Lamberth is currently considering contempt orders against Secretary Norton and Assistant Secretary McCaleb for actions they have taken or have failed to take with regard to these trust funds and for misleading the court about what is actually being done.

Indian leaders across the country have condemned Secretary Norton's proposal to establish BITAM and have since offered a variety of alternative proposals. As I understand it, while the Secretary is working with tribal leaders to evaluate different options proposed by the tribes, the BITAM proposal remains the Department's preferred option.

Representatives of the Tribes have been working on a range of possible reforms through a special Task Force established by Secretary Norton at their request. We have been in contact with members of the Task Force and am somewhat heartened by the fact that they believe they are making real progress toward meaningful reforms. The bill we are introducing is not intended to undermine that process, but will hopefully assist it. In any event, we must give careful consideration to the recommendations the Task force ultimately develops and try to act on them at the appropriate time. I believe Senators DASCHLE and JOHNSON would join me in urging the Department to continue to work with the Task Force as it completes its work in the months ahead.

Even as we monitor these developments, I, and many others in Congress, continue to be concerned about the future management of trust funds and assets. We believe that further reform is necessary and that it must comport with the Interior Department's trust responsibility at the same time that it advances the self-determination policies that have been so successful in the past 30 years. The status quo is simply not acceptable.

Just to reinforce our intent, the bill we are introducing today is not intended to be the ultimate solution to the problems that have been revealed in the management of the trust funds and trust assets. However, we believe it critical to the on-going reform process to introduce a bill that focuses on two elements that are important to achieving a lasting reform in the management of these funds and assets.

First, the bill will establish a direct line-of-authority over the management of the trust funds and trust assets at the highest levels within the Department. Judge Lamberth, and other oversight agencies such as the General Accounting Office, have lamented the lack of accountability in the Interior Department and strongly recommended the designation of one official who will ultimately be responsible for the management of the trust funds and assets.

This bill addresses this issue by establishing the Office of Trust Management and Reform in the Department of the Interior. This office will be under the authority of a Deputy Secretary who will report directly to the Secretary and who will oversee the work of the Assistant Secretary for Indian Affairs, the special Trustee, the Director of the Minerals Management Service and the Director of the Bureau of Land Management with regard to trust funds and trust assets.

I am certain that many of my colleagues who are concerned about this issue will join me in ensuring that candidates nominated by the President for the Deputy Secretary position are not only qualified in financial management, natural resource management, and federal Indian policy, but also are widely supported by the tribal community.

The new Deputy Secretary will be the person ultimately responsible for the overall management of these funds and assets. The Deputy Secretary will have the authority to require the Special Trustee and the Assistant Secretary for Indian Affairs, along with the Directors of the Bureau of Land Management and the Minerals Management Service, to take the steps necessary to put into place the changes needed to ensure the proper administration and management of the trust funds and assets. The Deputy Secretary will be appointed by the President, subject to the advice and consent of the Senate, for a term of six years and may only be removed for cause. This should give the Deputy Secretary the independence necessary to bring about meaningful reform, while still ensuring accountability.

The current Tribal task force working with the Secretary is considering a structure for the management of Indian affairs that would elevate all of the current responsibilities of the Assistant Secretary for Indian Affairs, the Special Trustee, and the Deputy Commissioner, to the Deputy Secretary level in the Department. We look forward to learning more about the scope of the Task Force proposal and its costs or cost savings. As necessary, this bill can be modified to accommodate such a proposal if the Task Force concludes that doing so would be appropriate.

This Task Force has served an important role to the tribes in working with the Department on these matters and many would like to see its function continue as a collaborative component to the Department's management. In order to ensure a continuing role for the tribes in the day-to-day activities of the Department with respect to the management of the trust funds and the trust assets, this bill amends the 1994 Act to provide that the advisory board that was established to assist the Special Trustee will be reconstituted and continue as an advisory board for the Deputy Secretary. The composition of the advisory board is broad enough to enable the Deputy Secretary to include members with expertise in the areas of trust fund management, investment, and related responsibilities of the Deputy Secretary.

The other major feature of the bill is the focus on the successful policy of self-determination. Any fair review of Federal Indian policy over the course of the last century will point to the policies of termination and assimilation through allotment as abject failures. Many of the most intractable problems the tribes and federal policy makers wrestle with today stem from the wreckage caused by these misguided policies of the past.

On the other hand, the policy of self-determination, which was first proposed by President Nixon in 1971, has shown itself to be the single most successful Federal Indian policy in the history of our Nation. The reasons for this success are many, but the core reason is one we can all recognize and relate to: self-determination involves Indian people directly in identifying and defining the problems facing the tribes, and more importantly, it empowers them to implement the solutions they know will work best. Putting it in slightly different terms, the self-determination policy recognizes the fact that the government closest to the people is the best government to recognize and resolve local problems. Indian policy made by the Federal Government for the Federal Government has never worked and never will work. Indian policy made by the tribal governments with appropriate Federal assistance has shown that it does work.

Portions of the 1994 Act and Secretary Norton's BITAM proposal have some things in common. In varying degrees, both are attempts by the Federal Government to make Indian policy for the federal government. Neither provides a proper role for tribal governments. This bill provides a framework by which tribes can become more involved in the day-to-day management of their trust assets and trust funds through the Indian Self-Determination Act. It does not dismantle the BIA. It does provide a foundation for the tribes, the Department, and the Congress to develop and implement meaningful reform over the next several years. Every major provision of this bill is based on solutions that have been proposed by the tribes.

The bill builds on the concept of beneficiary co-management of trust funds and assets. This is not a new idea. It was advanced by the tribes in the 1980's and 1990's. It is embodied in the Indian Forest Resources Management Act that Congress enacted in 1990 and the Indian Agricultural Resources Management Act enacted in 1994. It is implicit in the Indian Self-Determination Act and it is a proven formula for progress.

This bill does not deal with the issues of the past. It does not address concerns about claims for past mismanagement. It does not deal with the need for an accounting of tribal and individual trust funds. It does not deal with the condition of the trust lands and assets. These are all very serious matters.

My purpose is not to avoid these issues or indicate any disregard for them. Rather, we are simply trying to find a way to move forward on a more constructive basis. Representatives of the tribes have been working on a way to move forward on these issues a more constructive basis. We must give careful consideration to the recommendations they develop and try to act on them at the appropriate time.

Both the House and the Senate recently passed S. 1857 to deal with the statute of limitations on past claims for mismanagement of the tribal trust funds. Judge Lamberth is considering remedies for mismanagement of the individual Indian trust funds. Secretary Norton has established the Office of Historical Trust Accounting to try to produce an accounting for the individual funds. We need to monitor all of these efforts and be prepared to enact additional legislation if necessary and if sought by the tribes.

We are hopeful that we can build on the modest successes realized under the 1994 Act by providing greater accountability in the Department of the Interior and recognizing the fact that the tribes must be involved as active participants in the management and administration of the trust funds and assets without the threat of termination of the trust responsibility. It took over 100 years to create the problems we now confront with the Indian trust funds and assets. The Indian people did not create these problems. The Federal Government did. It is going to take many more years to resolve the problems. The 1994 Act was a step in the right direction. We believe this bill can lead to further progress through greater accountability and direct involvement of those who have the most at stake, the tribes and Indian people.

Once again, Senators Daschle, Johnson and I propose this legislation as a vehicle for discussion for all those concerned with ending decades of mismanagement of Indian trust funds and trust assets. We look forward to receiving comments on this legislation and call on our friend, the chairman of the Committee on Indian Affairs, to use this bill as the basis for hearings on these matters when the committee is prepared to do so.

I ask unanimous consent that the bill and a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Trust Asset and Trust Fund Management and Reform Act of 2002".

SEC. 2. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.

(a) DEFINITIONS.—Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended—

(1) in paragraph (1), by striking "(1) The term" and inserting the following:

"(8) SPECIAL TRUSTEE.—The term";

(2) in paragraph (2), by striking "(2) The term" and inserting the following:

"(4) INDIAN TRIBE.—The term";

(3) in paragraph (3), by striking "(3) The term" and inserting the following:

"(7) SECRETARY.—The term";

(4) in paragraph (4), by striking "(4) The term" and inserting the following:

"(5) OFFICE.—The term";

(5) in paragraph (5), by striking "(5) The term" and inserting the following:

"(1) BUREAU.—The term";

(6) in paragraph (6), by striking "(6) The term" and inserting the following:

"(2) DEPARTMENT.—The term";

(7) by adding at the end the following:

"(3) DEPUTY SECRETARY.—The term 'Deputy Secretary' means the Deputy Secretary for Trust Management and Reform appointed under section 307(a)(2).

"(6) REFORM OFFICE.—The term 'Reform Office' means the Office of Trust Reform Implementation and Oversight established by section 307(e).";

(8) by moving paragraphs (1) through (8) (as redesignated by this subsection) so as to appear in numerical order; and

(9) by adding at the end the following:

"(9) TRUST ASSETS.—The term 'trust assets' means all tangible property including land, minerals, coal, oil and gas, forest resources, agricultural resources, water and water sources, and fish and wildlife held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe pursuant to Federal law.

"(10) TRUST FUNDS.—The term 'trust funds' means all funds held by the Secretary for the benefit of an Indian tribe or and individual member of an Indian tribe pursuant to Federal law.".

(b) DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.—Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041 et seq.) is amended by adding at the end the following:

"SEC. 307. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the Department the position of Deputy Secretary for Trust Management and Reform.

"(2) APPOINTMENT AND REMOVAL.—

"(A) APPOINTMENT.—The Deputy Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

"(B) TERM.—The Deputy Secretary shall be appointed for a term of 6 years.

"(C) REMOVAL.—The Deputy Secretary may be removed only for good cause.

"(3) ADMINISTRATIVE AUTHORITY.—The Deputy Secretary shall report directly to the Secretary.

"(4) COMPENSATION.—The Deputy Secretary shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay prescribed for Level II of the Executive Schedule under section 5313 of title 5, United States Code.

"(b) DUTIES.—The Deputy Secretary shall—

"(1) oversee all trust fund and trust asset matters of the Department, including—

"(A) administration and management of the Reform Office; and

"(B) financial and human resource matters of the Reform Office; and

"(2) engage in appropriate government-to-government relations and consultations with Indian tribes and individual trust asset and trust fund account holders on matters involving trust asset and trust fund management and reform within the Department.

"(c) STAFF.—In carrying out this section, the Deputy Secretary may hire such staff having expertise in trust asset and trust fund management, financial organization and management, and tribal policy as the Deputy Secretary determines is necessary to carry out this section.

"(d) EFFECT ON DUTIES OF OTHER OFFICIALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall be construed to diminish any responsibility or duty of the Assistant Secretary of the Interior for Indian Affairs or the Special Trustee relating to any duty of the Assistant Secretary or Special Trustee established under this Act or any other provision of law.

"(2) TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM.—Notwithstanding any other provision of law, the Deputy Secretary shall have overall management and oversight authority on matters of the Department relating to trust asset and trust fund management and reform.

"(e) OFFICE OF TRUST REFORM IMPLEMENTATION AND OVERSIGHT.—

"(1) ESTABLISHMENT.—There is established within the Office of the Secretary the Office of Trust Reform Implementation and Oversight.

"(2) REFORM OFFICE HEAD.—The Reform Office shall be headed by the Deputy Secretary.

"(3) DUTIES.—The Reform Office shall—

"(A) supervise and direct the day-to-day activities of the Assistant Secretary of the Interior for Indian Affairs, the Special Trustee, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service, to the extent they administer or manage any Indian trust assets or funds;

"(B) administer, in accordance with title II, all trust properties, funds, and other assets held by the United States for the benefit of Indian tribes and individual members of Indian tribes;

"(C) require the development and maintenance of an accurate inventory of all trust funds and trust assets;

"(D) ensure the prompt posting of revenue derived from a trust fund or trust asset for the benefit of each Indian tribe (or individual member of each Indian tribe) that owns a beneficial interest in the trust fund or trust asset;

"(E) ensure that monthly statements of accounts are provided to all trust fund account holders;

"(F) ensure that all trust fund accounts are audited at least annually, and more frequently as determined to be necessary by the Deputy Secretary;

"(G) ensure that the Assistant Secretary of the Interior for Indian Affairs, the Special Trustee, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service provide to the Secretary current and accurate information relating to the administration and management of trust funds and trust assets;

"(H) provide for regular consultation with trust fund account holders on the administration of trust funds and trust assets to ensure, to the maximum extent practicable in accordance with applicable law, the greatest return on those funds and assets for the trust fund account holders; and

"(I) enter into contracts and compacts under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc) to provide for the management of trust assets and trust funds by Indian tribes pursuant to a Trust Fund and Trust Asset Management and Monitoring Plan developed under section 202 of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(c) ADVISORY BOARD.—

(1) IN GENERAL.—Section 306 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4046) is amended to read as follows:

"SEC. 306. ADVISORY BOARD.

"(a) ESTABLISHMENT AND MEMBERSHIP.—Notwithstanding any other provision of law, the Deputy Secretary described in section 307 shall establish an advisory board to provide advice on all matters within the jurisdiction of the Office of Trust Reform. The advisory board shall consist of 9 members, appointed by the Deputy Secretary after consultation with Indian tribes and appropriate Indian organizations, of which—

"(1) 5 members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;

"(2) 2 members shall have practical experience in trust fund and financial management;

"(3) 1 member shall have practical experience in fiduciary investment management; and

"(4) 1 member, from academia, shall have knowledge of general management of large organizations.

"(b) TERM.—Each member shall serve a term of 2 years.

"(c) FACA.—The advisory board shall not be subject to the Federal Advisory Committee Act.".

(2) PREVIOUS ADVISORY BOARD.—The advisory board authorized under section 306 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4046) as in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 302 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042) is amended—

(A) in the second sentence of subsection (a), by striking "who shall" and inserting "who, except as provided in subsection (b)(3), shall"; and

(B) in subsection (b), by adding at the end the following:

"(3) TRUST FUND MANAGEMENT.—The Special Trustee shall report directly to the Deputy Secretary with respect to matters relating to trust fund management and reform.".

(2) Section 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4043) is amended—

(A) by striking subsection (a);

(B) in subsection (b)(1), by striking "The Special Trustee" and inserting "Except as provided in section 307(d), the Special Trustee";

(C) in subsection (c)(5)(A), by striking "or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section,";

(D) by striking subsection (f); and

(E) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

SEC. 3. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES.

Title II of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4021 et seq.) is amended—

(1) by striking sections 202 and 203; and

(2) by inserting after section 201 the following:

"SEC. 202. PARTICIPATION IN TRUST FUND AND TRUST ASSET MANAGEMENT ACTIVITIES BY INDIAN TRIBES.

"(a) PLANNING PROGRAM.—To meet the purposes of this title, a 10-year Indian Trust Fund and Trust Asset Management and Monitoring Plan (in this section referred to as the 'Plan') shall be developed and implemented as follows:

"(1) Pursuant to a self-determination contract or compact under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc), an Indian tribe may develop or implement a Plan. Subject to the provisions of paragraphs (3) and (4), the tribe shall have broad discretion in designing and carrying out the planning process.

"(2) To include in a Plan particular trust funds or assets held by multiple individuals, an Indian tribe shall obtain the approval of a majority of the individuals who hold an interest in any such trust funds or assets.

"(3) The Plan shall be submitted to the Secretary for approval pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(4) If a tribe chooses not to develop or implement a Plan, the Secretary shall develop or implement, as appropriate, a Plan in close consultation with the affected tribe.

“(5) Whether developed directly by the tribe or by the Secretary, the Plan shall—

“(A) determine the amount and source of funds held in trust;

“(B) identify and prepare an inventory of all trust assets;

“(C) identify specific tribal goals and objectives;

“(D) establish management objectives for the funds and assets held in trust;

“(E) define critical values of the Indian tribe and its members and provide identified management objectives;

“(F) identify actions to be taken to reach established objectives;

“(G) use existing survey documents, reports and other research from Federal agencies, tribal community colleges, and land grant universities; and

“(H) be completed within 3 years of the initiation of activity to establish the Plan.

“(b) MANAGEMENT AND ADMINISTRATION.—Plans developed and approved under subsection (a) shall govern the management and administration of funds and assets held in trust by the Bureau and the Indian tribal government.

“(c) NO TERMINATION REQUIREMENT.—Indian tribes implementing an approved Plan shall not be required to terminate the trust relationship in order to implement such Plan.

“(d) PLAN DOES NOT TERMINATE TRUST.—Developing or implementing a Plan shall not be construed or deemed to constitute a termination of the trust status of the assets or funds that are included in, or subject to, the Plan.

“(e) LIABILITY.—An Indian tribe managing and administering trust funds and trust assets in a manner that is consistent with a Plan shall not be liable for waste or loss of an asset or funds that are included in such Plan.

“(f) INDIAN PARTICIPATION IN MANAGEMENT ACTIVITIES.—

“(1) TRIBAL RECOGNITION.—The Secretary shall conduct all management activities of funds and assets held in trust in accordance with goals and objectives set forth in a Plan approved pursuant to and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States.

“(2) TRIBAL LAWS.—

“(A) IN GENERAL.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal law pertaining to the management of funds and assets held in trust.

“(B) DUTIES.—The Secretary shall—

“(i) provide assistance in the enforcement of tribal laws described in subparagraph (A);

“(ii) provide notice of such tribal laws to persons or entities dealing with tribal funds and assets held in trust; and

“(iii) upon the request of an Indian tribe, require appropriate Federal officials to appear in tribal forums.

“(3) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of the Plan, or with a tribal law, the Secretary may waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's trust responsibility under Federal law.

“(4) SOVEREIGN IMMUNITY.—This section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

“(5) TRUST RESPONSIBILITY.—Nothing in this section shall be construed to diminish or expand the trust responsibility of the United States toward Indian funds and assets held in trust, or any legal obligation or remedy resulting from such funds and assets.

“(g) REPORT.—

“(1) IN GENERAL.—Not later than 180 days after the enactment of this section, and annually thereafter, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives.

“(2) CONTENTS.—The report required under paragraph (1) shall detail the following:

“(A) The efforts of the Department to implement this section.

“(B) The nature and extent of consultation between the Department, Tribes, and individual Indians with respect to implementation of this section.

“(C) Any recommendations of the Department for further changes to this Act, accompanied by a record of consultation with Tribes and individual Indians regarding such recommendations.”.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall promulgate regulations to carry out the amendments made by this Act.

(b) ACTIVE PARTICIPATION.—All regulations promulgated in accordance with subsection (a) shall be developed with the full and active participation of Indian tribes that have trust funds and assets held by the Secretary.

SECTION-BY-SECTION SUMMARY—INDIAN TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM ACT OF 2002

SECTION 1. SHORT TITLE

This section provides that the Act may be cited as the “Indian Trust Asset and Trust Fund Management and Reform Act of 2002.”

SECTION 2. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM

Paragraph (a) of this section provides that Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended to add new definitions for the terms “Deputy Secretary,” “Reform Office,” “Trust Assets,” and “Trust Funds,” and to redesignate the paragraphs of Section 2 of the 1994 Act.

Paragraph (b) of this section amends Title III of the 1994 Act by adding provisions to establish the position of Deputy Secretary for Trust Management and Reform in the Department of the Interior. The Deputy Secretary will be appointed by the President, with the advice and consent of the Senate, for a term of six years and may only be removed for cause. The Deputy Secretary will report directly to the Secretary and will be responsible for the oversight of all trust fund and trust asset administration and management, including consultation with Indian tribes and individual Indian trust asset and trust fund account holders.

This section authorizes the Deputy Secretary to hire staff in the Reform Office with expertise in trust fund and asset management, financial organization and management and tribal policy. The existing responsibilities of the Assistant Secretary for Indian Affairs and the Special Trustee would not be affected by the duties of the Deputy Secretary, except that each will be required to report to the Deputy Secretary on matters involving trust funds and trust assets.

This section also provides for the establishment of the Office of Trust Reform Implementation and Oversight which shall be headed by the Deputy Secretary and which will be responsible for the supervision of the day-to-day activities of the Assistant Secretary, the Special Trustees, the Director of the Bureau of Land Management and the Director of the Minerals Management Service in their administration of management of any Indian trust funds or assets, consistent with the provisions of Title II of the Act, as amended.

The duties of the Office of Trust Reform include: authorization to require the development and maintenance of an accurate inventory of all trust properties, funds and other assets; ensure the prompt posting of revenues derived from trust funds, properties and assets; ensure that trust fund account holders receive monthly statements; ensure that trust fund accounts are audited at least once a year or more frequently if necessary; ensure that the Secretary receives current and accurate information relating to the administration and management of trust funds, properties and assets; provide for regular consultation with trust fund account holders to ensure the greatest return on trust assets and properties for the trust account holders; and enter into contracts and compacts under the Indian Self-Determination Act to provide for the management of trust assets and funds by Indian tribes.

Such sums as maybe necessary are authorized to be appropriated to carry out the provisions of Section 307 of the Act.

Paragraph (c) of Section 2 amends Section 306 of the 1994 Act to reconstitute the Advisory Board for the Special Trustee as the Advisory Board for the Deputy Secretary. The Advisory Board will be comprised of nine members, five of whom shall be representative of tribal and individual trust fund account holders; two of the Board members shall have experience in trust fund and financial management; one Board member shall be experienced in fiduciary investment managements and one member shall be from academia and shall have knowledge of management of large organizations. Each member of the Advisory Board will serve for a term of two years. The Board will not be subject to the Federal Advisory Committee Act.

Paragraph (d) of Section 2 sets forth conforming amendments to Section 302 and Section 303 of the 1994 Act.

SECTION 3. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES

Section 3 amends the 1994 Act by striking Sections 202 and 203 of the Act relating to the withdrawal of trust funds and the termination of the trust responsibility. It inserts a new Section 202 to provide for the development and implementation of Indian Trust Fund and Trust Asset Management and Monitoring Plans by the Secretary and Indian tribes pursuant to the Indian Self-Determination Act. Indian tribes are to be afforded broad discretion in designing and carrying out the planning process. Funds and assets held in trust for multiple individuals may be included in a Tribal Plan with the consent of a majority of the individuals who hold an interest in any such assets or funds.

If a Tribe chooses not to develop or implement a plan, the Secretary is required to do so in close consultation with the affected Tribe.

Each plan is required to: determine the amount and source of funds held in trust; identify and prepare an inventory of all trust assets; identify specific tribal goals and objectives; establish management objectives for the funds and assets held in trust; define the critical values of the Indian tribe and provide identified management objectives; use existing surveys, reports and other research from Federal agencies, tribal community colleges and land grant universities; and, be completed within three years after the start of activity to establish a plan.

Approved plans will govern the management and administration of funds and assets held in trust by the Secretary and the Indian Tribes. The development and implementation of a plan by an Indian Tribe or the Secretary does not require the termination of the trust responsibility and shall not be construed or deemed to constitute a termination of the trust status of the assets or funds that are included in or subject to the Plan. An Indian tribe shall not be liable for waste or loss of a trust asset or trust funds if it is acting in accordance with an approved plan.

The Secretary is required to conduct all trust fund and trust asset management activities in accordance with tribal law and to provide assistance in the enforcement of tribal law unless doing so is prohibited by Federal law or would be contrary to the trust responsibility of the United States. The Secretary may waive any regulations or administrative policies of the Department of the Interior that are in conflict with Tribal law or an approved plan unless such a waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's trust responsibility.

This Section of the Act does not constitute a waiver of the sovereign immunity of the United States or authorize Tribal justice systems to review actions of the Secretary. Nothing in this Section shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust funds and assets held in trust.

Not later than 180 days after the date of enactment, and annually thereafter, the Secretary is required to file a report with the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives.

The report shall detail: the efforts of the Department to implement this Section; the nature and extent of the consultation between the Department, Tribes and individual Indians with respect to the implementation of this section; and, any recommendations of the Department for further changes to the Act, along with a record of the Department's consultation with Tribes and individual Indians regarding such recommendations.

SECTION 4. REGULATIONS

Section 4 requires the Secretary to promulgate regulations for the implementation of the amendments to the Act within one year after enactment, with the full and active participation of the Indian tribes that have trust funds and assets held by the Secretary.

Mr. DASCHLE. Madam President, today I am joining with Senators JOHN MCCAIN and TIM JOHNSON to introduce a legislation that is intended to focus attention on the need to address and correct the longstanding problem of inefficient management of the assets and funds held by the United States in trust for federally recognized Indian tribes and individual American Indians.

Indian Country has faced many challenges over the years. Few, however, have been more important, or more difficult, than ending the mismanagement of the Indian trust fund and restoring integrity to this administrative process.

For over 100 years, the Department of Interior has managed a trust funded with the proceeds of leasing of oil, gas, land, and mineral rights for the benefit of Indian people. Today, the trust fund may owe as much as $10 billion to as many as 500,000 Indians.

To give some perspective, the 16 tribes of the Great Plains in South Dakota, North Dakota, and Nebraska comprise 10 million acres of trust lands representing over one-third of the trust accounts. Many enrolled members of the nine South Dakota tribes have trust accounts.

How these trust funds have been and will be managed is being litigated in Cobell versus Norton, and the resolution of this lawsuit will have far-reaching implications throughout Indian country. It is impossible not to evaluate potential solutions in the context of this lawsuit.

There is clear consensus in Indian Country that the current administration of the trust fund is a failure. The daunting question has always been how to reform it.

Last fall, the Secretary of the Interior unveiled plans to reorganize the Bureau of Indian Affairs, BIA and segregate the oversight and accounting of trust-related assets in a new Bureau of Indian Trust Asset Management, BITAM. In testimony before the U.S. District Court, she acknowledged that, "We undoubtedly do have some missing data—and we are all going to have to find a way to deal with the fact that some information no longer exists."

The Secretary's controversial reorganization proposal was presented to the court in a hasty effort to avoid being held in contempt of court with minimal consultation with the tribes or individual Indian account holders, not to mention Congress. In South Dakota, tribal leaders communicated to Tim Johnson and me their concern that the Secretary's solution appeared to be a fait accompli, conceived without meaningful participation of the stakeholders most directly affected by it. They felt strongly that this proposal should not be implemented without further consultation with the tribes.

Earlier this year, in the face of administration assurances that its reorganization plan was not set in stone, the Interior Department requested that $200 million from the BIA and $100 million from the Office of the Special Trustee, be reprogrammed to "a single organization that will report to the Secretary through an Assistant Secretary, Indian Trust." This contradiction set off red flags in Congress, and a clear and direct message was sent to Secretary Norton by Senators INOUYE, CAMPBELL, BYRD, JOHNSON and others that no action should be taken to implement her proposed reorganization plan administratively.

Given these developments, Senators MCCAIN, JOHNSON, and I felt that Congress should be more assertive in forcing discussing about what role Congress might play in ensuring that tribes and individual Indian account holders have a voice on shaping trust reform policy. It is our hope that this bill will stimulate better dialogue among the Congress, the Interior Department, and Indian Country on this problem.

With that goal in mind, the bill has been reviewed by representatives of the Great Plains tribes at a meeting in Rapid City. Mike Jandreau, chairman of the Lower Brule Sioux Tribe, has been an effective advocate and champion of trust reform, not only for his tribe, but also for all Indian people. Mike and Flandreau-Santee Sioux Tribal chairman and Great Plains Tribal chairman's association president, Tom Ranfranz led a very impressive and productive working session with tribal leaders from South Dakota, North Dakota, Nebraska, Montana, and Wyoming that both raised awareness of the stakes of this issue and built support for the bill that is being introduced today.

I commend the willingness of these participating tribal leaders to be a part of a public process that will hopefully not stop until Indian country feels comfortable with a final product they create. The McCain-Johnson-Daschle bill is intended to be a starting point for promoting greater understanding of what needs to occur to achieve meaningful trust reform.

At this point, I would like to share with my colleagues some initial observations on this proposal that were raised yesterday by participating South Dakota treaty tribes and tribes of the Great Plains and Rocky Mountain regions. These comments demonstrate how thoughtfully Indian leaders are approaching the trust problem, and I fully expect that their suggestions will be considered and incorporated as the bill moves through the committee process.

The following issues are of great importance to the Great Plains Tribal Chairman's Association.

Providing the Deputy Secretary with sufficient authority to ensure that reform of the administration of trust assets is permanent; They do not believe the bill at present gives the Deputy Secretary the full and unified authority needed.

Including cultural resources as a trust asset for management purposes.

Incorporating the Office of Surface Mining and Bureau of Reclamation and other related agencies within the Department of Interior and the Federal government under the purview of the Deputy Secretary.

Assuring that the legislation not infringe on tribal sovereingnty by interfeering with tribal involvement in the management of individual trust assets or tribal assets, or both.

Maintaining the Bureau of Indian Affair's role as an advocate for tribe.

Maintaining current levels of Bureau of Indian Affairs employment.

Applying Indian employment preference to all positions created by the legislation.

Providing in law that Bureau of Indian Affairs funds not be used to fund the Deputy Secretary appointed by the legislation.

Stressing the importance of appropriating adequate funding allow reform to succeed.

Reflecting in the legislative history that much of the funding needed for real trust reform be allocated at the local agency and regional levels of the Bureau of Indian Affairs.

Placing more tribal representatives, including tribal resources managers, from the various Bureau of Indian Affairs regions on the advisory board to the Office of Trust Reform.

The issues of trust reform and reorganization within the Bureau of Indian Affairs are nothing new to us here on Capitol Hill, or in Indian Country. Collectively, we have endured many efforts, some well intentioned and some clearly not, to fix, reform, adjust, improve, streamline, downsize, and even terminate the Bureau of Indian Affairs and its trust activities.

These efforts have been pursued in both Republican and Democratic administrations. Unfortunately, they have rarely sought meaningful involvement from tribal leadership, or recognized the Federal Government's treaty obligation to tribes.

Both meaningful consultation and acceptance of tribal status are critical if we expect to find a workable solution to the very real problem of trust management. The bill Senators McCAIN, JOHNSON, and I are introducing today reflects this conviction.

There is no more important challenge facing the tribes and their representatives in Congress than that of restoring accountability and efficiency to trust management. And nowhere do the bedrock principles of self-determination and tribal sovereignty come more into play than in the management and distribution of trust funds and assets.

This measure recognizes that the only effective long-term solution to the trust problem must be based on government-to-government dialog. I believe the discussion the bill generates will not only provide the catalyst for meaningful tribal involvement in the search for solutions but also form the basis for true trust reform. I look forward to participating with tribal leaders in pursuit of this important objective.

Mr. JOHNSON. Madam President, I rise today to join my colleagues, Senator JOHN McCAIN and Senator TOM DASCHLE, as sponsors of the Indian Trust Asset and Trust Fund Management and Reform Act of 2002. This legislation we are introducing today is intended as simply the first step in the legislative process as we continue to work closely with tribes to address the need for further reform of the management of the trust funds and assets that have been mismanaged for decades. I am hopeful that by taking this action today, we will begin to further the discussion of this critical issue, knowing full well that there will be ongoing consultation and input from tribal leaders and tribal members all across the country.

As many of my colleagues are aware, the issue of trust fund mismanagement is one of the most urgent problems we are faced with in Indian Country. Of all the extraordinary circumstances we find in Indian Country, and especially in South Dakota, I do not think there is any more complex, more difficult and more shocking than the circumstances we have surrounding trust fund mismanagement.

This problem has persisted literally for generations, and continues today. Administrations of both political parties have been inadequate in their response, and the level of direction and the resources provided by Congresses over past decades has also been sadly inadequate. The Federal Government, by law, is to be the trustee for Native American people. When the Trust Fund Management Act of 1994 was passed, I was hopeful that this accounting situation would at last be remedied. Unfortunately, this has not been the case.

Last year's attempt by Secretary Norton and the Department of the Interior to address this ongoing problem has also fallen far short of what is needed. In fact, Indian leaders all across the country widely opposed the plan released by the Secretary last November to create a new Bureau of Indian Trust Asset Management, BITAM. Unfortunately, the Secretary released the Department's plan without seeking input and consulting with the very people who are supposed to benefit from these trust fund accounts.

Many tribal leaders have offered counter proposals to the Department's plan, however, Secretary Norton continues to stand behind and defend BITAM as the best alternative to addressing this problem. I believe it is now time for Congress to attempt once again to make real progress on this issue. As I stated earlier, the bill my colleagues and I have introduced today is not intended to be a final product, but rather the beginning of a process that will lead to further improvements, revisions and refinements based on the continued input of tribal leadership.

One of the main provisions of our legislation is to establish the position of a Deputy Secretary for Trust Management and Reform in the Department of the Interior. The Deputy Secretary will be appointed by the President, with the advice and consent of the Senate, for a term of 6 years and may only be removed for cause. The Deputy Secretary will report directly to the Secretary and will be responsible for the oversight of all trust fund and trust asset administration and management, including consultation with Indian tribes. It is my hope that the Deputy Secretary is provided the adequate authority to administer the trust assets and to ensure that reform of the administration of trust assets is permanent.

In addition, we must maintain and strengthen the integrity of services of the Bureau of Indian Affairs, BIA, as the primary agency providing trust services directly to tribes. This reorganization should not by any means diminish the BIA in it's role as advocate for tribes and must include the necessary funding to allow for real trust reform to be implemented at the regional and agency levels.

We have already benefitted from the input of the many tribal officials in South Dakota, including the input of the Great Plains Tribal Region and Montana Wyoming Tribal Leaders' Council. I would like to take this opportunity to thank Mike Jandreau, chairman of the Lower Brule Sioux Tribe and a member of the Interior Department's Tribal Task Force, as well as Tom Ranfranz, president of the Flandreau Santee and chairman of the Great Plains Tribal Chairman's Association for their advice and counsel as we attempt to address the many challenges facing trust reform. Their important insight into the trust fund management issues and their leadership, along with the other tribal chairs in the Great Plains and Rocky Mountain Regions who have been very helpful to me as we to address the shortcomings of the Department's plan and try to find a legislative approach that will finally begin to improve this situation,.

Madam President, I have high hopes that this issue may finally be laid to rest. It is crucial that the first Americans of this proud country be treated with the dignity and respect that has been so sadly lacking for far too long. This legislation provides a new foundation from which we may once again begin to rebuild the trust that the U.S. Government has, in the eyes of the Indian people, let crumble into the rubble of a bureaucratic maze.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, and Mrs. CLINTON):

S. 2214. A bill to provide compensation and income tax relief for the individuals who were victims of the terrorist-related bombing of the World Trade Center in 1993 on the same basis as compensation and income tax relief is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; to the Committee on Finance.

Mr. CORZINE. Madam President, today along with Senators TORRICELLI, SCHUMER and CLINTON, I am introducing legislation to ensure that the families of the victims of the 1993 World Trade Center terrorist bombing receive the same compensation for their devastating losses as those whose loved ones perished in the horrific attacks of September 11. They too deserve aid in rebuilding their lives and it is up to Congress to make certain their needs are met and their losses acknowledged. I am pleased to join my colleague Representative Robert Menendez of New Jersey, who has introduced this legislation in the House of Representatives.

On February 26, 1993, a car bomb exploded on the second level of the World Trade Center parking basement. The blast injured over 1,000 people working in the towers and left 6 individuals dead. Among those lost was 57-year-old William Macko of Bayonne, NJ.

I recently met with the Macko family to discuss their loss and their struggle for recovery. Though it has been nearly a decade since William's death, it is clear that they are still suffering from the unimaginable pain of his loss. And as though this tragedy is not enough for them to bear, the family was dealt yet another blow when Carol, William's widow, was diagnosed with cancer just nine months after losing her husband.

Congress has responded with tremendous generosity to the tragedy of September 11, creating a Victim Compensation Fund to compensate those injured and the families of those deceased for economic and non-economic losses, as well as providing substantial Federal income tax relief.

These programs should also be made available to those who lost loved ones in the World Trade Center bombing of 1993. They too should be compensated for the unbearable pain and sorrow they endured at the hands of terrorists. That is why I am introducing the 1993 World Trade Center Victims Compensation Act, which would include those injured or killed in the 1993 bombing in both the Victim Compensation Fund and Victims Tax Relief.

When I met with the Macko family, they asked that William's death not be forgotten or dismissed. They asked for Congress to ensure that their suffering and that of the other families who lost loved ones on that cold February day be recognized as well. Their request was clear and simple, and we must not let them down.

I urge my colleagues to show their support for these families and cosponsor this legislation.

By Mrs. BOXER (for herself and Mr. SANTORUM):

S. 2215. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil and by so doing hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Madam President, today Senator SANTORUM and I are proud to introduce the Syria Accountability Act, a bill that will ensure that Syria is held accountable for its actions in the Middle East and for its support of international terrorism.

As a state-sponsor of terrorism, Syria has supported and provided safe haven to several terrorist groups, such as Hizballah, Hamas, and the Popular Front for the Liberation of Palestine. This is in violation of U.N. Security Council resolutions that call on U.N. member states to refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts.

Syria is also in violation of U.N. Security Council Resolutions that call for the sovereignty and political independence of Lebanon. More than 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon and it is time for them to leave.

The legislation we are offering today would expand sanctions on Syria until the President certifies that Syria has met four conditions.

First, that it does not support international terrorist groups;

Second, that it has withdrawn all military, intelligence, and other security personnel from Lebanon;

Third, that it has stopped developing ballistic missiles and has stopped the development and production of biological and chemical weapons; and

Fourth, that it no longer in violation of relevant U.N. Security Council Resolutions.

To give maximum flexibility to the President, we have included a "menu" of sanctions for the President to choose from and a provision that would waive sanctions should the President find that it is in the national security interest of the United States.

I hope my colleagues can support this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Syria Accountability Act of 2002".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On September 20, 2001, President George Bush stated at a joint session of Congress that "[e]very nation, in every region, now has a decision to make . . . [e]ither you are with us, or you are with the terrorists . . . [f]rom this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime".

(2) United Nations Security Council Resolution 1373 (September 28, 2001) mandates that all states "refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts", take "the necessary steps to prevent the commission of terrorist acts", and "deny safe haven to those who finance, plan, support, or commit terrorist acts".

(3) The Government of Syria is currently prohibited by United States law from receiving United States assistance because it is listed as state sponsor of terrorism.

(4) Although the Department of State lists Syria as a state sponsor of terrorism and reports that Syria provides "safe haven and support to several terrorist groups", fewer United States sanctions apply with respect to Syria than with respect to any other country that is listed as a state sponsor of terrorism.

(5) Terrorist groups, including Hizballah, Hamas, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine-General Command maintain offices, training camps, and other facilities on Syrian territory and operate in areas of Lebanon occupied by the Syrian armed forces and receive supplies from Iran through Syria.

(6) United Nations Security Council Resolution 520 (September 17, 1982) calls for "strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese Army throughout Lebanon".

(7) More than 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon exerting undue influence upon its government and undermining its political independence.

(8) Since 1990 the Senate and House of Representatives have passed seven bills and resolutions which call for the withdrawal of Syrian armed forces from Lebanon.

(9) Large and increasing numbers of the Lebanese people from across the political spectrum in Lebanon have mounted peaceful and democratic calls for the withdrawal of the Syrian Army from Lebanese soil.

(10) Israel has withdrawn all of its armed forces from Lebanon in accordance with United Nations Security Council Resolution 425 (March 19, 1978), as certified by the United Nations Secretary General.

(11) Even in the face of this United Nations certification that acknowledged Israel's full compliance with Resolution 425, Syria permits attacks by Hizballah and other militant organizations on Israeli outposts at Shebaa Farms, under the false guise that it remains Lebanese land, and is also permitting attacks on civilian targets in Israel.

(12) Syria will not allow Lebanon—a sovereign country—to fulfill its obligation in accordance with Security Council Resolution 425 to deploy its troops to southern Lebanon.

(13) As a result, the Israeli-Lebanese border and much of southern Lebanon is under the control of Hizballah which continues to attack Israeli positions and allows Iranian Revolutionary Guards and other militant groups to operate freely in the area, destabilizing the entire region.

(14) The United States provides $40,000,000 in assistance to the Lebanese people through private nongovernmental organizations, $7,900,000 of which is provided to Lebanese-American educational institutions.

(15) In the State of the Union address on January 29, 2002, President Bush declared that the United States will "work closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction".

(16) The Government of Syria continues to develop and deploy short and medium range ballistic missiles.

(17) The Government of Syria is pursuing the development and production of biological and chemical weapons.

(18) United Nations Security Council Resolution 661 (August 6, 1990) and subsequent relevant resolutions restrict the sale of oil and other commodities by Iraq, except to the extent authorized by other relevant resolutions.

(19) Syria, a non-permanent United Nations Security Council member, is receiving between 150,000 and 200,000 barrels of oil from Iraq in violation of Security Council Resolution 661 and subsequent relevant resolutions.

(20) Syrian President Bashar Assad promised Secretary of State Powell in February 2001 to end violations of Security Council Resolution 661 but this pledge has not been fulfilled.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Government of Syria should immediately and unconditionally halt support for terrorism, permanently and openly declare its total renunciation of all forms of terrorism, and close all terrorist offices and facilities in Syria, including the offices of Hamas, Hizballah, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine–General Command;

(2) the Government of Syria should immediately declare its commitment to completely withdraw its armed forces, including military, paramilitary, and security forces, from Lebanon, and set a firm timetable for such withdrawal;

(3) the Government of Lebanon should deploy the Lebanese armed forces to all areas of Lebanon, including South Lebanon, in accordance with United Nations Security Council Resolution 520 (September 17, 1982), in order to assert the sovereignty of the Lebanese state over all of its territory, and should evict all terrorist and foreign forces from southern Lebanon, including Hizballah and the Iranian Revolutionary Guards;

(4) the Government of Syria should halt the development and deployment of short and medium range ballistic missiles and cease the development and production of biological and chemical weapons;

(5) the Government of Syria should halt illegal imports and transshipments of Iraqi oil and come into full compliance with United Nations Security Council Resolution 661 and subsequent relevant resolutions;

(6) the Governments of Lebanon and Syria should enter into serious unconditional bilateral negotiations with the Government of Israel in order to realize a full and permanent peace; and

(7) the United States should continue to provide humanitarian and educational assistance to the people of Lebanon only through appropriate private, nongovernmental organizations and appropriate international organizations, until such time as the Government of Lebanon asserts sovereignty and control over all of its territory and borders and achieves full political independence, as called for in United Nations Security Council Resolution 520.

SEC. 4. STATEMENT OF POLICY.

It should be the policy of the United States that—

(1) Syria will be held responsible for all attacks committed by Hizballah and other terrorist groups with offices or other facilities in Syria, or bases in areas of Lebanon occupied by Syria;

(2) the United States will work to deny Syria the ability to support acts of international terrorism and efforts to develop or acquire weapons of mass destruction;

(3) the Secretary of State will continue to list Syria as a state sponsor of terrorism until Syria ends its support for terrorism, including its support of Hizballah and other terrorist groups in Lebanon and its hosting of terrorist groups in Damascus, and comes into full compliance with United States law relating to terrorism and United Nations Security Council Resolution 1373 (September 28, 2001);

(4) the full restoration of Lebanon's sovereignty, political independence, and territorial integrity is in the national security interest of the United States;

(5) Syria is in violation of United Nations Security Council Resolution 520 (September 17, 1982) through its continued occupation of Lebanese territory and its encroachment upon its political independence;

(6) Syria's obligation to withdraw from Lebanon is not conditioned upon progress in the Israeli-Syrian or Israeli-Lebanese peace process but derives from Syria's obligation under Security Council Resolution 520;

(7) Syria's acquisition of weapons of mass destruction and ballistic missile programs threaten the security of the Middle East and the national interests of the United States;

(8) Syria is in violation of United Nations Security Council Resolution 661 (August 6, 1990) and subsequent relevant resolutions through its continued purchase of oil from Iraq; and

(9) the United States will not provide any assistance to Syria and will oppose multilateral assistance for Syria until Syria withdraws its armed forces from Lebanon, halts the development and deployment of weapons of mass destruction and ballistic missiles, and complies with Security Council Resolution 661 and subsequent relevant resolutions.

SEC. 5. SANCTIONS.

(a) SANCTIONS.—Until the President makes the determination that Syria meets the requirements described in paragraphs (1) through (4) of subsection (c) and certifies such determination to Congress in accordance with such subsection—

(1) the President shall prohibit the export to Syria of any item, including the issuance of a license for the export of any item on the United States Munitions List or Commerce Control List of dual-use items in the Export Administration Regulations (15 C.F.R. part 730 et seq.);

(2) the President shall prohibit United States Government assistance, including loans, credits, or other financial assistance, to United States businesses with respect to investment or other activities in Syria;

(3) the President shall prohibit the conduct of programs of the Overseas Private Investment Corporation and the Trade and Development Agency in or with respect to Syria; and

(4) the President shall impose two or more of the following sanctions:

(A) Prohibit the export of products of the United States (other than food and medicine) to Syria.

(B) Prohibit United States businesses from investing or operating in Syria.

(C) Restrict Syrian diplomats in Washington, D.C., and at the United Nations in New York City, to travel only within a 25-mile radius of Washington, D.C., or the United Nations headquarters building, respectively.

(D) Reduce United States diplomatic contacts with Syria (other than those contacts required to protect United States interests or carry out the purposes of this Act).

(E) Block transactions in any property in which the Government of Syria has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States.

(b) WAIVER.—The President may waive the application of either paragraph (2) or (3) (or both) of subsection (a) if the President determines that it is in the national security interest of the United States to do so.

(c) CERTIFICATION.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that—

(1) the Government of Syria does not provide support for international terrorist groups and does not allow terrorist groups, such as Hamas, Hizballah, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine-General Command to maintain facilities in Syria;

(2) the Government of Syria has withdrawn all Syrian military, intelligence, and other security personnel from Lebanon;

(3) the Government of Syria has ceased the development and deployment of ballistic missiles and has ceased the development and production of biological and chemical weapons; and

(4) the Government of Syria is no longer in violation of United Nations Security Council Resolution 661 and subsequent relevant resolutions.

SEC. 6. REPORT.

(a) REPORT.—Not later than 6 months after the date of the enactment of this Act, and every 12 months thereafter until the conditions described in paragraphs (1) through (4) of section 5(c) are satisfied, the Secretary of State shall submit to the appropriate congressional committees a report on—

(1) Syria's progress toward meeting the conditions described in paragraphs (1) through (4) of section 5(c); and

(2) connections, if any, between individual terrorists and terrorist groups which maintain offices, training camps, or other facilities on Syrian territory, or operate in areas of Lebanon occupied by the Syrian armed forces, and the attacks against the United States that occurred on September 11, 2001, and other terrorist attacks on the United States or its citizens, installations, or allies.

(b) FORM.—The report submitted under subsection (a) shall be in unclassified form but may include a classified annex.

SEC. 7. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this Act, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 246—DEMANDING THE RETURN OF THE USS "PUEBLO" TO THE UNITED STATES NAVY

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 246

Whereas the USS Pueblo, which was attacked and captured by the North Korean Navy on January 23, 1968, was the first United States Navy ship to be hijacked on the high seas by a foreign military force in over 150 years;

Whereas 1 member of the USS Pueblo crew, Duane Hodges, was killed in the assault while the other 82 crew members were held in captivity, often under inhumane conditions, for 11 months;

Whereas the USS Pueblo, an intelligence collection auxiliary vessel, was operating in international waters at the time of the capture, and therefore did not violate North Korean territorial waters;

Whereas the capture of the USS Pueblo resulted in no reprisals against the Government or people of North Korea and no military action at any time; and

Whereas the USS Pueblo, though still the property of the United States Navy, has been retained by North Korea for more than 30 years, was subjected to exhibition in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the capital city of North Korea: Now, therefore, be it

Resolved, That the Senate—

(1) demands the return of the USS Pueblo to the United States Navy; and

(2) directs the Secretary of the Senate to transmit copies of this resolution to the President, the Secretary of Defense, and the Secretary of State.

Mr. CAMPBELL. Madam President, I am pleased to submit this resolution which recognizes and demands that the government of North Korea return the ship the USS *Pueblo* to the United States Navy.

On January 23, 1968, while in international waters, the USS *Pueblo* was attacked and illegally captured by the North Korean Navy. This engagement marked the first time in over 150 years a United States Navy ship was hijacked on the high seas by a foreign military force. This naked act of aggression resulted in 82 crew members being held in captivity as Prisoners of War for eleven months in inhumane conditions with one casualty, Duane Hodges who was killed during the initial assault. On December 23, 1968, the USS *Pueblo* crew was finally released. At the time of its capture, the USS *Pueblo* was operating as an intelligence collection auxiliary vessel, and did not pose a threat.

According to the Navy Department Office of the Chief of Naval Operations Ships' Histories Section, the name USS *Pueblo* has enjoyed a long and proud history prior to January 23, 1968. Currently, the environmental research vessel USS *Pueblo*, AGER–2, is the third ship of the fleet to bear the name of the City and County of Pueblo, CO. Originally the armored cruiser *Colorado* was renamed the *Pueblo* in 1916 when a new battleship named *Colorado* was authorized. That ship served from 1905 to 1927. The second vessel named the *Pueblo*, PF–13, was a city class frigate which proudly served from 1944 to 1946. She was later sold to the Dominican Republic where she serves today. The third and current *PUEBLO*, AGER–2, was built by the Kewaunee Shipbuilding and Engineering Corporation, Kewaunee, WI. A general purpose supply vessel designed especially for service in the U.S. Army Transportation Corps, she was launched 16 April 1944 and later redesignated as an environmental research vessel.

To date, the capture of the USS *Pueblo* has resulted in no reprisal against the government or people of North Korea and although the USS *Pueblo* still remains property of the United States Navy, the North Korean Government displays it as a traveling museum in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the Capital city of North Korea. This is unacceptable to me and a number of my colleagues. At issue here, isn't the value of the ship. At issue is the honor of America and the record of those who proudly served and were illegal captives by North Korea, a nation which seeks the destruction of America.

I stand with my fellow legislators back home in the Sixty-third Colorado State General Assembly in demanding the return of the USS *Pueblo* to the United States Navy.

I urge my colleagues here in the U.S. Senate to join me in supporting passage of this important resolution.

* * *

AMENDMENTS SUBMITTED AND PROPOSED

SA 3142. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3143. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3144. Mr. GRAMM (for himself and Mr. KYL) proposed an amendment to amendment SA 2999 proposed by Mr. KERRY (for himself, Mr. MCCAIN, Ms. SNOWE, Mr. SMITH of Oregon, Ms. COLLINS, and Mr. CHAFEE) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3145. Mr. REID proposed an amendment to amendment SA 3008 proposed by Mr. DAYTON (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3146. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3147. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3148. Mr. BINGAMAN (for Ms. CANTWELL) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3149. Mr. BINGAMAN (for Mr. REID) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3150. Mr. BINGAMAN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3151. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3152. Mr. BINGAMAN (for Ms. LANDRIEU) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3153. Mr. BINGAMAN (for Mr. CORZINE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3154. Mr. BINGAMAN (for Mr. KENNEDY) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3155. Mr. BINGAMAN (for Mrs. LINCOLN) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3156. Mr. BINGAMAN (for Mr. MURKOWSKI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3157. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3158. Mr. CONRAD (for himself and Mr. SMITH, of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3159. Mr. MURKOWSKI proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3160. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, and Mr. KYL) proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes.

SA 3161. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3162. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3163. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3164. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3165. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3166. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3167. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3168. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3169. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3170. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3171. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3172. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3173. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3174. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3175. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3176. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3142. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16, and insert the following:

SEC. 1901. PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking "In the case of taxable years beginning during 2002 or 2003, the" and inserting "The".

SEC. 1901A. 3-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM POULTRY WASTE.

(a) IN GENERAL.—Subparagraph (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "January 1, 2004" and inserting "January 1, 2007".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity sold after the date of the enactment of this Act in taxable years ending after such date.

SA 3143. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 17, line 9, strike all through page 55, line 7, and insert the following:

SEC. . PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking "In the case of taxable years beginning during 2002 or 2003, the" and inserting "The".

SA 3144. Mr. GRAMM (for himself and Mr. KYL) proposed an amendment to amendment SA 2999 proposed by Mr. KERRY (for himself, Mr. MCCAIN, Ms. SNOWE, Mr. SMITH of Oregon, Ms. COLLINS, and Mr. CHAFEE) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

Strike all beginning page 2 line 1 and insert the following:

SEC. . PERMANENT REPEAL OF DEATH TAXES.

Section 901 of the Economic Growth and Tax Reconciliation Act of 2001 is amended—

(1) by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than Title V) shall not apply to taxable, plan, or limitation years beginning after December 31, "2010", and

(2) by striking ", estates, gifts, and transfers" in subsection (b).

SA 3145. Mr. REID proposed an amendment to amendment SA 3008 proposed by Mr. DAYTON (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In lieu of the matter proposed to be added, insert the following:

SEC. 8 . FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is available at a competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol (or the highest available percentage of ethanol), rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which biodiesel-blended diesel fuel is available at a competitive price—

"(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

"(c) EXEMPTION FOR MILITARY VEHICLES.—This section does not apply to fuel used in vehicles used for military purposes that the Secretary of Defense certifies to the Secretary must be exempt for national security reasons.".

SA 3146. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS REGISTRY

SEC. 1101. SHORT TITLE.

This amendment may be cited as the "National Climate Registry Initiative."

SEC. 1102. PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities.

SEC. 1103. DEFINITIONS.

In this title—

(1) "person" means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) "entity" means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) "facility" means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) "reductions" means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) "greenhouse gas" means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate;

(6) "Secretary" means the Secretary of Energy;

(7) "Administrator" means the Administrator of the Energy Information Administration; and

(8) "Interagency Task Force" means the Interagency Task Force established under title X of this Act.

SEC. 1104. ESTABLISHMENT.

(a) In General.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) Designation.—Upon establishment of the registry and issuance of the guidelines pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) Participation.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

(d) Confidentiality of Reports.—Trade secret and commercial or financial information that is privileged and confidential submitted pursuant to activities under this title shall be provided in section 552(b)(4) of title 5, United States Code.

SEC. 1105. IMPLEMENTATION.

(a) Guidelines.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entities transferable credits with unique serial numbers for such verified emissions reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) Consideration.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in applying such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily, taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) Experts and Consultants.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and nonprofit sectors in accordance with the provisions of section 3109 of title 5, United Sates Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) Transferability of Prior Reports.—Emissions reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) Public Comment.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) Review and Revision.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

SEC. 1106. VOLUNTARY AGREEMENTS.

(a) In General.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity which, inter alia—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other parties or entities through a voluntary private transaction between persons or entities; or

(C) shall be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) PUBLIC NOTICE AND COMMENT.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it to finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) EMISSIONS IN EXCESS.—In the event that a person or entity fails to certify that emissions from applicable facilities are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) NO NEW AUTHORITY.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

SEC. 1107. MEASUREMENT AND VERIFICATION.

(a) IN GENERAL.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions and emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestration activities which adequately address the issues of permanence, leakage and verification; and

(4) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall determine to be appropriate.

(b) PUBLIC COMMENT.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

SEC. 1108. CERTIFIED INDEPENDENT THIRD PARTIES.

(a) CERTIFICATION.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administrator, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transaction of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under this title.

SEC. 1109. REPORT TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation in the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. 1110. NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate, within 6 months after the effective date of that agreement.

SA 3147. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . FEASIBILITY REPORT ON COMMERCIAL NUCLEAR ENERGY PRODUCTION AND REGIONAL EDUCATION CONSORTIA AT DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

(a) DEFINITIONS.—In this section:

(1) COMMERCIAL NUCLEAR ENERGY PRODUCTION.—The term "commercial nuclear energy production" means electric power generated by for profit, private firms, public cooperatives, and municipal utilities.

(2) DEPARTMENT FACILITY.—The term "Department facility" means a Department of Energy nuclear facility.

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) STUDY.—The Secretary shall conduct a study to determine the feasibility of—

(1) developing commercial nuclear energy production facilities at Department facilities in existence on the date of enactment of this Act, including—

(A) options for how and where commercial nuclear power plants can be developed at Department facilities;

(B) estimates of cost savings to the United States that may be realized by locating new commercial nuclear power plants at Department facilities;

(C) the feasibility of incorporating new technology into commercial nuclear power plants at Department facilities;

(D) potential improvements in the licensing and safety oversight procedures of commercial nuclear power plants at Department facilities;

(E) an assessment of the effects of nuclear waste management policies and projects as a result of locating commercial nuclear power plants at Department facilities;

(F) the appropriate amounts of contributions of public and private funds; and

(G) other appropriate factors; and

(2) establishing regional education consortia at Department facilities, including—

(A) strategies for strengthening partnerships among the Department of Energy, engineering and science institutions of higher learning, other schools providing vocational training to the nuclear power industry, and commercial nuclear power producers;

(B) contributions that such consortia could make to the program goals of relevant provisions of this Act; and

(C) other actions that could optimize civilian and military education in nuclear education at Department facilities that would enhance electric power production in the United States.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (b).

SA 3148. Mr. BINGAMAN (for Ms. CANTWELL) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 403, after line 12, insert the following:

SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SA 3149. Mr. BINGAMAN (for Mr. REID) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 403, after line 12, insert the following:

"SEC. 1215. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.

"The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysis, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, though national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.".

SA 3150. Mr. BINGAMAN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of title XVII, add the following:

SEC. 17 . REPORT ON ENERGY SAVINGS AND WATER USE.

(a) REPORT.—The Secretary of Energy shall conduct a study of opportunities to reduce energy use by cost-effective improvements in the efficiency of municipal water and waste water treatment and use, including water pumps, motors, and delivery systems; purification, conveyance and distribution; upgrading of aging water infrastructure, and improved methods for leakage monitoring, measuring, and reporting; and public education.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for implementation of measures and estimates of costs and resource savings, no later than two years from the date of enactment of this section.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SA 3151. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of subtitle A of title IX add the following:

SEC. 9 . ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term "eligible state" means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term "residential Energy Star product" means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term "State program" means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the Senate will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocations to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.

SA 3152. Mr. BINGAMAN (for Ms. LANDRIEU) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 301, line 22, strike "organizations.'." and insert the following:

"organizations.

"(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.'.".

SA 3153. Mr. BINGAMAN (for Mr. CORZINE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of subtitle D of title IX, add the following:

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), as amended by section 934, is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (L), by striking the period at the end and inserting "; and";

(B) by redesignating subparagraph (L) as subparagraph (K); and

(C) by adding at the end the following:

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The" and inserting the following:

"(i) In general.—The"; and

(B) by adding at the end the following:

"(ii) Third party contracts.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident paid utilities, adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

"(iii) Term of contract.—The total term of a contract described in clause (i) shall be for not more than 20 years to allow longer payback periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renewable energy generation.".

SEC. 938. ENERGY-EFFICIENT APPLIANCES.

A public housing agency shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

SEC. 939. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2002".

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting a semi-colon; and

(iv) by adding at the end the following:

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development; and

(B) in paragraph (2), by striking "Council of American" and all that follows through "life-cycle cost basis" and inserting "2000 International Energy Conservation Code";

(2) in subsection (b)—

(A) by striking "the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2002"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code"; and

(3) in subsection (c)—

(A) in the heading, by striking "Model Energy Code" and inserting "The International Energy Conservation Code"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code".

SEC. 940. ENERGY STRATEGY FOR HUD.

(a) In General.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective Energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) Energy Management Office.—The Secretary of Housing and Urban Development shall create an office at the Department of Housing and Urban Development for utility management, energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing energy usage, and development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.

SA 3154. Mr. BINGAMAN (for Mr. KENNEDY) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 183, line 15, strike "and" and all that follows through line 19, and insert the following:

(2) the term "idling" means not turning off an engine while remaining stationary for more than approximately 3 minutes; and

(3) the term "ultra-low sulfur diesel school bus" means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

(k) Reduction of School Bus Idling.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

SA 3155. Mr. BINGAMAN (for Mrs. LINCOLN) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 123, after line 17, insert the following:

SEC. 514. DECOMMISSIONING PILOT PROGRAM.

(a) Pilot Program.—The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northeast Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $16,000,000.

SA 3156. Mr. BINGAMAN (for Mr. MURKOWSKI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 443, after line 8, insert the following:

SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.

There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE-FC22-91PC99544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

SA 3157. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which were ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to—

(1) the production of hydrogen; or

(2) the use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

SA 3158. Mr. CONRAD (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2104 and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—

"(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(I) generates at least 1 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 30 percent of the basis of such property, or

"(II) $1,000 for each kilowatt of capacity of such property.

"(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

"(B) QUALIFIED MICROTURBINE PROPERTY.—

"(i) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

"(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 10 percent of the basis of such property, or

"(II) $200 for each kilowatt of capacity of such property.

"(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

"(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

"(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

"(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.".

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3159. Mr. MURKOWSKI proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE —IRAQ OIL IMPORT RESTRICTION

SECTION 1. SHORT TITLE AND FINDINGS.

(a) This Title can be cited as the 'Iraq Petroleum Import Restriction Act of 2001.'

(b) FINDINGS.—Congress finds that—

(1) the government of the Republic of Iraq:

(A) has failed to comply with the terms of United Nations Security Council Resolution 686 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction.

(B) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions.

(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 661 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people.

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced "No-Fly Zones" in effect in the Republic of Iraq.

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States.

(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians.

(2) Further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. 2. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. 3. TERMINATION/PRESIDENTIAL CERTIFICATION.

This Title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that:

(a) (1) Iraq is in substantial compliance with the terms of

(A) UNSC Resolution 687 and

(B) UNSC Resolution 986 prohibiting smuggling of oil in circumvention of the "Oil-for-Food" program; and

(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli citizens; or that

(b) resuming the important of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

SEC. 4. HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraqi of food, medicine and other humanitarian products.

SEC. 5. DEFINITIONS.

(A) "661 committee." The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the UN Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(b) "UNSC Resolution 661." The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(c) "UNSC Resolution 687." The term UNSC Resolution 986 means United Nations Security Council Resolution 687, adopted April 3, 1991.

(d) "UNSC Resolution 986." The term UNSC Resolution 986 means United Nations

Security Council Resolution 986, adopted April 14, 1995.

SEC. 6. EFFECTIVE DATE.

The prohibition on important of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

SA 3160. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, and Mr. KYL) proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 2, line 4, strike "2001" and insert "2002".

On page 2, in the table of contents, strike the item relating to title IV and insert the following:

"TITLE IV—INSPECTION AND ADMISSION OF ALIENS".

On page 3, between lines 15 and 16, insert the following:

(3) CHIMERA SYSTEM.—The term "Chimera system" means the interoperable electronic data system required to be developed and implemented by section 202(a)(2).

On page 3, line 16, strike "(3)" and insert "(4)".

On page 4, line 15, strike "(4)" and insert "(5)".

On page 4, line 19, strike "(5)" and insert "(6)".

On page 5, line 4, strike "(6)" and insert "(7)".

On page 5, line 16, strike "2002" and insert "2003".

On page 6, line 1, strike "2002" and insert "2003".

On page 6, strike lines 17 through 20.

On page 6, line 21, strike "(c)" and insert "(b)".

On page 7, line 2, insert "effective October 1, 2002" after "basic pay".

On page 8, line 1, strike "(d)" and insert "(c)".

On page 8, line 10, strike "and".

On page 8, line 21, strike "(e)" and insert "(d)".

On page 15, line 11, strike "one year" and insert "15 months".

On page 15, line 13, strike "six months" and insert "one year".

On page 16, line 12, before the period insert the following: "(also known as the 'Chimera system')".

On page 20, line 13, insert "the" after "about".

On page 21, line 7, insert "Central" after "Director of".

On page 22, line 2, strike "in this title" and insert "in section 202".

On page 22, line 24, strike "against".

On page 23, between lines 14 and 15, insert the following new sections:

SEC. 204. PERSONNEL MANAGEMENT AUTHORITIES FOR POSITIONS INVOLVED IN THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM ("CHIMERA SYSTEM").

(a) IN GENERAL.—Notwithstanding any other provision of law relating to position classification or employee pay or performance, the Attorney General may hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the "Chimera system").

(b) LIMITATION ON RATE OF PAY.—Except as otherwise provided by law, no employee compensated under subsection (a) may be paid at a rate in excess of the rate payable for a position at level III of the Executive Schedule.

(c) LIMITATION ON TOTAL CALENDAR YEAR PAYMENTS.—Total payments to employees under any system established under this section shall be subject to the limitation on payments to employees under section 5307 of title 5, United States Code.

(d) OPERATING PLAN.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on Appropriations, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives an operating plan—

(1) describing the Attorney General's intended use of the authority under this section; and

(2) identifying any provisions of title 5, United States Code, being waived for purposes of the development and implementation of the Chimera system.

(e) TERMINATION DATE.—The authority of this section shall terminate upon the implementation of the Chimera system.

SEC. 205. PROCUREMENT OF EQUIPMENT AND SERVICES FOR THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM ("CHIMERA SYSTEM").

(a) EXEMPTION FROM APPLICABLE FEDERAL ACQUISITION RULES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the "Chimera system"), the Attorney General may use any funds available for the Chimera system to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support interagency information sharing under this title;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect interagency information sharing under this title.

(2) DEFINITION.—In this subsection, the term "Federal acquisition rule" means any provision of title III or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency of the Federal Government.

(b) NOTIFICATION OF CONGRESSIONAL APPROPRIATIONS COMMITTEES.—The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

On page 23, line 25, strike "an alien" and insert "each alien".

On page 24, line 16, strike "202(a)(3)(B)" and insert "202(a)(4)(B)".

On page 26, line 2, insert "and authentication" after "biometric comparison".

On page 26, line 5, strike "each report" and insert "the report required by that paragraph".

On page 26, line 15, insert "other" after "visas and".

On page 26, line 18, insert "document authentication standards and" after "tablish".

On page 26, line 19, insert "other" after "visas and".

On page 27, line 3, insert "and authentication" after "biometric comparison".

On page 27, line 4, insert "other" after "visas and".

On page 27, line 13, strike "and".

On page 27, line 16, strike the period and insert "; and".

On page 27, between lines 16 and 17, insert the following:

(iii) can authenticate the document presented to verify identity.

On page 27, line 22, strike "202(a)(3)(B)" and insert "202(a)(4)(B)".

On page 28, lines 9 and 10, strike "identifiers that comply with applicable biometric identifiers" and insert "and document authentication identifiers that comply with applicable biometric and document identifying".

On page 28, line 17, insert "under section 217 of the Immigration and Nationality Act" after "program".

On page 29, line 4, insert "to a foreign country" after "United States mission".

On page 29, line 23, strike "The committee" and insert "Each committee established under subsection (a)".

On page 30, line 1, strike "The committee" and insert "Each committee established under subsection (a)".

On page 30, line 2, strike "quarterly" and insert "monthly".

On page 30, line 5, strike "quarter" and insert "month".

On page 30, line 1, strike "PERIODIC REPORTS" and insert "PERIODIC REPORTS TO THE SECRETARY OF STATE".

On page 30, between lines 5 and 6, insert the following new subsection:

(f) REPORTS TO CONGRESS.—The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a).

On page 30, line 6, strike "(f)" and insert "(g)".

On page 35, strike lines 1 and 2 and insert the following:

TITLE IV—INSPECTION AND ADMISSION OF ALIENS

On page 35, lines 10 and 11, strike "officials specified in subsection (a)" and insert "President".

On page 37, line 2, strike "(i)" and insert "(j)".

On page 37, strike lines 3 and 4 and insert the following:

(3) by striking "SEC. 231." and inserting the following:

"SEC. 231. (a) ARRIVAL MANIFESTS.—For

On page 37, lines 9 and 10, strike "an immigration officer" and insert "any United States border officer (as defined in subsection (i)".

On page 37, line 19, strike "an immigration officer" and insert "any United States border officer (as defined in subsection (i)".

On page 39, line 9, insert a comma immediately after "that".

On page 39, lines 9 and 10, strike ", aircraft, or land carriers" and insert "or aircraft".

On page 40, line 5, strike ", aircraft, or land carrier" and insert "or aircraft".

On page 40, line 16, strike the quotation marks and the second period.

On page 40 between lines 16 and 17, insert the following:

"(i) UNITED STATES BORDER OFFICER DEFINED.—In this section, the term 'United States border officer' means, with respect to a particular port of entry into the United States, any United States official who is performing duties at that port of entry.".

On page 40, beginning on line 17, strike "Not" and all that follows through the end of line 18 and insert the following:

(1) STUDY.—The

On page 41, between lines 2 and 3, insert the following:

(2) REPORT.—Not later than two years after the date of enactment of this Act, the President shall submit to Congress a report setting forth the findings of the study conducted under paragraph (1).

On page 41, after line 22, add the following new section:

SEC. 404. JOINT UNITED STATES-CANADA PROJECTS FOR ALTERNATIVE INSPECTIONS SERVICES.

(a) IN GENERAL.—United States border inspections agencies, including the Immigration and Naturalization Service, acting jointly and under an agreement of cooperation with the Government of Canada, may conduct joint United States-Canada inspections projects on the international border between the two countries. Each such project may provide alternative inspections services and shall undertake to harmonize the criteria for inspections applied by the two countries in implementing those projects.

(b) ANNUAL REPORT.—The Attorney General and the Secretary of the Treasury shall prepare and submit annually to Congress a report on the joint United States-Canada inspections projects conducted under subsection (a).

(c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT AND PAPERWORK REDUCTION ACT.—Subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedure Act") and chapter 35 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act") shall not apply to fee setting for services and other administrative requirements relating to projects described in subsection (a), except that fees and forms established for such projects shall be published as a notice in the Federal Register.

On page 48, line 16, strike "or" and insert "and".

On page 54, lines 24 and 25, strike "proceeding" and insert "proceedings".

SA 3161. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 49, beginning on line 4, strike "The" and all that follows through "reviews" on line 7 and insert "Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review".

On page 49, lines 22 and 23, strike "The Secretary of State shall conduct periodic reviews" and insert "Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review".

On page 50, line 16, strike "(c) EFFECT OF FAILURE TO COMPLY.—Failure" and insert "(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure".

Beginning on page 50, line 24, strike "may" and all that follows through the period on line 5 of page 51 and insert the following: "shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.".

SA 3162. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

Beginning on page 32, strike line 23 and all that follows through line 5 on page 33 and insert the following:

(a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by adding at the end of subsection (c)(2) the following new subparagraph:

"(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country."; and

(2) in subsection (c)(5)(A)(i), by striking "5 years" and inserting "2 years"; and

(3) by adding at the end of subsection (f) the following new paragraph:

"(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.".

SA 3163. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 25, line 21, strike "October 26, 2003" and insert "October 26, 2004".

On page 26, lines 12 and 13, strike "October 26, 2003" and insert "October 26, 2004".

On page 26, lines 24 and 25, strike "October 26, 2003" and insert "October 26, 2004".

On page 28, line 2, strike "October 26, 2003" and insert "October 26, 2004".

On page 28, line 16, strike "October 26, 2003" and insert "October 26, 2004".

SA 3164. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 39, line 25, strike "$300" and insert "$1,000".

SA 3165. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ENERGY CREDIT FOR WIND ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (iii), by adding "or" at the end of clause (iv), and by inserting after clause (iv) the following new clause:

"(v) qualified wind energy property,".

(b) QUALIFIED WIND ENERGY PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED WIND ENERGY PROPERTY.—The term 'qualified wind energy property' means a qualifying wind turbine if the property carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for property that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

"(B) QUALIFYING WIND TURBINE.—The term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.".

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(20) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(6) may be carried back to a taxable year ending before January 1, 2003.".

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(C) Section 48(a)(3)(C) is amended by inserting "(other than property described in subparagraph (A)(v))," before "with respect".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service or installed after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3166. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike "2004" and insert "2008".

On page 189, line 5, strike "2004" and insert "2008".

On page 189, line 8, strike "2004" and insert "2008".

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2007.

On page 190, lines 13 and 14, strike "each calendar year, through 2011," and insert "each of calendar years 2007 through 2011,".

On page 190, line 19, strike "each calendar year, through 2011," and insert "each of calendar years 2007 through 2011".

On page 193, line 10, strike "2004" and insert "2008".

On page 194, line 21, strike "2004" and insert "2008".

On page 196, line 17, strike "2004" and insert "2008".

On page 197, line 4, strike "2004" and insert "2008".

On page 199, line 4, strike "2004" and insert "2008".

On page 199, line 17, strike "2004" and insert "2008".

SA 3167. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike "2004" and insert "2011".

On page 189, line 5, strike "2004 THROUGH" and insert "2011 AND".

On page 189, line 8, strike "2004 through" and insert "2011 and".

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2010.

On page 190, lines 13 and 14, strike "each calendar year, through 2011," and insert "each of calendar years 2010 and 2011,".

On page 190, line 19, strike "each calendar year, through 2011," and insert "each of calendar years 2010 and 2011".

On page 193, line 10, strike "2004 through" and insert "2011 and".

On page 194, line 21, strike "2004" and insert "2011".

On page 196, line 17, strike "2004" and insert "2011".

On page 197, line 4, strike "2004" and insert "2011".

On page 197, line 12, strike "2008" and insert "2011".

On page 199, line 4, strike "2004" and insert "2011".

On page 199, line 17, strike "2004" and insert "2011".

SA 3168. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, after line 21, add the following:

SEC. . PHASEOUT OF TAX SUBSIDIES FOR ETHANOL FUEL AS MARKET SHARE OF SUCH FUEL INCREASES.

(a) IN GENERAL.—Not later than December 15 of 2002, and each subsequent calendar year, the Secretary of the Treasury shall determine the percentage increase (if any) of the ethanol fuel market share for the preceding calendar year over the highest ethanol fuel market share for any preceding calendar year and shall, notwithstanding any provision of the Internal Revenue Code of 1986, reduce by the same percentage the ethanol fuel subsidies under sections 40, 4041, 4081, and 4091 of such Code beginning on January 1 of the subsequent calendar year.

(b) ETHANOL FUEL MARKET SHARE.—For purposes of this section, the ethanol fuel market share for any calendar year shall be determined from data of the Energy Information Administration of the Department of Energy.

(c) ETHANOL FUEL.—For purposes of this section, the term 'ethanol fuel' means any fuel the alcohol in which is ethanol.

(d) FLOOR STOCK TAXES.—

(1) IMPOSITION OF TAX.—In the case of ethanol fuel which is held on any tax increase date by any person, there is hereby imposed a floor stocks tax in an amount determined by the Secretary to equal the reduction in ethanol fuel subsidies described in subsection (a) beginning on such date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding ethanol fuel on any tax increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 6 months after such tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term "tax increase date" means any January 1 on which begins a reduction in ethanol fuel subsidies described in subsection (a).

(B) HELD BY A PERSON.—Ethanol fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to ethanol fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4041, 4081, or 4091 of the Internal Revenue Code of 1986 is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on ethanol fuel held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on ethanol fuel held on any tax increase date by any person if the aggregate amount of ethanol fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group of corporations shall be treated as 1 person.

(II) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

SA 3169. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike "2004" and insert "2006".

On page 189, line 5, strike "2004" and insert "2006".

On page 189, line 8, strike "2004" and insert "2006".

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 and 2005.

On page 190, lines 13 and 14, strike "each calendar year, through 2011," and insert "each of calendar years 2005 through 2011,".

On page 190, line 19, strike "each calendar year, through 2011," and insert "each of calendar years 2005 through 2011".

On page 193, line 10, strike "2004" and insert "2006".

On page 194, line 21, strike "2004" and insert "2006".

On page 196, line 17, strike "2004" and insert "2006".

On page 197, line 4, strike "2004" and insert "2006".

On page 199, line 4, strike "2004" and insert "2006".

On page 199, line 17, strike "2004" and insert "2006".

SA 3170. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

“(B) PETITIONS FOR WAIVERS.—

“(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

SA 3171. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike “2004” and insert “2007”.

On page 189, line 5, strike “2004” and insert “2007”.

On page 189, line 8, strike “2004” and insert “2007”.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2006.

On page 190, lines 13 and 14, strike “each calendar year, through 2011,” and insert “each of calendar years 2006 through 2011,”.

On page 190, line 19, strike “each calendar year, through 2011,” and insert “each of calendar years 2006 through 2011”.

On page 193, line 10, strike “2004” and insert “2007”.

On page 194, line 21, strike “2004” and insert “2007”.

On page 196, line 17, strike “2004” and insert “2007”.

On page 197, line 4, strike “2004” and insert “2007”.

On page 199, line 4, strike “2004” and insert “2007”.

On page 199, line 17, strike “2004” and insert “2007”.

SA 3172. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, after line 21, add the following:

SEC. ___. ELIMINATION OF TAX SUBSIDIES FOR ETHANOL FUEL.

(a) ELIMINATION OF CREDIT FOR ALCOHOL USED AS FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by striking section 40 (relating to alcohol used as fuel).

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraphs (4) through (23) as paragraphs (3) through (22), respectively.

(B) Paragraph (3) of section 38(d) (relating to credits no longer listed) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) the credit allowable by section 40, as in effect on the day before the date of the enactment of this subparagraph (relating to alcohol used as fuel) shall be treated as referred to after the last paragraph of subsection (b) and after any credits treated as referred to by reason of subparagraph (A).”

(C) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by striking the item relating to section 40.

(D)(i) Part II of subchapter B of chapter 1 is amended by striking section 87 (relating to alcohol fuel credit).

(ii) The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 87.

(iii) Subsection (a) of section 56 (relating to adjustments in computing alternative minimum taxable income) is amended by striking paragraph (7) (relating to section 87 not applicable).

(E) Subsection (c) of section 196 (relating to qualified business credits), as amended by this Act, is amended by striking paragraph (3) and redesignating paragraphs (4) through (12) as paragraphs (3) through (11), respectively.

(F) Section 6501(m) (relating to deficiencies attributable to election of certain credits), as amended by this Act, is amended by striking “40(f),”.

(b) REDUCTIONS OF OTHER INCENTIVES FOR ETHANOL FUEL.—

(1) REPEAL OF REDUCED RATE ON ETHANOL FUEL NOT PRODUCED FROM PETROLEUM OR NATURAL GAS.—Subsection (b) of section 4041 is amended to read as follows:

“(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

“(1) IN GENERAL.—No tax shall be imposed by subsection (a) or (d)(1) on liquids sold for use or used in an off-highway business use.

“(2) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of paragraph (1) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B), (2)(B), or (3)(A)(ii) of subsection (a) (whichever is appropriate) and by the corresponding provision of subsection (d)(1) (if any).

“(3) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term ‘off-highway business use’ has the meaning given to such term by section 6421(e)(2); except that such term shall not, for purposes of subsection (a)(1), include use in a diesel-powered train.”

(2) REPEAL OF REDUCED RATE ON ETHANOL FUEL PRODUCED FROM NATURAL GAS.—

(A) Paragraph (1) of section 4041(m) is amended by striking “or ethanol” in the material preceding subparagraph (A).

(B) Clause (i) of section 4041(m)(1)(A) is amended by striking “2005—” and all that follows and inserting “2005, 9.15 cents per gallon, and”.

(C) Clause (ii) of section 4041(m)(1)(A) is amended by striking “2005—” and all that follows and inserting “2005, 2.15 cents per gallon, and”.

(D) Paragraph (2) of section 4041(m) is amended—

(i) by striking “or ethanol” each place it appears in the heading and text,

(ii) by striking “, ethanol,” and

(iii) by inserting “(other than ethanol)” after “alcohol”.

(c) TAX OF FUEL ALCOHOL TO SAME EXTENT AS OTHER MOTOR FUELS.—

(1) TREATMENT AS TAXABLE FUEL.—Paragraph (1) of section 4083(a) (defining taxable fuel) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following:

“(D) fuel alcohol.”

(2) DEFINITION OF FUEL ALCOHOL.—Subsection (a) of section 4083 is amended by adding at the end the following new paragraph:

“(4) FUEL ALCOHOL.—The term ‘fuel alcohol’ means any alcohol (including ethanol and methanol)—

“(A) which is produced other than from petroleum, natural gas, or coal (including peat), and

“(B) which is withdrawn from the distillery where produced free of tax under chapter 51 by reason of section 5181 or so much of section 5214(a)(1) as relates to fuel use.”

(3) RATE OF TAX.—Clause (i) of section 4081(a)(2)(A) is amended by striking “(other than aviation gasoline)” and inserting “(other than aviation gasoline) and fuel alcohol”.

(4) SPECIAL RULES FOR IMPOSITION OF TAX.—Paragraph (1) of section 4081(a) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULES FOR FUEL ALCOHOL.—In the case of fuel alcohol—

“(i) the distillery where produced shall be treated as a refinery, and

“(ii) subparagraph (B) shall be applied by including transfers by truck or rail in excess of such minimum quantities as the Secretary shall prescribe.”

(5) REPEAL OF REDUCED RATES ON ALCOHOL FUELS.—

(A) Section 4041 is amended by striking subsection (k).

(B) Section 4081 is amended by striking subsection (c).

(C) Section 4091 is amended by striking subsection (c).

(6) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 4041(a)(2) is amended—

(i) by inserting “other than fuel alcohol” after “any product”, and

(ii) by adding at the end the following flush sentence:

“No tax shall be imposed by this paragraph on the sale or use of any fuel alcohol if tax was imposed on such alcohol under section 4081 and the tax thereon was not credited or refunded.”

(B) Section 6427 is amended by striking subsection (f).

(C) Subsection (i) of section 6427 is amended by striking paragraph (3).

(D) Paragraph (2) of section 6427(k) is amended by striking “(3),”.

(E)(i) Paragraph (1) of section 6427(l) is amended by striking “or” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

“(B) any fuel alcohol (as defined in section 4083) on which tax has been imposed by section 4041 or 4081, or”.

(ii) Paragraph (2) of section 6427(l) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of fuel alcohol (as so defined), any use which is exempt from the tax imposed by section 4041(a)(2) other than by reason of a prior imposition of tax, and".

(iii) The heading of subsection (l) of section 6427 is amended by inserting ", Fuel Alcohol," after "Kerosene".

(F) Sections 9503(b)(1)(D) and 9508(b)(2) are each amended by striking "and kerosene" and inserting "kerosene, and fuel alcohol".

(G) Subsection (e) of section 9502 is amended by striking paragraph (2).

(H) Paragraph (4) of section 9503(b) is amended by adding "and" at the end of subparagraph (C), by striking the comma at the end of subparagraph (D) and inserting a period, and by striking subparagraphs (E) and (F).

(d) Effective Dates.—

(1) General rule.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Elimination of section 40 credit.—The amendments made by subsection (a) shall apply to alcohol produced after the date of the enactment of this Act.

(e) Floor Stock Taxes.—

(1) Imposition of tax.—In the case of fuel alcohol which is held on the date of the enactment of this Act by any person, there is hereby imposed a floor stocks tax of 18.4 cents per gallon.

(2) Liability for tax and method of payment.—

(A) Liability for tax.—A person holding fuel alcohol on the date of the enactment of this Act to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method of payment.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) Time for payment.—The tax imposed by paragraph (1) shall be paid on or before the date which is 6 months after the date of the enactment of this Act.

(3) Definitions.—For purposes of this subsection—

(A) Fuel alcohol.—The term "fuel alcohol" has the meaning given such term by section 4083 of the Internal Revenue Code of 1986, as amended by this section.

(B) Held by a person.—Fuel alcohol shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) Secretary.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) Exception for exempt uses.—The tax imposed by paragraph (1) shall not apply to fuel alcohol held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of the Internal Revenue Code of 1986 is allowable for such use.

(5) Exception for fuel held in vehicle tank.—No tax shall be imposed by paragraph (1) on fuel alcohol held in the tank of a motor vehicle or motorboat.

(6) Exception for certain amounts of fuel.—

(A) In general.—No tax shall be imposed by paragraph (1) on fuel alcohol held on the date of the enactment of this Act by any person if the aggregate amount of fuel alcohol held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) Exempt fuel.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) Controlled groups.—For purposes of this paragraph—

(i) Corporations.—

(I) In general.—All persons treated as a controlled group of corporations shall be treated as 1 person.

(II) Controlled group of corporations.—The term "controlled group of corporations" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) Nonincorporated persons under common control.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

SA 3173. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike "2004" and insert "2009".

On page 189, line 5, strike "2004" and insert "2009".

On page 189, line 8, strike "2004" and insert "2009".

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2008.

On page 190, lines 13 and 14, strike "each calendar year, through 2011," and insert "each of calendar years 2008 through 2011,".

On page 190, line 19, strike "each calendar year, through 2011," and insert "each of calendar years 2008 through 2011".

On page 193, line 10, strike "2004" and insert "2009".

On page 194, line 21, strike "2004" and insert "2009".

On page 196, line 17, strike "2004" and insert "2009".

On page 197, line 4, strike "2004" and insert "2009".

On page 197, line 12, strike "2008" and insert "2009".

On page 199, line 4, strike "2004" and insert "2009".

On page 199, line 17, strike "2004" and insert "2009".

SA 3174. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike "2004" and insert "2012".

On page 189, lines 5 and 6, strike "YEARS 2004 THROUGH 2012" and insert "YEAR 2012".

On page 189, lines 7 and 8, strike "any of calendar years 2004 through 2012" and insert "calendar year 2012".

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2011.

On page 190, lines 13 and 14, strike "each calendar year, through 2011," and insert "calendar year 2011,".

On page 190, line 19, strike "each calendar year, through 2011," and insert "calendar year 2011".

On page 193, lines 9 and 10, strike "each of calendar years 2004 through 2012" and insert "calendar year 2012".

On page 194, line 21, strike "2004" and insert "2012".

On page 196, line 17, strike "2004" and insert "2012".

On page 197, line 4, strike "2004" and insert "2012".

On page 197, line 12, strike "2008" and insert "2012".

On page 199, line 4, strike "2004" and insert "2012".

On page 199, line 17, strike "2004" and insert "2012".

SA 3175. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, insert "in any of calendar years 2004 through 2012" after "States".

On page 189, strike lines 4 through 6 and insert the following:

"(B) Applicable volume.—For the purpose of subparagraph

Beginning on page 189, strike line 11 and all that follows through page 190, line 11.

SA 3176. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike "2004" and insert "2010".

On page 189, line 5, strike "2004" and insert "2010".

On page 189, line 8, strike "2004" and insert "2010".

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2009.

On page 190, lines 13 and 14, strike "each calendar year, through 2011," and insert "each of calendar years 2009 through 2011,".

On page 190, line 19, strike "each calendar year, through 2011," and insert "each of calendar years 2009 through 2011".

On page 193, line 10, strike "2004" and insert "2010".

On page 194, line 21, strike "2004" and insert "2010".

On page 196, line 17, strike "2004" and insert "2010".

On page 197, line 4, strike "2004" and insert "2010".

On page 197, line 12, strike "2008" and insert "2010".

On page 199, line 4, strike "2004" and insert "2010".

On page 199, line 17, strike "2004" and insert "2010".

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold 2 days of hearings on the subcommittee's 10-month investigation into gasoline prices entitled "Gas Prices: How Are They Really Set?"

In the spring and early summer of 2001, most parts of the country experienced a dramatic increase in the price of gasoline. Numerous consumer groups expressed concern over price gouging. The oil companies responded that there were problems with supply. This series of hearings by the Permanent Subcommittee on Investigations will explore how gasoline prices are set and why they have become so volatile.

The hearing will take place on Tuesday, April 30, and Thursday, May 2, 2002, at 9:30 a.m., each day, in room 342 of the Dirksen Senate Office Building. For further information, please contact Elise Bean of the subcommittee staff at 224-9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 18, 2002, at 9:30 a.m., on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 18, 2002, at 9:30 a.m., to hear testimony on corporate governance and executive compensation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 18, 2002, at 9:30 a.m., for the purpose of holding a hearing entitled "The State of Public Health Preparedness for Terrorism Involving Weapons of Mass Destruction: A Six-Month Report Card."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions be authorized to meet for a hearing on "Over One Year Later: Inadequate Progress On America's Leading Cause Of Workplace Injury," during the session of the Senate on Thursday, April 18, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 18, 2002, at 10 a.m., in Dirksen Room 226.

Agenda

I. Nominations

Jeffrey Howard for the United States Court of Appeals for the First Circuit; Percy Anderson for the United States District Court for the Central District of California; Michael M. Baylson United States District Court for the Eastern District of Pennsylvania; William C. Griesbach for the United States District Court for the Eastern District of Wisconsin; Joan E. Lancaster for the United States District Court for the District of Minnesota; Cynthia M. Rufe for the United States District Court for the Eastern District of Pennsylvania; and John F. Walter for the United States District Court for the Central District of California.

To be Deputy Directors of the Office of National Drug Control Policy: Mary Ann Solberg and Barry Crane.

To be United States Attorney: Frank DeArmon Whitney for the Eastern District of North Carolina and Debra W. Yang for the Central District of California.

II. Bills

H. Con. Res. 243, expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and select other public safety officers who deserve special recognition for outstanding valor above and beyond the call of duty in the aftermath of the terrorist attacks in the United States on September 11, 2001. [Crowley]

S. Con. Res. 66, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001. [Stevens]

S. Con. Res. 75, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue and recovery efforts in the aftermath of those attacks. [Harkin]

S. 864, Anti-Atrocity Alien Deportation Act of 2001, with Leahy/Hatch substitute. [Leahy/Lieberman/Levin]

S. 2031, Intellectual Property Protection Restoration Act of 2002. [Leahy/Brownback]

S. 2010, Corporate and Criminal Fraud Accountability Act of 2002. [Leahy/Daschle/Durbin]

S. 1615, Federal-Local Information Sharing Partnership Act of 2001. [Schumer/Clinton/Leahy/Hatch]

III. Resolution

S. Res. , Designating the Week of May 5 through May 11, 2002 as "National Occupational Safety and Health Week."

IV. Committee Business

Committee Resolution to Authorize Antitrust Subpoena.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 18, at 3 p.m., to conduct a hearing.

The purpose of the hearing is to receive testimony on the following bills: S. 1441 and H.R. 695, to establish the Oil Region National Heritage Area; S. 1526, to establish the Arabia Mountain National Heritage Area in the State of Georgia, and for other purposes; S. 1638, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes; S. 1809 and H.R. 1776, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas; S. 1939, to establish the Great Basin National Heritage Area, Nevada and Utah; and S. 2033, to authorize appropriations for the John H. Chafee Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. SANTORUM. Madam President, I ask unanimous consent that Sara Louise Berk from my staff be permitted to be on the floor for debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent floor privileges be granted to John Carter of the Immigration Subcommittee staff for the duration of this bill's consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING TECHNICAL AMENDMENTS TO SECTION 10 OF TITLE 9, UNITED STATES CODE

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 287, H.R. 861.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 861) to make technical amendments to section 10 of title 9, United States Code.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time, and passed; that the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 861) was read the third time and passed.

DESIGNATING THE WEEK OF APRIL 21-28, 2002, AS "NATIONAL BIOTECHNOLOGY WEEK"

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 243 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 243) designating the week of April 21 through April 28 National Biotechnology Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 243) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 243

Whereas biotechnology is a strategic industry and is increasingly important to the research and development of products that improve health care, agriculture, industrial processes, environmental remediation, and biological defense;

Whereas biotechnology has been responsible for medical breakthroughs that have benefited millions of people worldwide through the development of vaccines, antibiotics, and other drugs;

SEC. 2. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF DOMESTIC TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking "of this title"; and

(2) by inserting before the semicolon the following: "or an act of domestic terrorism (as defined in section 2331(5))".

SEC. 3. MANDATORY IMPRISONMENT FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking "or imprisonment" and inserting "and imprisonment"; and

(2) by striking "or both,".

ENHANCED PENALTIES FOR ENABLING TERRORISTS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. 1981 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1981) to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time, and passed, the motion to reconsider be laid on the table; that any statements relating to the bill be printed in the RECORD as if given, all without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1981) was read the third time and passed, as follows:

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Penalties for Enabling Terrorists Act of 2002".

SEC. 2. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF DOMESTIC TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking "of this title"; and

(2) by inserting before the semicolon the following: "or an act of domestic terrorism (as defined in section 2331(5))".

SEC. 3. MANDATORY IMPRISONMENT FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking "or imprisonment" and inserting "and imprisonment"; and

(2) by striking "or both,".

EXPRESSING THE SENSE OF CONGRESS REGARDING THE PUBLIC SAFETY OFFICER MEDAL OF VALOR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 347, H. Con. Res. 243.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 243) expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and select other public safety officers who deserve special recognition for outstanding valor above and beyond the call of duty in the aftermath of the terrorist attacks in the United States on September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEAHY. Madam President, today in the Senate Judiciary Committee we passed en bloc by unanimous consent three Sense of Congress resolutions introduced by Representative JOE CROWLEY, Senator TOM HARKIN, and Senator TED STEVENS, respectively, to honor the police officers, firefighters and emergency personnel who responded to the terrorist attacks on September 11, 2001. I am pleased that the full Senate is now taking up these resolutions for final passage.

I thank Senator SCHUMER, and, in particular, the Fraternal Order of Police and its president, Steve Young, for their leadership and strong support for honoring the fallen September 11 first responders.

There were so many examples of bravery and courage on September 11 and there is no doubt that the extraordinary heroism of our police officers, firefighters and emergency personnel should be recognized.

Last year, I was proud to work with Senator STEVENS, Senator HATCH and other members of the committee to enact legislation, which I cosponsored, to authorize the President to award and present the Medal of Valor to public safety officers, upon the selection and recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty.

Well before the terrorist attacks, Congress and the President decided that the award would have the most meaning if firefighters and police and other public safety officers themselves—the peers of those who will be honored—made the selections of candidates.

All 11 members of the Medal of Valor Review Board have now been appointed and the Board met for the first time last month. I have full faith that the Medal of Valor Review Board members will work quickly to award the Medal of Valor to their fellow public safety officers involved in the September 11 terrorist attacks. As chairman of the Senate Judiciary Committee, I certainly support awarding the Public Safety Medal of Valor to the fallen heros of September 11.

Since my time as a Chittenden County States' Attorney in Vermont, I have taken a keen interest in law enforcement in my home State and around the country. Vermont has the reputation of being one of the safest states in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us. We should do all we can to support and protect them and all public safety officers nationwide.

I am proud of my legislative record in support of the public safety officers in Vermont and the Nation. For example, Senator CAMPBELL and I authored the Bulletproof Vest Partnership Grant Acts of 1998 and 2000 to create and then expand the $25 million Department of Justice program to provide grants to law enforcement officers to buy bulletproof vests. This grant program has funded almost 1,000 lifesaving vests for Vermont officers and more than 300,000 vests for officers across the country.

Specifically in response to the terrorists attacks of September 11, I negotiated a retroactive $100,000 increase in the total benefit under the Public Safety Officers' Benefits Program as part of the USA PATRIOT Act. Congress needed to act immediately to provide much-needed relief for the families of the brave men and women of law enforcement who sacrificed their own lives for their fellow Americans. Although an increase in the PSOB benefits can never be a substitute for the loss of a loved one, it was the right thing to do for the families of our fallen heros. In addition, I helped draft legislation to create the September 11 Victims Compensation Fund to provide fair and quick compensation to terrorist victims and their families.

I look forward to continuing to work in a bipartisan manner with my Senate colleagues on legislation to support our Nation's public safety officers who put their lives at risk every day to protect us.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 243) was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE PUBLIC SAFETY OFFICER MEDAL OF VALOR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 349, S. Con. Res. 75.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue, and recovery efforts in the aftermath of those attacks.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 75

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of them into the towers of the World Trade Center in New York City, a third into the Pentagon, and a fourth in rural southwest Pennsylvania;

Whereas thousands of innocent Americans and many foreign nationals were killed and injured as a result of the surprise terrorist attacks, including the passengers and crews of the 4 aircraft, workers in the World Trade Center and the Pentagon, firefighters, law enforcement officers, emergency assistance personnel, and bystanders;

Whereas hundreds of public safety officers were killed and injured as a result of the terrorist attacks, many of whom would perish when the twin towers of the World Trade Center collapsed upon them after they rushed to the aid of innocent civilians who were imperiled when the terrorists first launched their attacks;

Whereas thousands more public safety officers continued to risk their own lives and long-term health in sifting through the aftermath and rubble of the terrorist attacks to rescue those who may have survived and to recover the dead;

Whereas the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107-12, 115 Stat. 20) authorizes the President to award and present in the name of Congress, a Medal of Valor to public safety officers for extraordinary valor above and beyond the call of duty;

Whereas the Attorney General of the United States has discretion to increase the number of recipients of the Medal of Valor under that Act beyond that recommended by the Medal of Valor Review Board in extraordinary cases in any given year;

Whereas the terrorist attacks against the United States on September 11, 2001 and their aftermath constitute the single most deadly assault on our American homeland in our Nation's history; and

Whereas those public safety officers who perished and were injured, and all those who participated in the efforts to rescue whomever may have survived the terrorist attacks and recover those whose lives were taken so suddenly and violently are the first casualties and veterans of America's new war against terrorism, which was unanimously authorized by the Authorization for Use of Military Force (Senate Joint Resolution 23, enacted September 14, 2001): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should award and present in the name of Congress a Public Safety Officer Medal of Valor to every public safety officer who was killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to deserving public safety officer who participated in the search, rescue, and recovery efforts in the aftermath of those attacks; and

(2) such assistance and compensation as may be needed should be provided to the public safety officers who were injured or whose health was otherwise adversely affected as a result of their participation in the search, rescue, and recovery efforts undertaken in the aftermath of the terrorist attacks of September 11, 2001.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE PUBLIC SAFETY OFFICER MEDAL OF VALOR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 348, S. Con. Res. 66.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 66) to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 66) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 66

Whereas the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107-12, 115 Stat. 20)—

(A) allows the President to award, and present in the name of Congress, a Medal of Valor to a public safety officer cited by the Attorney General of the United States, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty; and

(B) provides that the Public Safety Officer Medal of Valor shall be the highest national award for valor by a public safety officer;

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of the planes into the towers of the World Trade Center in New York City, and a third into the Pentagon in suburban Washington, DC;

Whereas thousands of innocent Americans were killed or injured as a result of these attacks, including rescue workers, police officers, and firefighters at the World Trade Center and at the Pentagon;

Whereas these attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon;

Whereas police officers, firefighters, public safety officers, and medical response crews were thrown into extraordinarily dangerous situations, responding to these horrendous events and acting heroically, without concern for their own safety, trying to help and to save as many of the lives of others as possible in the impact zones, in spite of the clear danger to their own lives; and

Whereas these attacks were by far the deadliest terrorist attacks ever launched against the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) because of the tragic events of September 11, 2001, the limit on the number of Public Safety Officer Medals of Valor should be waived, and a medal should be awarded under the Public Safety Officer Medal of Valor Act of 2001 to any public safety officer, as defined in that Act, who was killed in the line of duty; and

(2) the Medal of Valor Review Board should give strong consideration to the acts of bravery by other public safety officers in responding to these events.

ORDERS FOR MONDAY, APRIL 22, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 1 p.m. on Monday, April 22; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that at 2 p.m., the Senate resume consideration of the energy reform bill; that Senators have until 1:30 p.m. on Monday to file first-degree amendments to the energy reform bill, and that the live quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, the Senate will vote on cloture on the Daschle-Bingaman substitute amendment to the energy reform bill on Tuesday. The Senate will not be in session tomorrow and there will be no rollcall votes on Monday.

Madam President, I congratulate the Senate in its entirety for the work we did this week. We accomplished a great deal, even though our time was compressed and the days were very long.

ADJOURNMENT UNTIL 1 P.M. MONDAY, APRIL 22, 2002

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:40 p.m., adjourned until Monday, April 22, 2002, at 1 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 18, 2002:

THE JUDICIARY

LEGROME D. DAVIS, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

EXTENSIONS OF REMARKS

IN MEMORY OF DR. SHERMAN SPARKS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to speak in honor of the beloved community member Dr. Sherman Sparks, of Rockwall, Texas. Dr. Sparks was a tireless country doctor who devoted his life to his friends and neighbors. He had served his community from the 1940's until his retirement in 1996. He died at the age of 92.

Sherman was a bedrock of the Rockwall community as it grew from its rural roots into a suburban city. His devotion to the community was constant, though. It was said that he did not have patients, but he had friends. During his medical practice he delivered over 3,000 babies.

He was very generous with those who needed him, but could not afford a doctor. He founded the Rockwall High School chemistry program and volunteered as doctor for the High School's athletic teams for over 30 years. Sherman also donated his services as jail doctor for the Rockwall Detention Center between 1945 and 1975. Dr. Sparks made house calls up until the day he retired—often traveling to homes that could only be reached by tractors.

Outside of his medical services, Sherman was also instrumental in the community's politics. He founded the Rockwall County Republican Party and even traveled to Washington to testify before Congress on behalf of his patients about Social Security. In the mid-1950's Sherman was instrumental in starting the Rockwall Municipal Airport, much of which they built with their own hands. He was an avid pilot.

Mr. Speaker, Dr. Sherman Sparks was one of those rare community leaders who gave his entire life to shaping the community. The impact he made is incalculable. He will be remembered as a selfless giver and great family man, a father to four sons, Dr. Randy P. Sparks, Dr. Bob Sparks, David P. Sparks and James Sparks; with 14 grandchildren and numerous great-grandchildren. We will remember with sadness the passing of this kind and caring man who gave everything to his family and community—Dr. Sherman Sparks.

HONORING NANCY RICHARDSON

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Nancy Richardson for receiving the Excellence in Public Service Award sponsored by the Business Council. Ms. Richardson will be recognized at a luncheon sponsored by the Kenneth L. Maddy Institute, The Fresno Bee, and the Business Council.

Nancy has been active within the community for years. Her interest in the juvenile system was sparked when she learned that judges from Valley counties were sentencing children to years in the California Youth Authority at a rate that exceeded the state average. This realization led Ms. Richardson on an expedition to uncover and expose the truth. She gathered information and published 1,000 copies of her findings to let people know what was occurring. After this amazing contribution to the juvenile justice system, Nancy went on to volunteer her services to more places which benefited from her initiative. She was elected to the Fresno Unified School District's Board of Trustees, served as coordinator of the Interagency Council, and now works on the Foster Care Oversight Committee.

Mr. Speaker, I rise today to congratulate Nancy Richardson for receiving the Excellence in Public Service Award. I invite my colleagues to join me in thanking Ms. Richardson for her tremendous contributions to the community, and in wishing her many years of continued success.

HONORING MS. MAIOLA COLEMAN AS AN AGENT OF CHANGE IN TUCSON'S AND PIMA COUNTY'S AFRICAN AMERICAN COMMUNITY.

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. PASTOR. Mister Speaker, I rise today to mark the celebration of Maiola Coleman's life by her family, friends and her community on April 19, 2002, at Grace Temple in Tucson, Arizona. They have gathered to honor Maiola's 50 years as an agent of change in Tucson's and Pima County's African American Community with choirs, commemorative awards, and remembrances by those who have been touched by her generous spirit. The community members have chosen this public acclamation to acknowledge Maiola's many achievements on their behalf.

Maiola Coleman is and has been a passionate and committed advocate of civil rights all of her life. Her mother, Tommie Thomas, was her mentor, teacher, and role model for community, grass roots activism on behalf of equal rights and equal opportunities. Maiola learned her lessons well and has honored her mother's teachings by living them and passing them on.

Her childhood experiences helped focus her energies in working with youth and young adults, especially minority youth. Her work as a job developer, trainer, and employment counselor has enabled thousands of minority youth to pursue their dreams of upward mobility through education and good entry level jobs. She has created model programs with the Tucson Urban League and with the University of Arizona that have served as national models for successful minority educational retention programs and community collaborations for at-risk youth.

In addition to her work with youth, Maiola is the "go-to" person for solutions to problems in the African American community. Maiola works diligently with elected officials, agency directors, private employers, community leaders, and the clergy to bring resources from every sector to bear on finding solutions to problems, whether the problem affects one person or the whole community. Maiola is able to engage multiple resources because she is a "bridge builder" who is constantly linking people and organizations to maximize their effectiveness. She has a wide range of personal contacts and friends who respect her work "from the heart" and who trust her community spirit to work for the greatest good for all. Her latest collaboration has been the Desert Waste Not Warehouse which is recycling computers into the households of the minority and low-income neighborhoods of Tucson and Pima County. This program is making a tremendous difference locally in the "digital divide". It, too, may serve as a national model.

I applaud Maiola Coleman for all she has done for our community in Arizona District 2 to make civil rights a reality and to improve the living conditions of those in need. She has been given many awards and certificates of achievement. They are well deserved. We are proud of her spirit and her service. I thank Maiola for all that she has done to make our country better and stronger. I also thank her 3 children, Marcus, Stellvonne, Kimiro, and her 2 grandchildren, Kivone and Enai for encouraging and sustaining her as she shares her great gifts with the rest of us. Finally, I thank Maiola for being my friend and for sharing with me the vision of a just world.

IN MEMORY OF BOB DE LORENZI

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor the memory of a friend of Northern Virginia who passed away this week, Mr. Bob de Lorenzi.

Mr. de Lorenzi was a pillar of the Northern Virginia community. As President and Chief Executive Officer of the Patriot Computer Group, Inc. and its subsidiary PatriotNet, Inc., Mr. de Lorenzi was widely admired as a businessman, receiving the 2001 Businessman of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Year Award from the Chamber of Commerce. But even more importantly, he was admired for his love and devotion to his Northern Virginia community.

Mr. de Lorenzi served as Vice Chairman of Technology, and Chief Information Officer, for the Central Fairfax Chamber of Commerce. This is the first instance in the nation that a Chamber of Commerce appointed a Board-level CIO. He was chairman of the Central Fairfax Chamber of Commerce's Technology Committee since its inception in 1995, organizing the Chamber's Technology Day event geared toward improving understanding and efficiency in the technology arena.

Utilizing his professional expertise to benefit his community, Mr. de Lorenzi served on the Fairfax City/George Mason University Technology Committee and its Business/Training and Schools subcommittees, as well as the Fairfax County Information Technology Policy Advisory Committee. His volunteer efforts were recognized when the Central Fairfax Chamber of Commerce honored him with its 1998 Volunteer of the Year award. Last night, April 17, 2002, Bobbie Kilbert, President of the Northern Virginia Technology Council, offered a moving tribute to Mr. de Lorenzi recognizing his many contributions to Northern Virginia's high-tech community and indeed the community at large.

In October 2000, Mr. de Lorenzi again set out to make the Washington metropolitan area, and the nation, a better place by serving as chairman of the first annual Washington Conference on Telework/Telework America TM Day. This conference focused on the development and promotion of telework in the Washington metropolitan area, attempting to provide a solution to many of the difficult issues facing this region, including traffic congestion, work-life balance, recruitment and retention, and air quality—all at an affordable cost. The conference's attendees included elected and appointed representatives of Federal and local governments and managers from both private and public sectors of the entire Washington metropolitan area.

The nation's trust and admiration was revealed as Mr. de Lorenzi was presented by our President, George W. Bush, with the opportunity to serve as the Chief Technology Consultant to the Bush-Cheney Presidential Transition Team. The President discovered what Northern Virginians have long known: Bob was a man you wanted on your side.

Mr. Speaker, in closing, I express my sincere condolences to the family and friends of Mr. Bob de Lorenzi, and as a representative of the residents of the 11th District of Virginia, I know he will be missed. I call upon all of my colleagues to join me in honoring the memory of Mr. Bob de Lorenzi.

TRIBUTE TO MERRILL CONNALLY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to speak in tribute of a great Texan, a great American and a dear friend and colleague—the late Judge Merrill Lee Connally of Floresville, Texas—who passed away at the age of 80 on September 4, 2001. Over the course of his life he had been a rancher, an oilman, a radio station operator, a judge, and a soldier who served his country with distinction in the South Pacific during World War II.

Merrill grew up on his family's ranch west of Floresville where he was born as the sixth child of John Bowden Connally, Sr. and Lela Wright Connally on April 9, 1921. After attending Floresville High School, he went on to Texas A&M University in 1941 as a member of the Corps of Cadets. In January 1942, shortly after entering college, he left to enlist in the United States Marine Corps where he rose to the rank of Captain serving in the South Pacific. During the fight for Bougainville, Merrill earned two Purple Hearts.

Merrill served until 1945, after which he returned to Floresville to help manage the Connally family ranch. He continued with the ranch the rest of his life, but he had other ventures, as well. Along with 10 other fellow veterans, Mr. Connally organized and operated radio station KVET in Austin, Texas. In addition to the radio station, he had other business venture including Connally Agricultural Services, Connally Fuels, and Connally Minerals. He was also a 20-year board member of the Republic Bank of Austin.

Like all of the Connally family, Merrill served his country well by staying active in local, state and national politics. From 1947–1950, he was Wilson County Commissioner—he held the position again from 1955–1959. In both 1956 and 1960 Merrill served as a delegate to the Democratic National Convention. He also helped his brother run for governor, serving as his campaign coordinator in both 1962 and 1964.

Merrill served on the Floresville chamber of Commerce, Wilson County Farm Bureau, Floresville Lions Club, South Texas County Judges' Association, Southwest Cattle Raisers' Association, and American Quarter Horse Association, and was a past president of the Floresville Peanut Festival Association. In addition, he served for many years on the board of directors of the Wilson Memorial Hospital, a hospital that the had played an instrumental part in founding.

Later in life, Mr. Connally began a hobby acting. He played the role of Davy Crockett in "Alamo—The Price of Freedom" and also made appearances in Steven Spielberg's "Close Encounters of the Third Kind" and "Sugarland Express."

Most importantly, though, Merrill will be remembered a true American hero and devoted family man. Just this year he celebrated his 50th wedding anniversary with his loving wife Mary Catherine Howard. He was father to two and a grandfather to four.

He will be remembered by his family, friends and former colleague as a true Texan who served his state and country well. He will be remembered for his mild-mannered ways and devotion to the people of Texas. He leaves a legacy of service kindness. Mr. Speaker, it is with great admiration that I recognize the life of a great Texan and true American hero—Merrill Lee Connally.

HONORING VITO CHIESA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Vito Chiesa on the occasion of the completion of his term as president of the Stanislaus County Farm Bureau. Mr. Chiesa has served as president for the past two years, from April 2000 to 2002, and served as a board member representing the Eastside Region for two years prior to his presidency.

Vito is a peach, almond, and walnut farmer who was born and raised in Stanislaus County and has farmed all his life. He is currently the manager of Chiesa Ranch and previously owned Agriculture Land Management Co., Vito Chiesa Farms. Mr. Chiesa opens his farm to visitors to help them better understand the farming industry.

In 1999, Vito received the Outstanding Young Farmer Achievement Award. The Stanislaus County Farm Bureau has also honored him with the Outstanding Achievement Award. Mr. Chiesa has been an outstanding county farm bureau president and has demonstrated his leadership abilities during negotiations involving sensitive issues affecting the farming community. He has exhibited an impressive ability to bring diverse interests and opinions together to work toward a common goal.

Mr. Speaker, I rise today to recognize Vito Chiesa at the end of his term as Stanislaus County Farm Bureau President. I invite my colleagues to join me in thanking Mr. Chiesa for his contributions to the agriculture and the community and in wishing him many more years of continued success.

HONORING THE NATIONAL LAW CENTER FOR INTER-AMERICA FREE TRADE IN TUCSON, ARIZONA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2001

Mr. PASTOR. Mr. Speaker, I rise before you today to pay tribute to an organization that recently marked its 10th anniversary of working to reduce the legal barriers to trade among nations in our hemisphere. The organization I proudly speak of is the National Law Center for Inter-American Free Trade, located in Tucson, Arizona.

The organization was created by Dr. Boris Kozolchyk, a law professor at the University of Arizona and expert on free trade on April 1, 1992. Its purpose was to address and resolve the practical and legal obstacles that NAFTA would bring, as well as to develop the legal infrastructure necessary to facilitate the movement of goods, services and investment capital in the Western Hemisphere.

The Center works closely with the James E. Rogers College of Law at the University of Arizona as an educational and research institution in such areas as banking, commercial credit, customs, electronic commerce, environment, intellectual property, labor and transportation.

Free trade leads to economic well-being, enhances political stability, and promotes public accountability and the rule of law among the nations in our hemisphere, making the National Law Center for Inter-American Free Trade an important organization to our state and country. Therefore, Mr. Speaker, I ask my colleagues to join me in honoring this outstanding institution.

HONORING MR. KIRK LOGGINS OF NASHVILLE, TENNESSEE ON THE OCCASION OF HIS RETIREMENT FROM THE TENNESSEAN

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. CLEMENT. Mr. Speaker, I rise today to honor Mr. Kirk Loggins of Nashville, Tennessee on the occasion of his retirement from the Tennessean newspaper where he covered government, politics, and the court system for nearly thirty years.

Kirk Loggins was born in Jackson Clinic in Dickson, Tennessee on October 20, 1946. A native of Middle Tennessee, he grew up on a farm near Charlotte, Tennessee, where his family had lived since the 1830s. Growing up, he regularly worked on the farm, milking cows, helping with the tobacco crop, while longing to experience city life.

An early achiever, he graduated valedictorian of Charlotte High School in 1964, where he also served as editor of the school newspaper. His early involvement in journalism helped land him a summer job at the Dickson County Herald newspaper prior to entering Vanderbilt University in the fall of 1964. Loggins attended Vanderbilt as a Rockefeller Foundation Scholar and spent the summer of 1966 working in Washington, D.C., as an intern at the U.S. Office of Education.

Graduating from Vanderbilt in June 1968 with a major in English and a minor in History, he went to work just three days later as associate editor of the Dickson County Herald. In fact, his first day on the job was the morning after Robert Kennedy was assassinated in Los Angeles. During his four years at the Dickson County weekly paper, he earned the Tennessee Press Associations Most Improved Award two consecutive years.

His experience led to a position at the Tennessean, where he was originally assigned to the state desk for the first three years at the paper. From 1975–1976 he served as the Washington correspondent, but returned to cover the local court system in December 1976. He has covered the courts continuously since that time, with the exception of a year-long break to investigate the Ku Klux Klan in 1979–1980, and for a National Endowment for the Humanities fellowship at the University of Michigan in 1982–1983.

Loggins has covered literally hundreds of criminal trials, including 15 death penalty cases, and witnessed Tennessee's first execution of a prisoner in 40 years, in April 2000. Beloved by his colleagues and his rivals alike, he has been honored for his work by the Nashville Bar Association and the National Conference of Christians and Jews.

On a personal note, I will always appreciate the professionalism he exhibited in his reporting of the death and trial of my former Chief of Staff, Alex Haught, who was killed by a drunk driver in Nashville three years ago. Loggins is an outstanding journalist who serves the profession nobly and accurately. His work will be missed by thousands of readers and we wish him the very best in his retirement and all of his future endeavors.

A TRIBUTE TO BYRON R. WHITE

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. DEGETTE. Mr. Speaker, it is with profound sadness that I rise today to recognize the life and contributions of Byron "Whizzer" White, one of Colorado's most renowned and admirable native sons. Retired Supreme Court Justice White died on Monday, April 15, at the age of 84, of complications with pneumonia. We have not only lost this honorable and esteemed man, we have also lost the last living former Supreme Court Justice. I would like to take this opportunity to pay tribute to his dedication to our country and his remarkable achievements before this body of Congress and this nation.

White was born in Fort Collins, Colorado in 1917, raised in the nearby town of Wellington. White excelled at every aspiration and accomplished everything he attempted. Valedictorian of his high school and University of Colorado class, White continued to become a Rhodes Scholar at Oxford university. He completed his legal studies at Yale Law School after serving our country in World War II. "Whizzer" White was also a legendary All-America football player at University of Colorado and played for the NFL with the Pittsburgh Steelers and the Detroit Lions.

In 1962, President John F. Kennedy appointed White to the Supreme Court of the United States. The new justice joined the Court just as it neared the height of its liberal and activist period. White quickly evolved into a conservative jurist with a strong independent streak, dissenting from many of the court's liberal rulings of the 1960's. Yet he was a strong proponent of civil rights for racial minorities. In 1961, White served to protect the "Freedom Riders", the young civil-rights activists trying to integrate the interstate bus system over the objection of Alabama's all-white power structure. White served a remarkable 31 years on the Supreme Court as a loyal and devoted Democrat before retiring in 1993.

Mr. Speaker, Byron R. White was a distinguished jurist who served his country with the utmost honor and dedication. The "Whizzer" remains a celebrated figure and a Colorado native son we are very proud to claim as one of our own. His exceptional brains, athleticism, and esteemed character and devotion to justice will continue to live on through the lives of those he has touched. I would like to extend my deepest sympathies to White's family and friends during this difficult time of remembrance and bereavement.

BEGINNING A SERIES OF ENERGY REMARKS, CALLS FOR USE OF ALL ENERGY SOURCES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to begin a series of remarks on energy. Once again, the uncertainties in the Middle East have caused prices in oil markets to rise, and from what we read in the news, the current uncertainty is unfortunately likely to last for quite some time.

My goal with this series is simple: to impress upon my colleagues the need to develop a national energy policy. And that policy should include all of our resources—fossil fuels, nuclear, renewables and, yes, conservation. We need them all.

In this country we are blessed with an abundance of energy choices. We have abundant coal resources—in fact some of the largest in the world. We have tremendous potential for the development of solar and wind resources. And even though for many years we have produced huge volumes of crude oil and natural gas—even supplied some of the world with it at times—we still have significant oil and gas resources in the ground.

Much of the rest of the world is envious of our energy resources and the choices we have. In the coming days and weeks, I will address some of those options and what we can do to bring those options into reality.

CONGRATULATING JUAN ARAMBULA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Fresno County Supervisor Juan Arambula for receiving the 2002 Rose Ann Vuich Ethical Leadership Award. He was recognized April 17, 2002, at a luncheon reception.

Mr. Arambula has been dedicated to community service in Fresno for over ten years; he was first elected to public office in 1990. Juan is a former president of Fresno Unified School District's board of trustees, and has also served on the California School Boards Association's board of directors. This is Juan's second term on the Fresno County Board of Supervisors; he was first elected in 1997. Mr. Arambula has earned the respect of his colleagues through his many endeavors and is very deserving of this prestigious award.

The Rose Ann Vuich Award is sponsored by the Fresno Business Council, the Fresno Bee, and the Kenneth L. Maddy Institute of Public Affairs. The award honors former State Senator Vuich, who consistently maintained high ethical standards and earned bipartisan respect throughout her career in the State legislature. The award aims to recognize elected leaders who symbolize integrity, strength of character, and exemplary ethical behavior.

HONORING BOB BYNUM FOR 28 YEARS OF SERVICE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor a friend of Northern Virginia, Mr. Bob Bynum, who is being recognized for his 28 years of volunteer service to the Mason District Little League at the League's Opening Day Ceremony on April 20, 2002 in Fairfax, Virginia.

Mr. Bynum has dedicated himself to making our community a better place. Beginning in the late 50s when he played baseball for the Bailey's Crossroads Little League, Mr. Bynum has devoted years to making Little League a strong, positive institution for the children of Northern Virginia.

In the late 70s, Mr. Bynum coached his first baseball team for children between the ages of 10 and 12, and has continued this service for 28 years, coaching hundreds of children in the Mason District Little League. While off the field, Mr. Bynum ran three golf tournaments to raise needed funds to build batting cages that can be seen on the Parklawn Park fields on Lincolnia Road, as well as to purchase a lighted scoreboard dedicated at last year's Opening Day Ceremonies on the fields of Mason District Park.

In addition to his years of coaching, Mr. Bynum has served as President of the Mason District Little League, as well as several other Board positions. Despite having no children of his own, Mr. Bynum did all of this as a result of his passion for baseball, the children, and the Little League institution.

Mr. Speaker, in closing, I wish the very best to Mr. Bob Bynum as he is recognized for his years of service to the Mason District Little League. He certainly has earned his recognition, and I call upon all of my colleagues to join me in applauding this remarkable service to our community and our children.

A TRIBUTE TO SCOTT K. NIELSON ON HIS 80TH BIRTHDAY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. CLEMENT. Mr. Speaker, Scott K. Nielson was born on April 3, 1922, in Huntington, Utah. His father was Gerald W. Nielson and his mother was Ione Wakefield Nielson. Scott had three brothers, Kirk Nielson, Dick Nielson and Tom Nielson, and one sister, Jean Nielson Adamson. He married Lila H. Wilson on April 10, 1943. Scott and Lila have three sons, Scott, Jr., Mark, and Gaylan, and one daughter, Wendy Nielson. They have 12 grand and 10 great grand children.

Scott is an outstanding father, grandfather, and great grandfather. His children and their children love and respect him. He is a loving and caring father, and a wonderful role model. Because of his love and support, all of his children attended college. The three sons have graduate degrees, and are successful and productive members of the community. His daughter Wendy has a flourishing career as a systems administrator for the Church of Jesus Christ of Latter Day Saints.

Scott is a veteran of World War II having served in the U.S. Army in the Pacific Theater. His unit fought in the Philippines, Guadalcanal and Luzon.

Following World War II, Scott worked as a coal miner and construction contractor, Scott, along with his father and brothers built many of the roads in Emery County, Utah and the Millers Flat Dam, a storage facility located in Huntington Canyon, Utah. During the 1950s, the Nielson men turned to mining uranium in both Utah and Colorado. In 1961, Scott moved his family to Salt Lake City, Utah. He and his brother Kirk Nielson were service station dealers for several years. Scott and Kirk continued to work together, first in the service station and then in the remodeling business until retirement. Scott is a talented mechanic and carpenter and has continued to work part time doing home modeling up to the present time. A man who can do anything around the house, Scott is an excellent electrician, plumber, and finish carpenter who has a reputation for the quality of his workmanship—Scott is never satisfied with anything less than perfection.

Scott is an active member of the Church of Jesus Christ of Latter Day Saints and is currently a member of the High Priest Quorum. Church activity is a very important part of Scott's life and he and Lila, his wife of fifty-nine years, are currently serving a mission for their church in Salt Lake City.

Scott Nielson has lived a long and productive life. he is an outstanding father and role model. He will continue to be an important member of the community for many years to come. I look forward to honoring him again on his 90th and 100th Birthdays! Happy 80th Birthday Scott!

HONORING THE PIPEFITTERS LOCAL #208 ON THE OCCASION OF THEIR CENTENNIAL ANNIVERSARY

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. DEGETTE. Mr. Speaker, I rise today to recognize and honor Local #208 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, located in Denver, Colorado. From their formation on April 26, 1902, Local #208 has a history full of challenge, perseverance, loyalty, and ingenuity.

Before the creation of Local #208, conditions for pipefitters based in Denver were generally poor. Employment was not steady and jobs were scattered across the nation, forcing pipefitters to constantly move. However, with the increase in indoor plumbing and construction, pipefitters soon found employment in hospitals, schools, and water systems, among others.

As the number of jobs grew, so did the need for a union to protect the interests of the workers in the pipefitting industry. The national union was founded on October 7, 1889 and two of the first elected officers were from Denver.

On April 26, 2002, the Pipefitters Local #208 will have existed for 100 years. This is truly an achievement. From their beginnings in 1902, the Local has contributed to the welfare of their members, as well as the pipefitting industry. The loyalty of Local #208 to its members was demonstrated numerous times when it came to the aid of financially distressed pipefitters in Denver and across Colorado. In fact, the Local provided interest free loans to its members who were experiencing difficult times.

Local #208 also gave back to Denver and its budding pipefitters. Local #208 coordinated with other locals in the region to advocate for stronger worker protections, improvements in health and safety, and contract agreements. Additionally, the Local created a Joint Apprenticeship Committee that provides training and accreditation of new pipefitters.

In the last 25 years, Local #208 has successfully fought for better wages and working conditions of its membership and has helped to make Denver the great city it is today. Members of Local #208 have contributed to the construction of such Denver institutions as the home of the Denver Broncos, the Denver Public Library, the Denver International Airport, and the home of the Colorado Rockies.

Over 100 years, Local #208 has thrived through perseverance, loyalty, and creativity. These are the characteristics that will allow Local #208 to last for another 100 years. I am proud to congratulate Local #208 on their first 100 years and wish them all the best in the future.

IN MEMORY OF HERMAN A. ENGEL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HALL of Texas. Mr. Speaker, today I would like to honor the memory of Herman Engel of Tyler, TX, who recently passed at the age of 85. He was a war hero, pioneering oil man, and beloved community activist and father.

Herman first started in the oil industry working for Shell Oil in Houston, where he was born. After graduating from LSU with a degree in Petroleum Engineering he spent time in East Texas, Houston, and Oklahoma working for various oil companies. He moved to East Texas permanently in 1976 to run the East Texas Salt Water Disposal Company and remained active with the company even after his retirement in 1989. Prior to 1976 he had been vice president of APCO Oil Corporation and of Union Texas Petroleum, both of which were in Tulsa, OK.

As a professional he was recognized as a leader. In 1983 he was selected as a "Pioneer Engineer" by the Petroleum Landmen, Petroleum Geologists and Petroleum Engineers of East Texas. He was an Honorary Life Member of the Independent Petroleum Association of America and was a Distinguished Member of the Petroleum Engineers. He also served as vice president and director of both the Society of Petroleum Engineers and the American Institute of Mining.

Before he began his professional career, Herman served his country in the Second World War. This true American hero was an officer in the U.S. Army Corps of Engineers and spent 1½ years in Alaska in addition to his 2½ in the South Pacific.

While in Tyler he was an integral part of the community and played a major part in helping to make East Texas a better place for everyone. He served as a vice president and director of the Tyler Area Chamber of Commerce. He was a long-time director of East-Texas Lighthouse for the Blind, and was an active supporter of several local organizations and foundations. Among those were Louisiana State University, Tyler Junior College, and the Tyler Independent School District. He was also a devoted trustee of the Watson W. Wise Foundation.

In passing, Mr. Engel leaves behind two daughters Dee Landers and Alice Beam; a sister Elizabeth Engel; and 6 grandchildren. He was a wonderful father, devoted husband, and beloved grandfather. Mr. Speaker, this was one of those men who made a lasting impact in everything that he did. We will remember with great respect everything this kind and caring man did for his community—Mr. Herman A. Engel.

MICHAEL VANG INVESTIGATION

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today with a heavy heart to recognize a dark anniversary for one of my constituents. Three years ago, Suzie Vang lost her friend and husband to unknown circumstances in Laos.

On April 19, 1999, Michael Vang and Mr. Houa Ly, a resident of Appleton, WI, both Americans, were traveling along the border between Laos and Thailand. According to eyewitnesses, the U.S. congressional research missions, nongovernmental organizations and other sources both Ly and Vang were seized by Lao Government authorities. Despite the building evidence, the Lao Government continues to deny knowledge of their whereabouts or the role of government security forces in their abduction.

The State Department has been asked repeatedly by Members of Congress to vigorously investigate and resolve this case since it was first reported in early May 1999. It is certainly true that we have received some assistance from them. However, there continues to be a lack of results. This is not surprising considering that the State Department continues to pursue an investigation in cooperation with the regime in Laos—a regime involved with their disappearance. While the State Department continues their slow and seemingly never-ending investigation, the trail grows colder.

We need a renewed effort. We need to initiate a new independent investigation free from coordination with the government of Laos. Three years is long enough. And, as long as this case goes unresolved, I will continue to oppose Normal Trade Relations (NTR) status for Laos.

HONORING THOMAS E. BRUNK UPON HIS RETIREMENT

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. Thomas E. Brunk, upon his retirement from the Federal Government after 33 years of distinguished and dedicated service to Northern Virginia, our Nation, and the Department of Defense.

Tom's career truly can be described as an American success story. Tom began his career as an young intern in Oklahoma, somewhat bewildered by the sights and sounds of the bustling air logistics center. Now, more than three decades later, he will end his career as a member of the Senior Executive Service and as the deputy director and the highest-ranking civilian of the Defense Contract Management Agency, a worldwide organization of 12,000 employees responsible for ensuring that the supplies and materials going to our Military Services—our men and women in uniform—are delivered on-time and are of the highest quality. His contribution has been particularly notable over the last nine years as contingency contract management has been needed to support America's military deployments at locations around the world.

Despite his relative youth, Tom quickly demonstrated exceptional managerial skills in support of major aerospace systems, including the B–2 aircraft and the Peacekeeper missile. With great vigilance and a strong sense of duty, he led operations reviews at dozens of major Defense contractors, and after having proved his mettle on the plant floor, steadily advanced to positions of increasing responsibility. In 1990 he accepted an appointment to the Defense Department's principle contract-management organization, the Defense Contract Management Command. In this capacity, Tom has been a stalwart standard bearer in the Department's pursuit of acquisition excellence.

The capstone of Tom's career came in March 2000, when he spearheaded the establishment of the Defense Contract Management Agency, a combat-support organization responsible for the management of 310,000 government contracts cumulatively valued at more than $100 billion. As deputy director since the agency's inception, Mr. Brunk has brought to bear his considerable managerial, technical, and interpersonal skills to ensure America's fighting forces receive the material support they need to protect and defend our nation. He has helped DCMA earn a place of prominence in the Department's technology revolution, as evidenced by his role in the development and deployment of the Standard Procurement System, a Department-wide purchasing and payment system that will replace a jumble outmoded and disparate programs that for years have bedeviled financial management with the Defense community.

Whether it is on the flight line at an air logistics center in Oklahoma City, on the plant floor at a manufacturing plant in St. Louis, or at a negotiations table in the Nation's capital, Tom Brunk served with dignity, commitment, and integrity. On the occasion of his retirement from the Federal Civilian Service, I offer my congratulations and thanks to this long-time resident of Northern Virginia, and wish him and his wife, Sharon, well in their future pursuits.

Mr. Speaker, in closing, I wish the very best to Mr. Brunk as he is recognized for his years of service to the Federal Government, the people of Northern Virginia and our nation He certainly has earned this recognition, and I call upon all of my colleague to join me in applauding this remarkable service.

IN MEMORY OF GALE CINCOTTA

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. KAPTUR. Mr. Speaker, during this reflective season of Ramadan, Passover, and Lent, I have been reflecting on friends whose lives closely paralleled the stories of sacrifice in the Holy Books. It is this reflection that calls to my mind Mrs. Gale Cincotta of Chicago, who passed from this life to the next on August 15, 2001. I am grateful for the opportunity to encapsulate her life's work for the RECORD.

Born of humble origin and reared in Chicago's Austin neighborhood, Gale became a neighborhood activist and then national leader as her personal knowledge of injustice led her on a passionate journey. Her dissatisfaction with her sons' educational opportunities spurred her to address the issue. She became impassioned with the root causes of an inadequate educational system: poverty, lack of decent and affordable housing and the resulting decaying neighborhoods. As her understanding grew about these issues, Gale found her true vocation. Armed initially only with a small but vocal band of neighborhood residents, Gale began a crusade which would eventually lead her to national prominence. She was, the Chicago Tribune noted upon her death, "one of the most effective community activists in the nation." I would add that she had extraordinary vision, a sharp intellect, a love of those without voice or power, and a boundless sense of humor.

Feisty, blustery, and with a keen ability to cajole or badger those with influence and power into doing what needed to be done, Gale earned the respect of all with whom she worked whether or not they agreed with her. Her passion was unmistakable, her commitment unwavering, and her expertise unparalleled. She taught many people, including myself, what being a neighborhood activist is really all about: it is about changing people's lives for the better. It is about helping them gain power to improve the condition of people's lives.

Though responsible for many changes in neighborhood development and revitalization, lending practices and housing concerns across our nation, Gale's greatest public accomplishment was gaining Congressional approval of the Community Reinvestment Act in 1977. Passage of this Act, now a cornerstone of neighborhood financing that has released billions of dollars of private credit to formerly red-lined neighborhoods, was considered by the Chicago Tribune Gale's "single greatest triumph." Ever the champion of marginal neighborhoods, she persuaded not only elected officials but also bankers, insurance companies, landlords, and business leaders that neighborhood investment—while being the right think to do—could also be profitable. She taught them that the savings of people of ordinary means should not be drained from their neighborhoods, but made available for reinvestment. Her work made the capitalist system work in some of the most neglected corners of our nation. Her tireless and unmatched efforts yielded visible results by turning faded city blocks into flourishing neighborhoods from coast to coast. Gale organized other programs and works, and many awards and accolades were bestowed upon her through the years, but surely none meant as much to her as the lasting legacy of the Community Reinvestment Act and the people and communities it still helps.

Gale Cincotta lives on in the seeds she planted in the hearts of the people she served and the minds of those she battled with and against to make people's lives better. She never yielded. She once said to me that the media had convinced Americans they were all "middle class" and that had bred a dangerous political complacency among the working class of people and the poor, who struggled daily to gain an economic foothold in our country. Their interests will not be served by false images of how hard and political this struggle is really.

The new director of the organization she founded, the National Training and Information Center, recalled that Gale—a mother of six sons and a widow—loved to dance. His message to the people upon taking the reigns as director began with a quote from an old Shaker hymn. The words seem to sum up Gale's legacy quite well: "They buried my body and they thought I'd gone, but I am the dance and I still go on." Surely, she lives among us.

IN MEMORY OF M.L. "MIKE" ANGLIN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HALL of Texas. Mr. Speaker, I speak today in memory of M.L. "Mike" Anglin, of Longview, Texas, a beloved member of his community, a veteran and loving father, who passed away at the age of 85.

Mike spent his life serving his country and community. He was the Commander of the American Legion Post #140 for over 30 years. Because of his long service there, he was saluted as the Texas State American Legion veteran of the year on three separate occasions. He was a Lieutenant in World War II but became a General for his veterans back in East Texas. Without his help, VFW posts 4002, 1183, 140 and 131 would not have even existed. He also worked to obtain the Veterans Clinic in Longview. Beyond the American Legion, Mike was active in 4–H, March of Dimes, Boys and Girls State and was one of the original organizers of the East Texas State Fair.

This loving family-man is survived by his wife, Zelma, two daughters, Celia and Cynthia, three sisters and a granddaughter. He not only loved his county but cared for its people. East Texas has lost a unique individual and he will be missed. We will remember with sadness the passing of a true American, a beloved father, and a legend in East Texas who will not easily be forgotten—M.L. "Mike" Anglin.

PAYING TRIBUTE TO ELI MARTINEZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002—

Mr. McINNIS. Mr. Speaker, it is with a solemn heart and yet great pride that I take this opportunity to pay respect to a United States Marine, Eli Martinez. Eli was killed over a year ago during training exercise at the age of twenty-one. He was a well-respected young man who is dearly missed by the community of Trinidad, Colorado who relied on him for his willingness and desire to help others. His legacy of kindness now has the opportunity to pass on through the efforts of his mother, Marie Martinez. She has recently established a memorial fund to continue Eli's quest to better his surroundings and his community. As she begins this quest, I would like to recognize her son before this body of Congress, and this nation. —

According to his mother, Eli's purpose and goal in life was to simply help others in any way possible. At the age of seventeen, he could often be found praying for those in need, those who were sick, and those who were less fortunate. He reached out and touched the lives of people from all walks of life in Trinidad, regardless of age, class, or religion, and was known as a truly kind soul. Eli felt that the ultimate gift to others was to serve them in difficult and trying circumstances. He joined the Marines at the age of eighteen and was well respected amongst his fellow Marines, and officers. Like many members of our armed forces, Eli believed that it is every young person's duty to be willing to pay the ultimate sacrifice for their country. Unfortunately Eli was called upon to pay that price, but his memory lives on. The new Eli Martinez Foundation Fund, created by Marie Martinez, will continue the work that Eli began. Contributions to the fund will go to a variety of causes close to Eli's heart, including the homeless and troubled youths.

Mr. Speaker, it is my privilege to pay tribute to Eli Martinez for his contributions to the Trinidad community and to our nation. His dedication to his community, his fellow man, and to the protection of our freedoms deserves the recognition of this body of Congress, and a grateful nation. Eli is a fine example for young people of this country who strive to better themselves and improve the lives of others. Although Eli has left us, his selfless spirit will live on through the lives of those he touched, and through the efforts of his mother, Marie. Eli, thank you for your service, you will be greatly missed.

ON THE PASSING OF RABBI ISRAEL MILLER

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McNULTY. Mr. Speaker, I rise today to pay tribute to Rabbi Israel Miller—a great leader of our Jewish Community and a great American.

Rabbi Miller was a man of vision. As president of the Conference of Jewish Material Claims Against Germany, he combined passion with dignity in his negotiations with foreign governments. He was able to achieve a landmark compensation agreement for the criminal theft that was part of the Nazi barbarity against the Jewish people.

Rabbi Miller played an outstanding role in American Jewish life. He served as chairman of the Conference of Presidents of Major Jewish Organizations and was its spokesperson on matter relating to Israel and international affairs in the United States and abroad. He had a special interest in helping the Jews behind the Iron Curtain, as evidenced by his national leadership of the American Jewish Conference on Soviet Jewry.

He left his imprint on virtually every major facet of American Jewish life as the founding president of the American Zionist Federation, founder of the Jewish Community Relations Council of New York, vice president of the American-Israel Public Affairs Committee, and president of the Rabbinical Council of America.

Throughout his life, Rabbi Miller sought to build bridges of understanding and respect among people of different religious, racial and ethnic origins. He believed that every human being should be able to live in safety, "and there shall be none to make him afraid."

What a legacy Rabbi Israel Miller left us. He will be sorely missed.

RETIREMENT CONGRATULATIONS TO ROBERT MAXWELL

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. KAPTUR. Mr. Speaker, I am pleased to have the opportunity to publicly recognize the life's work of one of Toledo, Ohio's most notable citizens, Robert Maxwell, who is retiring from his career after 38 years. Truly, Robert Maxwell is a "Golden Guy."

Bob moved through the ranks of the Lathrop Company, over which he began a tenure as President in 1986. That tenure saw outstanding growth as he developed the Lathrop Company into a premier construction company in our region.

Even as he built the company, Bob fulfilled a deep sense of commitment to the community, involving himself in many concerns including 911 services, Toledo Public Schools' Partners In Education, the Toledo Area Chamber of Commerce, the Local Initiatives Support Corporation and the National Multiple Sclerosis Society to name but a few.

Although Bob is well known as an excellent businessman and community oriented philanthropist, his true passion is his family. Always, his wife and children are first in his mind and heart and his pride in his family is evident. He will surely receive many accolades upon his retirement, as he has throughout his career, both from his peers and the organizations he supports, but none are so important as his family and his place in it. In fact, he will tell you that his family means everything to him. Thus, though he leaves a storied career, it is to his family that he retires.

The writer David Lawrence once wrote, "My soul knows that I am part of the human race, my soul is an organic part of the great human race, as my spirit is part of my nation. In my very own self, I am part of my family." Perhaps unconsciously, Bob Maxwell lived out this thought. Professionally and civically, he addresses his responsibility and his place in the family of man. Personally, he carries forth as a family man. Now as he leaves the working world, we wish Bob all the best in his retirement. May he spend his days doing all that he enjoys with those he loves.

TRIBUTE TO ROYCE WISENBAKER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to speak in memory of a cherished East Texan, Royce E. Wisenbaker of Tyler, Texas, who passed away recently at the age of 84. Royce was one of the region's most gracious patrons. He devoted a lifetime to helping others in countless ways and through numerous organizations, and he is truly missed by all those who knew him.

Born on July 23, 1917, Royce grew up in Mineola, where be graduated from high school. From there he attended Texas A&M University, earning a Bachelor of Science degree in Agricultural Engineering and a Master of Science in Sanitary Engineering. This was the beginning of a long and active relationship with the University that continued until his death.

After graduation from college, he began work for the State, serving as District Engineer of the Northwest Texas Area. In 1942 he answered the call to duty and entered the U.S. Army, where he advanced to the rank of Lieutenant Colonel. Royce served a total of five years and fought in three theaters. He maintained his Army Reserve status and retired as a full Colonel.

Upon completion of military service, Royce formed an engineering partnership with Robert Fix. Their company designed and supervised construction of waterworks and sewerage projects, streets, airports, industrial waste facilities, water reservoirs and other municipal projects. The partnership lasted 38 years, until Mr. Fix retired and the company was sold. Throughout this time Royce also delved into land development, waterworks, farming, and oil and gas production. After the end of his engineering partnership, he focused full-time on these ventures.

During his long life, Royce consistently worked to support his alma mater and had the honor of serving on the Board of Regents of Texas A&M for eighteen years. His building downtown was always recognizable by the large maroon and white Texas A&M flag flying over it. Royce also served as president of the University's 12th Man Foundation and president of the Association of Former Students—the only person ever to have served as president of both. He was the originator of the President's Endowed Scholarship Program and personally endowed six scholarships. This program now offers more than six-hundred fully endowed scholarships and has been copied by other universities across the nation. He also endowed similar scholarships at Austin College in Sherman, Texas and at Tyler Junior College. Royce supported Texas A&M's faculty and research efforts as well. He endowed a chair in the School of Engineering and two Graduate Fellowships for the School of Engineering, one of which was named in honor of Fred Benson, his former professor and longtime friend and associate. He was a very loyal and supportive person—often referred to as Texas' largest contributor in the political arena for local, state and national offices.

In addition to his professional responsibilities and his service to Texas A&M, Royce managed to contribute considerable time and energy to numerous organizations in the Tyler community. He served as governing board member of Mother Frances Hospital, president of the YMCA, member of the Shriners, director of the Tyler Chamber of Commerce., a member of the American Legion and Elks Lodge, board member and president for seven years of the East Texas Goodwill Industries, and president of Smith County Youth Foundation. He also was a director of the East Texas Symphony, board member of the Texas Chest Foundation, vice president of the East Texas Area Council Boy Scouts, Elder and Deacon of the First Presbyterian Church; board member of Texas Presbyterian Foundation, president of Tyler Catholic School Board, member and secretary of Texas State Board of Health Resources for twelve years and member of the volunteer council at Rusk State Hospital. He served on various boards of the University of Texas at Tyler, Tyler Junior College and Austin College. And the list goes on—for Royce's presence and contributions were evident in almost every worthy cause in his community.

Among his many recognitions include the Distinguished Alumnus Award from Texas A&M in 1973, the Commissioners Award from Texas Health & Mental Retardation Commission in 1972, Silver Beaver award from Boy Scouts in 1977, Rotary Club Award of Appreciation in 1970, Outstanding Service Award from National Association of Mental Health in 1974, Outstanding Humanitarian Award from Citizens of Rusk in 1975 and Engineer of the Year Award in 1981. In 1987 the Board of Regents at Texas A&M designated the "Royce E. Wisenbaker Engineering Research Center" building.

Royce is survived by his loving wife of 57 years, Clorinda "Petey" Wisenbaker; daughters Susan Spies, Paula Wisenant and Libby Wallace; son Royce, three sisters, a sister-in-law and eleven grandchildren.

Mr. Speaker, Royce Wisenbaker made such a difference in the lives of those who knew him. He was truly an outstanding American who leaves a remarkable legacy of accomplishments—and memories of a man devoted to his family, friends and community. It is an honor today to pay my last respects to this exemplary community leader, beloved husband and father, and friend—Royce E. Wisenbaker.

TRIBUTE TO STEPHEN E. KAVANAGH CHIEF OF AETNA HOSE, HOOK AND LADDER FIRE COMPANY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to honor and pay tribute to a leader in the Delaware firefighting community—the Chief of Aetna Hose, Hook and Ladder Company in Newark, Delaware, Stephen E. Kavanagh. Chief Kavanagh is a courageous and dedicated leader whose personal mission is to protect and save the lives of Delawareans. On behalf of myself and the citizens of the First State, I would like to honor Chief Kavanagh and congratulate him for being selected by the Congressional Fire Service Institute to appear in their annual "Protecting America" painting.

Stephen Kavanagh joined the Wilmington Manor Fire Company in 1970, establishing for himself a fine track record in advancing the quality of fire and emergency services throughout Delaware. In 1979, Steve moved to the Aetna Hose, Hook and Ladder Company of Newark, Delaware and it is here that he really made his name. Having held a number of officer positions in the Company, Steve Kavanagh was elected Chief in 1999. Aetna Hose, Hook and Fire Company is one of the busiest fire companies in the State and leading this company is both a challenging and rewarding task for Chief Kavanagh.

Chief Kavanagh has protected the residents of Newark, Delaware through good times and bad times. Throughout the tragic events of September 11th, he was a pillar of strength and a protector of safety in the community. He calmed the fears of Delawareans and stood resolute to help his state and his country in any way he could.

In addition to the time he spends as Chief of the Company, Steve is also a skilled craftsman who works on custom aircrafts for Dassault Falcon Jet at the New Castle County Airport. His family is of the upmost priority to him and he and his wife Theresa have two children and three grandchildren.

Chief Kavanagh makes daily sacrifices to serve others in our community and his selflessness and commitment to service will have a permanent place in Delaware's fire service history. The example Chief Kavanagh has set for firefighters throughout Delaware is one we hope all future firefighters will strive to emulate. His dedication to the protection of life is truly commendable. It is for all these reasons that he is being honored in the painting "Protecting America." As Delaware's Congressman, I would like to personally thank him for a difficult job well done.

PAYING TRIBUTE TO SHERIFF GARY CURE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an outstanding individual who has dedicated the past 24 years of his life to serving and protecting the citizens of Colorado. Sheriff Gary Cure of the Jackson County Sheriff's Office has, in his many years of service, courageously and dutifully served his community, his state and his country, and I am honored to pay tribute to him today in front of this body of Congress. After a long and successful career as one of Colorado's finest, Gary will be moving on to take a position with the County Sheriffs of Colorado in Denver. Though I look forward to his tenure in Denver, I, along with the many citizens of Jackson County, will sorely miss his hard work and dedication to the Jackson County Sheriff's Office.

Gary has been with the Jackson County Sheriff's Office since 1979, where he began his tenure as undersheriff before being elected sheriff in 1982—a post to which he has been reelected ever since. As sheriff, Gary has dedicated himself to the betterment of the community and the department, not only through his extraordinary law enforcement work, but also through his incredible ability to raise funds for much needed improvements. Prior to announcing his retirement, Gary announced that he had, at no cost, procured a $30,000 file management system for the Sheriff's Office. He was responsible for getting a loan that enabled the county to install a 911 system, and subsequently procured an additional $50,000 grant to upgrade the system. In addition, he was the chairman of the committee that obtained $3 million in grants to upgrade the County Courthouse.

As sheriff, Gary did a marvelous job of walking the fine-line that all law enforcement officers must walk; as both a member and protector of the community. He will be sorely missed by each and every person in the community, but his marvelous contributions will always remain.

Mr. Speaker, as a former law enforcement officer, I am well aware of the dangers and hazards our peace officers face today. Gary Cure has dedicated his life to serving and protecting his fellow citizens, working long hours, weekends, and holidays to guarantee their safety and their freedoms, and it is with a great deal of pride and respect that I bring his career to the attention of this body of Congress. Sheriff Gary Cure deserves the thanks of a grateful nation for all of his hard work, and I wish him all the best in his future endeavors.

EARTH DAY 2002

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. MORELLA. Mr. Speaker, I rise today to recognize and celebrate the thirty-second annual Earth Day, a global holiday that acknowledges and emphasizes the importance of a clean, healthy, and safe world. This spring observation provides the people of our nation and those across the globe the opportunity to renew our dedication to the protection and preservation of our environment. We have a shared responsibility to conserve our diverse natural resources, and Earth Day allows us to demonstrate our commitment to the environment.

While we have made significant progress since the first Earth Day celebration in 1970, we must continue our efforts to improve environmental quality. The Earth Day activities heighten awareness to the positive actions we can take to improve our environment, both locally and globally. The annual observance allows us the opportunity to applaud our progress, but more importantly, it allows us to renew our commitment to the continuing environmental challenges facing our planet.

I would like to pay special tribute to my many constituents who are so active in their support of environmental causes. This is especially true during this month, with activities and programs to mark Earth Day in Takoma Park, Glen Echo, Potomac, Silver Spring, and throughout the region.

I consider environmental protection to be a national priority. I pledge to work with my colleagues in Congress to ensure the preservation of our natural resources and the protection of the public health. And on Earth Week, as we also mark the birthday of William Shakespeare, we recall his words, "to nature none more bound." We must preserve and protect this treasure for future generations. This year, as we celebrate Earth Day 2002, let us reaffirm our commitment to a cleaner world.

PERSONAL EXPLANATION

HON. WILLIAM L. JENKINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. JENKINS. Mr. Speaker, I was not present to cast my votes on rollcall Nos. 93, 94, and 95 on April 16, 2002. Had I been present, I would have voted "aye" on rollcall 93, 94, and 95.

ON THE SITUATION IN THE MIDDLE EAST

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McNULTY. Mr. Speaker, as terrorist attacks and homicide bombings continue to ravage Israel and her citizens, I call on the Administration to express its unqualified support for the only democracy in the Middle East, and our most loyal supporter at the United Nations.

Two weeks ago, I stood with members of the United Jewish Federation of Northeastern New York and Rabbis from across the Capital Region of New York State, and recounted the horrible story of a March terrorist attack that ripped through the heart of an Albany family—by stealing the life of Avia Malka, a nine-month old infant visiting Netanya, Israel on the joyous occasion of a family wedding. An armed homicide bomber walked into the lobby of the family's hotel, began shooting, and then detonated his device. The infant Avia was shot in the head, struck by shrapnel, and killed. Her father remains in the hospital and still cannot walk.

Mr. Speaker, I am deeply disappointed with the contradictory statements made by our President in recent weeks, and I totally disagree with our vote at the U.N. asking Israel to retreat from its pursuit of Palestinian terrorists. For the President to embrace such a policy is completely contradictory to the principles of our own international war against terrorism.

In 1947, the United Nations General Assembly recommended partitioning the British mandate called Palestine into two states, a 5,500 square-mile Jewish state, and a 4,500 square-mile Arab state, and a "corpus separatum" international zone around the holy city of Jerusalem.

Jews accepted the partition plan but the Arabs did not. Israel unilaterally declared its independence in May 1948, and the Arab states attacked the new state. Therefore, the Palestinians could have had their own state in 1947, but rejected it.

In 2000, former Israeli Prime Minister Barak offered a peace agreement, which included not only further land transfers, but also nearly all that Chairman Arafat requested—and Arafat and the Palestinians rejected that offer, too.

In addition, the first three wars against Israel (1948, 1956, and 1967) all occurred when the West Bank was in Arab hands. On January 1, 1965, Fatah, the main branch of Arafat's organization, launched the first terrorist attack on Israel—all within the 1967 borders.

Last year, Faisal Husseini, a "moderate" within Arafat's leadership, offered the following response when asked whether the Palestinian goal is still the elimination of the State of Israel: "If you are asking me as a Pan-Arab nationalist what are the Palestinian borders . . . I will immediately reply, 'From the river Jordan to the Mediterranean sea.'"

Mr. Speaker, arguing that 'returning' these lands would ensure peace is simply ignoring history!

Israeli citizens have lived with terrorism since the founding of their country in 1948, and have had to fight five wars just to survive. It is past time for all civilized countries to support the right of Israel to exist, and to denounce in unambiguous terms the terrorists who block the road toward peace in the region.

PAYING TRIBUTE TO ELIZABETH MOORE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. MCINNIS. Mr. Speaker, it is with profound sadness that I pay tribute today to Elizabeth Moore, an incredible woman who recently passed away, but whose dedication to the people and animals in her community was both extraordinary and inspirational. Elizabeth selflessly gave her time and energy to her community through her intense love of all living creatures, and was a woman of unquestioned integrity and of unparalleled morality. She will be sorely missed by each and every person whose life she touched, and as her family mourns her loss, I believe it is appropriate to remember Elizabeth and pay tribute to her for her incredible contributions to her city, and her state.

Elizabeth and her husband John first came to Colorado's San Luis Valley in 1995 after riding on the Cumbres & Toltec Scenic Railroad. They decided to make the beautiful valley their home, and immediately embarked upon a mission to make it a better place for all to live—even the animals. After arriving in the San Luis Valley, Elizabeth served as the President of the Humane League, dedicating her time to organizing fundraisers for spay and neuter clinics and finding homes for stray cats and dogs. She had a strong conviction that the best way to help the plight of animals in the community was to control the population by spaying and neutering. Her efforts were critical in procuring funds from the Max Fund to assist with low-cost spay/neuter clinics in the community. In addition, she loved the outdoors, and had climbed most of Colorado's highest peaks, inspiring her husband to take up the sport as well. Elizabeth's extraordinary selflessness and dedication to all living things will be sorely missed by everyone that knew her, and by all that benefited from her incredible deeds.

Mr. Speaker, we are all terribly saddened by the loss of Elizabeth Moore, but take comfort in the knowledge that our grief is overshadowed only by the legacy of courage, selflessness and love that she left with all of us. Elizabeth Moore's life is the very embodiment of all that makes this country great, and I am deeply honored to be able to bring her life to the attention of this body of Congress.

INTRODUCTION OF DUTY REDUCTION AND SUSPENSION LEGISLATION

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. CASTLE. Mr. Speaker, I rise today to introduce several duty reduction and suspension bills for colorants used in ink-jet printers, in addition to materials used in the production of environmentally sensitive herbicides and insecticides that improve the quality of our lives.

These duty suspension bills lower the cost of producing these products thereby lowering the cost to consumers and helping U.S. industries compete in the global marketplace. When American companies make the active ingredients for these colorants and chemicals, there is a proper role for duties to exist. However, when the active ingredients are only made by foreign companies, we needlessly increase product costs for American consumers by imposing duties on their importation. By introducing these bills, I am triggering a careful review of these proposals by the House Ways and Means Committee and the International Trade Commission to make sure there are no domestic producers of these active ingredients so no U.S. jobs will be negatively affected. In fact, these duty suspensions will make U.S. products more competitive, thus creating jobs in the U.S.

Mr. Speaker, let me take this opportunity to highlight the beneficial uses of the final products these chemicals will produce. NMSDA is used to produce a herbicide for broadleaf weed control in corn. This environmentally sound herbicide is within the margins of safety to mammalian, avian, and aquatic organisms. R118118 Salt is used to produce a postemergence soybean herbicide. Postemergence herbicides have the advantage of low application rates. The herbicide is only needed if weeds emerge around the sugar beets. Many other herbicides must be applied ahead of time to prevent weeds from developing regardless of whether they would have emerged naturally, needlessly introducing toxins into the environment. Thiamethoxam Technical is used in production of a neonicotinoid insecticide that targets "sucking and chewing pests," that are harder to target, without causing harm to the crops. Prodiamine Technical is used in production of an environmentally sound herbicide used in vegetation management control. Finally, Flauzinam 500 F formulated product is used to control plant diseases on peanuts and potatoes. It has an environmentally sound profile that is particularly well suited for resistance management programs.

The ink-jet printer colorants are beneficial to the American consumer. These colorants are specially formulated for enhanced quality, specially designed characteristics include improved wet-fastness on plain paper, improved opearability, higher chroma than the current industry standard and high humid-fastness to reduce bleed and hue change. These colorants are widely used in the small and home office settings, as well as in photorealistic printing. It is essential we give the America consumers both choice and quality.

Duty suspension bills often pass with universal bipartisan support because they are common sense for consumers, for the environment, and for enhancing the competitiveness of our domestic industries. I urge support for these proposals after the appropriate committees and agencies have thoroughly vetted these measures.

HONORING THE ROCKVILLE SENIOR CENTER

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. MORELLA. Mr. Speaker, I rise today to recognize and honor the 20th anniversary of the Rockville Senior Center. For two decades, the Rockville Senior Center has created opportunities for mature adults in Rockville, MD, to live healthy, happy, active lives.

Serving more than 1,700 members, the Rockville Senior Center offers opportunities for seniors to achieve independence and self-sufficiency through a network of education, information programs, and active participation. A wide variety of classes and recreational activities enrich and support the lives of the membership. In addition, a number of important social services are provided, such as health clinics and health insurance counseling.

The vibrant community of the Rockville Senior Center is the focal point for many programs, activities, and services. The organization continues to offer a full complement of services to meet the needs of senior adults. In many ways, the Rockville Senior Center is a second home and a second family to many of these seniors.

I am particularly proud to recognize the 32 members who first joined the nurturing community that is the Rockville Senior Center at the very beginning, 20 years ago. They have seen many changes, but one thing has not changed in all these years—the commitment and the level of service provided to the membership.

So, Mr. Speaker, I join with the entire community in offering my best wishes and congratulations to the Rockville Senior Center on this considerable milestone.

COMMEMORATING SAM L. ERVIN, HEALTHCARE PIONEER

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. HORN. Mr. Speaker, I rise today to recognize the long and distinguished career of Sam L. Ervin, a pioneer in the development of innovative and cost effective programs that enhance the quality of life for older and disabled adults.

Mr. Ervin was the founding executive office of the original Senior Care Action Network

(SCAN), a social health maintenance organization in Long Beach, CA. SCAN was selected by the then Health Care Financing Administration in 1982 to be one of four demonstration sites for the Social HMO program. The Social HMO expands comprehensive HMO benefits to include community-based long-term care and some nursing home care.

Today, he is the chairman and chief executive officer of SCAN, serving more than 50,000 members in four southern California counties. Since its inception, SCAN has made a unique and significant contribution to seniors' ability to remain healthy, independent and in control of where they live and how they live.

I have introduced H.R. 2953, the Coordinated Community Care Act of 2001 to make Social HMOs a permanent part of the Medicare + Choice program. I am proud to do so and to recognize Sam Ervin for his contributions to the improved quality of life for thousands of seniors.

PAYING TRIBUTE TO MAE SCHULER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor a woman whose passion for life and whose incredible human spirit is an inspiration to us all. Mae Schuler, a Grand Junction, Colorado resident, recently passed an impressive milestone, celebrating her one-hundredth birthday with a gathering of her friends and family. I am truly honored to be able to bring the life of such a strong and extraordinary woman to the attention of this body of Congress and this nation.

Mae was born the youngest of eight children on March 7, 1902 on a farm in Ontario, Canada. At the age of nineteen, she moved to Detroit, where her sister lived, and met her husband Clarence. While living in Detroit, Clarence went to work selling cars, while Mae raised their baby girl, Jeanne. They survived the Depression by scraping by on the wages that Clarence was able to earn at the local gas station, since people were unable to afford to buy new cars. After Clarence retired in 1968, the couple moved to Palm Beach, Florida, where Mae remained active in the church, participated in a number of crafts groups and grew to love shuffleboard. Seven years and one day after moving to Florida, Clarence passed away peacefully in his sleep. Mae made the best she could of it, choosing to go on with her life and live it with the same vigor and energy that she had always lived it.

After living in Florida for another 30 years, Mae moved to Grand Junction in 1998 in order to be closer to her daughter, Jeanne. At 100 years of age, Mae is still going strong. As chronicled in her local newspaper, the Grand Junction Sentinel, she is exceptionally active, both mentally and physically, and still enjoys life to the fullest. She takes time to read to those who can't see as well, knits caps and washcloths for friends, bakes cookies for those who are sick, types personal notes on her old Smith-Corona typewriter, and most importantly, loves to play bingo. She is truly a remarkable woman, who has lived quite a remarkable life.

Mr. Speaker, it is with great pleasure that I bring to the attention of this body of Congress, the life and spirit of such an extraordinary woman, who has always managed to brighten and invigorate the lives of those around her. Mae Schuler is truly an inspiration to all of us, and I, along with the many people whose lives she has touched, am honored to recognize her tremendous accomplishment in reaching her one-hundredth birthday, and more importantly, her passion for life and indomitable human spirit.

PERSONAL EXPLANATION

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. FOLEY. Mr. Speaker, I wish to inform you that yesterday I inadvertently misvoted on rollcall No. 97 on final passage of H.R. 476, the Child Custody Protection Act. I have supported this legislation in the past and continue to do so and my intention was to vote in support of it yesterday. I did not realize until after the voting had closed that I had mistakenly voted otherwise. I regret any confusion this may have caused and want the RECORD to reflect my support for H.R. 476.

INTRODUCING LEGISLATION ON PULMONARY HYPERTENSION

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. BRADY of Texas. Mr. Speaker, I am pleased today to introduce a concurrent resolution in the House aimed at increasing awareness of the disease pulmonary hypertension. PH is a rare disorder of the lung in which the pressure in the pulmonary artery (the blood vessel that leads from the heart to the lungs) and the hundreds of tiny blood vessels that branch off from it rises above normal levels and may become life threatening.

Symptoms of pulmonary hypertension include shortness of breath with minimal exertion, fatigue, chest pain, dizzy spells and fainting. When PH occurs in the absence of a known cause, it is referred to as primary pulmonary hypertension (PPH). This term should not be construed to mean that because it has a single name it is a single disease. There are likely many unknown causes of PPH.

Secondary pulmonary hypertension (SPH) means the cause of the disease is known. Common causes of SPH are the breathing disorders emphysema and bronchitis. Other less frequent causes are scleroderma, CREST syndrome and systemic lupus. In addition, the use of diet drugs can lead to the disease.

Unfortunately, PH is frequently misdiagnosed and often progresses to late stage by the time it is detected. Although PH is chronic and incurable with a poor survival rate, new treatments are providing a significantly improved quality of life for patients. Recent data indicates that the length of survival is continuing to improve, with some patients able to manage the disorder for 20 years or longer.

A close friend and constituent of mine, Mr. Jack Stibbs, has a daughter who is battling this difficult disease. Emily Stibbs has touched many people with her courage and strength at such a young age. I am pleased to introduce this resolution today to raise awareness in the House and throughout the country about PH. The resolution highlights the need for increased federal investments in biomedical research, and public and professional awareness programs focused on the disease. I encourage my colleagues to join me in the fight against pulmonary hypertension by cosponsoring this resolution.

CONGRATULATING THE TOWN OF WINDSOR, VIRGINIA, ON THEIR CENTENNIAL CELEBRATION

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. FORBES. Mr. Speaker, I rise today to congratulate the town of Windsor in Isle of Wight County, in the Commonwealth of Virginia, which is celebrating its centennial this year.

Originally discovered in the 17th Century by early settlers, Windsor served as an important route for mail and trade throughout America's early colonial days. One cannot separate Windsor's history from America's history.

On April 11, 1902, Windsor was granted its charter from the Virginia General Assembly. Since then, Windsor has grown with the times while never forgetting its rich history and small town charm.

Today, Windsor, Virginia, is a culturally and economically diverse community. With its status as one of the best places to live in Virginia and continued high standard of living and education, Windsor is a community that residents can be proud to call home.

Mr. Speaker, I urge you and all of my colleagues to join me in congratulating Windsor during its centennial year as the citizens of Windsor begin an exciting new century.

PAYING TRIBUTE TO DR. RONALD ROBINSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Dr. Ronald Robinson and thank him for his extraordinary contributions to the University of Southern Colorado, his alma mater, and to the petroleum-engineering field, to which he has contributed so much. Since graduating from the University of Southern Colorado, Dr. Robinson has become one of the preeminent thinkers and innovators in his field, advancing and overseeing technologies that contribute to making each and every one of our lives better. His remarkable accomplishments are surpassed only by the level of integrity and honesty with which he has conducted himself each and every day, a trait we have come to expect from graduates of the University of Southern Colorado, but one that Dr. Robinson embodies so well. As we celebrate his tremendous accomplishment of receiving the Alumni Achievement Award, let it be known that I, along with the people of Colorado and this nation, applaud his efforts, and are eternally grateful for all that he has accomplished in his distinguished career.

Always the consummate academic, Dr. Robinson graduated from Southern Colorado State College (now the University of Southern Colorado) in 1968, with a degree in math and physics, and then went on to earn his masters in physics from Baylor University, and finally his doctoral degree in petroleum engineering from Texas A&M University. After earning his doctoral degree, Dr. Robinson embarked upon an impressive career in the petroleum engineering industry, emerging time and again as a leader and innovator in the field. In 1996, he was named President of Texaco Technology, where he was responsible for all of Texaco's research, development, engineering, information technology and technical applications throughout the world. While at Texaco, he managed a total operating budget of over $450 million a year, as well as an investment portfolio of almost $500 million.

As a testament to his expertise and intellect, in 2001, Dr. Robinson became professor and department head of the Albert B. Stevens Endowed Chair in the Harold Vance Department of Petroleum Engineering at Texas A&M University. He was recently named Chairman of the Board of Verdisys, a provider of satellite broadband infrastructure for energy and rural enterprises, and is a director of the Global Petroleum Research Institute and the Network of Excellence in Training. In addition, he is the Chairman, CEO and President of UniPure, Corp., an energy company that develops process technologies for the oil industry. Perhaps most importantly, he has three children, Kevin, Kyle and Kurt, with his wife Bonnie Lynn Martin. –

Mr. Speaker, it is clear that Dr. Ronald Robinson is a man of unparalleled talent, dedication, and intellect, who has, throughout his career, reached extraordinary heights and achieved incredible things. He has proven himself to be among the best in his field, and it is a great honor to be able to bring his many accomplishments to the attention of this body of Congress. It is my privilege to extend to him my sincere congratulations on receiving the Alumni Achievement Award from the University of Southern Colorado, and wish him all the best in his multitude of endeavors.

RESPECT NATIVE AMERICAN SACRED SITES

HON. BRAD CARSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. CARSON of Oklahoma. Mr. Speaker, Native American sacred sites usually don't have white-washed siding, a high steeple, or a loud bell. Often they are part of the world around us—a mountain, valley, river, or even a tree but they deserve to be respected and protected as much as any traditional church.

Native Americans have always respected and honored the land, water, and air from which we receive so much. Oral history passed from generation to generation will explain to a tribe where they came from and the journey taken to arrive.

Across the country, Native American sacred sites are being threatened with destruction and few options exist to halt the damage. Over the years Congress has enacted laws to "consult" with Indian tribes about sacred areas, and to "accommodate" Indian religious ceremonies.

The problem is that we have thousands of sacred sites on public lands all across this nation and no firm process to disallow certain activities that will harm or destroy the site. We need to find a way to protect the sacred sites while permitting needed growth and energy development to continue. I know we can find the right balance.

RECOGNIZING THE ACHIEVEMENTS OF NALEO ON ITS 25TH ANNIVERSARY

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. SOLIS. Mr. Speaker, I rise today to honor the National Association of Latino Elected and Appointed Officials (NALEO) as it celebrates its 25th year of working towards strengthening the participation of all Latinos in our great democracy.

Founded in 1976, NALEO was established as a non-profit, non-partisan membership organization of the nation's Latino elected and appointed officials. Later in 1981, NALEO Education Fund was instituted to politically empower the greater Latino community. Because of such efforts, NALEO has significantly contributed to the sizeable increase of Latino elected officials over the past couple decades. Today, NALEO is well recognized as the leading nationwide organization of Latino political empowerment.

I especially applaud the efforts of the NALEO Education Fund, which conducts a series of programs geared towards integrating Latino immigrants into American society, developing future leaders among Latino youth, providing assistance and training to the nation's Latino elected and appointed officials, and conducting research on issues important to the Latino community.

I would like to congratulate Arturo Vargas, Executive Director of NALEO for his excellent leadership. I have long supported NALEO and the NALEO Education Fund and offer my sincerest congratulations on a very successful 25 years.

CONGRATULATING LOUISIANA'S CRAIG PERKS ON PGA PLAYERS CHAMPIONSHIP WIN

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. JOHN. Mr. Speaker, I rise today to commend Craig Perks, 2002 winner of the PGA Players Championship. Craig and his family are residents of my congressional district in Southwest Louisiana and our community takes great pride in his outstanding accomplishments.

Craig is living proof that hard work and perseverance do bring reward. He has given 110 percent effort to his pursuits since coming to this country from Palmerston North, New Zealand in 1985. His adopted home quickly became South Louisiana, where he and his wife Maureen—a Broussard, Louisiana native—live with their two young children.

An All-American golfer at the University of Louisiana at Lafayette, Craig has continued to give back to the Lafayette community after graduation. As an assistant professional at Le Triomphe Golf Club in Lafayette, he worked on his game while coordinating tournaments and instructing beginning golfers. Now, as a professional in the spotlight, he continues to set an example of sportsmanship and make his chosen home proud.

Craig is an inspiration to golfers not only in my district, but around the world. From Palmerston North, New Zealand to South Louisiana, his efforts have succeeded in promoting and opening the doors of opportunity for "Cajun Golfers" everywhere. I congratulate Craig on his first PGA Tour win. I have no doubt that South Louisiana will continue to follow the rise of our "adopted son" and applaud his efforts in the years to come.

PAYING TRIBUTE DENNIS FLORES-

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002—

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize the leadership of a member of the Pueblo community who has had an immeasurable effect on the lives of those he has touched. Dennis Flores has spent a lifetime committed to serving his country and the community of Pueblo, Colorado. To reward his efforts, his alma mater, the University of Southern Colorado, has recently bestowed upon him the high honor of Outstanding Alumnus. As Dennis accepts this honor, I would like to commend him on the diligence and commitment he has shown to his community and fellow Coloradans to achieve this recognition. He is a generous soul and I am honored to pay tribute to him before this body of Congress, and this nation.

Before Dennis entered college, he served this nation as a member of the U.S. Army Security Agency. With the rating of a top-secret crypto clearance, he served with distinction in Vietnam, receiving both Vietnam Campaign Medals for his outstanding service. After returning to Pueblo, he enrolled at the University of Southern Colorado and graduated with a degree in business management. It was at this time he began to work for SCA Insurance as an insurance agent trainee, and amazingly has continued with the same organization for over thirty years. Today, under his leadership as Senior Vice President and principal, the company serves as a model agency and business in the community.

Desiring to further serve his community, Dennis volunteers much of his time and efforts to improving the lives of his fellow residents. He has been a pioneer in developing programs to enhance the Latino community and has served as President of the Latino Chamber of Commerce. Dennis has been instrumental in establishing the Pueblo Hispanic Education Foundation to help Latino students afford education and is credited with being an instrumental part in the creation of the El Pueblo Inter-Development Corporation, an innovative loan program created for small businesses. As a result of his dedicated leadership, Dennis has been elected to and served on the board of the Pueblo School District for over eight years. With his help and dedication to improving education, District 60 has been nationally recognized in reading reform, educational assessment, and accountability.

Mr. Speaker, it is an incredible honor to represent such a distinguished man as Dennis Flores and be able to bring his achievements to the attention of this body of Congress, and this nation. His generosity, success, and service to his fellow Coloradans serves as a model example of giving back to the community and I would again like to thank him for all that he has done for Pueblo and Colorado. Thanks for all your efforts Dennis and good luck in your future endeavors.

PERSONAL EXPLANATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. JONES of Ohio. Mr. Speaker, I was unable to return to Congress on Tuesday, April 16, 2002, Wednesday, April 17, 2002, and Thursday, April 18, 2002 due to a death in my family. I request an excused absence for these days. Had I been present, the record would reflect that I would have voted:

On rollcall No. 96, H.R. 476, Motion to recommit with instructions, "Yea".

On rollcall No. 97, H.R. 476, on passage, "No".

On rollcall No. 98, on approving the journal, "Yea".

5TH ANNIVERSARY OF MING PAO DAILY NEWS

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. VELÁZQUEZ. Mr. Speaker, I am honored to rise today to commemorate the 5th Anniversary of the Ming Pao Daily News, a source of information to the Chinatown community in New York's 12th district and to Chinese Americans in major cities across the country.

Ming Pao Daily News provided vital coverage of the September 11 terrorist attacks, the aftermath of which deeply affected Chinatown. In addition, the newspaper covered other news of interest to the Chinese American community, including the democratic elections in Taiwan last December.

Ming Pao not only produces news of interest, it is thoroughly committed to improving the community. Through charity fundraising, educational seminars, and sponsorships of cultural events, the newspaper is dedicated to showcasing the best the community has to offer.

I am pleased to mark Ming Pao's five years this month. I wish the organization the best of luck and success for many more years.

Thank you, Mr. Speaker.

ANTARCTIC ICE SHELF COLLAPSES INTO SEA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. MARKEY. Mr. Speaker, on March 19, scientists reported the collapse of a 12,000 year old ice sheet in Antarctica. A piece of ice the size of Rhode Island breaking off of Antarctica is amazing enough but the realization that it took only 35 days—a nanosecond in glacial time—for the disintegration of something of this magnitude should give us pause. Whether or not the collapse is related to global warming, this event should be a cautionary lesson to us all. We tend to look back on geologic history and see gradual trends but this reflects more the averaging of time than the reality of past conditions. Rapid climatic changes have occurred in the past; we should expect them in the future. We may have just witnessed an event that scientists of the future will look back on as the first sign of a rapid warming period of the 21st Century. As we contemplate the demise of the Larsen B ice sheet, we should also consider our assumptions about our ability to adapt to climate change. Gradual warming might allow us to adjust but we have no guarantee that Mother Nature will allow us the luxury of time.

[From the Washington Post, Mar. 20, 2002]

ANTARCTIC ICE SHELF COLLAPSES INTO SEA

(By Eric Pianin)

An Antarctic ice shelf the size of Rhode Island recently shattered and collapsed into the sea after an unusual warming period, stunning some scientists who said they had never seen such a large loss of ice mass in the remote Antarctic Peninsula.

The disintegration of the ice shelf—1,260 square miles in area and 650 feet thick—was most alarming to some because of the extraordinary rapidity of the collapse. The shelf is believed to have existed for as long as 12,000 years before regional temperatures began to rise, yet it disintegrated literally before scientists' eyes over a 35-day period that began Jan. 31.

"We knew that it would collapse eventually, but the speed of it is staggering," said David Vaughan, a glaciologist with the British Antarctic Survey, which announced the event yesterday in London and released vivid video images of the breakup.

Researchers and scientists who study the Antarctic Peninsula cautioned that there was little evidence to directly link the ice shelf collapse to the effects of global warming, which is induced by carbon dioxide and other man-made "greenhouse" gases. Rather, they are blaming a localized warming period that allowed melt water to seep into cracks and trigger massive fracturing of the ice when temperatures dropped.

"What we see is climate warming regionally," said Ted Scambos, a researcher with the National Snow and Ice Data Center at the University of Colorado in Boulder. "Ice shelves that have been there for centuries, maybe thousands of years, are responding to climate they haven't seen in the past. Very quickly they shatter."

But some scientists, including Princeton University geoscience professor Michael Oppenheimer, believe that more sophisticated and localized global warming models eventually will show a direct relationship between Earth's rising temperatures and the vanishing ice shelves.

"Ascribing a temperature trend in a small region like that to the broader global trend is difficult," said Oppenheimer, one of the hundreds of scientists who helped research a seminal United Nations-sponsored report on global warming. "Nevertheless, the collapse of the ice shelf in my opinion can be partially ascribed to human-induced climate change."

Experts said the loss of the ice shelf will not result in a rise in sea level because the ice was already floating. One of the most significant predicted results of global warming is a rise in sea level as ice on land melts.

Ice shelves are thick plates, fed by glaciers, that float in the ocean around much of Antarctica. In recent months, with the polar summer just beginning, temperatures were already creeping above freezing in the peninsula region. Scientists said there has also been a 50-year warming trend in the peninsula, averaging approximately 0.5 degrees Celsius per decade, which is considered a sensitive, early indicator of global climate change.

But the overall climate picture in the peninsula, nearest to southern Argentina and Chile, is complicated and hard to generalize. Glaciers elsewhere on the continent are both thickening and thinning as temperatures show conflicting climate trends. In January, for example, researcher Peter Doran said scientists working in the McMurdo Dry Valleys of eastern Antarctica have found temperatures dropping since 1986.

The Larsen B ice shelf, as it was called, located on the eastern side of the peninsula, collapsed into a plume of small icebergs and fragments. The amount of ice released in a month's time was enough to fill 29 trillion five-pound bags. The collapse was first detected on satellite images this month by the

National Snow and Ice Data Center. A British research vessel, the RRS James Clark Ross, was in the area just as the event was occurring and provided vivid images of the vanishing ice from the ocean's surface.

It was the largest single event in a series of retreats by ice shelves in the peninsula over the past three decades. "We're all simply astounded by the uniqueness of the event," said Christina Hulbe, a geology professor at Portland State University in Oregon who collaborated on research into Antarctica's breaking ice.

Some environmental groups seized on the breakup to renew their plea to President Bush to take more aggressive action to reduce emissions that contribute to global warming. Bush has disavowed the Kyoto global warming treaty concluded last November by Japan, European countries and Russia, which would force deep cuts in carbon dioxide emissions. Instead he recently announced proposals to encourage industry to reduce emissions voluntarily.

"This stunning development warns of the dangers of governments doing too little to halt global warming," said Lara Hansen, a climate scientist for the World Wildlife Fund. "The visibility and sheer scale of what is happening in Antarctica should provide a wake-up call to policymakers worldwide."

PAYING TRIBUTE TO RITA BARRERAS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the efforts of a woman who has devoted her life's work to improving the lives of children, the elderly, and the disabled in the State of Colorado. Rita Barreras has taken tremendous strides in the social services field and has proven herself a dedicated leader in her profession. For her service to others, she was recently honored by her alma mater, the University of Southern Colorado, as Outstanding Alumnus. It is my honor to bring the accomplishments of such an astounding provider of care and service before this body of Congress, and this nation.

Rita is currently the Director of the Division of Aging and Adult Services for the Colorado Department of Human Services in Denver. In this position, she provides the leadership and vision for sixty-three social service county departments. After twenty-five years in the field, Rita is known as a respected administrator and dedicated care provider. She is credited with many innovative policies that have changed the lives of the elderly and aging, as well as their families throughout Colorado. A 1974 graduate of the University of Southern Colorado, Rita attributes much of her success and her approach to her profession to her experience and education at USC.

Rita has long been an active member of the community, and has gone to great lengths to improve the lives of her fellow Coloradans. She serves as a Board Member of Metro Denver Hospice, the Denver Foundation, and the Colorado Hispana Leadership Council. She also serves as an advocate for the United Way, the Metro Denver Homeless Initiative, and the American Diabetes Association. As a member and leader of these groups, Rita has been a driving force in developing and achieving worthy and often difficult goals for the organizations.

Through her professional success and her unfaltering efforts to help others, Rita has become a model citizen of the Hispanic community and the broader Colorado community. She has been well rewarded over the years, most notably in 1993 when she was a nominee for the Denver YWCA's Women's Achievement Award, where she was invited to attend and organize the Colorado Delegation for the White House Conference on Aging. In addition, in 1995, the AARP honored Rita with the Partnership Award for her successes in providing care to the aging.

Mr. Speaker, it is a great honor today to bring the accomplishments of Rita Barreras before this body of Congress, and this nation. Rita embodies the extraordinary spirit of service and dedication in this country, and it brings me great pride and joy to bring her efforts to your attention today. Thank you for all of your efforts in improving our lives and community, Rita. Good luck, and congratulations on your recent achievement.

TRIBUTE TO MRS. HELEN FREDERICK

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mrs. Helen Frederick of Florence, South Carolina. Retiring after thirty years of service, Mrs. Frederick is being recognized for the contributions she has made to the higher education community in the State of South Carolina.

Mrs. Frederick began her career in 1957 as Secretary to the Registrar at Lander University. In 1960, she began working part-time in order to raise her children. Over the next thirteen years, she divided her time between family and career; and in 1973 she rejoined Lander's full-time staff. Less than ten years later, in 1981, Mrs. Frederick was promoted to Assistant to the President and Director of Alumni Relations. In addition to the duties she encountered with these new positions, Mrs. Frederick also coordinated the activities of the thirty-six member Lander Board of Visitors.

In 1984, Mrs. Frederick moved to Florence to join the staff of Florence-Darlington Technical College (FDTC) as Executive Assistant to the President. She served FDTC's Commissioners with an unbridled enthusiasm that secured her tenure through the leadership of five different Presidents of FDTC. Mrs. Frederick's dedication earned her the title of Director of External Relations in 1994. With this promotion she had oversight over all of FDTC's Public Relations, Marketing, FDTC Education Foundation, Alumni Relations, and Print Shop. After these many years of service, Mrs. Frederick is entering a well-deserved retirement, and looks forward to spending more time with her husband and their five grandchildren.

Mr. Speaker, I ask that you and my colleagues join me in honoring Mrs. Helen Frederick, an outstanding South Carolinian whose dedication to helping those in higher education has touched the lives of countless students and a number of administrative staffs. I congratulate her on her retirement and wish her good luck and Godspeed.

INTRODUCTION OF H. RES. __

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. RIVERS. Mr. Speaker, I rise today in support of H. Res. __, commending the NephCure Foundation headquartered in Ann Arbor, Michigan for establishing National Kidney Cure Week in the first week of October and encouraging the Secretary of Health and Human Services to make more information on kidney diseases available to the public.

Today, chronic kidney disease affects 2.5 million Americans. The U.S. Surgeon General has designated kidney disease as a focus area of the Healthy People 2010 campaign. The incidence of glomerular diseases, which attack the filtering mechanisms of the kidney, is increasing rapidly in the US. These diseases typically strike children from sixteen months to four years of age and often are difficult to diagnosis and treat. In their most severe form, glomerular diseases can lead to end stage renal disease—near or complete kidney failure requiring dialysis treatments or even kidney transplants. Sadly, even after a patient finds a donor, undergoes surgery, and receives a transplant, the disease can recur.

Glomerular diseases impact more than the patients and families directly affected—the economic costs associated with care, treatment, and loss of productivity are staggering. In order to raise public awareness and improve diagnosis and treatment of glomerular diseases, I am introducing this resolution commending NephCure Foundation for designating the first week of October as National Kidney Cure Week and encouraging the Secretary of Health and Human Services to make more information available to the public concerning kidney diseases.

While treating kidney diseases effectively remains a challenge, there is potential for substantial scientific progress toward finding cures. Researchers at the National Institutes of Health are beginning clinical trials, with the goal of discovering new and innovative therapies for patients suffering from various kidney diseases.

National Kidney Cure Week activities will help develop public and private partnerships, encourage competency among health care providers, and promote health education and training. There are many national and regional organizations that will greatly contribute to and benefit from such partnerships: the NephCare Foundation, American Association of Kidney Patients, American Kidney Fund, American Society of Pediatric Nephrology, American Society of Nephrology, Association of Nephrology Nurses, the National Kidney Foundation, the PKD Foundation, and numerous other private foundations, universities, and hospitals.

Events held in connection with National Kidney Cure Week could lead to improved diagnosis, acute treatment, and disease management for Americans who are susceptible to kidney disease. The Secretary of Health and Human Services also could greatly improve awareness and treatment by strengthening kidney disease public education efforts. I am happy to support these efforts and to commend the NephCure Foundation for its leadership on this issue.

IN MEMORY OF EDITH DIVICINO DIFAZIO

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. ESHOO. Mr. Speaker, I rise to honor a very special woman, Edith DiVincino DiFazio, who passed away on Saturday, April 6, 2002. Edith was married to Pasquale (Pat) DiFazio for 53 years and they were the very proud parents of two children, Paul and Linda, and the ever loving grandparents of Michael and Allison Lech.

Mr. Speaker, Edith DiFazio was born and raised in New Britain, Connecticut and lived there her entire life. She made an indelible impact on the community she loved so much through her participation in local politics, her support of her husband in his business development, her community activism as well as the countless friendships she made and kept during her ninety years of life in New Britain.

Mr. Speaker, Edith was a woman who loved and was loved deeply in return by her family and her friends. She was in many ways a woman who was ahead of her time and she was a role model to everyone who knew her. Edith worked alongside her husband Pat who was the owner and president of Ames Construction Company. Among the Company's many projects are Pulaski Middle School, Chamberlain School, Knapp Village Apartments and Schaller Oldsmobile. With a constant smile and engaging personality, Edith found enjoyment in all aspects of life. She learned the pleasure of raising plants and flowers from working in her father's greenhouse, Davis Florist Company in New Britain. She was a gourmet cook and her Italian cooking was considered to be the gold standard of cuisine and she served her community as a volunteer at the New Britain Memorial Hospital and as a member of the Greater Italian Junior League.

Mr. Speaker, if Edith DiFazio were asked what the greatest accomplishments of her life were, she would say her two children Linda and Paul. For almost half a century I have known and been part of the DiFazio family. Edith and Pat DiFazio were two of the most widely respected and loved members of our community. Edith was the core of her home and her family. She was as comfortable with U.S. Senators and Governors as she was with her pals at the senior center. Her dignity, her gracefulness, her kindness and her gentleness were her hallmarks. I have no doubt that as Pat welcomed her to heaven, so too did the angels because they wanted to add to their ranks.

Mr. Speaker, I ask all my colleagues in the House to join me in expressing our collective sympathy to Edith DiFazio's family and to give thanks for all she did throughout her life to make her community and our country better for human kind.

PAYING TRIBUTE TO JODY VOSS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Jody Voss and thank her for her extraordinary contributions to the Boys' and Girls' Club of Pueblo, Colorado. Her life-long dedication to both her job and the youth of Pueblo is matched only by the level of integrity and honesty with which she has conducted herself each and every day while at her post. She is known as a kind and caring soul with the utmost dedication and talent, and is known as a leader in her community. As Jody celebrates her recent milestone of twenty years with the organization, let it be known that I, along with each and every person with whom she has worked in Pueblo, are eternally grateful for all that she has accomplished in her many years of service.

Jody went to work for the Boys' and Girls' Club of Pueblo in 1982. As executive director, Jody, and the rest of her dedicated leadership, grew the organization from one center serving two-hundred fifty kids to seven centers involving over three thousand kids. For over twenty years, Jody has selflessly given her time, energy and unrelenting commitment to the youth of Pueblo, a milestone recently celebrated by the organization in early March. She is considered by many to be the backbone of the organization and the success the club enjoys today is a direct reflection of her diligence and commitment to our younger generations.

Mr. Speaker, it is clear that Jody Voss is a woman of unparalleled dedication and commitment to both her professional endeavors and the people of her community. It is her unrelenting passion for each and every thing she does, as well as her spirit of honesty and integrity with which she has always conducted herself, that I wish to bring before this body of Congress. She is a remarkable woman, who has achieved extraordinary things in her career and for her community. It is my privilege to extend to Jody Voss my congratulations on twenty years of faithful service and wish her the best in her future endeavors.

HONORING JEWELL FRANCES WELLS GOLDEN ON HER 90TH BIRTHDAY

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise today to offer a happy birthday to one of Northwest Florida's true matriarchs, Jewell Frances Wells Golden, who turned 90 years old on April 16, 2002.

The daughter of one of the Northwest Florida's pioneering families and a true Panhandle native, Mrs. Golden has used her years to inspire and help shape our community in numerous ways. As a wife of 66 years to the late Albert Golden, their many business ventures can be felt all along the Gulf Coast. From humble beginnings, the two embarked upon undertakings that included a number of banks, oil companies, and a local newspaper. Along with these endeavors, side-by side, Mr. and Mrs. Golden founded the Church of the Living God in 1977, where she is still a devoted member.

Mrs. Golden's influence reaches well beyond her business enterprises. Her impact earned her the 1970 "Personality of the South" and 1974 "Florida Mother of the Year" awards in recognition of her service to her community and state. Mrs. Golden was a delegate with the Florida Department of Agriculture with a mission to promote goodwill with other nations. She also served as director of Santa Rosa County's United Way from 1964–1965.

Mrs. Golden is adored by a family of 3 children, 11 living grandchildren, 20 living great (grandchildren, and a thankful community. Through her example, we have all learned that hard work, dedication, and strong values will lead to success and happiness.

On behalf of the United States Congress, I would like to wish this special woman the happiest of birthdays and many more to come. I offer my sincere thanks for all she has done for Northwest Florida.

PERSONAL EXPLANATION

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. PRYCE of Ohio. Mr. Speaker, I was regrettably absent the week of April 8, 2002, and on April 16 and 17, 2002. Consequently, I missed the following recorded votes. Had I been present, I would have voted "yea" on rollcall Nos. 80, 81, 82, 84, 85, 86, 87, 88, 89, 92, 93, 94, 95, 97, and 98, and "no" on rollcall Nos. 83, 90, 91, and 96.

CHILD CUSTODY PROTECTION ACT

SPEECH OF

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. RYUN of Kansas. Mr. Speaker, I rise today on behalf of the American family, and to express my support to the Child Custody Protection Act.

As elected officials, we have been entrusted with the great responsibility of protecting not only the rights of the individual, but also upholding and reinforcing the authority of the States in which they live. Before us is a bill that not only strengthens existing state laws, but also protects a very vulnerable group in today's society—pregnant teens.

A 1998 poll shows that 78 percent of Americans strongly disagreed with the transporting of a minor across state lines to obtain an abortion without her parents' knowledge. Our constituents have spoken, and it is our explicit responsibility to protect the rights of parents in the 43 States that have parental involvement statutes.

One specific example is the Hope Clinic in Granite City, IL, which brazenly cites Illinois' lack of required parental consent through radio ads in St. Louis, essentially supporting the circumvention of Missouri State laws. We must prevent clinics from luring in teenagers from States where parental consent is required.

If our genuine goal as Representatives is to improve the safety and well-being of the American public, then we must pass the Child Custody Protection Act.

FAIR CARE FOR KIDS ACT

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. WILSON. Mr. Speaker, each day an estimated 13 million children, including 6 million infants and toddlers, spend some part of their day being cared for someone other than their parents. Research shows that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, increased likelihood of long-term school success, and greater likelihood of long-term economic and social self-sufficiency. Childcare centers and family childcare homes need to provide care that promotes healthy development. Parents need to be able to go to work and have the piece of mind that their children are in safe, nurturing environments.

Childcare is costly. Many families cannot afford childcare. For families with young children and a monthly income under $1,200, the cost of childcare typically consumes 25 percent of their income.

On an average monthly basis, more than 1.8 million children, nationwide benefit from federal financial assistance for childcare through Temporary Assistance for Needy Families (TANF), Social Services Block Grant (SSBC), the Child Care and Development Block Grant (CCDBG) and USDA Child and Adult Care Food program. There are more children receiving federal childcare help through these programs than through Head Start. But, generally, the quality of care is much lower.

Reimbursement rates, which determine the maximum the State will reimburse a childcare provider for the care of a child who receives a federal subsidy, are too low to ensure that quality care is accessible to all families. Currently, in New Mexico day care providers are being reimbursed at lower rates than the current market rate, including licensed centers that provide infant care. As a result, many of the best childcare setting or even average ones, limit or do not accept children who are on assistance.

Low payment rates directly affect the kind of care children get and whether families can find quality childcare in their communities. In many instances, low payment rates force child care providers to cut corners in ways that lower the quality of care for children, including reducing number of staff, and eliminating staff training opportunities.

If day care providers are not reimbursed at or near the current market rate, then the lowest income children are forced to go to the most marginal settings. And in some states, parents or grandparents are prohibited from making up the difference between the subsidy and the fee for higher quality care.

Children in low quality childcare are more likely to have delayed reading and language skills. Parents need access to affordable, quality care for their children. Increased payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, provide salary increases and professional training, and maintain a safe and healthy environment.

That is why I am introducing the Fair Care for Kids Act. My bill would require that current market rates are paid to day care providers who receive federal funding. Market surveys, which identify market rates, must be current and that is why they must be updated annually.

This bill is a step in the right direction for helping our working parents. This bill is a step in the right direction to providing quality day care to our children.

TRIBUTE TO THE CROATIAN SONS LODGE NUMBER 170

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the Croatian Sons Lodge Number 170 of the Croatian Fraternal Union, on the festive occasion of its 95th Anniversary and Golden Member banquet, on Sunday, April 28, 2002.

This year, the Croatian Fraternal Union will hold this gala event at the Croatian Center in Merrillville, Indiana. Traditionally, the anniversary celebration entails a formal recognition of the Union's Golden Members, those who have achieved fifty years of membership. This year's honorees who have attained fifty years of membership include: William A. Bursich, Sally Cullen, Lynn Edward Evans, Steve Jack Grdina, Anastasia Kresich, Eugene Krukowski, Michael F. Luketic, Charles Peretin, Stefania Peretin, Dorothea Petrovich, Stephen Ratkay, Dennis Rivich, Frances Staresnick, Peter T. Sut, and Mary Ann Thews.

These loyal and dedicated individuals share this prestigious honor with over 300 additional Lodge members who have previously attained this important designation.

This memorable day will begin with a morning mass at Saint Joseph the Worker Catholic Church in Gary, Indiana, with the Reverend Father Stephen Loncar presiding. The festivities will be culturally enriched by the performance of several Croatian musical groups. The Hoosier Hrvati Adult Tamburitza Orchestra directed by Frank Jovanovich, the Croatian Glee Club "Preradovic," and the Croatian Strings Tamburitzans and Junior Dancers directed by Dennis Barunica will perform at this gala event. A formal dinner banquet will end the day's festivities.

Mr. Speaker, I urge you and my other distinguished colleagues to join me in commending Lodge President Betty Morgavan, and all the other members of the Croatian Fraternal Union Lodge Number 170, for their loyalty and radiant display of passion for their ethnicity. The Croatian community has played a key role in enriching the quality of life and culture of Northwest Indiana. It is my hope that this year will bring renewed hope and prosperity for all members of the Croatian community and their families. I am proud to represent these gifted residents of the First Congressional District of Indiana.

RICHARD HAIRE RETIRES FROM CORRALES ELEMENTARY

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. UDALL of New Mexico. Mr. Speaker, we all know that our schools will never be any better than the men and women who teach in them. I rise today to pay tribute to a remarkable teacher who has made Corrales Elementary one of the best in my home state of New Mexico.

Corrales has been truly fortunate to have someone of the talents and dedication of Mr. Haire within the community. It is an honor to be able to recognize him on this special occasion.

After serving as an exemplary elementary school teacher in New Mexico for more than 32 years, Richard Haire is retiring the chalk, and will end a career that will conclude with teaching a fifth grade class of children at Corrales Elementary for twenty-three consecutive years. I say he is retiring the chalk because I know that he will continue to contribute to the community in a variety of ways.

Mr. Haire graduated second in a class of 360 in 1965 from Commack High School in upstate New York, where his classmates voted him most likely to succeed. He graduated cum laude from the State University of New York with a BA in psychology, and then received his Ms in Education from Syracuse University.

In addition to teaching children, Mr. Haire was a mentor to scores of his colleagues. Indeed, he is a teacher's teacher. His greatest service to our community lies in his devotion as an educator to his students. He deserves the greatest praise both from the families of these young individuals, and from all those whose lives he has touched. His efforts are an invaluable investment in New Mexico's future and we are all truly blessed that we had such a dedicated professional in the classroom.

It is impossible to find a former student whose life has not been changed positively by Mr. Haire. Everyone can point to a turning point where his teaching caused each to embark upon a course of action. In his service to education, Mr. Haire embraced the principle that one person can make a difference, by leading by example, getting people involved, touching everything and everyone in the community.

Teachers like Richard Haire do make a difference. I believe so strongly in education. I know that as we battle the ills of our society—poverty and hopelessness—education is the great beacon and the great hope. I strongly believe that our public school system will continue to meet the challenges of the 21st century. The commitment Mr. Haire has made to children both in and out of the classroom continues to illustrate the power of a single person.

Mr. Speaker, in 1818, Thomas Jefferson said, "A system of general education, which shall reach every description of our citizens from the richest to the poorest, as it was the earliest, so will it be the latest of all the public concerns in which I shall permit myself to take an interest." This quotation embodies Richard Haire's career.

We will dearly miss his service at Corrales Elementary.

LEGISLATION TO AMEND THE NATIVE AMERICAN HOUSING LOAN PILOT PROGRAM

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce legislation which will amend the Native American Housing Loan Pilot Program by making spouses of qualified Native Americans, including American Samoans, Native Hawaiians, Native Alaskans and American Indians, eligible to obtain VA home loans.

While veterans living in most of our nation have been able to obtain home loans guaranteed by the federal government for decades, certain segments of our veteran population did not obtain this benefit until the 1990s. Many American Samoan, Native Hawaiian, Native Alaskans and Native American Indian veterans who lived on native lands were not eligible for home loans because, among other reasons, fee simple title to the land could not be acquired. Without clear title to the land, commercial banks would not make home loans and, without commercial loans, the Department of Veterans Affairs could not offer assistance to these veterans.

In 1992, Congress created a pilot program to address this problem. This program was created through §8 of P.L. 102-547 and is now called the Native American Housing Loan Pilot Program. The Native American Housing Loan Pilot Program provides VA direct housing loans to Native Americans who, because of where they live, are not eligible for the national VA home loan guarantee program. Pacific Islanders, Native Hawaiians, Native American Indians and Native Alaskans all benefit from this program.

For nine years, this program has been a tremendous success—hundreds of loans have been made and the default rate is very low. However, this direct loan program does not solve the housing problem for veterans married to American Samoans, Native Hawaiians, Native Alaskans and Native American Indians.

In American Samoa, for example, there are many non-Samoan veterans married to a Samoan spouse who are ineligible to obtain VA home loans. These non-Samoan veterans are surprised to find out first, that the national VA home loan program is not available to them, and second, that they are ineligible to participate in the Native American Housing Loan Pilot Program, which is operational in American Samoa.

The bill I introduce today will expand the eligibility of the program by making spouses of qualified American Samoans, Native Hawaiians, Native Alaskans and Native American Indians eligible to obtain VA home loans.

This would be a small adjustment to the current eligible population and would be made available only in those few areas in which the national VA home loan program has not been implemented.

I urge my colleagues to support this bill.

ISRAEL DESERVES THE RIGHT TO DEFEND HERSELF

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. SHOWS. Mr. Speaker, since September 11th, Americans have been living in a new age. Attacks on New York and Washington made us keenly aware of our vulnerability.

Never before had we been attacked so savagely so close to home. That is a day we will never forget.

Well, Mr. Speaker, now we all know what it must be like to be an Israeli, because this has been the pattern of THEIR lives, every day.

Israel has long lived under the shadow of terrorism. In the aftermath of 9-11, Americans need look no further than the people of Israel as a source of strength and courage.

Terrorists have no regard for innocent human life and have threatened innocent Israelis for years.

But in recent weeks these terrorists have escalated their bloody tactics and threaten ALL innocent Middle Easterners who just want to live in peace.

They have escalated their violence to a terrifying level that threatens regional stability and world peace.

Mr. Speaker, the whole world is watching and wondering and praying for peace in the Middle East and an end to this senseless slaughter.

Our President has stepped up to the plate and initiated negotiations towards that end.

That's all well and good, Mr. Speaker, but on the very day that Secretary of State Powell arrived in Israel to begin the process, yet another terrorist bomb blew a hole in the heart of peace itself.

And in spite of this we continue to insist that Israel pull its troops out of the West Bank! Mr. Speaker, we are asking Israel NOT to defend herself.

Mr. Speaker, how can we ask Israel to pull back—to stop defending itself—at the very time we are engaged in our own war against terrorism?

We are fighting in a country thousands of miles away, but Israel's enemies are in her own back yard. How can we tell Israel to back off, when the terrorists don't play by civilized rules?

Israel is a land that is holy to so many people throughout the world. Yet the terrorists have invaded the most sacred churches, shooting from its windows, and using nuns and clerics as human shields.

This is what Israel is up against, Mr. Speaker. Yassir Arafat either can not, will not, or does not want to, end the terrorist attacks against innocent Israelis.

Since September 11th, we Americans know very well what terrorists seek to do—to strike mortal fear within the fabric of everyday life, to destroy free society from within.

Mr. Speaker, we cannot expect Israel—or any free country—to cease defending itself against this kind of threat.

Just as we are standing up to Osama Bin Laden and his forces of evil, Israel must stand up against the forces of evil that would bring her down.

SOCIAL SECURITY CERTIFICATES

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. RUSH. Mr. Speaker, on Feb 15, 2002, House Majority Leader DICK ARMEY circulated a Memorandum where he called on Congress to push Social Security Privatization in the upcoming legislative session. I agree that addressing the long-term solvency of the Social Security program deserves our utmost attention in the upcoming legislative session. However, the recommendation that we privatize Social Security does nothing to strengthen the financial solvency of the program.

The Majority Leader exclaims that his bill H.R. 3135, which allows workers to voluntarily put between three and eight percentage points of their Social Security tax into personal retirement accounts, is based on a progressive scale that allows lower-income workers to put more into their accounts and to build more wealth. The Majority Leader failed to take into account the volatility of the stock market. I do not believe that the American public is willing to gamble their retirement security in the up's and down of the stock market. Especially, with the recent collapse of Enron and the present economic recession, the American public is even more suspicious of any proposal that will partially or fully privatize Social Security. Americans know that Social Security provides guaranteed, lifelong benefits. No matter what the stock market does the day you retire or in the months leading up to your retirement, your benefits will be unaffected.

In addition, the Majority Leader's plan to send out Social Security certificates to seniors that claim to guarantee their Social Security benefits is disingenuous at best. Not only will sending these bogus certificates cost the taxpayers 47 million dollars, but it does absolutely nothing to guarantee that Social Security benefits will be there in the future. The Congressional Research Service has concluded that the certificates provide no more protection than already exists under law. It's not an ironclad guarantee and Senior citizens will not be able to use these certificates in a court of law. The certificates should instead tell Seniors the truth about the Republican's plan to privatize Social Security and their reckless waste of the budget surplus, which will inevitably lead to a lack of benefits for Seniors.

Nevertheless, the Social Security program faces serious financial challenges, however, those challenges are manageable and does not require us to dismantle the system via privatization.

CHILD CUSTODY PROTECTION ACT

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 476, the Child Custody Protection Act.

This legislation makes it a federal crime to knowingly transport a minor across state lines with the intent that she obtain an abortion, in violation of the minor's home state parental consent or notification law. Under the measure, violations of this law would be punishable by a fine of up to $100,000 and one year in prison. Any parent or guardian who suffers legal harm from the violation of a parental notification law is allowed to seek civil action for damages.

The bill includes an exception from prosecution, however, if the abortion is necessary to save the life of the minor. The bill also protects the minor from prosecution under its provisions. The measure allows individuals accused of violating this provision to defend themselves against civil and criminal actions by claiming that they believed the parents had been notified or had given their consent, as required by state law.

By way of background, it is important to note that in many states it is illegal for a school nurse to dispense so much as an aspirin to a minor without parental consent. However, absent this legislation, minors can be brought across state lines without parental consent for the express purpose of obtaining an abortion. Over-the-counter aspirin requires parental notification, but abortion does not? Mr. Speaker, how can this be?

In 1999, the House passed identical legislation by a vote of 270 to 159; unfortunately, the measure was never considered by the other body, thus necessitating its reintroduction in the 107th Congress. I commend Chairman SENSENBRENNER, Chairman CHABOT, and Congresswoman ROS-LEHTINEN for their work in crafting this urgent legislation, and I truly hope that my colleagues will Join me in voting for this legislation today. As such, I urge an "aye" vote on final passage.

Thank you, Mr. Speaker.

THE PAST AS A PROLOGUE TO THE FUTURE—75 YEARS AFTER THE FLOOD OF 1927—

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. EMERSON. Mr. Speaker, as we mark the 75th Anniversary of the Flood of 1927, the images that come to mind serve to remind us of how the flood affected Missouri and shaped the flood protection policies of today. Although the floodwaters of the past have receded, the lessons they have left behind are unmistakably clear.

The first major levee break during the Flood of 1927 was at the Dorena levee and has significant meaning to those living in the surrounding area because it forever changed Missouri and the entire river delta. The Dorena break alone flooded 135,000 acres of land in the St. John Levee and Drainage District, left 7,500 people homeless and overtopped the Farrenburg levee near New Madrid, flooding an additional one million acres. Overall, the break will always be remembered as part of the greatest natural disaster in American history.

When the Flood of 1927 finally subsided, the disaster had displaced 700,000 people—80,000 more people than currently live in Missouri's Eighth District today. Geographically, the flood left 26,000 square miles under water (an area roughly two times the size of the country of Switzerland), crops were destroyed, cities paralyzed, farm land ruined and more than a thousand people were dead (276 from the flood and the remainder from the sickness and disease that followed). Today, a flood of that magnitude would shut down every interstate from St. Louis south to New Orleans—running east or west.

Prior to the Flood of 1927, the river control system in place was based on a "levees only" policy, which many attribute as being partially responsible for the Flood of 1927. The policy meant that there were no outlets, reservoirs or spillways to assist in flood control. The lack of coordinated protection for water flow combined with the heavy rain and melting snow resulted in major flooding which broke the levees in more than 120 places. At a time when the federal budget barely exceeded $3 billion, the flood, directly and indirectly, caused an estimated $1 billion in property damage.

As is the case with many disasters, the Flood of 1927 prompted lawmakers to take a long look at past policy. In an attempt to learn from the flood so that they wouldn't repeat the mistakes of the past, the Flood of 1927 led to the "Flood Control Act of 1928." The plan, which gave the US Army Corps of Engineers the job of providing flood control on the Mississippi River, authorized the Jadwin Plan, or what came to be known as the Mississippi River and Tributaries Project (MR & T). This comprehensive flood control plan has four major elements—levees, floodways and control structures, channel improvements and stabilization measures, and tributary basin improvements. These elements work together to provide flood protection and navigation while simultaneously promoting environmental stewardship and restoration.

Since the establishment of MR & T in 1928, more than 87 percent of the project has been completed. This investment of nearly $11 billion has been used for planning, construction, operation and maintenance. That $11 billion has paid off—people live in safer communities protected from many of the hazards of flooding; commerce and economic development have enhanced river towns and steps have been taken to promote conservation of land while providing recreational use opportunities for communities along our nation's rivers. Perhaps most notable is that the MR & T project has prevented $258 billion in flood damages to date. It means that for every one dollar spent, we have saved $24 in flood-related damages.

It is that type of investment in the future that we continue to make as the Army Corps of Engineers works with Congress during the budget process. As was the case during the Depression and previous wars, Congress is currently faced with certain financial realities. In light of those realities, I still believe this much-needed funding is critical to ensuring that flood protection, navigation, port authority and drainage projects are completed so that lives are saved and the economic livelihood of towns up and down the river are preserved.

RECOGNIZING MR. CRAIG BAZZANI

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. JOHNSON of Illinois. Mr. Speaker, I would like to take this time to recognize Mr. Craig Bazzani for his many years of continuing service to the 15th District of Illinois. A graduate of Illinois State University, Mr. Bazzani has shown exemplary dedication to my home state. Throughout his twenty-five year tenure at the University of Illinois, Mr. Bazzani has held several key positions that have enabled him to make immense contributions to the betterment of the institution. He played an important role in the design of a major debt-financing program, introduced the first University Financial Accounting System, developed the labor relations program, assisted the University in making major strides in the provision of multiple sources of energy for its buildings and facilities, and took the initiative to modernize all of the areas that reported to him. But what leaves an even more lasting impression is the deep devotion he has shown to his co-workers, inspiring in them the necessary confidence to complete the difficult tasks with which he has been entrusted. The University will surely miss Craig's incisive and effective style of administration, but joins me in wishing him the best of luck in his retirement and all of his future endeavors. We thank him for his many years of service to the University, knowing that only the most honorable of people could ever fill his shoes.

MAKE THE MARRIAGE TAX PENALTY RELIEF PERMANENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. GEKAS. Mr. Speaker, I rise today to lend my strong support for making the marriage tax penalty relief permanent. Last May Congress passed historic tax relief which included marriage penalty tax relief. Unfortunately, the tax package, including the marriage tax penalty relief, is sunset to expire in 2011.

Prior to passage of the tax relief legislation, the U.S. tax code penalized over 25 million married couples, costing them an average of $1,400 in additional taxes over that of two people living together outside of marriage. This discrepancy, justifiably, became known as the "Marriage Tax Penalty."

The tax relief package passed by Congress phased out the marriage tax penalty, providing billions in tax relief over 10 years for married couples. However, due to the compromise reached with the Senate, the marriage tax penalty relief is set to expire in 2011. Thus, in 2011, once again, millions of married couples will be faced with paying more taxes simply because they are married.

Mr. Speaker, the strength of America rests on the solid foundation of the American family. For too long our federal tax policy has chipped away at that foundation. Under Republican leadership and with the leadership of President Bush, Congress has taken an important step toward reaffirming the centrality of marriage in the American society. Let's not hang the specter of future tax penalties over the heads of our current and future American families. We must eliminate the Marriage Tax Penalty once and for all.

I thank the gentleman from Illinois, my good friend Mr. Weller, for his strong and consistent advocacy of tax fairness, especially in this vital area of marriage taxes. I have been proud to fight with Mr. Weller on this issue for so long. I urge my colleagues to join me in voting to eliminating this onerous burden on marriage and make the marriage tax penalty relief pennanent.

IN HONOR OF NORA E. WRIGHT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of a truly remarkable woman on the occasion of her 100th birthday celebration.

Deacon Nora E. Wright was born at the dawn of the twentieth century to the late Rev. and Mrs. Robert Brightwell in Atlanta, Georgia. She graduated from the Roth Street School and Spelman Seminary in her hometown. As the daughter of a Baptist Minister she was taught to love family and church above all else. In 1952, she joined the Berean Missionary Baptist Church under the pastorate of Dr. Hylton L. James. She has always been an active and dedicated member of her church. Deacon Wright has served as a Supervisor of the Deaconess Broad for 15 years, President of the Senior Missionary Society for 24 years, an advisor to the floral club, and a member of the Senior and Volunteer Choirs. Her religious convictions and service go far beyond her own church. In 1978, she was honored for her 44 years of service as a District Worker to 25 churches, Recording Secretary for 30 years, and as the Vice-President at large. Under the Pastorate of Dr. Arlee Griffin, Nora was consecrated as a Deacon. Extending beyond the Eastern Baptist Association, she became Chairman of the Worship Committee of the New England Convention.

Deacon Wright's work has not been limited to the church. She also organized and became the leader of the Annie G. Martin Tent # 102; she was the organizer and president of the Guiding Light Benevolent Club of Brooklyn; and Founder and Executive Director of the Ruth L. McLean Scholarship Guild. All of these groups were formed with the concept of helping others. Nora has also held positions as the Recording Secretary of the Executive Board of the Eastern District Grand Tent #3; Financial Secretary of the Brooklyn Tent Home; a member of the Past Grand Officers League of the Royal Degree Chamber #5; and Treasurer of the C.V.C. Alumni. One of her greatest accomplishments is the creation of the first Black calendar Children Preview in 1960.

Deacon Wright has been recognized for many of her accomplishments; she received a citation from the now former Brooklyn Borough President, Howard Golden; a citation of honor as an extraordinary elder from the Kings County District Attorney, the Honorable Charles J. Hynes; and a citation from former New York State Assemblyman(now Councilman), the Honorable Al Vann.

Mr. Speaker, Deacon Nora E. Wright is a wife, a mother, grandmother, great grandmother and great-great-grandmother. She has lived through experiences that most can only read about in history books and throughout she has remained a dedicated church leader, and a lover of all mankind. On the occasion of her 100th Birthday, she is more than deserving of this recognition and I urge my colleagues to join me in honoring this truly remarkable woman.

INTRODUCTION OF SOCIAL SECURITY NUMBER PROTECTION ACT OF 2002

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. MARKEY. Mr. Speaker, I am pleased today to introduce legislation that would outlaw the practice of purchasing or selling Social Security numbers.

A few years ago, a man named Liam Youens was stalking a 21-year-old New Hampshire woman named Amy Boyer. Youens reportedly purchased Amy Boyer's Social Security number from an Internet Web site for $45. Using this information, he was able to track her down, a process that he chillingly detailed on an Internet Web site that he named after his target. Finally, this demented stalker fatally shot Amy Boyer in front of the dental office where she worked. Afterwards, he turned the gun on himself.

This terrible tragedy underscores the fact that while the Social Security number was originally intended to be used only for the purposes of collecting Social Security taxes and administering the program's benefits, it has over the years evolved into a ubiquitous national personal identification number which is subject to misuse and abuse. The unregulated sale and purchase of these numbers is a significant factor in a growing range of illegal activities, including fraud, identity theft, and tragically, stalkings and now, even murders.

Today, if you open up a bank account, apply for a loan, buy insurance, get a credit card, sign up for telephone service or electric or gas utility service, you are almost invariably asked to provide a merchant with your Social Security number. Over the years, this number has become a key to verifying a person's identity. As a result, it has become increasingly clear that there are growing and serious privacy risks being created by unrestricted commerce in Social Security numbers, and resulting abuses of this number, that require immediate legislative action.

The risks and abuses associated with misuse of the Social Security number are only being magnified by the rapid growth of electronic commerce. Right now, only $5 billion of the $860 billion in annual retail sales currently occur over the Internet. But that figure will continue to grow exponentially in the future. So, the question we must ask is how are we going to adjust our laws to deal with this new medium? How will we animate the New Economy with our old values—such as our cherished right to privacy?

Today, the real privacy challenge we are facing isn't Big Brother; it's Big Browser. If you buy anything over the Internet, that information can be linked up to other personal identifiers to create disturbingly detailed digital dossiers that can profile your lifestyle, your interests, your hobbies, or your habits. We also know that the Social Security number is a critically important personal identifier that many online and offline businesses wish to obtain about consumers. Consumers who value their family's privacy, however, have a compelling interest in not allowing this number to be used to tie together bits and pieces of information in various databases into an integrated electronic profile of their interests and behavior that can be zapped around the world in a nanosecond to anyone who is willing to pay the price.

If you do a simple Internet search in which you enter the words "Social Security Numbers," you will turn up links to dozens of web sites that offer to provide you, for a fee, with social security numbers for other citizens, or to link a social security number that you might have with a name, address and telephone number. Where are the data mining firms and private detective agencies that offer these services obtaining these numbers? In all likelihood, they are accessing information from the databases of credit bureaus, financial services companies or other commercial firms.

If someone actually obtains a Social Security number from one of these sites, they have a critically important piece of information that can be used to locate the individual, get access to information about the individual's personal finances, or engage in a variety of illegal activities. By bringing a halt to unregulated commerce in Social Security numbers, the bill I am introducing today will help reduce the incidence of pretexting crimes, identity thefts and other frauds or crimes involving misuse of a person's Social Security number.

We need to take this action now if we are going to fully protect the public's right to privacy by preventing sales of Social Security numbers. That is why I am pleased today to be introducing legislation which would outlaw this practice. My bill would make it criminal for a person to sell or purchase Social Security numbers. Under the bill, the FTC would be given rulemaking authority to restrict the sale of Social Security numbers, determine appropriate exemptions, and to enforce civil compliance with the bill's restrictions. The bill would also authorize the states to enforce compliance, and provide for appropriate penalties.

I look forward to working with my House colleagues to enact this important privacy protection proposal into law.

HONORING STEVE COFFMAN

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor my friend, Steve Coffman, who is retiring on April 19, 2002, from the Alexandria Police Department after 33½ years of dedicated public service to the City of Alexandria.

A lifelong Alexandria City resident, Steve's dream of serving his community was realized on October 10th, 1968, when he was sworn in as Alexandria's first auxiliary police officer. Steve started his law enforcement career during a tumultuous time in our nation's history. In 1971, the Alexandria City Council voted to integrate T.C. Williams High School, a decision that was criticized by many in the community. In addition, we were in the midst of the Vietnam War, and on the domestic front, racial relations were strained and unstable. In Alexandria, it was very important for our law enforcement agents to keep the peace and restore community relations during this time.

Steve has served the law enforcement community in several capacities, most recently as one of two Polygraph Operators for Alexandria City. He has also served as a Street Patrol officer and Identification Technician.

During Steve's long and distinguished law enforcement career, he has received many accolades, including the Police Officer of the Year award, one of the Police Department's highest honors.

I join Steve's family, including his wife Patty, daughters Angie and Valerie, as well as the City of Alexandria, in congratulating and thanking Steve for his dedication to improving the lives of others and serving the needs of our community.

ISRAEL INDEPENDENCE DAY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. WAXMAN. Mr. Speaker, this week we celebrate Israel Independence Day, paying tribute to the shared values and goals that are the cement of strong U.S.-Israel relations. We demonstrate our unwavering support for our staunchest ally in the Middle East. We express our solidarity with the people of Israel whose vibrant democracy and brave military stand beside us on the front lines of the war against terrorism.

But even as we celebrate the miraculous achievements since the establishment of the Jewish State 54 years ago, we must recognize that Israel is still engaged in a fight for its survival.

Since Palestinian leader Yasser Arafat rejected the tremendous proposals put forward at Camp David and unleashed the current Intifada, more than 460 Israelis have been murdered and more than 3,000 wounded by vicious terrorist attacks. Proportional to our own population, that figure is staggeringly more than three times the number of those killed in the September 11th attacks on the World Trade Center and the Pentagon.

Daily life in Israel has been torn apart by the uncertainty of when another suicide bomber will strike against innocent civilians at a pizza store, a café, a grocery store, a disco, or on a bus. Families have been shattered by Palestinian terrorists who have targeted Bat-mitzvah guests and mothers walking their children to synagogue.

The reason there is no cease-fire is that Palestinian leader Yasser Arafat supports the violence. He was unwilling to stop Hamas and Islamic Jihad and the documents seized by the Israeli army from Arafat's headquarters and other Palestinian Authority offices demonstrate that he actively endorses and funds the terrorist activities of his Fatah militias—the Tanzim, Force 17, and the Al-Aqsa Martyrs Brigade, which was recently added to the U.S. list of Foreign Terrorist Organizations.

The root cause of Palestinian terrorism is not settlements. It is the exhortation by the Palestinian leadership for its youth to sacrifice their own dreams of statehood to Arafat's quest for martyrdom.

The underlying source of Palestinian hatred is not Israel's acts of self defense. It is anti-Semitism indoctrinated by Palestinian textbooks and television shows that glorify murder and exalt suicide bombers.

It is shocking to me that those in Europe and at the United Nations who so harshly judge Israel have no sympathy for Israel as the victim of daily terrorism.

The war between Israelis and Palestinians is not about Arafat and Sharon. It is about the refusal of a democratic society to reward terrorism with territory. It is about a civilized society unwilling to legitimize suicide attacks as a form of political negotiation.

If Arafat can succeed, then Bin Laden can succeed. Not because they share the same goals, but because they share the same tactics.

That is why it is so critical that the United States stand with Israel in this time of crisis, strong in our resolve against those who support and justify terrorism. Israel as a sovereign nation has the right to take all measures necessary to defend its citizens, and it is in the interest of the United States to support its ability to do so.

Although President Bush has dispatched CIA Director Tenet, Senator Mitchell, General Zinni, Vice President CHENEY, and now Secretary Powell to try and restore security and stability, it is clear that no one will succeed unless Chairman Arafat renounces terrorism and starts preparing the Palestinian people for peace instead of war.

At a time when synagogues are burning in France, Saudi newspapers are launching 21st century blood libels, and a Passover Seder in Netanya can become the target of terrorist bloodshed, the existence of the State of Israel is more important now than ever.

CHILD CUSTODY PROTECTION ACT

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. MOORE. Mr. Speaker, I rise today to express my strong concerns about H.R. 476. I held the same concerns when I voted against this legislation during the 106th Congress, as did many of my colleagues in the House and Senate. No effort has been made to address the valid problems with this bill in the nearly three years since we last took it up on the House floor.

This restrictive legislation would isolate a young woman at a time when she needs support the most. I absolutely believe that young women should involve parents in important life decisions. In fact, most young women do involve a parent when making a decision about abortion, however, that option is not always available. Incest, abuse and other serious family problems are a sobering reality for many in our country. In that case, a young woman should be encouraged to consult another trusted adult, such as another family member, a medical provider or a religious counselor—this bill makes that virtually impossible and even criminal.

Under this bill, grandparents, older siblings, religious leaders, and other responsible adults could face prosecution, imprisonment, fines, or civil suits for coming to the aid of a young woman during her time of need. The true absurdity of this legislation can be summed up in this astonishing example: A father molests his young daughter and the young woman goes to her grandmother for help. Should the young woman obtain an abortion in another state, this bill could give the father standing to sue in a civil court and could make the grandmother liable for $100,000 in damages and a year in prison.

In addition, this bill is dangerously overbroad. The law would apply to anyone having peripheral involvement in the minor's abortion, even if the person was not acquainted with the bill's legal provisions or even aware of the minor crossing state lines.

I supported a Motion to Recommit that would have sent this flawed bill back to the committee with the recommendation that the legislation exempt grandparents and adult siblings from the bill. This Motion would have provided young women with at least a minimal safety net of family members. It failed by a vote of 173–246.

Mr. Speaker, I will continue to oppose legislation that will endanger young women's lives and health by isolating those who cannot involve a parent. We should encourage young women to turn to other family members when they cannot turn to their parents, and Congress has no business criminalizing that.

PHILIP E. RUPPE POST OFFICE BUILDING

HON. CONSTANCE A. MORELLA

OF MARYLAND.

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. MORELLA. Mr. Speaker, I am honored to express my thoughts about a gentleman of distinction, who served his constituents from Northern Michigan for six terms. Philip Edward Ruppe was born in Houghton County, Michigan where his family lived since the 1870's. He attended Central Michigan University and the University of Michigan for two years after which he received his Bachelor of Arts degree from Yale University in 1948. He served our Nation as a lieutenant (junior grade) in the Navy during the Korean conflict.

After his service in the Navy, Mr. Ruppe became the president of the Bosch Brewing Company for ten years, served as director of the Houghton National Bank, the Commercial National Bank of L'Anse and R. L. Polk and Company.

In January 1967, the people of Northern Michigan elected Mr. Ruppe as their representative until 1979, when he ran for the United States Senate. As a member of the United States House of Representatives, Congressman Ruppe served on the Committee on Merchant Marines and Fisheries and was ranking member of the Interior and Insular Affairs Committees. He dedicated his time to constituent services and economic development in the Upper Peninsula.

I want to recognize and thank the gentleman from Michigan (Mr. STUPAK) who thoughtfully introduced H.R. 1374, designating the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office". It is most appropriate to name a post office to honor Philip Ruppe who represented his constituents most ably during his tenure in Congress. Congressman Ruppe and his late wife, Loret Ruppe, who was a well-loved and respected director of the Peace Corps and Ambassador to Norway, were dedicated parents to their daughters and imparted the importance of public service to them.

I have been privileged to know both Loret and Phil. Phil still resides in Betheda, Maryland, and I am delighted to have him as a constituent and wish him the best in life.

PENSION SECURITY ACT OF 2002

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. LOWEY. Mr. Speaker, I rise today to oppose this legislation, and in support of the Democratic alternative.

Millions of working Americans are watching what we do here today. They are watching to see just whose side we're on. They want to see whether we will do something to prevent another Enron. They want to know whether their retirement savings are truly safe.

With this bill, we know who the Republican leadership would protect. This bill is a get out of jail free card. It doesn't protect pensions, it protects those who would prosper on the backs of their employees.

This bill keeps employees off pension boards. It limits the ability of employees to collect damages when the misconduct of company officials costs them their life savings. It forces employees to keep stock matches in 401(k) plans for three years after each match, while executives are held to no such limit. This bill even allows companies to offer investment advice from the same firm that administers the company's 401(k) plan.

Mr. Speaker, in light of the thousands of Enron employees who have worthless stock certificates to show for their years of hard work, this bill is an outrage.

The Democratic alternative provides real protection. Employees should have the same control over their retirement accounts as executives, and should have the same access to unbiased, independent investment advice. Our bill levels the playing field between executives and employees, giving employees full control of their retirement accounts. And, executives would be held fully accountable when they violate pension rights.

Mr. Speaker, you say you're on the side of the American people. But, as the saying goes, actions speak louder than words, and your bill hurts the working families of this Nation. Vote no on the underlying bill and yes on the Democratic alternative.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 2002

Mr. SANDLIN. Mr. Speaker, I commend the Agriculture Committee Chairman COMBEST and Ranking Member STENHOLM for the skill and hard work they have put into crafting the Farm Security Act. I would also like to commend the Conferees of the House Agricultural Committee for their continued efforts to work toward agreement on a farm bill that is good for America's farmers. I want to thank them for the great sensitivity to and understanding of the needs of our nation's farmers.

This motion to instruct goes against that understanding and, thus, I rise in strong opposition to this motion and urge all my colleagues to vote against it.

The presentation of this motion is unnecessarily repetitive in nature. The Members of the House of Representatives have already voted on this issue. During House consideration of the Farm Security Act, an amendment containing this language failed by a bipartisan vote of 238–187.

Mr. Speaker, one thing I can count on hearing every time I return home is that our farmers need help this year. Our farming families put everything they have on the line every year to feed America. America's families never got the economic boon that swept the nation in the late 1990's.

This year, good weather worldwide has created commodity surpluses and driven down the price that farmers get for their crops. The U.S. dollar also remains strong relative both to our competitors and customers, making U.S. crops more expensive and less competitive. U.S. producers continue to compete on an uneven playing field, facing much higher tariffs on our exports to other countries than other countries face on their exports to us.

The goal of our farm policy should be to provide a safety net so the American agricultural sector survives through these difficult times. This motion to recommit would limit payments for commodity programs and is a slap in the face to those families.

Furthermore, this motion unjustly deters the Conferees efforts to resolve funding levels for conservation and research programs. This motion claims to increase conservation programs as if it is a new idea, when, in fact, the Conferees have already allotted an eighty-percent increase in funding.

I urge my colleagues to reject this unnecessary and disruptive motion and to stand aside and let the Conferees continue their hard work on the conference committee.

IN SUPPORT OF THE COMMISSION OF THE CONGRESSIONAL GOLD MEDAL ON BEHALF OF DR. DOROTHY I. HEIGHT

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. WATSON of California. Mr. Speaker, for two hundred and twenty-six years, the United States Congress has expressed its highest regard for exemplary and extraordinary accomplishments by awarding the Congressional Gold Medal to its most outstanding citizens. It is now time to include among these laureates Dr. Dorothy Height, lifelong social worker, internationally known and respected human rights activist, who celebrated her 90th birthday earlier this year.

Dorothy Height, whose public service career spans over 65 years, has created an enviable legacy of advocacy and leadership in the cause of social justice for the whole nation, and particularly in her advocacy for the needs and rights of women, children, and families. She has constantly inspired others, from the poor to world leaders, to achieve at the highest level. As an advisor to Presidents through their First Ladies, Dr. Height has effected significant change in the lives of not only African-American women, but all women and their loved ones. She counseled Eleanor Roosevelt and prodded President Eisenhower to desegregate the nation's schools. She pressed President Johnson to appoint black women to sub-cabinet posts. As one of the "Big Six" civil rights leaders, she was the only woman at the table when Dr. Martin Luther King, Jr., and others made plans for the civil rights movement.

Dr. Height's many achievements and her distinguished service to the Nation and world has earned her over 50 awards and honors from local and State governments as well as the Federal Government, including the following:

In 1965, she received the John F. Kennedy Memorial Award from the National Council of Jewish Women.

For her contributions in interfaith, interracial and ecumenical movements for over thirty years, she was awarded the Ministerial Interfaith Association Award in 1969.

In 1968, she received the Lovejoy Award, the highest recognition by the Grand Lodge. Elks of the World for outstanding contribution to human relations.

In 1974, Ladies Home Journal named her "Woman of the Year" in recognition of her work for human rights;

The Congressional Black Caucus presented her with the William L. Dawson Award for decades of public service to people of color and particularly women.

For her tireless efforts on behalf of the less fortunate, President Ronald Reagan presented Dr. Height the Citizens Medal Award for distinguished service in 1989, the year she also received the Franklin Delano Roosevelt Freedom Medal from the Franklin and Eleanor Roosevelt Institute.

In 1994, President Bill Clinton presented her with the Presidential Medal of Freedom Award.

Other awards include:

1993 Springarn Medal from the NAACP;

1993 Induction into the National Women's Hall of Fame;

1990 Oleander Foundation's Generous Heart Award;

1990 Camille Cosby World of Children Award;

1987 Essence Award;

1990 Steller Award.

Dorothy Height has sought no reward, because her monumental achievements were comfort and compensation enough. But this Congress and the nation owe her a debt of gratitude and should commission a Gold Medal for all her contributions. In her own words, 'I want to be remembered as someone who used herself and anything she could touch to work for justice and freedom. I want to be remembered as one who tried.'

It is with knowledge of your enthusiastic support of these noble causes that we respectfully request your endorsement of this measure. Please contact Alice Holmes at 202-225-7086.

HONORING THE STATE OF ISRAEL ON THE OCCASION OF ITS 54TH INDEPENDENCE DAY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. BENTSEN. Mr. Speaker, I rise in strong support of the State of Israel and join in sending our good wishes to the people of Israel, on occasion of Israel's 54th year of independence. Regrettably, commemoration of this important milestone comes at one of the darkest and most isolated points in Israel's 54-year history. All over Israel, the traditional celebratory activities have been canceled due to increased security risks due to an unprecedented wave of suicide bombings that has struck almost every corner of the country since the intifada commenced.

Mr. Speaker, every year Israelis stand and memorialize the soldiers who have given their lives so that Israelis can continue to live free in their land, and the next day Israelis celebrate their independence. It is no coincidence that Israel's Memorial Day and Independence Day are observed side-by-side. For far too many years in Israel's history, death and independence have been inexorably linked. Only on Independence Day during the nearly disastrous Yom Kippur War of 1973 do Israelis recall being so threatened, and even then the fighting was among soldiers at the front who could be reasonably certain their wives and children were not in imminent danger.

Mr. Speaker, in a recently-published poll conducted by Israel's largest daily newspaper, Yediot Aharonot, 53% Israelis said they would be afraid to celebrate Independence Day in an open public place and definitely would not do so. Living with the threat of terror is a new reality for America after September 11th. Israelis have had to live with the threat of violence almost every day, which has intensified since January 2002.

Mr. Speaker, the breakdown of the peace process in the Middle East and the recent escalation of violence should be a matter of great concern to the United States. The United States' close friendship with Israel dates back to May 14, 1948, when President Harry S. Truman announced our recognition of this new nation, within moments of its declaring independence. Since that time, the United States has, time-and-again, offered its support to Israel in its struggle to survive and has played in advancing the peace process. As history has shown, strong U.S. leadership, particularly from the President, is necessary if there is to be any progress toward Mideast peace. That is why Presidents Nixon, Ford, Carter, Reagan, Bush, Clinton and now Bush, have all involved themselves in the quest for an end to the conflict. Today, the challenge is to help guide Israel and its Palestinian neighbors back on the path for peace.

Mr. Speaker, on this important day, I think it is instructive to look back at what the late Israeli Prime Minister Yitzhak Rabin said, when he received his Nobel Peace Prize in 1994, to understand Israel's struggle for peace. "We will pursue the course of peace with determination and fortitude. We will not let up. We will not give in. Peace will triumph over all its enemies, because the alternative is grimmer for us all. And we will prevail."

Mr. Speaker, my greatest hope for Israel on it's 54th Day of Independence is the realization of its greatest hope—to live in peace with its neighbors with security for its people.

NEW THOUGHTS TO MEET THE CHALLENGES ON TERRORISM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. KUCINICH. Mr. Speaker, this Saturday, thousands of American citizens will gather in Washington, DC to challenge the open-ended war the United States is now waging. They are right to do so, and the broader American public would do well to listen.

Congress authorized a police action to apprehend the conspirators behind the September 11 attack. Congress did not declare war because the President did not ask Congress to declare war. Yet, the Administration is conducting itself as if it were engaged in a declared war, sending military special operations forces to many new countries and ramping up defense spending. The Administration's budget contains real, inflation-adjusted spending increases only for military spending. Non-military spending is projected to remain flat, and funding for many important programs is decreased, in spite of growing unmet needs. The list of national priorities from which the Administration has taken away federal funds includes education, housing for the elderly, health care, and transportation.

This war footing will ultimately make the world a more dangerous place. Already, the Administration has derailed efforts to negotiate the termination of North Korea's missile program and undermined efforts by President Khatami and other pro-reform Iranians to moderate the policies of Islamic fundamentalists in Iran. The Administration's unilateral intention to withdraw from the Anti-Ballistic Missile Treaty, its abandonment of efforts to pass a Comprehensive Test Ban Treaty, and its refusal to negotiate enforcement mechanisms for the Biological Weapons Convention will only compound this instability.

The protestors are also concerned about having civil liberties and basic rights undermined at home. The USA PATRIOT Act, which 65 of my colleagues and I opposed, allows widespread wiretapping and internet surveillance without judicial supervision. It also allows secret searches without a warrant and gives the Attorney General the power to determine what is and isn't a domestic terrorist group. The law allows the U.S. government to imprison suspected terrorists for an indefinite period of time without due process or access to family members or lawyers. Last November, the President announced his intention to establish military tribunals as well. The Administration remains confused about extending internationally recognized treatment under the Geneva Convention.

The protestors' central observation is that these actions will likely have the opposite effect of what is intended—U.S. efforts intended to quell international terrorism will provoke more of it. History is replete with the unintended and counterproductive consequences of U.S. action: the U.S.-led embargo of Iraq, which has led to the deaths of thousands of Iraqi civilians, has solidified Saddam Hussein's hold on power. Our government secretly sponsored anti-Soviet fundamentalists in Afghanistan and this led to the rise of the Taliban and their harboring of Osama bin Laden.

The path to ending terrorism, whether by individuals, organizations or nation states, is a foreign or domestic policy based on social and economic justice—not corporate concerns. This is the hopeful premise of H.R. 2459, a bill to create a Department of Peace. This Cabinet-level Department would serve to promote nonviolence as an organizing principle in our society. We should treat others as we would want them to treat us. We should follow international law, if we want others to do so. We should practice non-violence and encourage non-violent conflict resolution whenever possible. We should stop supporting repressive regimes, if we want democracy to flourish.

But that is not the path the Administration has chosen. Those gathering in Washington, DC believe we cannot stop terrorism with an open-ended, permanent war. They believe the time has come for new thinking in meeting the challenges of terrorism. I believe they are right.

INTRODUCTION OF TWO DUTY SUSPENSION BILLS

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. BIGGERT. Mr. Speaker, today I am introducing two pieces of legislation that will suspend the duties on two specific products imported into the United States. Both are chemicals used in the production of agricultural herbicides.

Among the first herbicides to be registered in the United States, 2,4-Dicholorophenoxyacetic acid, otherwise referred to as 2,4-D, is used principally by farmers to help protect crops from damage caused by weeds. In addition to agricultural applications, 2,4-D has been widely used to control broadleaf and woody plants on rangelands, lawns, golf courses, forests, roadways, and parks.

The other chemical, 2-Methyl-4-chlorophenoxyacetic acid, otherwise referred to as MCPA, is also an agricultural herbicide, but controls a slightly different spectrum of weeds. It was developed in the 1940's, and has been used since then to effectively control a wide variety of broadleaf weeds in cereals, grasses, flax, and non-crop areas.

Both chemicals are advantageous because they offer: broad spectrum weed control; low toxicity; low environmental persistence; little evidence of weed resistance following decades of use; and relative cost advantages over other chemical and non-chemical methods of weed control. In their long history, these chemicals have been tested according to modern standards and continue to meet regulatory acceptability.

So why is it appropriate to suspend the duties on these two chemicals?

First and foremost, MCPA is not produced in the United States, so a duty on foreign imports of this product only burdens American businesses. As for 2,4-D, only our trading partners with Normal Trade Relations currently pay the duty on this product; the majority of imports enter the United States duty-free under the Generalized System of Preferences. In this way, the duty undesirably discriminates against our good trading partners, and therefore should be suspended.

Cost is another reason to suspend the duty on these chemicals. Reducing costs is paramount in today's depressed agricultural sector. This bill helps agriculture producers and consumers in this effort by suspending the duty on critical herbicide inputs. In addition to helping farmers reduce their costs, this legislation would benefit the financially pressed federal, state, county and municipal government agencies that use these chemicals to maintain our roads, forests, rangelands, and parks.

The cost of inputs is such an important factor affecting the global agricultural economy that a proposal will be considered during the next WTO multilateral round of international trade negotiations to make all major agricultural inputs duty free. This "Zero for Zero" initiative will relieve agricultural producers and consumers from the unnecessary and burdensome costs of numerous duties. In light of this development, the legislation I introduce today is timely.

By suspending the duty on two chemicals, these bills lift a costly burden from American businesses, stop the discrimination against our close trading partners, and reduce input costs for agriculture consumers and producers. I urge my colleagues to support both bills, and I look forward to working with the Ways and Means Committee to include these bills in comprehensive duty suspension legislation that the Trade Subcommittee will consider in the near future.

HONORING ARTHUR AND CLARICE WORTZEL ON MARTHA'S VINEYARD

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. DELAHUNT. Mr. Speaker, when Arthur and Clarice Wortzel are honored this Sunday on Martha's Vineyard, it will be with mixed feelings. We will wish the Wortzels well as they embark on their new life in Wisconsin; but we will miss the boundless community spirit which has characterized their years on the Island.

The Wortzels made Martha's Vineyard their home after many decades in the Foreign Service of the United States. Over the course of his distinguished career, Arthur Wortzel took on a variety of sensitive assignments. Mr. Wortzel and his wife, Clarice, became engaging ambassadors of American interests and values.

After retirement, the Wortzels put their skill and resolve to work for the benefit of the year-round community on Martha's Vineyard—from Community Services to the Foundation for Island Health, from the Dukes County Health Advisory Council to the Martha's Vineyard Hebrew Center. No task was too small for their kindness; no task was too large for their talent.

We're delighted the Wortzels can join their three children and their families in Wisconsin. We wish the Wortzels well and look forward to staying in close touch. Our community is better for their commitment, and we'll miss their wit, warmth and wisdom until their first visit back to the Island.

RECOGNIZING A CENTURY OF SERVICE BY THE EL MONTE WOMEN'S CLUB

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. SOLIS. Mr. Speaker, I rise today to honor the El Monte Women's Club as they celebrate their Centennial Anniversary of service to the community.

On April 18, 1902, 34 women converted a three-year old Shakespearean Club into the El Monte Women's Club. A year later, the El Monte Women's Club became chartered as a San Gabriel Valley District, California Federation of Women's Clubs. The guiding principle of the Club is to unite women's clubs and like organizations throughout the world to benefit and promote their common interests in education, public welfare, moral values, civic, and fine arts.

Throughout its 100 years, the El Monte Women's Club has instituted a tradition of community service benefitting the residents of El Monte. Today, the club is the largest nondenominational women's volunteer service organization in the city. Members of the club are largely women that take great pride in their commitment to provide scholarships for youth in the community.

Among the many programs sponsored by the club, the El Monte Women's Club actively sponsors programs on gerontology, environmental issues, and DARE Red Ribbon celebrations. Membership in the El Monte Women's Club today consists of 65 women dedicated to serving the community's needs, while providing opportunities to develop personal leadership skills, educating the public, stimulating civic consciousness and commemorating women's history.

It gives me great pride to honor and congratulate the El Monte Women's Club for its 100 years of contributions to the community.

CEDAR FALLS TO RECEIVE A 2002 GREAT AMERICAN MAIN STREET AWARD

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. NUSSLE. Mr. Speaker, I rise to share some good news about a well-deserved award bestowed recently upon Cedar Falls, Iowa.

The National Trust for Historic Preservation rightfully chose Cedar Falls to receive a 2002 Great American Main Street Award. The award recognizes America's best efforts in historic preservation-based commercial district revitalization.

Mr. Speaker, as someone who has seen first hand what this community has accomplished on behalf of its citizens, let me assure you that this honor is wholly deserved.

Like many American communities, Cedar Falls experienced a loss of jobs during the 1980s. By 1987, Cedar Falls' historic business district was in trouble and nearly vacant. Although committed to their downtown business district, the community struggled with a long-term revitalization plan.

Today, only two storefronts are empty. Today, downtown Cedar Falls is an attractive, vibrant place to work and visit.

The Cedar Falls Community Main Street program helped bring the community back to life. The program supported inter-agency partnerships and the lead economic development partner in the community.

Due to the dedication of the Cedar Falls Community Main Street downtown development group over the last 15 years, the area has seen a net gain of 237 new jobs, 306 building renovations or improvements, with $8.2 million in private funds invested in rehabilitation and another $5.6 million in property acquisition. The group includes downtown merchants, lifelong residents, and newcomers who have discovered the newly preserved and revitalized community.

I offer my sincere congratulations on this award to the Cedar Falls residents who had the vision and dedication to make such a dramatic difference in their community.

HONORING MILTON FISHER

HON. MIKE THOMPSON

OF CALIFORNIA

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the life and legacy of one of our Nation's leading sportsmen and environmentalists. Milton Lee Fischer, of Nehalem, Oregon, recently passed away in a traffic accident near his home in Nehalem.

Milton, who was a California native, was one of the top fly-fishing guides in the world. He was also a fierce advocate for maintaining and improving the health of the streams he fished. Despite the large number of trout and steelhead that he caught, Milton nearly always released the fish, including hatchery fish. Milton's fly-fishing guests would be treated to lessons in conservation and biology, at the same time learning from his expert fly-fishing technique.

Milton used a slack-line fly-fishing technique developed in California for catching small stream trout that very few people are able to master. When most anglers would hang up their fly rods for the winter steelhead season, Milton would still be leading trips along the small streams of Oregon's northern coast.

The Oregonian newspaper quoted him as saying, "You give me equal conditions and I think I have as good or better chance of hooking a winter steelhead as anyone with bait. In fact, I'll follow you downriver and still find the fish." Milton's confidence came from his long hours spent perfecting his casting, as well as his broad knowledge of the biology and ecology of the rivers he fished. His business, River House and Pleasure Outfitters, was a favorite among fishermen and sportsmen across the country, including Oregon Governor John Kitzhaber.

Mr. Speaker, very few people rise to the top of their profession. The consensus among both amateur and professional anglers is that Milton Fischer was among a handful of the most elite fly-fishermen in the world. Please join me in honoring the memory of this outstanding American.

HONORING CLIFTON J. SHIPMAN FOR COMMUNITY SERVICE

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. TAYLOR. Mr. Speaker, I rise to honor one of Western North Carolina's most outstanding citizens, Mr. Clifton J. Shipman of Hendersonville, on the occasion of his receiving the first-ever Community Service Award given by the Hendersonville Merchants and Business Association. On Wednesday, April 17th, 2002, the civic and business leaders of Hendersonville gathered to pay tribute to Cliff's character, entrepreneurship, generosity and community service in bestowing upon him this prestigious award. Clifton J. Sliipman truly exemplifies the best combination of the American spirit of enterprise coupled with service to his community, and the following newspaper story gives an account of why he is held in such high esteem.

[From the Hendersonville Times-News, Apr. 18, 2002]

SHIPMAN RECEIVES FIRST COMMUNITY SERVICE AWARD

(By Jim Wooldridge)

HENDERSONVILLE, NC.—A local entrepreneur, known as much for his modesty as for his business success, won the first ever Community Service Award given Wednesday night by the Hendersonville Merchants & Business Association.

Clifton J. Shipman, 79, owner of the Chariot and the Cedars, plus much of the property on both sides of Seventh Avenue downtown, was chosen unanimously for the award, said presenter Carolyn Swanner.

"In reviewing his record, we found he started more than 25 businesses here and was operating 15 of them at the same time," Swanner said. "And that was before we had computers."

A third-generation native, Shipman started his enterprises between the time he ended his World War II service in 1946 and his partial retirement five years ago. He was probably best known, she said, for Clifton's Cafeteria at the corner of Church Street and Seventh Avenue. The building is now the Chariot, a dining room for private meetings and for most of the Hendersonville civic clubs.

"The impressive thing about Cliff was his extraordinary modesty," said Mac Drake, a lifelong acquaintance who got his first job from Shipman. "He never sought recognition for charitable work that touched so many people." An example, he said, was Shipman's giving the former Lutheran church building across Church Street from the Chariot to the Reformation Presbyterian Church.

His first business was the Hendersonville Riding Stables and Saddle Club, which offered not only horseback riding but three dances a week, many featuring big-name orchestras such as "Les Brown and His Band of Renown."

This property, on State Street, was Clifton's home until he bought a farm in Flat Rock several years ago. A barn on the property is the theater for the Hendersonville Little Theater company. He opened a newsstand in 1948 in the Brooks Building on Third Avenue West. It was named The Smoke Shop and was popular with young people, Swanner said. He opened his first restaurant, Clifton's, in the same building in 1950.

In 1951, he leased Hendersonville's public swimming pool on Washington Street and ran it until 1954, when he sold it to the American Legion. He started the Smokehouse restaurant on Asheville Highway in 1954, a business which today is the Quarter House.

He leased Boyd Park in 1954 and built a miniature golf course, tennis courts, shuffleboard courts, and a dance pavilion. In 1958 he leased Jump-off Rock from the Town of Laurel Park and built another dance pavilion, this one with picnic area and gift shop.

Shipman converted a gasoline service station on the Asheville Highway into Hendersonville's first fast-food restaurant. It was a huge success, Swanner said, because burgers, fries and milkshakes were priced at 19 cents; soft drinks, 5 cents.

Started in 1959, this restaurant was named the Hasty Tasty. He built a new building for it in 1962 on the corner of Church Street and Eighth Avenue East. The building cost $3,800 and Shipman sold enough 19-cent burgers to pay for it in four weeks, Swanner continued.

The Chicken Shack restaurant was another converted service station he operated in on Seventh Avenue West until 1995. It is now used as a bus stop.

Concentrating on Church Street, Shipman built his Minit Carwash in 1966 and the cafeteria two years later. Using the cafeteria's cooking capability, he bought the Chariot building on Seventh Avenue in 1970 and made it the main meeting place for service organizations.

He bought the Cedars in 1976 and spent two years restoring the former mansion as a location for wedding receptions and dinner meetings. His last major purchase was the former post office, now called the Federal Building, at the corner of Church Street and Fourth Avenue East.

LETTER FROM MICHAEL HAYHURST, PARTNER IN BOISE, IDAHO, OFFICE OF ARTHUR ANDERSEN

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. OTTER. Mr. Speaker, I rise today to place into the public record the views of my constituent, Michael Hayhurst of Boise, Idaho. Michael is a partner in the Boise office of Arthur Andersen and is deeply concerned for the future of his firm and the well being of his fellow employees and their families. I urge the Administration and others who are pursuing the wrongdoers in the Enron collapse to remember that all of their actions impact the innocent as well. It is my fervent hope that a just settlement can be found that will ensure that the guilty are adequately punished, retirees are protected, and innocent men and women can maintain their jobs and careers.

ARTHUR ANDERSEN, LLP,
Boise, ID, March 15, 2002.

U.S. Rep. BUTCH OTTER,
Longworth House Office Building,
Washington, DC.

DEAR U.S. REPRESENTATIVE BUTCH OTTER: As one of your constituents, I would like you to consider the following:

I am a partner of the Boise office of Arthur Andersen. I was admitted to the partnership on September 1, 2001 (last fall) and find it necessary to provide information to you about our Firm's current situation and myself.

I was born and raised in Idaho. I grew up in American Falls—a town of 3,000 people, just west of Pocatello. As one would expect for an accountant, I was somewhat of a bookworm and did not participate much in the party scene in school. I was, however, able to maintain a 4.0 GPA (there was no extra credit for college prep courses at that time) and graduate as a co-valedictorian of the class of 1984. As an aside, I am also an Eagle Scout.

I attended Idaho State University for my higher education and graduated in 1990 with a double major in accounting and finance. My college time was extended as I received a Rotary scholarship to study in Australia between my junior and senior year. Throughout college, I maintained a 3.93 GPA and attained the highest score in the state of Idaho on the CPA exam for individuals sitting for the exam the spring of 1990.

I started my career with Arthur Andersen June 3, 1990. I was, and still am, very proud to be able to work with as fine of people as I have had the opportunity to work with over the last 11 years with Arthur Andersen. I also am very proud of the history and the culture of our firm. The coordinated attack on our name and our people by congress and the media does not do justice to, or represent the true side of my firm or the 85,000 outstanding individuals in my firm (28 thousand of whom are located in the United States).

The rules we operate under have gotten increasingly complex since I started with the Firm. This includes both the accounting rules under which our clients are required to report financial information and the auditing rules and standards under which we attempt to provide reasonable assurance that those financial statements are materially correct. I will not bore you with the details, but I can assure you that I have spent and continue to spend a significant amount of my time staying up-to-date on these rules and that I come to work every day with nothing but the intention of doing what is right. I always strive to do the best job that I can, for my Firm, my clients and the users of their financial statements.

Also over the last eleven years, I have become increasingly involved in the community of which I am a part. I am currently acting as the Treasurer of Fundsy, Inc., the Ore-Ida Council of Boy Scouts and the Boise River Festival. Not only do I commit a significant amount of time to these activities (much of which is during my workday and using Firm resources—our culture has always been to give back to our communities, which the Firm wholeheartedly supports with monetary and other resources for our people) but I also contribute monetarily to these and other civic causes in the community.

After being with Anderson for one year, I met an R.N. working for St. Luke's RMC and we were married one year later. We now have two children. My oldest son is five and will be starting kindergarten next fall. He is in swimming lessons at the local Y and this spring and summer will participate in Y-Ball (basketball) and T-Ball. My youngest son is three and will begin preschool next fall. We just found out that our youngest son has amblyomiopia. He will now be wearing glasses and may have to patch his eye after the next visit to the optometrist. My wife still works as an R.N. and somehow finds time to keep all of the men in her life under some semblance of control.

I am trying to put a face on Arthur Andersen for you, my representatives to our government, so that you understand that Andersen is made up of people. The abridged story above plays itself out 40 times, the number of professionals we have in our Boise office, locally and over 28 thousand times in communities across the United States. All of us are individuals at various stages in our careers. Over 99% of our professionals in the United States have never worked on, or had anything to do with, the Enron audit.

As I signed my Partner Agreement on September 1. I have had to come to the realization that the loan I took out at that time to provide my capital contribution to the Firm will likely not be repaid from funds out of my capital account, I can live with that. What I cannot live with is the potential impact that the Department of Justice's position will have on my people in this office. This is not "justice" and has prompted me to write to you. I am an American and as we have all seen after the events of September 11, we can only be unjustly beaten down and pushed around so long before we find ourselves in a position of having to fight back.

Our position is that we are not guilty, therefore we will not plead guilty. Also, we believe that a fair reading of the facts is summarized in the attached letter and our law firm's report on its investigation into the document destruction matter would lead anyone to the conclusion that this indictment, and the manner in which it is being pursued, is nothing but a gross abuse of power that is being orchestrated for political reasons.

Normally, I would say, "let the courts decide." However, the risk of enforcing a death sentence on over 86,000 careers (28,000 in the U.S.)—which has been amply pointed out in the media—without ever having the opportunity for this to reach a free hearing in trial, along with the fact that we have been completely forthcoming and cooperative throughout this process and that we have agreed to significant changes without the enforcement of criminal charges, makes this an unconscionable act by my government's officials.

Please take the time to read the following information. I would be happy to answer any questions you may have or provide additional information if necessary. You may reach me at 208-387-4029.

Thank you for your time.

Very truly yours,
MICHAEL L. HAYHURST.

VETERANS' MAJOR MEDICAL FACILITIES CONSTRUCTION ACT OF 2002

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. MORAN of Kansas. Mr. Speaker, as Chairman of the Subcommittee on Health of the Committee on Veterans' Affairs, today I and Ranking Democratic Member, Mr. FILNER of California, introduce a bill to authorize the Secretary of Veterans Affairs to complete ten construction projects to improve, renovate, and update Veterans Affairs medical centers across the country.

These older VA medical centers are in dire need of repair, and our veterans need and deserve quality health care in modern, well maintained, and safe buildings. The Veterans' Major Medical Facilities Construction Act is an important step that would provide authority to the Secretary to move forward on VA's highest construction priorities without further delay. The bill authorizes appropriations for each project, and limits each project to not exceed the level authorized. The total amount authorized for these projects is $285 million. The House VA Health Subcommittee will hold a hearing on this proposal on April 24th.

The VA medical facilities receiving seismic upgrades and corrections or seismic bracing and anchorage of non-structural items include facilities in Palo Alto, San Francisco, West Los Angeles, Long Beach, and San Diego, California. These upgrades will bring each facility into conformance with current VA seismic standards. Completion of these construction projects will eliminate significant safety risks.

Cleveland, Ohio's VA medical facility's mechanical and electrical systems will be replaced. Installed in 1961, they are in dire need of attention. Anchorage, Alaska's project involves the construction of a new combined Veterans Affairs Department of Defense facility, which will help address the workload and provide space for additional personnel. This project reflects our interest in having these two departments share health resources under Public Law 97–174, the Veterans Administration and Department of Defense Health Resources Sharing and Emergency Operations Act. The VA Medical Center in West Haven, Connecticut will see a variety of improvements: renovations to inpatient wards to correct patient privacy inadequacies, consolidation of support services, and corrections to deficiencies in air quality, ADA accessibility, and the general safety of patients and staff.

The construction project for the VA medical facility in Tampa, Florida will relocate three Spinal Cord Injury (SCI) inpatient wards and ancillary support functions to the new SCI building just dedicated in February 2002. This will allow for more space and further expansion of the facility.

The authorization level of $285 million is included in the resolution on the budget approved by the House on March 20, 2002. Mr. Speaker, I am very pleased and encouraged that the budget resolution the House approved included the funding necessary for this bill. I especially want to thank the Budget Committee Chairman, Mr. NUSSLE, and the Ranking Member, Mr. SPRATT, for their understanding and support of these critical construction needs in the Department of Veterans Affairs.

Mr. Speaker, I urge all of my colleagues to cosponsor and favorably consider this measure to improve the hospitals and clinics in which veterans receive their health care. We have no greater responsibility than to ensure VA facilities are safe and up-to-date. This bill will aid us in that effort and I am proud to introduce it and urge its early passage.

NATIVE AMERICAN SACRED SITES

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. ABERCROMBIE. Mr. Speaker, Native American sacred lands are under attack as never before in this country and we must work together and be willing to put teeth into legislation to protect these lands once and for all.

The Native Hawaiians in my district are very spiritual and instinctively honor that which we receive from nature. Indeed the goddess of fire, "Pele" working through the volcanoes created most of the great State of Hawaii. She is still very active and very honored.

There are specific areas in my state which are sacred to the Native Hawaiians. Although the areas do not have a large steeple or white-washed fence around them, they nonetheless deserve to be respected and protected.

We have begun remediation on the sacred island of Kahoolawe and protected it from further destruction as a military bombing range. But there is so much more to be done.

The problem is that we have a few laws that dance around the idea of protecting native sacred lands which use words like "consultation" or "accommodate" but are inadequate to simply stop potential desecration.

Occasionally, we are able to stop the mining of one sacred site, or the demolition of another. But the time has come for Congress to enact strong legislation to protect Native American sacred lands.

HONORING REVEREND ROBERT R. BLYTHE FOR HIS SPIRITUAL GUIDANCE

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. FLETCHER. Mr. Speaker, today, I rise to honor Reverend Robert R. Blythe for his life-long commitment to the educational and spiritual development of residents in Richmond, Kentucky and the surrounding communities.

Born and raised in Richmond, Reverend Blythe is a shining product of the local public school system. He was educated in the Richmond School System before earning his bachelor's degree in math education at Eastern Kentucky University, where he was elected President of the class of 1971.

Following graduation, he went home to the local school system to begin his distinguished teaching career. He was named the Jaycees Outstanding Young Educator in 1974, and he received the Jaycees Outstanding Young Man of America Award in both 1978 and in 1985.

In 1981, Reverend Blythe joined the First Baptist Church in Richmond as their Pastor; he was a worthy shepherd to lead the local flock. In 1986, he received his Master of Divinity with Pastoral Emphasis from the Southern Baptist Theological Seminary in Louisville, Kentucky.

Reverend Blythe taught at Madison High School in Richmond and at Madison Southern High School in Berea as a mathematics and French instructor. He continues to educate Kentucky's future as a mathematics instructor at his alma mater, Eastern Kentucky University.

Reverend Blythe has had a significant impact on the Richmond community and its residents. He has served on the Kentucky Human Rights Commission, the Youth Leadership Madison County Advisory Committee and the Governor's Health Care Data Commission. He continues to serve as the President of the Madison County Branch of the NAACP.

Mr. Speaker, Reverend Blythe represents what is right about America. He demonstrates a willingness to sacrifice his own needs to foster and improve the lives of others. I am convinced that the lives of Central Kentucky residents have been and will continue to be blessed by Reverend Blythe's presence. I ask my colleagues to join me in congratulating Reverend Blythe for his twenty years of service at the First Baptist Church and for his life-long service to the residents of Richmond, Kentucky.

HOUSE OF REPRESENTATIVES—*Monday, April 22, 2002*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. ADERHOLT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 22, 2002.

I hereby appoint the Honorable ROBERT B. ADERHOLT to act as Speaker pro tempore on this day,

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God and Eternal Father, though Your people walk in the valley of darkness, no evil should they fear, for they follow in faith the call of You the shepherd.

Revive our drooping spirit as You invite us to the banquet of equal justice. Attune our minds to the sound of Your voice. Guide this Nation along the right path, that we may know the strength of Your outstretched arm to protect us and enjoy the comfort of Your presence, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3525. An act to enhance the border security of the United States, and for other purposes.

The message also announced that the Senate has passed a bill and concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. 1981. An act to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism.

S. Con. Res. 66. Concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

S. Con Res. 75. Concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue, and recovery efforts in the aftermath of those attacks.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 19, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 19, 2002 at 10:15 a.m.:

That the Senate passed without amendment H.R. 861.

That the Senate passed without amendment H. Con. Res. 243.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM HON. RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from RICHARD A. GEPHARDT, Democratic Leader:

OFFICE OF THE DEMOCRATIC LEADER,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 22, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 801 of title 2 of the United States Code, I appoint the following Members to the Congressional Recognition for Excellence in Arts Education Awards Board:

Mr. Hinchey of New York.
Ms. McCollum of Minnesota:

Sincerely,

RICHARD A. GEPHARDT,
Democratic Leader.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1981. An act to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism; to the Committee on the Judiciary.

S. Con. Res. 66. Concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001; to the Committee on the Judiciary.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 23, 2002, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6275. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Sweet Cherries Grown in Designated Counties in Washington; Order Amending Marketing Agreement and Order No. 923 [Docket Nos. 99AMS-FV-923-A1; FV00-923-1] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6276. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Suspension of Provisions Under the Federal Marketing Order for Tart Cherries [Docket No. FV01-930-5 FIR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6277. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Temporary Suspension of a Provision Regarding a Continuance Referendum Under

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Tart Cherry Marketing Order [Docket No. FV01-930-4 FR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6278. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Walnuts Grown in California; Decreased Assessment Rate [Docket No. FV01-894-1 FIR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6279. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2001-02 Crop Natural (sun-dried) Seedless and Other Seedless Raisins [Docket No. FV02-989-4 IFR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6280. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates [Docket No. FV02-989-3 FIR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6281. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pesticide Labeling and Other Regulatory Revisions [OPP-300890A; FRL-6752-1] (RIN: 2070-AD14) received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6282. A letter from the Alternate OSD Federal Register Liaison Officer, DOD, Department of Defense, transmitting the Department's final rule—Transactions Other than Contracts, Grants or Cooperative Agreements for Prototype Projects (RIN: 0790-AG79) received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6283. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Admiral Dennis C. Blair, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

6284. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement Admiral Richard W. Mies, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

6285. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Suspension of Community Eligibility [Docket No. FEMA-7773] received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6286. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Hermatology and Pathology Devices; Reclassification of the Automated Differential Cell Counter [Docket No. 95P-0315] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6287. A letter from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting the Commission's final rule—Rules and Regulation Under the Textile Fiber Products Identification Act—received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6288. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Jordan for defense articles and services (Transmittal No. 02-24), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

6289. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 12-02 which informs of the intention to sign a Memorandum of Understanding (MOU) between the United States, Canada, France, Germany, Italy and the United Kingdom concerning the in-service support phase of the NATO Improved Link Eleven (NILE) project, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6290. A letter from the Acting Director, Department of Defense, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Kuwait for defense articles and services (Transmittal No. 02-23), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

6291. A letter from the Acting Director, Department of Defense, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Brazil for defense articles and services (Transmittal No. 02-18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

6292. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey [Transmittal No. DTC 029-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6293. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Israel [Transmittal No. DTC 056-01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6294. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to France, United Kingdom, and Germany [Transmittal No. DTC 030-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6295. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to International Waters in the Pacific Ocean [Transmittal No. DTC 013-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6296. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Technical Assistance Agreement with Bulgaria [Transmittal No. DTC 034-02], pursuant to 22 U.S.C. 2776(c) and 22 U.S.C. 2776(d); to the Committee on International Relations.

6297. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination and justification for authorizing assistance in order to provide a contribution to the Implementation Monitoring Committee (IMC) provided for in the Arusha Peace and Reconciliation Agreement for Burundi to implement the Burundi peace agreement, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on International Relations.

6298. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question covering the period February 1, 2002 through March 1, 2002, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

6299. A letter from the Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Addition of Persons to Appendix A to 31 CFR Chapter V—received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6300. A letter from the Secretary, Department of Health and Human Services, transmitting the semiannual report of the Inspector General for the period April 1, 2001, through September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6301. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6302. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's FY 2001 Performance Report; to the Committee on Government Reform.

6303. A letter from the Chairman, Federal Maritime Commission, transmitting the Final Annual Performance Plan For Fiscal Year 2003; to the Committee on Government Reform.

6304. A letter from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6305. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's Government Performance and Results Act Annual Performance Report for FY 2001 and the Annual Performance Plan for FY 2003; to the Committee on Government Reform.

6306. A letter from the Deputy to the Associate Deputy Administrator for Management and Administration, Small Business Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6307. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule—Extension to Administrative Fines—received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

6308. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the San Bernardino Kangaroo Rat (RIN: 1018-AH07) April 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6309. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, Bureau of Land Management, transmitting the Department's final rule—National Petroleum Reserve—Alaska—Unitization [WO-310-1310-01 24 1A] (RIN: 1004-AD13) received April 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6310. A letter from the Deputy Assistant Administrator for Fisheries for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—International Fisheries; Pacific Tuna Fisheries; 2001 Quotas and Management Measures for Yellowfin and Juvenile Bigeye Tuna [Docket No. 011005243-1243-01; I.D. 091001B] (RIN: 0648-A048) received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6311. A letter from the Assistant Administrator, Office of Oceanic and Atmosheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Sea Grant National Strategic Investments in Technology, Marine Environmental Biotechnology, and Fisheries Habitat: Request for Proposals for FY 2002 [Docket No. 991027290-1295-02] (RIN: 0648-ZA74) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6312. A letter from the Director, Policy Directives and Instructions Branch, Department of Justice, transmitting the Department's final rule—Increase of the Immigration User Fee From $6 to $7 [INS No. 2179-01] (RIN: 1115-AG46) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6313. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification regarding final regulations under Section 403(a) of the USA-Patriot Act, Public Law 107-56; to the Committee on the Judiciary.

6314. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; Rockford, IL; modification of Class E Airspace; Rockford, IL [Airspace Docket No. 01-AGL-01] received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6315. A letter from the Trial Attorney, FRA, Department of Transportation, transmitting the Department's final rule—Freight Car Safety Standards: Maintenance-of-Way Equipment [FRA Docket No. RSFC-7; Notice No. 4] (RIN: 2130-AA68) received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6316. A letter from the Senior Trial Attorney, Department of Transportation, transmitting the Department's final rule—Extension of Computer Reservations Systems (CRS) Regulations [Docket No. OST-2002-11577] (RIN 2105-AD09) received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6317. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Frankfort, MI [Airspace Docket No. 01-AGL-08] received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6318. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Brainerd, MN [Airspace Docket No. 01-AGL-07] received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6319. A letter from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule—Passenger Equipment Safety Standards [FRA Docket No. PCSS-1, Notice No. 7] (RIN: 2130-AB48) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6320. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of the Washington Tri-Area Class B Airspace Area; DC [Docket No. FAA-2001-11180; Airspace Docket No. 01-AWA-6] (RIN: 2120-AA66) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6321. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E5 Airspace; Andrews, SC [Airspace Docket No. 01-ASO-18] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6322. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E airspace, Pasco, WA [Airspace Docket No. 01-ANM-09] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6323. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E airspace, Scoby, MT [Airspace Docket No. 00-ANM-15] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6324. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E airspace, Kemmerer, WY [Airspace Docket No. 01-ANM-07] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6325. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E airspace, Greeley, CO [Airspace Docket No. 00-ANM-34] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6326. A letter from the Administrator, General Services Administration, transmitting an informational copy of the fiscal year 2003 GSA's Public Buildings Service Capital Investment and Leasing Program, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

6327. A letter from the Administrator, General Services Administration, transmitting a draft bill "to amend the Public Buildings Act of 1959, as amended, to raise certain prospectus submission thresholds, and for other purposes"; to the Committee on Transportation and Infrastructure.

6328. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule—Technical Amendments to the Customs Regulations [T.D. 02-14] received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6329. A letter from the Deputy Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Lansford E. Trapp, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on April 18, 2002 the following report was filed on April 19, 2002]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3231. A bill to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes; with amendments (Rept. 107-413). Referred to the Committee of the Whole House on the State of the Union.

[Submitted April 22, 2002]

Mr. OXLEY: Committee on Financial Services. H.R. 3763. A bill to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for others purposes; with an amendment (Rept. 207-414). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 3764. A bill to authorize appropriations for the Securities and Exchange Commission; with an amendment (Rept. 107-415). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mr. MOORE introduced a bill (H.R. 4544) to provide for the conveyance of the Sunflower Army Ammunition Plant, Kansas; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 984: Mr. Isakson.

H.R. 1265: Mr. Costello and Mrs. Davis of California.

H.R. 1734: Mr. Shays.

H.R. 2219: Mr. Bonior.

H.R. 3340: Mrs. Wilson of New Mexico and Mr. Udall of New Mexico.

H.R. 3354: Mr. Bonior and Mr. Udall of New Mexico.

H.R. 3464: Mr. Rothman.

H.R. 3798: Mr. Souder.

H.R. 3831: Mr. LaHood.

H.R. 4169: Mr. DeMint.

H. Con. Res, 265: Ms. Schakowsky, Ms. Hart, Mr. Shaw, Mrs. Biggert, Mr. Shays, and Ms. Carson of Indiana.

H. Con. Res. 380: Mr. Cummings, Mr. Rush, Mr. Owens, Ms. Brown of Florida, Ms. Kilpatrick, Ms. Eddie Bernice Johnson of Texas, Mr. Scott, Mr. Wynn, Ms. Watson, Mr. Bishop, Mrs. Meek of Florida, Mr. Lewis of Georgia, Mr. Thompson of Mississippi, Mrs. Cubin, and Ms. Millender-McDonald.

SENATE—*Monday, April 22, 2002*

The Senate met at 1 p.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Everloving God, we thank You for the rest and renewal of the weekend, for the promise that comes with this new week, and the hope we feel. We ask you to implant the eyes of our minds with trifocal lenses so that we may behold Your signature in the natural world around us, see the needs of people so we can care for them with sensitivity, and visualize the work that we must do. With minds alert and hearts full of gratitude, we honor You as our Sovereign. Thank You for meeting all the needs of our bodies, souls, and spirits so that we can serve You with renewed dedication. Now, as You hover around us as we pray, grant us wisdom throughout this day. In the name of Him who is our amazing grace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. AKAKA). The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 22, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. As the Chair announced, we will be in a period of business until 2 p.m. At 2 p.m., we will resume consideration of the energy reform bill. There will be no rollcall votes today. Cloture was filed on the Daschle-Bingaman substitute amendment to the energy reform bill. The Senate will vote on cloture on the substitute amendment tomorrow morning. All first-degree amendments to the energy bill must be filed by 1:30 p.m. today.

EARTH DAY

Mr. REID. Mr. President, Earth Day is today. Most of the celebrations took place this weekend. People are interested in this program all over the country. Gaylord Nelson, a Senator from Wisconsin, came up with this idea. It has caught fire. People are more concerned about the environment than ever.

I indicated the other day the reason we have the Clean Water Act is that for example, the Cuyahoga River in Ohio kept catching fire. Yes, they had to put out the fire on the river on a number of occasions because it was so polluted. It was determined at that time that 80 percent of our rivers and streams in the United States were polluted; only 20 percent were not.

As a result of that river catching fire, Congress, and then President Nixon, decided something had to be done. The Clean Water Act was passed. It was imperfect legislation, but it has made great strides toward improving the waterways of this country. Some say the numbers have reversed, that now only 20 percent of the rivers and streams are polluted. That is probably inaccurate—it is probably more than that—but progress has been made.

Fish are returning to rivers that were once so polluted they could not survive in the water. There are rivers and streams now where people can catch fish and actually eat them; they are not toxic to eat.

People realize Earth Day should apply not only to places in the mountains where it is greener but more fragile habitat such as the desert, from where I come. The Mojave Desert is the driest and most unforgiving region in North America. Yet to most it is also one of the most beautiful, awe-inspiring places in America. It is fragile because of the extreme climate. It is not unusual to see extremes of 40 degrees from morning to night.

I have learned the Earth heals very slowly from the impact of people. I didn't realize that as a boy. I don't think a lot of people realized how fragile the desert was. I mentioned the other day that I have seen the tracks made 50 years ago or more where Patton and his troops did war exercises in the desert. I was in that part of the desert a couple weeks ago. It was amazing to still see those tank tracks in the desert. They will be there probably for another 50 years, if not more.

More people each year understand how important it is to conserve our land and its rich resources. While this administration's environmental rollbacks are getting too numerous to count, they started with, of course, the infamous problem of arsenic in the water—saying there was no problem, regardless of how much arsenic was in the water.

While this administration's environmental rollbacks are too numerous to count, the one that stands out the most in my mind is the transportation of nuclear waste. The reason this has been so difficult for me to accept is the President came to Nevada on one occasion. He came to northern Nevada, the Lake Tahoe area, and would not take questions from the press during his campaign. He was afraid people would ask questions about nuclear waste. His position had been contrary to the interests of residents of Nevada. As the campaign rolled on and it was determined that Nevada electoral votes might become very important in the Presidential race, he sent people to Nevada on his behalf and explained: President Bush thinks nuclear waste is an important issue and he will not allow nuclear waste to come to Nevada unless there is sound science. Vice President CHENEY came when he was campaigning. President Bush issued a statement to that effect, unequivocally saying nuclear waste would not come to Nevada unless there was sound science. He came to Nevada only on one occasion during the campaign. But, since he came to Nevada, that science has gone downhill from the perspective of the nuclear power industry. In fact,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

there are 292 scientific investigative reports, according to the General Accounting Office, that have not been completed. In addition to that, the Nuclear Waste Technical Review Board has stated that the science is poor. In addition to that, the Winston & Strawn law firm, which was giving legal advice to the Secretary of Energy for the sum of millions of dollars, was also getting millions of dollars from the Nuclear Energy Institute. If there were ever a direct conflict of interest, that was it, and the inspector general from the Department of Energy said so in written form.

So we have the General Accounting Office, inspector general of the Department of Energy, and the Nuclear Waste Technical Review Board saying: Secretary Abraham, don't make this recommendation now. You don't have the facts at your disposal to show there is good science. In spite of that, Secretary Abraham went ahead and did this anyway, and it was confirmed 1 day later by President Bush.

The people of Nevada are extremely disappointed in how President Bush handled this issue. So this is only one indication of how the President has handled the environment.

We have to work together to protect our environment from threats for our children and for their children. All future generations deserve clean water to drink, safe air to breathe, and communities free of dangerous chemicals. That is for certain.

In Nevada, we have taken important steps to protect our Nation's threatened and endangered species, even though, I repeat, Nevada is a desert, mostly. We have been either third or fourth, sometimes fifth, among the States that have listings in that regard. But we have made progress.

Construction came to a halt in Las Vegas because of the desert tortoise, and we have had problems in some of our rivers because of threatened and endangered species, but we have met those challenges. We have met them, especially in the southern Nevada area, a rapidly growing Las Vegas area, in a very inventive—I would say not only inventive way, but a way that will be used in future endangered species actions.

This was difficult to obtain, but we were able to get this with Secretary Babbitt, and I am convinced Secretary Norton will follow the same routine that Secretary Babbitt established as relates to endangered species in the southern Nevada area.

We have done some things that are extremely important to preserve areas around Las Vegas, including the Red Rock National Recreation area. We have been able to do some good things for Lake Tahoe and Pyramid Lake. We have done things with the Lake Mead area.

So we have a lot to celebrate in Nevada about our environmental accomplishments. But they are not secure. We believe there are other actions that need to be taken. One of the things we have been able to do—and this Congress really needs to talk positively about—is the brownfields legislation. That was legislation I authored. We were able to report that out of the Environment and Public Works Committee where I served during my entire time in the Senate.

I have been chairman of that committee on two separate occasions. During the time I have been there, we have had the opportunity to help improve many of our bedrock environmental laws, including the Clean Water Act, the Clean Air Act, Food Quality Protection Act, the Endangered Species Act, and the Safe Drinking Water Act. But the Brownfields Revitalization and Environmental Restoration Act of 2001, to clean up contaminated sites in rural areas and inner cities, has been very important. It will create hundreds of thousands of jobs and create millions and millions in revenues—actually over $2 billion in revenue—for local government.

This took a piece of the Superfund legislation and improved upon that. We could not totally rework the Superfund legislation as needed, but we were able to take a small piece of it and do things of which all cities in America were supportive. It was supported by the National League of Cities and the National Council of Mayors. As a result, we were able to pass this legislation.

It took a while to get it out of the House, but we were finally able to get it out. It took almost a year to get it out of the House.

We have made progress, in addition to that, toward reducing air pollution. That is what some of these general laws have done in years past. As I have indicated, with drinking water threats such as arsenic and others, we need to do better.

We have worked to protect our Nation's threatened and endangered species, bringing back American symbols such as the bald eagle. I was able to go to the west front of the Capitol about a month ago. We had a bald eagle fly in. We were able to see that beautiful bird. I had never been that close to an eagle—really this close—with those piercing eyes. Those eyes can see a fish in the water a mile away, I am told.

Mr. President, I know this administration has taken steps to erode some of these accomplishments about which I have spoken, and on nearly every front. On this Earth Day, I think we should recognize this administration has denied the reality of global warming by walking away from the international negotiating table on climate change. This administration has threatened to undermine a Clean Air Act program which would clean up pollution from our powerplants. This administration has proposed to cut funding for enforcement of our landmark environmental laws. This administration has opposed efforts to develop renewable energy and to make our vehicles more efficient. This administration has tried to exploit the National Wildlife Refuge at the request of the big oil companies.

Today the President is in the Adirondack Mountains or someplace in New York—I think that is where I heard in the news that he was—to celebrate Earth Day. I am glad the administration recognizes the importance of Earth Day. But I think we should look at some of the basic laws that are being underfunded and undermined by the policies of this administration.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming, Mr. THOMAS, is recognized.

THE SENATE AGENDA

Mr. THOMAS. Mr. President, I will speak in morning business. There are a couple of issues before us. First of all, I urge that we move back as soon as possible—I understand we will at 2 o'clock—to our energy bill. Certainly, there is nothing more important before us now than the completion of that bill and being able to send it on to the President. Certainly, it is not going to have everything in it that everybody wanted. That is not a new idea. This is a bill that has been on the floor for 5 weeks. But it does have some good things in it. It has some basic energy policy materials that we have not had for a very long time. It has some of the things the President and Vice President had put forth. Unfortunately, some of those it does not.

I was and am a supporter of ANWR. I think that could be done as a multiple-use project. I certainly agree with protecting the environment, as the Senator from Nevada was talking about, but I am also a great promoter of multiple use. Since 50 percent of my State belongs to the Federal Government, we have to be very certain that we have a chance to use it. So I hope we move forward with that.

Upon its completion, I hope we take a look at trade promotion authority. There is probably nothing more important to us in terms of our economy and us being part of world trade. Billions of dollars move around this world every day. Yet for a number of years we have not authorized the President to go ahead with negotiations and to bring those negotiations back to the Congress, which is what this trade authority bill provides.

We had a meeting this morning, and a press conference, talking about the agricultural aspect of foreign trade. Some are concerned about certain crops. But the bottom line is about more than a third, nearly 40 percent, of our agricultural production goes overseas. Our market here only consumes about 60 percent of what we produce, and that leaves 40 percent that has to go somewhere else, to new markets. To do that, we need a trade bill. That is where I think we really ought to go.

TAX DAY

Mr. THOMAS. Mr. President, recently we had a day called Tax Day. I think most of us thought a lot about taxes. We talked a lot about the process of filling in our tax forms and paying our taxes. I do not know about everyone else, but I came out of that with the renewed notion that we certainly need to take a look at making taxes more simple and that we need to simplify the Tax Code. The problem is, of course, that we are moving just exactly in the opposite way. We spent 7 or 8 years talking about simplification of the Tax Code, and every year it becomes less so. I hope we can address making the Tax Code simpler. The purpose of the Tax Code is to raise money in a fair way.

The definition of a tax is a charge of money imposed by authority upon persons or property for public purposes. You have to have taxes. No one argues with that. But it is not a voluntary act. It is an imposition of authority upon people, and the imposition—in many cases, because of the process—is unreasonable.

I am persuaded that the current Tax Code remains overly complicated, burdensome, and frustrating to the American taxpayer. I believe we find ourselves often more in the business of trying to manage behavior through taxes than we are of fairly raising money. If we have something we want done, and if someone wants to wear a red shirt and part their hair in the middle, we say: We will give you a tax deduction for doing that. All of that makes it much more complicated than in the past. It is now inefficient. It is inefficient in the allocation of financial resources for communities. Certainly, we are not able to supervise it and audit it very easily because it is so complicated.

I am proud to have supported President Bush's tax relief bill last year. We made some effort to reduce the burden of taxes. Certainly, that doesn't help in terms of the complication that goes into filling out tax forms.

One hundred and four million individuals and families will receive a tax reduction of about $1,000 from that action. That is good. Nearly 43 million married couples will receive an average deduction of $1,700. That is very good. Thirty-eight million filers with children will receive an average deduction of about $1,460.

However, we certainly have not finished our work. Obviously, there needs to be an effort made to make permanent the inheritance tax, or the death tax. That has to be done. I think we need to simplify the Tax Code. We need to continue to do that. I know that is easy to say and much more difficult to do. We need incentives to make that happen.

But the other side of that is that taxpayers spend, according to a report, over 6 billion hours filling out IRS forms. The estimated cost of compliance is close to $200 billion annually. That is a drain on resources. That should not happen.

I hope we can take a basic look at where we want to be in terms of this issue. It is too complicated, it is too expensive, and it is hopeless to figure out how much we owe. That shouldn't have to be the case. We have worked on it and talked about it at least for a number of years, but we have not done much.

Another important area in which we need to make substantive changes is health care. We talk about cost and who is going to pay for it. We need to give more thought to how to make substantive changes. The same is true with taxes. We ought to go back to the basics: Here is the amount of money that has to be raised. What is the fair way to do it? We need to do it in a simple way, and we need to sit down in a reasonable time and do it.

Some have said Paul O'Neill, Secretary of the Treasury, said the tax laws are abominably full of absurdities. He is exactly right about that. We have about 17,000 pages in the code. Most of it, of course, comes from the Congress. Each day practically, we try to do something more with taxes to affect behavior.

I think it is time we take a clean look at that and say the purpose of Tax Day is to support the necessary functions of government. It should be simpler for people to comply, and we ought to start with that premise and do it.

I hope we can move forward to do that. I appreciate the opportunity to speak.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

INTERVIEW WITH DENNIS ROSS

Mrs. FEINSTEIN. Mr. President, in reviewing my press clips this morning, I saw an interview between Brit Hume on "FOX News Sunday" and Dennis Ross, President Clinton's Middle East envoy. Many of us have followed closely the negotiations at Camp David, and also at Taba, but never before have we really heard Dennis Ross comment on these negotiations.

For the first time this past Sunday, we did. I was really quite surprised by these comments. I thought they were of such significance that I ask unanimous consent to have the entire interview printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSCRIPT: DENNIS ROSS, FORMER U.S. SPECIAL ENVOY TO THE MIDDLE EAST

Following is a transcripted excerpt from FOX News Sunday, April 21, 2002.

BRIT HUME (host). Former Middle East envoy Dennis Ross has worked to achieve Middle East peace throughout President Clinton's final days in office. In the months following Clinton's failed peace summit at Camp David, U.S. negotiators continued behind-the-scenes peace talks with the Palestinians and Israelis up until January 2001, and that followed Clinton's presentation of ideas at the end of December 2000.

Dennis Ross joins us now with more details on all that, and Fred Barnes joins the questioning.

So, Dennis, talk to us a little bit, if you can—I might note that we're proud to able to say that you're a Fox News contributing analyst.

DENNIS ROSS (Fmr. U.S. special envoy to the Middle East). Thank you.

HUME. Talk to us about the sequence of events. The Camp David talks, there was an offer. That was rejected. Talks continued. You come now to December, and the president has a new set of ideas. What unfolded?

ROSS. Let me give you the sequence, because I think it puts all this in perspective.

Number one, at Camp David we did not put a comprehensive set of ideas on the table. We put ideas on the table that would have affected the borders and would have affected Jerusalem.

Arafat could not accept any of that. In fact, during the 15 days there, he never himself raised a single idea. His negotiators did, to be fair to them, but he didn't. The only new idea he raised at Camp David was that the temple didn't exist in Jerusalem, it existed in Nablus.

HUME. This is the temple where Ariel Sharon paid a visit, which was used as a kind of pretext for the beginning of the new intifada, correct?

ROSS. This is the core of the Jewish faith.

HUME. Right.

ROSS. So he was denying the core of the Jewish faith there. After the summit, he immediately came back to us and he said, "We need to have another summit," to which we said, "We just shot our wad. We got a no from you. You're prepared actually to do a deal before we go back to something like that."

He agreed to set up a private channel between his people and the Israelis, which I joined at the end of August. And there were serious discussions that went on, and we were poised to present out ideas the end of September, which is when the intifada erupted. He knew we were poised to present the ideas. His own people were telling him they looked good. And we asked him to intervene to ensure there wouldn't be violence after the Sharon visit, the day after. He said he would. He didn't lift a finger.

Now, eventually we were able to get back to a point where private channels between the two sides led each of them to again ask us to present the ideas. This was in early December. We brought the negotiators here.

HUME. Now, this was a request to the Clinton administration——

ROSS. Yes.

HUME [continuing]. To formulate a plan. Both sides wanted this?

ROSS. Absolutely.

HUME. All right.

ROSS. Both sides asked us to present these ideas.

HUME. All right. And they were?

ROSS. The ideas were presented on December 23 by the president, and they basically said the following: On borders, there would be about a 5 percent annexation in the West Bank for the Israelis and a 2 percent swap. So there would be a net 97 percent of the territory that would go to the Palestinians.

On Jerusalem, the Arab neighborhoods of East Jerusalem would become the capitol of the Palestinian state.

On the issue of refugees, there would be a right of return for the refugees to their own state, not to Israel, but there would also be a fund of $30 billion internationally that would be put together for either compensation or to cover repatriation, resettlement, rehabilitation costs.

And when it came to security, there would be a international presence, in place of the Israelis, in the Jordan Valley.

These were ideas that were comprehensive, unprecedented, stretched very far, represented a culmination of an effort in our best judgment as to what each side could accept after thousands of hours of debate, discussion with each side.

BARNES. Now, Palestinian officials say to this day that Arafat said yes.

ROSS. Arafat came to the White House on January 2. Met with the president, and I was there in the Oval Office. He said yes, and then he added reservations that basically meant he rejected every single one of the things he was supposed to give.

HUME. What was he supposed to give?

ROSS. He was supposed to give, on Jerusalem, the idea that there would be for the Israelis sovereignty over the Western Wall, which would cover the areas that are of religious significance to Israel. He rejected that.

HUME. He rejected their being able to have that?

ROSS. He rejected that.

He rejected the idea on the refugees. He said we need a whole new formula, as if what we had presented was non-existent.

He rejected the basic ideas on security. He wouldn't even countenance the idea that the Israelis would be able to operate in Palestinian airspace.

You know when you fly into Israel today you go to Ben Gurion. You fly in over the West Bank because you can't—there's no space through otherwise. He rejected that.

So every single one of the ideas that was asked of him he rejected.

HUME. Now, let's take a look at the map. Now, this is what—how the Israelis had created a map based on the president's ideas. And——

ROSS. Right.

HUME. [continuing]. What can we—that situation shows that the territory at least is contiguous. What about Gaza on that map?

ROSS. The Israelis would have gotten completely out of Gaza. And what you see also in this line, they show an area of temporary Israelis control along the border.

HUME. Right.

ROSS. Now, that was an Israeli desire. That was not what we presented. But we presented something that did point out that it would take six years before the Israelis would be totally out of the Jordan Valley.

So that map there that you see, which shows a very narrow green space along the border, would become part of the orange. So the Palestinians would have in the West Bank an area that was contiguous. Those who say there were cantons, completely untrue. It was contiguous.

HUME. Cantons being ghettos, in effect——

ROSS. Right.

HUME [continuing]. That would be cut off from other parts of the Palestinian state.

ROSS. Completely untrue.

And to connect Gaza with the West Bank, there would have been an elevated highway, an elevated railroad, to ensure that there would be not just safe passage for the Palestinians, but free passage.

BARNES. I have two other questions. One, the Palestinians point out that this was never put on paper, this offer. Why not?

ROSS. We presented this to them so that they could record it. When the president presented it, he went over it at dictation speed. He then left the cabinet room. I stayed behind. I sat with them to be sure, and checked to be sure that every single word.

The reason we did it this way was to be sure they had it and they could record it. But we told the Palestinians and Israelis, if you cannot accept these ideas, this is the culmination of the effort, we withdraw them. We did not want to formalize it. We wanted them to understand we meant what we said. You don't accept it, it's not for negotiation, this is the end of it, we withdraw it.

So that's why they have it themselves recorded. And to this day, the Palestinians have not presented to their own people what was available.

BARNES. In other words, Arafat might use it as a basis for further negotiations so he'd get more?

ROSS. Well, exactly.

HUME. Which is what, in fact, he tried to do, according to your account.

ROSS. We treated it as not only a culmination. We wanted to be sure it couldn't be a floor for negotiations.

HUME. Right.

ROSS. It couldn't be a ceiling. It was the roof.

HUME. This was a final offer?

ROSS. Exactly. Exactly right.

HUME. This was the solution.

BARNES. Was Arafat alone in rejecting it? I mean, what about his negotiators?

ROSS. It's very clear to me that his negotiators understood this was the best they were ever going to get. They wanted him to accept it. He was not prepared to accept it.

HUME. Now, it is often said that this whole sequence of talks here sort of fell apart or ended or broke down or whatever because of the intervention of the Israeli elections. What about that?

ROSS. The real issue you have to understand was not the Israeli elections. It was the end of the Clinton administration. The reason we would come with what was a culminating offer was because we were out of time.

They asked us to present the ideas, both sides. We were governed by the fact that the Clinton administration was going to end, and both sides said we understand this is the point of decision.

HUME. What, in your view, was the reason that Arafat, in effect, said no?

ROSS. Because fundamentally I do not believe he can end the conflict. We had one critical clause in this agreement, and that clause was, this is the end of the conflict.

Arafat's whole life has been governed by struggle and a cause. Everything he has done as leader of the Palestinians is to always leave his options open, never close a door. He was being asked here, you've got to close the door. For him to end the conflict is to end himself.

HUME. Might it not also have been true, though, Dennis, that, because the intifada had already begun—so you had the Camp David offer rejected, the violence begins anew, a new offer from the Clinton administration comes along, the Israelis agree to it, Barak agrees to it——

ROSS. Yes.

HUME [continuing]. Might he not have concluded that the violence was working?

ROSS. It is possible he concluded that. It is possible he thought he could do and get more with the violence. There's no doubt in my mind that he thought the violence would create pressure on the Israelis and on us and maybe the rest of the world.

And I think there's one other factor. You have to understand that Barak was able to reposition Israel internationally. Israel was seen as having demonstrated unmistakably it wanted peace, and the reason it wasn't available, achievable was because Arafat wouldn't accept it.

Arafat needed to re-establish the Palestinians as a victim, and unfortunately they are a victim, and we see it now in a terrible way.

HUME. Dennis Ross, thank you so much.

Mrs. FEINSTEIN. Mr. President, on Camp David, let me quote Dennis Ross, President Clinton's Middle East envoy and a person who literally carried out thousands of hours of negotiation. He said:

> Let me give you the sequence [of events], because I think it puts all this in perspective. Number one, at Camp David we did not put a comprehensive set of ideas on the table. We put ideas on the table that would have affected borders and would have affected Jerusalem.
>
> Arafat could not accept any of that. In fact, during the 15 days there he never himself raised a single idea. His negotiators did, to be fair to them, but he didn't. The only new ideas he raised at Camp David was that the temple didn't exist in Jerusalem, it existed in Nablus . . . So he was denying the core of the Jewish faith there.

On the eruption of the Intifada:

> After the summit, he immediately came back to us and he said, "We need to have another summit," to which we said, "We just shot our wad. We got a no from you. You're prepared actually to do a deal before we go back to something like that."
>
> He agreed to set up a private channel between his people and the Israelis, which I joined at the end of August. And there were serious discussions that went on, and we were poised to present our ideas the end of September, which is when the intifada erupted.
>
> He knew we were poised to present the ideas. His own people were telling him they looked good. And we asked him to intervene to ensure there wouldn't be violence after the Sharon visit, the day after. He said he would. He didn't lift a finger.

On a final plan in December:

> Now, eventually we were able to get back to a point where private channels between the two sides led each of them to again ask us to present the ideas. This was in early December. We brought the negotiators here.
>
> The ideas were presented on December 23 by the President, and they basically said the following:
>
> On borders, there would be about a 5 percent annexation in the West Bank for the Israelis and a 2 percent swap. So there would be a net 97 percent of the territory that would go to the Palestinians.
>
> On Jerusalem, the Arab neighborhoods of East Jerusalem would become the capitol of the Palestinian state.
>
> On the issue of refugees, there would be a right of return for the refugees to their own state, not to Israel, but there would also be a fund of $30 billion internationally that

> would be put together for either compensation or to cover repatriation, resettlement, rehabilitation costs.
>
> And when it came to security, there would be an international presence, in place of the Israelis, in the Jordan Valley.
>
> These were ideas that were comprehensive, unprecedented, stretched very far, represented a culmination of an effort in our best judgment as to what each side could accept after thousands of hours of debate, discussion with each side.
>
> Arafat came to the White House on January 2.

Mr. President, it was January 2, just before President Clinton left office.

> Met with the president, and I was there—

“I” being Dennis Ross—

> in the Oval Office. He said yes, and then he added reservations that basically meant he rejected every single one of the things he was supposed to give.
>
> He [was] supposed to give, on Jerusalem, the idea that there would be for the Israelis sovereignty over the Western Wall, which would cover the areas that are of religious significance to Israel. He rejected that.
>
> He rejected the idea on the refugees. He said we need a whole new formula, as if what we had presented was non-existent.
>
> He rejected the basic ideas on security. He wouldn't even countenance the idea that the Israelis would be able to operate in Palestinian airspace.

This is commercial aviation.

> You know when you fly into Israel today you go to Ben Gurion. You fly in over the West Bank because you can't—there's no space through otherwise. He rejected that.
>
> So every single one of the ideas that was asked of him he rejected.

Dennis Ross then went on to say:

> It's very clear to me that his negotiators understood this was the best they were ever going to get. They wanted him to accept it. He was not prepared to accept it.

Then on why Arafat said no. Dennis Ross said:

> Because fundamentally I do not believe he can end the conflict. We had one critical clause in this agreement, and that clause was, this is the end of the conflict.
>
> Arafat's whole life has been governed by struggle and a cause. Everything he has done as leader of the Palestinians is to always leave his options open, never close a door. He was being asked here, you've got to close the door. For him to end the conflict is to end himself.

Now, he was asked the question on whether Arafat believed he could get more through violence. This is how Dennis Ross responded. And I quote:

> It is possible he concluded that. It is possible he thought he could do and get more with the violence. There's no doubt in my mind that he thought the violence would create pressure on the Israelis and on us and maybe the rest of the world.
>
> And I think there's one other factor. You have to understand that Barak was able to reposition Israel internationally. Israel was seen as having demonstrated unmistakably it wanted peace, and the reason it wasn't available, achievable was because Arafat wouldn't accept it.
>
> Arafat needed to re-establish the Palestinians as a victim, and unfortunately they are a victim, and we see it now in a terrible way.

Mr. REID. Will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mr. REID. I did not see this interview on television over the weekend, so I appreciate very much the Senator from California bringing it to my attention and the attention of the Senate and the American people.

But it appears to me that what he has said—“he,” meaning Dennis Ross—is that Yasser Arafat could not take yes for an answer. It appears that he and his people got everything they asked for, and that still was not good enough.

Is that how the Senator sees that?

Mrs. FEINSTEIN. I think that is exactly correct.

What Dennis Ross said, essentially, was the final negotiations, that had been gone over prior to this meeting in the White House, had been gone over with the negotiators—that the implication is, that there was an assent to it by the negotiators, and then when the meeting was held in the White House, Arafat said, yes, but then he presented so many reservations that that clearly countermanded the “yes.”

So the implication that is drawn from that, I say to the Senator, is that you are absolutely right. When push came to shove, Yasser Arafat said no.

Mr. REID. Well, I appreciate very much the Senator from California bringing this to our attention. And I have a clear picture that what has taken place in the Middle East since August a year ago is the direct result of the inability of Yasser Arafat to accept what he had asked for in the first place; that is, all the violence, all the deaths, all the destruction, I personally place at his footsteps.

I want the Senator from California to know how I personally feel, that this man, to whom I tried to give every benefit of the doubt, has none of my doubt any more. I think Yasser Arafat is responsible for the problems in the Middle East totally.

Mrs. FEINSTEIN. I say to Senator REID, thank you very much. I appreciate those comments. I think there are many in the Senate who share those comments. What is so significant to me because I know Dennis Ross—and Dennis Ross was really an excellent Middle East envoy, an excellent negotiator, fully knowledgeable about all of the points of convention—and I thought if anybody had a chance of achieving a settlement, it really was Dennis Ross and President Clinton. And, clearly, that did not happen. I think on this “FOX News Sunday,” Dennis Ross clearly said why it did not happen.

So I appreciate those comments.

THE ARAFAT ACCOUNTABILITY ACT

Mrs. FEINSTEIN. Mr. President, on Thursday, Senator MCCONNELL and I introduced legislation that had findings as well as bill language containing some sanctions. The title of the legislation is the Arafat Accountability Act. I do not want to argue that now, but I do want to point out, in a column in this morning's New York Times, Mr. William Safire, under the title “Democrats vs. Israel,” made a statement about this resolution, saying it has been blocked by Majority Leader TOM DASCHLE.

This is not true. Senator MCCONNELL and I presented the bill on Thursday. We indicated we were not pushing for its passage at the present time, that we wanted time to go out and achieve a number of cosponsors. That was the reason for any delay. So I would like the record to clearly reflect that.

EARTH DAY AND GLOBAL WARMING

Mrs. FEINSTEIN. Mr. President, today is the 32nd anniversary of Earth Day. I think it is fitting, then, to say a few words about the world's No. 1 environmental problem; and that is clearly global warming. It is also fitting because last week the east coast of our country experienced its first April heat wave in more than a quarter of a century. Even more disturbing, in February, an iceberg, the size of Rhode Island, collapsed from the Antarctic ice shelf.

The Earth's average temperature has risen 1.3 degrees in the last 100 years. Computer models predict an increase of 2 to 6 degrees over the next century.

The 10 hottest years on record have all occurred since 1986. What does that mean? Today the atmospheric concentration of carbon dioxide—that is our No. 1 greenhouse gas—is 30 percent higher than preindustrial levels. This may seem to be a small change, but just a few upticks in temperature can produce catastrophic conditions in weather. So the window of time to do something to curb global warming is closing fast.

One of my disappointments with the energy bill is the fact that there is no substantive action taken to reduce our Nation's profligate carbon dioxide pollution.

California is in a unique and precarious position. With a population of 34 million people today and an expected population of 50 million by 2020, the State is particularly vulnerable to global climate change. Global warming could make California's water even more scarce, create further flooding, destroy certain agricultural crops, and lead to more frequent and intense Sierra forest fires. Because global warming will likely increase sea levels and since most of the population lives just a stone's throw from the coast, the result could be flooding for millions of Californians.

Actually, there has already been a significant rise in sea level along the

U.S. coast of about a tenth of an inch per year, which translates into about 11 inches per century.

The global sea level is rising about three times faster over the past 100 years compared to the previous 3,000 years. The melting of polar ice and land-based glaciers is expected to contribute a projected one-half to 3-foot sea level rise for the 21st century. That is enormous. Just a 20-inch rise in sea level from climate change could inundate 3,200 to 7,300 square miles of dry land.

The Presiding Officer, coming from the State of Hawaii, knows how that could impact his State.

This could eliminate as much as 50 percent of North America's coastal wetlands. In northern California, increased winter flows into San Francisco Bay could increase the flooding risk and shift saltwater upstream from the bay. This is already happening. Saltwater levels are rising in the delta areas. This increased saltwater penetration into the delta, which is the source of two-thirds of the drinking water for the State, could affect water quality for millions of Californians.

The underlying cause of flooding is also very concerning. Mountain glaciers throughout the world seem to be receding. Glacier National Park may be glacier free by 2070, and the Sierra Nevada mountains may be glacier free soon after. The Greenland ice sheet has already lost roughly 40 percent of its thickness over the past four decades. And shrinking ice caps may very well alter ocean circulation and storm tracks.

Rising sea level is not our only concern. Precipitation, rain, has increased by 5 to 10 percent during the last century. Much of this was attributed to heavy and very heavy rainfall events which reaffirm the importance of developing ways of storing this water during wet periods and having it available during times of drought, because global warming means more turbulent weather patterns; it means more hurricanes, more tornadoes. When it rains, the drops of rain are bigger, the rainfall is more intense; ergo, the destruction is greater.

The report also pointed out that rising temperatures are likely to result in less snow and more rain, quicker melting of the existing snowpack, particularly at lower elevations, and a shift in runoff to earlier in the year.

While total runoff amounts haven't changed, the timing of that runoff is shifting to winter. In fact, the amount of runoff in the spring snowmelt period—that is, April through July—in northern California has actually dropped over the past century from 45 percent to 35 percent.

In normal winters, California's water gets stored in snowpacks until spring, and that is when the spring runoff fuels our reservoirs and is there for drinking as well as farming.

Drought conditions may worsen, thereby destroying water-dependent crops such as rice, cotton, and alfalfa. For many parts of the western United States, the shifting weather patterns brought on by global warming could mean a greater risk of damage, life-threatening floods. And, of course, southwestern States worry that a 10-percent drop in flows in the Colorado River could lead to a 30-percent drop in water storage behind the reservoirs along the Colorado, not to mention a 30-percent drop in hydroelectric generation on the Colorado itself. The stakes are very high.

Unfortunately, our country lags behind when it comes to providing the leadership necessary to stem this growing problem. Amazingly, some of us in Congress even question whether we have a problem in this regard. I believe if we don't act soon, our State, our Nation, and our planet will pay a heavy price.

What should we do? The first thing, and the largest way of reducing the No. 1 greenhouse gas, the No. 1 contributor to global warming, is to do something about carbon dioxide emissions in automobiles. That is fuel efficiency for automobiles.

We had this debate in the Senate earlier, and a bill presented by the Senator from Massachusetts to increase mileage standards to 35 miles per gallon went down to crashing defeat. There still is another item that I am giving serious consideration to presenting as an amendment, and that is closure of the SUV/light truck loopholes. If SUVs were simply required to meet the same fuel economy standards as automobiles, we would prevent the emission of more than 200 million tons of carbon dioxide each year. This is 3 percent of the country's entire CO_2 emissions. This in itself would be the largest single step we could take at this time to reduce global warming.

The big three auto manufacturers continue to fight for the status quo. They oppose all increases in fuel efficiency. Last year, Senator SNOWE and I and about 13 of our colleagues introduced the SUV/light truck loophole closing legislation. What we said we wanted to do was, over the next 10-year period, bring SUVs and light trucks to the same level as other passenger vehicles. A study has been done by the National Academy of Sciences. Senators Slade Gorton, Dick Bryan, and I began this effort some 3 years ago. I believe the technology is available to make those changes. Instead, our automobile companies have chosen to make SUVs more like tanks than fuel-efficient vehicles.

Consequently, we continue to pump out large amounts of carbon dioxide. I believe increased fuel economy standards represent the logical first step in reducing mobile sources of carbon dioxide.

We also have to work to expand California's zero emission vehicle program and examine ways to promote cleaner and more efficient battery, electric, fuel cell, or hybrid vehicles. We should also look toward reducing urban sprawl and our dependence on gas-guzzling vehicles.

The second action we should take is to increase the use of renewable energy. Energy use by buildings and appliances accounts for a quarter of California's carbon dioxide emissions. We can solve this problem by providing necessary tax credits and other incentives for energy-efficient buildings and appliances.

By operating more efficiently, we not only reduce waste and pollution that contribute to global warming, we also save consumers and businesses money in the process.

Finally, I deeply believe that the President of the United States should submit the Kyoto Protocol on climate change to the Senate and that the Senate should take up the treaty and ratify it. This historic United Nations framework—established in 1997—aims to reduce greenhouse gases by setting emissions targets and timetables for industrialized nations.

To enter into force, the Kyoto Protocol must be ratified by at least 55 countries, accounting for at least 55 percent of the total 1990 carbon dioxide emissions of developed countries.

Even though we are only 4 percent of the world's population, we account for 20 percent of the world's energy use. No other country is nearly as profligate.

Opponents of the treaty say there is no reason for the United States to do anything to combat global warming unless developing countries, such as China and India, also participate. In my view, this is simply shortsighted. As the most economically advanced nation, what we do sets the standard for the rest of the world—like it or not. So if we want to reduce global warming, if we take this position, I believe other nations will follow.

President Clinton signed the treaty in 1998, but it was never submitted to the Senate, in part because the 67 votes needed to pass it were simply not there. If the United States will not ratify this treaty, at an absolute minimum, we need to come up with a way to substantially reduce our emissions on our own.

The bottom line is that this energy bill does not, in any way, shape, or form, actually reduce any of these emissions.

As the No. 1 contributor of greenhouse gases worldwide, I believe it is our responsibility to show leadership; and every day we wait, we lose an opportunity to reduce the threat of global warming. It is not too much to ask the world's economic and political superpower to provide the necessary leadership to address global warming and, one day, to celebrate an Earth Day in which the United States has truly taken the lead.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I further ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the submission of S. Res. 247 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business

The PRESIDING OFFICER. Without objection, it is so ordered.

WHERE IS THE DEMOCRATIC BUDGET RESOLUTION?

Mr. GRASSLEY. Mr. President, Monday was April 15. That is the day Americans file their income tax return with the IRS.

April 15 was also the deadline for Congress to complete its work on the budget resolution for the Federal government. But, the deadline has come and gone and we still don't have a budget.

It seems the Democratic leadership is reluctant to bring their proposed budget to the floor of the Senate for a vote. According to recent press reports, they don't know if they have the votes to pass their budget.

What is interesting about the Democratic leadership's inability to find enough votes to pass a budget is that the makeup of the Senate this year is exactly the same as last year. With this same membership, Republicans last year produced a bipartisan budget supported by 65 Senators, including 15 Democrats.

After taking a closer look at their budget, I am not surprised they do not have the votes. The Democratic budget is a case study in contradictions.

They claim to support the war on terrorism, but they don't fund the Presidents' request for defense. They say the President's tax cut was too big, but they don't delay or repeal it. They claim to protect Social Security and Medicare, but they spend trust fund money on other programs for the rest of the decade. In short, the Democratic budget says one thing and does another.

Take a closer look at these contradictions.

First, according to the Democratic Budget Committee Report, "the budget resolution provides all of the resources requested by the President for the Department of Defense for the next 2 years. It includes a reserve fund that will provide all of the defense funding requested by the President in 2005 through 2012 if it becomes clear that the funds are needed."

In other words, the Democratic budget funds the President's request for 2 years and then cuts it by $160 billion the next 8 years.

Their so called defense "reserve fund" is fraud. Unlike the other reserve funds in their budget—for Medicare, health care, and the Individuals with Disabilities Act—no money is actually being set aside for defense.

Admittedly, the war on terrorism may not cost as much as the President has requested, but instead of honestly setting aside the extra money until we know for sure, the Democratic budget spends the money on other programs.

According to the Democratic Budget Committee Report, "The President's budget does represent an appropriate response to the September 11 attacks—it provides the resources that will allow our armed forces, homeland security personnel, and citizens to respond to the challenge posed by terrorists. But—just as last year—the President's budget does not respond adequately to the other major challenges facing this nation."

In other words, the Democratic budget recognizes the potential need to fund the President's defense request, but insists other programs must come first. Compared to the President's budget, the Democratic budget spends $160 billion less on defense and $348 billion more on everything else.

The second contradiction in the Democratic budget is the issue of tax cuts.

The Democratic Budget Committee Report says, "Last year our national leaders were presented with a golden opportunity to set this Nation on a course to deal with the challenges facing it . . . But the President and Republicans in Congress instead pushed through a plan that had only one priority—tax cuts . . . Becuase of the huge tax cut, there were not enough resources left to address other challenges . . . The effects of this squandered opportunity are being felt this year."

So how does the Democratic budget propose to deal with this so called squandered opportunity. The Democratic Budget Committee Report states "the budget resolution assumes no repeal or delay of tax rate reductions that are scheduled to occur in future years under the law enacted last year."

So if last year's tax cut was such a "squandered opportunity," why doesn't the Democratic budget do something about it?

The reason is simple. They know the American people are overtaxed. They know twelve Democratic Senators vote for the tax cut signed into law by President Bush last year. They know their Senate colleagues will not vote to delay or repeal the tax cut.

But instead of admitting these facts, the Democratic leadership continues its partisan attacks on Republicans for "squandering" the surplus and "raiding" Social Security.

That brings us to the third and most outrageous contradiction of them all.

The Democratic Budget Committee Report states, "The budget resolution recognizes that it is crucial to return the budget to balance without Social Security as soon as possible . . ."

So how does the Democratic budget propose to do this? It contains a so called "circuit breaker" that would create a budget point-of-order against the consideration of next year's budget if it does not get to balance—excluding Social Security—by 2008.

In other words, the Democratic budget believes it is so "crucial" to balance the budget without Social Security that it proposes to wait until next year. Apparently, "as soon as possible" doesn't apply to this year.

During the Budget Committee markup, the chairman explained that he was not requiring a plan to protect Social Security this year because the economy was still weak and that it is unwise to engage in further deficit reduction during our recovery.

One might be tempted to accept this explanation. But consider what the chairman had to say when OMB Director Mitch Daniels testified before the Budget Committee.

The Budget Committee chairman stated, "I'd be quick to acknowledge I could live with [a deficit] in a year of economic downturn and at a time of war. But you're not forecasting economic downturn for even later this year—you're forecasting economic recovery. And for the rest of the decade, you're forecasting rather strong economic growth and yet year after year you propose taking money from Social Security, taking money from Medicare . . . How do you justify it?"

Blaming the economy for their failure to make any effort to protect Social Security is especially ironic given the Budget Committee chairman's view of how the economy works.

According to the chairman, the tax cuts reduced the surplus, thereby driving up long-term interest rates which have a negative impact on the economy.

If one accepts the chairman's view of the economy, the sooner Congress enacts a deficit reduction package, the sooner we can bring down long-term interest rates and stimulate the economy.

But instead of having the courage of his economic convictions, the Democratic budget fails to make any effort to reduce the deficit. Instead, it just digs the hole deeper.

The Democratic budget resolution dips into the Social Security trust fund and spends $1.3 trillion of the Social Security surplus on other programs.

What is even more ironic about the Democratic budget "circuit breaker" is that it only applies to Social Security. Last year, the chairman of the Budget Committee insisted that it was equally important to protect the Medicare trust fund as well.

Last year during the debate over the Social Security lockbox, the chairman stated, "Some of us believe it is critically important that we protect both the Social Security trust fund and the Medicare trust fund so they are not used for other spending in the Federal budget." Apparently, that was then and this is now.

Now, the Democratic budget proposes to dip into the Medicare trust fund and spend $360 billion of the Medicare surplus on other programs.

The Democratic leadership would like the American public to believe their opposition to tax cuts is based on their desire to protect Social Security and Medicare. But the budget they have produced this year shows that is simply not true.

Despite what the Democratic leadership might say, their opposition to tax cuts has nothing to do with protecting Social Security and Medicare.

If they were so committed to protecting Social Security and Medicare, they could have proposed to delay or repeal the tax cut. If they were so committed to protecting Social Security and Medicare, they could have proposed to reduce other spending. But they chose to do none of the above.

Instead, the Democratic leadership chose to produce a budget that increases Federal spending and thereby spends $1.7 trillion of the Social Security and Medicare surplus on other programs. That is the dirty little secret of the Democratic budget.

After spending all of last year and the first part of this year engaged in partisan attacks on a so called Republican tax cut—that passed with the votes of twelve Democrats—they have decided they would rather increase spending than protect Social Security and Medicare.

Now, I believe we all know why the Democratic leadership doesn't want to bring their budget resolution to the floor of the Senate for a vote—they are too embarrassed. I have to admit, I would be embarrassed, too.

Based on CBO latest projections, including the economic stimulus bill, the Federal budget will not have a surplus—excluding Social Security and Medicare—until 2011.

Instead of addressing these long-term deficits, the Democratic budget proposes to increase spending by $1.1 trillion.

"New Spending" shows how the Democratic budget would dig the deficit hole even deeper.

The Democratic budget only achieves balance in 2012 by assuming the tax cut will expire.

Between now and 2011, the Democratic budget would spend $1.7 trillion from the Social Security and Medicare trust funds—$362 billion from Medicare and $1.32 trillion from Social Security.

The Democratic budget "circuit breaker" would require next year's budget to get the balance—excluding Social Security—by 2008.

But this year's Democratic budget proposes to spend an additional $428 billion between 2004 and 2008.

In order to comply with the "circuit breaker," next year's budget would have to reduce spending or increase taxes by $424 billion.

In other words, next year's budget would have to repeal virtually every dollar of additional spending provided by this year's budget.

If the "circuit breaker" were expanded to include Medicare, then next year's budget would have to reduce spending or increase by $536 billion.

The PRESIDING OFFICER. The Senator from North Dakota.

U.S. FARM PRODUCT SALES TO CUBA

Mr. DORGAN. Mr. President, it is one thing to shoot yourself in the foot, it is quite another thing to take aim before you shoot. That is what has happened in the last couple of weeks with respect to the State Department deciding to revoke the visas they previously granted to Pedro Alvarez and other officials from a group called Alimport, which is a Cuban state-run purchaser of foreign goods.

Mr. Alvarez and others were invited to come from Cuba to the United States, to come to North Dakota, to Iowa, and to other parts of farm country in the United States because they need food. The Cuban economy has been injured, of course, by the hurricane, and they need food. As a result of that, they have been purchasing food from the United States. Why have they been purchasing food from the United States? Because I and some others took the lead in Congress to end the embargo with respect to the shipment of food from the United States to Cuba.

That embargo has existed for decades. We ended that in the year 2000. The result is that Cubans have bought $70 million-plus worth of food from us in the last few months.

It is kind of byzantine, because in order to buy food from us, they are required to pay cash and do it through a French bank. They work the transaction through a French bank. Nonetheless, that is what they have done.

Mr. Alvarez and the organization Alimport applied for visas to come to this country at the invitation of U.S. farm groups to buy additional wheat, eggs, dried beans, and other commodities. So they were given the visas. Just a couple days later, the visas were yanked. The passports were asked to be returned, and the visas were revoked. When I learned of that, I called the State Department.

Here is what the State Department told my staff. My staff asked: What is going on? Why did you revoke the visas of the people who were going to come from Cuba to purchase some additional United States food from our farmers?

> It is the policy of this administration not to encourage agricultural sales to Cuba.

Let me read that again. That is a most byzantine position.

> It is the policy of this administration not to encourage agricultural sales to Cuba.

We sell it to Communist China. Yes. That is a Communist government. We sell food to Vietnam. Yes. That is a Communist government. We sell food virtually all around the world. We fought for years to lift this embargo on food sales to Cuba. We are now selling food to Cuba, and we have some people taking a brainless position down at the Department of State that it is not our position to encourage food sales to Cuba; therefore, we will revoke the visas we previously granted to the head of Alimport to come into this country, to visit farm States, to purchase some dried beans, wheat, eggs, and other food products.

I am writing a letter today to Mr. Alvarez inviting him to come to the United States. It is not from farm organizations. It is from me. I am sending a copy of that letter to the State Department saying: You have an obligation to play straight.

When this country has the opportunity for family farmers to sell food to those in Cuba who need it and who are hungry and want access to that food, we have a responsibility to our farmers, and the State Department has a responsibility to the Congress to help make that happen.

Our farmers are facing really tough times. Prices have collapsed. They have remained down for a long while. Then we have this embargo on food sales and shipments to Cuba. We opened it just a bit and sold them $70 million worth of food. Now we have folks down in the State Department trying to play games with it once again.

I have asked the State Department: Who made these decisions? How did you make the decision? Who demanded that the visas be revoked? I want to know who has their foot on the brake. I want to know who has one of these hardheaded embargoes still going on with respect to Cuba. I want to know who is asking family farmers to be pawns in this struggle they have with Cuba.

Let me say that Mr. Otto Reich, the administration's top Latin American official, told a group of farmers: We are not going to be "economic suckers" to Fidel Castro. That attitude is an insult to American farmers. Our farmers produce food. They ought not be pawns in some soft-headed foreign policy by which someone wants to prevent that food from going to hungry people.

Does anyone here think Fidel Castro has ever missed a meal because we have for 35 or 40 years not allowed farmers to send food to Cuba? Does anyone here think Fidel Castro has ever missed breakfast, lunch, or dinner? You know better than that.

This country is shooting itself in the foot. Mr. Reich and others are taking aim before they do it. It is unforgivable. They have an obligation to play straight on this issue.

We have already debated this issue and made a decision on this issue. The decision was that it is immoral to use food as a weapon, and we are not going to do it anymore—not with Cuba, and not with other countries.

I ask unanimous consent to have printed in the RECORD a copy of a letter I sent to Mr. Colin Powell, Secretary of State, asking the questions: Who made these decisions? How did they make these decisions? When did they make them?

I would also like to have printed in the RECORD a letter from two dozen agricultural organizations protesting the same decision to revoke this visa. It includes the American Farm Bureau Federation, the American Meat Institute, Farmland Industries, the National Association of Wheat Growers, the U.S. Canola Association, the U.S. Dry Pea & Lentil Council, U.S. Wheat Associates, and the list goes on and on.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 17, 2002.

Hon. COLIN L. POWELL,
Secretary of State, the State Department,
Washington, DC.

DEAR SECRETARY POWELL: My office has been informed that the State Department recently approved—then rescinded—a visit for Pedro Alvarez, Chief of Alimport and other Cuban officials, who wished to come here to buy U.S. farm products.

Their trip to the United States would have included a visit to my state, North Dakota, where they had been invited by a North Dakota farm organization which hoped to interest them in buying some of North Dakota's excellent farm products. It was to be a customary visit foreign purchasing agents make to meet with U.S. suppliers, inspect facilities, and verify U.S. procedures and standards before making major purchases.

This was an important visit, filled with economic opportunity for North Dakota farmers who continue to suffer under commodity prices that collapsed six years ago and that have remained collapsed ever since.

Alimport is a very significant customer for U.S. farm products. Since November 2001, when legislation I helped enact into law finally made it possible for U.S. organizations and companies to sell food and medicines to Cuba, Alimport has purchased approximately 450,000 metric tons of agricultural commodities—corn, rice, wheat, soy, poultry, vegetable oil, apples, peas, eggs and pork lard—worth about $75 million.

I want a complete investigation into why these visas were cancelled. When my staff inquired about it, State Department officials told them, "It is the policy of this Administration not to encourage agricultural sales to Cuba." That is unacceptable to me.

If that is the basis for which the visas were cancelled, it is an insult to American farmers and puts at risk agricultural sales to Cuba. At a time when grain prices remain collapsed, it is just plain wrong for the Administration to try to impede the sale of grain to Cuba.

This is a brainless policy to be saying that we don't want to sell grain to the Cubans. We sell grain to communist China, communist Viet Nam, and it's just absurd to tell our farmers that our government doesn't want to sell grain to Cuba.

I want a complete investigation to find out who is running things in the State Department. Who ordered the visas cancelled? Did political operatives in the Administration communicate with the State Department about these visas?

I also want to request that you personally intervene in this matter. Our country needs to use some common sense. We must stop using our family farmers as pawns in foreign policy. That is the mandate from Congress and, specifically, when it comes to Cuba that is the law. It ought to be obeyed.

Pleased intervene and make the right decision with respect to these issues.

Sincerely,

BYRON L. DORGAN,
U.S. Senator.

APRIL 18, 2002.

Hon. COLIN L. POWELL,
Secretary, U.S. Department of State,
Washington, DC.

DEAR SECRETARY POWELL: As export dependent food and agricultural industries, we wish to express our disappointment with the recent action taken by the Department of State to deny visas to Cuban trade officials. The planned meetings between U.S. agricultural representatives and Cuban officials to review U.S. standards and procedures in conjunction with contracted and potential agricultural sales to Cuba will no longer be possible. Maintaining access to the Cuban market for our products is an important goal for our industry.

The purpose of the Cuban travel, that has now been denied, was for Cuban officials to meet with U.S. suppliers, inspect facilities, discuss sanitary and phytosanitary issues and verify U.S. procedures and standards associated with the sale of U.S. food and agricultural exports to Cuba. Visits of this type are routinely conducted by U.S. officials and U.S. importers in markets that sell to the United States. It is also customary practice for foreign purchasing agents and government technical teams to travel to the U.S. to meet with U.S. suppliers and tour facilities.

Two years ago, Congress, backed by the strong support of the U.S. food and agricultural community, opened the Cuban market for our goods by partially lifting nearly 40 years of unilateral sanctions against Cuba. Cuba continues to pay cash in full for its purchases and has signaled intent to expand its imports of U.S. food and agricultural commodities.

Mr. Secretary, we ask your help in keeping this small but viable market open for export sales of U.S. food and agricultural commodities. This recent action by the Department of State puts all future Cuban food and agricultural purchases at risk at a time when American farmers and ranchers are under extreme economic stress from low prices and decreasing world market share.

We hope that the administration will look favorable upon future purchasing and technical visits from Cuban officials.

Sincerely,

Agricultural Retailers Association.
American Farm Bureau Federation.
American Meat Institute.
American Soybean Association.
Archer Daniels Midland Company.
Cargill Incorporated.
Farmland Industries, Inc.
Grocery Manufacturers of America.
Louis Dreyfus Corporation.
National Association of Wheat Growers.
National Barley Growers Association.
National Chicken Council.
National Corn Growers Association.
National Oilseed Processors Association.
National Pork Producers Council.
National Renderers Association.
National Sunflower Association.
North American Export Grain Association.
North American Millers' Association.
Rice Millers' Association.
U.S. Canola Association.
U.S. Dry Pea & Lentil Council.
U.S. Rice Producers Association.
U.S. Rice Producers' Group.
U.S. Wheat Associates.
Wheat Export Trade Education Committee.

Mr. DORGAN. Mr. President, this policy is wrong. This policy injures American farmers. This policy continues an embargo. We know embargoes hurt us. They hurt our farmers. Those kinds of activities hurt poor, sick and hungry people in countries like Cuba. They do not hurt Fidel Castro. They hurt our farmers. And they hurt the poor, sick, and hungry people abroad.

When someone wants to come to this country to buy American grain, eggs, dried beans, and other products our farmers produce, the State Department has no right, in my judgment, to revoke those visas for political purposes. That is what I think has happened in this regard.

> It is the policy of this administration not to encourage agricultural sales to Cuba.

I say to those in this administration who have said that and who believe that: You have a responsibility to stop this nonsense. You are hurting American family farmers. And it is an abrogation of the policies we have already developed here in the Congress.

I am going to send a letter today to the State Department saying I have invited the head of Alimport into this country. I have invited them to North Dakota. I want them to come here and buy American farm products. I think the State Department has a responsibility to provide visas for those who would come from Alimport to make those purchases of grain.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me remind my colleagues of a couple things. First, this is a revenue bill.

The PRESIDING OFFICER. The Chair wishes to inform the Senator from Texas, we are not on the energy bill at this moment. We are still in morning business.

Does the Senator seek recognition in morning business?

Mr. GRAMM. Mr. President, I would be very happy to have my remarks in morning business.

The PRESIDING OFFICER. The Senator from Texas.

THE ENERGY BILL

Mr. GRAMM. Mr. President, when we resume consideration of the energy bill later today, we will be on a revenue measure. As all of my colleagues know, the Constitution gives a special privilege to the House of Representatives by requiring all money bills to originate in the House. This represents a constraint on the Senate in terms of voting on tax issues because in order to have a vote on a tax issue that could actually become law, you have to have a vote on a bill that is already a revenue measure and has been passed by the House. So this means the bill before us, in addition to being an energy bill, becomes a very important bill because it will contain energy tax provisions, and therefore will be a revenue bill.

I have now about 15 Members of the Senate, on a bipartisan basis, who are determined to have a vote on making the death tax repeal permanent. I will not repeat the whole debate because we will have plenty of opportunity to talk about it—we have in the past and will have in the future. But we have the anomaly that the tax cut passed last year will expire in 10 years because of a budget technicality that was in place when it was adopted. And this creates the incredible anomaly that while we are phasing out the death tax now, 9 years from now it will spring back in full force and will ensure that families that worked to build up a business or a family farm would end up having to sell that business or sell that farm to give the Government 55 cents out of every dollar of its value upon the death of the people who created it before it can be passed on to their children.

We have every right, on any revenue measure, to offer any amendment we wish. That is how the rules of the Senate work. On Thursday, I had called for regular order—which brought up Senator KERRY's amendment with Senator MCCAIN—and I offered my amendment to it. I was unaware at the time that discussions were going on as to how we were going to proceed from there. As it turned out, Senator KERRY came over and withdrew his amendment. At that point, the distinguished Democrat floor leader filled up the amendment tree by offering a second-degree amendment to the next amendment under regular order. I think there were about nine amendments that had been set aside as we went on to consider other measures.

In working with our leadership and, through their discussions, with the leadership on the Democrat side, I have now proposed in writing an agreement whereby we would agree to forgo the ability to offer an amendment on this bill to make death tax repeal permanent, if we could have a guarantee that at some point in the future we would get such a vote. The proposal I have made is that we pull up H.R. 8, which is on the Senate Calendar. It, in fact, is a bill to repeal the death tax. I hope it will be looked at.

We feel very strongly we ought to have the right to offer this amendment. This is a revenue measure. We have no guarantee there will be another revenue measure considered by the Senate this year. I know there are people in the Finance Committee—and I am privileged to serve on that committee—who hope we will have other opportunities. But it may well be that this is the only opportunity we have this year.

As my colleagues are aware, the House of Representatives has voted to make the whole tax cut permanent. We want to have a vote on making the death tax repeal permanent. I am hoping that something can be done to accommodate us in terms of our right.

I know there are many people who want to finish this bill. There are things in the bill I am for, but I don't know of anything that is more important than making the repeal of the death tax permanent.

I wanted my colleagues to know that we do have a growing number of people who are working to achieve this goal. It would be our objective. I think there are two amendments the managers of the bill wanted to do this afternoon that we have agreed to step aside and allow them to do. But beyond that point, it would be our intent to object to bringing up new amendments or to setting aside the pending amendment until we get some agreement. We don't have to do our amendment now, but we want to be guaranteed that at some point we will have our right as Senators to offer an amendment related to making the repeal of the death tax permanent.

I came over today to simply outline that there is the beginning of a discussion on how to accommodate Senators who wish to offer this amendment. I have talked to our leader, and nothing would make me happier than to get a guarantee that we will get a vote on making repeal of the death tax permanent. In that case, we would get out of the way and allow consideration of the energy tax amendment and adopt it, perhaps on a voice vote.

Mr. REID. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. REID. The majority leader and the Republican leader have spoken about this issue. The Senator has submitted to us in writing his proposal which has now been reviewed. We will do everything we can to move this bill along. We hope as to the written proposal for the unanimous consent agreement, that we can work something out on that before the end of the day.

Mr. GRAMM. I appreciate the Democrat floor leader's willingness to try to work on this. I am very grateful. It would break a major impasse and virtually guarantee that the bill will be adopted. What we would like to do is have a vote on permanently repealing the death tax. We realize the vote might come on cloture or it might come on a point of order. But we would like to have a vote nonetheless.

I thank the Senator for his help.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAMM. I would be happy to yield, but I am getting ready to give up the floor. I am happy to yield.

Mr. DURBIN. That is fine, if he is going to yield the floor.

Mr. GRAMM. I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Illinois.

Mr. DURBIN. Mr. President, if I might respond very briefly to what the Senator from Texas has said, the Senator from Texas is very honest and forthright in his position. He stated in the Chamber, and it will be reflected in the RECORD, that he believes the elimination of the estate tax, the death tax, is the most important priority for this Congress when it comes to tax legislation.

I disagree. Right now, fewer than 2 percent of the estates in America pay any estate tax whatsoever. We have changed the law so even fewer will pay it in the future. What the Senator from Texas and those in support of his position are arguing for is to eliminate this estate tax for the very few remaining wealthiest people in America, and it is his belief that this is the highest tax priority for Congress. I would like to take that question to his State of Texas, let alone my State of Illinois.

I just finished a tour of Illinois, and I went to small business after small business. I asked: What is the biggest problem you are facing?

They answered: The cost of health insurance. We can't pay for health insurance for our employees, let alone for the owners of the business.

A labor union, the plumbers and pipefitters, came from Chicago last week. I asked: What is your agenda in Congress?

They said: The cost of health insurance. We can't get a penny more in our paychecks when we negotiate a contract each year with our union because all the money is going into health insurance.

So if you want to know where my highest priority is in terms of tax breaks for businesses and families across America, it doesn't start at the top with people who are worth megamillions. It starts with working families who cannot afford their health insurance.

I will say to the Senator from Texas and those supporting his position, please bring a tax bill to the floor. There are those of us who want to try some other issues that we think are much more important.

Do you know what this means if we make President Bush's tax cut permanent? It means 65 percent of all of the tax breaks will go to people making over $500,000 a year. That is their highest priority—people with incomes of $500,000 a year or more.

Do you know how much of a tax break they will get if we go ahead with their proposal to make the President's tax cut permanent? It turns out to be $39,000 a year on average for people making over a half million a year.

If you are making a half million a year, let's assume that is about $10,000 a week, and times are tough. You are going to get $39,000 more to deal with it. Meanwhile, the small business in southern Illinois, the small business in Humboldt Park in Chicago that can't afford to pay its health insurance premiums brings the employees in and says: We are sorry, we can't do it anymore. We can't offer you health insurance for you and your family.

Which is the greater priority in America? The people making over a half million a year who get $39,000 more in tax cuts to put in some investment or another vacation home or a boat or a luxury car or is it more important that families across America have health insurance so they can protect themselves and their children?

While we are on the subject of children, ask those same families about the importance of the deductibility of college expenses. If you want to know a tax break people across America want, talk to any family with a new baby. They will show you the child and say: Doesn't he look like his dad or doesn't she look like her mom?

The next thing they will tell you is they better open a savings account for their college right now. Otherwise, they won't be able to pay for college education.

So if we are going to talk about priorities in tax cuts, wouldn't it be good for the first time in America to allow people to deduct the cost of college education from their taxes? Isn't that a good investment for America? I think it is a far better investment than the same people who make over a half million a year, guess what, getting another windfall check of $39,000 from President Bush's permanent tax cut.

Incidentally, so the record is clear, that permanent tax cut of President Bush's that gives $39,000 to the wealthiest people, for all the rest of the folks in America it is less than $1,000 a year.

So you look at it and say, well, everything is upside down in this world if the most important thing in Congress, when it comes to taxes, happens to be the wealthiest people in America. The people I represent in Illinois—some are wealthy, but the vast majority are not—are hard working, low- and middle-income families struggling to pay for health insurance, for education, and for college expenses. Those are the people who deserve a break.

In my State, we are facing a health care crisis, and it has to do with more than just the cost of health insurance. That is a major problem, but we are also seeing a crisis that is reaching in many different directions. Talk to folks with parents and grandparents on Medicare. Ask them what they are facing when it comes to paying for prescription drugs. The Senator from Texas wants to take what limited amount of money we might spend for tax relief and give it to people making over $500,000 a year.

Frankly, I would like to see us also consider—in addition to the cost of health insurance—the deductibility of education expenses and prescription drug costs for the elderly in America. Do you know how much prescription drug costs went up last year in our country? It was 16 percent. Put yourself on a fixed income and in a position with a serious illness. You go to the doctor and he says: Durbin, if you want to stay out of the hospital, here is a prescription that I think will do the trick. Then you go down to the pharmacy and they say: Well, I am sorry to tell you that it will cost you $300 to fill the prescription. Well, if you are living on $800 or $900 a month—and that is not uncommon if you are on Social Security—what are you going to do? Many people have to make a hard choice: Am I going to fill the prescription and figure out how to pay the rent and utilities and the other bills, or am I going to walk away from it? Which is the higher priority in America, the seniors who have to walk away from the medicine they need too survive, or people making over $500,000 a year and to give them $39,000 a year in tax breaks? That is what it comes down to; that is the choice we face.

You have heard the Senator from Texas make his choice very clear: The highest priority, when it comes to taxes, from his point of view, is to say that the estate tax is going to be eliminated for everybody forever. I see it differently. We can reform the estate tax and do it in a sensible way. We can protect family farmers and family-owned businesses. I will sign up for that any day. But to say we are going to give a windfall in tax breaks to the wealthiest, at the expense of the people I have described, is unfair. It is the reason there are two different political parties in this Chamber, why we need political debate. It is the reason, when we disagree, sometimes it gets to the heart of issues that make a difference to families in America.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. DURBIN. Yes.

Mr. DORGAN. There was a discussion earlier on the estate tax. They call it the "death tax" because the pollsters figured that politically it sounded better, but it is the estate tax. Also, the discussion about estate taxes always comes in terms of helping family farmers or small businesses. I wonder if the Senator remembers that last year, when we had this debate, I offered an amendment to the estate tax. The amendment was one to the proposal by the then-majority, who wanted to abolish the estate tax. My amendment said I don't believe we ought to interrupt the passage of any family business from the father and mother to the descendants who want to continue to operate the business. It doesn't matter whether it is a family farm or a hardware store, and it doesn't matter how big it is. If it is a family enterprise being transferred from the parents to the children, I think it ought to be totally exempt from the estate tax. So I offered an amendment.

My amendment said that transfers of family businesses, regardless of size, to family heirs to operate shall be totally exempt from estate taxes beginning in the year 2003, and all other estates shall have a $4 million exemption. So if you have up to $4 million in assets, or if you are transferring a family business, you are not going to pay any estate tax at all.

Now, the estate tax provision passed by the Senate said we will begin creating larger exemptions for the transfer of family assets including a family farm or a family business so that, in 2010, there shall no longer be any tax. I said, no, if you package this by saying what you really want to do is help family farmers and family businesses, why don't you vote for my amendment and they will all be exempt next year, in 2003?

We had 43 Senators who voted for my amendment. All of those who have spent their careers in the Senate saying "we want to get rid of this burdensome death tax for family-owned businesses and family farms" voted against that amendment. So when there is a family farm or a family business that is transferred next year, and there is an estate tax applied to it, people should understand it is because the then-majority decided last year, when they wanted to ram this fiscal policy through the Senate, that they were not really quite as interested in family farms and small businesses as they were in those who have millions and billions of dollars of assets.

Incidentally, this country has one-half of the world's billionaires. Good for us and good for them. There is nothing wrong with being that successful. But if somebody in this country has $6 billion or $8 billion, I guarantee you a substantial amount of that has never been taxed. It represents growth appreciation on assets over time, and there is nothing at all wrong, in my judgment, in asking that at least some of that—just some of it—be put back into this country's schools, or invested in the country's kids, and in this country's future.

But that is not what the Republicans wanted to have done. They wanted, at all costs, to protect this, and they did it at the expense of having a total exemption for transfers of all family farms and all family businesses, effective immediately in 2003. That is what we could have had.

I ask the Senator from Illinois if he recalls that debate and what the real priorities were for the other side of the aisle?

Mr. DURBIN. I certainly do. The Senator is correct. After that debate, I sent a letter to the two major farm organizations in Illinois, the Illinois Farm Bureau and the Farmers Union. I said: You don't have to name names, but can you give me an example of somebody who lost a family farm because of the estate tax? They could not come up with one in my State.

I readily concede that there are sacrifices that have to be made to pay the estate tax. But the doom and gloom stories we hear from them are stories you have heard over and over. With the Senator's amendment, if they were worried about family farms or family businesses, they would have jumped all over his amendment. But it is not; it is about the people who are at the highest end of the spectrum, who have an appreciation of stock, or the appreciation of some capital asset and they finally face taxation for the first time. That isn't unfair. Families and businesses across America pay their fair share of taxes. Why do we want to exempt the wealthiest in our society at the expense of tax benefits that would help with the cost of health insurance, care for the cost of college education, and deal with prescription drugs? Those are the areas I think, frankly, in which the vast majority of Americans would applaud us for dealing with the problems they face.

Mr. DORGAN. I have one additional question. We ended up with the worst of possible worlds last year. Those who said they supported a repeal of the estate taxes to help businesses and farms would not support the amendment that would have repealed it for family businesses and family farms next year. That was more than confusing.

No. 2, the bill that was finally completed said let's repeal the estate tax and we will ratchet it up until it is finally repealed in 2010. So if you are going to die, you have to die in 2010 to take full advantage of this because in 2011, the estate tax kicks back in. I think historians and policy analysts will look at that and say what on earth could they have been thinking? Who could have constructed something that bizarre?

Mr. DURBIN. I had a group in my office that does financial planning, and they said they are cautioning clients not to walk by any open windows above the fourth floor in the year 2010 because that is the year when we have the estate tax repeal and it reinstates in 2011. It is a bizarre tax policy. If you will remember correctly, we were told by the administration that went ahead with the tax break that the reason we could do that was because they projected surpluses of $5.2 trillion over the next 10 years. And with all this money, the obvious question they asked was: Why should the Government keep the people's money? Let's give it back to them. Some us who lived through the deficit years said we should be more careful in how we make these decisions. But they went ahead and passed the tax cut.

But a year later, they said: We made a mistake; it is not going to be a $5.2 trillion surplus over the next 10 years. It is going to be $1.2 trillion. What happens with the $4 trillion? Three things happened to it: The recession continued, an unexpected war took place; but for 40 percent of it, it was a direct result of that tax cut decision. That, to me, was the wrong thing to do. It is not cautious or prudent. We will pay for it if we are not careful.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I will be happy to yield.

Mr. REID. Mr. President, I was in the Chamber—I stepped out but still listened to the Senator from Illinois and the Senator from North Dakota—when the Senator from Texas spoke. I have the greatest respect for him. He has a Ph.D. in economics. I know how versed he is in economic issues, and he has a long history of being a Member of the House and Senate.

It is my understanding the Senator from Illinois was presiding when the Senator from Texas gave his remarks; is that correct?

Mr. DURBIN. That is correct.

Mr. REID. Did the Senator from Illinois hear the Senator from Texas say—and I am paraphrasing but not very much—that he believes the most important issue before the Congress today is the estate tax issue?

Mr. DURBIN. I believe that is accurate.

Mr. REID. I am sure he does not mean that, and I am sure he will let us know if I am paraphrasing him improperly. I have to think—and I would like the Senator from Illinois to acknowledge—that prescription drug benefits for seniors may be more important than repealing the estate tax or making it permanent. We have already changed it. Something dealing with the Patients' Bill of Rights would also be something we should do.

Going from one end of the spectrum where people have billions of dollars to the other end of the spectrum where people have nothing, does the Senator from Illinois think it is also important to raise the minimum wage for people who are struggling? I say to the Senator from Illinois that 60 percent—I remind the Senator, and I am sure he knows this—60 percent of the people who draw minimum wage are women, and for 40 percent of those women, that is the only money they get for themselves and their families. Speaking for myself, I am more concerned about that than whether Bill Gates is going to pay taxes when he passes away.

There are other issues, of course, that are of stronger importance to the people of Nevada than the estate tax. Last year, the people who actually paid estate taxes in Nevada were fewer in number than the fingers on your hands.

Mr. DURBIN. I say to the Senator, he reminds me, come September we are either going to celebrate the fifth or sixth anniversary since we last increased the minimum wage to $5.15 an hour. Imagine what that translates into if you are working at $5.15. Double that if you are working two jobs. Say you worked 80 hours a week at $5.15 an hour. What a glorious life you would lead.

The Senator from Nevada comes back to the point I was trying to make earlier. Whether you are talking about the cost of health insurance, the cost of college education, prescription drugs in Medicare, or minimum wage, those issues certainly are higher priorities to this Senator and to most of the people I represent than whether or not people who are worth literally millions and millions of dollars are going to get a tax break.

The Senator from Texas is entitled to his point of view. I respect him for being very honest about it. But I hope this Senate comes down to some face-to-face votes, some real votes on real issues that mean something to families across Nevada and Illinois.

Mr. REID. Will the Senator yield for one more point?

The Senator is aware that the majority of the Democrats in the Senate have agreed to change the estate tax to increase the amount—this is a floor, I should say. The Senator from North Dakota is in the Chamber. He offered an amendment that I supported which would have increased it, as I recall, to about $4 million and also exempted family-owned businesses.

I think that everyone knows, hearing this colloquy among the three of us, that we support changing the estate tax. It is not as if we are totally opposed to changing it. Does the Senator from Illinois agree that we think it should be done incrementally and not eliminated completely?

Mr. DURBIN. The Senator is correct. We made that point over and over with the amendment of the Senator from North Dakota and others, that we do want to increase the exemption, which means fewer estates even than those paying today would be eligible or covered by it, and second, for family farms and family businesses.

I said to a group of small businessmen who came to visit me last week: Don't you think that is a reasonable way to go?

One of them said: No, Senator, I have to tell you, I think this is a moral issue; it's a moral issue; we should eliminate the estate tax as a moral issue.

I am not an arbiter of morality; I just ran for political office. If we are going to stack things against moral relevance, I would certainly put in that list increasing the minimum wage for millions of Americans; providing health insurance for people, 39 million who have none and more losing it every day; paying for college education expenses and prescription drugs for the elderly. Those are certainly moral issues, too, and if we are going to make a choice, the Senator from Texas made it clear what his choice would be: the estate tax.

For the rest of us, there are other issues of equal moral heft that we ought to be considering before we move to the estate tax issue. I hope we get a chance to during the course of this session. It is important during the course of this budget debate that we talk about issues that mean something to families, small businesses, and family farmers across America.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. DURBIN. I will yield.

Mr. DORGAN. I indicated to the Senator from Nevada that if there is to be a vote on the estate tax issue in the coming days—and I guess it may be with respect to the tax provisions dealing with the energy bill, I will want the opportunity to offer a second-degree amendment or at least offer essentially the same amendment we considered last year, and that amendment will draw a distinction. The distinction is this: If my amendment is adopted, then effective in 2003, no transfer or passage of any family business or family farm, regardless of size, to qualified heirs will have an estate tax obligation attached to it. None. It will be completely exempt next year.

There is nothing under the minority party's proposal that would immediately exempt family businesses from the estate tax. It will be another 7 years or so before they are totally exempt.

My amendment says, yes, let's exempt them, and do it immediately. My amendment also provides for a higher threshold exemption on all other estates. And I do not intend to agree to an unanimous consent agreement on this issue unless I have an opportunity to offer that as an amendment as well.

Warren Buffett has been here a couple of times in the last year or so to visit with us. He is the world's second richest man. He said to us: What can people be thinking about, getting rid of the estate tax? I do not support getting rid of the estate tax. This is the world's second richest man. He said you ought not do that; it does not make any sense.

Bill Gates' father came to Congress and said: Don't get rid of the estate tax completely. There are people who have billions of dollars who ought to pay some basic estate tax because they have never paid taxes on those assets, and that is the majority of those assets for the largest estates.

When they pass, obviously a significant part ought to go to their heirs, but a significant part ought to be available to invest back into this country's future, especially education, health care, and other critical areas.

I think the proper way to deal with this issue is to recognize there is merit to the question of whether we want to interrupt the transfer of a family business to other family members. The answer from us is, no, we should not interrupt that transfer. If mom and dad want to pass the business along to the kids to run, I do not care how big the business, let's not saddle them with an estate tax obligation.

The fact is, the amendment I offered last year would have exempted all of them completely next year. We can do that. I would like an opportunity to vote on that again, if we are going to vote on exempting all estates forever from the estate tax. I think we ought to have a vote on the amendment I offered last year.

I thank the Senator for yielding.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. RUDOLFO ANAYA'S NATIONAL MEDAL OF ARTS AWARD

Mr. BINGAMAN. Mr. President, I speak briefly today to recognize one of my State's greatest citizens—an extraordinary author whose contributions to the arts have made him known as the father of modern Chicano literature. Today Dr. Rudolfo Anaya will be 1 of 14 distinguished artists to receive this year's National Medal of Arts.

Dr. Anaya is a legend in New Mexico and throughout the Nation for writings that reflect the cultural crossings unique to the Southwest. Born in the small town of Pastura, NM, he grew up in a Spanish-speaking home rich with tradition. His family moved to Albuquerque when he was 15, where he attended high school.

His first novel, "Bless Me, Ultima," was published in 1972 and won him the prestigious Premio Quinto Sol national award for Chicagno literature. This widely-acclaimed novel brought many Hispanic traditions into the limelight, creating a colorful narrative spiced with Spanish vocabulary. "Bless Me, Ultima" continues to be a best-selling Chicano work, and is used in classrooms throughout the world as a standard text for Chicano studies and literature courses.

Dr. Anaya's work combines history and tradition with the supernatural. Old Spain and New Spain, Mexico, and Mesoamerica, all come together in a style that Newsweek has referred to as "the new American writing." his second novel, "Heart of Aztlan," explores a Mexican-American family's struggle with discrimination and poverty and its determination to preserve a proud sense of cultural identity. Such themes recognize a harsh reality, while also presenting the richness of Hispanic and Native American traditions and ceremonies that are so fundamental to New Mexican culture.

Other works by Dr. Anaya include "Zia Summer," "Rio Grande Fall," "Jalanta," "Torguga," "Anaya Reader", "Albuquerque," and his most recent mystery novel, "Shaman Winter." He has also written numerous short stories, essays, and children's books, including "Farolitos for Abuelo" and "The Farolitos of Christmas." Other distinguished awards include the PEN Center West Award for Fiction, the Before Columbus American Book Award, and the Excellence in the Humanities Award.

Dr. Anaya is a professor emeritus of English at the University of New Mexico, where he began teaching in the summer of 1974. That same year he served on the board of Coordinating Council of Literary Magazines. Both Dr. Anaya's teaching and his work build an interest and pride in New Mexican history. His unique story-telling abilities stem from the oral tradition he experienced growing up, and his desire to pass these stories down to children make him an author, a storyteller, an educator, and a role model.

As our Nation continues to explore ways to better educate our children and increase cultural awareness, we must look to role models like Dr. Anaya for guidance. His writings continue to inspire people of all ages, from all ethnic backgrounds. He has not only brought a rich tradition of storytelling and folklore to bookshelves all over the world, but he has also utilized his tremendous gift to portray the Hispanic experience. He inspires young writers to share their gifts, and he provides given millions of readers, including myself, incredible joy.

The state of New Mexico is proud to be home to such an esteemed artist—one who has brought the Southwest to the forefront of American literature. I am truly honored to congratulate Dr. Anaya for all of his accomplishments for for the distinguished National Medal of Arts award that the President will present to him this afternoon in Constitution Hall. His hard work has earned him our utmost respect and admiration, I would like to thank him personally for his outstanding contributions to the arts in America.

THE ENERGY BILL

Mr. BINGAMAN. Mr. President, I will say a few words about where we find ourselves. I know we are in morning business, and that is appropriate for the various statements that have been made, but this is the beginning of week 6 in which the Senate is considering energy legislation. We are fast approaching a decisive point in that debate: Will we be able to bring this bill to an orderly close this week or will we not?

We tried before to get a finite list of amendments agreed to, and there were objections raised by some in the Senate so we were not able to do that. We also could not get any agreement, at least as yet, on tax provisions. So the majority leader has filed for cloture on the bill, and all first-degree amendments have now been submitted. That deadline was 1:30 today.

I hope we are able to deal with the remaining amendments and move forward. I hope we are able to invoke cloture so we can bring this very large legislation to an orderly conclusion. Obviously, we want to see all issues that relate and that are germane to this energy bill adequately considered, but at this point, 5 weeks into the debate and starting week 6, I think most Senators have had ample opportunity to present their amendments and raise the issues they think are of concern.

I see there are other Senators seeking recognition. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FIX IS IN ON O'HARE AIRPORT

Mr. FITZGERALD. Mr. President, in the upcoming discussion on the expansion of O'Hare, in which I know the Presiding Officer has been deeply involved, one of the issues the Senate will be debating will be a competitive bidding requirement for the contracts and concessions at O'Hare Airport. I intend to offer an amendment that would apply Federal competitive bidding procedures to the contracts at O'Hare and which would require the city of Chicago to disclose the recipients of those contracts.

The lead articles in the two major Chicago newspapers over the weekend illustrate precisely why this competitive bidding amendment is essential. The two papers, taken together, report a pattern of flagrant and chronic abuse in the city of Chicago. The Chicago Tribune reports that Mayor Daley's pals get rich yet again on a huge public works project that the city of Chicago thoroughly misrepresented. Simultaneously, the Chicago Sun-Times reports that, because of a budget crisis, city workers get the choice of unpaid days off or layoffs. That is the pattern: The connected guys get the bucks; the ordinary guys get the shaft.

Yesterday, the Tribune reported that a major Chicago deal was enacted with the aid of an intense public relations campaign that misled the citizens of the city and the State on a number of key issues. That deal—Soldier Field—followed a distinctly Chicago pattern. After the deal was rammed through, we find that misrepresentations were so egregious that it is difficult to call them misrepresentations and not outright fabrications. We also find that several political friends and allies of both the mayor and the Governor make serious money off their inside connections.

I will read from the Tribune. The title of the article is "Bears play, Public pays." It is by Andrew Martin, Liam Ford, and Laurie Cohen.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Apr. 21, 2002]

BEARS PLAY, PUBLIC PAYS

(By Andrew Martin, Liam Ford and Laurie Cohen)

As construction at Soldier Field advances, a Tribute analysis of the $632 million project shows that the public bill for the stadium renovation is higher than city officials have said it would be while benefits to taxpayers—in terms of promised parkland and additional part revenues—fall short of what was promised.

The bottom line is that the new Chicago Bears stadium will get one of the largest government contributions in the history of professional sports, a fact obscured by a public-relations strategy that tried to divert attention from the public costs. Among the Tribune's findings

City officials have said the public bill for the project won't exceed $406 million; in fact, another $26 million in public costs is buried in bond documents. That money brings the total public tab to $432 million.

While Mayor Richard Daley praised the Bears's $200 million contribution to the project as "unheard of" for a publicly owned stadium, neither the mayor nor anyone else involved in the project noted that the city's contribution also might be unprecedented.

Officials with the Chicago Park District, which owns Soldier Field, have called the renovated stadium a good deal for the agency. But an internal Park District analysis shows the agency will make $900,000 less the first full year the stadium is open, figures that officials now dispute. Meanwhile, the new stadium is expected to double the value of the Bears franchise, experts said.

Proponents of the stadium renovation pointed to the creation of 19 acres of parkland for Chicagoans. But officials counted landscaped medians and sloped berms beside a parking garage as part of the acreage, according to one of the project's architects, Dirk Lohan.

In reality, only about 10 acres of usable parkland is being created, according to an analysis by Friends of the Parks, which is suing to stop the renovation. The lawsuit could be decided at a hearing Thursday.

"You're not able to play on a slope or on the middle of a roadway," said Erma Tranter, the group's president.

The strategy to sell the Soldier Field renovations, mapped out in a 1990 memo by the Bears' public-relations firm, was based on emphasizing the new stadium's amenities, such as new parkland and expanded lakefront parking in an underground garage, while downplaying public costs for the Bears facility.

"The problem with the current debate is that it is too often about the Chicago Bears and not about the future of Chicago and its prized lakefront," according to the memo, crafted by the firm, Burson-Marsteller. The public-relations advisers recommended a strategy recommended a strategy that includes changing "the conversation from 'public funding for the Chicago Bears stadium needs' to a civic-led discussion" about such things as preserving Soldier Field as a landmark and "doing things right, the Chicago way," said the memo, a copy of which was obtained by the Tribune.

The Soldier Field deal contradicts previous public statements from the mayor and Gov. George Ryan, who had balked at government financing for the stadium.

It also ran counter to a trend in the NFL in which teams in lucrative markets such as the Washington Redskins and the New England Patriots are paying most of the costs for their privately owned stadiums, the Tribune analysis found.

Meanwhile, in nearly every city where government subsidies were used for a publicly owned NFL stadium in the last decade, a referendum was held to ask voters whether they approved of the idea. In Chicago, the city went to court to stop a proposed referendum on the plan.

Daley on Saturday defended his support for the Soldier Field project, saying the $200 million private contribution was unprecedented and the public portion was paid for by taxes on hotel rooms, not property taxes.

Had the city not proceeded with the stadium deal, the mayor said, "Soldier Field, what are you going to do with it?"

Daley appeared to confirm the Friends of the Parks allegation that the project would only create 10 acres of usable parkland, not 17. "They're building 10 acres of open space and another seven acres of landscape in all of that. That's what you need to make it environmentally friendly."

The city's longtime point man on the Soldier Field deal, Edward Bedore, a former city budget director who now is a lobbyist for the city, Park District Supt. David Doig and other Park District officials declined to be interviewed.

Bears Chief Executive Officer Ted Phillips and former Bears President Michael McCaskey declined to comment.

Barnaby Dinges, a public relations consultant for the project, said the Park District will save money in the long term by not paying the increasing costs of maintaining an old, deteriorating stadium.

"There are tremendous benefits to this project," Dinges said. "After 30 years of trying, the Park District, the Bears, the city and the state finally found a plan that does right by taxpayers, park and Museum Campus users, the lakefront, sports and entertainment fans and the people of Illinois."

In written responses to questions, Park District officials said that the Bears' contribution to the project far exceeds what most other teams have chipped in for stadiums. Park District officials also stood by their estimate for new parkland, which was revised from 19 acres to 17 acres after the deal passed the state legislature and more precise calculations were made.

"This figure includes the planted medians, which amount to just a fraction of an acre," the statement says.

Lohan, the architect, said, "A berm can have plants on it, and isn't that part of a park?"

A DEAL IS STRUCK

Although most of the principals would not comment, others familiar with the deal suggested that the decades-long logjam over a new Bears stadium was broken because of a confluence of several key points. There was a flash of inspiration by the Bears' architect about how to squeeze a new stadium into a historic landmark, an infusion of cash from the NFL and a change of leadership in the governor's office and the Bears' executive suites.

At the same time, the deal created a huge public-works project with plenty of hefty contracts for friends and political allies of City Hall and Springfield. For instance, the bond work went to former proteges of Bedore's, security for the construction site is provided by an alderman's brother's firm and the local partner for the construction team is a major Ryan contributor whose vice president was chairman of the governor's inaugural ball.

The Soldier Field project was sold to the public, in part, because of the $200 million contribution by the Bears, which is the largest private contribution for a publicly owned NFL stadium. But the Bears are contributing only about $30 million of their own money. The remainder comes from $100 million from the NFL and the sale of personal seat licenses to season-ticket holders.

The public portion, $432 million, is being financed by an extension of a 2 percent city hotel tax originally levied by the Illinois Sports Facilities Authority to pay for Comiskey Park.

On its face, the city's portion of the Soldier Field project is the largest public contribution in the NFL, in which stadiums are larger and generally more expensive than those in other professional sports.

The next-biggest public contribution for a football stadium is in Cincinnati, where taxpayers paid $400 million for Paul Brown Stadium, the Bengals' new $449 million home, according to a Tribune analysis of NFL stadiums built in the last decade.

Precise comparisons are difficult because some stadium deals, including the deal for Soldier Field, provide amenities outside of the stadium. Similarly, some stadiums include costs for land acquisition. Some, like Soldier Field, do not because they are on publicly owned property.

The cost of building just the stadium at Soldier Field is estimated at $383 million, prompting the Park District to claim that the Bears will pay more than half the cost of the new facility. But critics say that calculation is imprecise because it does not include the cost of amenities that will primarily serve the stadium, such as the parking deck south of Soldier Field and landscaping on stadium access roads.

Marc Ganis, president of the Chicago-based sports consulting firm Sportscorp Ltd., said the high cost of the stadium and the public contribution reflect a decision to keep the Bears playing on the lakefront in a historic landmark rather than building a new stadium elsewhere.

"A 61,000-seat open-air football stadium on a clean site would likely cost less than $400 million," Ganis said.

CREATIVE FINANCING

Officials have pegged the public cost for the project at $406 million, but the actual amount is $26 million higher, thanks to some financial moves designed to skirt a legislative limit on the value of bonds sold to pay for the deal, the Tribune found.

Soon after the legislation was passed, it became clear that the project's costs, including the cost of issuing the bonds would exceed that limit, documents and interviews show. The funding problem worsened after Sept. 11 because a sudden drop in Chicago tourism threatened to erode the hotel tax revenues that would be used to pay off the bonds. Shortfalls would require the city to tap its share of state income taxes.

The solution involved a financing device that allowed the Illinois Sports Facilities Authority to raise $425 million on the bond sale in October while keeping the original value of the bonds at the legislative limit of $399 million. This was done by setting such low prices on some of the bonds that investors were willing to pay extra to buy them; the extra amount, or premium, wasn't included in the value of the outstanding bonds.

The total public bill comes to $432 million after adding $7 million in interest income on the bond proceeds.

While the public costs of the deal are higher than advertised, the benefits to the Park District appear to be lower. The agency's claims that it will make more money from the new Soldier Field are belied by its documents.

"Neighborhood park users win because a renovated Soldier Field will generate at least $10 million in net annual revenues for neighborhood park programs," Supt. Doig said in a 2001 letter published in the Tribune.

According to a city memo last year to Chicago aldermen, the Park District's profit from Soldier Field had been about $9.5 million a year. That figure will drop to $8.6 million in 2004, the first full year the new stadium will be open, a Park District forecast shows.

But even the $8.6 million profit forecast is inflated because it includes an annual subsidy from the Illinois Sports Facilities Authority that was wrapped into the Soldier Field legislation, meaning that one public agency essentially will be funding another. That subsidy, which will come from Chicago hotel taxes, will total $3.6 million in 2004.

In the written responses, Park district officials said that the $8.6 million forecast for 2004 didn't include another contribution from the Illinois Sports Facilities Authority—a $1.5 million annual payment for Soldier Field improvements—and a projected $500,000 fee from the Chicago Fire.

The soccer team, which played at Soldier Field before the renovation, plans to play at the new stadium in 2004 but has made no commitments beyond that year, a Fire official said.

Documents obtained by the Tribune did not include revenue forecasts beyond 2004. Park district officials said they are optimistic that revenues will continue to grow but declined to provide specifics.

FRIENDS LAND CONTRACTS

The Park District may be coming up short at Soldier Field, but some political supporters of Daley and Ryan are not.

Bedore, who retired from City Hall in 1993, has served as the city's consultant on Soldier Field for years. A former budget director for both Daley and his father, Bedore lists Michael Daley, the mayor's brother, as an attorney for his consulting business, records show.

The lead bond underwriter for the Soldier Field bonds was George K. Baum and Co. of Kansas City, Mo., which beat out several Wall Street companies for the work. Though the financial advisers for the Illinois Sports Facilities Authority ranked at least two other firms ahead of Baum, sources familiar with the deal said City Hall demanded the Baum get the assignment.

Baum's Chicago office is headed by two former city budget officials and Bedore proteges, Anthony Fratto and Albert Boumenot. Baum also had been selected to sell bonds for Millennium Park, another project that Bedore launched for Daley.

When Baum was selected for the Soldier Field work in March 2001, the firm never had been lead underwriter on a deal for more than $350 million, according to the information service Thomson Financial. Baum collected fees of at least $1.3 million for the deal, bond documents and interviews show.

Jerry Blakemore, the sports authority's chief executive, declined to comment on the bond deal, as did the authority's financial advisers. Fratto and Boumenot could not be reached for comment.

The prime contractor for the Soldier Field renovation, selected without competitive bidding by the Bears, is a joint venture that includes two national firms with stadium-building experience and Kenny Construction, a Wheeling firm whose principals are campaign contributors to both Daley and Ryan. The company's vice president also was chairman of Ryan's inaugural ball.

Security at the construction site is being provided by Monterrey Security, a 3-year-old firm that is partially owned by Santiago Solis, the brother of Ald. Danny Solis (25th), one of Daley's closest allies on the City Council.

BREAKING THE LOGJAM

Despite decades of squabbling over a new stadium for the Bears, the football club's fortunes began to change in late 1998.

That fall, the Bears' architect, Benjamin Wood, raised the possibility of renovating Soldier Field, an idea that had always fizzled because there didn't seem to be a way to fit enough seats along the sidelines without ruining the stadium's historic charm.

During a visit to Chicago, Wood measured the distance between the colonnades of the stadium and thought he might be able to squeeze a stadium into Soldier Field by positioning all the skyboxes and club seats on one side.

The result: a narrower field that would fit within the stadium's colonnades while positioning most of its seats between the 20 yard lines. Seats in that area offer better views and higher prices.

In January 1999, George Ryan became governor, replacing Jim Edgar, who had fought with Daley for years over stadium deals. Ryan vowed to work with the mayor and the Bears to resolve the stadium issue "short of spending taxpayers' dollars on a new stadium."

A month later, McCaskey, who had openly feuded with Daley over stadium proposals, was ousted by his mother as Bears president and replaced by the more amiable Phillips.

With a new design for a stadium in the works, Phillips was a crucial funding boost in March 1999 when the NFL approved a program to help bib-city teams build arenas by offering to match a team's contribution to a stadium project.

Daley and Phillips later used the NFL money to pressure state legislators to pass the stadium deal during the fall veto session in 2000, saying the money could disappear unless it was used quickly.

The day the legislation was rushed through Springfield infuriated some legislators.

"It came out of left field carried by a Hall of Fame bevy of lobbyists and lawyers who told us that the sky is falling, the world would come to an end, civilization would end as we know it, unless we did this deal in the next 72 hours," state Rep. William Black (R-Danville) told his colleagues.

But late last week, NFL spokesman Greg Aiello indicated the legislative rush may have been unnecessary to land the NFL's $100 million commitment to the Bears.

"There wasn't a specific time frame," he said.

Mr. FITZGERALD. I will read an excerpt from that article:

> The park district may be coming up short at Soldier Field but some political supporters of Daley and Ryan are not. Bedore, who retired from City Hall in 1993, has served as the city's consultant on Soldier Field for years. A former budget director for both Daley and his father, Bedore lists Michael Daley, the mayor's brother, as an attorney for his consulting business, records show. The lead bond underwriter for the Soldier Field bonds was George K. Baum and Co. of Kansas City, MO, which beat out several Wall Street companies for the work.
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>
> Security at the construction site is being provided by Monterey Security, a 3-year-old firm that is partially owned by Santiago Solis, the brother of Alderman Danny Solis, one of Daley's closest allies on the city council.

What the Tribune has reported is flagrant, conspicuous, insider dealing. The friends and allies of the mayor get rich on huge public works projects that are, to begin with, misrepresented to the people. We have seen it with Millennium Park in Chicago, and we are seeing it now with Soldier Field. Does anyone really believe it is going to be any different with the O'Hare expansion?

The only difference with O'Hare will be the scale and the scope, both of the misrepresentations of the consequences of the project and of the amount of money that will flow to the friends and allies of the mayor.

Chicago is indeed the city that works, and it works the same angle over and over. The city cut the template on this kind of a deal: Ram it through, fabricate the details, and watch as the money comes home to daddy.

And what about the ordinary guys? A headline in the Sunday Chicago Sun-Times: Daley to city workers: Take unpaid days or face layoffs. The paper reports:

> Mayor Daley is asking unions representing all city employees except police and firefighters to make a painful choice—take five unpaid vacation days, put off their raise for six months or face 425 layoffs—to generate $15 million in savings to help solve Chicago's worst budget crisis in a decade. . . .

I ask unanimous consent to have printed in the RECORD this article from the Chicago-Sun Times from April 21, 2002.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DALEY TO CITY WORKERS: PICK UNPAID DAYS OR LAYOFFS

"DON'T HOLD YOUR BREATH," REPLIES POLICE UNION CHIEF; OTHER LABOR GROUPS UPSET

(By Fran Spielman)

Mayor Daley is asking unions representing all city employees except police and firefighters to make a painful choice—take five unpaid vacation days, put off their raise for six months or face 425 layoffs—to generate $15 million in savings to help solve Chicago's worst budget crisis in a decade, labor leaders said.

"It's not anybody against anybody. It's trying to keep people surviving," Daley told reporters Saturday at a far South Side school.

Sworn police officers and firefighters would be exempt from layoffs partly because their contracts prohibit them unless non-safety personnel are sacrificed first.

But police and fire unions are being asked to contribute by accepting one unpaid furlough day. That would cost the average sworn police officer about $200.

"Don't hold your breath," said Mark Donahue, newly elected president of the Fraternal Order of Police.

"Our new board will be consulted. A decision will be made early next week. But I don't know that it has a great deal of chance to be considered. There's a lot of frustration among uniformed sworn personnel over our recent contract negotiations."

James McNally, newly elected president of the Chicago Firefighters Union Local 2, refused to comment on the city's request, except to say that Chicago firefighters who changed union presidents this week are "looking for a contract."

Ousted Local 2 President Bill Kugelman, who got the boot because of the three-year wait for a new contract, didn't mince words.

"They've been sticking it to us all this time, and now we're supposed to be nice guys? All of these unions that Daley has no use for, and now he needs our help? Forget him? Where was he when we needed him? They haven't done a damned thing for us," Kugelman said.

"That's up to them," Daley said. "You can only ask them, and that's what we're trying to do. We're trying to have no one laid off."

The Chicago Police Department also is exploring the politically volatile possibility of slowing the steady march of recruit classes through the police academy to cut costs, said Lisa Schrader, a spokeswoman for the city's Office of Budget and Management.

The training academy has been churning out about 10 classes a year, each with 60 to 100 recruits.

If rookies hit the streets at a slower rate, it would reduce police protection at a time when the city is losing 650 to 700 officers a year to retirement and grappling with a rising homicide rate that last year made Chicago the murder capital of the nation.

"There have been internal discussions about what the effects would be of delaying a class. How much would it save," Schrader said. "We don't want to do anything that will compromise public safety. But that's one of the things that's being looked at."

There are 13,248 sworn police officers on the street, said Kimberly O'Connell-Doyle, manager of police personnel. Daley's 2002 budget authorized 13,522 sworn officers.

The Chicago Sun-Times reported earlier this month that Daley was extending a city hiring freeze through the end of the year, ordering a 5 percent cut in non-personnel spending and considering employee layoffs and more unpaid furlough days to close a $25 million first-quarter gap caused by lower than expected local tax revenues.

The mayor has said that tax increases on the eve of his 2003 re-election bid were a "last, last, last resort," but he has refused to slam the door on either layoffs or new revenues.

Already, the budget crisis has prompted the City Council to establish an unprecedented $200 million line of credit to pay the city's bills if there's a repeat of what happened in February when the state was late with a $20 million income tax payment.

Late last week, City Hall began meeting with city labor leaders to discuss specific union givebacks.

At a meeting Friday hosted by the Chicago Federation of Labor, union leaders representing 14,050 non-safety employees got the bad news from John Doerrer, the former labor liaison now serving as the mayor's director of intergovernmental affairs.

Doerrer told them the city needs $15 million in personnel savings and that there are basically three ways to get there unless they have other ideas: 425 layoffs, five unpaid furlough days or a six-month deferral of their 3 percent mid-year pay raise.

Daley has the power to order layoffs without union consent so long as he goes about it as outlined by union contracts. Furlough days and pay raise deferrals need union approval.

"They have a shortfall of 425 jobs in two corporate funds, and every furlough day is [the equivalent] of 81 jobs. They're looking for $15 million. They don't care how they get to it," said Dennis Gannon, secretary-treasurer of the Chicago Federation of Labor.

"They gave us those choices, but we're not to the point of picking. The labor community chose to have the city talk to fire and police and see what can happen there, then come back and talk to us again," he said.

Another labor leader in attendance, who asked to remain anonymous, said the city "didn't seem to have a well thought-out plan . . . They just said, 'Here are the options. Let's see which one is most doable.' Obviously to us, layoffs are the worst-case scenario, but most of the unions were pretty upset with it."

Five years ago, union leaders allowed the city to reduce its contribution to their overfunded pension funds in a landmark deal that paved the way for a $20 million property tax cut, head-tax relief and $200 million in neighborhood improvements.

In exchange, the city agreed to lobby the General Assembly to increase the maximum retiree benefit from 75 percent of an employee's highest salary to 80 percent.

That never happened. And it left a bad taste in the mouths of the union leaders whose support Daley now needs to solve the budget crisis.

"If we go to our people and say, 'The city needs a hand,' they're going to say, 'They came to us before, and they didn't live up to their promise. Why should we help them out?' " said one labor leader, who asked to remain anonymous.

Gannon agreed it's "pretty hard to make more concessions when we're still waiting on things that were promised to us years ago."

"I'd like to see them pass the pension bill, see how many people take retirement and then come back and talk to us about reality," he added. "We could actually have 600 people take their pensions. We might not have to lay so many people off."

Schrader insisted the options laid out for union leaders are not written in stone.

"We need to achieve a certain amount of savings, and there are several ways we can do it. It's not that rigid. We're saying, 'Let's work together and be creative,' " she said.

The impact of layoffs on city services won't be known until specific employees are targeted. But it could translate into delayed garbage pickup, one union leader said.

Ten years ago, a budget crisis forced Daley to eliminate 1,474 jobs, 837 of them layoffs, and cancel a $25 million property tax cut that was the cornerstone of his 1991 reelection campaign.

The next year, he ordered an additional 740 layoffs and proposed a $48.7 million property tax increase. A rare City Council rebellion forced the mayor to settle for a $28.7 million property tax increase and cancellation of a supplemental increase to finance a new police contract.

The Mayor's pals get rich and the workers get to choose between layoffs or unpaid days off. What a contrast.

But here is a different idea: why not take it from the inside guys for a change? Why not take it from all the people who use their connections and clout to cash in on no-bid contracts and concessions at O'Hare, or Soldier Field, or Millennium Park?

Why not learn from Millennium Park and Soldier Field and exempt O'Hare before the Mayor can do it again? We have a competitive bid proposal for concessions and contracts at O'Hare. It is comprehensive. The Daley-Ryan forces are opposing it. I wonder why that might be?

Maybe Mayor Daley should tell us, before the discussion goes any farther, who's going to pour the concrete at O'Hare? Will it be someone who has been lobbying for the expansion at O'Hare? Who will be hired as consultants or so-called "expediters"? Who will get a cut of the contracts? Will it be Jeremiah Joyce or will it be Oscar D'Angelo? Who is going to get a piece of the action on the insurance? Is it Mickey Segal or is he too hot right now? What about the bonds? Who is going to rake it in there? Is it Baum and Co., and Tony Fratto? And what about the janitorial contracts? Will that be John Duff, Jr. and his sons, the Duffs?

We have a chance to pass a Federal competitive bid provision for O'Hare in the U.S. Senate. If we pass it, it should mean a markedly different way of doing business in Chicago, at least at O'Hare. There are a number of arguments we will make, and precedents we will review. Mr. President, I look forward to the debate and to continuing to work with my colleagues on that issue.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as the Senator from West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. REID. Mr. President, are we on the energy bill at this time?

The PRESIDING OFFICER. The bill has not been laid down yet.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security.

Reid amendment No. 3145 (to amendment No. 3008), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

AMENDMENT NO. 3141

Mr. DORGAN. Mr. President, last week the Senate adopted an amendment that deals with vehicle efficiency. It deals with the issue of fuel cells. I want to describe the amendment, because I think it is a very important amendment.

The amendment directs the Energy Department to develop a program that would create measurable goals and timetables with the aim of putting 100,000 hydrogen fuel cell vehicles on the road by 2010, and 2.5 million by the year 2020, along with the needed hydrogen infrastructure. DOE would have to report annually on its progress toward achieving these goals.

The amendment is designed to have the Department of Energy work with the auto manufacturers to ensure these goals are met. With this amendment, we are sending a strong signal that our goal is to accelerate and enhance the development of fuel cell vehicles and fuel cell technologies with concrete targets and timetables.

I have asked the question with respect to our energy policy, especially with respect to our transportation sector, about whether our policy is going to be "yesterday forever." I have said on previous occasions—and I will say it again—my first car was an antique 1924 Model T Ford that I bought for $25 as a young kid, and I restored it. It took me a couple of years to restore that old Model T. But a 1924 Model T Ford is fueled exactly the same way as a current model Ford. You drive up to the gas pump, stick a hose in the tank, and start pumping. Nothing has changed. Nothing has changed in 78 years, and it ought to change.

The issue of how we run our vehicles what kind of engines we use and what kind of fuel we use—we ought to inspire these changes by developing aspirations and national goals with respect to new technologies. I drove a fuel cell car here on the Capitol grounds some months ago. It has essentially a limitless battery that allows you to run the vehicle using this fuel cell. The fuel cell combines hydrogen and oxygen and the only byproduct is water vapor. Fuel cells have the potential to dramatically improve the efficiency of automobiles and dramatically reduce emissions, as opposed to the vehicles that we use now, which have the internal combustion engine we have used for decade after decade after decade.

We can decide that the debate will be a debate about our energy supply, as it has always been. That has been the energy debate we have had for a long while and will be again 25 and 50 years from now, unless we decide to create national aspirations and goals for new technologies.

I believe we ought to do that with respect to automobiles. Our transportation sector consumes the largest amount of energy in our society: about 40 percent of the oil products our Nation consumes each year, or nearly 8 billion barrels of oil each day. In 2001, we imported about 53 to 57 percent of our energy from abroad. That is expected to increase, according to the Energy Information Administration.

So the question is, What do we do about that? Some say we should just adopt CAFE standards. Others say let's develop new technologies. Others say let's not do anything at all. Let's let the marketplace decide who buys what, when, and why.

I think this country ought to encourage the development and the capability to move to a new technology. The Ford Motor Company representative stated that alternative fuel technology has the potential to significantly improve the fuel economy of vehicles, which could reduce U.S. dependence on imported oil, reduce greenhouse gas emissions, and save consumers substantial money at the pump.

Most major automakers are racing to produce prototype fuel cell vehicles. DaimlerChrysler has been talking about this now for several years. They plan to have a fuel cell car in production by the year 2004. California has a Clean Air Act requirement that will ensure that many fuel cell vehicles are going to be on the road. By next year—2003—2 percent of California's vehicles have to be zero-emission vehicles, and around 10 percent of its vehicles must be zero-emission vehicles by 2018. That means California could have nearly 40,000 or 50,000 fuel cell cars on the road by the next decade.

The amendment I offered is supported by the Alliance to Save Energy and United Technologies. Senators CANTWELL, BAYH, REID of Nevada, DODD, LIEBERMAN, and HARKIN all cosponsored my amendment. The amendment was adopted last week. I think most Members of the Senate want to move, using new technology, to new opportunities and new goals for our country's future.

Fuel cells are expected to achieve energy efficiencies of 40 to 45 percent, and possibly much higher. After a century of constant improvements, the internal combustion engine converts, on average, about 19 percent of the energy and gasoline to turn the wheels of an automobile—19 percent. Fuel cells are expected to achieve efficiencies double that: 40 to 45 percent at least.

I think that as we debate this energy bill there is much, perhaps, that will persuade some that it is worthless. There is much in it that will persuade others it has great merit. There are a fair number of amendments that we have produced in the many weeks this bill has been on the floor of the Senate—thanks to the patience of Senator BINGAMAN, who I know wanted it completed much earlier—but there are many amendments that have been added to a pretty sound piece of legislation, in the first instance, that I think will commend this legislation to the Congress as a whole and to the American people as moving toward a solution.

Finally, when the Energy Department testified before our Energy Committee, I asked the representatives of the U.S. Department of Energy what goals they have for 25 and 50 years from now for our country's energy supply and energy use. We talk a great deal about what is going to happen 25 and 50 years from now with respect to Social Security and Medicare. What about with respect to energy use and energy supply, do we have goals there? The answer is, no, we do not. There are no such goals.

We ought to develop those goals, in my judgment. That is the purpose of this amendment dealing with new vehicle technology, and specifically with fuel cells.

Mr. President, I yield the floor.

AMENDMENT NO. 3239

Mr. REID. Mr. President, Senators BROWNBACK and CORZINE have offered an amendment No. 3239 to the underlying bill which replaces the mandatory greenhouse gas reporting requirement in the underlying bill with a "hard trigger." That means emissions reporting will continue to be voluntary for at least the next 5 years, but if voluntary reports don't add up to at least 60 percent of total emissions at the end of 5 years, then mandatory reporting will be triggered.

I think this is a sound approach. I applaud the Senators for working together to come up with a reasonable compromise between voluntary and mandatory.

This amendment is an important step forward in promoting the development of emissions trading markets and market-based programs to reduce greenhouse gas emissions.

I also note that it is my belief, if cloture is invoked on this underlying bill, that this amendment will be in order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I will ask to submit an amendment to the pending business which is the energy bill.

As we have seen over the past several days as the Senate has considered a variety of amendments to the energy bill, energy is not a subject which can be taken up in isolation. It is such a pervasive fact of our existence that it necessarily has significant impacts on other important considerations. Two of those are our environment and other aspects of our economy beyond energy itself.

The amendment I am offering today is intended to give to oil and gas companies, which currently hold leases for development in the eastern Gulf of Mexico planning area, an option. This would provide to these companies a voluntary option to trade those existing leases for credits of an equivalent value. These credits could be used toward royalty payments and rental fees.

I have been working with mineral policy experts, representatives from the oil industry, and concerned citizens over the past several months to try to develop a process that is reasonable, flexible, and mutually beneficial. I believe this amendment captures all of those qualities.

First, the amendment is reasonable because it gives to oil companies the voluntary option as to whether they wish to continue to pursue the development of the leases they have acquired—in many cases a considerable period of time in the past—or whether they would like to exchange those leases for credits which could be used to pay other costs the oil companies owe the Federal Government in the form of royalties or rentals. These credits take into account the amount the oil and gas company paid for the original lease and expenditures for exploration on those leases.

Second, the amendment is flexible. It would require the Secretary of the Interior to offer this lease-for-credit program to all of the companies that would be covered by the amendment, those that have leases in the eastern planning area, except for those that are currently in the process of application for a drilling permit, and the companies that voluntarily choose to participate in this program would receive credits which can be used effective in the year 2012. The value of these credits would take into account inflation for the period between the time the credits were issued and the time in which the credits were submitted for redemption. There also is a provision for added flexibility to give the companies the ability to initiate the lease-for-credit process and not necessarily have to wait for the Secretary of the Interior to do so.

Third, the amendment is beneficial because it provides a win-win-win situation for the current leaseholders, for the environment and the economy, and for the Nation as a whole.

It provides to the oil and gas companies an option that will give them value for leases in which today they have substantial cost but in many cases limited prospects of deriving a benefit.

It will be beneficial to the environment and the economy of the eastern Gulf of Mexico planning area. This is an area which is peculiarly dependent upon the quality of its water and the attractiveness of its coastal areas for its economic well-being.

In my State of Florida, tourism is the leading business, and of all the reasons that people come to our State, consistently our coastal areas have been listed as the No. 1 attraction. They also are a part of our fundamental culture. They are to our State and to other areas in the eastern planning region what, for instance, the Platte River would be in Nebraska or the Rocky Mountains in Colorado. They help define what kind of place, what kind of people we are. They are a critical part of our environment, as witness the fact that the Federal Government, through the Coastal Zone Management Act, has made the protection of our coastal zones a national priority.

The benefit to the Nation as a whole is seen by a precedent which has already occurred. During the administration of the first President Bush, there was concern about the potential adverse effects of a similar set of leases which covered approximately 600 square miles in the area south of the 26th latitude—the 26th latitude runs east and west, more or less, at the line of Naples to Fort Lauderdale—and that the development of those leases over that large 600-square-mile expanse could represent a serious threat to places such as Everglades National Park, the Dry Tortugas National Park, and the National Marine Sanctuary that protects the coral reefs of the Florida Keys. Therefore, under the leadership of the first President Bush, an effort was initiated to reacquire those 600 square miles of leases.

This became embroiled in litigation. It took almost 8 years to resolve the matter. But in the final instance, in 1995, those 600 square miles of leases were terminated. A fair compensation was arranged with the previous leaseholders, and the Nation benefited because some of its most valuable treasures were no longer subject to that vulnerability.

I believe the same win-win-win arrangement will be possible through this approach. It would be very appropriate that the now second President Bush, who as a candidate for President indicated his sensitivity to the importance of the coast, the environment, and the economic relationship of those in my State and in the eastern Gulf of Mexico planning area and indicated that he would use his influence to provide protection—there is no better form of protection that can be provided than that which is sought by this amendment and that which was achieved by his father's efforts in the area south of the 26th latitude.

There have been some who have suggested that these are in some way selfish moves and motivated by a desire for self-protection; that every part of the country which is a user of energy, which means every part of the country, should also be a supplier of energy; and that no part of the country should be off limits to make that contribution.

That is a fundamental misunderstanding of what the United States of America is. The United States of America is a republic of 50 States that have given to the central government certain powers to be administered under the laws that we and our colleagues in the House of Representatives pass.

The United States of America represents a common destiny, but each State has different things to contribute to that common destiny. As an example, our State provides over half the national supply of phosphate, a critical mineral, particularly for agriculture and for industrial activities. It is an activity which has been environmentally difficult for our State. I think maybe we are doing a better job today than we did in previous times. But we accept that as part of our contribution to the Nation. Nature happened to put a lot of the world's phosphate in what is now the State of Florida.

Near those phosphate mines is also grown over half the citrus that is consumed in the United States. That is a product that has great nutritional and health value. It requires a combination of climate and soil type that is uniquely found in Florida; therefore, we produce a lot of citrus.

We also, during the winter months, provide a substantial percentage of all the fresh fruits and vegetables consumed in the eastern U.S. We are a major fisheries State. We are the largest State for tourism, and we have the highest percentage of Americans who move to retire to someplace other than where they had lived. Florida receives more of those retirees than any other State. So we make a substantial number of contributions to America.

On the other side, we don't have much energy. Historically, we have not been a site where a significant amount of oil, gas, coal, or other major energy sources have been found. We even have difficulty with things that people find. Surprisingly, we are not a particularly good State for wind power because the winds are not reliable enough to convert it into commercial applications.

We are also a State which has not benefited by the industrial revolution, as most other States have. We were a State that did not have the essential qualities that the industrial revolution required. Energy access to certain raw materials, such as iron ore, cheap transportation systems in proximity to markets—none of those were true in Florida in the 19th century. Therefore, we largely were passed over in the industrial revolution.

So every State has its own strengths, weaknesses, and contributions. I believe one of the synergies which makes America a great place is that we recognize that and, collectively, we have almost a bounty of everything that humans would like to have. It just happens to be distributed over a continental landmass of the United States of America.

What Florida has particularly contributed, and what the eastern planning area of the Gulf of Mexico includes, is beautiful waters, pristine beaches, areas that contribute substantially to the economy, while at the same time protecting the environment. The principal threat to that environment today is the potential of developing inappropriate oil and gas production, and that we might suffer some accident that would result in damage to those critically important parts of our State.

This amendment I am offering, I believe, stands the test of being fair to all parties—fair to the oil and gas companies by giving them a voluntary election, a means by which they can recapture past expenses in the form of credits that they can use for required future expenses, balanced insofar as protecting the economy and the environment of the eastern Gulf of Mexico, and will meet the same kind of national standards as the first President George Bush did when he led the way to eliminate 600 square miles of oil and gas leases off the Florida Keys and the southwest coast of my State.

This is an opportunity that I hope we will grasp as part of this energy bill. I recognize there are, in a parliamentary sense, other amendments that will be considered prior to this. We will be taking a vote tomorrow on a cloture motion, which could further affect the procedure for consideration of amendments. But I am committed that the Congress will have an opportunity to consider this approach, which I think brings such value and security to our Nation and to our future environment and economy.

I appreciate this opportunity to outline this proposal. At the appropriate time, I look forward to calling this amendment before the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill S. 517.

MORNING BUSINESS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business and that Senators be allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROSPECTS FOR PEACE

• Mrs. LINCOLN. Mr. President, now that Secretary of State Colin Powell has concluded his recent diplomatic mission to Israel and the Middle East, I would like to take this opportunity to reflect on recent events in the region. There are many opinions about the most effective approach to the current crisis, but I believe the Bush administration's renewed emphasis on ending the violence and reaching a negotiated settlement is a positive development.

As America properly takes steps to defend our Nation's vital economic and security interests in the region, though, we must be mindful that Israel is a sovereign nation with a responsibility to defend the safety and security of its citizens. After suffering dozens of deadly attacks aimed at innocent civilians during the last 18 months, I believe Israel has every right to take steps, including military action, to neutralize Palestinian terrorists that Yasser Arafat and the PLO have been unable or unwilling to detain. I would expect no less from our Nation and it is unfair to ask any less from Israel. The United States endured some international criticism for our anti-terrorism campaign in Afghanistan and I would expect a special empathy by the U.S. Government toward Israel as it faces similar criticism today.

I am optimistic that the current military operation in the West Bank will curb the violence so that the peace process can proceed in a meaningful way. To achieve a final settlement, all interested parties will be required to make painful and difficult choices in the weeks and months ahead. I believe Israel has demonstrated its willingness and ability over time to live up to its commitments and responsibilities to exist peacefully with its neighbors.

Unfortunately, the lack of leadership and vision exhibited by the Palestinian Authority in recent years has, in my estimation, prevented the Palestinian people from achieving liberation and attaining the hopes and dreams they deserve. Let's hope Chairman Arafat fully appreciates the precarious nature of his current position and how the choices he makes in the immediate future will determine what role he will play in future peace negotiations.

I want to conclude, by expressing my profound sadness for the tragic loss of life that has befallen both Israelis and Palestinians in this conflict. As a person of faith, I value the inherent dignity of every human being and believe all interested parties have a responsibility to actively pursue the benefits of peace and freedom. It is my sincere hope that through strong leadership and determination, the next generation of Israeli and Palestinian children will be able to focus on building a prosperous future instead of on the carnage and destruction of the past.•

EVERY DAY IS EARTH DAY IN OREGON

• Mr. SMITH of Oregon. Mr. President, I come to the floor today on the occasion of Earth Day, which was first officially recognized 32 years ago. I can assure you, however, that the spirit of Earth Day has been in bold practice for generations in my home State of Oregon, where the words of John Jay ring true: "this land and these people were made for each other."

What is unique about Oregon is that, for so many, there is a profound connection between the products and comforts of our daily lives and where those products ultimately came from. In Oregon, it is difficult to forget that the wood our homes are built of came first from a forest, a forest that was harvested and has since been regenerated. We know that the food we buy for our families at grocery stores came first from a farm, a farm most likely owned and operated by another family not unlike our own. Oregonians can easily remember these things because the forests and the farms are not in some distant region, they are right down the road.

Down those countryside and mountain roads, you will find Oregon's first and finest environmentalists: generations of fishers, farmers and foresters who learned long ago that Oregon's rich natural resources could be perpetually sustained through careful stewardship and innovation.

Down one of those roads, near The Dalles, you will find the Baileys, who were recently given the American Farmland Trust's Steward of the Land Award. The Bailey's orchard was established in 1923, and successive members of the Bailey family have continued to use the latest research and technology to minimize the farm's impact on the land and water. The Baileys initiated an Integrated Fruit Production program for their trees, which includes efficient and responsible pest management, irrigation practices and control of weeds without residual herbicides.

They have also been strong advocates of preserving farmland and agricultural communities. For the Baileys and so many others, the values of the farm go far beyond the safe and affordable food they provide, but also extends to the scenic open space, wildlife habitat and filters for clean air and water that the farm provides.

The growing awareness of those values has finally reached the policymakers in this country. I am eager and hopeful that a balanced agreement on this year's Farm Bill will include a landmark commitment to cost-share and incentive payments for farm stewardship practices, as outlined in the Harkin-Smith Conservation Security Act. When that investment is made, we will have taken a bold step toward recognizing and rewarding all the Baileys of this country, and ensuring that there are many more to come.•

FOREIGN LANGUAGE ASSISTANCE PROGRAM AND THE NATIONAL SECURITY EDUCATION PROGRAM'S NATIONAL FLAGSHIP LANGUAGE INITIATIVE

• Mr. AKAKA. Mr. President, I rise today to request full funding for the Foreign Language Assistance Program, FLAP, which has been cut from the President's fiscal year 2003 budget and for the National Security Education Program's, NSEP, National Flagship Language Initiative. These two programs would enhance the foreign language capabilities of this Nation at a time when foreign language proficiency plays a critical role in maintaining our national security. The security, stability, and economic vitality of the United States depend on American citizens knowledgeable about the world. To become so, we need to encourage knowledge of foreign languages and cultures.

Unfortunately, the United States faces a critical shortage of language proficient professionals throughout Federal agencies. The inability of law enforcement officers, intelligence officers, scientists, military personnel, and other federal employees to decipher and interpret information from foreign sources, as well as interact with foreign nationals, presents a threat to their mission and to the well being of the Nation. It is crucial that we invest in programs like the Flagship Initiative and FLAP in order to strengthen the security of the United States.

While the General Accounting Office has highlighted the Federal Government's deficiency in personnel with foreign language proficiency, the entire country became aware of this problem after the events of September 11th, when FBI Director Robert Mueller called on English-speaking Americans with professional level proficiency in Arabic and Farsi to help with the translation of documents for the ensuing investigation. To address this need, Senators DURBIN, THOMPSON, and I introduced S. 1799, the Homeland Security Education Act, and S. 1800, the Homeland Security Federal Workforce Act. These proposals are designed to improve educational programs in science, mathematics, and foreign languages and then attract graduates possessing these critical skills to the Federal Government.

However, these legislative initiatives cannot succeed if the foundations on which they are based are not supported. Moreover, while these initiatives go a long way to help agencies recruit those possessing these critical skills, we needs programs like FLAP and the Flagship Initiative to create a larger talented and proficient applicant pool to address the growing foreign language needs in the national security community.

NSEP was created in 1991 by the David L. Boren National Security Education Act, P.L. 102-183, and administers three programs to enhance foreign language education: undergraduate scholarships for study abroad, graduate fellowships, and grants to U.S. institutions of higher education. As part of its grant program, NSEP intends to implement a National Flagship Language Initiative. The Flagship Initiative would establish national and regional language programs in universities throughout the Nation. These institutions would in turn educate significant numbers of graduates, across disciplines, with advanced proficiency levels in those languages critical to our national security.

The Flagship Initiative is designed to address the urgent and growing need for higher levels of language competency among a broader cross-section of professionals, particularly for those who will join the federal workforce. The goal is to produce students with professional proficiency in critical foreign languages. Professional proficiency is considered to be at least a level 3 proficiency in listening, reading, and speaking where an individual is capable of speaking with sufficient structural accuracy and vocabulary to participate effectively in most formal and informal conversations on practical, social, and professional topics.

However, current foreign language programs in the United State, both Federal and academic, at best, aim toward 'limited working proficiency' which is defined as level 2. This skill level includes the ability to satisfy routine social demands and limited work requirements and handle routine work-related interactions that are limited in scope. Level 2 proficiency is generally insufficient for more complex and sophisticated work-related national security tasks.

While programs like the Flagship Initiative would make significant improvements in the country's language capabilities, university-level training alone will not meet the challenge currently before us. We must also take steps to address what foreign language experts have recommended for years—start early. The Foreign Language Assistance Program, FLAP, initiates, through competitive grants, foreign language study at the elementary and secondary level—when students have the best chances of developing the strongest language proficiencies as adults. Eliminating funding for FLAP would be a disservice to the nation. We would have contributed to the lack of foreign language proficiencies at a time when the government needs people with those skills the most.

Both FLAP and NSEP have suffered from inadequate funding over the past few years. Funding for FLAP was $14 million in FY 2002, but the program has never received funding resembling that which was anticipated at its inception $35 million.

NSEP receives funding from the National Security Education Trust Fund. Under the Department of Defense Appropriations Act for FY 1992, the NSEP trust fund received $150 million. Since then, more than $80 million from the trust fund has been transferred to other federal projects and only $8 million has been appropriated for NSEP projects each year. The trust fund is now valued at $43 million. This amount alone cannot support both NSEP's current programs and the innovative Flagship Initiative.

NSEP has conducted a survey of universities and has found a number of them willing and qualified to participate in this program. I am pleased to say that the University of Hawaii has been designated a likely flagship school due to the strength of its faculty and curriculum. However, in order to implement this program, approximately 10 national flagship programs and three regional flagship programs will be required. It is estimated that full implementation across a wide array of languages will require an investment of at least $20 million per year.

I urge my colleagues to support full funding of FLAP and the Flagship Initiative.●

IN RECOGNITION OF RUDOLFO ANAYA

● Mr. DOMENICI. Mr. President, I rise today to honor the accomplishments of Chicano writer Rudolfo Anaya. Often considered "the godfather of Chicano literature," Mr. Anaya writes of Hispanic culture and his experiences in the American Southwest, and especially of life in New Mexico.

Born in the small village of Pastura, NM, Mr. Anaya is the fifth child of seven in a devout Catholic family. Growing up, Rudolfo's family spoke Spanish at home sharing stories about their culture and history. His upbringing in the American Southwest taught him to be proud of his Hispanic heritage which is often reflected in his writing. Rudolfo's technique of "cuento" stems from this important Hispanic tradition of oral storytelling.

Mr. Anaya can be proud of his many accomplishments. It would be hard to find a Chicano studies or literature course that did not include one of Rudolfo's works, such as "Bless Me, Ultima," which won the Premio Quinto Sol national award for Chicano literature. In addition, New Mexicans and readers around the world have enjoyed his novel "Albuquerque," his children's book, "The Farolitos of Christmas," and his other essays and plays.

In addition, Rudolfo has worked diligently to inspire and promote other Hispanic writers. He has encouraged publishers to recruit more Hispanic writers and share their stories with the American public. His efforts have also helped Hispanic children find an interest in reading, stimulating a new generation to become more involved in their history and improving their literacy skills.

President Bush has chosen to honor Rudolfo Anaya's accomplishments by bestowing on him a National Medal of Arts for 2001. Originally created by Congress in 1984, the National Medal of Arts allows the President to select exceptional individuals for "their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States." Clearly, Rudolfo is one such individual deserving of recognition for his contributions not only to the arts but to Hispanic culture as well.

Rudolfo is a living New Mexico treasure, giving voice to the heritage and culture of a proud people. Through his writings we get a chance to enter the heart of the Chicano and Hispanic culture that is part and parcel of who we are, as a whole, as New Mexicans. On behalf of the Senate, I want to thank this fellow New Mexican for the fine work he has done. I am proud of him and commend him on receiving a National Medal of Arts award.•

TRIBUTE TO SHARON DARLING

• Mr. MCCONNELL. Mr. President, I rise today to honor Sharon Darling, the founder and president of the National Center for Family Literacy, in Louisville, KY. Sharon is a recipient of the 2001 National Humanities Medal and I want to offer my congratulations to her on this tremendous honor.

Sharon Darling is a devoted civic leader and a longtime advocate of family literacy. Through hands on experience as an elementary school teacher and an adult reading mentor, Sharon developed an education program that stresses the importance of early childhood education, adult literacy education, and parental involvement in the learning process. In 1989, she used her revolutionary program as a foundation for establishing the National Center for Family Literacy. Under Sharon's leadership the NCFL has grown into a widely respected national organization that promotes family literacy. Today the NCFL has more than 3,000 literacy programs throughout America.

The National Humanities Medal honors individuals whose work has contributed to their community by broadening citizens' access to the humanities. Given the years of service Sharon has dedicated to helping families read, I cannot think of anyone more deserving of this honor. Whether helping them to enjoy classic literature or simply understand written instructions, Sharon's work has improved the lives of countless Americans.

Sharon's commitment to public service does not end with the National Center for Family Literacy. She also actively serves with a number of important national and international organizations such as the International Women's Forum, Barbara Bush Foundation for Family Literacy, National Coalition for Literacy, the American Indian Education Foundation, and the Heart of America Foundation.

Sharon, my colleagues, and I, join in congratulating you on your fine achievements. We also thank you for the time and effort you have put into the lives of others. I know the people of Kentucky and this great nation will continue to benefit from your contributions for many years to come.•

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 29, 2001 in Nashville, Tennessee. Willie Houston, 38, was fatally shot in the chest. The alleged gunman, Lewis Maynard Davidson III, 25, taunted the victim with anti-gay epithets, and shot him outside a restaurant. While the victim was reportedly not gay, Tennessee hate crime laws cover violence based on real or perceived sexual orientation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURE REFERRED

The Committee on Veterans' Affairs was discharged from the further consideration of the following bill; which was referred to the Committee on the Judiciary:

S. 1644. A bill to further the protection and recognition of veterans' memorials, and for other purposes

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

Rene Acosta, of Virginia, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27, 2003.

*Dennis P. Walsh, of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2004.

*Nomination was reported with recommendation that it be confirmed subjected to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2216. A bill to suspend temporarily the duty on fixed-ratio gear changers for truck-mounted concrete mixer drums; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2217. A bill to designate the facility of the United States Postal Service located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building"; to the Committee on Governmental Affairs.

By Mrs. LINCOLN (for herself and Ms. COLLINS):

S. 2218. A bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS (for himself, Mr. JEFFORDS, and Mr. KENNEDY):

S. 2219. A bill to provide for compassionate payments with regard to individuals who contracted the human immunodeficiency virus due to provision of a contaminated blood transfusion, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS:

S. 2220. A bill to amend the Solid Waste Disposal Act to require implementation by brand owners of management plans that provide refund values for certain beverage containers; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself and Mr. SMITH of Oregon):

S. 2221. A bill to temporarily increase the Federal medical assistance percentage for the medicaid program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. CLELAND, and Ms. COLLINS):

S. Res. 247. A resolution expressing solidarity with Israel in its fight against terrorism; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 572

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 572, a bill to amend title

XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 776

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 776, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002.

S. 808

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 897

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 897, a bill to amend title 39, United States Code, to provide that the procedures relating to the closing or consolidation of a post office be extended to the relocation or construction of a post office, and for other purposes.

S. 960

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1016

At the request of Mr. BINGAMAN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1016, a bill to amend titles XIX and XXI of the Social Security Act to improve the health benefits coverage of infants and children under the medicaid and State children's health insurance program, and for other purposes.

S. 1329

At the request of Mr. JEFFORDS, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1626

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1626, a bill to provide disadvantaged children with access to dental services.

S. 1917

At the request of Mr. JEFFORDS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

S. 1924

At the request of Mr. LIEBERMAN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1945

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1967

At the request of Mr. KERRY, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1967, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 2046

At the request of Mr. CRAIG, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2046, a bill to amend the Public Health Service Act to authorize loan guarantees for rural health facilities to buy new and repair existing infrastructure and technology.

S. 2051

At the request of Mr. REID, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2067

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2067, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 2070

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2070, a bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 2184

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2184, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 2189

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2189, a bill to amend the Trade Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry.

S. 2194

At the request of Mrs. FEINSTEIN, the names of the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children's Memorial Day" and the last Friday in the month of April as "Children's Memorial Flag Day."

S. RES. 185

At the request of Mr. ALLEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 185, a resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

S. RES. 230

At the request of Mr. CORZINE, the name of the Senator from Minnesota

(Mr. DAYTON) was added as a cosponsor of S. Res. 230, a resolution expressing the sense of the Senate that Congress should reject reductions in guaranteed Social Security benefits proposed by the President's Commission to Strengthen Social Security.

AMENDMENT NO. 3141

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 3141 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 2217. A bill to designate the facility of the United States Postal Service located at 3101 West Sunflower Avenue in Santa Ana, as the "Hector G. Godinez Post Office Building"; to the Committee on Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise to ask my colleagues to support a bill to name the Santa Ana, CA Post Office as the "Hector G. Godinez Post Office Building." I introduced similar legislation the during the last session of Congress, and I hope, with the Senate's support, it will become law during this session.

Hector Godinez, who passed away in May of 1999, was a true leader in his community of Santa Ana, CA. He was a pioneer in the United States Postal Service rising from letter carrier to become the first Mexican-American to achieve the rank of District Manager within the United States Postal Service. He served with honor in World War II, was a ardent civil rights activist and an active participant in civic organizations and local government.

After graduation from Santa Ana High School, Mr. Godinez enlisted into the armed services and was a tank commander in World War II under General George Patton. For his service, he earned a bronze star for bravery under fire and was also awarded a purple heart for wounds received in battle.

Upon his return home in 1946, Mr. Godinez started his first of 48 years of distinguished service as a United States postal worker.

Hector Godinez was a true pillar within the Santa Ana community devoting his tireless energy to such civic groups as the Orange County District Boy Scouts of America, Santa Ana Chamber of Commerce, Orange County YMCA and National President of the League of United Latin American Citizens, one of the country's oldest Hispanic civil rights organizations.

On behalf of the Godinez family and the people of Santa Ana, CA, it is my pleasure to introduce this bill to name the Santa Ana, CA Post in his honor.

Mr. JEFFORDS:

S. 2220. A bill to amend the Solid Waste Disposal Act to require implementation by brand owners of management plans that provide refund values for certain beverage containers; to the Committee on Environment an Public Works.

Mr. JEFFORDS. Mr. President, I rise today in celebration of Earth Day to introduce the National Beverage Producer Responsibility Act of 2002. This legislation will increase recycling, reduce litter, save energy, create jobs, decrease the generation of waste and proliferation of landfills, and supply recyclable materials for a high-demand market.

The estimated 1999 recycling rate for aluminum, glass and plastic beverage containers was 41 percent when measured by units and 30 percent when measured by weight. This is unacceptable. We have many laws in place holding industries responsible for their actions; the beverage industry should not be exempt.

The arguments for increasing the beverage container recycling rate to 80 percent could not be more timely. This redemption rate would save the equivalent of 640 million barrels of oil in the next decade. Based on 1999 figures, recycled containers accounted for a reduction of greenhouse gas emissions by 4,093,000 metric tons, or about 79 pounds for each of 103.9 million households in the U.S. Analysis shows that land filling the containers recycled in 1999 would have required the use of about 20 million cubic yards of landfill space. A single landfill of this size, with a depth of 300 feet, would cover an area of about 40 acres. Recycling is an easy way to ease our dependence on foreign oil, reduce greenhouse gas emissions, and conserve natural resources.

Ten States, including Vermont, attest to the success of deposit legislation, commonly called bottle bills. Vermont, whose law passed in 1972, has one of the highest redemption rates in the nation, 95 to 98 percent of deposit-bearing containers are recycled. The popularity behind the issue grows every year; thirty bottle bills were introduced this year in State legislatures across this country.

The National Beverage Producer Responsibility Act of 2002 is a new approach to the traditional bottle bill legislation, which prescribes specific roles and responsibilities for retailers and distributors. Some believe that these prescriptive provisions constrain the industry from innovating more cost-effective solutions to the beverage container management challenge.

The National Beverage Producer Responsibility Act sets a performance standard which industry must meet and allows industry the freedom to design the most efficient deposit-return program to reach the standard. By providing beverage companies the flexibility to structure and operate their own container recovery programs, this legislation simply extends the beverage company's "supply chain" to include the management of empty containers after consumption. This approach is appealing because it reduces the administrative burden on government and takes full advantage of the business skills of industry.

Specifically, the National Beverage Producer Responsibility Act would: establish a measurable performance standard of 80% recovery of used, empty beverage containers for recycling or reuse; establish a minimum refundable deposit, of 10 cents, as the economic incentive for consumers to recycle; require beverage brand-owners, as a condition of sale of their product, to develop and submit to the Environmental Protection Agency a Beverage Container Management Plan, within 180 days of the law's implementation; establish consequences for failing to submit, implement and operate the approved Program and achieve the legislated Performance Standard; and establish provisions for evaluation and monitoring of the industry's performance.

I look forward to holding a hearing on this legislation this summer in the Senate Environment and Public Works Committee.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Beverage Producer Responsibility Act of 2002".

SEC. 2. FINDINGS.

Congress finds that—

(1) the beverage industry has an established and effective marketing infrastructure that provides a wide range of beverage products at affordable prices to consumers in the United States;

(2) the absence of a beverage industry infrastructure for recovering used beverage containers has—

(A) placed undue burdens on local waste authorities;

(B) failed to provide any incentive for the beverage industry to reduce waste; and

(C) resulted in tens of billions of unrecycled beverage containers per year, including 114,000,000,000 unrecycled beverage containers in 1999;

(3) of particular concern—

(A) glass beverage containers are difficult and costly to recycle through municipal curbside programs because of breakage;

(B) valuable beverage container types are being replaced with low-value plastics and composite packaging; and

(C) removing glass or other valuable beverage container types from curbside programs has been found to reduce the public costs of those programs;

(4) an efficient, industry-operated system of beverage container collection, recycling, and reuse would—

(A) reduce the overall burden placed on taxpayers and municipal waste management systems; and

(B) shift the responsibility for that collection, recycling, and reuse to beverage producers and consumers;

(5) deposit systems, originally devised by the beverage industry to recover used bottles, have been shown to be an effective and sustainable means for recovering used beverage containers, especially the increasing proportion of beverage containers the beverages contained by which are consumed away from the home;

(6) greater reuse and recycling of beverage containers would—

(A) significantly improve the energy and emissions performance of the beverage industry of the United States; and

(B) in each year, conserve an amount of electrical energy equivalent to that required to serve millions of homes in the United States;

(7) 10 States have enacted and implemented laws designed to protect the environment, conserve energy and material resources, and reduce waste by requiring—

(A) beverage consumers to pay a deposit on the purchase of beverage containers; and

(B) the beverage industry to pay a refund on used beverage containers that are returned for reuse and recycling;

(8) those laws—

(A) enjoy strong public support; and

(B) have proven to be effective in achieving high rates of beverage container reuse and recycling;

(9) a national standard for beverage container reuse and recycling would ensure that beverage consumers in all regions of the United States would enjoy access to beverage container reuse and recycling services;

(10) a beverage container reuse and recycling system designed by brand owners could—

(A) be seamlessly integrated with the national and regional marketing systems of the brand owners;

(B) maximize efficiency of the brand owners; and

(C) minimize unproductive costs of compliance with requirements of several different recycling programs;

(11) a national system of beverage container reuse and recycling is consistent with the intent of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(12) this Act is consistent with the goals established by the Administrator of the Environmental Protection Agency, including the national goal of 35 percent source reduction and recycling by 2005.

SEC. 3. BEVERAGE CONTAINER REUSE AND RECYCLING.

(a) IN GENERAL.—The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) is amended by adding at the end the following:

"Subtitle K—Beverage Container Reuse and Recycling

"SEC. 12001. DEFINITIONS.

"In this subtitle:

"(1) BEVERAGE.—

"(A) IN GENERAL.—The term 'beverage' means a nonalcoholic or alcoholic carbonated or noncarbonated liquid that is intended for human consumption.

"(B) EXCLUSIONS.—The term 'beverage' does not include milk or any other dairy or dairy-derived product.

"(2) BEVERAGE CONTAINER.—The term 'beverage container' means a container that—

"(A) is constructed primarily of metal, glass, plastic, or paper (or a combination of those materials);

"(B) has a capacity of not more than 1 gallon of liquid; and

"(C) on or after the date of enactment of this subtitle—

"(i) may contain or contains a beverage; and

"(ii) is offered for sale or sold in interstate commerce.

"(3) BEVERAGE CONTAINER AGENCY.—The term 'beverage container agency' means, as determined by a brand owner—

"(A) the brand owner; or

"(B) an entity appointed by the brand owner to act as an agent on behalf of the brand owner.

"(4) BRAND OWNER.—The term 'brand owner' means a person that owns the trademark for, manufactures, distributes, or imports for resale in interstate commerce, a beverage sold in a beverage container.

"(5) MANAGEMENT PLAN.—The term 'management plan' means a management plan submitted under section 12004.

"(6) RECOVERY RATE.—The term 'recovery rate' means the percentage obtained by dividing—

"(A) the number of beverage containers of a brand owner returned for a refund under section 12005(b)(2) in a calendar year; by

"(B) the number of beverage containers of the brand owner for which a deposit was collected under section 12005(a)(1) in the calendar year.

"(7) REFUND VALUE.—The term 'refund value' means the refund value of a beverage container determined in accordance with section 12006.

"(8) RETURN SITE.—The term 'return site' means an operation, facility, or retail store, or an association of operations, facilities, or retail stores, that—

"(A) is identified in an approved management plan; and

"(B) is operating under contract entered into by the return site and a beverage container agency to collect and redeem empty beverage containers of 1 or more brand owners.

"(9) SELLER.—

"(A) IN GENERAL.—The term 'seller' means a person that sells a beverage in a beverage container.

"(B) INCLUSIONS.—The term 'seller' includes all members of the supply chain.

"(10) UNBROKEN BEVERAGE CONTAINER.—The term 'unbroken beverage container' includes a beverage container that has been opened in a manner in which the beverage container was designed to be opened.

"SEC. 12002. RESPONSIBILITIES OF BRAND OWNERS.

"(a) IN GENERAL.—Each brand owner shall implement an effective redemption, transportation, processing, marketing, and reporting system for the reuse and recycling of used beverage containers of the brand owner.

"(b) PROHIBITION OF POST-REDEMPTION LANDFILLING OR INCINERATION.—No brand owner or beverage container agency shall dispose of any beverage container labeled in accordance with section 12003 in any landfill or other solid waste disposal facility.

"SEC. 12003. BEVERAGE CONTAINER LABELING.

"(a) IN GENERAL.—No brand owner may sell or offer for sale in interstate commerce a beverage in a beverage container unless a statement of the refund value of the beverage container is clearly, prominently, and securely affixed to, printed on, or embossed on the beverage container.

"(b) SIZE AND LOCATION OF REFUND VALUE STATEMENT.—The Administrator shall promulgate regulations establishing uniform standards for the size and appropriate location on beverage containers of the refund value statement required under subsection (a).

"SEC. 12004. MANAGEMENT PLANS.

"(a) SUBMISSION OF PLANS.—Not later than 180 days after the date of enactment of this subtitle, each beverage container agency shall submit to the Administrator—

"(1) a management plan, in such form as the Administrator may prescribe, for the collection, transport, reuse, and recycling of beverage containers that the beverage container agency, or that each brand owner represented by the beverage container agency, sells into interstate commerce; and

"(2) a fee, in such amount as the Administrator may establish by regulation, to cover administrative costs relating to administration of the management plan.

"(b) CONTENTS OF PLAN.—A management plan submitted under this section shall—

"(1) include—

"(A) the name, and address for service of process, of the beverage container agency submitting the management plan;

"(B) the name and title of a contact person at the beverage container agency;

"(C) the name and corporate address of each brand owner covered by the management plan; and

"(D) the brand name of each beverage covered by the management plan;

"(2) provide—

"(A) a proposed implementation date for the management plan; and

"(B) appropriate documentation of such agreements entered into by the beverage container agency and return site operators as will take effect as of the date of implementation of the management plan; and

"(3) include a description of—

"(A) the ways in which the beverage container agency intends to make the use of return sites convenient for consumers of beverages covered by the management plan in all areas of interstate commerce;

"(B) the ways in which the beverage container agency intends to achieve, not later than 2 years after the date of implementation of the management plan, a recovery rate of at least 80 percent; and

"(C) the ways in which the beverage container agency will manage beverage containers returned under the management plan in an environmentally responsible manner.

"(c) CHANGES IN INFORMATION.—Each beverage container agency that submits a management plan under this section shall promptly notify the Administrator, in writing, of any change in the information provided under subsection (b)(1).

"(d) APPROVAL OF MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Administrator shall approve or disapprove each management plan submitted under this section.

"(2) DETERMINATION.—In determining whether to approve or disapprove a management plan, the Administrator may return the management plan to the beverage container agency—

"(A) with a request for additional information; or

"(B) for amendment.

"(3) DISAPPROVAL.—If the Administrator disapproves a management plan, the Administrator shall, not later than 60 days after the date of disapproval, provide to the beverage container agency that submitted the management plan a written explanation of the reasons for disapproval.

"(e) IMPLEMENTATION OF MANAGEMENT PLANS.—

"(1) In general.—A brand owner that, on or before the date of enactment of this subtitle, is selling in interstate commerce a beverage in a beverage container, shall—

"(A) not later than 180 days after the date of enactment of this subtitle, have in effect a management plan that has been approved by the Administrator; and

"(B) implement the management plan in accordance with the implementation date proposed in the management plan under subsection (b)(2)(A).

"(2) New brand owners.—A brand owner that proposes, after the date of enactment of this subtitle, to sell in interstate commerce a beverage in a beverage container shall—

"(A) have, as of the date on which the brand owner commences the selling of the beverage, a management plan that has been approved by the Administrator; and

"(B) implement the management plan in accordance with the implementation date proposed in the management plan under subsection (b)(2)(A).

"(3) Prohibition.—No brand owner shall sell in interstate commerce any beverage in a beverage container—

"(A) except as in accordance with paragraph (1) or (2), as appropriate; or

"(B) on or after the implementation date proposed in a management plan of the brand owner under subsection (b)(2)(A), if the Administrator has not approved the management plan.

"(f) Report.—

"(1) In general.—Each beverage container agency the management plan of which is approved and implemented under this section shall, not later than March 31 of each year after the implementation date of the management plan, submit to the Administrator a report that describes the effectiveness of the management plan during the preceding calendar year.

"(2) Information.—The report shall include—

"(A) for each type of beverage container returned, the recovery rate—

"(i) expressed as a percentage; and

"(ii) audited by an entity independent of the beverage container agency; and

"(B) annual financial statements, prepared by an entity independent of the beverage container agency, of all deposits received and refunds paid by each brand owner subject to the management plan.

"(3) Public availability.—The Administrator may make available to the public the information described in paragraph (2).

"SEC. 12005. DEPOSIT AND REFUND.

"(a) Deposit.—

"(1) In general.—On and after the implementation date of any approved management plan to which a seller is subject, the seller shall collect from each purchaser of a beverage in a beverage container, at the time of sale, a deposit in an amount that is not more than the refund value of the beverage container.

"(2) Documentation.—A deposit collected under paragraph (1) shall be indicated on the receipt of the purchaser, if a receipt is given for the purchase.

"(3) Exception.—This subsection shall not apply to a case in which a beverage in a beverage container is sold for consumption, and is consumed, on the premises of the seller.

"(b) Refund.—On and after the implementation date of an approved management plan, a beverage container return site covered by the management plan shall—

"(1) accept unbroken beverage containers for return; and

"(2) pay to a person returning beverage containers an amount, in cash or in the form of a voucher redeemable for cash on demand, that is equal to the total of the refund values affixed to, printed on, or embossed on, each container returned by the person.

"(c) Acceptable Beverage Containers.—A return site shall not be required to accept or pay a refund for a beverage container under this section if, as determined by the return site, the beverage container—

"(1) is contaminated or, for hygienic reasons, is unsuitable for recycling;

"(2) can be reasonably identified as a container that was purchased outside the United States; or

"(3) cannot be reasonably identified as a container to which this subtitle applies.

"SEC. 12006. REFUND VALUE.

"(a) In General.—The refund value of a beverage container shall be the greater of—

"(1) 10 cents; or

"(2) an adjusted value determined under subsection (b).

"(b) Adjustment.—The Administrator shall—

"(1) adjust the amount of the refund value of a beverage container under subsection (a) on the date that is 10 years after the date of enactment of this subtitle, and every 10 years thereafter, to reflect changes during those 10-year periods in the Consumer Price Index for all urban consumers published by the Department of Labor; and

"(2) round any adjustment under paragraph (1) to the nearest 5-cent increment.

"SEC. 12007. RECOVERY RATES.

"(a) In General.—Except as provided in subsections (b) and (c), in a case in which a brand owner complies with each provision of this subtitle, but fails to achieve a recovery rate of at least 80 percent for beverage containers of the brand owner during a calendar year, the Administrator may require that the beverage container agency of the brand owner pay to each State an amount equal to the difference between—

"(1) the amount of deposits collected on beverage containers of the brand owner that were sold in the State; and

"(2) the amount of refunds paid on those beverage containers.

"(b) Exemptions for Certain States.—A brand owner that achieves a recovery rate of at least 80 percent under a beverage container deposit program of a State within the 2-year period beginning on the date of enactment of this subtitle shall be exempt from the provisions of this subtitle with respect to that State.

"(c) Reuse Rate Adjustment.—The minimum recovery rate required to be achieved by a brand owner under subsection (a) shall be reduced by 1 percentage point for each percentage point increase in the use by the brand owner of refillable beverage containers.

"SEC. 12008. OTHER MANAGEMENT REQUIREMENTS.

"(a) Disputes.—If a dispute arises under this subtitle between, and cannot be resolved by, a beverage container agency and a return site, the beverage container agency or the return site shall refer the matter to binding arbitration.

"(b) Confidentiality.—

"(1) In general.—Except as provided in paragraph (2), each person acting under the authority of this subtitle shall keep confidential all facts, information, and records obtained or provided under this subtitle.

"(2) Exception.—Paragraph (1) shall not apply in a case in which public duty requires, or any regulation promulgated by the Administrator under this subtitle permits, the disclosure of any facts, information, or records described in that paragraph.

"SEC. 12009. REPORT BY ADMINISTRATOR.

"Not later than May 31, 2003, and annually thereafter, the Administrator shall submit to Congress a report that describes—

"(1) the recovery rate for beverage containers during the year covered by the report; and

"(2) the extent to which beverage container collection is proceeding in accordance with this subtitle.

"SEC. 12010. PENALTIES.

"Notwithstanding any other provision of this Act—

"(1) a person that violates any provision of this subtitle (other than section 12004(f)) shall be subject to a civil penalty of not more than $1,000 for each violation; and

"(2) a person that violates section 12004(f) shall be subject to a civil penalty of not more than $10,000 for each violation.".

(b) Conforming Amendment.—The table of contents for the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end the following:

"Subtitle K—Beverage Container Reuse and Recycling

"Sec. 12001. Definitions.
"Sec. 12002. Responsibilities of brand owners.
"Sec. 12003. Beverage container labeling.
"Sec. 12004. Management plans.
"Sec. 12005. Deposit and refund.
"Sec. 12006. Refund value.
"Sec. 12007. Recovery rates.
"Sec. 12008. Other management requirements.
"Sec. 12009. Report by Administrator.
"Sec. 12010. Penalties.".

By Mr. ROCKEFELLER (for himself and Mr. SMITH of Oregon):

S. 2221. A bill to temporarily increase the Federal medical assistance percentage for the medicaid program; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to talk about a vital federal program that is an essential part of our health care safety net—Medicaid. Last year, the Medicaid program provided health coverage for 44 million of the most vulnerable Americans—22.6 million children, 9.2 million adults in low-income families, and 12 million elderly and disabled. One in four American children are covered by this important program.

Yet despite the program's importance, states around the country are struggling to fund their share of their Medicaid programs. Going into legislative session this year, my home state of Oregon faced a budget shortfall of nearly $800 million, and most other states are facing similar conditions. The cruel irony of this situation is that just as state revenues have dropped due to poor economic conditions, many more families are turning to Medicaid as their only source of health care. I know that in Oregon, the number of people on Medicaid has risen by 10% since June of last year, and I suspect that many of your states have experienced similar increases. Additionally, because of scheduled formula adjustments, many states will see their existing Medicaid payments from the Federal government fall this year.

It is not a mystery what will happen if we do not act: states will be forced to cut their Medicaid programs and more Americans will lose their health coverage. The number of uninsured people in this country will rise dramatically. Last year, more than 40 million Americans lived and worked without health insurance, and it is estimated that the economic downturn will add another 4 million to the ranks of the uninsured.

This legislation would allow states to continue providing health care to our society's most vulnerable members in this economic downturn by providing a temporary increase in the Federal Medical Assistance Program, FMAP, funds states receive to pay their portion of the Medicaid bill. This legislation would hold states harmless at their 2003 FMAP levels so that no state will experience a decrease in Federal funds for Medicaid, while providing all states with an additional temporary 1.5 percentage in their matching rates for three years. It would also target assistance to the most needy states by providing another 1.5 percentage point increase in their FMAP for three years.

The goal of this bill is to prevent erosion of health insurance coverage and to maintain a strong health care safety net for vulnerable people during the economic downturn. By temporarily increasing the Federal portion of the Medicaid bill, the scope and depth of possible state budget cuts or tax increases will be lessened, minimizing the potential negative impact on the economy and our most vulnerable citizens across the country. It is the right thing to do, and the right time to do it.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 247—EXPRESSING SOLIDARITY WITH ISRAEL IN ITS FIGHT AGAINST TERRORISM

Mr. LIEBERMAN (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. CLELAND, and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 247

Whereas the United States and Israel are now engaged in a common struggle against terrorism and are on the frontlines of a conflict thrust upon them against their will;

Whereas President George W. Bush declared on November 21, 2001, "We fight the terrorists and we fight all of those who give them aid. America has a message for the nations of the world: If you harbor terrorists, you are terrorists. If you train or arm a terrorist, you are a terrorist. If you feed a terrorist or fund a terrorist, you are a terrorist, and you will be held accountable by the United States and our friends."; and

Whereas the United States has committed to provide resources to states on the frontline in the war against terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) stands in solidarity with Israel, a frontline state in the war against terrorism, as it takes necessary steps to provide security to its people by dismantling the terrorist infrastructure in the Palestinian areas;

(2) remains committed to Israel's right to self-defense;

(3) will continue to assist Israel in strengthening its homeland defenses;

(4) condemns Palestinian suicide bombings;

(5) demands that the Palestinian Authority fulfill its commitment to dismantle the terrorist infrastructure in the Palestinian areas;

(6) urges all Arab states, particularly the United States' allies, Egypt and Saudi Arabia, to declare their unqualified opposition to all forms of terrorism, particularly suicide bombing, and to act in concert with the United States to stop the violence; and

(7) urges all parties in the region to pursue vigorously efforts to establish a just, lasting, and comprehensive peace in the Middle East.

Mr. LIEBERMAN. Mr. President, I have submitted a resolution today, along with Senator SMITH of Oregon, Senator DASCHLE, our majority leader, and we are currently in the process of communicating with the Republican leader. I hope Senator LOTT will become the fourth initial cosponsor of this resolution which expresses the solidarity of Congress—Senate and House—with the State of Israel in its fight against terrorism.

The painful events of September 11 have taught us Americans a powerful lesson: When innocent people are attacked, we have no choice but to capture or kill those killers and dismantle their terrorist infrastructure. That is the first step in reducing the likelihood of future attacks and making clear through our actions—not just our words—that violence against innocents will never be tolerated.

Now we see Israel under siege by a systematic and deliberate campaign of suicide-homicide attacks whose essence is identical to the attacks on our country on September 11. Those suicide bombers striking innocent Israelis in supermarkets, pizza restaurants, buses, and schools are cut from the same cloth of fanatical, inhumane hatred as those terrorists who turned airplanes into weapons of mass destruction and killed more than 3,000 Americans on September 11.

God knows that we have not always been astute enough to learn from history, but when the history of September 11 is this fresh in our minds and in our hearts, and the lessons are as clear and compelling as the lessons of September 11 were, let us not fail to apply those lessons. Let us not waver, let us not blur our vision or our values, particularly in this case when the victims of the country are citizens of a fellow democracy and a great ally, which is to say the State of Israel.

Instead, let us recall the principled message of President Bush in his address to Congress less than 7 months ago: Terrorism is evil. It is not an acceptable form of political action. It is a crime that runs contrary to our most basic human values. Nations that support it, condone it, or enable it are our enemies, and nations that dismantle its immoral, inhuman machinery and go after its perpetrators to protect innocent lives of their citizens are doing freedom's work and they are our allies.

In laying out this doctrine, President Bush actually echoed the words that President Franklin Roosevelt spoke in 1940 when he said:

> No man can tame a tiger into a kitten by stroking it. There can be no appeasement with ruthlessness. There can be no reasoning with an incendiary bomb.

The United States supports a peaceful Palestine along a secure Israel, as, for that matter, does Israel herself. We support a two-state solution. In other words, we support what we hope and pray is still the cause of the vast majority of the Palestinian people. But there is a danger that these suicide bombers operating out of Palestinian territory have hijacked the legitimate cause of Palestinian statehood. These homicide bombers do not represent what we hope is the aspiration of a majority of the Palestinian people for statehood, for a better life for themselves and their children.

These homicide bombers—terrorists—insult that cause and undermine their own people's desire to live a better life. They represent a morally bankrupt and tactically suicide policy. Their militancy will only deepen the misery of the Palestinian people.

Ultimately, in supporting Israel's right to protect and defend itself, we are also supporting our own war against terrorism because if we lose our bearings and muddy the moral clarity with which we began and are carrying out our campaign against terror, we risk undermining the fight against al-Qaida and other international terrorist groups that threaten our own people. We cannot allow that.

The United States, acting in concert with Israel and our allies in the Arab world, and hopefully our allies in the rest of the world, including Europe and Asia, can still bring security to the region. It can still happen if mainstream, moderate leaders in the Arab world will not accommodate themselves out of fear or insecurity to the threats of the fanatical elements within the region but will stand up with our strong support and assert that the only way to achieve a better future for the Palestinian people and, in fact, for all the people in the Middle East, is to come together for the good people, to come together behind the rule of law against fanaticism, against solving problems with violence, for more human rights, for more democracy, for the kind of open economies that allow people to raise up their standard of living and deprive terrorists of the conditions they exploit for violent and suicidal purposes. Together, we can bring such a result to the region.

This week, President Bush has two very important meetings: One with King Mohamed VI of Morocco, the other with Crown Prince Abdullah of Saudi Arabia. These are opportunities not only to develop the hopes expressed in the Saudi peace proposal for mutual recognition of Israel by the Arab world, but to make clear to our allies in the Arab world and countries like Saudi Arabia and Morocco how critically important their own moral clarity in this moment of crisis is; that we need them to stand with us for a peaceful path to Palestinian statehood and a better life for all the people of their region.

Ultimately, that only comes with more human rights for their citizens and a more open economic society with more opportunity. Together we can create conditions for a just and lasting peace, a peaceful and sovereign Palestine alongside a peaceful and secure Israel. It is time for the humane, law-abiding forces within the Middle East and those outside to come together and defeat the cancer of terrorism that now eats away at that region and the world.

The United States must stand with our ally, Israel, sharing values and hopes for peace as we do, as she attempts to defeat and protect her citizens from acts of terrorism. That is the message we send with the resolution we are submitting today. I hope an overwhelming majority of my colleagues will join Senator SMITH and me, Senator DASCHLE and, I hope, Senator LOTT, in cosponsoring this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3177. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3178. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3179. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3180. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3181. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3182. Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3183. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3184. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3185. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3186. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3187. Mr. BYRD (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3188. Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3189. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3190. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3191. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3192. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3193. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3194. Ms. LANDRIEU (for herself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3195. Mr. HARKIN (for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3196. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3197. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3198. Mr. CARPER (for himself, Mr. SPECTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3199. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3200. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3201. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3202. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3203. Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3204. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3205. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3206. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3207. Mr. BAUCUS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3208. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3209. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3210. Mr. CORZINE (for himself and Mr. FITZGERALD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3211. Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3212. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3213. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3214. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3215. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3216. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3217. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3218. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3219. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3220. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3221. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3222. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3223. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3224. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3225. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3226. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3227. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3228. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3229. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3230. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3231. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3232. Mr. BINGAMAN (for himself, Mr. MURKOWSKI, Mr. BYRD, Mr. LIEBERMAN, Mr. THOMPSON, Mr. HOLLINGS, Mr. KERRY, Mr. HAGEL, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3233. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, Mr. JEFFORDS, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3234. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3235. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3236. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3237. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3238. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3239. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. REID) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3240. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3241. Mr. BINGAMAN (for himself, Mr. DURBIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3242. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3243. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3244. Mr. BINGAMAN (for Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 3041 proposed by Mr. WYDEN (for himself, Mr. MURKOWSKI, Mr. BENNETT, and Mr. SMITH of Oregon) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3245. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3246. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3247. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3248. Mr. BINGAMAN (for Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3249. Mr. BINGAMAN (for Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3250. Mr. BINGAMAN (for Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3251. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3253. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3254. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3255. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3256. Mr. NICKLES (for himself, Mr. BREAUX, and Mr. MILLER) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3257. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3259. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3260. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3261. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3262. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3263. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3264. Mr. SMITH, of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3265. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3266. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3267. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3268. Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3269. Mrs. LINCOLN (for herself and Mr. AKAKA) submitted an amendment intended to be proposed by her to the bill S. 517, supra; which was ordered to lie on the table.

SA 3270. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3271. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3272. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3273. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3274. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3275. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3276. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3277. Ms. COLLINS (for herself, Mrs. MURRAY, Ms. CANTWELL, Mr. JEFFORDS, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3278. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3279. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3280. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3281. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 517 proposed by Mrs. CLINTON to the amendment SA 358 proposed by Mr. JEFFORDS (for himself and Mr. KENNEDY) to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table.

SA 3282. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3283. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3284. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3285. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3286. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3287. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3288. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3289. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3290. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3291. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3292. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3177. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, strike line 14 and all that follows through page 92, line 16.

SA 3178. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 5, strike "renewable".

SA 3179. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 5, strike "renewable".

SA 3180. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 12, strike "renewable".

SA 3181. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 14, strike "renewable".

SA 3182. Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . PERMANENT REPEAL OF ESTATE TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.", and by striking ", estates, gifts, and transfers" in subsection (b).

SA 3183. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following section.

SEC. . RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary may fund comprehensive geological, engineering, and geophysical studies concerning—

(1) natural gas products in storage facilities; and

(2) other related research topics.

(b) PRIORITY.—In funding studies under subsection (a), the Secretary shall give priority to studies relating to storage facilities that have experienced releases of natural gas.

(c) RESEARCH AREAS.—Studies under subsection (a) shall—

(1) interpret geology in the context of possible releases of natural gas;

(2) develop a comprehensive and quantitative understanding of geology relevant to past and possible future migration and loss of stored natural gas;

(3) include an engineering analysis of existing storage facilities, including laboratory analysis of well construction and operations;

(4) integrate information through simulations using geomechanical and fluid flow models to reconstruct or predict geological events that caused or may cause releases of natural gas from storage facilities;

(5) evaluate—

(A) properties of underground reservoirs and surrounding geological strata;

(B) natural geological stresses; and

(C) possible geological alterations caused by the process of storage in storage facilities; and

(6) use a cross-disciplinary approach using technologies in geophysical, petrophysical, hydrological, geomechanical, and remote sensing to characterize and model geology in the vicinity of a storage facility.

(d) REVIEW.—The Office of Fossil Energy Research of the Department of Energy shall review applications for funding of studies under this section.

(e) UNSOLICITED APPLICATIONS.—In addition to applications for funding of studies received in response to requests for proposals issued by the Secretary, the Secretary shall accept and consider for funding under this section any unsolicited application for research funding received by the Secretary that has research goals consistent with this section.

(f) RESEARCH SUPPORT.—The Secretary shall facilitate research support from other Federal agencies that have related geological, engineering, and other specialties.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2003 through 2006.

SA 3184. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 28 following line 16 insert the following:

SEC. 211. SERVICE OBLIGATIONS OF LOAD-SERVING ENTITIES.

Part II of the Federal Power Act is amended by inserting after section 207 the following new section:

"SERVICE OBLIGATIONS

"SEC. 207A. (a)(1) The Commission shall exercise its authority under this act to ensure that any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, or holds rights under one or more long-term contracts to purchase electric energy, for the purpose of meeting a service obligation, and

"(B) by reason of ownership of transmission facilities, or one or more contracts for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights in order to deliver such output or purchased energy to meet that service obligation.

"(2) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

"(b) For purposes of this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users.

"(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation to a distribution utility.

"(3) The term 'service obligation' means (i) a requirement applicable to an electric utility under Federal, State or local law to provide electric service to end-users or to a distribution utility, or (ii) an obligation under a long-term firm sales contract (executed before the date of enactment of this section) to provide all or part of the electric energy necessary for a distribution utility to meet a requirement under clause (i)."

SA 3185. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 28 following line 16 insert the following:

SEC. 211. SERVICE OBLIGATIONS OF LOAD-SERVING ENTITIES.

Part II of the Federal Power Act is amended by inserting after section 207 the following new section:

"SERVICE OBLIGATIONS

"SEC. 207A. (a)(1) The Commission shall exercise its authority under this Act to ensure that any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, or holds rights under one or more long-term contracts to purchase electric energy, for the purpose of meeting a service obligation, and

"(B) by reason of ownership of transmission facilities, or one or more long-term contracts or agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to meet that service obligation.

"(2) The Commission shall exercise its authority under this Act in a manner that facilities the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their existing and reasonably forecast service obligations.

"(b) For purposes of this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users.

"(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation to a distribution utility.

"(3) The term 'service obligation' means (i) a requirement applicable to an electric utility under Federal, State or local law or under long-term contract to provide electric service to end-users or to a distribution utility, or (ii) an obligation under a long-term firm sales contract (executed before the date of enactment of this section) to provide all or part of the electric energy necessary for a distribution utility to meet a requirement under clause (i)."

"(4) The term 'long-term' means for a period of one year or more."

SA 3186. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 370, strike line 3 and all that follows through page 384, line 19, and insert the following:

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas reductions registry and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and,

(3) will encourage and acknowledge greenhouse gas emissions reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) DATABASE.—The term "database" means the National Greenhouse Gas Database established under section 1104.

(2) DESIGNATED AGENCY OR AGENCIES.—The term "Designated Agency or Agencies" means the Department or Departments or Agency or Agencies given the responsibility for a function or program under the Memorandum of Agreement entered into pursuant to section 1103.

(3) DIRECT EMISSIONS.—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(4) ENTITY.—The term "entity" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(5) FACILITY.—The term "facility" means all buildings, structures, or installations located on any 1 or more of contiguous or adjacent property or properties, or a fleet of 20 or more transportation vehicles, under common control of the same entity.

(6) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; and

(F) sulfur hexafluoride.

(7) INDIRECT EMISSIONS.—The term 'indirect emissions' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from a facility owned or controlled by another entity and are not already reported as direct emissions by a covered entity.

(8) SEQUESTRATION.—The term 'sequestration' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) Not later than 1 year after the date of enactment of this Act, the President, acting through the Chairman of the Council on Environmental Quality, shall direct the Department of Energy, the Department of Commerce, the Department of Agriculture, the Department of Transportation and the Environmental Protection Agency, to enter into a Memorandum of Agreement that will—

(1) recognize and maintain existing statutory and regulatory authorities, functions and programs that collect data on greenhouse gas emissions and effects and that are necessary for the operation of the National Greenhouse Gas Database;

(2) distribute additional responsibilities and activities identified by this title to Federal departments or agencies according to their mission and expertise and to maximize the use of existing resources; and

(3) provide for the comprehensive collection and analysis of data on the emissions related to product use, including fossil fuel and energy consuming appliances and vehicles.

(b) The Memorandum of Agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the respective Departments and agencies:

(1) The Department of Energy shall be primarily responsible for developing, maintaining, and verifying the emissions reduction registry, under both this title and its authority under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) The Department of Commerce shall be primarily responsible for the development of measurement standards for emissions monitoring and verification technologies and methods to ensure that there is a consistent and technically accurate record of emissions, reductions and atmospheric concentrations of greenhouse gases for the database under this title.

(3) The Environmental Protection Agency shall be primarily responsible for emissions monitoring, measurement, verification and data collection, pursuant to this title and existing authority under titles IV and VIII of the Clean Air Act, and including mobile source emissions information from implementation of the Corporate Average Fuel Economy program under chapter 329 of title 49, United States Code, and the Agency's role in completing the national inventory for compliance with the United Nations Framework Convention on Climate Change.

(c) The Chairman shall publish a draft version of the Memorandum of Agreement in the Federal Register and solicit comments on it as soon as practicable and publish the final Memorandum of Agreement in the Federal Register not later than 15 months after the date of enactment of this Act.

(d) The final Memorandum of Agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—The Designated Agency or Agencies, working in consultation with the private sector and nongovernmental organizations, shall establish, operate and maintain a database to be known as the National Greenhouse Gas Database to collect, verify, and analyze information on—

(1) greenhouse gas emissions by entities located in the United States; and

(2) greenhouse gas emission reductions by entities based in the United States.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of a registry of greenhouse gas emissions reductions.

(c) DEADLINE.—Not later than 2 years after the date of enactment of this Act, the Designated Agency or Agencies shall promulgate a rule to implement a comprehensive system for greenhouse gas emissions reporting and reductions registration. The Designated Agency or Agencies shall ensure that the system is designed to maximize completeness, transparency, and accuracy and to minimize measurement and reporting costs for covered entities.

(d) REQUIRED ELEMENTS OF DATABASE REPORTING SYSTEM.—

(1) VOLUNTARY REPORTING.—An entity may voluntarily report to the Designated Agency or Agencies, for inclusion in the registry portion of the national database—

(A) with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

(i) project reductions from facilities owned or controlled by the reporting entity in the United States;

(ii) transfers of project reductions to and from any other entity;

(iii) project reductions and transfers of project reductions outside the United States;

(iv) other indirect emissions; and

(v) product use phase emissions; and

(B) with respect to greenhouse gas emissions reductions activities carried out since 1990 and verified according to rules implementing paragraphs (3) and (5) and submitted to the Designated Agency or Agencies before the date that is three years after the date of enactment of this Act, those reductions that have been reported or submitted by an entity under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs.

(2) TYPES OF ACTIVITIES.—Under paragraph (1), an entity may report projects that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

(A) fuel switching;

(B) energy efficiency improvements;

(C) use of renewable energy;

(D) use of combined heat and power systems;

(E) management of cropland, grassland, and grazing land;

(F) forestry activities that increase forest carbon stocks or reduce forest carbon missions;

(G) carbon capture and storage;

(H) methane recovery; and

(I) greenhouse gas offset investments.

(3) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each reporting entity shall provide information sufficient for the Designated Agency or Agencies to verify, in accordance with measurement and verification criteria developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report, represents—

(i) actual reductions in direct greenhouse gas emissions relative to historic emission levels and net of any increases in—

(I) direct emissions; and

(II) indirect emissions from—

(aa) all outsourced activities, contract manufacturing, wastes transferred from the control of an entity, and other relevant instances, as determined to be practicable under the rule promulgated under subsection (c); or

(bb) electricity, heat, and steam imported from another entity, as determined to be practicable under the rule promulgated under subsection (c); or

(ii) actual increases in net sequestration.

(4) INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to the Designated Agency or Agencies for consideration by the Designated Agency or Agencies in carrying out this subsection.

(5) DATA QUALITY.—The rule promulgated under subsection (c) shall establish procedures and protocols needed to—

(A) prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(B) provide for corrections to errors in data submitted to the database;

(C) provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(D) provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(E) account for changes in registration of ownership of emissions reductions resulting from a voluntary private transaction between reporting entities.

(6) AVAILABILITY OF DATA.—The Designated Agency or Agencies shall ensure that information in the database is published, accessible to the public, and made available in electronic format on the Internet, except in cases where the Designated Agency or Agencies determine that publishing or making available the information would disclose information vital to national security.

(7) DATA INFRASTRUCTURE.—The Designated Agency or Agencies shall ensure that the database uses and is integrated with existing Federal, regional, and state greenhouse gas data collection and reporting systems to the maximum extent possible and avoid duplication of such systems.

(8) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the rules for and implementing the Database, the Designated Agency or Agencies shall consider a broad range of issues involved in establishing an effective database, including the following:

(A) UNITS FOR REPORTING.—The appropriate units for reporting each greenhouse gas, and whether to require reporting of emission efficiency rates (including emissions per kilowatt-hour for electricity generators) in addition to mass emissions of greenhouse gases.

(B) INTERNATIONAL CONSISTENCY.—The greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant; and

(C) DATA SUFFICIENCY.—The extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement a comprehensive National Greenhouse Gas Database.

(e) ANNUAL REPORT.—The Designated Agency or Agencies shall publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported; and

(3) describes the atmospheric concentrations of greenhouse gases and tracks such information over time.

SA 3187. Mr. BYRD (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 283, between lines 8 and 9, insert the following:

SEC. 9 . INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term "agency head" means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term "cement or concrete project" means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term "recovered material" means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(b) IMPLEMENTATION OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) MATTERS TO BE ADDRESSED.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects; and

(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.

(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—The Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and

(2) eliminate barriers identified under subsection (c).

(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

SA 3188. Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

SEC. 6__. REACQUISITION OF CERTAIN NONPRODUCING LEASES ON THE OUTER CONTINENTAL SHELF OFF THE COAST OF FLORIDA.

(a) DEFINITIONS.—In this section:

(1) QUALIFIED LEASE.—The term "qualified lease" means any of the following leases in the Outer Continental Shelf Eastern Gulf of Mexico Planning Area: G06401, G06402, G08333, G08334, G06408, G06409, G08346, G10426, G10427, G06432, G06433, G06436, G06440, G06442, G06443, G06444, G10446, G10447, G10448, G10449, G10450, G10451, G10452, G10453, G10454, G10455, G10456, G10459, G10460, G06464, G06469, G10461, G06470, G10462, G10463, G06474, G06475, G10464, G06476, G06477, G10465, G10466, G10471, G10472, G10473, G10477, G10498, G10499, G10500, G10501, G10502, G10503, G10504, G10505, G10506, G10507, G10508, G10509, G10510, G10511, G10512, G10513, G10514, G10404, G10405, G08308, G08309, G08310, G10408, G10409, G10410, G10413, G10414, G10415, G10417, G08317, G08318, G08319, G10493, G10494, G10495, G10496, G10497, G10430, G10431, G10432, G10433, G10434, G10435, G10484, G10485, G08361, G08362, G08363, G08364, G08365, G08366, G08367, and G08368.

(2) QUALIFIED LESSEE.—The term "qualified lessee" means a person that, on the date of enactment of this section, holds an interest in a qualified lease that is recorded with the Minerals Management Service.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) LEASE CANCELLATION.—

(1) IN GENERAL.—The Secretary shall carry out a program under which the Secretary shall—

(A) issue credits to qualified lessees that elect to participate in the program in exchange for the cancellation of a qualified lease; and

(B) accept credits issued under this section—

(i) to pay royalties on oil or gas production conducted in any area outside the Eastern Gulf of Mexico; and

(ii) to pay rental fees on leases in existence on the date of enactment of this Act that are located outside the Eastern Gulf of Mexico.

(2) SUBMISSION OF FINANCIAL INFORMATION.—

(A) IN GENERAL.—During the period beginning on the January 1, 2003 and ending on March 30, 2008, a qualified lessee that seeks to receive credits in consideration for the cancellation of a qualified lease may do so by submitting to the Secretary the financial information and documentation relating to the amounts referred to in clauses (i) and (ii) of paragraph (4)(A), certified by a certified public accountant.

(B) NOTIFICATION OF FINAL OPPORTUNITY.—Between January 1, 2008 and January 31, 2008, the Secretary shall notify each qualified lessee that has not submitted the information and documentation required under subparagraph (A) in writing—

(i) of the opportunity to receive credits in consideration for the cancellation of a qualified lease;

(ii) of the financial information and documentation required under subparagraph (A); and

(iii) that the deadline for the submission of the financial information and documentation is March 30, 2008.

(3) REVIEW.—

(A) INITIAL REVIEW.—Not later than 60 days after the date on which the Secretary receives the financial information and documentation under paragraph (2)(A), the Secretary shall—

(i) complete an initial review of the information and documentation submitted; and

(ii) request any additional information that may be necessary to determine the value of credits to be offered under paragraph (4).

(B) FINAL REVIEW.—Not later than 90 days after the date on which the Secretary completes the initial review under subparagraph (B), the Secretary—

(i) shall complete a final review of the information and documentation provided by the qualified lessee under paragraph (2)(A) and any additional information submitted under subparagraph (A)(ii); and

(ii) in accordance with paragraph (4), determine the amount of credits to be offered to the qualified lessee.

(4) AMOUNT OF CREDITS.—

(A) IN GENERAL.—For each qualified lessee that complies with the requirements of paragraphs (2) and (3), the Secretary shall offer credits in an amount equal to—

(i) the amount of consideration paid by the qualified lessee to acquire the interest in the qualified lease; and

(ii) the amount of direct expenditures made by the qualified lessee in connection with the exploration and development of the qualified lease during the period from the date of acquisition of the qualified lease to the date of enactment of this Act.

(B) EXCLUSIONS.—In determining the amount of credits under subparagraph (A), the Secretary shall not consider the potential value of oil and gas resources associated with the qualified lease.

(5) OFFER.—Not later than 90 days after completing the final review under paragraph (3)(B), the Secretary shall make an offer to the qualified lessee to issue credits in an amount determined under paragraph (4) in exchange for the cancellation of the qualified lease.

(6) ACCEPTANCE.—To accept the offer of the Secretary under paragraph (5) with respect to a qualified lease, not later than 60 days after the date on which the offer is made under that paragraph, a qualified lessee shall submit to the Secretary a written agreement that if credits are issued under paragraph (7), the qualified lessee—

(A) consents to the cancellation of any qualified lease;

(B) will dismiss any civil or administrative action brought by the qualified lessee against the United States relating to the qualified lease that is pending as of the date of cancellation of the eligible lease; and

(C) waives the right to bring any further civil or administrative action relating to the qualified lease after that date.

(7) ISSUANCE OF CREDITS.—If, not later than 60 days after the date of the offer under paragraph (5), a qualified lessee accepts the offer in accordance with paragraph (6), the Secretary shall—

(A) cancel the qualified lease; and

(B) issue to the qualified lessee credits in the amount determined under paragraph (4).

(8) ACCEPTANCE OF CREDITS.—

(A) IN GENERAL.—On or after October 1, 2012, the Secretary shall accept credits issued under paragraph (7) in the same manner as rental fees and royalty payments on oil and gas production conducted in any area outside the Eastern Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(B) EXCEPTION.—The Secretary shall not accept credits under subparagraph (A) for oil or gas production in an area—

(i) that is within 3 miles of the seaward boundary of a coastal State;

(ii) that is subject to an administrative or legislative leasing moratorium; or

(iii) in which leasing is otherwise prohibited on the date of enactment of this Act.

(C) ADJUSTMENT FOR INFLATION.—The Secretary shall adjust the amount of credits accepted under subparagraph (A) to reflect changes in the implicit Gross Domestic Product deflator during the period from the date on which the credits were issued under paragraph (7) to October 1, 2012.

(9) SALE OR TRANSFER.—

(A) IN GENERAL.—A qualified lessee may transfer or sell any credits issued under paragraph (7) to any other person qualified to hold leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(B) REQUIREMENTS.—A sale or transfer of credits under subparagraph (A) shall be subject to the requirements of this section.

(C) LIMITATIONS.—Credits transferred or sold under subparagraph (A) shall be accepted in accordance with paragraph (8).

(D) NOTIFICATION.—

(i) IN GENERAL.—Not later than 30 days after the date on which a qualified lessee transfers or sells any credits, the qualified lessee shall notify the Secretary of the transfer or sale.

(ii) VALIDITY.—The transfer or sale of a credit shall not be valid until the date on which the Secretary receives the notification required under clause (i).

(10) NO ADDITIONAL COMPENSATION.—A qualified lessee that participates in the cancellation of a qualified lease under this Act—

(A) shall be considered to be fully compensated for the value of the qualified lease; and

(B) shall not be eligible to seek additional compensation from the Federal Government for the qualified lease.

(11) EFFECT.—Nothing in this section constitutes a finding by Congress that—

(A) actions by the Federal Government involving the qualified leases before the date of enactment of this Act constituted a breach of contract or a taking of property under the Constitution of the United States; or

(B) the qualified leases have any particular value.

SA 3189. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —ENVIRONMENTAL CLEANUP FINANCING AND REINSURANCE AND CORPORATE INVERSION LIMITATIONS

Subtitle A—Environmental Cleanup Financing

SEC. 01. EXTENSION OF SUPERFUND, OIL SPILL LIABILITY, AND LEAKING UNDERGROUND STORAGE TANK TAXES.

(a) EXCISE TAXES.—

(1) SUPERFUND TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.".

(2) OIL SPILL LIABILITY TAX.—Section 4611(f) is amended to read as follows:

"(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.".

(3) LEAKING UNDERGROUND STORAGE TANK RATE.—Section 4081(d)(3) is amended by striking "April 1, 2005" and inserting "October 1, 2007.".

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A is amended—

(1) by striking "0.12 percent" in subsection (a) and inserting "0.06 percent", and

(2) by striking subsection (e) and inserting the following:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after the date of the enactment of the Energy Policy Act of 2002 and before January 1, 2007.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 4611(b) is amended—

(A) by striking "or exported from" in paragraph (1)(A),

(B) by striking "or exportation" in paragraph (1)(B), and

(C) by striking "AND EXPORTATION" in the heading.

(2) Section 4611(d)(3) is amended—

(A) by striking "or exporting the crude oil, as the case may be" in the text and inserting "the crude oil", and

(B) by striking "OR EXPORTS" in the heading.

(d) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle B—Reinsurance Inversion Limitations

SEC. 11. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.

(a) IN GENERAL.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

"(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))."

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

"(A) IN GENERAL.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

"(B) EXCEPTIONS.—This paragraph shall not apply to any premium to the extent that—

"(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

"(I) such reinsurer, or

"(II) 1 or more domestic corporations or citizens or residents of the United States, or

"(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

"(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

"(i) elects to so treat such income, and

"(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) UNITED STATES RISK.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

"(ii) RELATED INSURER.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment."

(c) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

"(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversion Limitations

SEC. 21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) Other definitions.—For purposes of this subparagraph—

"(I) Nominally foreign corporation.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b))."

(b) Effective Dates.—

(1) In general.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) Special rule.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 3190. Mr. TORRICELLI (for himself and Mr. Graham) submitted an amendment intended to be proposed to amendmnt SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —ENVIRONMENTAL CLEANUP FINANCING AND REINSURANCE AND CORPORATE INVERSION LIMITATIONS

Subtitle A—Environmental Cleanup Financing

SEC. 01. EXTENSION OF SUPERFUND, OIL SPILL LIABILITY, AND LEAKING UNDERGROUND STORAGE TANK EXCISE TAXES.

(a) Superfund Taxes.—Section 4611(e) is amended to read as follows:

"(e) Application of Hazardous Substance Superfund Financing Rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.".

(b) Oil Spill Liability Tax.—Section 4611(f) is amended to read as follows:

"(f) Application of Oil Spill Liability Trust Fund Financing Rate.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.".

(c) Leaking Underground Storage Tank Rate.—Section 4081(d)(3) is amended by striking "April 1, 2005" and inserting "October 1, 2007.".

(d) Technical Amendments.—

(1) Section 4611(b) is amended—

(A) by striking "or exported from" in paragraph (1)(A),

(B) by striking "or exportation" in paragraph (1)(B), and

(C) by striking "and Exportation" in the heading.

(2) Section 4611(d)(3) is amended—

(A) by striking "or exporting the crude oil, as the case may be" in the text and inserting "the crude oil", and

(B) by striking "or exports" in the heading.

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Reinsurance Inversion Limitations

SEC. 11. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.

(a) In General.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

"(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))."

(b) Treatment of Reinsurance With Related Reinsurers.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) Denial of deduction under paragraph (4) for reinsurance of U.S. risks with certain related persons.—

"(A) In general.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

"(B) Exceptions.—This paragraph shall not apply to any premium to the extent that—

"(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

"(I) such reinsurer, or

"(II) 1 or more domestic corporations or citizens or residents of the United States, or

"(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

"(C) Election by reinsurer to be taxed on income.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

"(i) elects to so treat such income, and

"(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

"(D) Definitions.—For purposes of this paragraph—

"(i) United states risk.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

"(ii) Related insurer.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment."

(c) Technical Amendment.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

"(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(d) Effective Date.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversion Limitations

SEC. 21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) In General.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) Domestic.—

"(A) In general.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) Certain corporations treated as domestic.—

"(i) In general.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) Corporate expatriation transaction.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) Lower stock ownership requirement in certain cases.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) Partnership transactions.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) Special rules.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b))."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 3191. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "2003" and inserting "2012".

SA 3192. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —CURB TAX ABUSES

Subtitle A—Tax Shelters

SEC. 01. SHORT TITLE.

This subtitle may be cited as the "Abusive Tax Shelter Shutdown Act of 2002".

SEC. 02. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that:

(1) Many corporate tax shelter transactions are complicated ways of accomplishing nothing aside from claimed tax benefits, and the legal opinions justifying those transactions take an inappropriately narrow and restrictive view of well-developed court doctrines under which—

(A) the taxation of a transaction is determined in accordance with its substance and not merely its form,

(B) transactions which have no significant effect on the taxpayer's economic or beneficial interests except for tax benefits are treated as sham transactions and disregarded,

(C) transactions involving multiple steps are collapsed when those steps have no substantial economic meaning and are merely designed to create tax benefits,

(D) transactions with no business purpose are not given effect, and

(E) in the absence of a specific congressional authorization, it is presumed that Congress did not intend a transaction to result in a negative tax where the taxpayer's economic position or rate of return is better after tax than before tax.

(2) Permitting aggressive and abusive tax shelters not only results in large revenue losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.

(b) PURPOSE.—The purpose of this subtitle is to eliminate abusive tax shelters by denying tax attributes claimed to arise from transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions to be used to avoid penalties on tax underpayments resulting from transactions without significant economic substance or business purpose.

PART I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE

SEC. 11. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction are substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law referred to in section 6662(i)(2), and the requirements of this subsection shall be construed as being in addition to any such other rule of law."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

PART II—PENALTIES

SEC. 21. INCREASE IN PENALTY ON UNDERPAYMENTS RESULTING FROM FAILURE TO SATISFY CERTAIN COMMON LAW RULES.

(a) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalty) is amended by adding at the end the following new subsection:

"(i) INCREASE IN PENALTY IN CASE OF FAILURE TO SATISFY CERTAIN COMMON LAW RULES.—

"(1) IN GENERAL.—To the extent that an underpayment is attributable to a disallowance described in paragraph (2)—

"(A) subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent', and

"(B) subsection (d)(2)(B) and section 6664(c) shall not apply.

"(2) Disallowances described.—A disallowance is described in this subsection if such disallowance is on account of—

"(A) a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(m)(2),

"(B) a lack of business purpose for such transaction or because the form of the transaction does not reflect its substance, or

"(C) a failure to meet the requirements of any other similar rule of law.

"(3) Increase in penalty not to apply if compliance with disclosure requirements.—Paragraph (1)(A) shall not apply if the taxpayer discloses to the Secretary (as such time and in such manner as the Secretary shall prescribe) such information as the Secretary shall prescribe with respect to such transaction.".

(b) Modifications to Penalty on Substantial Understatement of Income Tax.—

(1) Modification of threshold.—Subparagraph (A) of section 6662(d)(1) is amended to read as follows:

"(A) In general.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) $500,000, or

"(ii) the greater of 10 percent of the tax required to be shown on the return for the taxable year or $5,000."

(2) Modification of penalty on tax shelters, etc.—Clauses (i) and (ii) of section 6662(d)(2)(C) are amended to read as follows:

"(i) In general.—Subparagraph (B) shall not apply to any item attributable to a tax shelter."

"(ii) Determination of understatements with respect to tax shelters, etc.—In any case in which there are one or more items attributable to a tax shelter, the amount of the understatement under subparagraph (A) shall in no event be less than the amount of understatement which would be determined for the taxable year if all items shown on the return which are not attributable to any tax shelter were treated as being correct. A similar rule shall apply in cases to which subsection (i) applies, whether or not the items are attributable to a tax shelter."

(c) Treatment of Amended Returns.—Subsection (a) of section 6664 is amended by adding at the end the following new sentence: "For purposes of this subsection, an amended return shall be disregarded if such return is filed on or after the date the taxpayer is first contacted by the Secretary regarding the examination of the return."

SEC. 22. PENALTY ON PROMOTERS OF TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.

(a) Penalty.—

(1) In general.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Penalty on Substantial Promoters for Promoting Tax Avoidance Strategies Which Have No Economic Substance, Etc.—

"(1) Imposition of penalty.—Any substantial promoter of a tax avoidance strategy shall pay a penalty in the amount determined under paragraph (2) with respect to such strategy if such strategy (or any similar strategy promoted by such promoter) fails to meet the requirements of any rule of law referred to in section 6662(i)(2).

"(2) Amount of penalty.—The penalty under paragraph (1) with respect to a promoter of a tax avoidance strategy is an amount equal to 100 percent of the gross income derived (or to be derived) by such promoter from such strategy.

"(3) Tax avoidance strategy.—For purposes of this subsection, the term 'tax avoidance strategy' means any entity, plan, arrangement, or transaction a significant purpose of the structure of which is the avoidance or evasion of Federal income tax.

"(4) Substantial promoter.—For purposes of this subsection—

"(A) In general.—The term 'substantial promoter' means, with respect to any tax avoidance strategy, any promoter if—

"(i) such promoter offers such strategy to more than 1 potential participant, and

"(ii) such promoter may receive fees in excess of $500,000 in the aggregate with respect to such strategy.

"(B) Aggregation rules.—For purposes of this paragraph—

"(i) Related persons.—A promoter and all persons related to such promoter shall be treated as 1 person who is a promoter.

"(ii) Similar strategies.—All similar tax avoidance strategies of a promoter shall be treated as 1 tax avoidance strategy.

"(C) Promoter.—The term 'promoter' means any person who participates in the promotion, offering, or sale of the tax avoidance strategy.

"(D) Related person.—Persons are related if they bear a relationship to each other which is described in section 267(b) or 707(b).

"(4) Coordination with subsection (a).—No penalty shall be imposed by this subsection on any promoter with respect to a tax avoidance strategy if a penalty is imposed under subsection (a) on such promoter with respect to such strategy."

(2) Conforming amendment.—Subsection (d) of section 6700 is amended—

(A) by striking "Penalty" and inserting "Penalties", and

(B) by striking "penalty" the first place it appears in the text and inserting "penalties".

(b) Increase in Penalty on Promoting Abusive Tax Shelters.—The first sentence of section 6700(a) is amended by striking "a penalty equal to" and all that follows and inserting "a penalty equal to the greater of $1,000 or 100 percent of the gross income derived (or to be derived) by such person from such activity."

SEC. 23. MODIFICATIONS OF PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY INVOLVING TAX SHELTERS.

(a) Imposition of Penalty.—Section 6701(a) (relating to imposition of penalty) is amended to read as follows:

"(a) Imposition of Penalties.—

"(1) In general.—Any person—

"(A) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

"(B) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

"(C) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(2) Certain tax shelters.—If—

"(A) any person—

"(i) aids or assists in, procures, or advises with respect to the creation, organization, sale, implementation, management, or reporting of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

"(ii) opines, advises, represents, or otherwise indicates (directly or indirectly) that the taxpayer's tax treatment of items attributable to such tax shelter or such entity, plan, arrangement, or transaction and giving rise to an understatement of tax liability would more likely than not prevail or not give rise to a penalty,

"(B) such opinion, advice, representation, or indication is unreasonable,

then such person shall pay a penalty in the amount determined under subsection (b). If a standard higher than the more likely than not standard was used in any such opinion, advice, representation, or indication, then subparagraph (A)(ii) shall be applied as if such standard were substituted for the more likely than not standard."

(b) Amount of Penalty.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by inserting "or (3)" after "paragraph (2)" in paragraph (1),

(2) by striking "subsection (a)" each place it appears and inserting "subsection (a)(1)", and

(3) by redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2) the following:

"(3) Tax shelters.—In the case of—

"(A) a penalty imposed by subsection (a)(1) which involves a return, affidavit, claim, or other document relating to a tax shelter or an entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

"(B) any penalty imposed by subsection (a)(2),

the amount of the penalty shall be equal to 100 percent of the gross proceeds derived (or to be derived) by the person in connection with the tax shelter or entity, plan, arrangement, or transaction."

(c) Referral and Publication.—If a penalty is imposed under section 6701(a)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) on any person, the Secretary of the Treasury shall—

(1) notify the Director of Practice of the Internal Revenue Service and any appropriate State licensing authority of the penalty and the circumstances under which it was imposed, and

(2) publish the identity of the person and the fact the penalty was imposed on the person.

(d) Conforming Amendments.—

(1) Section 6701(d) is amended by striking "Subsection (a)" and inserting "Subsection (a)(1)".

(2) Section 6701(e) is amended by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(3) Section 6701(f) is amended by inserting ", tax shelter, or entity, plan, arrangement, or transaction" after "document" each place it appears.

SEC. 24. FAILURE TO MAINTAIN LISTS.

Section 6708(a) (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by adding at the end the following: "In the case of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) from each person with respect to which there was a failure and the limitation of the preceding sentence shall not apply.''

SEC. 25. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE TAX SHELTER INFORMATION WITH RETURN.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include with its return of Federal income tax any information required to be included under section 6011 with respect to a reportable transaction shall pay a penalty in the amount determined under subsection (b). No penalty shall be imposed on any such failure if it is shown that such failure is due to reasonable cause.

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—The amount of the penalty under subsection (a) shall be equal to the greater of—

''(A) 5 percent of any increase in Federal tax which results from a difference between the taxpayer's treatment (as shown on its return) of items attributable to the reportable transaction to which the failure relates and the proper tax treatment of such items, or

''(B) $100,000.

For purposes of subparagraph (A), the last sentence of section 6664(a) shall apply.

''(2) LISTED TRANSACTION.—If the failure under subsection (a) relates to a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011, paragraph (1)(A) shall be applied by substituting '10 percent' for '5 percent'.

''(c) REPORTABLE TRANSACTION.—For purposes of this section, the term 'reportable transaction' means any transaction with respect to which information is required under section 6011 to be included with a taxpayer's return of tax because, as determined under regulations prescribed under section 6011, such transaction has characteristics which may be indicative of a tax avoidance transaction.

''(d) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under section 6662.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include tax shelter information on return.''

SEC. 26. REGISTRATION OF CERTAIN TAX SHELTERS WITHOUT CORPORATE PARTICIPANTS.

Section 6111(d)(1)(A) (relating to certain confidential arrangements treated as tax shelters) is amended by striking ''for a direct or indirect participant which is a corporation''.

SEC. 27. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this part shall apply to transactions after the date of the enactment of this Act.

(b) SECTION 21.—The amendments made by subsections (b) and (c) of section 21 shall apply to taxable years ending after the date of the enactment of this Act.

(c) SECTION 22.—The amendments made by subsection (a) of section 22 shall apply to any tax avoidance strategy (as defined in section 6700(c) of the Internal Revenue Code of 1986, as amended by this part) interests in which are offered to potential participants after the date of the enactment of this Act.

(d) SECTION 26.—The amendment made by section 26 shall apply to any tax shelter interest which is offered to potential participants after the date of the enactment of this Act.

PART III—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN LOSSES

SEC. 31. LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(1) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in paragraph (2) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(2) PROPERTY DESCRIBED.—For purposes of paragraph (1), property is described in this paragraph if—

''(A) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(B) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(3) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of paragraph (1), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in paragraph (2) which is transferred in such transaction would (but for this subsection) exceed the fair market value of such property immediately after such transaction.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(2) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 32. DISALLOWANCE OF PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds 110 percent of the basis of such partner's interest in the partnership.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS."

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

"(d) SUBSTANTIAL BASIS REDUCTION.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds 10 percent of the aggregate adjusted basis of partnership property immediately after the distribution."

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION."

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

Subtitle B—Reinsurance

SEC. 41. SHORT TITLE.

This subtitle may be cited as the "Reinsurance Tax Equity Act of 2002".

SEC. 42. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.

(a) IN GENERAL.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

"(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))."

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

"(A) IN GENERAL.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

"(B) EXCEPTIONS.—This paragraph shall not apply to any premium to the extent that—

"(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

"(I) such reinsurer, or

"(II) 1 or more domestic corporations or citizens or residents of the United States, or

"(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

"(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

"(i) elects to so treat such income, and

"(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) UNITED STATES RISK.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

"(ii) RELATED INSURER.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment."

(c) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

"(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversions

SEC. 51. SHORT TITLE.

This subtitle may be cited as the "Corporate Patriot Enforcement Act of 2002".

SEC. 52. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b))."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 3193. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

SEC. 608. STATE REFERENDA TO LIFT MORATORIA ON OFFSHORE OIL AND GAS DRILLING.

(a) IN GENERAL.—Notwithstanding any moratorium or executive order temporarily suspending or permanently prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on

the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (a).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the State off the shore of which oil or gas is produced.

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie.

(3) EXISTING LEASES.—Notwithstanding section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(2)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, on, or after the date of enactment of this Act shall be distributed to the States offshore of which the leases lie.

SA 3194. Ms. LANDRIEU (for herself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title V, add the following:

SEC. 5 . NEW NUCLEAR REACTOR TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 19 of the Atomic Energy Act of 1954 is amended by inserting after section 276 (42 U.S.C. 2023) the following:

"SEC. 277. NEW NUCLEAR REACTOR TECHNOLOGY PROGRAM.

"(a) IN GENERAL.—The Commission shall develop and maintain a program to identify and address safety and environmental issues associated with designs for nuclear power plants that would incorporate new reactor technologies, as identified by the Department of Energy and the nuclear power industry.

"(b) ACTIVITIES.—In carrying out the program under subsection (a), the Commission shall—

"(1) conduct modeling and analyses of, and tests and experiments on, designs for nuclear power plants to determine total system behavior and the response of the nuclear power plants to hypothetical accidents; and

"(2) consider—

"(A) new reactor technologies that may affect—

"(i) risk-informed licensing of new nuclear power plants;

"(ii) the behavior of advanced fuels; and

"(iii) environmental considerations relating to—

"(I) spent fuel management; and

"(II) standards for limiting negative health effects;

"(B) other new technologies (including advanced sensors, digital instrumentation, and digital controls) and human factors that affect the application of new reactor technology to nuclear power plants in existence as of the date of enactment of this section; and

"(C) any other emerging technical issue relating to new reactor technologies, as determined by the Commission.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by inserting after the item relating to section 276 the following:

"Sec. 277. New nuclear reactor technology program.".

SA 3195. Mr. HARKIN (for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 293, strike line 5 and all that follows through page 294 and insert the following:

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

"(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).".

SA 3196. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in subtitle A of title II, insert the following:

SEC. 2 . SENSE OF THE SENATE RESOLUTION CONCERNING ELECTRIC POWER TRANSMISSION SYSTEMS.

It is the sense of the Senate that the development of regional energy markets and the magnitude of constraints in electric power transmission systems require that the Federal Government be attentive to electric power transmission issues, particularly issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

SA 3197. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 23 and all that follows through page 48, line 20, and insert the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

"(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.

"(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

"(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

SA 3198. Mr. CARPER (for himself, Mr. SPECTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, before line 1, insert the following:

SEC. 811. REQUIREMENT FOR REGULATIONS TO REDUCE OIL CONSUMPTION.

(a) OIL SAVINGS.—

(1) IN GENERAL.—The new regulations required by section 801 shall include regulations that apply to passenger and non-passenger automobiles manufactured after model year 2006 and are designed to result in a reduction in the amount of oil (including oil refined into gasoline) used by automobiles of at least 1,000,000 barrels per day by 2015.

(2) CALCULATION OF REDUCTION.—To determine the amount of the reduction in oil used by passenger and non-passenger automobiles, the Secretary of Transportation shall make calculations based on the number of barrels of oil projected by the Energy Information Administration of the Department of Energy in table A7 of the report entitled "Annual Energy Outlook 2002" (report no. DOE/EIA-0383(2002)) to be consumed by light-duty vehicles in 2015 without the regulations required by paragraph (1).

(3) Consideration of Alternative Fuel Technologies.—The Secretary of Transportation shall consult with the Secretary of Energy to identify alternative fuel technologies that could be utilized in the transportation sector to reduce dependence on crude-oil-derived fuels. The Secretary of Transportation shall take those technologies into consideration in prescribing the regulations under this section.

(4) Final Regulations.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 15 months after the date of the enactment of this Act.

(b) Reports to Congress.—

(1) Requirement.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

(2) Content.—The report required by paragraph (1) shall explain and assess the progress in reducing oil consumption by automobiles as required by this section.

SA 3199. Mrs. BOXER (for herself and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 204, strike line 14 and all that follows through page 205, line 8.

SA 3200. Mrs. BOXER (for herself and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, strike lines 8 through 11 and insert the following:

"(4) Cellulosic Biomass Ethanol.—For the purpose of paragraph (2)—

"(A) except as provided in subparagraph (B), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel; and

"(B) 1 gallon of cellulosic biomass ethanol shall be considered the equivalent of 2 gallons of renewable fuel if the cellulosic biomass ethanol is derived from agricultural residues.".

SA 3201. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FERC STUDY ON EFFECTS OF JUST AND REASONABLE ELECTRICITY RATES.

Not later than August 15, 2002, the Federal Energy Regulatory Commission shall submit a report to the Senate Energy and Natural Resources Committee and the House Energy and Commerce Committee detailing how the order of June 18, 2001, "Addressing Price Mitigation in California and the Western United States", helped establish just and reasonable electricity prices in the 11 states, including California, that comprise the Western Systems Coordinating Council.

SA 3202. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 568, strike line 6 and all that follows through page 570, line 7 and insert the following:

SEC. 1701. REGULATORY REVIEWS.

(a) Regulatory Reviews.—Not later than one year after the date of enactment of this section, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to, consistent with the purposes of the regulations the agency administers—

(A) remove barriers to market entry for emerging energy technologies,

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) Report to Congress.—Not later than 18 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) Contents of the Report.—The report shall identify—

(1) all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes, and

(2) actions taken, or proposed to be taken, to remove such barriers.

SA 3203. Mr. JEFFORDS (for himself and Mr. Smith of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, between lines 10 and 11, insert the following:

Subtitle B—Nuclear Security

SEC. 511. REPORT ON NUCLEAR SECURITY.

Report to Congress.—Not later than 60 days after the date of enactment of this section, the Nuclear Regulator Commission shall report to the relevant committees of Congress on any changes and on-going review of the design basis threat since September 11, 2001.

SA 3204. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 294, after line 18, insert the following:

"(6) Small duct, high velocity air conditioners and heat pumps, a niche product with external static pressures several times those of conventional products, are exempt from paragraphs (1) through (4). No later than January 1, 2004, the Secretary shall, in accordance with subsections (o) and (p), prescribe a standard for small duct, high velocity equipment."

SA 3205. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 7 and 8, insert the following:

SEC. ___. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

"SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

"(a) Allowance of Deduction.—In the case of a taxpayer who is an eligible resupplier there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

"(b) Maximum Deduction.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

"(c) Eligible Resupplier.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

"(d) Qualified Water Submetering Device.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

"(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

"(2) which permits reading of water price and usage signals on at least a daily basis.

"(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

"(f) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by inserting after subparagraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.".

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179D" each place it appears in the heading and text and inserting ", 179D, or 179E".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179E(f)(1).".

(4) Section 1245(a), as amended by this Act, is amended by inserting "179E," after "179D," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

"Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. . THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 3206. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . STUDY OF ETHANOL-FROM-SOLID WASTE LOAN GUARANTEE PROGRAM.

The Secretary of Energy shall—

(1) conduct a study of the feasibility of providing guarantees of loans by private banking and investment institutions for facilities for the processing and conversion of municipal solid waste and sewage sludge into fuel ethanol and other commercial byproducts; and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report on the results of the study.

SA 3207. Mr. BAUCUS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, strike line 2 and all that follows through line 14 and insert the following:

"the States; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(c) REPORT.—No later than 180 days after enactment of this Act, the Secretary shall report to Congress describing the actions she has taken to comply with subsections (a) and (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior.

(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

(2) $20,000,000 for the purpose of carrying out subsection (b)."

SA 3208. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . ENHANCED DOMESTIC PRODUCTION OF OIL AND GAS THROUGH EXCHANGE OF NONPRODUCING LEASES.

(a) DEFINITION.—For purposes of this section:

(1) the term "Badger-two Medicine Area" means federal lands, owned by the United States Forest Service, located in: T 31 N, R 12–13 W; T 30 N, R 11–13 W; T 29 N, R 10–16 W; and, T 28 N, R 10–14 W.

(2) the term "Blacklead Area" means federal lands, owned by the United States Forest Service lands and Bureau of Land Management, located in: T 27 N, R 9 W; T 26 N, R 9–10 W, T 25 N, R 8–10 W, T 24 N, R 8–9 W.

(3) the term "noproducing leases" means authorized Federal oil and gas leases that are in existence and in good standing as of the date of enactment of this Act and are located in the Badger-Two Medicine Area or the Blackleaf Area.

(4) the term "Secretary" means the Secretary of the Interior.

(b) EVALUATION.—The Secretary is directed to undertake an evaluation of opportunities to enhance domestic production through the exchange of the nonproducing leases in the Badger-Two Medicine Area and the Blackleaf Area. In undertaking the evaluation, the Secretary shall consult with the Governor of Montana, the lessees holding the nonproducing leases, and interested members of the public. The evaluation shall include—

(1) A discussion of opportunities to enhance domestic production of oil and gas through an exchange of the nonproducing leases for oil and gas lease tracts of comparable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(2) A discussion of opportunities to enhance domestic production of oil and gas through the issuance of bidding, royalty, or rental credits for use on federal onshore oil and gas leases in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf in exchange for the cancellation of the nonproducing leases:

(3) A discussion of any other appropriate opportunities to exchange the nonproducing leases or provide compensation for their cancellation with the consent of the lessee.

(4) Views of interested parties, including the written views of the State of Montana;

(5) A discussion of the level of interest of the holders of the nonproducing lessees in the exchange of such interest;

(6) Recommendations regarding the advisability of pursuing such exchanges; and

(7) Recommendations regarding changes in law and regulation needed to enable the Secretary to undertake such an exchange.

The Secretary shall transmit the evaluation to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives within two years after the date of enactment of this Act.

(c) VALUATION OF NONPRODUCING LEASES.—For purposes of the evaluation, the value of each nonproducing lease shall be an amount equal to—

(1) consideration paid by the current lessee for each nonproducing lease; plus

(2) all direct expenditures made by the current lessee prior to the date of enactment of this Act in connection with the exploration or development, or both, of such lease (plus interest on such consideration and such expenditures from the date of payment to date of issuance of the credits); minus

(3) the sum of the revenues from the nonproducing lease.

(d) Suspension of Leases.—In order to allow for the evaluation under this section and review by the Congress, nonproducing leases in the Badger-Two Medicine Area shall be suspended for a period of three years commencing from the date of enactment of this Act.

(e) Limitation on Suspension of Leases.—The suspension referred to in subsection (d) shall not apply to nonproducing leases located in the Blackleaf Area.

(f) Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SA 3209. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 373, strike lines 3 and 4 and insert the following:

sources;

(3) take into account the findings of the initial report developed under section 1317(a); and

(4) provide for the comprehensive collection and

On page 476, between lines 16 and 17, insert the following:

PART I—CARBON SEQUESTRATION RESEARCH, DEMONSTRATION PROJECTS, AND OUTREACH

On page 487, between lines 18 and 19, insert the following:

PART II—FOUNDATIONS FOR A NATIONAL CARBON SEQUESTRATION BASELINE AND ACCOUNTING SYSTEM

SEC. 1315. PURPOSE.

The purpose of this part is to establish foundations for a national carbon sequestration baseline and accounting system to support development and assessment of programs and policies that encourage environmentally beneficial carbon sequestration and carbon storage practices.

SEC. 1316. DEFINITIONS.

In this part:

(1) Accounting system.—

(A) In general.—The term "accounting system" means a system for quantifying increases or decreases, relative to a comprehensive baseline and a reference case, in carbon release, carbon sequestration, or carbon storage in biomass and soil (excluding carbon release, carbon sequestration, or carbon storage resulting from the planting or harvesting of annual crops) that result from natural or human-caused changes in natural resources or land uses, practices, or activities.

(B) Inclusion.—The term "accounting system" includes parameters that are sufficient to provide a basis for spatial or georeferenced tracking of changes in levels of carbon storage that can be measured and assessed over time.

(2) Baseline.—The term "baseline" means a quantification of the carbon stored in biomass and soil that is associated with all natural resources, or land uses, practices, or activities, within a specific land area at a specific point in time.

(3) Biomass.—The term "biomass" means roots, stems, or foliage of vegetation.

(4) Carbon release.—

(A) In general.—The term "carbon release" means a release of carbon as a result of a natural cause or a change in a land or resource use, practice, or activity.

(B) Exclusion.—The term "carbon release" does not include a release of carbon as a result of the burning of fossil fuel.

(5) Carbon sequestration.—The term "carbon sequestration" means the process of increasing the carbon content in biomass and soil through a biological method (such as photosynthesis) that captures or removes carbon from the atmosphere.

(6) Carbon storage.—The term "carbon storage" means the quantity of carbon stored in biomass and soil.

(7) Carbon storage performance indicator.—The term "carbon storage performance indicator" means a set of scientifically based computations (including a model and a reference table) that can be used by landowners and others to easily extrapolate a quantification of carbon storage independent from or in combination with sampling.

(8) Federal agency.—The term "Federal agency" includes—

(A) the Environmental Protection Agency;

(B) the National Air and Space Administration; and

(C) appropriate agencies in—

(i) the Department of Agriculture;

(ii) the Department of Commerce;

(iii) the Department of Energy; and

(iv) the Department of the Interior.

(9) Pilot area.—The term "pilot area" means an area consisting of 1 or more States in which a pilot program under section 1318 is carried out.

(10) Reference case.—The term "reference case" means a quantified projection of carbon release, carbon sequestration, or carbon storage reflecting a typical scenario against which the effects of a program, policy, or project can be assessed.

(11) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1317. ESTABLISHMENT OF FOUNDATIONS FOR A NATIONAL BASELINE AND ACCOUNTING SYSTEM.

(a) Annual Reports on Establishment.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies and in consultation with eligible entities carrying out pilot programs under section 1318, shall submit to Congress a report, and in each of the 4 years thereafter shall submit an updated report, on the technical, information, and administrative requirements, institutional relationships, infrastructure, and funding (including funding of startup costs and maintenance costs) needed to establish a national baseline and accounting system, including—

(1) methodologies for quantification and measurement of carbon release, carbon sequestration, and carbon storage, and release and sequestration of other greenhouse gases, including methodologies—

(A) to develop reference cases for various types of activities and geographic locations;

(B) to cover subsequent releases under the accounting system; and

(C) to track or estimate changes in carbon release, carbon sequestration, or carbon storage in land outside an area that are caused by changes in activities in another area;

(2) institutional relationships necessary to collect information, including the role that States may fulfill;

(3) means of determining the adequacy of information and the necessary level of precision;

(4) alternative approaches for developing a national baseline and accounting system in the most cost-effective manner while maintaining necessary levels of precision and accuracy;

(5) an assessment of the appropriate uses for, and the feasibility of developing, carbon storage performance indicators for carbon release, carbon sequestration, and carbon storage, and performance indicators for other greenhouse gases, for various land and resource uses and forest, agricultural, and cropland management practices (including an evaluation of associated economic and financial costs);

(6) the extent to which a national baseline and accounting system could support a range of policy and program initiatives to encourage environmentally beneficial carbon sequestration and carbon storage practices, including practices that result in the benefits described in section 1318(c)(2)(D);

(7) requirements for the management and access to data by the public;

(8) issues, options, and methodologies relating to accounting for carbon content in wood products and annual crops;

(9) an assessment of national, State, and local policies and programs—

(A) to encourage carbon sequestration and carbon storage practices that also have other beneficial impacts on the environment; and

(B) to discourage those practices that have harmful impacts;

(10) innovative methods for financing the continued development of a national baseline and accounting system; and

(11) recommendations to Congress on appropriate considerations in carrying out the purposes of this part.

(b) Development of Carbon Storage Performance Indicators.—

(1) In general.—During the 5-year period beginning on the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage performance indicators that assist landowners and others in cost-effective and reliable quantification of the carbon release, carbon sequestration, and carbon storage expected to result from various land and resource uses, practices, or activities over various periods of time.

(2) Required elements.—In carrying out paragraph (1), the Secretary shall—

(A) review relevant information, including information developed under the pilot programs under section 1318;

(B) determine the extent to which carbon storage performance indicators should vary according to—

(i) region of the United States;

(ii) biological, ecological, or physiological criterion; or

(iii) type of management practice;

(C) consider—

(i) various levels of precision for quantification and measurement based on a range of uses; and

(ii) implications for potential uses of the carbon storage performance indicators, including such uses as—

(I) communications to encourage beneficial practices;

(II) initial screening for potential benefits from certain practices;

(III) quantification of a national baseline and accounting system and reference case, including uses—

(aa) to augment sampling to reduce costs;

(bb) to ensure inclusion of subsequent releases of quantified carbon storage and carbon sequestration to address permanence and long-term trends in carbon storage; and

(cc) to simplify assessment of impacts within and outside a specific area; and

(IV) project-level quantification of carbon release, carbon sequestration, and carbon storage;

(D) consider the implications of establishing performance indicators for greenhouse gases other than carbon;

(E)(i) identify practices that—

(I) consistently store, release, or sequester carbon over a specified period of time; and

(II) offer additional environmental benefits, including practices that result in the benefits described in section 1318(c)(2)(D); and

(ii) identify factors that may serve to affect the performance of the practices described in clause (i) with respect to carbon sequestration and environmental impacts; and

(F) provide information on methods by which landowners and others may evaluate costs and return on investment over time.

(3) PEER REVIEW.—The carbon storage performance indicators developed under paragraph (1) shall be subjected to peer review by members of the public and private science and policy communities and potential user groups, including eligible entities carrying out pilot programs under section 1318.

(c) REPORT ON DESIGN OPTIONS FOR NATIONAL BASELINE AND ACCOUNTING SYSTEM.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) assesses and describes options for the design and development of a publicly accessible national baseline and accounting system; and

(2) summarizes and synthesizes relevant findings of the annual reports submitted under subsection (a).

SEC. 1318. PILOT PROGRAMS TO ESTABLISH BASELINES AND ACCOUNTING SYSTEMS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary, in consultation with other Federal agencies, shall make competitive grants to not more than 5 eligible entities to carry out pilot programs to demonstrate and assess the feasibility of publicly accessible, automated baselines and accounting systems that are designed—

(A) to assess trends; and

(B) to assist in developing and assessing carbon sequestration and storage policies and programs.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be—

(A) a State entity or consortium of State entities;

(B) a research institution with a demonstrated capacity for research relating to this part, such as—

(i) an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

(ii) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103));

(C) an intergovernmental entity;

(D) a nonprofit entity; or

(E) a consortium of entities described in any of subparagraphs (A) through (D).

(b) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant to carry out a pilot program, an eligible entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

(2) REQUIRED ELEMENTS.—An application by an eligible entity to carry out a pilot program shall contain, at a minimum, a description of—

(A) sources, level of detail, aggregation, and plans for filling gaps in information that the eligible entity would use to carry out the pilot program;

(B) proposed management of, and access by the public to, the information described in subparagraph (A), including—

(i) design of automation support; and

(ii) reporting and quality control of data submissions and data entry in a manner that protects confidentiality;

(C) means by which recommendations for cost-effective mechanisms for a national, multistate, or State baseline and accounting system may result from the pilot program;

(D) means by which a baseline and accounting system, including a reference case, may be developed;

(E) institutional arrangements that the eligible entity will use to collect and manage relevant information from various sources and levels of government;

(F) the participation of the governmental and nongovernmental interests that would be affected by the pilot program;

(G) a sampling plan to provide for the measurement of carbon at the beginning and end of the pilot program; and

(H) information on how the pilot program could—

(i) support improved agricultural and forest management practices to reduce greenhouse gas emissions and offer other environmental, social, and economic benefits;

(ii) recognize long-term commitment of land to uses that store rather than release carbon and that offer other environmental benefits; and

(iii) lead to development of new mechanisms for improved institutional coordination, cooperation, and communication among Federal, State, and local governmental organizations involved in public and private land management, policy, and practice.

(c) PRIORITIES IN FUNDING.—

(1) IN GENERAL.—In selecting pilot programs for grants under this section, the Secretary shall give priority to pilot programs that have the greatest potential for advancing the purpose of this part.

(2) CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall consider—

(A) the percentage of land in a pilot area that is forest and the percentage of land in a pilot area that is cropland, as determined under the National Resources Inventory for 1997 conducted by the Natural Resources Conservation Service;

(B) the regional distribution of pilot areas to reflect a wide variety of forest, agriculture, and ecosystem settings;

(C) innovations in regulations, policies, programs, or voluntary incentives adopted or proposed by the eligible entity to encourage legal, financial, and other mechanisms that would create incentives for environmentally beneficial carbon sequestration and carbon storage on public and private land; and

(D) the potential for beneficial environmental, social, and economic results through—

(i) reduction of threats from global climate change; and

(ii) ancillary benefits such as—

(I) prevention of erosion;

(II) flood control;

(III) soil conservation, fertility, and productivity;

(IV) improved water quality;

(V) protection and restoration of ecosystems and fish and wildlife habitat;

(VI) management and conservation of forests, including through reforestation practices; and

(VII) management of water resources.

(d) GUIDELINES FOR PILOT PROGRAMS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies and eligible entities desiring to carry out pilot programs, shall develop guidelines for the pilot programs.

(e) ACCESS TO INFORMATION.—To assist States in developing baselines and accounting systems, the Secretary shall facilitate access to the most up-to-date information on carbon sequestration and carbon storage from—

(1) the Department of Agriculture, through involvement of the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Forest Service, and the Natural Resources Conservation Service;

(2) the Environmental Protection Agency;

(3) the National Aeronautics and Space Administration; and

(4) other agencies and Federal, State, or private sources of information.

(f) REPORTS.—An eligible entity that receives a grant under this section shall submit to the Secretary such reports as the Secretary may require.

SEC. 1319. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this part $20,000,000 for the period of fiscal years 2003 through 2007, of which—

(1) $5,000,000 shall be used—

(A) to carry out section 1317; and

(B) to pay administrative expenses incurred in carrying out section 1318; and

(2) $15,000,000 shall be used for grants under section 1318.

SA 3210. Mr. CORZINE (for himself and Mr. FITZGERALD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, between lines 22 and 23, insert the following:

(d) FINANCIAL PROTECTION OF GOVERNMENT.—

(1) IN GENERAL.—To the extent practicable, the Secretary of Energy shall ensure that the Government is compensated for the risk assumed in making loan guarantees under this section.

(2) GOVERNMENT PARTICIPATION IN GAINS.—To the extent to which any entity accepts financial assistance under this section by accepting the proceeds of a loan guaranteed by the Government under this section, the Secretary of Energy may enter into a contract

under which the Government, contingent on the financial success of the entity, will participate in the gains of the entity or of holders of securities of the entity through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) DEPOSIT IN TREASURY.—All amounts collected by the Secretary of the Treasury under this section shall be deposited in the Treasury as miscellaneous receipts.

SA 3211. Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, insert the following:

SEC. 820a. ADDITIONAL REQUIREMENTS FOR VEHICLE FUEL ECONOMY.

(a) RELATIONSHIP TO PROVISION ON FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS.—Section 811 (relating to fuel economy standards for pickup trucks) shall not take effect.

(b) INCREASED AVERAGE FUEL ECONOMY STANDARD FOR LIGHT TRUCKS.—

(1) DEFINITION OF LIGHT TRUCK.—Section 32901(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(17) 'light truck' has the meaning given that term in regulations prescribed by the Secretary of Transportation in the administration of this chapter.".

(2) REQUIREMENT FOR INCREASED STANDARD.—Section 32902(a) of title 49, United States Code, is amended—

(A) by inserting "(1)" after "AUTOMOBILES.—";

(B) by inserting before the period at the end of the third sentence the following: ", subject to paragraph (2)"; and

(C) by adding at the end the following new paragraph:

"(2) The average fuel economy standard for light trucks manufactured by a manufacturer may not be less than 27.5 miles per gallon, except that the average fuel economy standard for—

"(A) light trucks manufactured by a manufacturer in a model year after model year 2005 and before model year 2008 may not be less than 22.5 miles per gallon; and

"(B) light trucks manufactured by a manufacturer in a model year after model year 2007 and before model year 2012 may not be less than 25 miles per gallon.".

(3) APPLICABILITY.—Paragraph (2) of section 32902(a) of such title does not apply with respect to light trucks manufactured before model year 2003.

(c) FUEL ECONOMY STANDARDS FOR AUTOMOBILES UP TO 10,000 POUNDS GROSS VEHICLE WEIGHT.—

(1) VEHICLES DEFINED AS AUTOMOBILES.—Section 32901(a)(3) of title 49, United States Code, is amended by striking "is rated at—" and all that follows through the end and inserting "is rated at not more than 10,000 pounds gross vehicle weight.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2007.

(d) FUEL ECONOMY OF THE FEDERAL FLEET OF VEHICLES.—

(1) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for each class of vehicles that are in the agency's fleet of vehicles in fiscal year 2002, the average fuel economy for all of the vehicles in that class that are in the agency's fleet of vehicles for that fiscal year. For the purposes of this section, the average fuel economy so determined for the agency's vehicles in a class of vehicles shall be the baseline average fuel economy for the agency's fleet of vehicles in that class.

(2) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of vehicles in each class of vehicles for that agency in such a manner that—

(A) not later than September 30, 2003, the average fuel economy of the new vehicles in the agency's fleet of vehicles in each class of vehicles is not less than 3 miles per gallon higher than the baseline average fuel economy determined for that class; and

(B) not later than September 30, 2005, the average fuel economy of the new vehicles in the agency's fleet of vehicles in each class of vehicles is not less than 6 miles per gallon higher than the baseline average fuel economy determined for that class.

(3) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

(4) DEFINITIONS.—In this subsection:

(A) The term "class of vehicles" means a class of vehicles for which an average fuel economy standard is in effect under chapter 329 of title 49, United States Code.

(B) The term "executive agency" has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(C) The term "new vehicle", with respect to the fleet of vehicles of an executive agency, means a vehicle procured by or for the agency after September 30, 2002.

SA 3212. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SUSPENSION OF DUTIES ON ETHANOL.

Notwithstanding any other provision of law, no duty shall be imposed on ethanol entered, or withdrawn from warehouse for consumption, beginning on the date that is 15 days after the date of enactment of this Act.

SA 3213. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, insert "(excluding California, New York, and any other State that demonstrates to the satisfaction of the Administrator that the State is in compliance with all requirements of this Act)" after "United States".

SA 3214. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, insert "(excluding California and New York)" after "United States".

SA 3215. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2007.

"(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2007 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2007 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

"Calendar year:	(In billions of gallons)
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2006 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2008 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2007 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2007 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

"(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

"(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2007, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2007. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2007, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2007. This provision

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SA 3216. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2008.

"(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2008 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2008 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

"Calendar year:	(In billions of gallons)
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2007 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2007 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2008 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2008 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

"(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

"(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2008, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2008. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2008, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2007. This provision

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SA 3217. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:
shall be 1.62 in 2009.

“(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2009 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2009 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

“Calendar year:	(In billions of gallons)
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

“(II) the ratio that—

“(aa) 5.0 billion gallons of renewable fuels; bears to

“(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

“(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2008 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2008 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

“(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

“(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

“(A) STUDY.—For each of calendar years 2009 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

“(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

“(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

“(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

“(D) PERIODS.—The two periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2009 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

“(7) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

“(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

“(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2009, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2008. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

“(9) SMALL REFINERIES.—

“(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2009. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2009, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2008. This provision

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SA 3218. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2010.

"(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2010 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

"Calendar year:	(In billions of gallons)
2010	4.3
2011	4.7
2012	5.0.

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2009 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2009 through 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2010 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2010 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

"(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

"(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the

Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2010, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2010. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2010. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2010, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2009. This provision".

SA 3219. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2011.

"(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2011 AND 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2011 and 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

"Calendar year:	(In billions of gallons)
2011	4.7
2012	5.0.

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2010 and 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2010 and 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2011 and 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2011 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

"(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

"(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2011. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2011. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2011. This provision

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SA 3220. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

"shall be 1.62 in 2012.

"(B) APPLICABLE VOLUME.—

"(i) CALENDAR YEAR 2012.—For the purpose of subparagraph (A), the applicable volume for calendar year 2012 shall be determined in accordance with the following table:

"Applicable volume of renewable fuel

"Calendar year:	**(In billions of gallons)**
2012	5.0.

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of calendar year 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of calendar year 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For calendar year 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the

Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2012 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

"(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

"(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2012, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2012. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2012. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2012, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2012. This provision".

SA 3221. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 199, strike line 21 and insert the following: pertaining waivers.

"(11) EXCLUSION OF CERTAIN STATES.—Notwithstanding any other provision of this subsection, this subsection shall not apply to the States of California and New York.".

SA 3222. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 199, strike line 21 and insert the following: pertaining waivers.

"(11) EXCLUSION OF CERTAIN STATES.—Notwithstanding any other provision of this subsection, this subsection shall not apply to the States of California and New York, or any other State.".

SA 3223. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 188, strike line 10 and all that follows through page 190, line 11, and insert the following:

"(2) RENEWABLE FUEL PROGRAM.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States in any of calendar years 2004 through 2012, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, distributors and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004.

"(B) APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

"Applicable volume of renewable fuel

"Calendar year:	**(In billions of gallons)**
2004	2.3
2005	2.6
2006	2.9
2007	3.2
2008	3.5

2009	3.9
2010	4.3
2011	4.7
2012	5.0.''

SA 3224. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

''shall be 1.62 in 2006.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

''Applicable volume of renewable fuel

''Calendar year:	**(In billions of gallons)**
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2005 through 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2006, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2006. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2006, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2006. This provision".

SA 3225. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

"shall be 1.62 in 2005.

"(B) APPLICABLE VOLUME.—

"(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

"Applicable volume of renewable fuel

"Calendar year:	**(In billions of gallons)**
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2005 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

"(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

"(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision".

SA 3226. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FINGER LAKES NATIONAL FOREST.

Notwithstanding any other provision of law, all Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(a) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws relating to mineral and geothermal leasing (including the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601)).

SA 3227. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title VI, insert the following:

SEC. 610. NORTHEAST HOME HEATING OIL RESERVE.

"Section 6250b(b)(1) of the Energy and Conservation Policy Act (42 U.S.C. 6250b(b)(1)) is amended by inserting the following "(considered as a heating season average)" after the words "mid-October through March".

SA 3228. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

SEC. 301. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states, shall undertake a review of the process for issuance of a license under Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

SA 3229. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Section 202(a)(4) of the amendment (No. 2917) proposed by Mr. Daschle (as modified by the Thomas Amendment #3000) is amended by striking "and" following subparagraph (D), renumbering "(D)" as "(E)" and inserting the following:

"(D) will include employee protective arrangements, defined as a provision that may be necessary for (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (ii) the continuation of collective bargaining rights; (iii) the protection of individual employees against a worsening of their positions related to employment; (iv) assurances of employment to employees of acquired companies; (v) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and (vi) paid training or retraining programs, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and".

SA 3230. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr.

DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 62, between lines 3 and 4, insert the following:

SEC. 2 . BONNEVILLE POWER ADMINISTRATION BONDS.

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through "(a) The Administrator" and inserting the following:

"SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.

"(a) BONDS.—

"(1) IN GENERAL.—The Administrator"; and

(2) by adding at the end the following:

"(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any 1 time—

"(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

"(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).".

SA 3231. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table as follows:

On page 470, beginning with line 10, strike through line 7 on page 532 and insert the following:

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or

(B) land-use changes that affect ecosystem extent and function.

(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $230,000,000 for fiscal year 2006.

(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following:

"(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

"(A) reduce or avoid anthropogenic emissions of greenhouse gases;

"(B) remove and sequester greenhouse gases from emissions streams; and

"(C) remove and sequester greenhouse gases from the atmosphere." and

(2) in subsection (b)—

(A) in paragraph (2), by striking "subsection (a)(1) through (3)" and inserting "paragraphs (1) through (4) of subsection (a)"; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking "and" at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

"(i) renewable energy systems;

"(ii) advanced fossil energy technology;

"(iii) advanced nuclear power plant design;

"(iv) fuel cell technology for residential, industrial and transportation applications;

"(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

"(vi) efficient electrical generation, transmission and distribution technologies; and

"(vii) efficient end use energy technologies.".

Subtitle B—Department of Agriculture Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(b) APPLIED RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;

(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and

(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gased sequestered; and

(C) evaluate leakage and performance issues.

(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and

(B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) NATURAL RESOURCES CONSERVATION SERVICES.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and

(B) net emissions of other greenhouse gases.

(5) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) RESEARCH CONSORTIA.—

(1) IN GENERAL.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;

(B) private research institutions;

(C) State geological surveys;

(D) agencies of the Department of Agriculture;

(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;

(F) other Federal agencies;

(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and

(H) representatives of the private sector with demonstrated expertise in these areas.

(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(d) STANDARDS OF PRECISION.—

(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the Government, academic, and private sectors) to—

(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;

(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and

(C) evaluate results of analyses on baseline, permanence, and leakage issues.

(2) DEVELOPMENT OF BENCHMARK STANDARDS.—

(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

(i) information from the conference under paragraph (1);

(ii) research conducted under this section; and

(iii) other information available to the Secretary.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).

(3) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, of the Senate a report on the results of the conference.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.

(a) DEMONSTRATION PROJECTS.—

(1) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(b) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouses gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and

(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).

Subtitle C—International Energy Technology Transfer

SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term "clean energy technology" means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term "interagency working group" means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and development of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies,

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) examine relevant trade, tax, international, and other policy issues to asses what policies would help open markets and improve U.S. clean energy technology exports in support of the following areas—

(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology,

(E) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;

(F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency's role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clear energy technology as part of that program.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and on the April 1st of each year thereafter, 2002, and each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and U.S. clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral environmental agreements.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.

SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (l) and inserting the following:

"(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'international energy deployment project' means a project to construct an energy production facility outside the United States—

"(i) the output of which will be consumed outside the United States; and

"(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—

"(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

"(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

"(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

"(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'qualifying international energy deployment project' means an international energy deployment project that—

"(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

"(ii) uses technology that has been successfully developed or deployed in the United States;

"(iii) meets the criteria of subsection (k);

"(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

"(v) complies with such terms and conditions as the Secretary establishes by regulation.

"(C) UNITED STATES.—For purposes of this paragraph, the term 'United States', when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

"(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

"(C) FINANCIAL ASSISTANCE.—

"(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

"(ii) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

"(iii) AMOUNT.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

"(iv) DEVELOPED COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

"(v) DEVELOPING COUNTRIES.—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate

Change) shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

"(vi) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

"(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

"(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

"(F) RECOMMENDATION.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section **$100,000,000** for each of fiscal years 2003 through 2011, to remain available until expended.".

Subtitle D—Climate Change Science and Information

PART I—AMENDMENT TO THE GLOBAL CHANGE RESEARCH ACT OF 1990

SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking "Earth and Environmental Sciences" inserting "Global Change Research".

SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2932) is amended—

(1) by striking "**EARTH AND ENVIRONMENT SCIENCES**" in section heading and inserting "**GLOBAL CHANGE RESEARCH**";

(2) by striking "Earth and Environmental Sciences" in subsection (a) and inserting "Global Change Research";

(3) by striking the last sentence of subsection (b) and inserting "The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).";

(4) by striking "Chairman of the Council," in subsection (c) and inserting "Director of the Office of National Climate Change Policy with advice from the Chairman of the Council, and";

(5) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively; and

(6) by inserting after subsection (c) the following:

"(d) SUBCOMMITTEES AND WORKING GROUPS.—

"(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

"(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

"(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and

"(B) such additional members as the Chair of the Committee may, from time to time, appoint.

"(3) CHAIR.—A high ranking official of one of departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of the scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.".

"(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.".

SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2934) is amended—

(1) by inserting "short-term and long-term" before "goals" in subsection (b)(1);

(2) by striking "usable information on which to base policy decisions related to" in subsection (b)(1) and inserting "information relevant and readily usable by local, State, and Federal decision-makers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigation, and adapting to";

(3) by adding at the end of subsection (c) the following:

"(6) Methods for integration information to provide predictive and other tools for planning and decision making by governments, communities and the private sector.";

(4) by striking subsection (d)(3) and inserting the following:

"(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policy makers, and other end-users, attempting to formulate effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.";

(5) by striking "and" in subsection (d)(2);

(6) by striking "change." in subsection (d)(3) and inserting "change; and";

(7) by adding at the end of subsection (d) the following:

"(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes."; and

(8) by adding at the end the following:

"(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit revised implementation plans as required under subsection (a).".

SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) inserting before subsection (b), as redesignated, the following:

"(a) INTEGRATED PROGRAM OFFICE.—

"(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

"(2) ORGANIZATION.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include, to the maximum extent feasible, a representative from each Federal agency participating in the global change research program.

"(3) FUNCTION.—The integrated program office shall—

"(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

"(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

"(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

"(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

"(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.";

(3) by striking "Committee." in paragraph (2) of subsection (c), as redesignated, and inserting "Committee and the Integrated Program Office."; and

(4) by inserting "and the Integrated Program Office" after "Committee" in paragraph (1) of subsection (d), as redesignated.

SEC. 1336. RESEARCH GRANTS.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as (d); and

(2) by inserting after subsection (b) the following:

"(c) RESEARCH GRANTS.—

"(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being addressed by Federal agencies.

"(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

"(3) FUNDING THROUGH NSF.—

"(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

"(B) Authorization.—For fiscal year 2003 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $17,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.".

SEC. 1337. EVALUATION OF INFORMATION.

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking "**Scientific**" in the section heading;

(2) by striking "and" after the semicolon in paragraph (2); and

(3) by striking "years." in paragraph (3) and inserting "years; and"; and

(4) by adding at the end the following:

"(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.".

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

SEC. 1342. CHANGES IN FINDINGS.

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking "Weather and climate change affect" in paragraph (1) and inserting "Weather, climate change, and climate variability affect public safety, environmental security, human health,";

(2) by striking "climate" in paragraph (2) and inserting "climate, including seasonal and decadal fluctuations,";

(3) by striking "changes." in paragraph (5) and inserting "changes and providing free exchange of meteorological data."; and

(4) by adding at the end the following:

"(7) The present rate of advance in research and development and application of such advances is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.

"(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.".

SEC. 1343. TOOLS FOR REGIONAL PLANNING.

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

"(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decision-making on land use, water hazards, and related issues;";

(3) by inserting "sharing," after "collection," in paragraph (5), as redesignated;

(4) by striking "experimental" each place it appears in paragraph (9), as redesignated;

(5) by striking "preliminary" in paragraph (10), as redesignated;

(6) by striking "this Act," the first place it appears in paragraph (10), as redesignated, and inserting "the Global Climate Change Act of 2002,"; and

(7) by striking "this Act," the second place it appears in paragraph (10), as redesignated, and inserting "that Act,".

SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking "1979," and inserting "2002,";

(2) by striking "1980," and inserting "2003,";

(3) by striking "1981," and inserting "2004,"; and

(4) by striking "$25,500,000" and inserting "$75,500,000".

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

SEC. 6. NATIONAL CLIMATE SERVICE PLAN.

"Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

"(1) a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce bias;

"(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

"(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long and short term time schedule and at a range of spatial scales;

"(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

"(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;

"(6) a program for long term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and

"(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.".

SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section **$1,500,000** to the National Oceanic and Atmospheric Administration, **$1,500,000** to the National Aeronautics and Space Administration, and **$500,000** for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) Atmospheric Monitoring and Verification Program.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) Annual Reporting.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

SEC. 1348. ARCTIC RESEARCH AND POLICY.

(a) Arctic Research Commission.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)) is amended—

(1) by striking "exceed 90 days" in the second sentence of paragraph (1) and inserting "exceed, in the case of the chairperson of the Commission, 120 days, and, in the case of any other member of the Commission, 90 days,";

((2) by striking "Chairman" in paragraph (2) and inserting "chairperson".

(b) Grants.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:

"(c) Funding for Arctic Research.—

"(1) In general.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—

"(A) make grants to persons to conduct research concerning the Arctic; and

"(B) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.

"(2) Effect of action by executive director.—An action taken by the executive director under paragraph (1) shall be final and binding on the Commission.

"(3) Authorization of appropriation.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.".

SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.

(a) In General.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) Abrupt Climate Change Defined.—In this section, the term "abrupt climate change" means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military preparedness;

(4) enhancing the safety and efficiency of marine operations;

(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;

(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;

(7) reducing and mitigating ocean and coastal pollution; and

(8) providing information that contributes to public awareness of the Sate and importance of the oceans.

(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—

(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;

(B) determines how current and planned observing activities can be integrated in a cost-effective manner;

(C) provides for regional and concept demonstration projects;

(D) describes the role and estimated budget of each Federal agency in mplementing the plan;

(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and

(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;

(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;

(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;

(4) approve standards and protocols for the administration of the system, including—

(A) a common set of measurements to be collected and distributed routinely and by uniform methods;

(B) standards for quality control and assessment of data;

(C) design, testing and employment of forecast models for ocean conditions;

(D) data management, including data transfer protocols and archiving; and

(E) designation of coastal ocean observing regions; and

(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.

(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.

(3) Coastal, relocatable, and cabled sea floor observatories.

(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.

(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.

(6) Focused research programs.

(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.

(8) Public outreach and education.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) striking "and" after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

"(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and".

SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;

(2) non-carbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

"(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).

"(b) RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

"(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

"(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

"(B) to assist in establishing of a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

"(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouses gases; and

"(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

"(c) NATIONAL MEASUREMENT LABORATORIES.—

"(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

"(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

"(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

"(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and

"(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low or no-emission technologies into building designs.

"(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building sub-systems and 'smart buildings', and improve test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

"(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.".

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new "green" manufacturing technologies and techniques by the more than 380,000 small manufacturers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) evaluate, based on predictions and other information developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) increases in severe weather events;

(B) sea level rise and shifts in the hydrological cycle;

(C) natural hazards, including tsunami, drought, flood and fire; and

(D) alteration of ecological communities including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act that identifies and recommends implementation and funding strategies for short- and long-term actions that may be taken at the national, regional, State, and local level—

(1) to reduce vulnerability of human life and property;

(2) to improve resilience to hazards;

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological ecological processes.

(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies and products

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.

SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.

(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;

(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and

(3) economic impact on local, State, and regional economics, including the impact on abundance or distribution of economically important living marine resources.

(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaption plans that recommend targets and strategies to address coastal impacts. associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and

(6) funding requirements and mechanisms.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.

(d) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.

(2) ELIGIBLE PROJECTS.—A project is eligible for financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(3) FUNDING SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(A) the Secretary may take into account in-kind contributions and other non-cash support or any project to determine the Federal funding share for that project; and

(B) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project's costs.

(f) DEFINITIONS.—Any term used in this section that is defined in section 304 of the

Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1373. ARCTIC RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

SEC. 1381. REMOTE SENSING PILOT PROJECTS.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(B) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaption to coastal and land use consequences of global climate change or climate variability.

(d) DURATION.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.

(e) RESPONSIBILITIES OF GRANTEES.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(f) REGULATIONS.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

SEC. 1383. DEFINITIONS.

In this subtitle:

(1) CENTER.—The term "Center" means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term "geospatial information" means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 1384. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(1) $17,500,000 for fiscal year 2003;
(2) $20,000,000 for fiscal year 2004;
(3) $22,500,000 for fiscal year 2005; and
(4) $25,000,000 for fiscal year 2006.

SA 3232. Mr. BINGAMAN (for himself, Mr. MURKOWSKI, Mr. BYRD, Mr. LIEBERMAN, Mr. THOMPSON, Mr. HOLLINGS, Mr. KERRY, Mr. HAGEL, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 307, strike line 3 and all that follows through page 369, line 22 and insert the following:

DIVISION D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

TITLE X—NATIONAL CLIMATE CHANGE POLICY

Subtitle A—Sense of Congress

SEC. 1001. SENSE OF CONGRESS ON CLIMATE CHANGE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change.

(2) The Intergovernmental Panel on Climate Change (IPCC) has concluded that "there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities" and that the Earth's average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.

(3) The National Academy of Sciences confirmed the findings of the IPCC, stating that "the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue" and that "there is general agreement that the observed warming is real and particularly strong within the past twenty years." The National Academy of Sciences also noted that "because there is considerable uncertainty in current understanding of how the climate system varies naturally and reacts to emissions of greenhouse gases and aerosols, current estimates of the magnitude of future warming should be regarded as tentative and subject to future adjustments upward or downward."

(4) The IPCC has stated that in the last 40 years, the global average sea level has risen, ocean heat content has increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying island nations and coastal regions throughout the world.

(5) In October 2000, a U.S. government report found that global climate change may harm the United States by altering crop yields, accelerating sea-level rise, and increasing the spread of tropical infectious diseases.

(6) In 1992, the United States ratified the United Nations Framework Convention on Climate Change (UNFCCC), the ultimate objective of which is the "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."

(7) The UNFCCC stated in part that the Parties to the Convention are to implement policies "with the aim of returning . . . to their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases" under the principle that "policies and measures . . . should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change."

(8) There is a shared international responsibility to address this problem, as industrial nations are the largest historic and current emitters of greenhouse gases and developing nations' emissions will significantly increase in the future.

(9) The UNFCCC further stated that "developed country Parties should take the lead in combating climate change and the adverse effects thereof," as these nations are the largest historic and current emitters of greenhouse gases. The UNFCCC also stated that "steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas."

(10) Senate Resolution 98 of the 105th Congress, which expressed that developing nations must also be included in any future,

binding climate change treaty and such a treaty must not result in serious harm to the United States economy, should not cause the United States to abandon its shared responsibility to help reduce the risks of climate change and its impacts. Future international efforts in this regard should focus on recognizing the equitable responsibilities for addressing climate change by all nations, including commitments by the largest developing country emitters in a future, binding climate change treaty.

(11) It is the position of the United States that it will not interfere with the plans of any nation that chooses to ratify and implement the Kyoto Protocol to the UNFCCC.

(12) American businesses need to know how governments worldwide will address the risks of climate change.

(13) The United States benefits from investments in the research, development and deployment of a range of clean energy and efficiency technologies that can reduce the risks of climate change and its impacts and that can make the United States economy more productive, bolster energy security, create jobs, and protect the environment.

(b) Sense of Congress.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by:

(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors:

(2) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions; and

(3) participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States' participation in a future binding climate change Treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.

Subtitle B—Climate Change Strategy

SEC. 1011. SHORT TITLE.

This subtitle may be cited as the "Climate Change Strategy and Technology Innovation Act of 2002".

SEC. 1012. DEFINITIONS.

In this subtitle:

(1) Climate-friendly technology.—The term "climate-friendly technology" means any energy supply or end-use technology that, over the life of the technology and compared to similar technology in commercial use as of the date of enactment of this Act—

(A) results in reduced emissions of greenhouse gases;

(B) may substantially lower emissions of other pollutants; and

(C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(2) Department.—The term "Department" means the Department of Energy.

(3) Department office.—The term "Department Office" means the Office of Climate Change Technology of the Department established by section 1015(a).

(4) Federal agency.—The term "Federal agency" has the meaning given the term "agency" in section 551 of title 5, United States Code.

(5) Greenhouse gas.—The term "greenhouse gas" means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.

(6) Interagency task force.—The term "Interagency Task Force" means the Interagency Task Force established under section 1014(e).

(7) Key element.—The term "key element", with respect to the Strategy, means—

(A) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;

(B) technology development, including—

(i) a national commitment to double energy research and development by the United States public and private sectors; and

(ii) in carrying out such research and development, a national commitment to provide a high degree of emphasis on bold, breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;

(C) climate adaptation research that focuses on actions necessary to adapt to climate change—

(i) that may have already occurred; or

(ii) that may occur under future climate change scenarios;

(D) climate science research that—

(i) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this subtitle; and

(ii) focuses on reducing the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies.

(8) Long-term goal of the strategy.—The term "long-term goal of the Strategy" means the long-term goal in section 1013(a)(1).

(9) Mitigation.—The term "mitigation" means actions that reduce, avoid, or sequester greenhouse gases.

(10) National academy of sciences.—The term "National Academy of Sciences" means the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, and the National Research Council.

(11) Qualified individual.—

(A) In general.—The term "qualified individual" means an individual who has demonstrated expertise and leadership skills to draw on other experts in diverse fields of knowledge that are relevant to addressing the climate change challenge.

(B) Fields of knowledge.—The fields of knowledge referred to in subparagraph (A) are—

(i) the science of climate change and its impacts;

(ii) energy and environmental economics;

(iii) technology transfer and diffusion;

(iv) the social dimensions of climate change;

(v) climate change adaptation strategies;

(vi) fossil, nuclear, and renewable energy technology;

(vii) energy efficiency and energy conservation;

(viii) energy systems integration;

(ix) engineered and terrestrial carbon sequestration;

(x) transportation, industrial, and building sector concerns;

(xi) regulatory and market-based mechanisms for addressing climate change;

(xii) risk and decision analysis;

(xiii) strategic planning; and

(xiv) the international implications of climate change strategies.

(12) Secretry.—The term "Secretary" means the Secretary of Energy.

(13) Stabilization of greenhouse gas concentrations.—The term "stabilization of greenhouse gas concentrations" means the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, recognizing that such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, as contemplated by the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(14) Strategy.—The term "Strategy" means the National Climate Change Strategy developed under section 1013.

(15) White house office.—The term "White House Office" means the Office of National Climate Change Policy established by section 1014(a).

SEC. 1013. NATIONAL CLIMATE CHANGE STRATEGY.

(a) In General.—The President, through the director of the White House Office and in consultation with the Interagency Task Force, shall develop a National Climate Change Strategy, which shall—

(1) have the long-term goal of stabilization of greenhouse gas concentrations through actions taken by the United States and other nations;

(2) recognize that accomplishing the long-term goal of the Strategy will take from many decades to more than a century, but acknowledging that significant actions must begin in the near term;

(3) incorporate the 4 key elements;

(4) be developed on the basis of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with U.S. treaty commitments) that, after taking into account actions by other nations, would achieve the long-term goal of the Strategy;

(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but not be limited to, mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the application of the resulting credits from any of the above within the United States;

(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner.

(7) incorporate mitigation approaches leading to the development and deployment of

advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(8) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(9) take into account—

(A) the diversity of energy sources and technologies;

(B) supply-side and demand-side solutions; and

(C) national infrastructure, energy distribution, and transportation systems;

(10) be based on an evaluation of a wide range of approaches for achieving the long-term goal of the Strategy, including evaluation of—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(B) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and

(C) participation in other international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy;

(11) in the final recommendations of the Strategy—

(A) emphasize policies and actions that achieve the long-term goal of the Strategy; and

(B) provide specific recommendations concerning—

(i) measures determined to be appropriate for short-term implementation, giving preference to cost-effective and technologically feasible measures that will—

(I) produce measurable net reductions in United States emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and

(II) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States;

(ii) the development of technologies that have the potential for long-term implementation—

(I) giving preference to technologies that have the potential to reduce significantly the overall cost of achieving the long-term goal of the Strategy; and

(II) considering a full range of energy sources, energy conversion and use technologies, and efficiency options;

(iii) such changes in institutional and technology systems are necessary to adapt to climate change in the short-term and the long-term;

(iv) such review, modification, and enhancement of the scientific, technical, and economic research efforts of the United States, and improvements to the data resulting from research, as are appropriate to improve the accuracy of predictions concerning climate change and the economic and social costs and opportunities relating to climate change; and

(v) changes that should be made to project and grant evaluation criteria under other Federal research and development programs so that those criteria do not inhibit development of climate-friendly technologies;

(12) recognize that the Strategy is intended to guide the nation's effort to address climate change, but it shall not create a legal obligation on the part of any person or entity other than the duties of the Director of the White House Office and Interagency Task Force in the development of the Strategy;

(13) have a scope that considers the totality of United States public, private, and public-private sector actions that bear on the long-term goal;

(14) be developed in a manner that provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in accordance with subsections (b)(3)(C)(iv)(II) and (e)(3)(B)(ii) of section 1014;

(15) address how the United States should engage State, tribal, and local governments in developing and carrying out a response to climate change;

(16) promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues;

(17) provide a detailed explanation of how the measures recommended by the Strategy will ensure that they do not result in serious harm to the economy of the United States;

(18) provide a detailed explanation of how the measures recommended by the Strategy will achieve its long-term goal;

(19) include any recommendations for legislative and administrative actions necessary to implement the Strategy;

(20) serve as a framework for climate change actions by all Federal agencies;

(21) recommend which Federal agencies are, or should be, responsible for the various aspects of implementation of the Strategy and any budgetary implications;

(22) address how the United States should engage foreign governments in developing an international response to climate change; and

(23) incorporate initiatives to open markets and promote the deployment of a range of climate-friendly technologies developed in the United States and abroad.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the President, through the Interagency Task Force and the Director, shall submit to Congress the Strategy, in the form of a report that includes—

(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;

(2) an inventory and evaluation of Federal programs and activities intended to carry out the Strategy;

(3) a description of how the Strategy will serve as a framework of climate change response actions by all Federal agencies, including a description of coordination mechanisms and interagency activities;

(4) evidence that the Strategy is consistent with other energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(5) a description of provisions in the Strategy that ensure that it minimizes any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the Strategy is developed in an economically and environmentally sound manner;

(6) evidence that the Strategy has been developed in a manner that provides for participation by, and consultation among, Federal, State, tribal, and local government agencies, non-governmental organizations, academia, scientific bodies, industry, the public, and other interested parties;

(7) a description of Federal activities that promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues; and

(8) recommendations for legislative or administrative changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaption activities.

(c) UPDATES.—Not later than 4 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 4-year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(d) PROGRESS REPORTS.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government under section 1105 of title 21, United States Code, the President shall submit to Congress a report that—

(1) describes the Strategy, its goals, the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaption activities;

(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;

(3) assesses the progress in implementation of the Strategy;

(4) incorporates the technology program reports required pursuant to section 1015(a)(3) and subsections (d) and (e) of section 1321;

(5) describes any changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities;

(6) describes all Federal spending on climate change for the current fiscal year and each of the five years previous; categorized by Federal agency and program function (including scientific research, energy research and development, regulation, education, and other activities);

(7) estimates the budgetary impact for the current fiscal year and each of the five years previous of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are directly or indirectly attributable to greenhouse gas emissions reduction activities;

(8) estimates the amount, in metric tons, of net greenhouse gas emissions reduced, avoided, or sequestered directly or indirectly as a result of the implementation of the Strategy;

(9) evaluates international research and development and market-based activities and the mitigation actions taken by the United States and other nations to achieve the long-term goal of the Strategy; and

(10) makes recommendations for legislative or administrative actions or adjustments that will accelerate progress towards meeting the near-term and long-term goals contained in the Strategy.

(e) NATIONAL ACADEMY OF SCIENCES REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of publication of the Strategy under subsection (b) and each update under subsection (c), the Director of the National Science Foundation, on behalf of the Director of the White House Office and the Interagency Task Force, shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of the Strategy or update.

(2) CRITERIA.—The review by the National Academy of Sciences shall evaluate the goals and recommendations contained in the Strategy or update, taking into consideration—

(A) the adequacy of effort and the appropriateness of focus of the totality of all public, private, and public-private sector actions of the United States with respect to the Strategy, including the 4 key elements;

(B) the adequacy of the budget and the effectiveness with which each Federal agency is carrying out its responsibilities;

(C) current scientific knowledge regarding climate change and its impacts;

(D) current understanding of human social and economic responses to climate change, and responses of natural ecosystems to climate change;

(E) advancements in energy technologies that reduce, avoid, or sequester greenhouse gases or otherwise mitigate the risks of climate change;

(F) current understanding of economic costs and benefits of mitigation or adaptation activities;

(G) the existence of alternative policy options that could achieve the Strategy goals at lower economic, environmental, or social cost; and

(H) international activities and the actions taken by the United States and other nations to achieve the long-term goal of the Strategy.

(3) REPORT.—Not later than 1 year after the date of submittal to the Congress of the Strategy or update, as appropriate, the National Academy of Sciences shall prepare and submit to the Congress and the President a report concerning the results of its review, along with any recommendations as appropriate. Such report shall also be made available to the public.

(4) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this subsection, there are authorized to be appropriated to the National Science Foundation such sums as may be necessary.

SEC. 1014. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Executive Office of the President, the Office of National Climate Change Policy.

(2) FOCUS.—The White House Office shall have the focus of achieving the long-term goal of the Strategy while minimizing adverse short-term and long-term economic and social impacts.

(3) DUTIES.—Consistent with paragraph (2), the White House Office shall—

(A) establish policies, objectives, and priorities for the Strategy;

(B) in accordance with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;

(C) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, drawing on the analytical capabilities of Federal and State agencies, especially the Department Office;

(D) advise the President concerning necessary changes in organization, management, budgeting, and personnel allocation of Federal agencies involved in climate change response activities; and

(E) advise the President and notify a Federal agency if the policies and discretionary programs of the agency are not well aligned with, or are not contributing effectively to, the long-term goal of the Strategy.

(b) DIRECTOR OF THE WHITE HOUSE OFFICE.—

(1) IN GENERAL.—The White House Office shall be headed by a Director, who shall report directly to the President, and shall consult with the appropriate economic, environmental, national security, domestic policy, science and technology and other offices with the Executive Office of the President.

(2) APPOINTMENT.—The Director of the White House Office shall be a qualified individual appointed by the President, by and with the advice and consent of the Senate.

(3) DUTIES OF THE DIRECTOR OF THE WHITE HOUSE OFFICE.—

(A) STRATEGY.—In accordance with section 1013, the Director of the White House Office shall coordinate the development and updating of the Strategy.

(B) INTERAGENCY TASK FORCE.—The Director of the White House Office shall serve as Chair of the Interagency Task Force.

(C) ADVISORY DUTIES.—

(i) ENERGY, ECONOMIC, ENVIRONMENTAL, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, BUILDING, FORESTRY, AND OTHER PROGRAMS.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which United States energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(ii) TAX, TRADE, AND FOREIGN POLICIES.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(iii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and using the analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—

(I) specifies, to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influence on greenhouse gas management; and

(II) assesses the extent to which the treaties advance the long-term goal of the Strategy, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.

(iv) CONSULTATION.—

(I) WITH MEMBERS OF INTERAGENCY TASK FORCE.—To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force before providing advice to the President.

(II) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish a process for obtaining the meaningful participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in the development and updating of the Strategy.

(D) PUBLIC EDUCATION, AWARENESS, OUTREACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.

(4) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall prepare the annual reports for submission by the President to Congress under section 1013(d).

(5) ANALYSIS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (4), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any uncertainties associated with the analysis.

(c) STAFF.—

(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including the staff appointed under paragraph (2), of not more than 25 individuals to carry out the duties of the White House Office.

(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from Federal agencies, academia, scientific bodies, or a National Laboratory (as that term is defined in section 1203), for appointments of a limited term.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this Title is enacted, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Executive Office of the President to carry out the duties of the White House Office under this subtitle, $5,000,000 for each of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(e) INTERAGENCY TASK FORCE.—

(1) IN GENERAL.—The Director of the White House Office shall establish the Interagency Task Force.

(2) COMPOSITION.—The Interagency Task Force shall be composed of—

(A) the Director off the White House Office, who shall serve as Chair;

(B) the Secretary of State;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Secretary of Transportation;

(F) the Secretary of Agriculture;

(G) the Administrator of the Environmental Protection Agency;

(H) the Chairman of the Council of Economic Advisers;

(I) the Chairman of the Council on Environmental Quality;

(J) the Director of the Office of Science and Technology Policy;

(K) the Director of the Office of Management and Budget; and

(L) the heads of such other Federal agencies as the President considers appropriate.

(3) STRATEGY.—

(A) IN GENERAL.—The Interagency Task Force shall serve as the primary forum through which the Federal agencies represented on the Interagency Task Force jointly assist the Director of the White House Office in—

(i) developing and updating the Strategy; and

(ii) preparing annual reports under section 1013(d).

(B) REQUIRED ELEMENTS.—In carrying out subparagraph (A), the Interagency Task Force shall—

(i) take into account the long-term goal and other requirements of the Strategy specified in section 1013(a);

(A) manage an energy technology research and development program that directly supports the Strategy by—

(i) focusing on high-risk, bold, breakthrough technologies that—

(I) have significant promise of contributing to the long-term goal of the Strategy by—

(aa) mitigating the emissions of greenhouse gases;

(bb) removing and sequestering greenhouse gases from emission streams; or

(cc) removing and sequestering greenhouse gases from the atmosphere;

(II) are not being addressed significantly by other Federal programs; and

(III) would represent a substantial advance beyond technology available on the date of enactment of this subtitle;

(ii) forging fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and energy technology programs, in cases in which such partnerships have significant potential to affect the ability of the United States to achieve the long-term goal of the Strategy at the lowest possible cost;

(iii) forging international research and development partnerships that are in the interests of the United States and make progress on achieving the long-term goal of the Strategy;

(iv) making available, through monitoring, experimentation, and analysis, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and

(v) transferring research and development programs to other program offices of the Department once such a research and development program crosses the threshold of high-risk research and moves into the realm of more conventional technology development;

(B) through active participation in the Interagency Task Force and utilization of the analytical capabilities of the Department Office, share analyses of alternative climate change strategies with other agencies represented on the Interagency Task Force to assist them in understanding—

(i) the scale of the climate change challenge; and

(ii) how actions of the Federal agencies on the Interagency Task Force postively or negatively contribute to climate change solutions;

(C) provide analytical support to the White House Office, particularly in support of the development of the Strategy and associated progress reporting;

(D) foster the development of tools, data, and capabilities to ensure that—

(i) the United States has a robust capability for evaluating alternative climate change response scenarios; and

(ii) the Department Office provides long-term analytical continuity during the terms of service of successive Presidents.

(E) identify the total contribution of all Department programs to the Strategy; and

(F) advise the Secretary on all aspects of climate change-related issues, including necessary changes in Department organization, management, budgeting, and personnel allocation in the programs involved in climate change response-related activities.

(3) ANNUAL REPORTS.—The Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—

(A) assesses progress toward meeting the goals of the energy technology research and development program described in this section;

(B) assesses the activities of the Department Office;

(C) assesses the contributions of all energy technology research and development programs of the Department (including science programs) to the long-term goal and other requirements of the Strategy; and

(D) make recommendations for actions by the Department and other Federal agencies to address the components of technology development that are necessary to support the Strategy.

(b) DIRECTOR OF THE DEPARTMENT OFFICE.—

(1) IN GENERAL.—The Department Office shall be headed by a Director, who shall be a qualified individual appointed by the President, and who shall be compensated at a rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) REPORTING.—The Director of the Department Office shall report directly to the Under Secretary for Energy and Science.

(3) VACANCIES.—A vacancy in the position of the Director of the Department Office shall be filled in the same manner as the original appointment was made.

(c) INTERGOVERNMENTAL PERSONNEL.—The Department Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other Departmental personnel authorities, to obtain staff for appointments of a limited term.

(d) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall be—

(1) initiated only after consultation with 1 or more other appropriate program offices of the Department that support research and development in the areas relating to the project;

(2) managed by the Department Office; and

(3) in the case of a project that reaches a sufficient level of maturity, with the concurrence of the Department Office and the appropriate office described in paragraph (1), transferred to the appropriate office, along with the funds necessary to continue the project to the point at which non-Federal funding can provide substantial support for the project.

(e) COLLABORATION AND COST SHARING.—

(1) WITH OTHER FEDERAL AGENCIES.—Projects supported by the Department Office may include participation of, and be supported by, other Federal agencies that have a role in the development, commercialization, or transfer of energy, transportation, industrial, agricultural, forestry, or other change-related technology.

(2) WITH THE PRIVATE SECTOR.—

(A) IN GENERAL.—Notwithstanding section 1403, the Department Office shall create an operating model that allows for collaboration, division of effort, and cost sharing with industry on individual climate change response projects.

(B) REQUIREMENTS.—Although cost sharing in some cases may be appropriate, the Department Office shall focus on long-term high-risk research and development and should not make industrial partnerships or cost sharing a requirement, if such a requirement would bias the activities of the Department Office toward incremental innovations.

(C) REEVALUATION ON TRANSFER.—At such time as any bold, breakthrough research and development program reaches a sufficient level of technological maturity such that the program is transferred to a program office of the Department other than the Department Office, the cost-sharing requirements and criteria applicable to the program shall be reevaluated.

(D) PUBLICATION IN FEDERAL REGISTER.—Each cost-sharing agreement entered into under this paragraph shall be published in the Federal Register.

(f) ANALYSIS OF CLIMATE CHANGE STRATEGY.—

(1) IN GENERAL.—The Department Office shall foster the development and application of advanced computational tools, data, and capabilities that, together with the capabilities of other federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.

(2) PROGRAMS.—

(A) IN GENERAL.—The Department Office shall—

(i) develop and maintain core analytical competencies and complex, integrated computational modeling capabilities that, together with the capabilities of other federal agencies, are necessary to support the design and implementation of the Strategy; and

(ii) track United States and international progress toward the long-term goal of the Strategy.

(B) INTERNATIONAL CARBON DIOXIDE SEQUESTRATION MONITORING AND DATA PROGRAM.—In consultation with Federal, State, academic, scientific, private sector, nongovernmental, tribal, and international carbon capture and sequestration technology programs, the Department Office shall design and carry out an international carbon dioxide sequestration monitoring and data program to collect, analyze, and make available the technical and economic data to ascertain—

(i) whether engineered sequestration and terrestrial sequestration will be acceptable technologies from regulatory, economic, and international perspectives;

(ii) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has inconsequential leakage rates on a geologic time-scale; and

(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable carbon sinks.

(3) AREAS OF EXPERTISE.—

(A) IN GENERAL.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary—

(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems;

(ii) to design effective research and development programs; and

(iii) to assist with the development and implementation of the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (i) shall include knowledge of technology transfer and technology diffusion in United States and foreign markets.

(4) DISSEMINATION OF INFORMATION.—The Department Office shall ensure, to the maximum extent practicable, that technical and scientific knowledge relating to greenhouse gas emission reduction, avoidance, and sequestration is broadly disseminated through publications, fellowships, and training programs.

(5) ASSESSMENTS.—In a manner consistent with the Strategy, the Department shall conduct assessments of deployment of climate-friendly technology.

(6) ANALYSIS.—During development of the Strategy, annual reports submitted under subsection (a)(3), and advice to the Secretary, the Director of the Department Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.

(g) AUTHORIZATION OF APPROPORIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this subtitle is enacted, the President shall provide such sums as are necessary to carry out the duties of the Department Office under this subtitle until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, to carry out the duties of the Department Office under this subtitle, $4,750,000,000 for the period of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(3) ADDITONAL AMOUNTS.—Amounts authorized to be appropriated under this section shall be in addition to—

(A) amounts made available to carry out the United States Global Change Research Program under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.); and

(B) amounts made available under other provisions of law for energy research and development.

SEC. 1016. ADDITIONAL OFFICES AND ACTIVITIES.

The Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies may establish such offices and carry out such activities, in addition to those established or authorized by this Act, as are necessary to carry out this Act.

Subtitle C—Science and Technology Policy

SEC. 1021. GLOBAL CLIMATE CHANGE IN THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

Section 101(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601(b)) is amended—

(1) by redesignating paragraphs (7) through (13) as paragraphs (8) through (14), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change;”.

SEC. 1022. DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY FUNCTIONS.

(a) ADVISE PRESIDENT ON GLOBAL CLIMATE CHANGE.—Section 204(b)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6613(b)(1)) is amended by inserting “global climate change” after “to,”

(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—Section 207 of that Act (42 U.S.C. 6616) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—In carrying out this Act, the Director shall advise the Director of the Office of National Climate Change Policy on matters concerning science and technology as they relate to global climate change.”.

Subtitle D—Miscellaneous Provisions

SEC. 1031. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.

In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the proposed significant energy action and any reasonable alternatives to the action.

SEC. 1032. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.

(a) METHODOLOGY.—Not later than one year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual net greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, including stationary, mobile, and indirect emissions as may be determined to be feasible.

(b) PUBLICATION.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary of Energy shall publish an estimate of annual net greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, using the methodology published under subsection (a).

SA 3233. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, Mr. JEFFORDS, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517 to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

“(4) APPROVAL.—

“(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

“(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to proposed transaction, the Commission shall at a minimum, find that the proposed transaction will—

“(i)(I) enhance competition in wholesale electricity markets; and

“(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

“(ii) produce significant gains in operational and economic efficiency;

“(iii) include employee protective arrangements, as defined in Sec. 222 of the Public Utility Holding Company Act of 2002, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and

“(iv) result in a corporate and capital structure that facilitates effective regulatory oversight.”.

SEC. 2. WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS;

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

“(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the commission determines are necessary to define and determine the conditions necessary—

“(A) to maintain competitive wholesale markets;

“(B) to effectively monitor market conditions and trends;

“(C) to prevent the abuse of market power and market manipulation;

“(D) to protect the public interests; and

“(E) to ensure the maintenance of just and reasonable wholesale rates.

“(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

“(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

“(B) establish and impose applicable to a public utility that—

“(i) violates a rule or procedures adopted under paragraph (1); or

“(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

“(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request or authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.”.

“(2) INEFFECTIVENESS OF OTHER PROVISION.—

Section 203 of this Act (relating to market-based rates) shall be of no effect.

“(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

“SEC. 218 REMEDIAL MEASURES FOR MARKET POWER.

“(a) DEFINITION OF MARKET POWER.—In this section, the term ‘market power’ with respect to public utility, means the ability of the public utility to maintain energy prices above competitive levels.

“(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION. The term "Commission" means the Federal Energy Regulatory Commission.—

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EMPLOYEE PROTECTIVE ARRANGEMENT.—The term "employee protective arrangement" means a provision that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired companies;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(7) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5B), as those sections existed on the day before the effective date of this subtitle.

(8) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their won use and not for resale) of natural or manufactured gas for heat, light, or power.

(9) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent of more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(10) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(11) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(12) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(13) PERSON.—The term "person" means an individual or company.

(14) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(15) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(16) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(17) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(18) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) Is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) REQUIREMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness

incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods, or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(8) the interest of employees affected by a proposed transaction shall be protected under employee protective arrangements the Commission concludes are fair and equitable.

(d) Limitation on Authority.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SA 3234. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) Approval.—

"(A) In general.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will advance the public interest, the Commission shall approve the transaction.

"(B) Minimum required findings.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission request the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) Rules and Procedures To Ensure Competitive Wholesale Markets.—

(1) In general.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) Rules and Procedures To Ensure Competitive Wholesale Markets.—

"(1) In general.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) Conditions on grants of authority.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) No limitation on federal antitrust remedies.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust laws with respect to any rate, charge, or services that is subject to the authorization.".

(2) Ineffectiveness of other provision.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) Remedial Measures for Market Power.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) Definition of Market Power.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) Commission Jurisdictional Sales.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) Affiliate.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) Associate company.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) Commission.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) Company.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) Electric utility company.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) Exempt wholesale generator and foreign utility company.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) Gas utility company.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) Holding company.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) Holding company system.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) Jurisdictional rates.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale

in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) Natural gas company.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) Person.—The term "person" means an individual or company.

(13) Public utility.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) Public utility company.—The term "public utility company" means an electric utility company or a gas utility company.

(15) State commission.—The term "State commission" means any commission, board, energy, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) Subsidiary company.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) Voting security.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) In General.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) Court Jurisdiction.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) Cost Recovery.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) Confidentiality.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) Auditing.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) Preemption.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) Prohibited Activities.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans, or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) Commission Rules.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) Requirements.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods, or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(d) Limitation on Authority.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SA 3235. Mr. Dayton (for himself, Mr. Wellstone, Mr. Feingold, Ms. Cantwell, Mrs. Boxer, Mr. Wyden, Mrs. Murray, Ms. Stabenow and Mr. Jeffords) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 33, line 17, and insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) Approval.—

"(A) In general.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

"(B) Minimum required findings.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 3 . WHOLESALE MARKETS AND MARKET POWER.

(a) Rules and Procedures To Ensure Competitive Wholesale Markets.—

(1) In general.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) Rules and Procedures To Ensure Competitive Wholesale Markets.—

"(1) In general.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization."

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218 REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.— The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall maintain, and shall produce for the Commission's examination, such books accounts, memoranda, records, and any other materials the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an affiliate or associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

SA 3236. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 33, line 17, and insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4)APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction is consistent with the public interest, the Commission shall approve the transaction.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) Rules and Procedures To Ensure Competitive Wholesale Markets.—

(1) In general.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) Rules and Procedures To Ensure Competitive Wholesale Markets.—

"(1) In general.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) Conditions on grants of authority.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) No limitation on federal antitrust remedies.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) Ineffectiveness of other provision.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) Affiliate.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) Associate company.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) Commission.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) Company.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) Electric utility company.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) Exempt wholesale generator and foreign utility company.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) Gas utility company.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) Holding company.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) Holding company system.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) Jurisdictional rates.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) Natural gas company.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) Person.—The term "person" means an individual or company.

(13) Public utility.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) Public utility company.—The term "public utility company" means an electric utility company or a gas utility company.

(15) State commission.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) Subsidiary company.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by the subtitle upon subsidiary companies of holding companies.

(17) Voting security.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) In General.—Each holding company and each affiliate or associate company thereof shall maintain, and shall produce for the Commission's examination, such books, accounts, memoranda, records, and any other materials the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an affiliate or associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

SA 3237. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follow:

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) Approval.—

"(A) In general.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

"(B) Mininum required findings.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.— The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate thereof to produce books and records.

SA 3238. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows;

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISISON.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sale of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligation, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) Is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any state in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans, or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) REQUIREMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(d) LIMITATION ON AUTHORITY.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SA 3239. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. REID) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS DATABASE

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term "baseline" means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term "database" means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term "designated agency" means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term "entity" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term "facility" means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(9) INDIRECT EMISSIONS.—The term "indirect emissions" means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by another entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(10) Registry.—The term "registry" means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(11) Sequestration.—

(A) In general.—The term "sequestration" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) Inclusions.—The term "sequestration" includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(A) are established as of the date of enactment of this Act under other law;

(B) provide for the collection of data relating to greenhouse gas emissions and effects; and

(C) are necessary for the operation of the database;

(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and

(B) maximize the use of available resources of those departments and agencies; and

(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) Minimum Requirements.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:

(1) Department of energy.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) Department of commerce.—The Secretary of Commerce shall be primarily responsible for the development of—

(A) measurement standards for the monitoring of emissions; and

(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.

(3) Environmental protection agency.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and

(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(4) Department of agriculture.—The Secretary of Agriculture shall be primarily responsible for—

(A) developing measurement techniques for—

(i) soil carbon sequestration; and

(ii) forest preservation and reforestation activities; and

(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.

(c) Draft Memorandum of Agreement.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).

(d) No Judicial Review.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) Establishment.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the "National Greenhouse Gas Database", to collect, verify, and analyze information on greenhouse gas emissions by entities.

(b) National Greenhouse Gas Database Components.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) Comprehensive System.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) Requirements.—The designated agencies shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) In General.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) Requirements.—

(1) In general.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline; and

(B) submit the report described in subsection (c)(1).

(2) Requirements applicable to entities entering into certain agreements.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) Reports.—

(1) Required report.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) Voluntary reporting.—An entity described in subsection (a) may—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 3 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by an entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation);

(ii) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(iii) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is already required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, an entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

(e) CONFIDENTIALITY OF REPORTS.—Any privileged and confidential trade secret and commercial or financial information that is submitted under this section shall be protected in accordance with section 552(b)(4) of title 5, United States Code, except that the information shall be made available to the public if the designated agencies jointly determine that disclosure of the information is necessary for a determination of the validity of emission reductions that have been—

(1) recorded in the registry; and

(2) transferred or traded based on value created through recording in the registry.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) REQUIREMENTS.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the

Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) REVIEW AND REVISION.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) PUBLIC PARTICIPATION.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) INCREASED APPLICABILITY OF REQUIREMENTS.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SA 3240. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS.

(a) REVIEW OF ALTERNATIVE MANDATORY CONDITIONS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce and the Secretary of Agriculture, in consultation with the affected stats and tribes shall undertake a review of: (1) options for a process whereby license applicants and third parties to a relicensing proceeding being undertaken pursuant to Part I of the Federal Power Act could propose alternative mandatory conditions and alternative mandatory fishway prescriptions to be included in the license in lieu of conditions and prescriptions initially deemed necessary or required pursuant to section 4(e) and section 18, respectively, of the Federal Power Act; (2) the standards which should be applicable in evaluating and accepting such conditions and prescriptions; (3) the nature of participation of parties other than the license applicants in such a process; (4) the advantages and disadvantages of providing for such a process, including the impact of such a process on the length of time needed to complete the relicensing proceedings and the potential economic and operational improvement benefits of providing for such a process; and (5) the level of interest among parties to relicensing proceedings in proposing such alternative conditions and prescriptions and participating in such a process.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section. The report shall contain any legislative or administrative recommendations relating to implementation of the process described in subsection (a).

SEC. 302. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of the process for issuance of a license under section Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

SA 3241. Mr. BINGAMAN (for himself, Mr. DURBIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and

Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 568, strike line 6 and all that follows through page 570, line 7 and insert the following:

SEC. 1701. REGULATORY REVIEWS.

(a) REGULATORY REVIEWS.—Not later than one year after the date of enactment of this section, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, small-scale renewable energy, combined heat and power, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies,

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes, and

(2) actions taken, or proposed to be taken, to remove such barriers.

SA 3242. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, line 20, insert after "information" the following: "retrospectively to 1998,"

On page 177, line 25, strike "consumed" and insert "blended".

On page 187, line 2, strike "commodities and".

On page 188, line 20, strike "distributors".

On page 191, line 6, strike "refiners" and insert "refineries".

On page 191, line 17, strike "distributes".

On page 198, strike line 24 and all that follows through page 199, line 21.

On page 204, line 3, strike "importer, or distributor" and insert "or importer".

On page 205, line 5, strike "(2) EFFECTIVE DATE.—This section" and insert the following:

"(2) EXCEPTIONS.—This subsection shall not apply to others.

"(3) EFFECTIVE DATE.—This subsection".

On page 222, line 23, strike "(B)" and insert "(C)".

On page 233, line 18, strike "(k)" and insert "paragraph".

SA 3243. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 148, strike lines 4 through 22, renumber the subsequent section accordingly.

SA 3244. Mr. BINGAMAN (for Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 3041 proposed by Mr. WYDEN (for himself, Mr. MURKOWSKI, Mr. BENNETT, and Mr. SMITH of Oregon) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 4, strike "ELECTRICAL" and insert "ENERGY".

On page 3, line 5, strike "electrical" and insert "energy".

On page 5, line 4 strike "electrical" and insert "energy".

On page 5, lines 12–13 strike "standard established by a" and insert "applicable".

On page 5, lines 13–14 strike "standard described in" and insert "low emissions vehicle standards established under authority of".

On page 6, line 5, strike "electrical" and insert "energy".

SA 3245. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, strike line 24 and all that follows through page 102, line 2 and insert the following:

"(6) TRIBAL LANDS.—The term 'tribal lands' means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe's reservation.".

SA 3246. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, lines 8 through 9, strike "on the date of enactment of this section was" and insert "is".

SA 3247. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of title VI the following:

"SEC. 612. PRESERVATION OF OIL AND GAS RESOURCE DATA.

"The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.".

SA 3248. Mr. BINGAMAN (for Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of title VI the following:

"SEC. 611. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

"The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts."

SA 3249. Mr. BINGAMAN (for Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, strike line 2 and all that follows through line 14 and insert the following: "the States; and

"(3) improve the collection, storage, and retrieval of information related to such leasing activities.

"(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

"(c) Authorization of Appropriation.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior:

"(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

"(2) $20,000,000, for the purpose of carrying out subsection (b).".

SA 3250. Mr. BINGAMAN (for Mrs. Carnahan) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 294, after line 18, insert the following and renumber the subsequent paragraph:

"(6) Air conditioners and heat pumps that—

"(A) are small duct,

"(B) are high velocity, and

"(C) have external static pressure several times that of conventional air conditioners or heat pumps—

shall not be subject to paragraphs (1) through (4), but shall be subject to standards prescribed by the Secretary in accordance with subsections (o) and (p). The Secretary shall prescribe such standards by January 1, 2004.".

SA 3251. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike line 15 and all that follows through page 269, line 13, and insert the following:

SEC. 916. COST SAVINGS FROM REPLACEMENT FACILITIES.

(a) Cost Savings From Replacement Facilities.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following:

"(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may including savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

"(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).".

(b) Definitions.—

(1) Energy savings.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

"(2) The term 'energy savings' means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in either—

"(A) an existing federally owned building or buildings or other federally owned facilities as a result of—

"(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

"(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

"(iii) the increased efficient use of existing water sources; or

"(B) a replacement facility under section 801(a)(3).".

(2) Energy savings contract.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

"(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

"(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.".

(3) Energy or water conservation measure.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows;

"(4) the term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

"(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.".

SA 3252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) Modifications to New Qualified Fuel Cell Motor Vehicle Credit.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000",

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000",

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500",

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000",

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$3,500",

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$4,000",

(7) by striking "$3,500" in paragraph (2)(A)(vi) and inserting "$4,500",

(8) by striking "$4,000" in paragraph (2)(A)(vii) and inserting "$5,000", and

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004".

(b) Modifications to New Qualified Hybrid Motor Vehicle Credit.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 2.5 percent but less than 5 percent	$250
At least 5 percent but less than 10 percent	$500
At least 10 percent but less than 20 percent	$750
At least 20 percent but less than 30 percent	$1,000
At least 30 percent	$1,500.

(2) by striking "$500" in paragraph (2)(B)(i)(I) and inserting "$1,000",

(3) by striking "$1,000" in paragraph (2)(B)(i)(II) and inserting "$1,500",

(4) by striking "$1,500" in paragraph (2)(B)(i)(III) and inserting "$2,000",

(5) by striking "$2,000" in paragraph (2)(B)(i)(IV) and inserting "$2,500",

(6) by striking "$2,500" in paragraph (2)(B)(i)(V) and inserting "$3,000",

(7) by striking "$3,000" in paragraph (2)(B)(i)(VI) and inserting "$3,500", and

(8) by striking "for 2002" in paragraph (3)(B)(i) and inserting "for 2003".

(c) Conforming Amendments for Vehicle Credits.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "September 30, 2002" and inserting "the effective date of this section".

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(h) Application of Section.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

"(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

"(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.".

(d) Additional Modifications to Credit for Qualified Electric Vehicles.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "$3,500" in subsection (b)(1)(B)(i) and inserting "$6,000",

(2) by striking "$6,000" in subsection (b)(1)(B)(ii) and inserting "$9,000", and

(3) by striking "2006" in subsection (e) and inserting "2007".

(e) Modifications to Extension of Deduction for Certain Refueling Property.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3253. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000",

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000",

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500",

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000",

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$3,500",

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$4,000",

(7) by striking "$3,500" in paragraph (2)(A)(vi) and inserting "$4,500",

(8) by striking "$4,000" in paragraph (2)(A)(vii) and inserting "$5,000", and

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004".

(b) MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 5 percent but less than 10 percent	$500
At least 10 percent but less than 20 percent	$750
At least 20 percent but less than 30 percent	$1,000
At least 30 percent	$1,500.

(2) by striking "$500" in paragraph (2)(B)(i)(I) and inserting "$1,000",

(3) by striking "$1,000" in paragraph (2)(B)(i)(II) and inserting "$1,500",

(4) by striking "$1,500" in paragraph (2)(B)(i)(III) and inserting "$2,000",

(5) by striking "$2,000" in paragraph (2)(B)(i)(IV) and inserting "$2,500",

(6) by striking "$2,500" in paragraph (2)(B)(i)(V) and inserting "$3,000",

(7) by striking "$3,000" in paragraph (2)(B)(i)(VI) and inserting "$3,500", and

(8) by striking "for 2002" in paragraph (3)(B)(i) and inserting "for 2003".

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "September 30, 2002" and inserting "the effective date of this section".

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(h) APPLICATION OF SECTION.—This section shall apply to—

"(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

"(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

"(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.".

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "$3,500" in subsection (b)(1)(B)(i) and inserting "$6,000",

(2) by striking "$6,000" in subsection (b)(1)(B)(ii) and inserting "$9,000", and

(3) by striking "2006" in subsection (e) and inserting "2007".

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3254. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000",

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000",

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500",

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000",

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$3,500",

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$4,000",

(7) by striking "$3,500" in paragraph (2)(A)(vi) and inserting "$4,500",

(8) by striking "$4,000" in paragraph (2)(A)(vii) and inserting "$5,000", and

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004".

(b) MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent	$500
At least 10 percent but less than 20 percent	$750
At least 20 percent but less than 30 percent	$1,000
At least 30 percent	$1,500.

(2) by striking "$500" in paragraph (2)(B)(i)(I) and inserting "$1,000",

(3) by striking "$1,000" in paragraph (2)(B)(i)(II) and inserting "$1,500",

(4) by striking "$1,500" in paragraph (2)(B)(i)(III) and inserting "$2,000",

(5) by striking "$2,000" in paragraph (2)(B)(i)(IV) and inserting "$2,500",

(6) by striking "$2,500" in paragraph (2)(B)(i)(V) and inserting "$3,000",

(7) by striking "$3,000" in paragraph (2)(B)(i)(VI) and inserting "$3,500", and

(8) by striking "for 2002" in paragraph (3)(B)(i) and inserting "for 2003".

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "September 30, 2002" and inserting "the effective date of this section".

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(h) APPLICATION OF SECTION.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

"(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

"(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.".

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "$3,500" in subsection (b)(1)(B)(i) and inserting "$6,000",

(2) by striking "$6,000" in subsection (b)(1)(B)(ii) and inserting "$9,000", and

(3) by striking "2006" in subsection (e) and inserting "2007".

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3255. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 215, between lines 10 and 11, insert the following:

SEC. . TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking "or" at the end of clause (iv), by striking the period at the end of clause (v) and insert ", or", and by adding at the end the following new clause:

"(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3256. Mr. NICKLES (for himself, Mr. BREAUX, and Mr. MILLER) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Title II, insert the following:

SEC. . Not withstanding any other provision in this Act, "3 cents" shall be considered by law to be "1.5 cents" in any place "3 cents" appears in Title II of this Act.

SA 3257. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ALASKA NATURAL GAS.

"(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64-degrees North latitude (determined in United States dollars), is the excess of—

"(A) $3.25, over

"(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (f)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(f)(1)' for '1990').

"(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

"(d) RECAPTURE.—

"(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (f)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

"(2) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude for the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) except with respect to subsection (d), ending with the date which is   years after the date described in paragraph (1).".

"(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph: "(24) the Alaska natural gas credit determined under section 45M(a).".

"(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

SA 3258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 708.

SA 3259. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 63, line 13, after "geothermal," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

SA 3260. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, line 24, after "geothermal," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

SA 3261. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 4, after "landfill gas," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

On page 61, line 20, after "landfill gas," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

On page 63, line 13, after "geothermal," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

On page 64, line 24, after "geothermal," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

On page 73, line 13, after "energy," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

SA 3262. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 13, after "energy," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

SA 3263. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . CONSUMER PRODUCT SAFETY ACT.

(a) LOW-SPEED ELECTRIC BICYCLES.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end the following:

"LOW-SPEED ELECTRIC BICYCLES

"SEC. 38. (a) Notwithstanding any other provision of law, low-speed electric bicycles are consumer products within the meaning of section 3(a)(1) and shall be subject to the Commission regulations published at section 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations.

"(b) For the purpose of this section, the term 'low-speed electric bicycle' means a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 hp), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

"(c) To further protect the safety of consumers who ride low-speed electric bicycles, the Commission may promulgate new or amended requirements applicable to such vehicles as necessary and appropriate.

"(d) This section shall supersede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a).".

(b) CONFORMING AMENDMENTS.—Section 1 of the Consumer Products Safety Act (15 U.S.C. 2051 note) is amended by amending the table of contents to read as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings and purposes.
"Sec. 3. Definitions.
"Sec. 4. Consumer Product Safety Commission.
"Sec. 5. Product safety information and research.
"Sec. 6. Public disclosure of information.
"Sec. 7. Consumer product safety standards.
"Sec. 8. Banned hazardous products.
"Sec. 9. Procedure for consumer product safety rules.
"Sec. 11. Judicial review of consumer product safety rules.
"Sec. 12. Imminent hazards.
"Sec. 14. Product certification and labeling.
"Sec. 15. Notification and repair, replacement, or refund.
"Sec. 16. Inspection and recordkeeping.
"Sec. 17. Imported products.
"Sec. 18. Exports.
"Sec. 19. Prohibited acts.
"Sec. 20. Civil penalties.
"Sec. 21. Criminal penalties.
"Sec. 22. Injunctive enforcement and seizure.
"Sec. 23. Suits for damages by persons injured.
"Sec. 24. Private enforcement of product safety rules and of section 15 orders.

"Sec. 25. Effect on private remedies.
"Sec. 26. Effect on State standards.
"Sec. 27. Additional functions of Commission.
"Sec. 28. Chronic Hazards Advisory Panel.
"Sec. 29. Cooperation with States and with other Federal agencies.
"Sec. 30. Transfers of functions.
"Sec. 31. Limitation on jurisdiction.
"Sec. 32. Authorization of appropriations.
"Sec. 33. Separability.
"Sec. 34. Effective date.
"Sec. 35. Interim cellulose insulation safety standard.
"Sec. 36. Congressional veto of consumer product safety rules.
"Sec. 37. Information reporting.
"Sec. 38. Low-speed electric bicycles.".

(c) MOTOR VEHICLE SAFETY STANDARDS.—For purposes of motor vehicle safety standards issued and enforced pursuant to chapter 301 of title 49, United States Code, a low-speed electric bicycle (as defined in section 38(b) of the Consumer Product Safety Act) shall not be considered a motor vehicle as defined by section 30102(6) of title 49, United States Code.

SA 3264. Mr. SMITH of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 821, strike the "''", and insert the following:

"(e) FUEL DELIVERY TECHNOLOGY SYSTEM PILOT PROGRAM.—

"(1) The Secretary of Transportation is directed to establish a pilot program to demonstrate the fuel economy and environmental benefits of fuel delivery system technology. The Secretary is directed to retrofit an existing heavy duty diesel engine federal transit bus fleet to no less than 20 vehicles, or to contract with units of local government in areas of non-attainment under the Clean Air Act to retrofit portions of their existing heavy duty diesel engine transit bus fleets, for a combined total of no less than 20 vehicles. The fuel delivery system technology with which these vehicles shall be retrofitted shall be designed to increase fuel economy and reduce exhaust emissions when operating on diesel fuel specified for highway engines, containing 300 to 500 parts per million of sulfur. The measured increase in fuel economy shall be minimum of 40 percent and the reduction in exhaust emissions shall be a minimum of 65 percent. The retrofit pilot program shall also include quantification of exhaust emissions when operating on bio-diesel as well as low-sulfur diesel fuel. Upon completion of the retrofit pilot program, the fuel delivery system technology shall be placed on the Environmental Protection Agency's Verified Retrofit Technology List for heavy-duty diesel engines. The Secretary shall establish a baseline average fuel economy for the specified fleet(s), and shall use that baseline to periodically evaluate the performance of the fuel delivery technology system over a one-year period of operation. The results of the retrofit pilot program shall be provided to the National Highway Traffic Safety Administration.

"(2) There are authorized such sums as are necessary to carry out the retrofit pilot program authorized by this subsection, not to exceed $2 million."

SA 3265. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the Definitions Section, strike (1) in its entirety, and insert:

"(1) The term 'intermittent generator' means a facility that generates electricity using wind, solar or waste heat produced as a by-product of an agronomic or agricultural manufacturing process."

SA 3266. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 4, after "landfill gas," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process,".

SA 3267. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the section heading for Section 722, after "**PIPELINE**" add: "**AND ELECTRICITY TRANSMISSION AND DISTRIBUTION**" before "**PROJECTS**."

In paragraph (a), after "memorandum of understanding to expedite," strike the remainder of the paragraph and replace with:

"the environmental review and permitting of natural gas pipeline and electricity transmission and distribution projects and shall ensure that agencies are fulfilling their environmental review and permitting obligations in a timely manner, consistent with existing statutory requirements. At a minimum, the memorandum: (1) should address the early identification of a lead federal agency, which shall be designated only if an applicant for federal authorization so requests, when more than one agency is involved in the review and approval of a project and; (2) should establish the authority to set deadlines for all decisions regarding project approval."

In paragraph (b), after (8), strike "and", and add "(9) the Secretary of Energy; and".

SA 3268. Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 8 and 9, insert the following:

SEC. 8__. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term "municipal solid waste" has the meaning given the term "solid waste" in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal; or

(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) Full Faith and Credit.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) Reports.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) Termination of Authority.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

SA 3269. Mrs. LINCOLN (for herself and Mr. AKAKA) submitted an amendment intended to be proposed by her to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 6 and 7, insert the following:

SEC. . CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL SOLID WASTE.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) municipal solid waste.".

(b) Qualified Facility.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(G) Municipal solid waste facility.—

"(i) In general.—In the case of a facility using municipal solid waste to produce electricity, the term 'qualified facility' means any facility—

"(I) owned by the taxpayer which is originally placed in service on or after date of the enactment of this subparagraph and before, or

"(II) owned by the taxpayer which is originally placed in service before the date of the enactment of this subparagraph, to which is added a unit before.

"(ii) Special rule.—In the case of a qualified facility described in clause (i)(II), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.".

(c) Definition.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Municipal solid waste.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".

(d) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3270. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle E of title II, insert the following:

SEC. 2 . FEDERAL PURCHASE REQUIREMENT.

(a) Definitions.—In this section:

(1) Indian tribe.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) Renewable energy.—The term "renewable energy" means electric energy generated from—

(A) a solar, wind, biomass, geothermal, or fuel cell source; or

(B)(i) additional hydroelectric generation capacity achieved from increased efficiency; or

(ii) an addition of new capacity at a hydroelectric dam in existence on the date of enactment of this Act.

(b) Requirement.—

(1) In general.—The President shall ensure that, of the total amount of electric energy that all Federal agencies, in the aggregate, consume during any fiscal year, renewable energy shall comprise not less than—

(A) 3 percent in fiscal years 2003 through 2004;

(B) 5 percent in fiscal years 2005 through 2009; and

(C) 7.5 percent in fiscal year 2010 and each fiscal year thereafter.

(2) Innovative purchasing practices.—In carrying out paragraph (1), the President shall encourage Federal agencies to use innovative purchasing practices.

(c) Tribal Power Generation.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, not less than 1/10 of the amount specified in subsection (b) shall be renewable energy that is generated by—

(1) an Indian tribe; or

(2) a corporation, partnership, or business association the majority of the interest in which is owned, directly or indirectly, by an Indian tribe.

(d) Biennial Report.—In 2004 and every 2 years thereafter, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives a report on the progress of the Federal Government in meeting the goals established by this section.

(e) Ineffectiveness of Other Provision.—Section 263 (relating to a Federal purchase requirement) shall be of no effect.

SA 3271. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NET METERING OF ELECTRIC ENERGY.

Section 111(d)(13) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(13)) (as amended by section 245) is amended—

(1) in subparagraph (A), by inserting "the total sales of electric energy for purposes other than resale of which exceeded 1,000,000,000 kilowatt-hours during the preceding calendar year" after "electric utility"; and

(2) by striking subparagraph (C).

SA 3272. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, after line 14, add the following:

SEC. 1812. STATE REFERENDA TO LIFT MORATORIA ON OFFSHORE OIL AND GAS DRILLING.

(a) In General.—Notwithstanding any moratorium or executive order temporarily suspending or permanently prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) Royalties.—

(1) New leases under subsection (a).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the State off the shore of which oil or gas is produced if the State has a State Plan approved in accordance with section 1811(c)(7).

(2) New deep water leases.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie if the State has a State Plan approved in accordance with section 1811(c)(7).

(3) Existing leases.—Notwithstanding section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(2)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, on, or after the date of enactment of this Act shall be distributed to the States offshore of which the leases lie if the State has a State Plan approved in accordance with section 1811(c)(7).

(c) OCS PRODUCTION STATE.—A State that allows production of oil or gas under this section shall be treated as an OCS Production State for the purposes of section 1811.

SA 3273. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . STATE ENERGY PRODUCTION AND CONSUMPTION REPORT

(a) REPORT.—Not later than December 1, 2003, the Secretary of Energy (referred to in this section as the "Secretary") shall consult with the Governors of the several States and submit to Congress a report on options for energy production from each state to equal at least 80 percent of the amount of energy consumed in the State by January 1, 2019, as measured by the Energy Information Agency, considering both increases in production and reductions in consumption.

(b) INFORMATION ASSISTANCE.—The Secretary shall provide each State with an environmental, economic, and security risk analysis of domestic energy production against importation of energy and a ranged estimate of energy resources within the State, together with an identification of any barriers to development of such resources and options for regional cooperation to achieve the objectives outlined in this section. The Secretary of Interior shall provide such information and assistance as the Secretary may request.

SA 3274. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

"(i) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (a).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the State off the shore of which oil or gas is produced.

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie.

(3) EXISTING LEASES.—Notwithstanding section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(2)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, on, or after the date of enactment of this Act shall be distributed to the States offshore of which the leases lie.

date that the RTO or other transmission organization is approved by the Commission, that—

"(A) increases the transfer capability of the transmission system; and

"(B) is funded by the entities that, in return for payment, received the tradable transmission rights created by the investment.

"(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission system without payment of transmission congestion charges, or other rights as determined by the Commission.".

SA 3275. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

(a) ALTERNATIVE CONDITIONS.—The Federal Power Act is amended by inserting after section 4 (16 U.S.C. 797) the following:

"SEC. 4A. ALTERNATIVE CONDITIONS.

"(a) DEFINITION OF SECRETARY.—In this section, the term 'Secretary', with respect to an application under subsection (e) of section 4 for a license for a project works within a reservation of the United States, means the Secretary of the department under whose supervision the reservation falls.

"(b) PROPOSAL OF ALTERNATIVE CONDITION.—When a person applies for a license for any project works within a reservation of the United States under subsection (e) of section 4, and the Secretary deems a condition to the license to be necessary under the first proviso of that subsection, the license applicant or any other interested person may propose an alternative condition.

"(c) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding the first proviso of section 4(e), the Secretary may accept an alternative condition proposed under subsection (b), and the Commission shall include in the license that alternative condition, if the Secretary determines, based on substantial evidence, that the alternative condition—

"(1) provides for the adequate protection and use of the reservation; and

"(2) will cost less to implement, or result in improved operation of the project works for electricity production, as compared with the condition initially deemed necessary by the Secretary.

"(d) WRITTEN STATEMENT.—The Secretary shall submit into the public record of the Commission proceeding, with any condition under section 4(e) or alternative condition that the Secretary accepts under subsection (c), a written statement explaining the basis for the condition or alternative condition, and each reason for not accepting any alternative condition under this subsection, including—

"(1) a statement of the goals, objectives, or applicable management requirements established by the Secretary for protection and use of the reservation;

"(2) the consideration by the Secretary of all studies, data, and other factual information made available to the Secretary that are relevant to the decision of the Secretary; and

"(3) any information made available to the Secretary regarding the effects of the condition or alternative condition on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply (including information voluntarily provided in a timely manner by the applicant and any other person).

"(e) PROCEDURE.—Not later than 1 year after the date of enactment of this section, the Secretary of each department that exercises supervision over a reservation of the United States shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section.".

(b) ALTERNATIVE PRESCRIPTIONS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended—

(1) by striking "SEC. 18. The Commission" and inserting the following:

"SEC. 18. OPERATION OF NAVIGATION FACILITIES.

"(a) IN GENERAL.—The Commission"; and

(2) by adding at the end the following:

"(b) ALTERNATIVE PRESCRIPTIONS.—

"(1) IN GENERAL.—When the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under subsection (a), the license applicant or licensee, or any other interested person, may propose an alternative condition.

"(2) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, may accept an alternative condition proposed under paragraph (1), and the Commission shall include in the license the alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence, that the alternative condition—

"(A) will be no less effective to meet the goals, objectives, or applicable management requirements identified by the Secretary under this section, than the fishway initially prescribed by the Secretary; and

"(B) will cost less to implement, or result in improved operation of the project works for electricity production, as compared to the fishway initially prescribed by the Secretary.

"(3) WRITTEN STATEMENT.—The Secretary shall submit into the public record of the Commission proceeding, with any prescription under subsection (a) or alternative condition that the Secretary accepts under paragraph (2), a written statement explaining the basis for the prescription or alternative condition, and reason for not accepting any alternative condition under this subsection, including—

"(A) a statement of the biological and other goals, objectives, or applicable management requirements identified by the Secretary under this section;

"(B) the consideration by the Secretary of all studies, data, and other factual information made available to the Secretary and relevant to the decision of the Secretary; and

"(C) any information made available to the Secretary regarding the effects of the prescription or alternative condition on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply (including information voluntarily provided in a timely manner by the applicant and any other person).

"(4) PROCEDURE.—Not later than 1 year after the date of enactment of this subsection, each Secretary concerned shall, by regulation, establish a procedure to expeditiously any resolve conflict arising under this subsection.".

SEC. 302. RELICENSING STUDY.

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term "new license condition" means any condition imposed under—

(1) section 4(e) of the Federal Power Act (16 U.S.C. 797(e));

(2) section 10(a) of the Federal Power Act (16 U.S.C. 803(a));

(2) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));

(3) section 10(j) of the Federal Power Act (16 U.S.C. 803(j));

(4) section 18 of the Federal Power Act (16 U.S.C. 811); or

(5) section 401(d) of the Clean Water Act (33 U.S.C. 1341(d)).

(b) STUDY.—The Federal Energy Regulatory Commission shall, jointly with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licenses issued for existing projects under section 15 of the Federal Power Act (16 U.S.C. 808) since January 1, 1994.

(c) SCOPE.—The study shall analyze—

(1) the length of time the Commission has taken to issue each new license for an existing project;

(2) the additional cost to the licensee attributable to new license conditions;

(3) the change in generating capacity attributable to new license conditions;

(4) the environmental benefits achieved by new license conditions;

(5) significant unmitigated environmental damage of the project and costs to mitigate such damage; and

(6) litigation arising from the issuance or failure to issue new licenses for existing projects under section 15 of the Federal Power Act or the imposition or failure to impose new license conditions.

(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes findings made as a result of the study.

SEC. 302. DATA COLLECTION PROCEDURES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall jointly develop procedures for ensuring complete and accurate data concerning the time and cost to parties in the hydroelectric licensing process under part I of the Federal Power Act (16 U.S.C. 791 et seq.).

(b) PUBLICATION OF DATA.—Data described in subsection (a) shall be published regularly, but not less frequently than every 3 years.

SA 3276. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

"Notwithstanding any other provision of this Act, the conditions to be considered by the Commission shall when considering a proposed disposition, consolidation, acquisition or control also include the following: employee protective arrangements, defined as a provision that may be necessary for (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (ii) the continuation of collective bargaining rights; (iii) the protection of individual employees against a worsening of their positions related to employment; (iv) assurances of employment to employees of acquired companies; (v) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and (vi) paid training or retraining programs, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and".

SA 3277. Ms. COLLINS (for herself, Mrs. MURRAY, Ms. CANTWELL, Mr. JEFFORDS, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title XIII, insert the following:

"SEC. 1348. RESEARCH ON ABRUPT CLIMATE CHANGE.

"(a) DEFINITION.—The term 'abrupt climate change' means a change in climate that occurs so rapidly or unexpectedly that human or natural systems have difficulty adapting to it.

"(b) The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on abrupt climate change designed to:

"(1) develop a global array of terrestrial and oceanographic indicators of paleoclimate in order to sufficiently identify and describe past instances of abrupt climate change

"(2) improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change

"(3) incorporate these mechanisms into advanced geophysical models of climate change

"(4) test the output of these models against an improved global array of records of past abrupt climate changes.

"(c) There are authorized to be appropriated to the Secretary of Commerce $10,000,000 in each of the fiscal years 2002 through 2008, and such sums as may be necessary for fiscal years after year 2008, to carry out the research program required under this section."

SA 3278. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, after "States" insert ", except New York and California".

SA 3279. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, line 9 insert the following:

SEC. 820. ALTERNATIVE FUEL VEHICLE ACCELERATION ACT.

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL VEHICLE.—The term "alternative fuel vehicle" means a motor vehicle that is powered in whole or in part by electricity (including electricity supplied by a fuel cell), liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, methanol or ethanol at no less than 85 percent by volume, or propane. Vehicles designed to operate solely on gasoline or diesel derived from fossil fuels, and vehicles that the Secretary determines by rule do not yield substantial environmental benefits over vehicles operating solely on gasoline or diesel derived from fossil fuels shall not be considered alternative fuel vehicles.

(2) ALTERNATIVE FUEL VEHICLE INTERMODAL PROJECT.—The term "alternative fuel vehicle intermodal project" means a project that uses alternative fuel vehicles in an intermodal application to demonstrate the transportation of people, goods, or services by use of alternative fuel vehicles only.

(3) INTERMODAL APPLICATION.—The term "intermodal application" means transportation activities that are conducted so that people or goods or services are transported by, and then from, one form of alternative fuel vehicle to a second or more alternative fuel vehicle without the need for conveyance by a conventional mode of transportation. The term "conventional mode of transportation" means a form of transportation that

derives power or energy only through an internal combustion engine fueled by gasoline or diesel fuel.

(b) Pilot Program.—

(1) Establishment.—The Secretary shall establish a competitive grant pilot program to provide not more than 15 grants to State governments, local governments, or metropolitan transportation authorities to carry out alternative fuel vehicle intermodal projects.

(2) Grant purposes.—Grants under this section may be used for the acquisition of alternative fuel vehicles, infrastructure necessary to directly support a project funded by the grant including fueling and other support equipment, and operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(3) Applications.—

(a) Requirements.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that the applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include a description of the alternative fuel vehicle intermodal project proposed in the application, an estimate of the ridership or degree of use of the project, an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, a plan to collect and disseminate environmental data over the life of the project, a description of how the project will be sustainable without federal assistance after the completion of the grant, a complete description of the costs of each project including acquisition, construction, operation, and maintenance costs over the expected life of the project, and a description of which costs of the project will be supported by federal assistance and which by assistance from non-federal partners. An applicant may carry out a project under partnership with public and private entities.

(4) Selection criteria.—In evaluating applications, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that are most likely to maximize protection of the environment and demonstrate the greatest commitment on the part of the applicant to ensure funding for the project and to ensure that the project will be maintained or expanded after federal assistance has been completed.

(5) Pilot project requirements.—The Secretary shall not provide more than **$20,000,000** or 50 percent of the project cost to any applicant. The Secretary shall not fund any applicant for more than five years. The Secretary shall seek to the maximum extent practicable to achieve deployment of alternative fuel vehicles through the pilot program and shall ensure a broad geographic distribution of project sites. The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants.

(6) Schedule.—Not later than 365 days after enactment of this Act, the Secretary shall publish a request for applications to undertake projects under the pilot program. Applications shall be due within 365 days of the publication of the notice. Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive peer review all applications for projects to be awarded a grant under the pilot program.

(c) Training Program.—

(1) Establishment.—The Secretary shall establish an alternative fuel vehicle operation and maintenance training program to provide grants to accredited academic institutions to develop curricula and to conduct training which support the objectives of the pilot program.

(2) Grant purposes.—Grants under this paragraph may be used for the development or revision of alternative fuel vehicle training materials, the instruction of personnel who will teach courses related to alternative fuel vehicles and supporting infrastructure, or the development of offering of courses or academic programs for students engaged in the study of alternative fuel vehicles as part of secondary or collegiate education programs, including vocational and technical programs.

(3) Applications.—The Secretary shall initiate the training program on a timely basis to support the implementation of the projects. Grant applications may be submitted by accredited academic institutions, consortia of such institutions, or accredited academic institutions in partnership with one or more private entities.

(4) Selection criteria.—In evaluating applications for the training programs, the Secretary shall consider each applicant's previous experience in providing alternative fuel vehicle training and shall give priority consideration to applicants that involve post-secondary education institutions that have existing automotive training programs, have demonstrated expertise in working with students and in-service technicians in providing training, provide a nationwide network for training and training materials which will achieve nationwide deployment of curricula, and have the capability of offering competency-based training offered by experienced instructors with real-world shop facilities on a nationwide basis.

(d) Reports to Congress.—

(1) Initial report.—Not later than 60 days after the date grants are awarded under this section, the Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing an identification of the grant recipients and a description of the projects to be funded, an identification of other applicants that submitted applications for the pilot program, and a description of mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(2) Evaluation.—Not later than 3 years after the selection of projects under this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of potential benefits to the environment to be derived from widespread application of alternative fuel vehicles.

(3) Joint study and reports.—The Secretary of Energy, the Secretary of Transportation and the Administrator of the Environmental Protection Agency, or their designees, shall undertake a study to consider, and recommend, the establishment of a collaborative program utilizing the resources of the Departments of Energy, Transportation and the Environmental Protection Agency, to demonstrate the use of alternative fuels for personal and public transportation in intermodal applications. Such study shall also consider and make a recommendation as to whether authority to conduct the pilot program should be transferred to the Secretary of Transportation in order to more fully utilize the resources of the Department of Transportation in assuring that the objectives of demonstrating intermodal activities with alternative fuel vehicles are more fully achieved.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary **$200,000,000** to carry out this program, to remain available until expended. Of the amount appropriated, no less than three percent shall be directed to accomplishing the goals of the training program.

SA 3280. Mr. SCHUMER (for himself and Mrs. Feinstein) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; follows:

Beginning on page 186, strike line 9 and all that follows through page 205, line 8, and insert the following:

SEC. 819. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) In General.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

"(o) Renewable Fuel Program.—

"(1) Definitions.—In this section:

"(A) Cellulosic biomass ethanol.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(i) dedicated energy crops and trees;

"(ii) wood and wood residues;

"(iii) plants;

"(iv) grasses;

"(v) agricultural residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) municipal solid waste.

"(B) Renewable fuel.—

"(i) In general.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) Inclusion.—The term 'renewable fuel' includes cellulosic biomass ethanol and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

"(2) Renewable fuel program.—

“(A) IN GENERAL.—Not later than one year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in Petroleum Administration for Defense Districts II and III, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable volume shall be 1,620,000,000 gallons in 2004.

“(B) APPLICABLE VOLUME.—

“(i) CALENDAR YEARS 2004 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

“Calendar year:	(In billions of gallons)
2004	2.3
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

“(II) the ratio that—

“(aa) 5.0 billion gallons of renewable fuels; bears to

“(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

“(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations.

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—A person that refines, blends, or imports gasoline may satisfy the requirements of paragraph (2) through the submission to the Administrator of credits—

“(i) issued to the person under subparagraph (C);

“(ii) obtained by purchase or other transfer under subparagraph (E) or (F); or

“(iii) borrowed under subparagraph (G).

“(B) REPORTING.—For calendar year 2004 and each calendar year thereafter, each person that refines, blends, or imports gasoline shall submit to the Administrator, not later than February 15 of the following calendar year, a report that includes—

“(i) the volume of renewable fuel blended into gasoline;

“(ii) the credits issued to the person under subparagraph (C);

“(iii) the credits used under subparagraph (D);

“(iv) the credits sold or transferred under subparagraph (E); and

“(v) the credits borrowed under subparagraph (G).

“(C) ISSUANCE AND TRACKING OF CREDITS.—

“(i) PROGRAM.—The Administrator shall establish a program to issue, monitor the sale or transfer of, and track credits.

“(ii) NUMBER OF CREDITS.—The Administrator shall issue to a person that refines, blends, or imports gasoline—

“(I) 1 credit for each gallon of renewable fuel that is blended into gasoline sold or introduced into commerce; and

“(II) an additional ½ credit for each gallon of cellulosic biomass ethanol that is blended into gasoline sold or introduced into commerce.

“(iii) REPORTING.—The Administrator shall require reporting on the price at which credits are sold or transferred.

“(D) USE OF CREDITS.—

“(i) IN GENERAL.—A credit may be counted toward compliance with the requirements of paragraph (2) only once.

“(ii) APPLICABLE YEARS.—A credit shall be valid to show compliance for the calendar year in which the credit was generated or the next calendar year.

“(E) SALE OR TRANSFER OF CREDITS.—A person that receives credits under subparagraph (C) may sell or transfer all or a portion of the credits to another person, for purpose of complying with the requirements of paragraph (2).

“(F) PHASE-IN OF CREDIT TRADING PROGRAM.—

“(i) ANNUAL REPORT FOR FIRST 3 YEARS.—Not later than March 1 of each of calendar years 2005, 2006, and 2007, the Administrator shall publish a report containing—

“(I) the volumes of renewable fuels blended into gasoline;

“(II) the credits received and used by each person that refines, blends, or imports gasoline; and

“(III) the unfulfilled requirement under paragraph (2), if any, for each person described in subclause (II).

“(ii) LIMITATION.—The Administrator shall ensure that the number of credits available in the market for any calendar year is not greater than the sum of—

“(I) the number of actual gallons of renewable fuel blended into gasoline in that calendar year; and

“(II) a number that is 0.5 times the number of actual gallons of cellulosic biomass ethanol blended into gasoline in that calendar year.

“(G) BORROWING OF CREDITS.—For calendar year 2007 and for each calendar year thereafter, a person that refines, blends, or imports gasoline and that has reason to believe that the person will not have sufficient credits in a given calendar year to comply with the requirements of paragraph (2) may—

“(i) submit a plan to the Administrator demonstrating that, in the calendar year following the year in which the person does not have sufficient credits, the person will—

“(I) achieve compliance with the requirements of paragraph (2); and

“(II) purchase or be eligible to receive additional credits that, when taken into account, will enable the person to be in compliance with the requirements of paragraph (2) for both calendar years; and

“(ii) upon approval of the plan by the Administrator, implement the plan.

“(6) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.”.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n) or (o)”; and

(B) in the second sentence, by striking “or (m)” and inserting “(m), or (o)”; and

(2) in the first sentence of paragraph (2), by striking “and (n)” each place it appears and inserting “(n), and (o)”.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCLUSION FROM ETHANOL WAIVER.—

“(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced into commerce in the area during the high ozone season.

"(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

"(C) EFFECTIVE DATE.—

"(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

"(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

"(II) 1 year after the date of receipt of the notification.

"(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

"(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

"(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

(d) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2005, and annually thereafter, the Administrator shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

(e) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Transportation and the Secretary of the Treasury should—

(1) advise Congress on the elimination of the adverse effects that the production and use of renewable fuel, under the amendments made by this section, in Petroleum Administration for Defense Districts II and III may cause; and

(2) ensure that any adverse effects on the Highway Trust Fund allocations to the States located in Petroleum Administration for Defense Districts II and III are minimal.

SA 3281. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 517 proposed by Mrs. CLINTON to the amendment SA 358 proposed by Mr. JEFFORDS (for himself and Mr. KENNEDY) to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SECTION 1. USE OF NATIONAL GUARD BY THE STATES FOR SECURITY FOR NUCLEAR FACILITIES.

(a) AVAILABILITY OF APPROPRIATIONS.—Appropriations for the National Guard are available for the payment of the pay and allowances and other expenses of members and units of the National Guard, not in Federal service, that are providing security with respect to nuclear facilities in a State pursuant to orders of the Governor or other appropriate authority of the State.

(b) RELIEF UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on duty described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and, in the case of a member of the National Guard, shall include duty, not in Federal service, for the provision of security with respect to nuclear facilities in a State pursuant to orders of the Governor or other appropriate authority of the State".

SA 3282. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 188, strike line 10 and all that follows through page 190, line 11, and insert the following:

"(2) RENEWABLE FUEL PROGRAM.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States in any of calendar years 2004 through 2012, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, distributors and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004.

"(B) APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

"Calendar year:	(In billions of gallons)
2004	2.3
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0."

SA 3283. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PHASEOUT OF TAX SUBSIDIES FOR ETHANOL FUEL AS MARKET SHARE OF SUCH FUEL INCREASES.

(a) IN GENERAL.—Not later than December 15 of 2002, and each subsequent calendar year, the Secretary of the Treasury shall determine the percentage increase (if any) of the ethanol fuel market share for the preceding calendar year over the highest ethanol fuel market share for any preceding calendar year and shall, notwithstanding any provision of the Internal Revenue Code of 1986, reduce by the same percentage the ethanol fuel subsidies under sections 40, 4041, 4081, and 4091 of such Code beginning on January 1 of the subsequent calendar year.

(b) ETHANOL FUEL MARKET SHARE.—For purposes of this section, the ethanol fuel market share for any calendar year shall be determined from data of the Energy Information Administration of the Department of Energy.

(c) ETHANOL FUEL.—For purposes of this section, the term "ethanol fuel" means any fuel the alcohol in which is ethanol.

SA 3284. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, after line 13, add the following:

SEC. . LANDFILL GAS.

(a) Credit for Producing Landfill Gas Fuel.—

(1) In general.—Section 29, as amended by this Act, is amended by adding at the end the following new subsection:

"(i) Extension for Facilities Producing Landfill Gas.—

"(1) In general.—In the case of a facility for producing qualified fuel that is landfill gas which is placed in service during the 3-year period beginning on the date of enactment of this subsection, this section shall apply to fuel produced at such facility during the 10-year period beginning on the date such facility is placed in service.

"(2) Modification of inflation adjustment factor.—In the case of fuel sold by a facility described in paragraph (1), the dollar amount applicable under subsection (a)(1) shall be $3 as adjusted by subsection (b)(2) on the date of the enactment of this subsection. In the case of fuels sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979'.".

(2) Additional definition.—Section 29(d) is amended by adding at the end the following new paragraph:

"(9) Landfill gas facility.—A facility for producing qualified fuel that is landfill gas, placed in service before, on, or after the date of the enactment of this paragraph, includes all wells, pipes, and other gas collection equipment installed as part of the facility over the life of the landfill, including any modifications or expansions thereof, after the facility is first placed in service.".

(3) Effective date.—The amendments made by this subsection shall apply to fuel sold after the date of the enactment of this Act.

(b) Credit for Production of Electricity Extended To Production From Landfill Gas Fuel.—

(1) In general.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) landfill gas.".

(2) Qualified facility.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(G) Landfill gas facility.—

"(i) In general.—In the case of a facility using gas derived from the biodegradation of municipal solid waste to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service by the taxpayer during the 3-year period beginning on the date of the enactment of this subparagraph.

"(ii) Modification of inflation adjustment factor.—In the case of electricity sold by a facility described in clause (i), the amount applicable under subsection (a)(1) shall be 1.5 cents as adjusted by subsection (b)(2) on the date of the enactment of this subparagraph. In the case of electricity sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1992'.

"(iii) Coordination with section 29.—The term 'qualified energy resources' shall not include any landfill gas the production of which is claimed as a credit under section 29 for the taxable year or any prior taxable year."

(3) Effective date.—The amendments made by this subsection shall apply to electricity sold after the date of the enactment of this Act.

SA 3285. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 185, between lines 8 and 9, insert the following:

SEC. 8 . FEDERAL FUEL CELL VEHICLE FLEET PILOT PROGRAM.

(a) Definitions.—In this section:

(1) Fuel cell vehicle.—The term "fuel cell vehicle" means a vehicle that derives all, or a significant part, of its propulsion energy from 1 or more fuel cells.

(2) Secretary.—The term "Secretary" means the Secretary of Energy.

(b) Program.—The Secretary shall establish a cost-shared program to purchase, operate, and evaluate fuel cell vehicles in integrated service in Federal fleets to demonstrate the viability of fuel cell vehicles in commercial use in a range of climates, duty cycles, and operating environments.

(c) Cooperative Agreements.—In carrying out the program, the Secretary may enter into cooperative agreements with Federal agencies and manufacturers of fuel cell vehicles.

(d) Components.—The program shall include the following components:

(1) Selection of pilot fleet sites.—

(A) In general.—The Secretary shall—

(i) consult with fleet managers of Federal agencies to identify potential fleet sites; and

(ii) select 4 or more Federal fleet sites at which to carry out the program.

(B) Criteria.—The criteria for selecting fleet sites shall include—

(i) geographic diversity;

(ii) a wide range of climates, duty cycles, and operating environments;

(iii) the interest and capability of the participating agencies;

(iv) the appropriateness of a site for refueling infrastructure and for maintaining the fuel cell vehicles; and

(v) such other criteria as the Secretary determines to be necessary to the success of the program.

(2) Fueling infrastructure.—

(A) In general.—The Secretary shall support the installation of the necessary refueling infrastructure at the fleet sites.

(B) Integration.—Whenever feasible, the fueling infrastructure—

(i) shall be integrated with stationary fuel cells at the fleet sites; and

(ii) shall be available for use by Federal, State, and local agencies and by the public.

(3) Purchase of fuel cell vehicles.—The Secretary, in consultation with the participating agencies, shall purchase fuel cell vehicles for the program by competitive bid.

(4) Operation and maintenance period.—The fuel cell vehicles shall be operated and maintained by the participating agencies in regular duty cycles for a period of not less than 24 months.

(5) Data collection, analysis, and dissemination.—

(A) Agreements.—The Secretary shall enter into agreements with participating agencies and private sector entities providing for the collection of proprietary and nonproprietary information with the program.

(B) Public availability.—The Secretary shall make available to all interested persons technical nonproprietary information collected under an agreement under subparagraph (A) and analyses of collected information.

(C) Proprietary information.—The Secretary shall not disclose to the public any proprietary information or analyses collected under an agreement under subparagraph (A).

(6) Training and technical support.—The Secretary shall provide such training and technical support as fleet managers and fuel cell vehicle operators require to assure the success of the program, including training and technical support in—

(A) the installation, operation, and maintenance of fueling infrastructure;

(B) the operation and maintenance of fuel cell vehicles; and

(C) data collection.

(e) Coordination.—The Secretary shall ensure coordination of the program with other Federal fuel cell demonstration programs to improve efficiency, share infrastructure, and avoid duplication of effort.

(f) Cost-Sharing.—

(1) Non Federal.—The Secretary shall require a commitment from participating private-sector companies or other non-Federal sources of at least 50% of the cost of the program.

(2) Federal agencies.—The Secretary may require a commitment from participating Federal agencies based on the avoided costs for purchase, operation, and maintenance of traditional vehicles and refueling infrastructure.

(g) Reports.—

(1) Annual reports.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

(A) provides an update on the progress of fleet siting and operation;

(B) provides a summary of data collected under subsection (d)(5);

(C) assesses the results of the program; and

(D) recommends any modifications in the program that may be necessary to achieve the purposes of this section.

(2) Recommendation.—Not later than January 1, 2007, the Secretary shall submit to Congress a report with recommendations for expanding the program to at least 10,000 fuel cell vehicles available for commercial purchase.

(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2003;

(2) $75,000,000 for fiscal year 2004;

(3) $100,000,000 for fiscal year 2005;

(4) $90,000,000 for fiscal year 2006;

(5) $60,000,000 for fiscal year 2007; and

(6) $10,000,000 for fiscal year 2008.

SEC. 8 . STUDY OF FUEL CELL USE IN FEDERAL BUILDINGS.

(a) Definitions.—In this section:

(1) Federally funded building.—In this section, the term "federally funded building" means a building—

(A)(i) that is owned by the Federal Government; or

(ii) of which more than 20 percent of the cost of construction is paid with Federal funds; and

(B) the design of which is begun after the date of enactment of this Act.

(2) Secretary.—The term "Secretary" means the Secretary of Energy.

(b) Study.—

(1) In general.—The Secretary shall conduct a study of how to encourage the appropriate use of fuel cells in federally funded buildings.

(2) REQUIREMENTS.—In conducting the study, the Secretary shall—

(A) quantify and determine how to increase the public benefit from fuel cells in federally funded buildings based on the ability of fuels cells to—

(i) improve building energy efficiency;

(ii) operate independent of the electric transmission grid and function as emergency generators required for support of fire and life-safety systems;

(iii)(I) provide high-reliability and high-quality power for critical loads; and

(II) serve as uninterruptible power systems required for computer operations;

(iv) provide operating flexibility;

(v) reduce demand for power from and load on the electric transmission and distribution grid through distributed generation;

(vi) provide—

(I) heat and power for use in buildings; and

(II) hydrogen or oxygen for various uses;

(vii) function in hybrid configurations with renewable power sources; and

(viii) reduce air and noise pollution;

(B) quantify the price of fuel cells, including the potential effects of large Federal purchases on the price of fuel cells;

(C) ascertain appropriate annual targets for the use of fuel cells in federally funded buildings, starting in fiscal year 2005;

(D) identify any modifications needed in—

(i) building specifications;

(ii) building design;

(iii) building codes;

(iv) construction practices; and

(v) building operations; and

(E) identify and evaluate financial and nonfinancial incentives to advance the goals specified in subparagraph (A).

(c) REPORT.—

(1) INITIAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study that includes recommendations to Congress and the States for programs to maximize the use of fuel cells in buildings.

(2) REVIEW.—Not later than 18 months after the date of submission of the report under paragraph (1), the Secretary shall—

(A) review the conclusions and implementation of the recommendations; and

(B) submit to Congress a report on any modifications necessitated by technical and policy developments.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3286. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION H—ENERGY TAX INCENTIVES

SEC. 1900. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "Energy Tax Incentives Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1900. Short title; etc.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 1901. 3-year extension of credit for producing electricity from wind and poultry waste.
Sec. 1902. Credit for electricity produced from biomass.
Sec. 1903. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.
Sec. 1904. Treatment of persons not able to use entire credit.

TITLE XX—ALTERNATIVE VEHICLES AND FUELS INCENTIVES

Sec. 2001. Alternative motor vehicle credit.
Sec. 2002. Modification of credit for qualified electric vehicles.
Sec. 2003. Credit for installation of alternative fueling stations.
Sec. 2004. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 2005. Small ethanol producer credit.
Sec. 2006. All alcohol fuels taxes transferred to Highway Trust Fund.
Sec. 2007. Increased flexibility in alcohol fuels tax credit.
Sec. 2008. Incentives for biodiesel.

TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 2101. Credit for construction of new energy efficient home.
Sec. 2102. Credit for energy efficient appliances.
Sec. 2103. Credit for residential energy efficient property.
Sec. 2104. Credit for business installation of qualified fuel cells.
Sec. 2105. Energy efficient commercial buildings deduction.
Sec. 2106. Allowance of deduction for qualified new or retrofitted energy management devices.
Sec. 2107. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 2108. Energy credit for combined heat and power system property.
Sec. 2109. Credit for energy efficiency improvements to existing homes.

TITLE XXII—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-based Electricity Generation Facilities

Sec. 2201. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 2211. Credit for investment in qualifying advanced clean coal technology.
Sec. 2212. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

Sec. 2221. Treatment of persons not able to use entire credit.

TITLE XXIII—OIL AND GAS PROVISIONS

Sec. 2301. Oil and gas from marginal wells.
Sec. 2302. Natural gas gathering lines treated as 7-year property.
Sec. 2303. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.
Sec. 2304. Environmental tax credit.
Sec. 2305. Determination of small refiner exception to oil depletion deduction.
Sec. 2306. Marginal production income limit extension.
Sec. 2307. Amortization of geological and geophysical expenditures.
Sec. 2308. Amortization of delay rental payments.
Sec. 2309. Study of coal bed methane.
Sec. 2310. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 2311. Natural gas distribution lines treated as 15-year property.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 2401. Ongoing study and reports regarding tax issues resulting from future restructuring decisions.
Sec. 2402. Modifications to special rules for nuclear decommissioning costs.
Sec. 2403. Treatment of certain income of cooperatives.

TITLE XXV—ADDITIONAL PROVISIONS

Sec. 2501. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 2502. Study of effectiveness of certain provisions by GAO.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 1901. 3-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking "January 1, 2004" and inserting "January 1, 2007".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1902. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) CLOSED-LOOP BIOMASS FACILITY.—

"(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 F.R. 63052.

"(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—

"(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

"(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.", and

(2) by adding at the end the following new subparagraph:

"(D) BIOMASS FACILITY.—

"(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

"(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—

"(I) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

"(II) the 3-year period beginning after December 31, 2002, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.".

(b) DEFINITION OF BIOMASS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(D) biomass (other than closed-loop biomass).".

(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

"(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

"(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.".

(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(6) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.".

(d) CLERICAL AMENDMENTS.—

(1) The heading for subsection (c) of section 45 is amended by inserting "AND SPECIAL RULES" after "DEFINITIONS".

(2) The heading for subsection (d) of section 45 is amended by inserting "ADDITIONAL" before "DEFINITIONS".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after December 31, 2002.

SEC. 1903. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

"(E) swine and bovine waste nutrients,

"(F) geothermal energy, and

"(G) solar energy.".

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

"(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term 'swine and bovine waste nutrients' means swine and bovine manure and litter, including bedding material for the disposition of manure.

"(7) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).".

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

"(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

"(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

"(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

"(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1904. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002.

"(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(b) Credits Not Reduced by Tax-Exempt Bonds or Certain Other Subsidies.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).", and

(5) by striking "tax-exempt bonds," in the heading and inserting "certain".

(c) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 2001. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) New Qualified Fuel Cell Motor Vehicle Credit.—

"(1) In general.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) Increase for fuel efficiency.—

"(A) In general.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

"(B) 2000 model year city fuel economy.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2000 model year city fuel economy is:**
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2000 model year city fuel economy is:**
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

"(C) Vehicle inertia weight class.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) New qualified fuel cell motor vehicle.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) New Qualified Hybrid Motor Vehicle Credit.—

"(1) In general.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) Credit amount.—

"(A) In general.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 5 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000

"If percentage of the maximum available power is:	**The credit amount is:**
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

"(ii) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	**The increased credit amount is:**
2002	$3,500
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	**The increased credit amount is:**
2002	$9,000
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	**The increased credit amount is:**
2002	$14,000
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

"(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower-hour of oxides of nitrogen and 0.01 per brake horsepower-hour of particulate matter.

"(II) A rechargeable energy storage system.

"(iii) MAXIMUM AVAILABLE POWER.—

"(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(A) which draws propulsion energy from onboard sources of stored energy which are both—

"(i) an internal combustion or heat engine using combustible fuel, and

"(ii) a rechargeable energy storage system,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

"(A) 40 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(5).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3)".

(3) Section 6501(m) is amended by inserting "30B(f)(10)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2002. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002, the lesser of—

"(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(ii) $1,500.

"(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) $3,500, or

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(3) Section 55(c)(2), as amended by this Act, is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting **"BATTERY"** after **"QUALIFIED"** each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

(C) The heading of section 30 is amended by inserting "**BATTERY**" after "**QUALIFIED**".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2003. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e)".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2004. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	**The applicable amount is—**
2002 and 2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) Sold at retail.—

"(A) In general.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) Use treated as sale.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) No Double Benefit.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the alternative fuel retail sales credit determined under section 40A(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(11) No carryback of section 40A credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2002.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) Effective Date.—The amendments made by this section shall apply to fuel sold at retail after September 30, 2002, in taxable years ending after such date.

SEC. 2005. SMALL ETHANOL PRODUCER CREDIT.

(a) Allocation of Alcohol Fuels Credit to Patrons of a Cooperative.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

"(6) Allocation of small ethanol producer credit to patrons of cooperative.—

"(A) Election to allocate.—

"(i) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) Form and effect of election.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) Treatment of organizations and patrons.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

"(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

"(C) Special rules for decrease in credits for taxable year.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) Improvements to Small Ethanol Producer Credit.—

(1) Definition of small ethanol producer.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) Small ethanol producer credit not a passive activity credit.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) Allowing credit against entire regular tax and minimum tax.—

(A) In general.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rules for small ethanol producer credit.—

"(A) In general.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) Small ethanol producer credit.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).".

(B) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting "or the small ethanol producer credit" after "employee credit".

(4) Small ethanol producer credit not added back to income under section 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) Conforming Amendment.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) Cross Reference.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2006. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) In General.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) Effective Date.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

SEC. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) Alcohol Fuels Credit May Be Transferred.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

"(i) Credit May Be Transferred.—

"(1) In general.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

"(2) Qualified assignee.—For purposes of this subsection, the term 'qualified assignee' means any person who—

"(A) is liable for taxes imposed under section 4081,

"(B) is required to register under section 4101, and

"(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

"(3) Regulations.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.".

(b) Alcohol Fuels Credit May Be Taken Against Motor Fuels Tax Liability.—

(1) In general.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

"SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.

"(a) Election To Use Credit Against Motor Fuels Taxes.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

"(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

"(2) the taxpayer or qualified assignee elects to claim such credit under this section.

"(b) Election Irrevocable.—Any election under subsection (a) shall be irrevocable.

"(c) Required Statement.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

"(d) Regulations.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.".

(2) Conforming amendment.—Section 40(c) is amended by striking "or section 4091(c)" and inserting "section 4091(c), or section 4104".

(3) Clerical amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Credit against motor fuels taxes.".

(c) Effective Date.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) Credit for Biodiesel Used as a Fuel.—

(1) In general.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

"(b) Definition of Biodiesel Mixture Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(B) Biodiesel mixture rate.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel in such mixture.

"(2) Qualified biodiesel mixture.—

"(A) In general.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(B) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(C) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(c) Coordination With Exemption From Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 4041(n) or section 4081(f).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel defined.—

"(A) In general.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

"(B) Registration requirements.—Such term shall only include a biodiesel which meets—

"(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(ii) the requirements of the American Society of Testing and Materials D6751.

"(2) Biodiesel mixture not used as a fuel, etc.—

"(A) Imposition of tax.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

"(B) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(3) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Election To Have Biodiesel Fuels Credit Not Apply.—

"(1) In general.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) Time for making election.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) Manner of making election.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

"(f) Termination.—This section shall not apply to any fuel sold after December 31, 2005.".

(2) Credit treated as part of general business credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(3) Conforming amendments.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of biodiesel fuels credit before January 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(4) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) Reduction of Motor Fuel Excise Taxes on Biodiesel Mixtures.—

(1) In general.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) Biodiesel Mixtures.—Under regulations prescribed by the Secretary—

"(1) In general.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) Tax prior to mixing.—

"(A) In general.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) Determination of rate.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

"(3) Definitions.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) Certain rules to apply.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) Conforming amendments.—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) Biodiesel Mixtures.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).".

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 2101. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,250, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

"(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

"(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

"(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

"(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

"(B) exterior windows (including skylights) and doors.

"(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

"(C) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a reference qualifying new home—

"(I) heated by the same energy source and heating system type, and

"(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

"(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.

"(3) FORM.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home.

"(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

"(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the new energy efficient home credit determined under section 45G(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).".

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of section 45G.".

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45G(a).".

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45G. New energy efficient home credit.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2102. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

"(1) APPLICABLE AMOUNT.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or

"(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

"(2) ELIGIBLE PRODUCTION.—

"(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 1999, 2000, and 2001.

"(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii), and

"(iv) refrigerators described in paragraph (1)(B)(ii).

"(c) LIMITATION ON MAXIMUM CREDIT.—

"(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

"(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

"(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

"(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).

"(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) SPECIAL RULES.—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) TERMINATION.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.".

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending before January 1, 2003.".

(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the energy efficient appliance credit determined under section 45H(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45H. Energy efficient appliance credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2002, in taxable years ending after such date.

SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year, "(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in subsection (d)(1),

"(B) $2,000 for property described in subsection (d)(2),

"(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),

"(D) $2,000 for property described in subsection (d)(5), and

"(E) for property described in subsection (d)(6)—

"(i) $75 for each electric heat pump water heater,

"(ii) $250 for each electric heat pump,

"(iii) $500 for each natural gas heat pump,

"(iv) $250 for each central air conditioner,

"(v) $75 for each natural gas water heater, and

"(vi) $250 for each geothermal heat pump.

"(2) Safety certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Qualified solar water heating property expenditure.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) Qualified photovoltaic property expenditure.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

"(3) Solar panels.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) Qualified fuel cell property expenditure.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

"(5) Qualified wind energy property expenditure.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

"(6) Qualified tier 2 energy efficient building property expenditure.—

"(A) In general.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) Tier 2 energy efficient building property.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(iii) a natural gas heat pump which has a coefficient of performance of at least 1.25 for heating and of at least 0.70 for cooling,

"(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

"(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

"(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) Labor costs.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) Swimming pools, etc., used as storage medium.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) Condominiums.—

"(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) Condominium management association.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) Allocation in certain cases.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) When expenditure made; amount of expenditure.—

"(A) In general.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) Expenditures part of building construction.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) Amount.—The amount of any expenditure shall be the cost thereof.

"(6) Property financed by subsidized energy financing.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) Basis Adjustments.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) Termination.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) Limitation based on amount of tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) Conforming amendments.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(h) is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) Additional Conforming Amendments.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking "section 1400C" and inserting "sections 25C and 1400C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ", 25C," after "sections 23".

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting "and section 25C" after "this section".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property,".

(b) Qualified Fuel Cell Property.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Qualified fuel cell property.—For purposes of this subsection—

"(A) In general.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(i) generates at least 1 kilowatt of electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent.

"(B) Limitation.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(i) 30 percent of the basis of such property, or

"(ii) $1,000 for each kilowatt of capacity of such property.

"(C) Fuel cell power plant.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

"(D) Termination.—Such term shall not include any property placed in service after December 31, 2007.".

(c) Limitation.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) In general.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) Conforming Amendments.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in paragraph (4)(B)," before "the energy".

(e) Effective Date.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 2105. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) In General.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) In General.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

"(b) Maximum Amount of Deduction.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) Year Deduction Allowed.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

"(d) Energy Efficient Commercial Building Property Expenditures.—For purposes of this section—

"(1) In general.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1-1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) Energy efficient commercial building property.—For purposes of paragraph (1)—

"(A) In general.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1-1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

"(B) Methods of calculation.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

"(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

"(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

"(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

"(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1-1999, or

"(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

"(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

"(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

"(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

"(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

"(I) Natural ventilation.

"(II) Evaporative cooling.

"(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

"(IV) Daylighting.

"(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

"(VI) Improved fan system efficiency, including reductions in static pressure.

"(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

"(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

"(C) COMPUTER SOFTWARE.—

"(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

"(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

"(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) CERTIFICATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

"(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

"(2) the construction of which is not completed on or before December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179B(e).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2002.

SEC. 2106. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

"(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

"(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any tangible property to which section 168 applies if such property is a meter or metering device—

"(1) which is acquired and used by the taxpayer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals, and

"(2) which permits reading of energy price and usage signals on at least a daily basis.

"(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

"(e) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting ", 179B, or 179C".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 179C(e)(1).".

(4) Section 1245(a), as amended by this Act, is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for qualified new or retrofitted energy management devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2107. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) In General.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) Definition of Qualified Energy Management Device.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

"(15) Qualified energy management device.—The term 'qualified energy management device' means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2108. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) Combined Heat and Power System Property.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Combined heat and power system property.—For purposes of this subsection—

"(A) Combined heat and power system property.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy, and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

"(v) which is placed in service after December 31, 2002, and before January 1, 2007.

"(B) Special rules.—

"(i) Energy efficiency percentage.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

"(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(II) the denominator of which is the lower heating value of the primary fuel source for the system.

"(ii) Determinations made on btu basis.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

"(iii) Input and output property not included.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(iv) Public utility property.—

"(I) Accounting rule for public utility property.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(II) Certain exception not to apply.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

"(C) Extension of depreciation recovery period.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.".

(c) No Carryback of Energy Credit Before Effective Date.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) No carryback of energy credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before January 1, 2003.".

(d) Conforming Amendments.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2002, in taxable years ending after such date.

SEC. 2109. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed by this section with respect to a dwelling shall not exceed **$300**.

"(2) Prior credit amounts for taxpayer on same dwelling taken into account.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Qualified Energy Efficiency Improvements.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(1) such component or combination of measures is installed in or on a dwelling—

"(A) located in the United States, and

"(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component or combination of measures commences with the taxpayer, and

"(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) Certification.—

"(1) Methods of certification.—

"(A) Component-based method.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) Performance-based method.—

"(i) In general.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) Computer software.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) Provider.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) Form.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) Regulations.—

"(A) In general.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(f) Definitions and Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) Condominiums.—

"(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) Condominium management association.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) Building envelope component.—The term 'building envelope component' means—

"(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) Manufactured homes included.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) Application of Section.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.".

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) Limitation based on amount of tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) Conforming amendments.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) Additional Conforming Amendments.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25D," after "sections 25C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25D," after "25C,".

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting "; and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

TITLE XXII—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 2201. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) Credit for Production From a Qualifying Clean Coal Technology Unit.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) General Rule.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) Applicable Amount.—

"(1) In general.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) Inflation adjustment.—For calendar years after 2003, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualifying clean coal technology unit.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

"(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

"(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

"(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) Clean coal technology unit.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

"(B) uses coal to produce 75 percent or more of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) Pollution control requirements.—

"(A) In general.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) Specific levels.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) Design net heat rate.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate X [1- {((12,000-design coal heat content, Btu per pound)/1,000) X 0.013}], and

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63°F,

"(iv) temperature, wet bulb of 54°F, and

"(v) relative humidity of 55 percent.

"(5) HHV.—The term 'HHV' means higher heating value.

"(6) Application of certain rules.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(7) Inflation adjustment factor.—

"(A) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

"(B) GDP implicit price deflator.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

"(8) Noncompliance with pollution laws.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) National Limitation on the Aggregate Capacity of Qualifying Clean Coal Technology Units.—

"(1) In general.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection,

"(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance be placed in service as soon as possible,

"(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) Credit Treated as Business Credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the qualifying clean coal technology production credit determined under section 45I(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) No carryback of section 45I credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of section 45I.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45I. Credit for production from a qualifying clean coal technology unit.".

(e) Effective Date.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 2211. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) Allowance of Qualifying Advanced Clean Coal Technology Unit Credit.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying advanced clean coal technology unit credit.".

(b) Amount of Qualifying Advanced Clean Coal Technology Unit Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) In General.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) Qualifying Advanced Clean Coal Technology Unit.—

"(1) In general.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

"(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(ii) which is acquired through purchase (as defined by section 179(d)(2)),

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) Special rule for sale-leasebacks.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) Noncompliance with pollution laws.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) Advanced Clean Coal Technology Unit.—For purposes of this section—

"(1) In general.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) Eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

"(3) Eligible pressurized fluidized bed combustion technology unit.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

"(4) Eligible integrated gasification combined cycle technology unit.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

"(5) Eligible other technology unit.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(6) Carbon emission rate requirements.—

"(A) In general.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) Eligible other technology unit.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) General Definitions.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

"(f) National Limitation on the Aggregate Capacity of Advanced Clean Coal Technology Units.—

"(1) In general.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45J, "(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45I(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of section 48A.".

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting "(2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 2212. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

"(A) In the case of a unit originally placed in service before 2009, if—

“The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	$.0060	$.0038
More than 8,400 but not more than 8,550	$.0025	$.0010
More than 8,550 but less than 8,750	$.0010	$.0010.

“(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

“The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,350	$.0075	$.0055.

“(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

“The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

“(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

“(A) In the case of a unit originally placed in service before 2009, if—

“The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0060	$.0038
Less than 40.6 but not less than 40 percent	$.0025	$.0010
Less than 40 but not less than 39 percent	$.0010	$.0010.

“(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

“The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent	$.0105	$.0090
Less than 43.6 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.9 percent	$.0075	$.0055.

“(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

“The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent	$.0120	$.0090.

"(c) INFLATION ADJUSTMENT.—For calendar years after 2003, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of section 45J.".

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 2221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

"(1) ALLOWANCE OF CREDITS.—

"(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) TRANSFER OF CREDIT.—

"(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) USE BY TVA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIII—OIL AND GAS PROVISIONS

SEC. 2301. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

"(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2001' for '1990').

"(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

"(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

"(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) PROPORTIONATE REDUCTIONS.—

"(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) DEFINITIONS.—

"(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

"(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the marginal oil and gas well production credit determined under section 45K(a).".

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of section 45K.".

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. Credit for producing oil and gas from marginal wells.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 2302. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

"(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) .... 10".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2303. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

"SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) TREATMENT AS EXPENSE.—

"(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

"(2) LIMITATION.—

"(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

"(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

"(A) are otherwise chargeable to capital account, and

"(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

"(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

"(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

"(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179D.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179C" each place it appears in the heading and text and inserting ", 179C, or 179D".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 179D(d).".

(5) Section 1245(a), as amended by this Act, is amended by inserting "179D," after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

"Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2304. ENVIRONMENTAL TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENVIRONMENTAL TAX CREDIT.

"(a) In General.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.

"(b) Maximum Credit.—

"(1) In general.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

"(2) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

"(B) Reduced percentage.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

"(c) Definitions.—For purposes of this section—

"(1) In general.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.

"(2) Applicable period.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

"(3) Applicable EPA regulations.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

"(d) Certification.—

"(1) Required.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to qualified capital costs paid or incurred with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) Contents of application.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) Review period.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) Statute of limitations.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(e) Controlled Groups.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(f) Cooperative Organizations.—

"(1) Apportionment of credit.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

"(2) Treatment of organizations and patrons.—

"(A) Organizations.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) Patrons.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.".

(b) Credit Made Part of General Business Credit.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).".

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:

"(e) Environmental Tax Credit.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Environmental tax credit.".

(e) Effective Date.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2305. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) In General.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2306. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by section 607(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2007".

SEC. 2307. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.

"A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred.".

(b) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells.".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2002.

SEC. 2308. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.

"(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.".

"(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 2309. STUDY OF COAL BED METHANE.

(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane. Such study shall be made in conjunction with the study to be undertaken by the Secretary of the Interior on the effects of coal bed methane production on surface and water resources, as provided in section 607 of the Energy Policy Act of 2002.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 2310. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

"(h) EXTENSION FOR OTHER FACILITIES.—

"(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) FACILITIES PRODUCING REFINED COAL.—

"(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

"(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) COVERED FACILITIES.—

"(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2002.

"(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

"(3) WELLS PRODUCING VISCOUS OIL.—

"(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.

"(B) VISCOUS OIL.—The term "viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) COALMINE METHANE GAS.—

"(A) IN GENERAL.—This section shall apply to coalmine methane gas—

"(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

"(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—

"(i) liberated during qualified coal mining operations, or

"(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

"(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

"(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

"(5) CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act.

SEC. 2311. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting ", and", and by adding at the end the following new clause:

"(iv) any natural gas distribution line.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .... 20".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 2401. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.

(a) ONGOING STUDY.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from non-tax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) REGULATORY RELIEF.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary's authority, as appropriate, to modify or suspend regulations that may impede an electric utility company's ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) REPORTS.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2002, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report.

Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

SEC. 2402. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Clarification of Treatment of Fund Transfers.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

"(8) Treatment of fund transfers.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.".

(c) Deduction for Nuclear Decommissioning Costs When Paid.—Paragraph (2) of section 468A(c) is amended to read as follows:

"(2) Deduction of nuclear decommissioning costs.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2403. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) Income From Open Access and Nuclear Decommissioning Transactions.—

(1) In general.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) Definitions and special rules.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) Treatment of Income From Load Loss Transactions.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) Exception From Unrelated Business Taxable Income.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

"(c) CROSS REFERENCE.—

"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE XXV—ADDITIONAL PROVISIONS

SEC. 2501. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2005".

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2005".

SEC. 2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2002, and annually thereafter.

SA 3827. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 10 and 11, insert the following:

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

SA 3288. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 532, between lines 7 and 8, insert the following:

SEC. 1385. AIR QUALITY FORECASTS AND WARNINGS BY NOAA.

(a) REQUIREMENT FOR FORECASTS AND WARNINGS.—The Secretary of Commerce shall require the Administrator of the National Oceanic and Atmospheric Administration to issue air quality forecasts and air quality warnings as a mission of that agency.

(b) REGIONAL WARNINGS.—In carrying out subsection (a), the Secretary of Commerce shall establish within the National Oceanic and Atmospheric Administration a program to provide region-oriented forecasts and warnings regarding air quality for each of the following regions of the United States:

(1) The Northeast, composed of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, and West Virginia.

(2) The Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida.

(3) The South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas.

(4) The Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan.

(5) The High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas.

(6) The Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming.

(7) The Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico.

(8) Alaska.

(9) Hawaii.

(c) PRIORITY AREA.—The Secretary shall give the highest priority under the program to providing forecasts and warnings regarding air quality within the New England area of the Northeast.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts authorized to be appropriated in section 1384, there are authorized to be appropriated to the Department of Commerce $5,000,000 for each of fiscal years 2002 through 2005 specifically for carrying out the program required under subsection (b) for the Northeast in accordance with the priority established under subsection (c). In addition, there are authorized to be appropriated such sums as may be necessary under this section.

SA 3289. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 510, between lines 4 and 5, insert the following:

SEC. 1348. NEW ENGLAND AIR QUALITY STUDY.

(a) REQUIREMENT FOR STUDY.—The Secretary of Commerce shall carry out a study of the quality of the air within the New England region of the United States.

(b) PURPOSES.—In carrying out the study, the Secretary shall—

(1) determine and assess the effects of transcontinental air flow on the quality of the air in and around the New England region;

(2) determine and assess the effects of naturally occurring emissions on the quality of the air in the New England region, including the quality of the air in selected localities within the region; and

(3) determine, analyze, and quantify the production of ozone and fine particulate pollution through chemical reactions in the atmosphere within the New England region.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce to carry out the study under this section $3,000,000 for each of fiscal years 2002 through 2006.

SA 3290. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title V of the amendment, add the following section:

SEC. 514. CLARIFICATION OF CERTAIN REGULATORY AUTHORITY REGARDING URANIUM AND THORIUM.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting before the period at the end of section 276(a): ", nor shall any such provision be construed to prohibit or otherwise restrict the authority of any state to regulate, on the basis of radiological hazard, uranium or thorium mill tailings, regardless of origin, that the Commission has determined are outside the statutory authority of the Commission or that the Commission has exempted from regulation by rule".

SA 3291. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 144, line 11, strike " in subparagraph (B)(i)(II)" and insert "in subparagraphs (B)(i)(II) and (C)".

On page 146, between lines 9 and 10, insert the following:

"(C) EXEMPTION FOR CERTAIN PADDS.—During calendar years 2003 through 2005, subparagraphs (A) and (B) shall not apply to any refiner, blender, or importer located in Petroleum Administration for Defense District I or Petroleum Administration for Defense District V.".

SA 3292. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table as follows:

On page 146, between lines 9 and 10, insert the following:

"(C) EXEMPTION FOR CERTAIN PADDS.—During calendar years 2003 through 2005, subparagraphs (A) and (B) shall not apply to any refiner, blender, or importer located in Petroleum Administration for Defense District I or Petroleum Administration for Defense District V.".

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent floor privileges be granted to Brandon Hirsch for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002

On April 18, 2002, the Senate amended and passed H.R. 3525, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3525) entitled "An Act to enhance the border security of the United States, and for other purposes.", do pass with the following amendments:

(1)Page 2, line 4, strike out [2001] and insert: *2002*

(2)Page 2, in the table of contents, after the item which reads

"Sec. 203 Commission on interoperable data sharing."

insert:

Sec. 204. Personnel management authorities for positions involved in the development and implementation of the interoperable electronic data system ("Chimera system").

Sec. 205. Procurement of equipment and services for the development and implementation of the interoperable electronic data system ("Chimera system").

(3)Page 2, in the table of contents, strike out

[TITLE IV—ADMISSION AND INSPECTION OF ALIENS]

and insert:

"TITLE IV—INSPECTION AND ADMISSION OF ALIENS"

(4)Page 2, in the table of contents, after the item which reads

"Sec. 403. Time period for inspections."

insert:

Sec. 404. Joint United States-Canada projects for alternative inspections services.

(5)Page 3, after line 15, insert:

(3) CHIMERA SYSTEM.—The term "Chimera system" means the interoperable electronic data system required to be developed and implemented by section 202(a)(2).

(6)Page 3, line 16, strike out [(3)] and insert: *(4)*

(7)Page 4, line 15, strike out [(4)] and insert: *(5)*

(8)Page 4, line 19, strike out [(5)] and insert: *(6)*

(9)Page 5, line 4, strike out [(6)] and insert: *(7)*

(10)Page 5, line 16, strike out [2002] and insert: *2003*

(11)Page 6, line 1, strike out [2002] and insert: *2003*

(12)Page 6, strike out lines 17 through 20

(13)Page 6, line 21, strike out [(c)] and insert: *(b)*

(14)Page 7, line 2, after "pay" insert: *effective October 1, 2002*

(15)Page 8, line 1, strike out [(d)] and insert: *(c)*

(16)Page 8, line 10, strike out [and]

(17)Page 8, line 21, strike out [(e)] and insert: *(d)*

(18)Page 15, line 11, strike out [one year] and insert: *15 months*

(19)Page 15, line 13, strike out [six months] and insert: *one year*

(20)Page 16, line 12, after "alien" insert: *(also known as the "Chimera system")*

(21)Page 20, line 13, after "about" insert: *the*

(22)Page 21, line 7, after "of" insert: *Central*

(23)Page 22, line 2, strike out [in this title] and insert: *in section 202*

(24)Page 22, line 24, strike out [against]

(25)Page 23, after line 14, insert:

SEC. 204. PERSONNEL MANAGEMENT AUTHORITIES FOR POSITIONS INVOLVED IN THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM ("CHIMERA SYSTEM").

(a) IN GENERAL.—Notwithstanding any other provision of law relating to position classification or employee pay or performance, the Attorney General may hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the "Chimera system").

(b) LIMITATION ON RATE OF PAY.—Except as otherwise provided by law, no employee compensated under subsection (a) may be paid at a rate in excess of the rate payable for a position at level III of the Executive Schedule.

(c) LIMITATION ON TOTAL CALENDAR YEAR PAYMENTS.—Total payments to employees under any system established under this section shall be subject to the limitation on payments to employees under section 5307 of title 5, United States Code.

(d) OPERATING PLAN.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on Appropriations, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives an operating plan—

(1) describing the Attorney General's intended use of the authority under this section; and

(2) identifying any provisions of title 5, United States Code, being waived for purposes of the development and implementation of the Chimera system.

(e) TERMINATION DATE.—The authority of this section shall terminate upon the implementation of the Chimera system.

SEC. 205. PROCUREMENT OF EQUIPMENT AND SERVICES FOR THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM ("CHIMERA SYSTEM").

(a) EXEMPTION FROM APPLICABLE FEDERAL ACQUISITION RULES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the "Chimera system"), the Attorney General may use any funds available for the Chimera system to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support interagency information sharing under this title;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect interagency information sharing under this title.

(2) DEFINITION.—In this subsection, the term "Federal acquisition rule" means any provision of title III or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency of the Federal Government.

(b) NOTIFICATION OF CONGRESSIONAL APPROPRIATIONS COMMITTEES.—The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

(26)Page 23, line 25, strike out [an alien] and insert: *each alien*

(27)Page 24, line 16, strike out [202(a)(3)(B)] and insert: *202(a)(4)(B)*

(28)Page 25, line 21, strike out [October 26, 2003] and insert: *October 26, 2004*

(29)Page 26, line 2, after "comparison" insert: *and authentication*

(30)Page 26, line 5, strike out [each report] and insert: *the report required by that paragraph*

(31)Page 26, lines 12 and 13, strike out [October 26, 2003] and insert: *October 26, 2004*

(32)Page 26, line 15, after "visas and" insert: *other*

(33)Page 26, line 18, after "tablish" insert: *document authentication standards and*

(34)Page 26, line 19, after "visas and" insert: *other*

(35)Page 26, lines 24 and 25, strike out [October 26, 2003] and insert: *October 26, 2004*

(36)Page 27, line 3, after "comparison" insert: *and authentication*

(37)Page 27, line 4, after "visas and" insert: *other*

(38)Page 27, line 13, strike out [and]

(39)Page 27, line 16, strike out [(c)(1).] and insert: *(c)(1); and*

(40)Page 27, after line 16, insert:

(iii) can authenticate the document presented to verify identity.

(41)Page 27, line 22, strike out [202(a)(3)(B)] and insert: *202(a)(4)(B)*

(42)Page 28, line 2, strike out [October 26, 2003] and insert: *October 26, 2004*

(43)Page 28, line 9, strike out all after "biometric" down to and including "identifiers" in line 10 and insert: *and document authentication identifiers that comply with applicable biometric and document identifying*

(44)Page 28, line 16, strike out [October 26, 2003] and insert: *October 26, 2004*

(45)Page 28, line 17, after "program" insert: *under section 217 of the Immigration and Nationality Act*

(46) Page 29, line 4, after "mission" insert: *to a foreign country*

(47) Page 29, line 23, strike out [The committee] and insert: *Each committee established under subsection (a)*

(48) Page 30, line 1, strike out [PERIODIC REPORTS] and insert: *PERIODIC REPORTS TO THE SECRETARY OF STATE*

(49) Page 30, line 1, strike out [The committee] and insert: *Each committee established under subsection (a)*

(50) Page 30, line 2, strike out [quarterly] and insert: *monthly*

(51) Page 30, line 5, strike out [quarter] and insert: *month*

(52) Page 30, after line 5, insert:

(f) REPORTS TO CONGRESS.—The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a).

(53) Page 30, line 6, strike out [(f)] and insert: *(g)*

(54) Page 32, strike out all after line 22 over to and including line 5 on page 33 and insert:

(a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by adding at the end of subsection (c)(2) the following new subparagraph:

"(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country."; and

(2) in subsection (c)(5)(A)(i), by striking "5 years" and inserting "2 years"; and

(3) by adding at the end of subsection (f) the following new paragraph:

"(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.".

(55) Page 35, strike out lines 1 and 2 and insert:

TITLE IV—INSPECTION AND ADMISSION OF ALIENS

(56) Page 35, line 10, strike out all after "the" down to and including "(a)" in line 11 and insert: *President*

(57) Page 37, line 2, strike out [(i)] and insert: *(j)*

(58) Page 37, strike out lines 3 and 4 and insert:

(3) by striking "SEC. 231." and inserting the following:

"SEC. 231. (a) ARRIVAL MANIFESTS.—For

(59) Page 37, lines 9 and 10, strike out [an immigration officer] and insert: *any United States border officer (as defined in subsection (i))*

(60) Page 37, line 19, strike out [an immigration officer] and insert: *any United States border officer (as defined in subsection (i))*

(61) Page 39, line 9, strike out [that] and insert: *that,*

(62) Page 39, lines 9 and 10, strike out [, aircraft, or land carriers] and insert: *or aircraft*

(63) Page 39, line 25, strike out [$300] and insert: *$1,000*

(64) Page 40, line 5, strike out [, aircraft, or land carrier] and insert: *or aircraft*

(65) Page 40, line 16, strike out [prescribe.".] and insert: *prescribe.*

(66) Page 40, after line 16, insert:

"(i) UNITED STATES BORDER OFFICER DEFINED.—In this section, the term 'United States border officer' means, with respect to a particular port of entry into the United States, any United States official who is performing duties at that port of entry.".

(67) Page 40, line 17, strike out all after "CARRIERS.—" down to and including "the " the second time it appears in line 18 and insert:

(1) STUDY.—The

(68) Page 41, after line 2, insert:

(2) REPORT.—Not later than two years after the date of enactment of this Act, the President shall submit to Congress a report setting forth the findings of the study conducted under paragraph (1).

(69) Page 41, after line 22, insert:

SEC. 404. JOINT UNITED STATES-CANADA PROJECTS FOR ALTERNATIVE INSPECTIONS SERVICES.

(a) IN GENERAL.—United States border inspections agencies, including the Immigration and Naturalization Service, acting jointly and under an agreement of cooperation with the Government of Canada, may conduct joint United States-Canada inspections projects on the international border between the two countries. Each such project may provide alternative inspections services and shall undertake to harmonize the criteria for inspections applied by the two countries in implementing those projects.

(b) ANNUAL REPORT.—The Attorney General and the Secretary of the Treasury shall prepare and submit annually to Congress a report on the joint United States-Canada inspections projects conducted under subsection (a).

(c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT AND PAPERWORK REDUCTION ACT.—Subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedure Act") and chapter 35 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act") shall not apply to fee setting for services and other administrative requirements relating to projects described in subsection (a), except that fees and forms established for such projects shall be published as a notice in the Federal Register.

(70) Page 48, line 16, strike out [or] and insert: *and*

(71) Page 49, line 4, strike out all after "COMPLIANCE.—" down to and including "reviews" in line 7 and insert: *Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review*

(72) Page 49, line 22, strike out all after "REVIEWS.—" down to and including "reviews" in line 23 and insert: *Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review*

(73) Page 50, line 16, strike out [(c) EFFECT OF FAILURE TO COMPLY.—Failure] and insert: *(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure*

(74) Page 50, line 24, strike out all after "1372)," over to and including "be." in line 5 on page 51 and insert: *shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.*

(75) Page 54, lines 24 and 25, strike out [proceeding] and insert: *proceedings*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 774, 775, and 782 through 787; that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that any statements relating to the nominations be printed in the Record; and that the Senate return to legislative session, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Debra W. Yang, of California, to be United States Attorney for the Central District of California for a term of four years.

Frank DeArmon Whitney, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for a term of four years.

EXECUTIVE OFFICE OF THE PRESIDENT

Barry D. Crane, of Virginia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Mary Ann Solberg, of Michigan, to be Deputy Director of National Drug Control Policy.

COAST GUARD

The following named officer for appointment as Chief of Staff of the United States Coast Guard under Title 14, U.S.C., Section 50a:

To be chief of staff

Vice Adm. Thad W. Allen, 3199

The following named officer for appointment as Vice Commandant of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 47:

To be vice admiral

Rear Adm. Thomas J. Barrett, 7105

The following named officer for appointment as Commander, Atlantic Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 50:

To be vice admiral

Rear Adm. James D. Hull, 9426

The following named officer for appointment as Commander, Pacific Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 50:

To be vice admiral

Rear Adm. Terry M. Cross, 4308

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DISCHARGE AND REFERRAL—S. 1644

Mr. REID. Mr. President, I ask unanimous consent that S. 1644, the Veterans Memorial Preservation Recognition Act of 2001, be discharged from the Veterans Affairs Committee and that measure then be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, APRIL 23, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow at 10:30 a.m., Tuesday, April 23; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that at 11:30 a.m. the Senate resume consideration of the energy reform bill and vote on cloture on the Daschle-Bingaman substitute amendment; further, that the Senators have until 11 a.m. on Tuesday to file second-degree amendments to the energy reform bill; and that the Senate recess from 12:30 to 2:15 p.m. tomorrow for their weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:56 p.m., adjourned until Tuesday, April 23, 2002, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 22, 2002:

DEPARTMENT OF DEFENSE

THOMAS FORREST HALL, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE DEBORAH ROCHE LEE, RESIGNED.

NATIONAL INSTITUTE FOR LITERACY

MARK G. YUDOF, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF TWO YEARS. (NEW POSITION)

CAROL C. GAMBILL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF THREE YEARS. (NEW POSITION)

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MICHAEL F. DUFFY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2006, VICE JAMES CHARLES RILEY.

DEPARTMENT OF JUSTICE

G. WAYNE PIKE, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS, VICE LARRY REED MATTOX, TERM EXPIRED.

THE JUDICIARY

JAMES KNOLL GARDNER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE JAN E. DUBOIS, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) VIVIEN S. CREA, 9704
REAR ADM. (LH) ROBERT F. DUNCAN, 3843
REAR ADM. (LH) KEVIN J. ELDRIDGE, 5421
REAR ADM. (LH) THOMAS J. GILMOUR, 0516
REAR ADM. (LH) JEFFREY J. HATHAWAY, 9612
REAR ADM. (LH) CHARLES D. WURSTER, 3540

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL THOMAS P. MAGUIRE JR., 5939

To be brigadier general

COLONEL LARITA A. ARAGON, 1042
COLONEL ROBERT B. BAILEY, 8474
COLONEL TOD M. BUNTING, 3552
COLONEL LAWRENCE J. CERFOGLIO, 1952
COLONEL EUGENE R. CHOJNACKI, 3930
COLONEL THORNE A. DAVIS, 7660
COLONEL ALLEN R. DEHNERT, 7273
COLONEL DANA B. DEMAND, 3810
COLONEL R. ANTHONY HAYNES, 6893
COLONEL STANLEY J. JAWORSKI JR., 3640
COLONEL DOUGLAS M. PIERCE, 9562
COLONEL RILEY P. PORTER, 8822
COLONEL RICHARD L. RAYBURN, 0291
COLONEL TIMOTHY R. RUSH, 5351
COLONEL RONALD L. SHULTZ, 1008
COLONEL JOHN M. WHITE, 5135

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MICHAEL A. DUNN, 8908
COL. ERIC B. SCHOOMAKER, 8284

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES E. CARTWRIGHT, 5961

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. WALTER F. DORAN, 4942

CONFIRMATIONS

Executive Nominations Confirmed by the Senate April 22, 2002:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 50A:

To be chief of staff

VICE ADM. THAD W. ALLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

To be vice admiral

REAR ADM. THOMAS J. BARRETT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

To be vice admiral

REAR ADM. JAMES D. HULL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

To be vice admiral

REAR ADM. TERRY M. CROSS

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

DEBRA W. YANG, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS.

FRANK DEARMON WHITNEY, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR A TERM OF FOUR YEARS.

EXECUTIVE OFFICE OF THE PRESIDENT

BARRY D. CRANE, OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

MARY ANN SOLBERG, OF MICHIGAN, TO BE DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. CLEMENT. Mr. Speaker, on rollcall No. 103, had I been present, I would have voted "yea.".

IN RECOGNITION OF THE LOWER EAST SIDE PEOPLE'S FEDERAL CREDIT UNION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mrs. MALONEY of New York. Mr. Speaker, I rise to pay tribute to the Lower East Side People's Federal Credit Union (LESPFCU) in New York City. The Lower East Side People's Federal Credit Union has been such a vibrant part of the community in which I live and represent. It is a pleasure to pay tribute to this illustrious organization.

The Lower East Side People's Federal Credit Union is a federally-chartered and regulated nonprofit community development credit union for low and moderate income people on the New York City Lower East Side. The LESPFCU reinvests members' money in the Lower East Side to provide a full range of personal and affordable financial services to the community.

The LESPFCU was created as a result of intense grass-roots community organizing against the 1984 closing of the last commercial bank in the neighborhood and was chartered in 1986 by the National Credit Union Administration. LESPFCU's mission has since remained unchanged: to encourage saving and make loans that contribute to the individual, commercial, and housing development needs of this low-income community.

LESPFCU offers full-service in both Spanish and English and serves close to 10,000 area residents, who otherwise are not served by any commercial banks. The LESPFCU has reinvested over $5.7 million in loans in the community, contributing to the overall development of the Lower East Side. The LESPFCU is presently in the process of creating a microenterprise development program which, through a combination of business training and small loans, will promote job creation and support small entrepreneurs in their community.

In February of 2002, the Lower East Side People's Federal Credit Union opened a new ATM location on Avenue C between 8th and 9th Street, making it the first financial institution to establish a presence on Avenue C since the 1960s. Like its first branch ATM located at 3rd Street and Avenue B, the new ATM is open 24 hours, handicapped accessible, free for members of the credit union and Co-op Network cardholders, and offers all other users a low surcharge of only one dollar. Now LESPFCU members have access to 6 free ATMs in the Lower East Side.

Mr. Speaker, I salute the Lower East Side People's Federal Credit Union and I ask my fellow Members of Congress to join me in recognizing the great contributions of this tremendously dedicated community organization.

RECOGNIZING THE VATICAN EXHIBIT FOUNDATION

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. COMBEST. Mr. Speaker, I rise today to recognize Father Malcolm Neyland and the Vatican Exhibit Foundation, Mr. Gary Edson and the Museum at Texas Tech University, and the countless local and community leaders who have made the distant dream of the Vatican Exhibit 2002 become a reality. Because of their dedication and relentless efforts, a priceless collection of frescoes will be transported from the Vatican Museum in Rome, to the Museum of Texas Tech University in Lubbock, Texas.

Preparations for this exhibit began over fourteen years ago. Father Neyland made a series of trips to the Vatican City and after continuous hard work, he successfully convinced Vatican Museum officials to allow the frescoes to be exhibited in Lubbock. Since that time, he and many others have spent literally years making arrangements for this historical exhibit.

The Vatican Exhibit will open on June 2, 2002 and will continue until September 15th. The exhibit features 31 medieval frescoes created by master painters of the Roman School during the 12th and 13th centuries. The frescoes originally adorned the walls of the Basilica of St. Agnese and St. Nicola. As the church was renovated throughout the years, the frescoes were removed and placed in storage in the Vatican. They were recently removed from storage and restored to their original brilliance. This will be the first time the frescoes have left Rome and, once this exhibit is over, they will be returned directly to the Vatican Museums. In addition to the frescoes, the exhibit will feature other rare art from museums in Texas and paintings, sculptures and religious artifacts from the Museo Franz Mayer, the Biblioteca, and the Condumex in Mexico City. This is an unprecedented opportunity for Americans to view a variety of artifacts that have contributed to the shaping of our society and the formation of Christian beliefs.

Mr. Speaker, it is my distinct honor and pleasure today to express my thanks to the Vatican Exhibit Foundation and the many community leaders whose efforts brought this amazing exhibit to West Texas and the rest of America. Thanks to these individuals, thousands of people will now have the once-in-a-lifetime opportunity to experience magnificent artwork from the Vatican Museum.

INTRODUCTION OF LEGISLATION TO RENAME THE POST OFFICE IN LAKE LINDEN, MICHIGAN, AFTER THE HONORABLE PHILIP E. RUPPE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. CAMP. Mr. Speaker, today I rise to pay much deserved tribute to former Congressman Philip Edward Ruppe, who ably represented the people of northern Michigan in Congress for over a decade.

This bill, introduced by Representative BART STUPAK, designates the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building." I am pleased to report to my colleagues that the entire Michigan House delegation has signed on as original cosponsors of the measure.

Congressman Ruppe, whose family has lived in northern Michigan since the late 19th Century, was born in Laurium, Michigan on September 29, 1926. He is not only an active civic leader but also a businessman, actively involved in the community, and a veteran, who served his country as a lieutenant in the United States Navy during the Korean conflict.

In 1966, Congressman Ruppe was elected by the people of northern Michigan to serve in the 90th Congress. He served his constituents faithfully until January 3, 1979. As a member of the Merchant Marine and Fisheries Committee as well as the Interior and Insular Affairs Committee, Congressman Ruppe was able to devote much of his focus to the specific needs of northern Michigan. Congressman Ruppe demonstrated his devotion to his constituents by becoming the first Congressman from the district to operate district offices.

Congressman Ruppe has dedicated his life to serving his community and his country. He is an example of everything that is good and decent in public service and this institution. Naming the post office in Lake Linden, Michigan is just one way we can pay tribute to this fine man and I urge support for the bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. CLEMENT. Mr. Speaker, on rollcall No. 97 had I been present, I would have voted "yea."

PALESTINIANS DESERVE BETTER LEADERS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. LANTOS. Mr. Speaker, today, Israel is engaged in a struggle against violence and terror. Suicide bombings promoted and abetted by Yasser Arafat and his Palestinian Authority have ravaged Israeli cities and towns killing scores of innocent Israeli men, women and children. Arafat's refusal to denounce—persistently, convincingly and in Arabic—these atrocious suicide bombings is indicative of a man who has no interest in a cease-fire, much less a lasting peace settlement. Palestinians are sadly ill-served by irresponsible leaders who advocate violence and homicide instead of peace.

I would like to call to your attention an article that appeared in the Wall Street Journal on April 11, 2002 by Tarek E. Masoud, a graduate student at Yale University. His points are accurate and relevant to the current crisis.

Mr. Speaker, I urge my colleagues to read Tarek E. Masoud's thought-provoking article, and I ask that the text be placed in the RECORD.

[From the Wall Street Journal, Apr. 11, 2001]

PALESTINIANS DESERVE BETTER LEADERS

(By Tarek E. Masoud)

Those of us who watched Palestinian kids throw stones at Israeli soldiers and tanks during the intifada of the late 1980s find it hard to reconcile those images of bravery and daring with the current wave of atrocities carried out in the name of Palestine. The stone-throwing youths of the first intifada made it easy for reasonable people (who always saw Yasser Arafat for the terrorist that he was) to get behind the Palestinian cause. Today, when Palestine has become synonymous with the murder of innocents, supporting the cause is not so easy. One constantly has to separate the justness of the cause from the injustice of the acts carried out in its name. It is a near impossible feat of mental acrobatics.

What disturbs me is the degree to which many supporters of Palestinian statehood do not even attempt it. They issue pro forma denunciations of suicide bombing, and then go on to offer justifications. The Palestinians, they tell us, are frustrated by their lack of freedom, by the erosion of the dignity by an Israel that places settlers on their land and soldiers outside their homes. They are a people with their backs against the wall. After 50 years of occupation, we are told, the Palestinians have thrown their hands in the air and declared, quite literally, Give me liberty or give me death.

But of course, as Thomas Friedman and others have pointed out, the choice before the Palestinians is not between liberty and death. Israel's leaders long ago accepted the logic of a Palestinian state; they put forward proposals for what that state would look like, and they haggled with the Palestinians over these proposals. Whatever one wants to say about the quality of Israeli proposals or the personal commitment of Ariel Sharon to a Palestinian state—and I happen to think both were fairly low—surely the Palestinians were not in a hopeless situation, the kind of situation which, we are told, causes sane men and women to fall into murder and suicide?

And, even if the situation were hopeless, if all the options were exhausted, is there ever a justification for the murder of innocent civilians? The philosopher Michael Walzer recently argued that those who claim to have tried everything before resorting to terror are lying to us and to themselves. He asks, "What exactly did they try when they were trying everything?" There's always something else you can do short of killing.

But many of the most vocal supporters of the Palestinian cause would rather not address these moral issues. Instead they want only to criticize Ariel Sharon. Even if you cringe, as I do, at reports of mass arrests and the bulldozing of Palestinian homes, Mr. Sharon is right about one thing: There is no difference between the murder-suicides perpetrated in the name of Palestinian statehood and Osama bin Laden's attacks on American civilians. You cannot, as many pro Palestinian groups in this country have done, denounce the latter and justify the former. Those who do invite us to question either the sincerity of their denunciations of Sept. 11 or their capacity for moral consistency.

I'm not sure where any of this leaves us. Even if the supporters of the Palestinian cause denounced suicide bombing just as vehemently as they do Mr. Sharon, we might be satisfied, but this would not stop the steady stream of volunteers for the grim work of Hamas and the al Aqsa Martyrs Brigade.

This is why I think President Bush has the right idea when he demands that Arafat condemn suicide bombing, and in Arabic. There may be little the isolated Palestinian strongman can do now to control the groups that carry out acts of terrorism. But he can tell his people that the path of murder is the path of doom, that it has only brought shame to the people of Palestine and done nothing to further their cause. Of course, we may be indulging in some wishful thinking. "General Yasser Arafat," as he called himself recently on CNN, is not likely to become a moral force. If he had any inclination to do the right thing, he would have reined in the terrorists long before Mr. Sharon was even elected.

It is by now the received wisdom that Palestinians deserve better leaders. We are offered an example of the kind of leadership they need by the esteemed British historian Martin Gilbert. In 1948, the U.N. mediator in Palestine, Count Folke Bernadotte, was assassinated by members of the Stern Gang, a Jewish militant group that included a future prime minister of Israel named Yitzhak Shamir. In the half century since then, Arabs have often pointed to the episode to justify their own acts of terror.

But what Arabs seem to forget—and what Palestinians would do well to remember—is how David Ben-Gurion, the father of modern Israel, responded to that murder carried out in the name of the Jewish state. According to Mr. Gilbert, when Ben-Gurion learned of the assassination of Count Bernadotte, he thundered: "Arrest all Stern gang leaders. Surround all Stern bases. Confiscate all arms. Kill any who resist." Yes, the Palestinians deserve better leaders. What they deserve is a David Ben-Gurion.

131ST ANNIVERSARY OF BETHEL AFRICAN METHODIST EPISCOPAL CHURCH IN POTTSTOWN, PENNSYLVANIA

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. HOEFFEL. Mr. Speaker, I rise today in celebration of the 131st anniversary of the Bethel African Methodist Episcopal Church in Pottstown, Pennsylvania. As the oldest African American congregation in the Pottstown community, the church has had a long commitment to serving the spiritual needs of the community.

The Bethel African Methodist Episcopal Church was formally established in 1871. Over the course of its long history, the church has grown and expanded as the number of members increased.

On May 20, 2001, the Reverend Vernon Ross, Jr. was officially appointed pastor of the church. Under his leadership, the church has continued to strengthen spiritually and financially. The church membership and Sunday School have continued to grow and an after school tutorial program has been initiated.

Throughout its history, Bethel African Methodist Episcopal Church has served the needs of many members. It has been successful in bringing many people together in Christian brotherhood. As one of the oldest churches in Montgomery County, it stands as a pillar of strength and prosperity in the Pottstown community. It is a privilege to recognize Bethel African Methodist Episcopal Church on their 131st anniversary.

BUSH ADMINISTRATION FAILS TO PREVENT ERGONOMIC INJURIES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, the Bush Administration's failure to promulgate rules to protect America's working men and women from the leading cause of workplace injury—musculoskeletal disorders—is disgraceful. The Congress last year unwisely repealed the ergonomics safety standard developed by the Clinton Administration after years of study by the leading medical researchers in the country. At that time, Labor Secretary Chao pledged to develop a scientifically sound standard expeditiously.

Now, more than a year later, with the findings of three major studies confirming the need for an ergonomics standard, the Bush Administration has proposed a replacement ergonomics policy that provides for no rule, but asks for voluntary compliance instead and, so far, targets only a single industry.

As a result of the Administration's dilatory and simplistic approach, millions of workers will suffer preventable injuries and disabilities, and costly lawsuits will be used to resolve individual cases of injury.

The Bush Administration's serious failure to protect our neighbors and friends who live with the pain of preventable ergonomic injuries has been the subject of extensive and justified criticism. I want to share the views of the Contra Costa Times (April 12, 2002) on the need for a sound ergonomics standard, and the failure of the Bush Administration to address the hazards that injure nearly 2 million Americans every year. (Excerpts from the editorial follow:)

SAFE JOB NOT A LOT TO ASK

The Bush Administration has let the working person down by allowing workplace rules, such as those regarding ergonomics, to become voluntary. It would be going too far for the government to mandate the brand of pens, the type of chairs, the make of computer a company must provide. That's not what safe-workplace laws are about. However, enforceable rules that protect employees and make the working environment safer are not too much to ask, and that should be law, not choice.

And that's what the administration pulled back from last week. For 10 years the nation's been improving regulations to help prevent muscular and skeletal disorders brought on or intensified by working conditions. In fact, attention to such matters as ergonomics can actually prevent much more serious injuries and maladies that can cause substantial absenteeism.

So why stop now? Why reverse a positive and still-necessary thing? The government estimates 1.8 million U.S. workers per year suffer ergonomic injuries; yet that's an improvement.

The Labor Department will develop new guidelines for safe and healthy work environments. Companies will be able to use or ignore these and the present regulations at their discretion.

It is, of course, in companies' best interests to make the job a place where the workers can work comfortably. It's expensive when employees have to draw on their health benefits, disability and workers' compensation. In the long run it is more costly to have employees suffering from carpal tunnel syndrome, repetitive strain injury, herniated discs and other work-related illnesses than to create a worker-friendly environment.

But many companies, especially those in highly competitive industries, will choose to watch today's bottom line rather than worry about long-term expense. Those people running publicly traded companies may well feel additional pressure to cut ergonomic costs so as to offer short-term profits to the stockholders.

IN HONOR OF THE GIRL SCOUTS OF THE USA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

April 22, 2002

Mr. GEKAS. Mr. Speaker, I am very pleased to recognize and congratulate the Girl Scouts of the USA. Today, they celebrate Girl Scouts National Leaders Day—an important day for Girl Scouts in which they honor their role models and volunteers who so selflessly devote themselves to educating and mentoring the young girls of America.

On March 12, the Girl Scouts celebrated another important day—the 90th anniversary of the Girl Scouts. For ninety years, the Girl Scouts of the USA has been dedicated to building character and developing real-world skills for girls in America. Few other organizations are as committed to the strong values and social conscience held by the Girl Scouts.

In 1912, Juliette Gordon Low formed the first Girl Scout Troop in Savannah, Georgia with just 18 girls. By 1915 the organization was incorporated and holding national conventions. One of the Girl Scouts' best-known campaigns to the public started in 1937 when Girl Scout Cookies were first sold. In 1950, the United States Congress officially chartered the Girl Scouts of the USA.

Today, there are over 3.5 million Girl Scouts in America and 10 million Girl Scouts in 140 countries around the world. Juliette Gordon Low's vision of an organization that would bring girls out of their homes and serve their communities has developed into the single largest organization for girls worldwide.

Through Juliette Gordon Low's strong influence and enthusiasm for the Girl Scout movement, Girl Scouting has given many talented and educated girls and women the opportunity to develop physically, mentally, and spiritually to their fullest potential. They learn about science, technology, finance, sports, health, the arts, current events, community service, and much more. It is an organization of which we can truly be proud.

I am especially proud of Hemlock Girl Scout Council, the Council contained within my Congressional District. Hemlock Girl Scout Council was formed in 1963 with the merger of ten independent Central Pennsylvania councils. However, Girl Scouts have had active troops in Central Pennsylvania since 1917.

Hemlock Girl Scout Council is a very successful council boasting 14,000 Girl Scouts in 1,200 troops. This number represents one in six girls between the ages of five and seventeen in Central Pennsylvania. The council owns and operates four separate program centers throughout Central Pennsylvania. These centers provide a wide range of educational, athletic, and community activities and programs exclusively for Girl Scouts year-round.

Again, I'd like to offer my sincere congratulations to the Girl Scouts of the USA—and particularly to all the current and former Girl Scouts and leaders in the Hemlock Council—on their 90th anniversary. This remarkable organization has made a lasting contribution to millions of girls and has produced generation after generation of strong and capable women. They deserve our genuine thanks.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 23, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 24

9:30 a.m.

Appropriations
District of Columbia Subcommittee
To hold hearings to examine reformation efforts of the District of Columbia Family Court.
SD–116

Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine future relations between the United States and Colombia.
SD–419

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Neighborhood Reinvestment Corporation and Community Development Financial Institutions Fund.
SD–138

10 a.m.

Indian Affairs
To hold hearings on S.2017, to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.
SR–485

Health, Education, Labor, and Pensions
Business meeting to consider S.1284, to prohibit employment discrimination on the basis of sexual orientation, and the nominations of Evelyn Dee Potter Rose, of Texas, to be a Member of the National Council on the Arts, James R. Stoner, Jr., of Louisiana, to be a Member of the National Council on the Humanities, and Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.
SD–430

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the National Guard and Reserve.
SD–192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Department of State.
SD–628

1:30 p.m.
Appropriations
Treasury and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Office of National Drug Control Policy.
SD–192

2:30 p.m.
Intelligence
To hold closed hearings on pending intelligence matters.
SH–219

Indian Affairs
Energy and Natural Resources
To hold joint hearings on S.2018, to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness.
SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S.2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology; and S.2182, to authorize funding for computer and network security research and development and research fellowship programs.
SR–253

APRIL 25

9:30 a.m.
Veterans' Affairs
To hold hearings to examine the Department of Veterans' Affairs preparedness regarding options to nursing homes.
SR–418

Commerce, Science, and Transportation
To hold hearings on proposed legislation concerning online privacy and protection.
SR–253

Environment and Public Works
Business meeting to consider pending calendar business.
SD–406

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the implementation of the Individuals With Disabilities Education Act, focusing on behavioral support in schools.
SD–106

Judiciary
Business meeting to consider pending calendar business.
SD–226

2 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Forest Service, Department of Agriculture.
SD–192

2:30 p.m.
Finance
Social Security and Family Policy Subcommittee
To resume hearings on proposed legislation authorizing funds for the Temporary Assistance for Needy Families (TANF) Program, created by the Welfare Reform Law of 1996, focusing on helping hard-to-employ families.
SD–215

Commerce, Science, and Transportation
To hold hearings on the nomination of Harold D. Stratton, of New Mexico, to be Commissioner and Chairman of the Consumer Product Safety Commission.
SR–253

Health, Education, Labor, and Pensions
Public Health Subcommittee
To hold hearings to examine women's health issues.
SD–430

Judiciary
To hold hearings to examine the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Leonard E. Davis, to be United States District Judge for the Eastern District of Texas, David C. Godbey, to be United States District Judge for the Northern District of Texas, Andrew S. Hanen, to be United States District Judge for the Southern District of Texas, Samuel H. Mays, Jr., to be United States District Judge for the Western District of Tennessee, and Thomas M. Rose, to be United States District Judge for the Southern District of Ohio.
SD–226

Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold hearings to examine transit accomplishments and challenges in the 21st Century.
SD–538

APRIL 26

10 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine families and funeral practices issues.
SD–430

APRIL 30

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine how gasoline prices are set and why they have become so volatile.
SD–342

Small Business and Entrepreneurship
To hold hearings to examine small business development in Native American communities.
SR–428A

MAY 2

9:30 a.m.
Veterans' Affairs
To hold hearings to examine pending legislation.
SR–418

Governmental Affairs
Investigations Subcommittee
To resume hearings to examine how gasoline prices are set and why they have become so volatile.
SD–342

2:30 p.m.
Judiciary
To hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice.
SD–226

MAY 10

10:30 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine non-proliferation programs, focusing on U.S. cruise missile threat.
SD–342

POSTPONEMENTS

APRIL 26

10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine difficulties and solutions concerning nonproliferation disputes between Russia and China.
SD–342

HOUSE OF REPRESENTATIVES—*Tuesday, April 23, 2002*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. FLETCHER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 23, 2002.

I hereby appoint the Honorable ERNIE FLETCHER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

WELFARE REFORM

Mr. STEARNS. Mr. Speaker, I would like to bring a little good news to the floor this morning on the subject of welfare reform. When the 1996 welfare reform bill was debated in Congress, scholars across this country, legislators at the State and Federal level, in the Senate and the House alike, predicted that a welfare system which demanded work, imposed sanctions, and operated under time restrictions would result in huge declines in family income. One Member of Congress went so far as to say that the 1996 legislation was, quote, the most brutal act of social policy since reconstruction, end quote.

Well, Mr. Speaker, we now have the benefit of time and we have the benefit of the U.S. Census Bureau data on family income and poverty for the year 2000, thereby allowing informed judgments in the debate on welfare reform and, of course, its benefits to the poor. This new data suggests great strides have been made since 1996. For the seventh year in a row, poverty is down. Even more, African American and Hispanic households had their lowest poverty rates ever. And the overall child poverty rate was lower than in any year since 1976.

During the debate in 1996, the Urban Institute predicted that if this bill was enacted, the 1996 reforms would cast another 1 million children into poverty. Mr. Speaker, on the contrary, nearly 3 million children have been lifted out of poverty since 1996. The African American child poverty rate and the poverty rate for children living with single mothers are both at their lowest points in United States history. In fact, child poverty has declined more than twice as much during the economic recovery of the 1990s as it did during the economic recovery of the 1980s.

Welfare reform has removed the "expectation-less" public safety net that served more as a hindrance than a motivational tool. As required by the 1996 law, States have overhauled their work requirements. As a result, in fiscal year 2000, the percentage of working welfare recipients reached an all-time high, up to 33 percent from 11 percent in 1996. The poorest 40 percent of single-mother families increased their earnings by about $2,300 per family on average between 1995 and 1999. Many single mothers leaving welfare told researchers and reporters that not only were their children proud of their work, and she was proud of them, but they felt pride in their accomplishments as well.

Welfare reform has positively affected both the recipient and well-intentioned yet often misguided programs. Program leaders have realized that offering material goods and money is no substitute for personal engagement, instruction, and mentoring. The previous welfare system unintentionally engendered dependency and encouraged irresponsibility. Today's welfare-to-work mentoring programs are established to reach impoverished city residents beyond just monetary support. It is a way of recapturing a commitment to others.

While social welfare policies primarily affect various individual aid recipients, they also affect the families of the working poor, the governmental agencies administering welfare programs, and institutions of civil society, including social service nonprofit organizations. However, welfare reform's most profound influence is seen in its effect on our families. Reform is assisting parents in becoming responsible role models. The resulting positive influence for the children is immeasurable.

Mr. Speaker, the critics were wrong. Millions of families have been lifted from poverty by trading their welfare check for a paycheck. As we begin to reauthorize the welfare programs enacted in 1996, let our vision for independence rather than dependence be maintained. Surely we have seen a revolution in how government addresses the needs of the poor through assistance and empowerment. However, the real success belongs to the individual who took responsibility for themselves and their families.

DOMESTIC STEEL INDUSTRY IN CRISIS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, in recent years the United States has become the world's largest steel dumping ground at the expense of U.S. jobs, U.S. families, the U.S. economy, and maybe U.S. national security. It is a fact. This fact must be addressed now.

As a Nation, we import more than twice as much steel than we did in 1991 and we do so at prices significantly lower than those in 1998. This surge in illegally dumped steel has been devastating to the domestic steel industry. In the last 4 years, 26 steel companies have filed for bankruptcy; seventeen have filed for bankruptcy protection in the last year alone. This list includes three companies in northeast Ohio: RTI of Lorain; LTV Steel of Cleveland; and CSC Steel in Warren.

I recently joined civic leaders, company executives, and steelworkers at a public rally for Lorain's RTI, a steel manufacturer that employs 1,500 people in my district. At the rally, I cited the President's decision to impose a section 201 steel tariff as one of the primary reasons that I was optimistic. But at the same time we were rallying in support of RTI, the President's Treasury Secretary was telling European leaders that he expected a large proportion of the tariff exemption applications filed with the United States to be decided upon favorably by the United States. As a representative of a steel-producing State that has suffered severe hardship due to illegal steel dumping, I was disturbed to hear the President's Treasury Secretary make comments shifting the administration

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

away from its own recently imposed 30 percent tariff on imported steel. These statements have continued to be a source of great concern to those of us in Congress who had assumed, I hope not wrongly, that the Bush administration was committed to enforcing its own tariffs on illegally dumped steel.

One can imagine the confusion these statements have caused the tens of thousands of already anxious steelworkers. The President's remedy excludes steel coming from Korea and Australia. The tariff remedy also excludes steel from our NAFTA partners, Canada and Mexico, which opens up the very real possibility of the illegal transshipment from Asian countries or somewhere else through Mexico or Canada. A Mexican steel company, for example, could easily have foreign steel shipped to a plant in Mexico, where they then could redirect it to the United States with little or no direct value added.

Administration trade officials have argued that there are appropriate controls in place to prevent this transshipment of foreign steel, but there are also controls in place to prevent the transshipment of other items and the transshipment of illegal narcotics through Mexico, and to prevent the importation of unsafe foods. The sad truth is the Federal Government, because of Republican budget cuts, inspects only 1 percent of all the imports, food and any other kinds of steel imports and anything else, only 1 percent of the imports that cross the U.S.-Mexican border. Our border agents simply do not have the resources necessary to prevent illegally transshipped steel from entering our country.

The current tariff remedy has already been diluted by the Bush administration. The holes in this steel tariff that President Bush himself created severely weaken our safeguards against illegal dumping. During an October visit in 2000 to Weirton, West Virginia, then Vice Presidential Candidate DICK CHENEY criticized the Clinton administration's handling of the steel issue. He pledged that a Bush administration would take action on the steel crisis, and he told steelworkers, "We will never lie to you. If our trading partners violate trade laws, we will respond swiftly and firmly."

The steel industry needs the administration to follow through on that promise. The domestic survival of this industry absolutely depends on it. The survival of this industry is not just an economic issue. It is also an issue of national security. We must protect the 700,000 hard-working families who rely on this industry for their salaries, for their pensions, and for their health benefits. We also must ensure that we retain the ability in terms of national defense to manufacture steel for planes and weapons and ships.

In addition to strict enforcement of the Bush tariff, the Republican leadership in the House should respond to public demand, should respond to a majority of Members on both sides of the aisle, and bring the Steel Revitalization Act to the House floor. In the future, Congress and the President must respond to the public's demand for U.S. trade policies that actually support American workers. If the President is sincere about helping the steel industry, he will not allow these exemptions suggested by his own Treasury Secretary. He will not allow these inappropriate exemptions to erode the effectiveness of his tariffs. He will not back away from these measures before they have been given a chance to work.

To give concerned Members of Congress, Mr. Speaker, and employees of the steel industry confidence, I urge President Bush to publicly affirm his support for his own administration's steel tariffs.

ADMINISTRATION CONSIDERS LOWER PUBLIC DEBT LIMIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, the leadership is currently considering a proposal to change the definition of debt subject to the debt limit. This proposal would create a new lower limit applying only to debt held by the public. This would exclude debt owed to government trust funds, principally the Social Security and Medicare trust funds. As chairman of the Speaker's debt limit task force in 1995 and 1996, I oppose this proposal.

Ending the inclusion of debt held by government trust funds, what the general fund has borrowed from Social Security and Medicare, in the statutory debt limit is unwise for good fiscal reasons. I think that the proposal of creating two classes of debt will create opportunities for the manipulation of government accounts to disguise the true level of debt.

This concern is not wholly theoretical. The Treasury has used some accounting gimmicks available in the past. As my debt limit task force report documented, the Treasury divested $39.8 billion from the civil service trust fund in November of 1995 to avoid bumping up against the statutory debt limit. Though the divestment was reversed after an increase in the debt limit, it put the retirement benefits of millions of government employees at risk while masking the true size of government obligations. If we change the debt ceiling to apply only to Wall Street debt, the same thing could happen to Social Security and Medicare.

The truth is, however, that there are only a limited number of opportunities for this sort of finagling under current law. Creating a broad class of accounts outside of the debt limit will increase the danger of this sort of manipulation exponentially. Further, it will complicate government accounting and make it even more difficult to understand the government's true financial situation.

I have another concern as well. Taking government-held securities out of the debt limits comes close to saying that our debts to bondholders on Wall Street are more important, or more real, than our debts to the Social Security and Medicare trust funds. The change could be portrayed as discounting our obligations to Social Security and Medicare while protecting Wall Street bondholders. It would be, in fact, a denial of the fiscal mess we are in with our entitlement programs. Not only do we owe that money in the trust funds that some would like to ignore, we have tens of billions of dollars of unfunded liabilities for Social Security and Medicare. We have to face up to this challenge and make some hard decisions. Instead, the proposed debt ceiling change would sweep it under the rug, our future obligations, leaving the problem to our children and grandchildren.

If we are interested in honest accounting and fair depiction of our government finances, we would increase the debt ceiling dramatically to account for these unfunded liabilities, what we have promised in Social Security and Medicare which are going to be future debt and future cost, and we would account for these in addition to what we have borrowed from the Social Security and Medicare trust funds as well as the so-called Wall Street debt.

☐ 1245

Perhaps raising the debt ceiling would wake up those in Congress who hope the obligations of the entitlement program will simply go away or simply be dealt with with future Congresses, because it is politically difficult to acknowledge how and who is going to pay for those future obligations. I would just like to say that Chairman Alan Greenspan suggests that possibly we should have no statutory debt limit, because the true obligation comes from how much Congress spends and legislation we pass promising future benefits or future spending. I disagree.

Though painful, I believe that we should have a full discussion about how much debt, including the unfunded liabilities, our country should leave to future generations, and how this would best meet our country's goals of fiscal discipline and honest government accounting.

IMMIGRATION REFORM

The SPEAKER pro tempore (Mr. FLETCHER). Pursuant to the order of the House of January 23, 2002, the gentlewoman from Texas (Ms. JACKSON-

LEE) is recognized during morning hour debates for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the challenges of this Congress are many, and there are many diverse interests that we have. Representatives of the people's House come from all over the Nation, and clearly they offer to the American people the best opportunity to debate the issues that Americans are concerned about.

One of those that causes a great deal of confusion, of course, is the policies of immigration and the work of the Immigration and Naturalization Service.

More than any other time, September 11 helped the issues of immigration to explode on the psyche of Americans. I have constantly said as the ranking member of the Subcommittee on Immigration that immigration does not equate to terrorism. So many of us came to this land in many different forms, some voluntarily and some involuntarily.

Mr. Speaker, we have this week the opportunity to address the questions of fixing the Immigration and Naturalization Service agency, to be able to address the concerns not only of Americans, but Members of Congress, who day after day and time after time spend a good 60 percent or more of their office staff time addressing the questions of immigration.

Some would say, here we go again, talking about illegal immigrants and people coming in to take our jobs. No, immigration deals with individuals who come here to reunite with their family, who come to be a part of this great country, who are law-abiding, tax-paying individuals and families, and they are hard working. Immigrants represent the infrastructure and base of the agricultural industry; and if we talk to those who are in that industry, they will be the biggest champions of those who come to work, but maybe not so much the champions of good working conditions and housing conditions and compensation.

So America has to be honest and true to its values and balance the reunification of families and the fairness of our Nation with the fact that we must have a system that thwarts illegal immigration, but respects and acknowledges access to legalization and family reunification.

This week, we will be dealing with the restructuring of the INS. Some call it the abolishing of the INS. It is a revamping and a redoing. It is to set up an agency that can work. We establish, for the first time in history, a Children's Bureau that deals with the many children that come unattended to the United States, who need either an opportunity to be reunited with their families, or to be sent to their homeland.

It provides a real office of student tracking so the tragedies of September 11 with student visas not being appropriately tracked will have at least an office. It gives the position of the Deputy Associate Attorney General, the second-highest-ranking job in the Department of Justice, the responsibility of covering two bureaus, one dealing with those accessing legalization and the other dealing with enforcement. It provides a line of chain of command so that the centers and district offices are coordinated and there is not one hand saying something different from the other hand, that enforcement is not in conflict with services, but that they are coordinated.

Someone said, it is going to be under the Department of Justice and I do not like that. It is under the Department of Justice now. But we are abolishing it in its form so that the administration can change the infrastructure under the umbrella of this new legislation. I would only hope that they will take up the chance and work with Congress. We will be fighting for more resources and professional development training for the employees and the right of these particular leaders of this agency to select new staff, energized staff to be able to work on these issues.

I hope that the op-eds in the editorial pages of America's newspapers will take the time to read and understand legislation as opposed to making blanket comments about what they do not like and do like. All of us have problems with the systems that are broken in the immigration structure, but we cannot have problems with those who come to this land seeking opportunity and justice. Who are we to say. Each of us, all of us can count an experience of coming to this land of opportunity. No one, except for our native Americans, has any standing to suggest who can come in and who cannot. We must have procedures and laws. We must promote legal immigration and access to legalization, but we must also as a country stand for our values.

Mr. Speaker, we will get that opportunity to debate this important bill on the floor of the House this coming Thursday. It started out as H.R. 1562, which I wrote some years ago; and it is a compromise bill, working together with both sides of the aisle. But I am very proud of the Children's Bureau that has been included and the fact that we now have a structure that allows for a command chain to be in place and to also be able to fix the problems, fix what is broken, and to be able to respect that all of us have walked and all of us have come for freedom and justice and opportunity.

I hope that this does not wallow into the accusations of anti-immigrant policies and debate. I hope that it talks about what this bill is; and it is to fix the system, to protect our borders, to ensure that we have protection for those who come legally and the acknowledgment of those who do not. Then I hope, lastly, that we will bring America together, because that is what this country stands for, unity and an affirmation of our wonderful values.

COMMEMORATION AND REMEMBRANCE OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from Maryland (Mrs. MORELLA) is recognized during morning hour debates for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I rise as a member of the Congressional Caucus on Armenian Issues to commemorate tomorrow's eighth annual Capitol Hill observance of the 87th anniversary of the Armenian genocide. I do want to thank my colleagues on the caucus, including the Chairs, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Michigan (Mr. KNOLLENBERG), for their work in organizing the tribute that will take place tomorrow evening. This observance does take place every year on April 24. I hope that my comments a day earlier will attest to my earnestness and passion about the issue.

It was on that date in 1915 that more than 200 Armenian religious, political and intellectual leaders were arrested in Constantinople and murdered. Over the next 8 years, persecution of Armenians intensified; and by 1923, more than 1.5 million had died and another 500,000 had gone into exile. At the end of 1923, all of the Armenian residents of Anatolia and Western Armenia had been either killed or deported.

The genocide was criticized at the time by our United States Ambassador, Henry Morgenthau, who accused the Turkish authorities of "giving the death warrant to a whole race." The founder of the modern Turkish nation, Kemal Ataturk, condemned the crimes perpetrated by his predecessors. Yet this forthright and sober analysis has been ignored by the United States during the last decade.

The intransigence of this and prior administrations to recognizing and commemorating the Armenian genocide demonstrates our continued difficulty in reconciling the lessons of history with what we believe, and that is, those who fail to learn the lessons of history are condemned to repeat them. We have seen this continually in this century, the abject failure to learn and apply this basic principle. The Armenian genocide has been followed by the Holocaust against the Jews, mass killings in Kurdistan, Rwanda, Burundi, and Bosnia. Many of these situations are ongoing, and there seems little sense of urgency or moral imperative to resolve them.

This was brought home to me when I visited the memorial of the genocide in Yerevan, Armenia, when I led the delegation there several years ago; and here in the United States I have seen the anguish on the faces of the survivors and I have talked to the families who have lost loved ones during that holocaust of the Armenians.

Commemoration of the Armenian genocide is important, not only for its acknowledgment of the suffering of the Armenian people, but also for establishing a historical truth. It also demonstrates that events in Armenia, Nazi Europe, and elsewhere should be seen not as isolated incidents, but as part of a historical continuum, showing that the human community still suffers from its basic inability to resolve its problems peacefully and with mutual respect.

Last year, I sent a letter to our Maryland legislators with several of my colleagues here in the House urging their support of the Maryland Day of Remembrance. I am pleased to say that last April, Maryland joined 27 other States to pass resolutions condemning the Armenian genocide. I am proud to have joined 161 of my House colleagues in sending a letter to President Bush urging him to appropriately acknowledge the Armenian genocide in his April 24 commemoration statement. We urge President Bush to follow Senator Bob Dole's message to simply "state the truth." There was an English poet who once said, "Truth is beauty, beauty, truth. We ask for the truth."

H.R. 1433, THE COMMUNITY CHARACTER ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, as we deal with global issues that at times threaten to overwhelm us, there are issues here at home that we can get our arms around that deal with the quality of life, one being the consequence of unplanned growth and development right here in our neighborhood. Some call it sprawl; others call it dumb growth. The facts are that many Americans are increasingly frustrated by the consequences of haphazard development and a failure to balance the needs of individuals, businesses, and the natural environment and the activities that impact on people's lives now.

I have worked with the American Planning Association and a bipartisan group of Members of Congress in both Chambers to produce the Community Character Act, legislation which would provide incentives and resources to assist communities, cities, and States to develop appropriate responses.

Recently, this legislation came under attack by the administration. The Secretary of Housing and Urban Development, Mel Martinez, stated that the proposed legislation would "infringe on the rights of local and State governments to manage their growth."

He went on to say that it "sets a dangerous precedent to make the Secretary of HUD, Commerce or Agriculture the land use arbiter with the power to usurp the local government's authority." It is clear that the Secretary and his staff have not analyzed this bill. Indeed, they have appeared not to have read it at all.

A key reason for the Community Character Act and a primary obstacle to State comprehensive planning stems from the outdated statutes in place at the State level. Roughly half the States rely on a model of land use planning legislation that was created by the Department of Commerce over 70 years ago. The transformation of America's landscape and settlement patterns since the 1920s has changed drastically. Updating State plans are necessary to create the framework that will allow the States to address the modern world and adequately plan for the future.

The Community Character Act directly responds to the widespread concerns of citizens and local governments on this issue. In 1999, approximately 1,000 land-use reform bills were introduced in legislatures across the country.

☐ 1300

On Election Day 2000, there were over 550 State and local ballot measures related to land use planning and development issues. Over 70 percent of them passed.

A recent survey indicated that 78 percent of the voters believe that it is important for this Congress to help communities solve problems associated with urban growth. More than 75 percent of the voters think Congress should provide incentives, funding, and other resources to help with livability.

Our bill provides grants for the States to help do their work. It does not dictate a one-size-fits-all approach, but rather, recognizes that each State is unique and wants its own approach. What is important is that the States take an approach. The bill would reward them for moving forward.

It is true that one size does not fit all, and that is precisely why this legislation does not mandate any particular action by the State or local level. It instead provides an incentive for States to address the issues that most directly affect their prosperity and well-being, such as promoting sustainable development in economic and social equity; coordinating transportation, housing, education, and other infrastructure development; and conserving historic resources and the environment.

We all have a stake in this effort, and the Federal Government has a critical role to play. Our Federal Government has been involved in land use issues since the beginning of the Republic, when we took land away from the Native Americans and gave it to Europeans to farm, and in building our Nation's transportation infrastructure of ports, roads, railroads, canals, the air system, the Internet highway system. Those were all Federal initiatives.

It sets the rules, like for wetlands development; and then there is the Clean Air Act, the Clean Water Act, the Endangered Species Act, that all have a profound effect on Americans and on how we use our land.

But most important, the Federal Government is the largest landlord, landowner, and employer in this great country. Instead of creating conflicts that do not exist, the Federal Government needs to do three simple things: It needs to be a better steward of our own lands; it needs to follow the same rules that we ask the rest of America to follow in dealing with their land; and finally, it needs to be a better partner with State and local governments across the country.

Together with the Federal Government as a partner with the private sector, State and local governments, and individual communities, we can make our communities more livable, where our families are safer, healthier, and more economically secure.

I strongly urge the administration and my colleagues to support the Community Character Act to help get us there.

RECESS

The SPEAKER pro tempore (Mr. FLETCHER). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 3 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, the decline of trust in government and other institutions in the United States over the past 30 years has long been documented.

Young people float through an age of disillusionment while older people survive on comparisons with yesterday.

The credibility gap affects Americans of all ages and divides generations, while mistrust infects a virus in marriage, friendship, as well as business and international relations.

The psalmist tells every believer it is better to place our trust in You, O

Lord, than to trust in our own strength or trust in weapons or people of power.

Since You alone are eternal faithfulness, send forth Your spirit and renew this Nation, that we may again become trustworthy people, bringing hope to a fearful world.

Let the rebuilding of trust begin here. Lord, touch the Members of the House of Representatives, that they may be men and women of renewed integrity and solidarity.

Step by step, may human vulnerability be turned into virtue as all work to strengthen relationships that will bind people in solid faithfulness both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. JEFF MILLER) come forward and lead the House in the Pledge of Allegiance.

Mr. JEFF MILLER of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY AND TRANSPARENCY ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, the economy is on the rebound. Most of our key economic indicators are showing good news, but one thing is hanging heavy on the economy. The collapse of Enron has shaken America's faith in American corporations and accounting practices. Even the stock market is suffering because of this.

Congress needs to address this. This week we will be voting on the Corporate and Auditing Accountability, Responsibility, and Transparency Act. This bill will improve corporate responsibility, reform accounting oversight, and increase corporate disclosure.

Americans need to know that the companies they are investing in are reporting their finances honestly. Americans need to know that their finances will be protected, and Americans need to know that they can diversify their 401(k)s so they can protect themselves from investments that do not do as well as expected.

Madam Speaker, I call on my colleagues to pass this important bill and tell every American that we care about honesty and integrity than we care about their retirement.

SHIPPING NUCLEAR WASTE TO YUCCA MOUNTAIN

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Madam Speaker, Congress will soon vote on whether to send nuclear waste to a scientifically unsound and leaky repository at Yucca Mountain, Nevada. The Department of Energy has tried to hide how they plan to ship at least 77,000 tons of toxic nuclear waste through 45 States. There may be more than 108 shipments, not to mention as many as 3,000 shipments by barge.

The real dirty secret that the DOE has tried desperately to ignore is the immense vulnerability of these transports. More than 123 million people live in the 703 counties along DOE's proposed highway routes and 106 million people live in counties along DOE's rail routes. Even routine radiation from the casks, given off while passing on the highway, would be a health risk for people living and working in the vicinity of the transportation routes.

The threat of terrorism is more real for Americans more now than ever. At every stage of transport, nuclear waste would be vulnerable to a devastating terrorist attack that would result in massive civilian casualties and severe financial loss.

The risks associated with transporting nuclear waste are clear. The question is, are we willing to play nuclear roulette with our Districts? Say no and oppose Yucca Mountain.

PENSACOLA CATHOLIC HIGH SCHOOL

(Mr. JEFF MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFF MILLER of Florida. Madam Speaker, I rise today to honor the students and faculty of Pensacola Catholic High School. For 7 years, students at Pensacola Catholic High have embraced Make A Difference Day. Make A Difference Day was created by USA Weekend Magazine and is one of the most encompassing national days of helping others, a celebration of neighbors helping neighbors.

They have achieved the astronomical participation rate of 80 percent. They have made it their annual mission to help the elderly in Pensacola maintain their homes and to pitch in around the community. On October 27th, 2001, 450 students fanned out around Pensacola and painted four houses and an elementary school, built nine picnic tables, cleaned two neglected cemeteries, weeded a community rose garden, spruced up a homeless shelter's playground, and made $1,300 at a car wash for the school's Make A Difference Day scholarship fund.

The students were recognized as one of the ten national honorees by the USA Weekend Magazine's Make A Difference Day. The students will receive a $10,000 Make A Difference Day award, funded by Newman's Own, and have selflessly donated it to Catholic Charities of Northwest Florida.

I commend these selfless students for all they have done to the betterment of Northwest Florida.

LUDWIG KOONS

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Madam Speaker, about 1,000 children a year are taken outside the borders of the United States. These are noncustodial parental abductions. We have thousands of them across our country, and I urge each of my colleagues to help join that fight to bring them home.

One such case is that of Jeff Koons, who I have been talking about now for several months. The last time I talked about it, he had been awarded custody by the courts in New York, but soon thereafter his ex-wife filed for custody and a divorce suit in Italy. Well, he went along with that.

He argued the matter in Italy that New York laws should be followed. He even went along and hired psychiatrists to evaluate both himself and his ex-wife to see who would be fittest of the parents. Lo and behold, after a year of investigation, the Italian court-appointed psychiatrist determined that custody should be granted to Mr. Koons.

On February 28, 1998, a panel of judges of the First Section of the Rome Tribunal found that Jeff Koons should have custody and granted that custody. That custody was to commence on August 1, 1998; and as I look, we are now in April of 2002. Four years later, Mr. Koons still does not have his son.

Father Coughlin spoke of trustworthy people bringing hope to a fearful world. Where are the trustworthy people? Bring our children home.

TRAIN DERAILMENTS PROVE NUCLEAR WASTE SHOULD NOT BE SHIPPED ACROSS AMERICA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, this morning our Nation witnessed yet another tragic train accident. A commuter train collided with a freight train in southern California with at least one dead and hundreds injured. This latest accident follows two other serious train accidents, one in northeast Florida killing four and injuring hundreds, and one yesterday when a freight train derailed in Wells, Nevada.

Madam Speaker, these events are not just isolated incidents. Instead, they show that accidents can and do happen. While these recent accidents certainly are unfortunate and tragic, the death toll and environmental damage that could have occurred if the freight train was shipping high-level nuclear waste would have been absolutely devastating.

We should not take that risk. We should not ship nuclear waste across our entire country to a hole in the ground that will not even solve our nuclear waste problem. It is time to prevent a disaster.

For the good of our country, it is time to stop the Yucca Mountain project.

SUPPORTING BULGARIA'S MEMBERSHIP IN NATO

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, I rise today to express my support for the expansion of NATO to include the Republic of Bulgaria and to welcome Bulgarian Prime Minister Simeon Saxe-Coburg-Gotha to America.

An April article in The Washington Times notes that U.S. Ambassador to NATO, Nicholas Burns, was impressed by Bulgaria's reforms during his visit to Sofia. A recent Washington Post editorial noted Bulgaria has already assisted America and Afghanistan and can make substantial contributions for Europe as a member of NATO.

I commend the efforts of patriots like Prime Minister Simeon Saxe-Coburg-Gotha, Ambassador Elena Poptodorova, Foreign Minister Solomon Pasi, Defense Minister Nikolai Svinarov, Deputy Chief of Mission Emil Yalnazov, and Ambassador Stefan Stoyanov for continuing important reforms.

I was an observer of Bulgaria's first democratic elections in 1990, and I have witnessed the progress of Bulgaria's democracy. Bulgaria is strategically located, and would enhance NATO for the mutual defense of southeastern Europe.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Such record votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 6:30 p.m. today.

HONORING UNITED STATES SECRET SERVICE NEW YORK FIELD OFFICE FOR EXTRAORDINARY PERFORMANCE DURING AND IMMEDIATELY FOLLOWING SEPTEMBER 11, 2001

Mr. OTTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 384) honoring the men and women of the United States Secret Service New York field office for their extraordinary performance and commitment to service during and immediately following the terrorist attacks on the World Trade Center on September 11, 2001.

The Clerk read as follows:

H. Res. 384

Whereas the United States Secret Service New York field office located in 7 World Trade Center was destroyed on September 11, 2001, as a result of terrorist attacks;

Whereas, throughout the day of the attacks and subsequent days, the men and women of the New York field office continually and knowingly placed themselves in exceptional danger in their efforts to save life;

Whereas, in selfless dedication to others, Master Special Officer Craig Miller was lost in the collapse of the World Trade Center;

Whereas, subsequent to the terrorist attacks, the men and women of the United States Secret Service New York field office worked tirelessly to re-establish critical field office operations and assist State and local public safety officials; and

Whereas the United States Secret Service performs a critical role in the protection of freedom, and these acts represent a dedication to duty in the highest traditions of the Department of the Treasury and the United States of America: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the continuing service and commitment of the men and women assigned to the United States Secret Service, New York field office;

(2) recognizes the critical importance of the United States Secret Service to our national security; and

(3) supports providing the necessary resources to ensure the full operation of the New York field office and the mission of the Secret Service.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho (Mr. OTTER).

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 384.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Madam Speaker, I yield myself such time that I may consume.

Madam Speaker, I am pleased to have the House consider House Resolution 384 introduced by my distinguished colleague, the gentleman from Oklahoma (Mr. ISTOOK). I commend him for sponsoring this important resolution.

This resolution honors the men and the women of the United States Secret Service New York field office for their extraordinary performance and commitment to service during and following the September 11 terrorist attacks on the World Trade Center.

Madam Speaker, Building 7 of the World Trade Center housed a number of Federal Government offices, including the IRS, the EEOC, the Defense Department, the Securities and Exchange Commission, and the New York field office of the United States Secret Service. The field office was destroyed on September 11 and, tragically, Master Special Officer Craig Miller lost his life when the building collapsed.

Master Special Officer Miller was at the Marriott Hotel that morning when the hotel was evacuated. Master Special Officer Miller had a military background and extensive emergency medical training. It is believed that he went back into the towers to help the wounded.

His courage in the face of danger was extraordinary and typifies the hundreds of men and women who put themselves in danger to help others on that horrific day. Master Special Officer Miller and his actions reflect a proud tradition of selfless service to our Nation by the United States Secret Service.

Madam Speaker, our Nation will never forget the horror of September 11, but neither will we forget the heroism of so many on that terrible day. Today we recognize the commitment of the men and women of the Secret Service New York field office.

Within 48 hours of attacks, this New York field office was fully operational. A remarkable achievement, Madam Speaker. The office was completely destroyed, but within two days it was up and running again and fighting the war on terrorism. The Electronic Crimes Task Force, a division of the New York field office, with the cooperation of the business community, restored wireless communications and computer network capabilities.

The challenges, Madam Speaker, were only just beginning, for the President of the United States was to schedule a visit to that site. The United Nations General Assembly was weeks away from commencing its activities, and there were ongoing criminal investigations that needed to be continued.

Madam Speaker, we honor the employees of the New York field office of the Secret Service today because of their integrity, their tireless energy, and their dedication in serving the citizens of the United States and of New York City.

The Secret Service is currently occupying office space at the John Jay College and the Penn Station Post Office. They have earned our gratitude and whatever resources are necessary to continue their protective and criminal investigative missions.

Madam Speaker, I ask all Members to support this resolution.

Madam Speaker, I reserve the balance of my time.

□ 1415

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to join with the gentleman from Idaho in consideration of this resolution honoring the men and women of the United States Secret Service, New York field office, for their extraordinary performance and commitment to service during and immediately following the terrorist attacks on the World Trade Center on September 11, 2001.

Madam Speaker, the United States Secret Service is mandated by the United States Congress to carry out two distinct and significant missions: protection and criminal investigations. One of the Nation's oldest Federal investigative law enforcement agencies, the Secret Service was founded in 1865 as a branch of the United States Treasury. Its original mission was to investigate counterfeiting of U.S. currency.

Though the Secret Service's primary mission is to protect the President and Vice President, and the Nation's financial system, on September 11, 2001, these men and women placed themselves in harm's way to protect the ordinary citizen. They did so after their offices in the World Trade Center were destroyed and after losing one of their own, Master Special Officer Craig Miller.

The New York field office's tireless work to reestablish critical field office operations and assist State and local public safety officials after their attacks is a testament to the Secret Service's commitment to the City of New York and to the American people.

We often think of the Secret Service as a Washington-based organization that protects the President, heads of state, the White House, and other national treasuries in the District of Columbia. Now we know that the Secret Service is present in cities all over the country and is ready to serve and protect all of us at a moment's call. So I join with my colleague in urging total support for this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. OTTER. Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentleman from Illinois for his generosity in yielding me this time, and I rise in strong support of this resolution.

Being a Secret Service employee is special. It is a job that requires a very special kind of person, a person that would be held to a higher standard than others, and a person who we depend upon to protect our Nation's leaders, our communities, and our Nation's financial systems.

On September 11, the images of heroes that we all remember were of first responders, like firefighters and New York City Police Department officers. Within the masses, however, were special people that we may not have noticed, and some were the men and women of the Secret Service.

The Secret Service field office, as has been said, was located at Number 7 World Trade Center, which was adjacent to the north and south towers. For the second time since the World Trade bombing in 1993, these men and women faced unusual challenges that tested their courage, strength, dedication, and loyalty.

On September 11, like any other morning, most of the Secret Service employees were either settling into their offices or still making their way to work. Others were about to attend meetings to prepare for the upcoming meeting of the United Nations General Assembly. At 8:48 a.m. their offices in Building 7 shook and the lights flickered. Most of them stopped for a quick moment but quickly returned to their work.

However, after realizing that a plane had hit the north tower of the World Trade Center, they very quickly went into an alert mode. Although most other tenants started to evacuate the building, the men and women of the Secret Service instinctively grabbed first aid trauma kits and other emergency equipment.

Special Agent in Charge, Steve Carey, and other managers ran from one floor to another, and room to room, to ensure that everyone was moving to safety. Once outside, they saw the sky engulfed by flames and smoke. Some of the agents ran into the north tower to assist in the evacuation process. Others began to execute the emergency medical skills that they had been trained to perform and set up small triage units on West Street to assist the injured.

Tragically, as the gentleman from Idaho (Mr. OTTER) has said, the Secret Service lost an employee, Master Special Officer Craig Miller. Officer Miller was on a temporary assignment in New York for the United Nations General Assembly and was nearby at the Marriott Hotel when the first plane hit the World Trade Center. Although the hotel was evacuated, it appears that Officer Miller stayed behind to help.

Because of his military background and extensive emergency medical training, those who knew Officer Miller believe his life was taken while trying to assist the wounded. In fact, some of the medical equipment was later found in the lobby of the Marriott Hotel that that particular officer had in his possession.

Following September 11, the employees at the New York field office knew that the hours and days ahead would be equally challenging. Not only were they now without an office, but all of their equipment, was destroyed with their building. However, with strong support of other Secret Service offices within the region and around the country, and other law enforcement assistance, they returned to a readiness mode in 48 hours, as the ranking member has indicated, an extraordinary achievement in and of itself. In fact, within 48 hours of the attack, the Secret Service Electronic Crimes Task Force was able to track the cell phone use of some of the terrorists involved in the attack.

The men and women of the U.S. Secret Service have devoted, Madam Speaker, their careers to protecting the lives of others, to protecting the financial integrity of our Nation, to protecting the integrity of our currency. Their level of bravery was no real surprise. Their courageous efforts were simply an extension of what they had been trained to perform at any given minute. They are deserving of this honor and always worthy of trust and confidence.

Madam Speaker, Franklin Delano Roosevelt said that "the lives of nations are determined not by the count of years but by the lifetime of the human spirit. The life of a man," he said, "is three score and ten, a little more or a little less, but the life of a Nation is the fullness of its will to live." How special are these agents that we call Secret Service, how special are these people who themselves represent the fullness of the will of a Nation to live and to succeed.

These patriots, Madam Speaker, these proud Americans demonstrated that even under attack, the Nation stands strong; the human spirit remains unbowed. I rise in strong support of this resolution and thank the gentleman from Oklahoma (Mr. ISTOOK), who was responsible in many respects for its introduction; and I thank the members of the committee for quickly processing this resolution which the gentleman from Oklahoma and I and others will personally deliver to the men and women of the Secret Service located in New York next week.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume to thank my colleague from Maryland (Mr. HOYER) and my colleague from Illinois (Mr. DAVIS) for their kind remarks and for recounting the litany of heroic deeds of that tragic day in New York City.

Madam Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. ISTOOK), who has brought this to our attention in the form of recognition and legislation.

Mr. ISTOOK. Madam Speaker, I thank the gentleman for yielding me this time, and I will not duplicate some of the terrific details that were recounted by my friend, the gentleman from Maryland (Mr. HOYER); but I do adopt them in praise of the men and women of the Secret Service and the heroism that they displayed on September 11, 2001.

Madam Speaker, I rise today in tribute to the very selfless efforts of the men and women of the United States Secret Service, the New York field office, on September 11, 2001, and the days that have followed since then. It is difficult to separate oneself at a time like this, to get beyond looking at the totality of the horrific events that occurred so that we can examine individual acts of determination, of compassion, and of courage. They are far more telling about the fate and future of our country and how the fate and future will be bright because of this determination, compassion, and courage. That is more telling about our country's future than the damage that was inflicted by this evil.

There were a great many examples of selflessness and courage, as we have heard, that occurred that day. They came from a multitude of people, from a multitude of walks of life. I am focusing at the moment on the Secret Service because, as chairman of the Subcommittee on Treasury, Postal Service, and General Government of the Committee on Appropriations, I have come to know them through the work that our subcommittee does with them, and through the fortunate experience that I have had of having several of the good people of the Secret Service work in my personal congressional office on fellowship programs. I have to say that while the resources we provide to them are important, there is no substitute for the character and dedication that these individuals bring to their efforts and to their mission.

On September 11, the Secret Service New York field office, which was located in 7 World Trade Center, was destroyed by these terrorist attacks. Throughout that day, throughout that night, there were countless examples, as we have heard, of Secret Service employees placing themselves at great risk to be of aid to others. Just one example of heroism and dedication is Master Special Officer Craig Miller, who was lost in the collapse of the World Trade Towers. It is important that Craig Miller be remembered as an example of what is truly important about this country.

We may never know exactly how Craig Miller died that day, but his life provided many examples of the sterling character which characterizes the people in the Secret Service of which we speak. That day his sacrifice, and the sacrifice of others who were lost beside him in serving others, inspires all of us as Americans to move ahead on the course of freedom; to know that through dedication to duty, through strength of character, and through selfless service to others freedom will prevail.

The men and women of the Secret Service New York field office proved themselves worthy of the trust and confidence that we have placed in them. Throughout the hours and days that followed the attacks, they tirelessly worked to reestablish critical field office operations and also to assist State and local public safety officials.

The performance of the personnel in the New York field office on that day and the days that followed represent a dedication to duty in the highest traditions of the Department of the Treasury, of the United States Secret Service, and of the United States of America.

Madam Speaker, I am grateful for this opportunity to recognize their service, and I urge adoption of this very important resolution.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume to associate myself with the remarks of all the distinguished speakers and would urge passage of this resolution.

Madam Speaker, I yield back the balance of my time.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume; and in closing, I would just like to reflect that the author of this legislation was one whose district had witnessed such a terrible disaster in the bombing of the Federal building in Oklahoma City, and so it echoes of the patriotism that we saw there and we saw again in New York City.

I would like to thank my colleagues who have come down here today to honor the men and women of the Secret Service of the New York field office. After September 11, they worked tirelessly to reestablish the critical operations, as we have all heard, and undoubtedly that contributed to the safety and the continuation of this great Nation and equally important to the continuation of this great Republic.

Madam Speaker, I urge all Members to join with those of us who have spoken in favor of this resolution on the floor in support of this resolution.

Mr. GILMAN. Madam Speaker, I rise in strong support of H. Res. 384, honoring the continuing service and commitment of the men and women assigned to the United States Secret Service, New York field office.

On that horrible day on September 11th, the New York field office of the U.S. Secret Service located in 7 World Trade Center was destroyed as a result of the attacks. However, in the face of grave danger, the men and women of the Secret Service valiantly and selflessly assisted rescue workers at the scene in their efforts to save the thousands of people working in the World Trade Center complex.

Our Nation witnessed the best and the worst of humanity that fateful day. Accordingly, it is incumbent upon our Nation to honor those heroes, be they here or departed. Accordingly, I urge my fellow colleagues to support this important measure.

Mr. OTTER. Madam Speaker, I yield back the balance of my time.

□ 1430

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and agree to the resolution, H. Res. 384.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING UNITED STATES CUSTOMS SERVICE FOLLOWING TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Mr. WELLER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 385) honoring the men and women of the United States Customs Service, 6 World Trade Center offices, for their hard work, commitment and compassion during and immediately following the terrorist attacks on the World Trade Center on September 11, 2001.

The Clerk read as follows:

H. RES. 385

Whereas the United States Customs Service offices located in 6 World Trade Center were destroyed on September 11, 2001, as a result of terrorist attacks;

Whereas the men and women of the United States Customs Service in 6 World Trade Center selflessly, and at great risk, ensured no one was left behind in the imperiled building and continued to extricate coworkers until all 760 Customs employees were safe and accounted for;

Whereas the men and women of the United States Customs Service in 6 World Trade Center selflessly, and at great risk, ensured the safety of others while assisting national, State, and local officials in continued rescue and recovery efforts;

Whereas the United States Customs Service established a temporary operations center at JFK Airport just hours after the attack and worked tirelessly to permanently relocate the New York Customs office only 3 weeks later;

Whereas the dedicated men and women of the United States Customs Service continue to sift through the debris at 6 World Trade Center to retrieve vital evidence, which has since aided in recent criminal convictions; and

Whereas the United States Customs Service, with increased resolve, continues its vigil to safeguard our borders and serve on the frontline in our Nation's war against terrorism, and the men and women of the United States Customs Service represent a dedication to duty in the highest traditions of the Department of the Treasury and the United States of America: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the continued dedication of the men and women assigned to the United States Custom Service, New York operations;

(2) recognizes the critical importance of the United States Customs Service on the frontline of our national security efforts; and

(3) supports providing the necessary resources to ensure the full operation of the United States Customs Service, New York operations, and that of Customs nationwide.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. WELLER) and the gentleman from California (Mr. BECERRA) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of H. Res. 385. I commend the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Maryland (Mr. HOYER) for their leadership in bringing this special legislation before the House of Representatives, as well as their strong support for all Federal employees.

This resolution honors the men and women of the United States Customs Service for their dedication and bravery, not only for their heroic actions on and following September 11, but for their daily work to protect our country from terrorism. In fact, I would note that Customs Service employees were responsible for capturing a terrorist now known as the "Millennium Bomber" carrying bomb material on December 14, 1999, at the Canadian border in Washington State. The suspect who had plans to set off a bomb in Seattle remains in custody in Los Angeles.

The offices of the Customs Service were destroyed at 6 World Trade Center, but the Customs Service employees ensured that no one was left behind in the shaky building until every worker was accounted for, 760 employees in all.

In the days following September 11, the Customs Service workers proved their dedication to their fellow coworkers and to our country by volunteering to sift through debris to find evidence of the crime, mementos of lost coworkers, and human remains so that loved ones might know the final resting place of their family members.

Recovery workers have continued their dedicated efforts by work at the Fresh Kils dump on Staten Island, continuing the process of sorting tons of debris. In fact, over 1.5 million tons of debris has been sorted by Customs Service volunteers alone. Customs Service volunteers searched in coordination with the New York Police Department and the FBI, using only garden rakes and their own hands. Almost all of these volunteers have never done disaster or recovery work before, but feel that it is their duty and an honor to continue the process of searching for victims.

Even the search dogs give up when they can find no survivors. However, Customs employees continue their dedicated search, and for this we honor them today. In the words of one dedicated volunteer, "It isn't often that you have a chance to work at something that means so much."

Madam Speaker, our hearts go out to the victims of terrorist attacks on September 11, 2001 and their families. Just as we have seen with these Customs Service employees in New York City, we have seen how the average American can support their country; and time and time again on the day of those terrorist attacks and after, we have seen how the average American can become a hero serving the American people.

Let us join together today recognizing and honoring the men and women of the United States Customs Service, those workers located at World Trade Center 6.

Madam Speaker, I reserve the balance of my time.

Mr. BECERRA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise along with my colleague from Illinois and salute our workers in the Customs Service who have worked so valiantly, and have tired in many cases, but continue to stand strong in support of security for Americans here and abroad.

I rise in support of H. Res. 385, which honors the heroic acts of our men and women assigned to the United States Customs Service in New York City, and the operations that have been there for quite some time, not only during the attack on September 11, but immediately following the attacks, and they continue to this day with their service.

This resolution recognizes the critical importance Customs employees play as our front line of security. Too often we forget that before that problem, that terror enters our country, it is the people of the Customs Service who are there to make sure it does not come in.

We must continue to provide the New York Customs employees with the resources they need to continue full and effective operations in protecting Americans. I thank the gentleman from Maryland (Mr. HOYER) and the gentleman from Oklahoma (Mr. ISTOOK) of the Committee on Appropriations for their leadership in bringing this resolution to the House floor for approval.

The Customs Service was struck directly by the attacks of September 11. The Customs building, which was located at 6 World Trade Center, and which served as a headquarters for much of the Customs Service's northeast operations, was struck dramatically. It was completely destroyed. All of the offices were affected. Debris from the Twin Towers completely destroyed the offices of the Customs Service.

Fortunately, or miraculously, all 800 of the Customs Service employees escaped unharmed, 760 employees who worked there permanently, and 40 who were there for meetings. Not one died. Within an hour of the terrorist attacks, the Customs Service placed all of its personnel and facilities on a Level 1 Alert, which of course means enhanced security and questioning of those who are entering the U.S. is put on even greater status, and it also calls for increased inspections of travelers and goods at every port of entry.

Because of the continuing terrorist threat, as of today, the Customs Service remains at Level 1 Alert status. What does that mean? Well, it could mean 12- to 16-hour days. It means virtually all nonemergency leave has been canceled. It means overtime for inspectors tripled, and in some cases, many Customs employees have been temporarily transferred outside of their area to places and assignments such as at our northern border, far away from their families. Many of our Customs employees are still displaced. Within hours of the attack, Customs New York employees set up temporary operation centers at nearby JFK Airport. They are still there. There are many of our Customs employees in New Jersey at Port Elizabeth.

Madam Speaker, I urge my colleagues to provide the support for Customs Service to reestablish its full presence in New York City. If the brave men and women of the Customs Service refused to cower from the challenges which they faced on September 11, we should be willing to help them return to Manhattan where they will again rise to the challenge.

Madam Speaker, our Customs Service personnel, day in and day out, have fought against violence, against terrorism, not just on September 11, but I can recall in December of 1999, it was a Customs inspector who apprehended Ahmed Ressam, a suspected terrorist who was captured at Port Angeles, Washington, and apparently had planned to bomb a terminal at Los Angeles International Airport in my city of Los Angeles in late 1999.

On October 30, 2001, we lost a Customs inspector in the line of duty in

Louisiana. A U.S. Customs inspector, Thomas Murray, a 31-year veteran, entered a freighter, but never came out. Apparently, he succumbed to toxin fumes in the hold of the vessel. I offer condolences to his wife and children, his parents and his brothers, and I thank him for giving his life in the service of his country. That is the life of a Customs Service officer. That is what we stand today honoring. We continue to do so because they will not stop.

Madam Speaker, it is great that we are here today recognizing the work of the Customs Service personnel. I am pleased that both the gentleman from Maryland (Mr. HOYER) and the gentleman from Oklahoma (Mr. ISTOOK) have taken the time to recognize them today.

Madam Speaker, I reserve the balance of my time.

Mr. WELLER. Madam Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. ISTOOK), the chairman of the Subcommittee on Treasury, Postal Service and General Government, a strong advocate for the Customs Service.

Mr. ISTOOK. Madam Speaker, I rise today to commend and to thank the employees of the United States Customs Service in New York City. These dedicated men and women give new meaning to the term public service. On behalf of all Americans, this resolution says to them, thank you for your steadfast work following the terrorist attacks of last September, steadfast work that continues this day, as it has every day since September 11.

Like a number of other Federal law enforcement agencies, Customs had its principal office in 6 World Trade Center. Thanks to lessons learned from the previous bombing several years prior, they had updated and practiced their evacuation plans. That is fortunate because in large part due to this, none of the more than 750 Customs employees that were there were seriously injured, and none were killed.

However, the emotional pain was very real with them, as with all of America. It continues to this day. Yet these Customs employees more than rose to the occasion. In addition to assisting in the broader search and rescue efforts at the World Trade Center, these men and women were quickly engaged in the investigative efforts to find the responsible parties, and to guard against any additional attacks.

At a time when many Americans were still too stunned or too frightened to leave their homes, these brave officers of the Customs Service continued their role as America's front line on our borders. In fact, many officers worked through the night of September 11. Commercial operations that are so vital to America's economy, involving billions of dollars of trade every day, involving millions of American jobs, these commercial operations were quickly restored, consistent with the security that must exist at our borders.

Special agents immediately joined with fellow law enforcement officers to pursue every lead, and the New York Customs Service laboratory was up and running in temporary quarters less than a week later after the loss of their regular office space.

Today the New York Customs family is scattered through five offices, rather than being combined to one. Commutes are longer, the hours are longer, the time away from the family is greater, and the worries, of course, are many. I want each of the men and women there to know that we understand, as best as anyone not in there with them on a day-to-day basis can understand, the enormous challenges that they face. We are grateful for their efforts to carry on the very important work that they do for America.

Throughout the country, as in New York, Customs continues on Level 1 Alert. Across the northern border, along the southwest border, at our seaports and our airports, at investigative offices and elsewhere, including overseas, the men and women of Customs stand watch 24 hours a day. Overtime numbers are up. That means time with family, time with friends, time on personal pursuits are down. Stress levels continue to be high, yet the need for careful consideration of each entering person, each item that enters the United States as part of goods and cargoes, the need for careful consideration of each of them has never been higher. The execution in their job has never been better.

Since 1789, Customs has been an integral part of our government. It is America's oldest law enforcement agency. Customs has had many proud moments, but perhaps none more significant than in the past 7 months. The dedication of these men and women reminds me of President Bush's comments last fall in which he thanked all Federal workers. As he stated, "Public service is not simply a noble profession, it is an honorable life. Your service to your country makes the ideal of America a daily, living reality. History has never known a Nation of such strengths and compassion, honor and ideals. Your work and selfless commitment are vital. On behalf of not only a grateful Nation but a world in need of America, thank you."

To these words of President Bush, I join my words of thanks as I know these words are also joined by every Member of this body. I urge all of my colleagues to join in paying special tribute to the remarkable dedication of Customs agents, inspectors and other personnel in New York. Their service, from the most junior employees to the most senior managers, exemplifies the best of our Nation.

Madam Speaker, we recognize their service, and I am thankful for this opportunity to extend that recognition.

☐ 1445

Mr. BECERRA. Madam Speaker, I am pleased to yield 7 minutes to the gentleman from Maryland (Mr. HOYER), the ranking member of the Subcommittee on Treasury, Postal Service and General Government of the Committee on Appropriations.

Mr. HOYER. Madam Speaker, I thank my friend, the gentleman from California (Mr. BECERRA), for yielding me this time; I thank the gentleman from Illinois (Mr. WELLER) for facilitating the movement of this resolution to the floor in a timely fashion. And I say to Chairman ISTOOK, I am pleased to join with him in the sponsorship of this resolution.

Madam Speaker, the United States Customs Service has a long and proud history that dates back over 200 years. It was at its outset, of course, our principal funding agency. It is now one of our principal trade facilitation agencies and law enforcement agencies. To most of us, they are the men and women in blue uniform that process us through international ports of entry. But they do so very much more. With nearly 20,000 employees, the Customs Service collects $22 billion in revenue each year, it prohibits illegal drugs from crossing our borders, it enforces against illegal trade practices, and prevents individuals with destructive intentions from entering our country, as the gentleman from California (Mr. BECERRA) has cited in his own remarks.

The men and women of the Customs Service are truly on the front line in the war on terrorism. Madam Speaker, the President has correctly said that we ought to recognize those on the front line, in Afghanistan, in Bosnia, in so many other parts of the world; but these men and women are as truly on the front line as those in the services of our Armed Forces. These men and women are in some respects the first line of defense against terrorism coming in from without.

Madam Speaker, I join in the strong support of this resolution to honor the men and women of the United States Customs Service who worked in World Trade Center 6 adjacent to the North Tower. Building 6, World Trade Center, which housed 760 Customs employees, stood only 40 feet from Tower One. Shortly after the collapse of the North and South Towers, the fire proved too much for Building 6, which suffered a devastating internal collapse. By the grace of God and by the exercise of diligence and courage and energy, all 760 employees who worked in that facility escaped the wreckage without injury.

In the wake of such tragedy, these employees were resolute and determined not to let such a despicable and cowardly act of terrorism deter them from protecting our Nation. Since September 11, these employees have worked around the clock to reestablish their physical presence and have played a key role in the Federal Government's investigation of the terrorist acts that occurred on September 11. Customs employees in New York have also played a major role in the volunteer effort to sift through the rubble at Ground Zero and at the Staten Island placement site. The Customs team worked around the clock, through the holidays, through the cold winter weather, all for the purposes of finding some sign of life. Even after the canine teams stopped searching, the Customs employees continued their search, their quest in their hope to find maybe just one, maybe two, maybe more. They knew that the people who lost their lives at the World Trade Center, as they did, had children, had homes, had hopes for their own futures.

To Customs volunteers like Joseph Gloria, Louis Boehner, Stephen Cook, Jack Russo, and Richard Tursi, who spent so many days and nights searching through heaps and piles of dirt for personal effects of those who lost their lives so that loved ones might have them to remember them by, you are American heroes, as are the 194 other Customs volunteers who devoted their time. America will not forget you. As it will not forget the firefighters and the police who lost their lives that day, we will not forget your efforts that day or every day as you protect America, our commerce, our health, our safety.

Madam Speaker, I also want to mention Joe Webber, who is the special agent in charge of the Customs office in New York. For over 2½ years, the Customs Service has been investigating a Colombian money laundering scheme called Operation Wire Cutter which involved the illegal exchange of drug-based dollars into pesos in Colombia. Following the September 11 attacks, it appeared that 2½ years of investigative material was lost and that that investigation was for naught because the evidence compiled and housed in 6 World Trade Center was not available. Mr. Webber, however, kept the faith. He still thought there was a chance to retrieve the information. A month after the attacks, he convinced fire officials to lower him into the wreckage of World Trade Center 6 to search for the evidence. Fortunately, yes, perhaps miraculously, as the gentleman from California (Mr. BECERRA) said, Mr. Webber was able to find that evidence which led to the seizure of $8 million and the arrest of several individuals involved in this scheme. The terrorists had lost.

Mr. Webber, we thank you for your determination. You once again proved that terrorism will not, did not, must not defeat our resolve. To all of the Customs employees who worked in World Trade Center 6, we honor you today. We will be there to honor you again next week, but it is significant that 535 of your fellow citizens, sent here by 287 million Americans to represent our country, stand united in thanking you, in honoring you, in respecting you for your service, your hard work, your compassion, your determination. Our Nation owes you a debt of gratitude for the leadership and commitment you showed during a time when our Nation was most vulnerable.

Our national anthem says that we are the land of the free. We are the land of the free because we are the home of the brave and these are some of those brave.

Mr. BECERRA. Madam Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Speaker, I thank the gentleman for yielding me this time. I also want to commend Chairman ISTOOK and Ranking Member HOYER for their introduction of this important resolution.

"We are the guardians of our Nation's borders, America's front line. We serve and protect the American public with integrity, innovation, and pride. We enforce the laws of the United States, safeguard the revenue, and foster lawful international trade and travel."

Such is the mission of the U.S. Customs Service, a government agency whose history parallels the history of our country. In 1789 when our new country was struggling to fight off financial ruin, the U.S. Customs Service was created to help save the Nation. On September 11, 2001, when our country was the victim of terrorist attacks of the most horrific magnitude, the U.S. Customs Service was once again there to help save our Nation.

As a member of the House Committee on Government Reform and the ranking member of the Subcommittee on Civil Service and Agency Organization, I am pleased to join with my colleagues in support of House Resolution 385. This measure honors the men and women of the United States Customs Service, 6 World Trade Center offices, for their hard work, commitment, and compassion during and immediately following the terrorist attacks on the World Trade Center on September 11, 2001. It is indeed a fitting tribute for an extraordinary group of Federal Government employees.

On September 11, there were 760 Custom employees at the World Trade Center 6, along with 40 other Customs employees who were there for a meeting. Although their offices were destroyed, Customs employees, at great personal risk, ensured that every one of their coworkers safely exited the building. Just hours after the attack, they established temporary operations at JFK Airport and worked with national, State, and local officials in rescue and recovery efforts. They have helped retrieve evidence which is critical to criminal convictions.

Madam Speaker, tradition, service, honor. That is the U.S. Customs Service legacy and its future. I urge my colleagues to join with me in recognizing the men and women assigned to the United States Customs Service, New York operations, for their dedication to duty and in providing the necessary resources for the U.S. Customs Service to carry out its mission as we know it today, guardians of our borders, protectors of our people.

Mr. BECERRA. Madam Speaker, I yield myself the balance of my time.

I hope this body will recognize that Chairman ISTOOK and Ranking Member HOYER were instrumental in ensuring that the Customs Service received the $36 million which it needed for up-front reconstruction to enable it to reestablish operations in New York and begin to replace badly needed equipment in a very short period of time. We owe a great deal of gratitude to both of those gentlemen and all the members of the Committee on Appropriations who made that possible.

Further, the congressional support that was offered quickly to the Customs Service provided for overtime funding for inspectors and agents and was critical in helping them to complete their assignment to battle against terrorism, to patrol our airspace, and to safeguard our coastal waters. This prompt response gave Customs the tools it needed to secure our borders quickly in the face of immediate threat.

To the men and women in Customs, we say, you have earned our respect and you deserve this tribute. I look very much forward to the vote in passing this resolution.

Madam Speaker, I yield back the balance of my time.

Mr. WELLER. Madam Speaker, I yield myself the balance of my time.

I join my colleague on the Committee on Ways and Means, as well as my colleague from California for his statements in recognition of the leadership of Chairman ISTOOK and Ranking Member HOYER in support of the Customs Service. I also want to give recognition to Chairman PHIL CRANE of the Subcommittee on Trade of the House Committee on Ways and Means for his active leadership on behalf of the Customs Service which has jurisdiction under the Committee on Ways and Means.

Madam Speaker, this resolution is important because it honors the men and women of the United States Customs Service, 6 World Trade Center, those offices, for their hard work, their commitment, their compassion and their volunteerism, their volunteerism during and immediately following the terrorist attacks on the World Trade Center on September 11, 2001.

I urge and ask my colleagues in this House to join together in recognition of these workers in the New York Customs Service office and that they give them the recognition they deserve as well as the expression of gratitude of our Nation.

Mr. GILMAN. Madam Speaker, I rise in strong support of H. Res. 385, honoring the men and women of the U.S. Customs Service who were working at 6 World Trade Center for their bravery, commitment, and compassion during and immediately following the terrorist attacks on the World Trade Center on September 11.

On that fateful day in September, the New York field office of the U.S. Customs Service located in 6 World Trade Center was destroyed as a result of the attacks. However, in the face of grave danger, the men and women of the Customs Service were able to ensure the evacuation of over 750 of their fellow coworkers prior to the collapse of their building. Moreover, many remained on the scene to assist rescue workers in their efforts to save the thousands of people working in the World Trade Center complex.

Our Nation witnessed the best and the worst of humanity that terrible day. Accordingly, it is only proper that we recognize and honor these selfless acts of bravery. I urge my fellow colleagues to support this important measure.

Mr. CROWLEY. Madam Speaker, I rise today in support of H. Res. 385, a resolution to honor the men and women of the U.S. Customs Service, New York Office, for their admirable duty and bravery in the service of our country, and the people of New York, during the terrorist attacks of September 11.

The New York Customs Service was on the front lines on September 11. Their office, located at 6 World Trade Center was evacuated and later destroyed in the towers' collapse.

Despite this, the men and women who work at Customs, a number of whom I am proud to call my constituents, ensured at great personal risk, the safe evacuation of their offices and surrounding offices. They then continued to work with local and national public safety officers to coordinate and assist the search and rescue and later recovery efforts.

The men and women of the Customs Service deserve our utmost thanks and respect for their remarkable service.

But in addition to these proclamations, we need to provide real tangible support for our Customs officials. By that, I mean mandating the return of the Custom's New York Office back to Manhattan.

I have many constituents who work for the Customs Service, and belong to the National Treasury Employees Union 183. We all applaud Customs for quickly relocating these employees, my constituents, to alternative work sites at Kennedy Airport and Newark, NJ. But it is integral for the Nation, for the city and for Customs employees that a new permanent Customs Office is set up in Manhattan.

For the day-to-day officers of the Customs Service, our Nation's primary enforcement agency protecting our borders, this new duty station in New Jersey causes tremendous—and needless—burdens.

In addition, the U.S. Customs Service must have a Manhattan presence. As a life-long New Yorker I am very concerned about the possibility of companies using September 11 as an excuse to flee New York City and I have been working with the city and State to prevent this from happening. As an agency of the Federal Government, the Customs Service should set an example to private companies, and show them that New York is still the greatest city in the world and the capital of international business. By not having an office in Manhattan, the opposite is suggested.

The men and women of the Customs Service helped to alleviate the fears of our country on and right after September 11. It was fear that the terrorists were counting on to defeat us, and precisely what we must not allow to win. Those fears will be further mitigated by the return of businesses to New York City, and the Customs Service must be one office leading the way.

Madam Speaker, in conclusion I thank the efforts of the gentleman from Oklahoma in introducing this measure and allowing this House to pay tribute to these men and women who have done so much to help New Yorkers and the country. I thank you all, and I assure you that we will not forget what you have done.

Mr. WELLER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Illinois (Mr. WELLER) that the House suspend the rules and agree to the resolution, H. Res. 385.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CONSTITUENT SERVICE REPRESENTATIVE FOR HON. CHARLES F. BASS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Madeline Saulnier, Constituent Service Representative for the Honorable CHARLES F. BASS, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 17, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for testimony issued by the United States District Court for the District of New Hampshire.

After consultation with the Office of General Counsel, I have determined that it is consistent with the precedents and privileges of the House to comply with the subpoena.

Sincerely,
MADELINE SAULNIER,
Constitutent Service Representative for Congressman Charles F. Bass of New Hampshire.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6 p.m. today.

Accordingly (at 2 o'clock and 59 minutes p.m.), the House stood in recess until approximately 6 p.m.

☐ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. OTTER) at 6 p.m.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–202)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report that my Administration has prepared on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995.

GEORGE W. BUSH.
THE WHITE HOUSE, *April 23, 2002.*

KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2002

Mr. HOEKSTRA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3839) to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Keeping Children and Families Safe Act of 2002".

TITLE I—CHILD ABUSE PREVENTION AND RELATED PROGRAMS

Subtitle A—Amendments to the Child Abuse Prevention and Treatment Act

CHAPTER 1—GENERAL PROGRAM

SEC. 101. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is repealed.

SEC. 102. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) Functions.—Section 103(b)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(b)(1)) is amended by striking "all programs, including private programs, that show promise of success" and inserting "all effective programs, including private programs, that show promise of success and the potential for broad-scale implementation and replication".

(b) Coordination With Available Resources.—Section 103(c)(1) of such Act (42 U.S.C. 5104(c)(1)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) collect and disseminate information that describes best practices being used throughout the Nation for making appropriate referrals related to, and addressing, the physical, developmental, and mental health needs of abused and neglected children; and".

SEC. 103. RESEARCH AND ASSISTANCE ACTIVITIES.

(a) Research.—Section 104(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating paragraph (1)(D) as paragraph (2) (and redesignating the corresponding items contained therein accordingly) and moving such paragraph two ems to the left;

(3) in paragraph (1)—

(A) in the first sentence of the matter preceding subparagraph (A), by inserting ", including longitudinal research," after "interdisciplinary program of research";

(B) in subparagraph (B), by inserting at the end before the semicolon the following: ", including the effects of abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed";

(C) in subparagraph (C)—

(i) by striking "judicial procedures" and inserting "judicial systems, including multidisciplinary, coordinated decisionmaking procedures"; and

(ii) by striking "and" at the end; and

(D) by adding at the end the following:

"(D) the evaluation and dissemination of best practices consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (12) of section 106(a);

"(E) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

"(F) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources; and

"(G) the information on the national incidence of child abuse and neglect specified in subparagraphs (A) through (K) of paragraph (2).";

(4) in paragraph (2) (as redesignated)—

(A) by striking the matter preceding subparagraph (A) (as redesignated) and inserting "The Secretary shall conduct research on the national incidence of child abuse and neglect, including—";

(B) in subparagraph (H) (as redesignated), by striking "and" at the end;

(C) by redesignating subparagraph (I) (as redesignated) as subparagraph (J); and

(D) by inserting after subparagraph (H) the following:

"(I) the incidence and prevalence of child maltreatment by reason of family structure, including the living arrangement of the resident parent, family income, and family size; and";

(5) by inserting after paragraph (2) (as redesignated) the following:

"(3) Report.—Not later than 4 years after the date of the enactment of the Keeping Children and Families Safe Act of 2002, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the research conducted under paragraph (2)."; and

(6) in paragraph (4) (as redesignated), by amending subparagraph (B) to read as follows:

"(B) The Secretary shall, every two years, provide opportunity for public comment of such proposed priorities and provide for an official record of such public comment.".

(b) Provision of Technical Assistance.—Section 104(b) of such Act (42 U.S.C. 5105(b)) is amended—

(1) in paragraph (1), by inserting ", including replicating successful program models," after "and carrying out programs and activities"; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) effective approaches being utilized to link child protective service agencies with health care, mental health care, and developmental services to improve forensic diagnosis and health evaluations, and barriers and shortages to such linkages.".

SEC. 104. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION PROGRAMS AND PROJECTS.

(a) Demonstration Programs and Projects.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) for training to support the enhancement of linkages between child protective service agencies and health care agencies, including physical and mental health services, to improve forensic diagnosis and health evaluations and for innovative partnerships between child protective service agencies and health care agencies that offer creative approaches to using existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

"(E) for the training of personnel in best practices to promote collaboration with the families from the initial time of contact during the investigation through treatment; and

"(F) for the training of personnel regarding the legal duties of such personnel.";

(2) in paragraph (2)—

(A) by striking "(such as Parents Anonymous)"; and

(B) by inserting "that incorporate standards and demonstrate effectiveness, and have a shared model of leadership," after "self-help programs"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking "responding to reports" and inserting "addressing the prevention and treatment"; and

(II) by striking "including" and all that follows through "triage system" and inserting ", including community-based organizations, national entities, collaborative partnerships between State child protective service agencies, statewide child abuse prevention and treatment organizations, law enforcement agencies, substance abuse treatment entities, health care entities, domestic violence prevention entities, mental health services entities, developmental disability agencies, community social service agencies, family support programs, schools, religious organizations, and other entities to allow for the establishment of a triage system"; and

(ii) in clause (iii), by striking "child's safety is in jeopardy" and inserting "child's safety and health are in jeopardy"; and

(B) by adding at the end the following:

"(D) Linkages Between Child Protective Service Agencies and Public Health, Mental Health, and Developmental Disabilities Agencies.—The Secretary may award grants to entities that provide linkages between State or local child protective service agencies and public health, mental health, and developmental disabilities agencies, for the purpose of establishing linkages that are designed to help assure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated.".

(b) Discretionary Grants.—Section 105(b) of such Act (42 U.S.C. 5106(b)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

"(4) Programs based within children's hospitals, or other pediatric and adolescent care facilities, that provide model approaches for improving medical diagnosis of child abuse and neglect and for health evaluations of children for whom a report of maltreatment has been substantiated.".

(c) Evaluation.—Section 105(c) of such Act (42 U.S.C. 5106(c)) is amended—

(1) in the second sentence, by inserting "or contract" after "or as a separate grant"; and

(2) by adding at the end the following: "In the case of an evaluation performed by the recipient of a demonstration grant, the Secretary shall make available technical assistance for the evaluation, where needed, to ensure a rigorous application of scientific evaluation techniques.".

SEC. 105. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a) Development and Operation Grants.—Section 106(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(a)) is amended—

(1) in paragraph (3)—

(A) by inserting ", including ongoing case monitoring," after "case management"; and

(B) by inserting "and treatment" after "and delivery of services";

(2) in paragraph (4)—

(A) by striking "automation" and inserting "management information and technology"; and

(B) by adding at the end before the semicolon the following: ", including to support the ability of States to collect information for the National Child Abuse and Neglect Data System";

(3) in paragraph (5), by adding at the end before the semicolon the following: ", including training regarding best practices to promote collaboration with the families and the legal duties of such individuals";

(4) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(5) by inserting after paragraph (5) the following:

"(6) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;"

(6) by redesignating paragraphs (8) through (10) (as redesignated) as paragraphs (9) through (11), respectively;

(7) by inserting after paragraph (7) the following:

"(8) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect;";

(8) by striking "or" at the end of paragraph (10) (as redesignated);

(9) by redesignating paragraph (11) (as redesignated) as paragraph (12);

(10) by inserting after paragraph (10) the following:

"(11) promoting partnerships between public agencies and community-based organizations to provide child abuse and neglect prevention and treatment services, including linkages with education systems and health care systems (including mental health systems);";

(11) by striking the period at the end of paragraph (12) (as redesignated) and inserting a semicolon; and

(12) by adding at the end the following:

"(13) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems; or

"(14) supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to address the health needs of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports.".

(b) ELIGIBILITY REQUIREMENTS.—

(1) STATE PLAN.—Section 106(b)(1)(B) of such Act (42 U.S.C. 5106(b)(1)(B)) is amended—

(A) by striking "provide notice to the Secretary of any substantive changes" and inserting the following: "provide notice to the Secretary of—

"(i) any substantive changes";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(ii) any significant changes to how funds provided under this section are used to support the activities which may differ from the activities as described in the current State application.".

(2) COORDINATION.—Section 106(b)(2)(A) of such Act (42 U.S.C. 5106a(b)(2)(A)) is amended—

(A) by redesignating clauses (ii) through (xiii) as clauses (iii) through (xiv), respectively;

(B) by inserting after clause (i) the following:

"(ii) policies and procedures to address the needs of infants born and identified with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication or withdrawal syndrome, or neonatal physical or neurological harm resulting from prenatal drug exposure, including—

"(I) the requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to create a definition under Federal law of what constitutes child abuse and such notification shall not be construed to require prosecution for any illegal action; and

"(II) the development of a plan of safe care for the infant under which consideration may be given to providing the mother with health services (including mental health services), social services, parenting services, and substance abuse prevention and treatment counseling and to providing the infant with referral to the statewide early intervention program funded under part C of the Individuals with Disabilities Education Act for an evaluation for the need for services provided under part C of such Act;";

(C) by redesignating clauses (vi) through (xiv) (as redesignated) as clauses (vii) through (xv), respectively;

(D) by inserting after clause (v) (as redesignated) the following:

"(vi) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;";

(E) in clause (vii)(II) (as redesignated), by striking ", having a need for such information" and all that follows through "abuse and neglect" and inserting "as described in clause (vi)";

(F) in clause (xiii) (as redesignated), by striking "to be effective not later than 2 years after the date of the enactment of this section";

(G) in clause (xiv) (as redesignated)—

(i) in the matter preceding subclause (I), by striking "to be effective not later than 2 years after the date of the enactment of this section"; and

(ii) in subclause (IV), by striking "and" at the end;

(H) in clause (xv) (as redesignated), by striking "clause (xii)" each place it appears and inserting "clause (xiv)"; and

(I) by adding at the end the following:

"(xvi) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the individual making the report of the alleged child abuse or neglect;

"(xvii) provisions addressing the training of representatives of the child protective services system regarding their legal duties, which may consist of procedures to inform such representatives of such duties, in order to protect the legal rights of children and families from the initial time of contact during the investigation through treatment;

"(xviii) provisions and procedures for improving the training, retention, and supervision of caseworkers; and

"(xix) provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to the statewide early intervention program funded under part C of the Individuals with Disabilities Education Act for an evaluation for the need of services provided under part C of such Act.".

(3) LIMITATION.—Section 106(b)(3) of such Act (42 U.S.C. 5106a(b)(3)) is amended by striking "With regard to clauses (v) and (vi) of paragraph (2)(A)" and inserting "With regard to clauses (vi) and (vii) of paragraph (2)(A)".

(c) CITIZEN REVIEW PANELS; REPORTS.—Section 106(c) of such Act (42 U.S.C. 5106a(c)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by striking "policies and procedures" and inserting "policies, procedures, and practices"; and

(B) by adding at the end the following:

"(C) PUBLIC OUTREACH.—Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A)."; and

(2) in paragraph (6), by inserting "State and" before "public".

(d) ANNUAL STATE DATA REPORTS.—Section 106(d) of such Act (42 U.S.C. 5106a(d)) is amended by adding at the end the following:

"(13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6).

"(14) The number of children under the care of the State child protection system transferred into the custody of the State juvenile justice system.".

SEC. 106. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.

Section 107(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106c(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) the handling of cases involving children with disabilities or serious health-related problems who are victims of abuse or neglect.".

SEC. 107. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended by adding at the end the following:

"(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should encourage all States and public and private agencies or organizations that receive assistance under this title to ensure that children and families with limited English proficiency who participate in programs under this title are provided materials and services under such programs in an appropriate language other than English.".

SEC. 108. REPORTS.

Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106f) is amended by adding at the end the following:

"(c) STUDY AND REPORT RELATING TO CITIZEN REVIEW PANELS.—

"(1) STUDY.—The Secretary shall conduct a study by random sample on the effectiveness of the citizen review panels established under section 106(c).

"(2) REPORT.—Not later than 3 years after the date of the enactment of Keeping Children and Families Safe Act of 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the study conducted under paragraph (1).".

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended to read as follows:

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title $120,000,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004 through 2007.".

(b) DEMONSTRATION PROJECTS.—Section 112(a)(2)(B) of such Act (42 U.S.C. 5106h(a)(2)(B)) is amended by striking "Secretary make" and inserting "Secretary shall make".

CHAPTER 2—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

SEC. 111. PURPOSE AND AUTHORITY.

(a) PURPOSE.—Section 201(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(a)(1)) is amended—

(1) by striking "prevention-focused,"; and

(2) by inserting "for the prevention of child abuse and neglect" after "family resource and support programs".

(b) AUTHORITY.—Section 201(b) of such Act (42 U.S.C. 5116(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "prevention-focused,"; and

(ii) by striking "family resource and support programs" and inserting "family support programs for the prevention of child abuse and neglect";

(B) in subparagraph (F), by striking "and" at the end; and

(C) by striking subparagraph (G) and inserting the following:

"(G) demonstrate a commitment to meaningful parent leadership, including among parents of children with disabilities, parents with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups;

"(H) provide referrals to early health and developmental services; or

"(I) are accessible, effective, culturally appropriate, developmentally appropriate, and built upon existing strengths;"; and

(2) in paragraph (4)—

(A) by inserting "through leveraging of funds" after "maximizing funding";

(B) by striking "prevention-focused,"; and

(C) by striking "family resource and support program" and inserting "family support programs for the prevention of child abuse and neglect".

SEC. 112. ELIGIBILITY.

Section 202 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "prevention-focused,";

(ii) by striking "family resource and support programs," and inserting "family support programs for the prevention of"; and

(iii) by striking "prevention activities"; and

(B) in subparagraph (B), by inserting "that exists to strengthen and support families for purposes of preventing child abuse and neglect and" after "written authority of the State)";

(2) in paragraph (2)(A)—

(A) by striking "family resource and support programs" and inserting "family support programs for the prevention of child abuse and neglect"; and

(B) by adding at the end before the semicolon the following: "and parents with disabilities"; and

(3) in paragraph (3)—

(A) by striking "prevention-focused," each place it appears;

(B) by striking "family resource and support programs" each place it appears and inserting "family support programs for the prevention of child abuse and neglect";

(C) in subparagraph (C), by striking "and technical assistance," and inserting ", technical assistance, and evaluation assistance"; and

(D) in subparagraph (D), by inserting ", parents with disabilities," after "children with disabilities".

SEC. 113. AMOUNT OF GRANT.

Section 203(b)(1)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b(b)(1)(B)) is amended—

(1) by striking "as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the" and inserting "as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated"; and

(2) by striking "the lead agency" and inserting "the current lead agency".

SEC. 114. EXISTING GRANTS.

Section 204 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5115c) is repealed.

SEC. 115. APPLICATION.

Section 205 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116d) is amended—

(1) in paragraphs (1), (2), (4), (8), and (9)—

(A) by striking "prevention-focused," each place it appears; and

(B) by striking "family resource and support programs" each place it appears and inserting "family support programs for the prevention of child abuse and neglect";

(2) in paragraph (2), by striking "family resource and support services" and inserting "family support services";

(3) in paragraph (3)—

(A) by striking "an assurance that an inventory of" and inserting "a description of the inventory of current unmet needs,";

(B) by striking "family resource programs" and inserting "family support programs";

(C) by striking ", respite care, child abuse and neglect prevention activities," and inserting "for the prevention of child abuse and neglect, including respite care"; and

(D) by striking ", will be provided";

(4) in paragraph (5)—

(A) by inserting "start-up, maintenance, expansion, and redesigning" after "other State and local public funds designated for";

(B) by striking "prevention-focused,"; and

(C) by striking "family resource and support programs" and inserting "family support programs for the prevention of child abuse and neglect";

(5) in paragraph (7), by striking "individual community-based, prevention-focused, family resource and support programs" and inserting "child abuse and neglect prevention programs that are community-based, including family support programs"; and

(6) in paragraph (11)—

(A) by striking "prevention-focused,"; and

(B) by striking "family resource and support program services" and inserting "family support program services for the prevention of child abuse and neglect".

SEC. 116. LOCAL PROGRAM REQUIREMENTS.

Section 206(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116e(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", network," after "expand";

(B) by striking "prevention-focused,"; and

(C) by striking "family resource and support programs" and inserting "family support programs for the prevention of child abuse and neglect";

(2) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by striking "family resource and support services" and inserting "family support services for the prevention of child abuse and neglect";

(B) in clause (iii), by striking "and" at the end; and

(C) by adding at the end the following:

"(v) respite care;

"(vi) home visiting; and

"(vii) family support services;"; and

(3) in paragraph (6)—

(A) by striking "prevention-focused,"; and

(B) by striking "family resource and support program" and inserting "family support programs for the prevention of child abuse and neglect".

SEC. 117. PERFORMANCE MEASURES.

Section 207 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116f) is amended—

(1) in paragraph (1)—

(A) by striking "prevention-focused,"; and

(B) by striking "family resource and support programs" and inserting "family support programs for the prevention of child abuse and neglect";

(2) in paragraph (2), by striking ", including" and all that follows through "section 202" and inserting ", such as the services described in section 206(a)(3)(A)";

(3) in paragraph (3), by striking "of new respite care and other specific new family resources services, and the expansion of existing services," and inserting "and the maintenance, enhancement, or expansion of existing services such as those described in section 206(a)(3)(A),"; and

(4) in paragraph (4)—

(A) by inserting "and parents with disabilities," after "children with disabilities,";

(B) by striking "evaluation of" the first place it appears and all that follows through "under this title" and inserting "evaluation of community-based child abuse and neglect prevention programs"; and

(5) in paragraphs (5), (6), and (8)—

(A) by striking "prevention-focused," each place it appears; and

(B) by striking "family resource and support programs" each place it appears and inserting "family support programs for the prevention of child abuse and neglect".

SEC. 118. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

Section 208(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116g(3)) is amended—

(1) by striking "prevention-focused,"; and

(2) by striking "family resource and support programs" and inserting "family support programs for the prevention of child abuse and neglect".

SEC. 119. DEFINITIONS.

(a) CHILDREN WITH DISABILITIES.—Section 209(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h(1)) is amended by striking "given such term in section 602(a)(2)" and inserting "given the term 'child with a disability' in section 602(3)".

(b) FAMILY RESOURCE AND SUPPORT PROGRAM.—Section 209(3) of such Act (42 U.S.C. 5116h(3)) is amended—

(1) in the matter preceding subparagraph (A), by striking ", prevention-focused";

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "core services" and inserting "core child abuse and neglect prevention services";

(B) in clause (i)—

(i) by striking ", together with services";

(ii) by striking "equality and respect, and" and inserting "equality and respect that are"; and

(iii) by inserting at the end before the semicolon the following: "in order to prevent child abuse and neglect"; and

(C) in clause (ii), by striking "to one another" and inserting "for support of one another"; and

(3) in subparagraph (C)(iii), by striking "scholastic" and inserting "academic".

SEC. 120. AUTHORIZATION OF APPROPRIATIONS.

Section 210 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116i) is amended to read as follows:

"SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004 through 2007.".

CHAPTER 3—TECHNICAL AND CONFORMING AMENDMENTS; REDESIGNATIONS

SEC. 121. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FINDINGS.—Section 2(3)(D) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended by striking "ensures properly trained and support staff with specialized knowledge," and inserting "ensures staff have proper training and specialized knowledge".

(b) TITLE I.—Title I of such Act (42 U.S.C. 5101 et seq.) is amended as follows:

(1) In section 104(d)(1), by striking "federal agencies" and inserting "Federal agencies".

(2) In section 105(b), in the matter preceding paragraph (1), by striking "subsection (b)" and inserting "subsection (a)".

(3) In section 106(b)(2)—

(A) in subparagraph (A), by striking "Statewide program" and inserting "statewide program"; and

(B) in subparagraph (B)(iii), by striking "life threatening" and inserting "life-threatening".

(4) In section 107(e)(1)(B), by striking "improve the rate" and all that follows through "child sexual abuse cases" and inserting the following: "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children".

(5) By redesignating sections 103 through 113 as sections 102 through 112, respectively.

(c) TITLE II.—Title II of such Act (42 U.S.C. 5116 et seq.) is amended as follows:

(1) In paragraphs (1) and (4) of section 201(b), paragraphs (1)(A), (3)(A), (3)(B), and (3)(C) of section 202, paragraphs (1) and (5) of section 205, section 206(a)(6), paragraphs (1) and (6) of section 207, and section 208(3), by striking "Statewide" each place it appears and inserting "statewide".

(2) In section 205, by redesignating paragraph (13) as paragraph (12).

(3) In section 207(8), by striking "community based" and inserting "community-based".

(4) By redesignating sections 205 through 210 as sections 204 through 209, respectively.

SEC. 122. REDESIGNATIONS.

(a) REDESIGNATIONS.—

(1) TITLE I.—(A) Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by striking the heading for such title and inserting the following:

"Subtitle A—General Program".

(B) Sections 101 through 112 of such Act (as redesignated) are further redesignated as sections 111 through 122, respectively.

(2) TITLE II.—(A) Title II of such Act is amended by striking the heading for such title and inserting the following:

"Subtitle B—Community-Based Family Support Grants for the Prevention of Child Abuse and Neglect".

(B) Sections 201 through 209 of such Act (as redesignated) are further redesignated as sections 131 through 139, respectively.

(b) CONFORMING AMENDMENTS.—

(1) TITLE HEADING.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by inserting before section 1 the following:

"TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT".

(2) SHORT TITLE; TABLE OF CONTENTS; FINDINGS.—(A) Section 1 of such Act (42 U.S.C. 5101 note) is amended to read as follows:

"SEC. 101. SHORT TITLE.

"This title may be cited as the 'Child Abuse Prevention and Treatment Act'.".

(B) Section 2 of such Act (42 U.S.C. 5101 note) is redesignated as section 102.

(3) SUBTITLE A.—Subtitle A of title I of such Act (as redesignated by subsection (a)(1)) is amended as follows:

(A) In section 111(b) (as redesignated), by striking "this Act" and inserting "this title" in the first sentence.

(B) In section 112(c)(1)(E) (as redesignated), by striking "section 105(a)" and inserting "section 113(a)".

(C) In section 113(b)(2)(C) (as redesignated), by striking "titles I and II" and inserting "this subtitle and subtitle B".

(D) In section 115(b)(2)(A)(vii) (as redesignated), by striking "Act" and inserting "title".

(E) In section 116(b)(1) (as redesignated), by striking "section 107(b)" and inserting "section 115(b)".

(F) In section 117 (as redesignated), by striking "this Act" each place it appears and inserting "this title".

(G) In section 118 (as redesignated), by striking "this Act" and inserting "this title".

(H) In section 119(b) (as redesignated), by striking "section 107" and inserting "section 116".

(I) In section 120 (as redesignated), by striking "this title" and inserting "this subtitle".

(J) In section 121 (as redesignated)—

(i) by striking "this title" each place it appears and inserting "this subtitle"; and

(ii) in subsection (a)(2)(B), by striking "section 106" and inserting "section 115".

(K) In section 122(a) (as redesignated), by striking "this Act" and inserting "this title".

(4) SUBTITLE B.—Subtitle B of title I of such Act (as redesignated by subsection (a)(2)) is amended as follows:

(A) In section 131 (as redesignated)—

(i) by striking "this title" each place it appears and inserting "this subtitle"; and

(ii) in subsection (b)—

(I) in the matter preceding paragraph (1), by striking "section 202(1)" and inserting "section 132(1)"; and

(II) in paragraph (3), by striking "section 205(a)(3)" and inserting "section 134(a)(3)".

(B) In section 132 (as redesignated)—

(i) by striking "this title" each place it appears and inserting "this subtitle"; and

(ii) in paragraph (1)(D) by striking "such title" and inserting "such subtitle".

(C) In section 133 (as redesignated), by striking "section 210" each place it appears and inserting "section 139".

(D) In section 134 (as redesignated)—

(i) by striking "this title" each place it appears and inserting "this subtitle";

(ii) by striking "section 202" each place it appears and inserting "section 132"; and

(iii) in paragraph (2), by striking "this Act" and inserting "this title".

(E) In section 135 (as redesignated), by striking "this title" each place it appears and inserting "this subtitle".

(F) In section 136 (as redesignated)—

(i) by striking "this title" each place it appears and inserting "this subtitle";

(ii) in paragraph (2), by striking "section 206(a)(3)(A)" and inserting "section 135(a)(3)(A)"; and

(iii) in paragraph (3)—

(I) by striking "section 206(a)(3)(A)" and inserting "section 135(a)(3)(A)"; and

(II) by striking "section 205(3)" and inserting "section 134(3)".

(G) In section 139 (as redesignated), by striking "this title" and inserting "this subtitle".

Subtitle B—Amendments to Other Child Abuse Prevention and Related Programs

CHAPTER 1—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

SEC. 131. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Section 201(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111(a)) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by striking "increasingly"; and

(B) by striking "which" and inserting "that";

(3) by amending paragraph (3) to read as follows:

"(3) many such children have special needs because they are born to mothers who did not receive prenatal care, are born with life-threatening conditions or disabilities, are born addicted to alcohol and other drugs, or have been exposed to infection with the etiologic agent for the human immunodeficiency virus;";

(4) in paragraph (4)—

(A) by striking "the welfare of" and inserting "each year,"; and

(B) by striking "in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children";

(5) in paragraph (5), by striking "thousands of";

(6) by striking paragraph (6);

(7) in paragraph (7)—

(A) in subparagraph (A)—

(i) by striking "40,000";

(ii) by inserting "of all races and ages" after "children"; and

(iii) by adding "and" at the end;

(B) in subparagraph (B), by striking "and" at the end; and

(C) by striking subparagraph (C); and

(8) by redesignating paragraphs (2), (3), (4), (5), (7), (8), (9), and (10) as paragraphs (1) through (8), respectively.

SEC. 132. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 203. INFORMATION AND SERVICES.";

(2) by striking "Sec. 203. (a) The Secretary" and inserting the following:

"(a) In General.—The Secretary";

(3) in subsection (b), by inserting "Required Activities.—" after "(b)";

(4) in subsection (c)—

(A) by striking "(c)(1) The Secretary" and inserting the following:

"(c) Services for Families Adopting Special Needs Children.—

"(1) In general.—The Secretary";

(B) by striking "(2) Services" and inserting the following:

"(2) Services.—Services"; and

(C) in paragraph (2)—

(i) by moving subparagraphs (A) through (G) 2 ems to the right;

(ii) in subparagraph (F), by striking "and" at the end;

(iii) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(H) day treatment; and

"(I) respite care."; and

(5) in subsection (d)—

(A) in paragraph (1), by striking "component which" and inserting "component that";

(B) by striking "(d)(1) The Secretary" and inserting the following:

"(d) Improving Placement Rate of Children in Foster Care.—

"(1) In general.—The Secretary";

(C) by striking "(2)(A) Each State" and inserting the following:

"(2) Applications; technical and other assistance.—

"(A) Applications.—Each State";

(D) by striking "(B) The Secretary" and inserting the following:

"(B) Technical and other assistance.—The Secretary";

(E) in paragraph (2)(B), by moving clauses (i) and (ii) 4 ems to the right;

(F) by striking "(3)(A) Payments" and inserting the following:

"(3) Payments.—

"(A) In general.—Payments"; and

(G) by striking "(B) Any payment" and inserting the following:

"(B) Reversion of unused funds.—Any payment".

SEC. 133. STUDY AND REPORT ON DYNAMICS OF SUCCESSFUL ADOPTION.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended to read as follows:

"SEC. 204. STUDY AND REPORT ON DYNAMICS OF SUCCESSFUL ADOPTION.

"The Secretary shall conduct research (directly or by grant to, or contract with, public or private nonprofit research agencies or organizations) about adoption outcomes and the factors affecting those outcomes. The Secretary shall submit a report containing the results of such research to the appropriate committees of the Congress not later than the date that is 36 months after the date of the enactment of the Keeping Children and Families Safe Act of 2002.".

SEC. 134. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.";

(2) by striking "Sec. 205.";

(3) by amending subsection (a) to read as follows:

"(a) In General.—There are authorized to be appropriated $40,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2007 to carry out programs and activities authorized under this subtitle."; and

(4) in subsection (b), by inserting "Availability.—" after "(b)".

SEC. 135. TRANSFER AND REDESIGNATIONS; CONFORMING AMENDMENTS.

(a) In General.—Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.)—

(1) is amended by striking the title heading;

(2) is transferred to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by subtitle A of this title; and

(3) is redesignated as subtitle A of title II of such Act.

(b) Conforming Amendments.—

(1) Title and subtitle headings; short title.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended, is further amended—

(A) by redesignating section 201 as section 202; and

(B) by inserting after title I of such Act the following:

"TITLE II—OTHER CHILD ABUSE PREVENTION AND RELATED PROGRAMS

"Subtitle A—Adoption Opportunities

"SEC. 201. SHORT TITLE.

"This subtitle may be cited as the 'Adoption Opportunities Act of 2002'.".

(2) Title references.—Subtitle A of title II of such Act is amended by striking "this title" each place such term appears and inserting "this subtitle".

CHAPTER 2—ABANDONED INFANTS ASSISTANCE ACT OF 1988

SEC. 141. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by inserting "studies indicate that a number of factors contribute to" before "the inability of";

(B) by inserting "some" after "inability of";

(C) by striking "who abuse drugs"; and

(D) by striking "care for such infants" and inserting "care for their infants";

(3) by amending paragraph (5) to read as follows:

"(5) appropriate training is needed for personnel working with infants and young children with life-threatening conditions and other special needs, including those who are infected with the human immunodeficiency virus (commonly known as 'HIV'), those who have acquired immune deficiency syndrome (commonly know as 'AIDS'), and those who have been exposed to dangerous drugs;";

(4) by striking paragraphs (6) and (7);

(5) in paragraph (8), by inserting "by parents abusing drugs," after "deficiency syndrome,";

(6) in paragraph (9), by striking "comprehensive services" and all that follows through the semicolon at the end and inserting "comprehensive support services for such infants and young children and their families and services to prevent the abandonment of such infants and young children, including foster care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services; and";

(7) by striking paragraph (10);

(8) by amending paragraph (11) to read as follows:

"(11) Private, Federal, State, and local resources should be coordinated to establish and maintain such services and to ensure the optimal use of all such resources."; and

(9) by redesignating paragraphs (2), (3), (4), (5), (8), (9), and (11) as paragraphs (1) through (7), respectively.

SEC. 142. ESTABLISHMENT OF LOCAL PROGRAMS.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 101. ESTABLISHMENT OF LOCAL PROGRAMS."; and

(2) by amending subsection (b) to read as follows:

"(b) Priority in Provision of Services.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to give priority to abandoned infants and young children who—

"(1) are infected with, or have been perinatally exposed to, the human immunodeficiency virus, or have a life-threatening illness or other special medical need; or

"(2) have been perinatally exposed to a dangerous drug.".

SEC. 143. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 102. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

"(a) Evaluations of Local Programs.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as a result of such projects.

"(b) Study and Report on Number of Abandoned Infants and Young Children.—

"(1) In general.—The Secretary shall conduct a study for the purpose of determining—

"(A) an estimate of the annual number of infants and young children relinquished, abandoned, or found dead in the United States and the number of such infants and young children who are infants and young children described in section 223(b);

"(B) an estimate of the annual number of infants and young children who are victims of homicide;

"(C) characteristics and demographics of parents who have abandoned an infant within 1 year of the infant's birth; and

"(D) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for abandoned infants and young children.

"(2) DEADLINE.—Not later than 36 months after the date of the enactment of the Keeping Children and Families Safe Act of 2002, the Secretary shall complete the study required under paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

"(c) EVALUATION.—The Secretary shall evaluate and report on effective methods of intervening before the abandonment of an infant or young child so as to prevent such abandonments, and effective methods for responding to the needs of abandoned infants and young children.".

SEC. 144. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—For the purpose of carrying out this subtitle, there are authorized to be appropriated **$45,000,000** for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2007.

"(2) LIMITATION.—Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 224(a).";

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting "AUTHORIZATION.—" after "(1)"; and

(ii) by striking "this title" and inserting "this subtitle"; and

(B) in paragraph (2)—

(i) by inserting "LIMITATION.—" after "(2)"; and

(ii) by striking "fiscal year 1991." and inserting "fiscal year 2002."; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 145. OTHER TECHNICAL AND CONFORMING AMENDMENTS; TRANSFER AND REDESIGNATIONS.

(a) TECHNICAL AMENDMENTS.—

(1) STRIKING TITLES; CONSOLIDATING DEFINITIONS.—The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) by striking the title heading for title I;

(B) by striking titles II and III; and

(C) by amending section 103 to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this subtitle:

"(1) The terms 'abandoned' and 'abandonment', with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) The term 'acquired immune deficiency syndrome' includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

"(3) The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act.

"(4) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this subtitle.

"(5) The term 'Secretary' means the Secretary of Health and Human Services.".

(2) ESTABLISHMENT OF LOCAL PROGRAMS.—Section 101(d) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) in paragraph (1)—

(i) by striking "(1) The Secretary" and inserting "(1) IN GENERAL.—The Secretary"; and

(ii) in subparagraph (D), by striking "during the majority of the 180-day period preceding the date of the enactment of this Act," and inserting "during the majority of the 180-day period preceding the date of the enactment of the Keeping Children and Families Safe Act of 2002,"; and

(B) in paragraph (2), by striking "(2) Subject" and inserting "(2) DURATION OF GRANTS.—Subject".

(b) TRANSFER AND REDESIGNATIONS.—

(1) IN GENERAL.—The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note)—

(A) is amended by striking section 1;

(B) is transferred to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended; and

(C) is redesignated as subtitle B of title II of such Act.

(2) CONFORMING AMENDMENTS.—

(A) SUBTITLE HEADING; SHORT TITLE.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by inserting after subtitle A of such title the following:

"Subtitle B—Abandoned Infants Assistance

"SEC. 221. SHORT TITLE.

"This subtitle may be cited as the 'Abandoned Infants Assistance Act of 2002'.".

(B) REDESIGNATIONS.—Subtitle B of title II of such Act is amended by redesignating sections 2, 101, 102, 103, and 104 as sections 222 through 226, respectively.

(C) DOMESTIC VOLUNTEER SERVICE.—Section 421(7) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061(7)) is amended by striking "section 103 of the Abandoned Infants Assistance Act of 1988 (Public Law 100–505; 42 U.S.C. 670 note);" and inserting "section 225(1) of the Abandoned Infants Assistance Act of 2002;".

Subtitle C—Technical and Conforming Amendments

SEC. 151. SHORT TITLE; TABLE OF CONTENTS.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by subtitles A and B, is further amended by inserting before title I the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Keeping Children and Families Safe Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.

"TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

"Sec. 101. Short title.
"Sec. 102. Findings.

"Subtitle A—General Program

"Sec. 111. Office on Child Abuse and Neglect.
"Sec. 112. National clearinghouse for information relating to child abuse.
"Sec. 113. Research and assistance activities.
"Sec. 114. Grants to public agencies and nonprofit private organizations for demonstration programs and projects.
"Sec. 115. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 116. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
"Sec. 117. Miscellaneous requirements relating to assistance.
"Sec. 118. Coordination of child abuse and neglect programs.
"Sec. 119. Reports.
"Sec. 120. Definitions.
"Sec. 121. Authorization of appropriations.
"Sec. 122. Rule of construction.

"Subtitle B—Community-Based Family Support Grants for the Prevention of Child Abuse and Neglect

"Sec. 131. Purpose and authority.
"Sec. 132. Eligibility.
"Sec. 133. Amount of grant.
"Sec. 134. Application.
"Sec. 135. Local program requirements.
"Sec. 136. Performance measures.
"Sec. 137. National network for community-based family resource programs.
"Sec. 138. Definitions.
"Sec. 139. Authorization of appropriations.

"TITLE II—OTHER CHILD ABUSE PREVENTION AND RELATED PROGRAMS

"Subtitle A—Adoption Opportunities

"Sec. 201. Short title.
"Sec. 202. Congressional findings and declaration of purpose.
"Sec. 203. Information and services.
"Sec. 204. Study and report on dynamics of successful adoption.
"Sec. 205. Authorization of appropriations.

"Subtitle B—Abandoned Infants Assistance

"Sec. 221. Short title.
"Sec. 222. Findings.
"Sec. 223. Establishment of local programs.
"Sec. 224. Evaluations, study, and reports by secretary.
"Sec. 225. Definitions.
"Sec. 226. Authorization of appropriations.".

TITLE II—AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 201. STATE DEMONSTRATION GRANTS AUTHORIZED.

Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following:

"(5) Upon completion of activities funded by a grant under this subpart, the State grantee shall file with the Secretary a report that contains a description of the activities carried out under paragraph (2)(B)(i).".

SEC. 202. EVALUATION.

Section 306 of the Family Violence Prevention and Services Act (42 U.S.C. 10405) is amended in the first sentence by striking "Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter," and inserting "Every two years".

SEC. 203. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended by striking subsection (g).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title **$175,000,000** for each of the fiscal years 2003 through 2007.".

(b) GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.—Section 311(g) of such Act (42 U.S.C. 10410(g)) is amended to read as follows:

"(g) FUNDING.—Of the amount appropriated pursuant to the authorization of appropriations under section 310(a) for a fiscal year, not less than 10 percent of such amount shall be made available to award grants under this section.".

SEC. 205. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended by striking subsection (h).

SEC. 206. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) DURATION.—Section 316(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(b)) is amended—

(1) by striking "A grant" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), a grant"; and

(2) by adding at the end the following:

"(2) EXTENSION.—The Secretary may extend the duration of a grant under this section beyond the period described in paragraph (1) if, prior to such extension—

"(A) the entity prepares and submits to the Secretary a report that evaluates the effectiveness of the use of amounts received under the grant for the period described in paragraph (1) and contains any other information as the Secretary may prescribe; and

"(B) the report and other appropriate criteria indicate that the entity is successfully operating the hotline in accordance with subsection (a).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(f) of such Act (42 U.S.C. 10416(f)) is amended in paragraph (1) by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2003 through 2007".

SEC. 207. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

(a) IN GENERAL.—Section 318(h) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for each of the fiscal years 2003 through 2007.".

(b) REGULATIONS.—Section 318 of such Act (42 U.S.C. 10418) is amended by striking subsection (i).

SEC. 208. TRANSITIONAL HOUSING ASSISTANCE.

Section 319(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10419(f)) is amended by striking "fiscal year 2001" and inserting "each of the fiscal years 2003 through 2007".

SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended as follows:

(1) In section 302(1) by striking "demonstrate the effectiveness of assisting" and inserting "assist".

(2) In section 303(a) is amended—

(A) in paragraph (2)—

(i) in subparagraph (C), by striking "State domestic violence coalitions knowledgeable individuals and interested organizations" and inserting "State domestic violence coalitions, knowledgeable individuals, and interested organizations"; and

(ii) in subparagraph (F), by adding "and" at the end; and

(B) by moving the margin of paragraph (4) two ems to the left.

(3) In section 305(b)(2)(A) by striking "provide for research, and into" and inserting "provide for research into".

(4) In section 311(a)—

(A) in paragraph (2)(K), by striking "other criminal justice professionals,;" and inserting "other criminal justice professionals;" and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "family law judges,," and inserting "family law judges,";

(ii) in subparagraph (D), by inserting ", criminal court judges," after "family law judges"; and

(iii) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children" and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children".

(5) In section 313(1) by striking "on the individual develop data".

(6) In section 315(b)(3)(A) by striking "and" at the end.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act, and the amendments made by this Act, take effect on October 1, 2002, or the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. HOEKSTRA).

GENERAL LEAVE

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3839.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that we are here today to consider H.R. 3839, the Keeping Children and Families Safe Act of 2002, which reauthorizes and improves the Child Abuse Prevention and Treatment Act, CAPTA, the Adoption Opportunities Program, the Abandoned Infants Act, and the Family Violence Prevention and Treatment Act.

I thank my colleagues on both sides of the aisle for their hard work and efforts in developing this bipartisan legislation in getting this measure here today for consideration before the whole House. I think it is timely that we are considering this bill today since April is designated as Child Abuse Prevention Month.

I thank the gentleman from Ohio (Chairman BOEHNER) for his support of this bill and the gentleman from Pennsylvania (Mr. GREENWOOD) for his diligence in ensuring that infants born addicted to alcohol or drugs receive the necessary services they need.

I also thank my colleagues on the other side of the aisle. I thank the gentleman from Indiana (Mr. ROEMER), the ranking member of the subcommittee, and the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce for their efforts in getting us to this point.

The Keeping Children and Families Safe Act continues the provision of important Federal resources for identifying and addressing the issues of child abuse and neglect and family violence and for supporting effective methods of prevention and treatment.

It also continues local projects with demonstrated value in eliminating barriers to permanent adoption and addressing the circumstances that often lead to child abandonment.

Mr. Speaker, this legislation emphasizes the prevention of child abuse and neglect and family violence before it occurs. It promotes partnerships between child protective services and private and community-based organizations, including education, and health systems to ensure that services and linkages are more effectively provided.

The bill also appropriately addresses a growing concern over parents being falsely accused of child abuse and neglect and the aggressiveness of social workers in their child abuse investigations. The bill increases public education opportunities to strengthen the public's understanding of the child protection system and appropriate reporting of suspected incidents of child maltreatment.

The act fosters cooperation between parents and child protective service workers by requiring case workers to inform parents of the allegations made against them, and improves the training opportunities and requirements for child protective services personnel regarding the extent and limits of their legal authority and the legal rights of parents and legal guardians.

Lastly, this bill expands adoption opportunities to allow services for infants and young children who are disabled or born with life-threatening conditions. It requires the Secretary of Health and Human Services to conduct a study on the annual number of infants and young children abandoned each year, and extends the authorization for the Family Violence Prevention and Services Act.

I again thank my colleagues for their work on this bill and urge them to join me in support of this bipartisan effort to improve the prevention and treatment of child abuse and family violence by supporting H.R. 3839.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in strong support of this bill to reauthorize this relatively small, but very important, program, the Child Abuse Prevention and Treatment Act.

This bill will help States do a better job of preventing and treating child abuse and neglect. I thank the gentleman from Michigan (Mr. HOEKSTRA), the chairman of the subcommittee, and the ranking member, the gentleman from Indiana (Mr. ROEMER), and the gentleman from Ohio (Mr. BOEHNER) for their commitment to writing a bipartisan bill and all of their effort to make sure that this legislation got to the floor and passed the House of Representatives. I thank the gentleman from Pennsylvania (Mr. GREENWOOD) for his expertise and commitment to the prevention of child abuse.

Democrats were able to work with Republicans to make this a good bill for children. In 1999, there were more than 800,000 substantiated cases of child abuse and neglect; and over 1,137 children died as a result of abuse and neglect. Children who are abused and neglected are more likely to commit suicide, suffer from depression, commit crimes, fail in school, and have problems holding jobs.

The Federal approach to addressing child abuse and neglect does not go far enough to help States prevent child abuse from happening and providing treatment services for children and families once it has occurred. Only 12 percent of the Federal monies for child abuse and neglect go toward prevention and treatment.

This bill we are reauthorizing today is extremely important because it is the only Federal program specifically aimed at the prevention and treatment of child abuse; and yet this program is only appropriated half of the money of its authorized level. The legislation also makes important changes by increasing collaboration between child protective services and health agencies.

Children with disabilities are almost four times more likely to be the victims of abuse and neglect, and children in child welfare systems have a higher risk of health problems. Any serious attempt to prevent and treat child abuse and neglect must include procedures for linking abused children and children at risk for abuse to the appropriate health and mental health services.

The bill requires States report on their efforts to improve case-work training, supervision, and retention so children and families can be better served.

Mr. Speaker, this bill is a major step forward in a heart-wrenching, but critical, effort to stop child abuse and neglect and to better treat those children who have fallen victim to it. Again, I thank the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from Indiana (Mr. ROEMER), and the gentleman from Ohio (Mr. BOEHNER) for their efforts in bringing the bill to the floor.

Mr. HOEKSTRA. Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, this is the people's House, and this is the consummate bill put together by the people, by the members of this committee. I thank the leaders of the Committee on Education and the Workforce, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), for their support to our subcommittee and their leadership. I thank the gentleman from Michigan (Mr. HOEKSTRA) for his efforts to create a bipartisan product to bring to the floor. I thank the gentleman from Virginia (Mr. SCOTT) for his skills and experience over the years working on these issues, and I thank the gentleman from Pennsylvania (Mr. GREENWOOD) for his work as a social worker and the experience that he brought to this bill.

Mr. Speaker, this bill is a bill about balance, it is about linkages, and it is about the middle ground. It is a bill that breaks our hearts if we do not address the problems. I was at a fundraising dinner in Kosciusko County in Indiana a couple of years ago, and it was a fund-raiser to raise money to prevent child abuse. We heard the stories of children locked in closets, burnt with cigarettes, defecated upon, chained up and released months later. These stories break my heart. The stories here in D.C., about Brianna. She is reunited with her parent and eventually killed weeks later.

If we do not do something about these problems, they cost children their lives. This is a very important, yet small, and significant bill; but very important to the lives and the health of children.

This is about balance. It is about the balance of trying to make sure that the Briannas are not reunited with a parent that will kill them; but also helping our social workers who sometimes have 80 and 90 cases at a time. This is about playing a critical role and placing resources into prevention and treatment of child abuse, that balance. This is about the balance of allowing those in the field to continue to find more effective ways to help prevent child abuse, and also treat these children and families.

Finally, Mr. Speaker, it is about linkages. I am glad to see linkages between the child protection services and the juvenile justice system so that those two systems are working together to prevent children from getting into trouble in the first place, and working with those that are already in the juvenile justice system to help them get the help they need to stay out and get out of the juvenile justice system.

We found good middle ground that will allow for greater parental rights without putting children at risk. It allows parents to be informed of their rights without making the job of the social worker more difficult.

Finally, it is about middle ground. As I said, balance, linkages and middle ground. I am glad that we came to agreement on the amendment of the gentleman from Pennsylvania (Mr. GREENWOOD) to identify children that are born drug exposed and to get them the help they deserve. This is a good bipartisan bill about that balance, about that creativity, about those linkages, and about that middle ground. I urge its support.

Mr. HOEKSTRA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I thank my colleague, the gentleman from Indiana (Mr. ROEMER). Working together, we have really set a nice tone on the Subcommittee on Select Education, especially on this bill which in the past on occasion has been a rather controversial bill; but we were able to work through this bill and pass something that has broad bipartisan support. We have been able to do that on libraries and museums; and over the last couple of months, we have begun that same type of process, expecting the same kind of result on reauthorization for the Corporation for National Service. So under the leadership of the gentleman from Indiana (Mr. ROEMER) on the subcommittee, working with the gentleman from California (Mr. GEORGE MILLER), I think we have set a good tone for this subcommittee in tackling some tough issues.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, I would compliment the gentleman back, and say our work on the libraries and museums bill went in a bipartisan fashion, another very significant piece of legislation to help urban and rural libraries and museums. This bill I hope will pass today, and I look forward to the work that we will do on Americorps in the future.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee on Education and the Workforce.

Mr. SCOTT. Mr. Speaker, I thank the subcommittee chairman, the gentleman from Michigan (Mr. HOEKSTRA); the ranking member, the gentleman from Indiana (Mr. ROEMER); and the full committee chairman, the gentleman from Ohio (Mr. BOEHNER); and the ranking member, the gentleman from California (Mr. GEORGE MILLER); and the gentleman from Pennsylvania (Mr. GREENWOOD) for their leadership in crafting this bipartisan bill.

I am especially appreciative of their acceptance of several amendments that I proposed to strengthen the bill's focus on developmental needs of abused and neglected children. In recent years, much focus has been placed on the brain damage and brain development of young people from age birth to 3. We know that experiences that a child has during this period can be critical to the foundation for their future development. Research also suggests that when a child's early experiences are negative, children may experience emotional, behavioral, and learning problems that can last through their lifetime without targeted early interventions.

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For a child that has been abused and neglected, it is extremely important to evaluate that child developmentally and ensure that the appropriate services are given. I am pleased that the subcommittee accepted my amendment to have children who are under 3, who have been abused or neglected, to be referred to the statewide early intervention system funded under part C of the Individuals with Disabilities Education Act. Part C State agencies can evaluate these children developmentally to see if there are delays that would qualify those children for services. A 1993 study by the Office of Child Abuse and Neglect found that 36 percent of the substantiated cases of child maltreatment, or about 300,000 children, caused disabilities in these children. And of those children who have been seriously abused, 18,000 of those children received permanent disabilities.

Mr. Speaker, many studies have shown and documented that the earlier the services are given, the more effective they are. Ensuring that these children receive appropriate services as early as possible will reduce the need for costly interventions later on.

I am also pleased, Mr. Speaker, that the committee accepted my amendment to allow the Secretary to fund additional research focusing on the effects of child abuse and neglect on a child's development. Additional research in this area is needed to better identify successful early intervention services so that we can more appropriately serve abused and neglected children with their developmental needs.

Mr. Speaker, I thank the leaders for crafting the bill. I urge my colleagues to support the legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS), a member of the committee.

Mrs. DAVIS of California. Mr. Speaker, I rise today in support of H.R. 3839, the Keeping Children and Families Safe Act. In particular I would like to talk about an important provision in this legislation that was added to the bill through the bipartisan efforts of my colleagues on the Committee on Education and the Workforce. H.R. 3839 includes language to encourage agencies and organizations that receive CAPTA funds to provide materials and services to families and children with limited English proficiency in an appropriate language other than in English.

This need for language-appropriate materials and services was brought to my attention by the committed social workers of Children's Services in San Diego. One of the greatest frustrations that they encounter is the lack of services available for limited English proficiency families. In some instances this lack of language-appropriate services is actually compromising how families comply with court orders. For example, the court often orders perpetrators of domestic violence to attend education and counseling sessions as a condition of allowing their children to return home. A Children's Services social worker is assigned to the case to help the parents get into a treatment program and to monitor the child. The average wait for admittance into a Spanish language domestic violence program is 6 to 8 months. Parents have a year to complete that treatment but they may spend up to 8 months waiting to get in. In many instances the children are separated from their parents until treatment is completed. This situation is keeping families apart.

Participating in an English treatment program may fulfill the court's requirement, but it does not benefit the parents if they do not speak English. As a diverse Nation, we must work harder to address the multilingual needs of our communities and encourage the availability of services in appropriate languages. Every month, San Diego County's Children Services makes referrals in Spanish, in Vietnamese, Arabic, Cambodian, Farsi and other languages.

The language included in this bill before us today expresses the sense of Congress that all agencies and organizations that receive CAPTA funds must recognize and meet the needs of these communities by providing appropriate materials and services.

Mr. Speaker, I am very pleased that we have added that language to the bill. I want to thank my colleagues for their invaluable help with this provision.

Mr. HOEKSTRA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. I thank the gentleman for yielding me this time.

Mr. Speaker, one of the important changes that we made in this law as it came through the committee was some language that I worked out in a bipartisan fashion that goes to an issue that I think is perhaps the most critical area that needs treatment in the prevention of child abuse. Today, children are born all over this country to mothers who have substance abuse problems. Their mothers are alcoholic or their mothers are drug addicts. These babies are born in hospitals, they are frequently underweight, they are frequently frail. Much money and effort is devoted to bringing them to health. These children do not meet any definition of child abuse, and probably they should not, but what happens is they are sent home from hospitals every day in this country and it is only a matter of time in so many instances until they return back to the hospital abused, bruised, beaten, and sometimes deceased. That is because we have not developed a system in this country to identify these children and intervene in their lives.

The amendments that we put in this bill for the first time require the States to set up programs so that when these children are born to these addicted families that there is intervention, and the social workers can come in and meet with the mother and establish a safe plan of care. If the child can go home safely, so be it. They will have visiting nurses and hopefully substance abuse treatment and all of the rest. In those cases where the mother is refusing or unable or unwilling to get help to protect her child, to mother properly, to parent properly, or where the home situation is just too chaotic and too violent for the child to be safe, then there can be intervention and the child can be placed in foster care.

Over and over again, the newspapers of our country are replete with these cases of terribly, terribly abused, battered, sexually abused and sometimes beaten-to-death children who could have been saved if only we had intervened when we knew there was a problem, when we could see that this child was born to a dysfunctional family where substance abuse is the issue. Now we will be able to do that.

I want to thank the gentleman from Michigan (Mr. HOEKSTRA), I want to thank the gentleman from California (Mr. GEORGE MILLER), I want to thank the gentleman from Indiana (Mr. ROEMER), and all Republicans and Democrats who have worked with me to get this amendment in. I think if we get this all the way through the Senate and signed by the President, we will see a significant reduction in child abuse and we will be glad for the effort.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important bill that we are debating here today. It is important that it pass the House later this evening.

But we will be voting on another important matter this evening, and that is the motion to instruct by our colleague, the gentleman from California (Mr. BACA), to make sure that the agriculture bill in fact includes a provision to provide for food stamp eligibility for legal immigrants with a significant work history, and the children of those immigrants. This is a very, very important measure. Some 1 million children who are citizens of immigrant parents have left the food stamp program since we changed the law. Members of both parties now recognize that this was a tragic mistake, that these children, while their parents work and work very hard and work very long hours, are twice as likely as other children and families to be poor, and that their jobs pay less than citizens of this country. It is very important that we provide them the means by which they can provide the proper nutrition for these children so the children can take full advantage of the opportunities of education and learning and do not fall behind in school. The history of this country is replete with studies that tell us how very important it is that children have proper nutrition when they go to school.

This was a mistake that the Congress made. This is a chance to rectify this situation. I believe the Bush administration supports this effort, and we will be voting on this later this evening. It is a matter that is very important to a number of Members and our colleagues.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. I thank the gentleman for yielding me this time.

Mr. Speaker, today we are considering the Keeping Children and Families Safe Act. I do not think there will be any disagreement that nothing is more fundamental to the safety and security of America's children and families than having enough food to eat. That is why I rise in strong support of the Baca motion to adopt the Senate provisions that provide eligibility for food stamps to lawfully present, hard-working immigrant families and their children.

Tragically, more than one in five low-income children belong to legal immigrant families. These families work hard and pay taxes, taxes that support the food stamp program. In spite of their hard work, however, these families are often hit the hardest in an economic downturn. Denying these families access to basic safety net programs runs counter to Congress' goal in the Keeping Children and Families Safe Act. No child is safe when suffering from hunger.

As the world's wealthiest Nation, it is inexcusable that such a high rate of hunger exists among low-income legal permanent resident families living in this country. We must not allow this tragic situation to continue. Congress must follow the lead of the President and expand access to food stamps for these hard-working, legal residents and their children.

I urge my colleagues to support the motion to instruct conferees which the House will be voting on later this evening.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleague, Mr. Speaker, for the points that she made, because I think it is very important that people understand this. It has become very clear in the last few years, I think, to many Americans, even those who had doubts about immigration, of the important contribution that immigrants make to our economy. Certainly to the gentlewoman from California (Ms. ROYBAL-ALLARD) and myself, it is very clear that the California economy could not continue for 5 minutes if the immigrants decided that they were not going to contribute their share of what they do. It runs across entire segments of our economy, from Silicon Valley to the Central Valley of California, to the great areas of San Diego, Los Angeles, in so many industries, in so many areas of manufacturing, in so many areas of high tech, in movie production, in the accommodations industry, in the tourism industry, these people make our economy go. Yet the Congress made a tragic mistake and denied them access to food stamps. They pay taxes. They pay for these programs. They also denied it to their children.

This is an opportunity, it is in the Senate provision, and it is something that we would hope that the House would join in, agree to the Senate, and send it to the President for his signature on the ag bill.

I want to thank the gentlewoman for her points.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I am so happy to be on the floor of this House today to stand in strong support of H.R. 3839, the Keeping Children and Families Safe Act, and to thank and commend the Committee on Education and the Workforce, particularly the chairman and the ranking member and all those who have done so much now, and hopefully we will pass this tonight and have it signed into law. It will make such a difference in preventing the suffering of children in our country.

Today could be a real red letter day for that because it is not just that piece of legislation which I look forward to supporting tonight, but we also can support the Baca amendment which would prevent the suffering of children through hunger and their families from being hungry. There can be no higher mission for this body than to prevent that kind of unnecessary suffering.

All we are going to be considering tonight is a motion to instruct the conferees on the farm bill. This is in line, really, with the Keeping Children and Families Safe Act. We are going to be able to restore food stamps to legal immigrants, people who have been in this country for at least 5 years, who have worked here for 16 quarters. About 85 percent of immigrant families are mixed families, with stepchildren and immigrant parents. This benefit that goes to the citizen children often has to be spread through the whole family, leaving the family not having enough food to eat.

So while we protect children through the Keeping Children and Families Safe Act, let us also do it by instructing the conferees to say let us restore that benefit so we do not have hungry families and hungry children who go to school.

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentlewoman yield?

Ms. SCHAKOWSKY. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, I just want to say to the gentlewoman that I think she is quite correct in drawing the connection between the Keeping Children and Families Safe Act, and prevention of abuse there, and recognizing that in fact it is abusive to send children throughout their daily activities without proper nutrition, without sufficient food to support them.

□ 1830

We know then that those are, in many instances, the very same children who act out in school, and then they act out in school and then they get in trouble at home; and all of a sudden a family that is already under stress because of income, because of a lack of food, perhaps maybe the child is mistreated in an improper way, and now we are dealing with a child back into the child abuse system.

Again, we have studies of how children behave when they have enough to eat in school and when they do not have enough to eat in school. Very often, those children, when we examine their backgrounds, they are the children that become the targets of disciplinary actions because of their acting out in schools. And we can start to see how this snowballs; and all of a sudden, the child is caught up in a situation where they are being characterized, where they are being labeled over something that they really have no control over and that is whether or not a family has sufficient nutritional resources to provide the child the food that they need.

Ms. SCHAKOWSKY. Mr. Speaker, reclaiming my time, I just want to say that in the same way that in a bipartisan fashion the gentleman was able to craft the Keeping the Children and Families Safe Act, we could do this in a bipartisan way. As the gentleman had mentioned earlier, the Bush administration does support this effort to restore food stamps to legal immigrant families. So I think tonight we ought to do both things: protect children from physical abuse and the kind of abuse that results from hunger.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentlewoman for her contribution.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

The SPEAKER pro tempore (Mr. LINDER). The time of the gentleman from California (Mr. GEORGE MILLER) has expired. The gentleman has consumed 20 minutes.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me congratulate the chairman and ranking member and the sponsor of this legislation, the Child Abuse Prevention and Treatment Act. These are two issues that I think are very important, and the whole issue of improving the quality and the access to adoption for our children. I want to thank the gentleman from California (Mr. GEORGE MILLER) and of course the chairman, but as well the issue of abandoned children is a very important one. I worked on it in Texas. This is an important legislative initiative that has bipartisan support, and I thank my colleagues very much for allowing me to comment on something that we worked a lot on in Texas.

As my colleagues know, I care about children, as all of us do. So I would like to add that in addition to my enthusiastic support for this legislation, the Child Abuse Prevention and Treatment Act and Adoption Opportunities Act, I want to also mention my support for the Baca Motion to Instruct, which is to realize that many legal immigrants, legal residents are awaiting citizenship, and they contribute tremendously to the success and growth of this country. They pay taxes, their children join the military. So this is an extremely important motion that we will have an opportunity to vote on. It complements this legislation.

What it says is that our children, who are the children of this country, the children of these immigrants deserve the right to access to benefits and to food stamps. It says that we do not want our children to starve, that we do not want them to go to schools trying to seek an education without the opportunity to eat. It also recognizes that this country has a message that it respects work, respects those individuals who work in hospitals and restaurants and serve in the military. It respects them. As they come here to access legalization, we want to make sure that we confirm the message of our country, that we have the opportunity for equal treatment and our immigrants can have that treatment by supporting the motion of the gentleman from California (Mr. BACA).

Let me say I add my enthusiastic support to the legislation on the floor at this time.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

I would like to again thank my colleagues on the other side of the aisle, especially for the last few minutes of creative debate where not only could we talk about the Keeping Children and Families Safe Act of 2002, but also to be informed on the Baca Motion to Instruct tonight.

But I am glad that we have been able to do that in a bipartisan way, as we have also been able to move this bill forward in a bipartisan way.

Mr. Speaker, I urge my colleagues to vote in support of H.R. 3839.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in strong support of H.R. 3839, Keeping Children and Families Safe Act of 2002 and urge my colleagues to support its adoption. H.R. 3839 is aimed at preventing child abuse and family violence and protecting and treating abused and neglected children and victims of family violence.

Sadly, even a place with the natural beauty of my district, the U.S. Virgin Islands, is plagued with the curse of child abuse and family violence. At a hearing of the Virgin Island Legislature's Youth and Human Service Committee earlier this year, my friend and director of the St. Thomas based child advocacy organization Kidscope Inc., Dilsa Capdeville, admonished her fellow Virgin Islanders to first recognize that everyone, not just those who work in the various child-help agencies, must respond to the plight of our children. We must, "open our doors, our minds and our hearts; everyone must do his or her part," she said.

I want to take this opportunity to commend Dilsa, Clema Lewis, co-director of the Women's Coalition, Michael Rymer, executive director of the Family Resources Center, Elise Chinnery, who heads the Adolescent Health Services Division of the Health Department and Dr. Iris Kern of the Safety Zone for the work they do in the Virgin Islands helping children and victims of domestic violence and sexual abuse.

My colleagues, regrettably family violence continues to be the most common yet least reported crime in our Nation. Approximately, 95 percent of family violence victims are women and it is estimated that every 11 seconds a woman is battered in the United States. It is also estimated that 70 percent of men who abuse their wives also abuse their children and children from abusive homes are at greater risk of alcohol or drug abuse, juvenile delinquency and depression and suicide.

The bill we are debating today attempts to reverse these trends by more than doubling the amount of funds provided for community-based grants for family support programs for the prevention of child abuse and neglect for fiscal year 2003.

I urge my colleagues to support passage of this important bill, which will protect the most vulnerable members of our communities, our children and abused women.

Mr. DELAY. Mr. Speaker, I rise in support of H.R. 3839, the Keeping Children and Families Safe Act of 2002. I am very pleased that we were able to bring this bill to the floor during April, a month dedicated to commemorate Child Abuse and Neglect Prevention.

The bill before us today is aimed at identifying and preventing child maltreatment. One critical provision offered in committee by Mr. GREENWOOD is particularly important. This provision would require States to develop policies and procedures to inform State child protective workers when an infant is born addicted to drugs.

There is a strong link between substance abuse and child abuse. An estimated 40 percent of confirmed cases of child maltreatment involve parental drug use. When parents abuse drugs there is a three-fold increase in the likelihood that their child will be abused or neglected.

Nothing is more tragic than the sight of a child born exposed to drugs going through withdrawal. Their pain is clear. These babies cry without stopping. They can't be comforted. They are startled by light and touch.

This is particularly heartbreaking because these children are almost always placed into neonatal intensive care units where the lights are never turned off and the noise level is always high. Babies born addicted to drugs often arrive prematurely with subtle brain damage. These babies fail to thrive and struggle to gain weight because they often have feeding problems.

When child protection workers aren't told that a baby was born addicted to drugs, that baby is in serious danger. In far too many cases, addicted babies go home to die. In the District of Columbia alone, 11 newborns died from 1993 through 2000 after hospitals sent them home to drug addicted parents without monitoring or services.

The bill we will pass today sends a clear message to the States: Drug addicted newborns must be protected. My home State of Texas, and 26 other States, require medical personnel to report the birth of drug exposed babies to authorities.

But there is still a troubling lack of attention to the laws that are currently in place and the babies they are designed to protect. This legislation is a good start. But much more needs to be done.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in strong support of the Keeping Children and Families Safe Act, H.R. 3839. It is my hope that this legislation will enhance current abuse programs and serve as a pivotal step in preventing and treating family violence.

The Keeping Children and Families Safe Act reauthorizes the Child Abuse Prevention and Treatment Act, Adoption Opportunities Program and the Abandoned Infants Assistance Program through fiscal year 2007, as well as certain programs under the Family Violence Prevention and Services Act. I am particularly pleased to see an increase in funding for the Child Abuse Prevention and Treatment Act. A majority of the funding, $120 million, will be used for formula grants to improve child protection services such as professional training, abuse prevention, and treatment, case management, and investigation and prosecution. In addition, it provides for $80 million for community-based family resource and support grants.

Child abuse is a serious public health problem. In 1999, the Department of Health and Human Services reported that Child Prevention Services (CPS) agencies received over 2.9 million reports of suspected child abuse and neglect. Ultimately, 826,000 children were found to be victims of abuse and neglect after investigation. That means that out of every 1,000 children, 12 are abused. Even more alarming are some surveys that indicate that as many as 49 out of 1,000 children may be physically abused, and child abuse is on the rise. The National Incidents Studies found that since 1988, all forms of abuse and neglect—sexual, physical, and emotional—have risen at least 42 percent, while some individual types of neglect have risen over 300 percent.

Unfortunately, funding for neither the CAPTA nor the CPS agencies has kept pace with the scope of the problem. For the past 10 years, the Child Abuse Prevention and treatment Act has been funded at low levels representing only half of its authorized levels. Additionally, the National Child Abuse Coalition estimates that current spending in federal, state, and local dollars for child protective services falls short by about $2.56 billion of the estimated $5.215 billion total cost, which in turn puts our children in a position for abuse and neglect.

The Child Abuse Prevention and Treatment Act should be the core source of funding for child protective services; but it is not. Last year, CAPTA programs received only $48 million for state grants and $33 million for prevention grants. I am encouraged by both this year's authorization for CAPTA and by the reauthorization levels put forth by the Keeping Children and Families Safe Act. The authorization for FY03 for CAPTA is increased to $100 million for state grants and $66 million for prevention. I applaud the Members of the House Committee on Education for recognizing the need for increases for these important programs and allowing H.R. 3839 to come before us. By dramatically increasing the funding levels for the CAPTA, the Keeping Children and Families Safe Act demonstrates our commitment and willingness here in Congress to help protect our children.

Mr. Speaker, I would also like to recognize a dear friend of mine, Eva Bunelle, who like many other people abused as children, has only recently come forward. She is a dauntless defender and advocate for children. In revealing her experience and compelling story, she seeks no remedy for herself, but only for those children she hopes can be spared from the horrors that she persevered through. I commend Eva Bunelle for her courage and strength, and I thank the National Child Abuse Coalition for lending their support and resources to this great champion; Her voice can now be heard louder and clearer than ever.

Mr. Speaker, child abuse and family violence are all too common. It is time to remedy this horrific evil that plagues our society. While the deep roots of family violence are not easily unearthed, I believe this legislation before us will provide some of the necessary tools to help prevent further instances of abuse and help those who are already victims. Therefore, I urge my colleagues to vote in favor of the Keeping Children and Families Safe Act.

Mr. HOLT. Mr. Speaker, I rise today to support H.R. 3839 the Keeping Children And Families Safe Act. There are approximately three million reports of child abuse every year. Of this number, 1 million are substantiated. It is estimated that children with disabilities are almost four times more likely to be victims of abuse and neglect than children without disabilities. A 1993 study by the Office of Child Abuse and Neglect found that 36 percent of the substantiated cases of child maltreatment, or about 300,000 children, caused disabilities in those children.

But the problems of child abuse and neglect are even more serious then these statistics may suggest. A 1995 Gallup poll of parents, reports of physical abuses were about 16 times higher than the number or reports officially recorded, and reports of sexual abuse were some 10 times higher than the officially reported number. Unfortunately, less than half of the children who are abused or neglected receive any services at all.

The bill before us today is intended to address these gaps in service. The bill requires State child welfare agencies to develop policies involving abused or neglected children so that they can be referred to the statewide early intervention system funded under part C of the Individuals with Disabilities Education Act. This will ensure that abused children will get the early intervention they need, such as services to help them learn, grow, and thus enter school ready to learn.

The bill also improves the way society provides healthcare to abused and neglected children. Children in the child welfare system are at higher risk for health problems than other children. Because child abuse often causes disabilities appropriate health and developmental evaluations and treatment are vitally important. A 1995 GAO study concluded that barriers prevent many children in the welfare system from receiving adequate health care. H.R. 3839 takes steps to help states address this problem and improve services for victims of child abuse and neglect. Among other things, H.R. 3839 promotes links between child protection and health care agencies, including mental health, agencies.

Our Nation's current system of protecting children is heavily weighted toward protecting children who have been so seriously maltreated they are no longer safe at home and must be placed in foster care or adoptive homes. These are children whose safety is in danger and they demand our immediate attention. Unfortunately, far less attention is directed at preventing harm to these children from happening in the first place, or providing the appropriate services and treatment needed by families and children victimized by abuse or neglect. The changes made in H.R. 3839, will help improve the Child Protective Services (CPS) system nationwide. Through the Child Abuse Prevention and Treatment Act basic State grant program, we would take an important step forward providing support for the CPS system infrastructure and to begin to rectify the imbalance in society's response to the abuse and neglect of children. Mr. Speaker, this is a good bill and I urge my colleagues to support it.

Mr. HOEKSTRA. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. HOEKSTRA) that the House suspend the rules and pass the bill, H.R. 3839, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This 15-minute vote on the motion to suspend the rules will be followed by two 5-minute votes on the motions to instruct conferees that were debated on Thursday last.

The vote was taken by electronic device, and there were—yeas 411, nays 5, not voting 18, as follows:

[Roll No. 104]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson

Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Flake
Paul
Rohrabacher
Schaffer
Tancredo

NOT VOTING—18

Blagojevich
Bonior
Condit
Crane
DeGette
Ganske
Gilchrest
Hinchey
Houghton
Kilpatrick
LaTourette
Levin
Pryce (OH)
Radanovich
Riley
Rodriguez
Smith (WA)
Traficant

□ 1858

Mr. TANCREDO changed his vote from "yea" to "nay."

Messrs. DEUTSCH, COBLE, AKIN, FRELINGHUYSEN, and GRAHAM changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDER). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional question on which the Chair has postponed further proceedings.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001 OFFERED BY MR. DOOLEY OF CALIFORNIA

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the motion to instruct on H.R. 2646, on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. DOOLEY).

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 273, nays 143, not voting 18, as follows:

[Roll No. 105]

YEAS—273

Abercrombie
Akin
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Callahan
Camp
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Collins
Conyers
Costello
Coyne
Cramer
Cubin
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
DeMint
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gallegly
Gekas
Gillmor
Gonzalez
Gordon
Graves
Green (WI)
Greenwood
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (FL)
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kildee
Kind (WI)
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Rivers
Roemer
Ross
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Woolsey
Wynn

NAYS—143

Ackerman
Aderholt
Andrews
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Berkley
Bilirakis
Blunt
Boehner
Bonilla
Bryant
Burr
Burton
Buyer
Calvert
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Combest
Cooksey
Cox
Crenshaw
Crowley
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Engel
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gephardt
Gibbons
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green (TX)
Grucci
Gutierrez
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hoekstra
Hunter
Hyde
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
McCrery
McInnis
McKeon
Meek (FL)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Northup
Norwood
Ortiz
Pallone
Pascrell
Pence
Pitts
Pombo
Putnam
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Saxton
Schaffer
Schrock
Sessions
Shadegg
Shaw
Shuster
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Tauzin
Taylor (NC)
Thomas
Vitter
Watts (OK)
Weldon (FL)
Wexler
Wicker
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—18

Blagojevich
Bonior
Condit
Crane
DeGette
Ganske
Gilchrest
Hinchey
Houghton
Kilpatrick
LaTourette
Moore
Pryce (OH)
Radanovich
Riley
Rodriguez
Smith (WA)
Traficant

☐ 1907

Mr. ORTIZ changed his vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HINCHEY. Mr. Speaker, I was unavoidably detained en route to the Capitol this afternoon. I would like the RECORD to reflect that had I arrived here in a more timely fashion and had an opportunity to vote on the motion to instruct conferees with regard to the Cuba issue, I would have voted "yea."

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001, OFFERED BY MR. BACA

The SPEAKER pro tempore (Mr. LINDER). The unfinished business is the question of agreeing to the motion to instruct on H.R. 2646 on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. BACA).

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 244, nays 171, not voting 19, as follows:

[Roll No. 106]

YEAS—244

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Frank
Frost
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Green (TX)
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind (WI)
King (NY)
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Roemer
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Skeen
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Souder
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NAYS—171

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bilirakis
Blunt
Boehner
Bonilla
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Doolittle
Duncan
Dunn
Ehrlich
English
Everett
Flake
Fletcher
Forbes
Fossella
Frelinghuysen
Gallegly
Gibbons
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kingston
Knollenberg
LaHood
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Putnam
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shows
Shuster
Simpson
Smith (MI)
Smith (TX)
Stearns
Stump
Sullivan
Sununu
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—19

Blagojevich
Bonior
Condit
Crane
DeGette
Emerson
Ganske
Gilchrest
Houghton
Kilpatrick
LaTourette
Meeks (NY)
Pryce (OH)
Radanovich
Riley
Rodriguez
Smith (WA)
Spratt
Traficant

☐ 1916

Mr. FOSSELLA and Mr. MCINTYRE changed their votes from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, today I was unavoidably detained. Had I been present, I would have voted "yea" on rollcall No. 104, the motion to suspend the rules and pass H.R. 3839; "yea" on rollcall No. 105, on the motion offered by Mr. DOOLEY of California to instruct conferees on H.R. 2646; and "yea" on rollcall No. 106, on the motion offered by Mr. BACA of California to instruct conferees on H.R. 2646.

☐ 1915

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 448

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 448.

The SPEAKER pro tempore (Mr. LINDER). Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Ms. HOOLEY of Oregon. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 2646. The form of the motion is as follows:

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to bill H.R. 2646 be instructed to agree to the provisions contained in section 1001 of the Senate amendment and section 944 of the House bill, relating to country of origin labeling requirements for agricultural commodities, but to insist on the

6-month implementation deadline contained in the House bill.

PERSONAL EXPLANATION

Mr. GRUCCI. Mr. Speaker, I would like to officially state for the record that I incorrectly recorded my vote on rollcall No. 100 on Thursday, April 18, 2002, as a "no" vote. I intended to vote "yea" in favor of the motion to instruct conferees on the Farm Security Act, H.R. 2646.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the further motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Such record vote, if postponed, will be taken tomorrow.

COMMENDING DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU AND ENTIRE DEPARTMENT OF DEFENSE FOR ASSISTANCE PROVIDED IN RESPONSE TO TERRORIST AND ANTHRAX ATTACKS OF SEPTEMBER AND OCTOBER 2001

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 378) commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire congressional community in response to the terrorist and anthrax attacks of September and October 2001.

The Clerk read as follows:

H. CON. RES. 378

Whereas the terrorist and anthrax attacks of September and October 2001 required Congress and the entire Congressional community to respond to a heightened state of emergency;

Whereas the men and women of the United States Capitol Police were required to shoulder the greatest burden of this emergency response by working tremendously increased hours under difficult conditions, requiring great sacrifices by them and their families;

Whereas the District of Columbia National Guard responded to the call of the Capitol Police Board and provided National Guard troops to assist the United States Capitol Police in protecting the Capitol complex, providing great relief to the members of the United States Capitol Police; and

Whereas the combined efforts of the United States Capitol Police and the District of Columbia National Guard have made the Capitol complex secure for Members of Congress, Congressional employees, and visitors, and thereby have enabled Congress to continue to discharge its constitutional duties on behalf of the American people: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress commends the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

This is an important House concurrent resolution. It is number 378. It commends the District of Columbia National Guard, the National Guard Bureau, and the Department of Defense for the assistance provided to the United States Capitol Police and the entire congressional community in response to the terrorist and anthrax attacks of September and October of 2001.

As a result of the attacks, the Capitol Police implemented additional security measures and began working lengthy hours, which continue to this day. With the assistance of the National Guard, the Capitol Police were relieved from the necessity of working even longer hours and, therefore, helped to lessen the sacrifices that needed to be made by our hard-working officers and their families.

The National Guard has played an integral role in providing security to the U.S. Capitol and, by extension, its visitors, staff, Members of the House and the Senate, and the entire Nation. This additional security has allowed the House of Representatives to truly remain the people's House by keeping our doors open and our halls safe and allowing Members of this great institution to carry on the most important responsibility of doing the people's business. Also, it has been for the safety and security of the countless thousands of visitors that we have had to the U.S. Capitol.

Let me just say, Mr. Speaker, that we had a very, very unusual situation after September 11 in this Capitol and many people, and I could not begin to name all the names, but people who have worked, our officers of the House, their staff; when I say officers I am talking about the CAO, the Clerk, the Architect of the Capitol and the Sergeant at Arms, all the staff on both sides of the aisle, Members of the Committee on House Administration.

I want to commend the gentleman from Maryland, (Mr. HOYER), our ranking member, and all of the Members on both sides of the aisle, Mr. Speaker, because they also put in countless hours to make sure this entire system continued to operate.

Obviously those who committed these heinous crimes in the United States wanted our system not to operate, but the people's House has continued and has continued to be open and has done so because again of the courageous people.

Mr. Speaker, again this is a very important and serious resolution, and we also want to recognize again all of our officers of Capitol Hill, everybody that played a part in doing their job and the tremendous sacrifices. This resolution is geared towards today the Guard, and the Guard has left the Capitol complex, and so we want to honor them, we want to thank them; and for this, our country is grateful. I cannot thank them enough for their hard work and assistance in the challenging months.

I urge full support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

I support, clearly, the gentleman from Ohio's (Mr. NEY) motion and congratulate him for bringing this matter to the floor in such a timely fashion.

For 5 months, Mr. Speaker, more than 130 men and women of the District of Columbia National Guard stood watch here at the Capitol complex alongside our own Capitol Police. They superbly assisted the Capitol Police in the discharge of their principal duty, which is to enable Congress to operate securely in the discharge of its constitutional responsibilities.

With the support of the National Guard Bureau and the Department of Defense, the men and women of the District of Columbia Guard helped make it possible for Congress to continue its work. For that, all Members are thankful.

The men and women of the Guard also enabled our Capitol Police to have some measure of much needed rest and relief. Even with the Guard's help, Capitol Police officers worked 12-hour shifts during the last 7 months, most for 6 days a week. I hope all the Members heard that because it is not appropriate that we allow that to continue. It is not appropriate for our security. It is not appropriate for the safety of our men and women in the Capitol Police. It is not appropriate for their families.

Fortunately, that grueling schedule has somewhat subsided. It doubtless would have been even more demanding, however, without the assistance of the diligent, dedicated Guardsmen and -women, and for that, as I said, we are most thankful.

Mr. Speaker, the men and women of the District of Columbia Guard distinguished themselves in this undertaking. They discharged this extraordinary duty with diligence, professionalism, dedication and good humor. I will include at this point in the RECORD a complete list of their names.

TASK FORCE CAPITOL GUARDIAN (DCNG)

Abele, Timothy, SPC, Addison, Mark, SGT, Aiken, Anthony, SPC, Allen, Tekeshia, OC, Armstrong, John, SSG, Atkinson, Anthony, SSG, Baird, Gordan, SFC, Baker, Anthony, SSG, Barnes, Samuel, SPC, Belton, Karla, SPC, Bennett, Carolyn, SGT, Black, John, SPC, Blankenship, Todd, CPL, Bloodworth, Stephen, SSG, Brooks, Geoffry, MAJ, Brown, Anthony, SFC, Bryan, Rosemary, SPC, Cammon, Melvin, SGT, Carr, Jerry, SGT, Clark, Karen, SPC.

Clemons, Rodney, SGT, Clinton, Jerry, SSG, Coates, Elizabeth, SPC, Coles, Christopher, CPL, Coley, Antonio, SSG, Cotton, Chandler, SGT, Cradie, Tavar, PFC, Dancy, Julius, SGT, Davis, Derwin, SPC, Davis, Michael, MSG, Day, Albert, SPC, Douglas, Kirk, SGT, Doye, James, SSG, Elmore, Albert, SGT, Emiabata, Abayomi, SFC, Espinosa, Angelo, SPC, Fenton, Keith, SSG, Frost, Dwayne, SPC, Goodwin, Shannon, SSG, Graham, James, SGT.

Gray, Devon, 1LT, Green, Marion, SGT, Hailstalk, Jacelyn, SPC, Hall, Robert, SGT, Harris, David, SGT, Hayes, Stephanie, SPC, Height, Ramonz, SSG, Henry, Alvin, SFC, Hill, David, SPC, Hill, Steven, SGT, Hinaman, Arthur W., LTC, Hoffman, Mary, SPC, Hudson, Leonard, SFC, Hughes, Rachel, 1LT, Hutchins, James, SPC, Jackson, Anthony, MAJ, Jackson, William, SFC, Jenkins, Deron, SGT, Johnson, Dennis, 1SG, Johnson, Trinette, SPC.

Jones, John, SPC, Jones, Rasheeda, SPC, Jones, William, SPC, Kinley, Roland, MSG, Lancaster, Arthur, SPC, Lawton, Denny, SSG, Lee, Dennis, SGT, Lewis, Timothy, SPC, Luu, The Khai, 2LT, Magruder, Paulette, SFC, Mason, Kenneth, SPC, Maynard, Arturo, SGT, McArthur, Charlie, SGT, McGrath, Joseph, 1LT, McKinnis, Francis, PFC, McLaurin, Joann, SSG, McMillian, Charles, SGT, Metts, Nathaniel, SSG, Mickens, George, SGT, Miles, Robert, SSG.

Minor, William, SSG, Mitchell, Juan, SSG, Muhammad, Franacine, SPC, Nathan, William, SPC, Nelson, Cartone, SPC, Newman, Agnes, SGT, Nicholson, Maurice, SPC, Parker, Dwight, SPC, Patterson, Rodney, MAJ, Pollard, Shanita, SPC, Powell, Steven, SFC, Prailow, Melvin, SPC, Prat, Glynn, SFC, Queen, Denise, SGT, Queen, Mark, SGM, Ramdat, Awadit, SGT, Richardson, Vicki, SPC, Robinson, Aaron, SPC, Robinson, Lawrence, SPC, Roy, Chris, SGT.

Samuel, Rodger, SSG, Scott, Jay, SPC, Semper, George, SSG, Shirk, Terrence, SFC, Shuford, Robert, SSG, Singleton, Nebra, SGT, Smith, Rudolph, SFC, Spencer, Rodney, SFC, Steedly, Mark, SGT, Sterling, Karen, SSG, Summers, William, SPC, Sutton, Tamara, SGT, Taylor, Ramon, SSG, Taylor, Regina, SSG, Taylor, Ronald, SGT, Terry, Melvin, SSG, Thomas, Aretha, SPC, Travers, Victor, SPC, Turner, Gary, SPC, Tyler, Edward, SGT.

Valdivia, Gerard, 2LT, Walker, Sharon, SSG, Warren, Ralph, SFC, Washington, Trina, SGT, Watson, David, SFC, Wellington, Larry, SSG, Wells, William, SSG, White, Quion, SPC, Whitley, Vanessa, SGT, Wiggens, Donald, SPC, Wilkins, Ricardo, SGT, Williams, Angela, SPC, Williams, Edward, SPC, Wilson, Jack, SGT, Wilson, Lashon, SPC, Wilson, Morris, SGT, Wilson, Reggie, SPC, Woodall, Brian, SSG, Young, David, SGT, Zollicoffer, Randolph, SSG, Freeman, Warren L., MG—DCNG Commanding General.

They brought honor upon themselves as individuals and upon the District of Columbia and the National Guard. They also brought honor upon this Capitol, managed in a very efficient, effective, secure way.

The National Guard, of course, is a cornerstone of our national defense establishment, and these men and women represented it well. We greatly appreciate the willingness of men and women from every walk of life to serve when needed, at home and abroad, to help keep this Nation free and secure.

The National Guardsmen and -women who served here at the Capitol have now resumed their normal duties. They certainly deserve the salute of this House. This resolution, Mr. Speaker, commends the Guard, the Guard Bureau, and the Defense Department for a job well done. It records their contribution to the security of our democracy.

I note that this resolution resembles one introduced by the gentleman from Illinois (Mr. DAVIS) on April 10. The fact that multiple resolutions have been introduced demonstrates the affection and gratitude Members have for the men and women whom we met and who served our Nation and our Capitol.

Mr. Speaker, I urge every Member to support this motion, as I am sure they will.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

I also wanted to commend the gentleman from Illinois (Mr. DAVIS) and also the gentleman from California (Mr. ISSA) and all the other cosponsors, 104, but those two have worked diligently to bring this issue to the forefront, and I want to give them the credit. They are very concerned, as all Members are.

Let me note one thing, too, a statement the gentleman from Maryland (Mr. HOYER) mentioned. He is correct; there is going to be a cooperative working relationship, as we have had all year long and during this crisis, of our staffs to look at those hours because the gentleman from Maryland is completely correct about those hours and the safety and security of the Capitol, but those were countless hours I had mentioned. But we owe an obligation to the officers and to the staff of the Hill and the visitors to look at those hours and to do something with them. We pledge that we are going to do that.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), my distinguished colleague.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman not only for yielding me the time but for his sponsorship of this resolution that has a great significance. I want to thank the gentleman from Maryland (Mr. HOYER) also for his sponsorship of it, and all of the people who are speaking for it, and all of the Members of the House who care about the kind of service that we have received from the District of Columbia National Guard.

I am pleased to be here to give thanks to the members of the District of Columbia's National Guard, the National Guard Bureau, and the Department of Defense. For nearly 5 months the men and women of the District of Columbia Army National Guard answered the call of duty to help protect the Nation's Capitol complex, and they did it with grace, efficiency, and thoroughness. They watched over us 24 hours a day, 7 days a week, compiling an incredible total of 207,120 hours of work over 150 days.

This was time away from their loved ones, time away from their places of employment, time they spent in service to their country, and we are deeply grateful for that service.

The members of the D.C. Army National Guard, specifically the 260th Military Police Command, the 260th Regional Training Institute, the 74th Troop Command, the Headquarters District Area Regional Command, and the 33rd Civil Support Team, all worked alongside the officers of the Capitol Police to whom we also owe a great debt of thanks. The officers of the Capitol Police Department performed under a heavy burden, protecting the Capitol complex under a crisis situation and logging many, many long days in the process.

When it came time to give the men and women of the Capitol Police some much needed help, the National Guard was there. The fact that these two entities, the National Guard and the Capitol Police, were able to work together so seamlessly is a testament to the professionalism of both of them. This represented a new situation for both agencies, and they adapted well to a tough assignment.

I am honored to be here today to be able to publicly thank them for their service.

Mr. HOYER. Mr. Speaker, we have been talking about the Washington, D.C., National Guard. I am very pleased to yield 4 minutes to the gentlewoman from the District of Columbia (Ms. NORTON), who represents the District so very, very well.

Ms. NORTON. Mr. Speaker, I first thank the gentleman from Maryland for yielding me this time. He knows, I am sure, what it means to me and to the residents of the District of Columbia that the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) have provided such thoughtful leadership in bringing forward this resolution in honor of our D.C. National Guard, the Guard Bureau, and the Defense Department, and I want to focus in on the 131 members of the D.C. National Guard whose sacrifice of time spent with their families and of career advancement was so important to us for the last 5 months.

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I do not think anybody will ever call them weekend warriors again, not considering the hours they put in for us.

And who were they? It is very hard to somehow make us all understand precisely who these young men and women were. I went to a ceremony in honor of them on their last day, but think of their representatives as being Sergeant Charles McMillian, who lives in Esther Place, Southeast, has one daughter; or Specialist Elizabeth Coates, who has served for 17 years, is married, and lives in Northeast Washington; or of Sergeant Trina Washington, with 20 years of service, two children, and who lives in Northeast Washington.

When you have been in the service that long and you have a life, you are certainly not prepared for what we called upon these Guards people to do. What you are prepared for is what they do or have done for us in the District of Columbia. They are much revered and honored in our city. They were there during the civil defense operations as a part of the 2001 IMF World Bank demonstration. They expect that kind of duty. They expected to be on duty during the Y2K transition. They knew they would be called in the blizzard of 1996. But they could never have dreamed that they would be helping in round-the-clock service to the Capitol of the United States.

Our Capitol Police were working 10 hours a day, 7 days a week. Murderous hours. We have heard the Chair and the ranking member speak about how we are going to do something about that, but could not do something about it right away. There was no place to turn, no place to go; and so we turned to the National Guard, who in the history of this country have probably never had anything like this kind of duty.

Their presence was so important. Their presence, along with that of the Capitol Police, restored a sense of calm and confidence in this place, especially to staff. Members had no reason, they are elected, they are supposed to have a sense of calm and confidence no matter what happens to this place, but the many number of people who serve us as staff I do not think their parents sent them here to see them panicked about whether or not this place would be safe. Nothing, in fact, was more reassuring than coming to work and being greeted by the Capitol Police and the D.C. National Guard. Somehow you thought everything was going to be all right when you saw them there.

I want us to remember that these people had a life, had full-time careers, some were very young, many were at the height of their careers; and not only were their careers put on hold but their lives were put on hold. When the Capitol Police did the very same thing, this Congress came forward with a concurrent resolution. The Capitol Police are favorites of mine. I live with them 7 days a week, and I know what they do for this place; but I must say that I think it is especially appropriate for the Congress today to do for the Guard what we have already done in expressing our appreciation for the Capitol Police.

It is difficult to know how 440 Members of the House and 100 Members of the Senate can say thank you. I think that a concurrent resolution, always reserved for extraordinary performance, is an appropriate way; and that is the kind of thank you that we give the National Guard today.

Mr. HOYER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. DAVIS), who had a similar resolution expressing a similar sentiment.

Mr. DAVIS of Illinois. Mr. Speaker, I want to first of all thank the gentleman from Maryland for yielding me this time, and I rise today in support of H. Con. Res. 378, to honor the men and women of the District of Columbia's National Guard for their extraordinary service and assistance to the United States Capitol Police.

I would like to thank the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for their leadership in bringing this legislation to the floor to commend the D.C. National Guard for their assistance after the attacks of September 11 and the anthrax attacks on the Capitol. And, Mr. Speaker, I also want to thank and acknowledge the gentleman from California (Mr. ISTOOK) for his efforts and commitment in paying tribute to the National Guard's dedication to the Capitol by also introducing a similar resolution April 10, 2002, with over 120 cosponsors.

Mr. Speaker, I also introduced a similar resolution, as has been noted, on April 10, 2002, the final service day of these men and women, because I felt it was only appropriate for my fellow colleagues and I to pay homage to the men and women protecting our lives and our Nation's Capitol. There were a total of 220 men and women from the D.C. National Guard who assisted the Capitol Police from November 12, 2001, to April 10, 2002. These men and women worked a remarkable 207,120 hours in 150 days by providing perimeter security, barricade support, and vehicular inspection 7 days a week, 24 hours a day.

As has already been noted, Mr. Speaker, they sacrificed their holidays, weekends, and time with their families to ensure the safety of the Capitol. In addition to lending their resources to the Nation's Capitol, the D.C. National Guard has also played significant roles in our Nation's past armed conflicts, such as World War II, Operation Desert Storm, and Operation Joint Endeavor.

I join with my colleagues in sending my deepest gratitude to the units involved in protecting the Nation's Capitol: the 260th MP Command, the 74th Troop Command, the 260th Regional Training Institute, the Headquarters District Area Regional Command, the 121st Criminal Investigation Detachment, and the 33rd Civil Support Team for their extraordinary service, their protection of the U.S. Capitol, the safety of the Members of Congress, congressional staff, and visitors to the U.S. Capitol, and for their assistance to the Capitol Police.

Mr. Speaker, I also want to congratulate the D.C. National Guard, who will be celebrating their 200th year in service next week on May 3rd. Again, I urge all Members of this honorable body to support this resolution and convey once again to the D.C. National Guard our gratitude for the tremendous service that they have provided to all of us as well as to the Nation.

Once again, Mr. Speaker, I thank and commend the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I yield myself the balance of my time and thank the gentleman from Illinois for his very appropriate comments.

We reiterate that we owe a debt of gratitude to these men and women of the D.C. National Guard and thank them for their service.

Mr. Speaker, I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FORBES). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 378.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of House Concurrent Resolution 378, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

OIL DISTORTS U.S. FOREIGN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, the recent events in Venezuela have given the American people yet another example of the way that oil distorts U.S. foreign policy. Most Americans do not realize it, but Venezuela is a crucial supplier of oil to the United States. According to the CIA, petroleum dominates the Venezuelan economy, accounting for approximately one-third of its economy and 80 percent of its export earnings. In fact, Venezuela ranks third on the list of countries that provide with us petroleum, approximately 1.5 million barrels every day, or more than half of its total production.

Stanley Weiss, founder and chairman of Business Executives for National Security, a nonpartisan organization of business leaders, wrote recently in the Los Angeles Times that the United States imports twice as much oil from Canada and Venezuela as it does from the Persian Gulf. And Venezuela is particularly important as a source of reformulated gasoline, which is required in many American cities that are struggling to meet USEPA emission standards for clean air.

Every time an American citizen pulls up to a Citgo gas pump, they are pumping dollars into the Venezuelan national oil company known as Pedevesa. And it was labor unrest at the Pedevesa facilities throughout Venezuela that helped to spur the 1-day coup against Venezuelan President Hugh Chavez.

So important is Venezuelan oil to the world's market that the price of oil dropped precipitously after Chavez was deposed and rebounded just as quickly when he was restored to power by the people of Venezuela.

The Bush administration, which is dominated by oil in much the same manner as the Venezuelan economy, could barely contain its glee when President Chavez was overthrown in a coup d'etat. Meanwhile, every other government in this hemisphere reacted negatively to the overthrow of a democratically elected government. By putting the interests of the oil economy first and democratic rule second, the Bush administration not only found itself out of step with every other government in Latin America but foolishly forfeited the high moral ground.

Now the administration has a lot of sorting out to do. It has to explain to Congress about what really happened in Venezuela. Did the Bush administration actively encourage antidemocratic forces to overthrow a leader with whom we happen to disagree? Did the Bush administration give a wink and a nod to the coup plotters? Under what authority was the Bush administration acting when U.S. military advisers found themselves on the side of the insurgents? When was that action authorized by the Congress of the United States? When did President Bush learn about the attempted coup and direction was given to U.S. diplomats, military officials, and advisers in the region? What did they receive from the White House, the State Department or the Defense Department? What relationship does the President, Vice President, or any of his advisers have with any oil interests in Venezuela? On whose order did the Bush administration officials choose not to speak out against the overthrow of a democratically elected president from a nation that is America's third largest oil supplier?

The United States simply must occupy the moral high ground. We are engaged in a worldwide battle against terrorism and antidemocratic forces. We are trying to show the rest of the world what it means to stand up for democratic values. Not to support a legitimately elected government, no matter how much we may disagree with its president, has damaged the perception of the United States as a standard bearer for legitimate elections and democratic governments.

The Organization of American States took a position diametrically opposed to this country's position. I hope the Committee on International Relations demands a full explanation by the Bush administration so there is no repeat of this sorry performance. President Chavez should understand that Americans believe in democracy and view Venezuela as a friend, not just as an oil well. And the American people can take from this latest sordid experience another lesson in the many ways in which dependence on foreign oil distorts our politics and our policy.

Mr. Speaker, I submit herewith for the RECORD two articles, one from the Toledo Blade that talks about the administration's flip-flop in our policy towards Venezuela, and also a time line and related article from the New York Times on "2 days that Shook Venezuela: The Fall, and Return, of President Hugo Chavez.

[From the New York Times, Apr. 20, 2002]

2 DAYS THAT SHOOK VENEZUELA: THE FALL, AND RETURN, OF HUGO CHÁVEZ

The killings at the anti-Chávez demonstration rocked the country, reviving memories of the violent events in 1989, known as the Caracazo, in which hundreds were killed by government forces. Venezuelans across the political spectrum swore that such violence would never take place again.

According to witnesses, shots were fired from several buildings as well as from a bridge one block from the presidential palace, which overlooks the route of the march. One of the buildings that witnesses identified as a source of gunfire contains the offices of Freddy Bernal, the mayor of the borough that includes downtown Caracas and one of the leaders of the Bolivarian Circles.

Eddie Ramiez, an executive with the state oil company, was in a part of the march that came close to the presidential palace. "Shots were fired from a building," he said. "I think there were people there waiting for us, and some crazy person started to shoot."

None of the snipers who fired from rooftops (as opposed to the bridge) have been identified, with pro-Chávez forces arguing that much of the gunfire was directed at Miraflores Palace and that some anti-Chávez demonstrators were also armed.

Since Mr. Chávez's return to power last Sunday, his followers have sought to place the blame for the killings on the Metropolitan Police, which reports to one of his main political adversaries, Alfredo Peña, the mayor of Caracas. However, after an independent investigation, the country's two main human rights groups concluded that the shootings took place "to minimize the action of the opposition with the acquiescence of organisms of the state," and police and military officers.

Gen. Néstor González, an ally of Mr. Chávez who broke with the president early last week, said that the military high command already had information at midday that there would be an attack on the anti-Chávez march. He said this week that the top commanders learned of the plans from "a general who had personally infiltrated in the Bolivarian Circles."

As the confrontation in the streets raged, Mr. Chávez ordered all television stations to join a national network and began delivering a speech warning Venezuelans "not to fall into provocation." But independent stations split the screen so as to continue broadcasting the violence near the palace. Their transmissions signals were cut, and public opinion began turning against Mr. Chávez.

Feeling vulnerable, Mr. Chávez ordered tanks and troops to move to the palace from army headquarters at Fort Tiuna, in Caracas. But military commanders, fearing a repetition of the 1989 bloodshed, told the president that they would not obey him. "The result would have been a massacre," General González said. Military dissidents who had plotted against Mr. Chávez had sought out business leaders thought to be sympathetic. They included Pedro Carmona Estanga, the president of Fedecámaras, the main national business confederation.

Entreaties were also made to the American Embassy here but it appears they did not meet with encouragement.

"They were always impeccable at the embassy, from the ambassador on down," said a businessman who was a witness to several "what if" conversations. "I can't tell you the number of times they made it clear that they would not countenance a coup. There was no winking going on, either. They would always say, "We do not want a rupture."

Other anti-Chávez groups also traveled to the United States to meet with Mr. Cisneros, the media magnate who has business interests there, and with American officials. The Bush Administration's two top officials for Latin American policy, Assistant Secretary of State Otto Reich and John Maisto, the national security adviser for Latin America, are both former ambassadors to Venezuela and have maintained close ties with business, political and news media leaders here.

So early on Thursday night top military officers, including the army commander, Gen. Efraín Vázquez Velasco, were confident when they delivered an ultimatum to Mr. Chávez: you must quit. Cornered, Mr. Chávez said he was unwilling to resign but would agree to "abandon his functions," a slightly different procedure under Venezuelan law that would require the approval of the National Assembly, in which Mr. Chávez has a majority.

The key figure in the hours of negotiations that followed was the armed forces commander, Gen. Lucas Rincón Romero, whose true loyalties still are not clear. Early on Friday, he announced that Mr. Chávez had "resigned," which led 90 minutes later to Mr. Carmona being named as head of a military-supported transitional government.

That part is still confusing to me," Mr. Carmona said of General Rincón's actions and statements this week, after he was placed under house arrest and General Rincón was once again at Mr. Chávez side, apparently forgiven by the president. "There are facts that are still in a gray area."

By midmorning on Friday, Mr. Chávez, himself a former army colonel who in 1992 led a failed coup attempt, looked to be finished. He was being held in military custody at Fort Tiuna; Cuba was beginning efforts that would have allowed him to go into exile there, and the Bush administration was already signaling its support for the new government.

On Friday morning, the day Mr. Carmona claimed power, Mr. Reich, the assistant secretary, summoned ambassadors from Latin America and the Caribbean to his office. The representative from Brazil read a communiqúe that stated that his country could not condone a rupture of democratic rule in Venezuela, diplomats said.

They said Mr. Reich responded that the ouster of Mr. Chávez was not a rupture of democratic rule because he had resigned. "He stressed the position that Chávez was responsible" for his fate, "and said we had to support the new government," said one Latin American envoy.

Almost immediately, though, Mr. Carmona began making the political blunders that would quickly bring him down. After working hand in hand for months with Carlos Ortega, the leader of the Venezuelan Workers' Federation, the country's main labor union group, he named a cabinet that had no labor representatives and was tilted heavily toward a discredited conservative party.

In addition, Mr. Carmona fanned military rivalries by naming two navy officers to the cabinet, including Adm. Héctor Ramírez Pérez as minister of defense instead of General Vásquez Velasco, and none from the army.

"There were many more people with aspirations than space to accommodate them, and they all seemed ready to jump ship when they felt they were being excluded," said Janet Kelly, a political science professor and commentator here.

But the biggest mistake was a decree, announced at Mr. Carmona's swearing-in on Friday afternoon, that dissolved the National Assembly, fired the Supreme Court and called for new presidential elections only after a year. The effect was to suspend the Constitution, which generated immediate opposition to the new government, both at home and in the rest of Latin America.

"In hindsight, it was the most idiotic thing that could have been done," said a person who was at Miraflores for the ceremony. "But we had just come out of an ambush and we were venting our distaste for the people who occupied those positions, so everyone applauded the dissolution."

As Mr. Carmona spoke, military officers were jostling for position behind him, trying to make sure they would appear in photographs in the papers the next day, spectators recalled. But some civilian political leaders were already unhappy with the look of things, and ducked out of the ceremony.

By Saturday morning, it was clear that Mr. Carmona's transition government was floundering. Ambassador Shapiro had breakfast with him at 9 a.m., and told him that dissolving Congress was an error and should be reconsidered.

The government's image was further undetermined by raids on the home of some key Chávez supporters. Among those singled out were Tarek William Saab, who as chairman of the congressional Foreign Relations Committee was regarded as Mr. Chávez's main link to Iraq, Iran and Libya; and Ramón Rodríguez Chacín, who as minister of the interior and justice was in charge of the state spy apparatus.

At the same time, though, Mr. Chávez's supporters in the poor neighborhoods of western Caracas were taking to the streets. By early afternoon, thousands were congregating outside Miraflores, demanding that Mr. Chávez be restored.

At Fort Tiuna, though, some 30 generals and admirals were still arguing about who should get what post in the Carmona government. "This was grave for Carmona," said Gen. Rafael Montero, a former minister of defense sympathetic to the anti-Chávez forces. "He didn't have the advice he needed."

With the high command distracted, the presidential guard, which was thought to be loyal to Mr. Chávez but had still not been replaced, was able to retake control of Miraflores. "We never abandoned the president," said Col. Gonzalo Millán a member of the palace guard. He added, "Kings are the only ones who do things by decree, but no one here is a king."

In the interior of the country, unit commanders were also beginning to defy the desk generals and to declare their support for Mr. Chávez. At 1:30 p.m., Gen. Raúl Baduel, commander of a paratrooper brigade in Maracay in which Mr. Chávez himself had once served, and four other senior field officers announced they were rebelling against the new government and began to organize a plan to "rescue" Mr. Chávez from his captors.

Though he had by now been moved from Caracas to a naval base on the coast, Mr. Chávez was still refusing to sign a document of resignation. When a sympathetic corporal named Juan Bautista Rodríguez, a member of the unit watching over the deposed president, learned of Mr. Chávez's position, he offered to smuggle out a message to that effect to encourage the Chávez forces. "I put it at the bottom of a trash can to disguise it," Mr. Chávez said this week. "Later I learned that the soldier had recovered it. I don't know how he did it, but he discreetly transmitted a fax to someone who got the message to Miraflores."

With the balance clearly shifting in favor of Mr. Chávez, who had by now been moved to the Caribbean island of La Orchila, the same military officers who had overthrown him began to distance themselves from Mr. Carmona. At 4:30 p.m. General Vázquez Velasco, still irate at not having been named defense minister, told Mr. Carmona that military support of his government would be withdrawn unless he revoked the offending decree dissolving congress.

Mr. Carmona acted about half an hour later, but by then it was too late. A few blocks away from the palace, the pro-Chávez National Assembly was already convening to appoint Diosdado Cabello, Mr. Chávez's vice president, as interim president, as established by the Constitution.

Around 10 o'clock, Mr. Carmona stepped down and the uprising was effectively over. Four Air Force helicopters headed to La Orchila to pick up Mr. Chávez, who arrived in triumph back at Miraflores around 3:00 a.m. on Sunday.

"I was absolutely sure, completely certain, that we would be back," Mr. Chávez said in a speech to his jubilant supporters. "But you know what? The only thing I couldn't imagine was that we would return so rapidly."

[From the Toledo Blade, Apr. 21, 2002]

DIVISIONS OVER VENEZUELA

FLIP-FLOP PITS DISLIKE FOR CHAVEZ, ISSUE OF DEMOCRACY

(By Frida Ghitis)

WASHINGTON.—The news from Venezuela blew like a cool breeze on a sweltering summer day for U.S. leaders in Washington following those developments.

Administration officials, tense and tired from watching the unraveling of the Middle East; edgy from suddenly facing domestic criticism that President Bush's policies on terrorism were losing their moral clarity with his call for Israel to stop its actions against Palestinians; weary from threats by Muslim oil producers to suspend oil shipments if the United States didn't get Israel to stop attacking Palestinians, suddenly found reason to rejoice. The word from Venezuela brought a welcome bit of news. The troublesome, often irritating president of the South American country, had moved aside. A new president was taking over. At last, some good news!

Not so fast. What occurred in Venezuela and, more importantly, the way Washington reacted to it, has become a major embarrassment for the Bush administration, which found itself on the defensive denying charges that, at the very least, it knew about the coup before it happened. Even if those charges are proved to be false, Washington's rejoicing over a bungled coup that kept the Venezuelan out of office for only 48 hours, left the administration open to charges that it turned its back on democracy.

Most think of the Middle East, the Persian Gulf, as the principal source of America's oil. But Venezuela, on the northeastern corner of South America, is one of the world's major oil producers. The country is the third largest provider of oil to the United States, exporting about 1.5 million barrels to America every day. Venezuela, a member of OPEC, long had been one of the organization's least disciplined members, going over its quota frequently and thus making it almost impossible for the oil cartel to control prices. That all changed when the colorful Hugo Chavez came to power.

Mr. Chavez, a former paratrooper who had once led a failed military coup of his own, was elected president democratically with promises of bringing radical change to a country that, although awash in petroleum, suffers from horrific poverty. Just months before he took power in Caracas, a barrel of oil was selling for about $10, less than half today's price. President Chavez immediately set to transform his country, and to revitalize the oil cartel.

Enjoying enormous popular support, Mr. Chavez tore down and then rebuilt government institutions. He had a new constitution written after his chosen delegates were approved as the drafters of the document. He gained control of the judiciary and the legislature, and he stacked just about every part of government with his supporters, many of them military men. In the process, Mr. Chavez managed to insult the church, calling priests "devils in vestments." He routinely attacked the rich, calling them oligarchs who should move to Miami. Most observers agreed, Mr. Chavez was concentrating powers into his own hands, severely crippling democratic institutions in his country. But he did it all within the law.

Then Mr. Chavez set out to work on the world oil markets. He paid visits to Muammar Kaddafi of Libya, to Saddam Hussein in Baghdad, while continuing to develop a deeply personal friendship with Fidel Castro of Cuba, constantly irritating Washington. Mr. Chavez helped OPEC set production quotas and stick to them. He was instrumental in producing a tightening of oil supplies that brought oil prices to new levels.

It's not surprising then, that when Venezuela announced a few days ago that Hugo Chavez was no longer its president, oil prices took a sudden drop—about 6 percent (They went back up after he was reinstated). The timing, for the United States and many others, could not have been better. Oil prices had gone up 25 percent this year alone, as the American economy picks up steam, and as tensions in the Middle East continue to mount. Only recently, Saddam announced that he was stopping shipments of oil as a gesture of support for the Palestinians, and Iranian President Mohammed Khatami (the "moderate" Iranian) reiterated his country's call for Muslim countries to stop selling oil for 30 days, also in support of the Palestinians.

What superb timing by the masses in Caracas! On April 11, a large protest by Venezuelan workers, angry over Mr. Chavez's installation of a new board of directors of the traditionally independent national oil company, spun out of control. Tensions had been building for months. The country is sharply divided, with Mr. Chavez's populist rhetoric intensifying class differences. Major military figures had come forth calling for his resignation, and what was once a sky-high approval rating had dipped to about 30 percent. When the protests were met with gunfire from Chavez supporters, the military stepped in and took over. They installed Pedro Carmona Estanga, a business leader who didn't last long.

The head of the country's largest business association was declared president, with an announcement that Mr. Chavez had resigned. But Chavez supporters refused to believe their man had folded. A top executive at the oil company said the country would start pumping more oil, probably exceeding its OPEC quota.

It is unlikely that a single Latin American president felt that Mr. Chavez really would be missed. And yet, the Organization of American States condemned the Venezuelan coup. Almost all democratically elected leaders in the Americas made it clear that, like him or not, Mr. Chavez legally, democratically had been elected president. Removing him constituted an affront against the principle of democracy, a principle worth preserving, even when one disagrees with the outcome of the process. The president of Mexico declared that he would not recognize the new government. Statements throughout the hemisphere condemned what appeared to be a coup. The United States, however, did not speak out against the overthrow of a democratically elected president. American officials stated that Mr. Chavez himself was responsible for the events that lead to his ouster.

The United States did itself enormous damage. Latin America and, for that matter, much of the Third World, where the image of America as a nation that supported despotic regimes that suited its goals during the Cold War has been changing very slowly. When the United States sent troops to Haiti to "restore democracy" many in the hemisphere believed perhaps America was truly standing up for the democracy it claimed to hold so dear. That image now has been set back.

Worse yet, many in Latin America believe that the Bush administration, with a sharp focus on controlling oil markets, played an important part in the failed coup. Washington is denying it ever lent even tacit support to plotters although it admits that Chavez adversaries did seek support, and that the man who took office for a short time after deposing Mr. Chavez was, in fact, in contact with Otto J. Reich at the State Department. Mr. Reich is in charge of Inter-American affairs at the State Department.

The government says the United States did nothing to encourage the assault on democracy. And yet, it is guilty, at the very least, of badly mishandling the crisis in Caracas. The mistakes of mid-April may take years to repair.

[From the Toledo Blade, Apr. 21, 2002]

LATIN POLICY CHIEF GIVES LITTLE TO FOES

WASHINGTON.—Reacting to criticism of the reaction to the resignation and revival of Venezuelan President Hugo Chavez, the Bush administration's chief policy-maker for Latin America, Otto J. Reich, came back swinging. "We have reviewed our actions since last Thursday [April 11]," he said. "I find very little that I would do differently."

Such is the confidence of Mr. Reich, a former ambassador to Venezuela whose conservative credentials and combative demeanor have made him popular among Republicans and stirred the suspicions of Democrats.

After a few short months, Mr. Reich is facing his second crisis in Latin America (the first was the collapse of the Argentina economy, and he has taken a hands-off approach to it). He is thoughtful and meticulous, with experience in the region as a development agency official, diplomat, and businessman.

He also is a fierce partisan who cedes little ground to his opponents, particularly those who fail to share his concern over the threats posed by President Fidel Castro of Cuba and, more recently, by Mr. Chavez, who has built close ties with Castro.

In January, after Senate Democrats denied Mr. Reich a hearing on the Latin policy post and refused to confirm him, President Bush granted him a recess appointment, which allows him to serve until the end of the congressional session—and beyond, if reappointed.

Secretary of State Colin Powell fully backs Mr. Reich, said the secretary's spokesman, Philip Reeker, calling him a "key player".

Some of the animus toward Mr. Reich stems from his involvement in what became known as the Iran-control scandal in the Reagan administration. As director of the State Department's Office of Public Diplomacy, Mr. Reich tried to influence public opinion in support of the Nicaraguan contras, the General Accounting Office found, by resorting to "prohibited covert propaganda" like preparing newspaper opinion articles for pro-contra authors.

Mr. Reich has denied wrong-doing and never was charged. Recently, in his first major policy speech as assistant secretary, he made light of the controversy, greeting the "former colleagues" and "unindicted coconspirators" in the crowd. Then he complained, "That was supposed to get a better laugh than that."

Otto Juan Reich was born in 1945 in Cuba, which he fled as a teenager. He thrived in his adoptive country, earning a bachelor's degree at the University of North Carolina and a master's in Latin American studies at Georgetown University.

His uncompromising views on Cuba have made him a pillar of support for the American trade embargo of four decades.

His appointment was championed by Cuban exiles, who supported Mr. Bush's presidential campaign, and viewed as a setback to advocates of more open contracts with Havana. He has criticized corruption in Latin America and has advocated free trade.

When the crisis flared up in Venezuela, Mr. Reich, who had made no secret of his disdain for Mr. Chavez, was ready to respond. He had been the Venezuela envoy in the late '80s. After that, as a lobbyist he numbered among his clients Mobil Oil, which has interest in Venezuela.

"My entire life I've done things that have prepared me for this job," Mr. Reich said last week.

Mr. Reich said the administration had had no involvement or knowledge—indeed had been operating under an "information blackout" in the first hours of the revolt on April 11.

He defended his decision on the next day to establish contact with Pedro Carmona Estanga, the business leader who sought to replace Mr. Chavez. He said the administration would have been criticized even more harshly had it failed to warn Mr. Carmona of its desire to see democratic processes respected.

"I think it would be irresponsible not to do it," Mr. Reich said.

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REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–418) on the resolution (H. Res. 395) providing for consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEATH TAX

The SPEAKER pro tempore (Mr. FORBES). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, this evening I want to cover a couple of points. Especially, I want to focus tonight on one area, and that is the death tax, and the differences between our parties, between the Republicans and the Democrats when it comes to the death tax. This is clearly reflected by the votes of the last couple of years. When I speak in Special Orders, most of the time I try not to speak in a strong partisan fashion. There are a lot of issues that span both sides of the aisle. There are a lot of issues that are not necessarily a division between Republicans and Democrats, but rather a division between urban and rural areas; or there are issues that partisanship is divided, not Republicans and Democrats, but geographical location in the Nation.

For example, many times I have taken this podium and spoken about water in the East as compared to water in the West, the issues of public lands which are almost exclusively found in the West as compared to the private lands found in the East. There are a number of different issues, so not every issue that we deal with up here falls along partisan lines. But there comes a time when there is an issue that falls along partisan lines where the majority of one party is on the opposite side of the majority of the other party, and tonight is one of those nights that I want to speak about an issue.

The reason I bring this up is because of the impact it has on my district in Colorado, and the impact that it has on the American dream and throughout this Nation, not necessarily the people from Colorado, but the people from the other 49 States, and it is the death tax. It is a tax that the Democrats, time and time and time again, go back to their districts and talk about how terrible it is and come back here and vote to support it, to keep the death tax in place. I am tired of it. This thing is killing people out there, no pun intended.

This death tax is devastating to a lot of American citizens. It is of little benefit to the government. Our government gets very little tax revenue from this death tax; but time and time and time again, the Democrats continuously through their leadership continue to support the death tax. Every time we talk about it, they make it look like we are talking about the Gates families or the Ford families or those kinds of families out there. They completely ignore the fact that the wealthiest families in this country which they say that the death tax is directed at, those families have estate lawyers and trusts. Those families have life insurance to take care of a death and the costs related to that and the cost related to the death tax.

What the Democrats do ignore time and time again is what it does to the middle class in this country. What do I mean by the middle class? Look at what one has to own today to be subject to the death tax. If you are in construction, you are not a wealthy person. Let us say you are a woman. And women in business, by the way, have jumped dramatically, so the impact against women that this death tax has also jumped dramatically. You will see the Democrats jumping up and down about women in business and we are for women in business.

Next time you hear one of your Members from your district say that, you have to be prepared to defend. Why do I vote for the death tax and why do I support the death tax which has an inappropriate impact on women in business? Let us say you have a woman who owns a couple of dump trucks, a backhoe and a small office building, not a big office building, just small. Let us say she has a trailer and a semi to haul the backhoe around on. She is now subject to the death tax upon her death.

What is the death tax and how does it work? That is what we are going to talk about this evening, because I want Members to understand clearly how negative the impacts are. Tonight I intend to read a few letters from families, diverse in their interests, farm families, small business families, contractors, children of families who have had businesses go from one generation to the other, which as we know in this country is significantly diminished in large part due to the death tax. Let me just kind of point out a couple of things to start with.

Last year the President, with the help of the Congress, we put together a tax reduction package. No matter how hard we tried, we could not get the Democrats, and we had 58 of the Democrats in the House who came across, but the real impact, their leaders, we begged them to join us. We asked them, come on, let us get rid of this death tax. Look what is happening to middle America. Look what this does. But we could not get them to budge.

The best we could do last year in our effort to eliminate the death tax was to get a compromise to lift the exemption. Here in 2004 it works its way up to $2 million. In 2006, it works its way up to $3 million; and 2010, it works its way up to $4 million, actually $3.5 million. But guess what happens in 2010? Here is what the exemption is. In other words, if you have an estate worth $3.5 million, the first $3.5 million is exempt from the death tax.

Then in the year 2010, look what happens in 2010. In the year 2010, the exemption is zero, because guess what happens for 1 year? For 1 year the death tax goes away. Zero. Then what happens? Then all of a sudden it goes back to normal in 2011 because we could not make it permanent. The reason we could not make it permanent is we did not have enough Democratic votes in our conference committee to come across.

Let me say again, colleagues, I do not like to be partisan every time I speak up here, I rarely am, but tonight the issue demands it because it is a clear distinction between Democrats and Republicans. The Democrats continually support the continuation of that death tax; the Republicans on a continual basis oppose the death tax.

Last year we were able to get a compromise to at least lift the exemption. The exemption, as my colleagues know, is that amount of money that you get before the government starts to tax your estate. It has been $675,000 before the tax package agreement. So we had the tax package agreement which does not do away with the death tax initially, but allows you to lift the exemption. And that is what this chart reflects, from $675,000 on up to $3.5 million, and then the death tax actually goes away for 1 year. But then it sunsets.

What is sunset? Sunset, as my colleagues know, this tax bill evaporates and we go back to the same taxes we had in 2000. In other words, we are back to a $675,000 exemption which takes that woman contractor that only owns a backhoe, a dump truck, and some other equipment and maybe a small office building, it makes her estate subject to the Federal death tax.

Let us talk about what the Federal death tax is, and we need to make this clear at the beginning. The death tax is not on property that has not been taxed. This is not property that one has been able to evade the tax man for many years, that the people who own this property have not carried their fair share. They have. They paid taxes on it when they bought it. But the government comes in and says it does not matter to us that you paid taxes once or twice, or in some cases three times, we are going to tax it again simply because of the event of death. Even though your property has been taxed, even though you have paid for it again and again and again in some cases, you still get taxed as if it were never taxed upon your death.

How did such an egregious tax start? Let me say there is no justification, in my opinion, for the death tax anywhere in our tax system. If you take a look at the history of our tax system, if we look at it from a historical view, the debates when we put taxes together throughout the history of this country, when we came up with the income tax, nobody ever envisioned, certainly our forefathers when they drafted the Constitution would never have envisioned that upon your death the government would come into property upon which you had already paid your taxes and tax it again. They never thought that would happen.

Mr. Speaker, how did it come about? It came about because of jealousy. In this country the American dream is to succeed. We educate our kids. All of us grew up with the dream of some type of success. Having a family is, of course, one of our big dreams; I as a father, my wife as a mother, one of our big dreams is to have something to leave to our kids so our kids can get a start in their life.

I cannot leave my congressional seat, obviously, but I always did dream, I did dream of having something physical like a construction company or some kind of business that I could get my kids to work with me, and then turn the business over to them. Well, this tax dashes that. This tax puts a knife in the center of it. It is amazing how few base businesses pass to the second generation. I think 70 percent do not make it to the second generation, and 80 percent do not make it to the third generation. Those are pretty rough numbers.

How can one conceive such a tax like this? Why would the lawmakers put this tax in place? As I said, it is jealousy. We urge people to be great, enjoy the fruits of your labor. Have Members heard that before, enjoy the fruits of your labor? Around the turn of the century, there were some big families which made a lot of money, the Rockefellers, the Carnegies, the Fords, Chrysler, a lot of these big families, and there was a lot of jealousy at that point in time.

□ 2000

The government decided to respond to some public pressure and said, "Hey, let's penalize those people. They've made too much money. They shouldn't be able to pass that money from one generation to the next. After all, the government needs the money to fight a war or to fight a depression. Let's go ahead and let's go after those families."

Well, they did. Of course, what did those kinds of families do? They have the resources to hire the necessary professional help, which is legal, of course, to hire the necessary professional help so that their impact on this is not nearly as significant as the impact is on middle America. So this tax got put into the system, more of a target towards Carnegie and Ford.

So this tax gets created, put into our taxing system, and I will tell you something; once the government figures out a tax, it is very, very hard to ever get rid of it. The battles that we had on the floor last year, I was astounded that any Democrat stood up and defended the death tax, that any Democrat could stand up and do that. By the way, to the best of my recollection, we did not have one Republican stand up and defend the death tax. Every Republican stood against it. And to 58 Democrats' credit, 58 of them, not all of them, not even close, what is that, maybe a fourth of them, a fifth of them stood up to oppose it; four-fifths of them supported this death tax. So this thing has continued and continued and continued. I hope the Senate has some kind of vote on this thing, that we can eliminate this death tax.

This death tax does not serve any of us. It does not help the government in revenues. Let me tell you, it does not just go against the wealthy people at all. You would be surprised, colleagues, when you go back to your district, take a look that anybody that is at all financially successful, in some of your States like California where you have high home prices, or in Massachusetts or in any of those kind of communities, if a person owns their home in some of those communities free and clear, they could be in that category where they face a death tax simply because of the fact they saved their money, they paid the taxes on their house when they bought the house, they worked hard, they got the house paid off, and now all of a sudden upon their death the family to whom they want to leave this to will have to pay the taxes.

You will understand after I read some of these letters. We are not talking about the Gates family here. We are not talking about the wealthiest families in the country. We are talking about middle America. And we are talking about the need to stand up and say enough is enough.

Look, we all have to pay taxes. That is how we fund things. That is how we fund our highways, our schools. Thank goodness we paid taxes many, many years ago and funded a terrific military, a machine that could protect this Nation in a time of need. But there is a point of ridiculousness. There is a point of absurdity. That point is reached when you put the death tax in place.

Let me just cover a couple of points. One point I want to make before we get started too much here is these people that come out, and I heard this just the other day, somebody said, "Why are you complaining about the death tax? That's what life insurance is for."

For example, a ranching family. The ranching family, usually most ranching families are what you would call land rich, cash poor. The land has been around and they have accumulated land, but the revenue that comes off the land is very limited. They do not have a lot of cash. So you talk to people, and this is what happened to me the other day. I was talking to somebody, in this particular case we were talking about a ranch in Colorado. I was talking about that family. He said, "Well, the death tax isn't unfair. That's why you have life insurance. Go out and buy life insurance." I heard that last year from some of the Democrats: "Why, you ought to go out and buy life insurance." It was almost as if the special interests up here in regards to life insurance had done a lot of lobbying right before to sell life insurance as a justification for the death tax. In this particular case when I was talking to the individual about this ranch, I said, "Oh, yeah? Why don't you pick up a telephone. You show me one life insurer that is going to be willing to sell a life insurance policy to the 65-year-old rancher that owns this ranch." Where do you think he is going to get the money, or in this case he and she, because it was a husband and wife operation. Actually the husband was 67 and the wife was 65. Who do you think is going to insure them? Oh, sure, they will start writing you life insurance at 67 or 65, maybe if you get a million-dollar policy they will sit down and write you for a premium of a couple of hundred thousand bucks a year.

That is the whole point. The small people, middle class America, the middle class of economics here, they cannot afford the premiums for life insurance to take care of this unjustified tax. Why should they have to buy it in the first place? How can you in a democratic society that practices capitalism, how can you justify a tax based solely on the fact that you have died on property that you have already paid taxes upon? How can you do that? You cannot justify it.

Let me jump in here and read some letters to you. Again, I do not speak from written notes. These are actual letters that I have received in regards to this terrible death tax and what it does. These people feel like they have been fooled, that the death tax goes away in 2010 and then it leaps from the grave, as the Wall Street Journal puts it, leaps from the grave the next year. By the way, any of you that cannot afford life insurance, whose family will be devastated by the death tax, look, do not die until 2010. Those of you from an economical point of view who are lucky enough to die at 2 minutes to midnight 2010, are going to be a whole lot luckier than those people who die 2 minutes after midnight and go back to a full estate taxation.

Let me read some letters.

"Dear Mr. McINNIS:

"I'm writing to encourage you to keep up the battle of the death tax. As an owner of a family business, it is extremely important that upon our death, this business be able to be passed to our daughter and our son, both of whom work with us in the business, without the threat of having to liquidate to pay inheritance taxes on assets that have already been taxed once. Of all the taxes we pay, this one is double taxation and it's unfair."

I can tell you that word is probably the most accurate word of the whole letter. It is unfair. Where is the fairness in this, Democrats? You are the guys that carried it. You are the guys who continue to support this. You are the guys that put it in place. You are the guys that work against us to get rid of it. Again I want to stress, I am not up here to start a partisan fight. I am up here to clearly define where the lines are on the death tax. One party has stood time and time again in unison to eliminate the death tax. The other party, the majority of whom have stood time and time and time again to look at an individual like this, a gentleman and his wife that want their son and daughter to continue in business and said, "Too bad. You're rich. We need the money for society. We'd rather take the money from those of you who work and achieve the American dream and pay your taxes, we'd rather hit you with double taxation and transfer that money to people that don't work."

That is the essence of your argument. And it does not hold water. Let me continue with the letter.

"I'm aware that several wealthy people like, for example, Bill Gates Sr."—not Bill Gates, Jr.—"Bill Gates, Sr., and George Soros have come out against repeal of the death tax."

Let me address that. These people are the billionaires, or close to it. They ran an ad, I think, in the New York Times, the most liberal newspaper in the United States, they ran an ad that said, "Hey, we support the death tax. It is only fair that rich people pay an extra tax on property that has already been taxed upon their death."

The Gates family has what is called the Gates Foundation. What do you do when you have a foundation? You evade, and not illegally, you legally are able to avoid those death taxes.

George Soros, do you not think George Soros has an entire roomful of trust attorneys? Do you not think every person who signed that ad has already made arrangements to get around the death tax? I would venture to challenge every one of my colleagues, any of my colleagues today whose net worth would put them into the death tax category, any of you sitting here today, my guess is that any of you that voted against eliminating the death tax have already done your estate planning so that you do not have to pay the death tax or so that you minimize the death tax that you pay. My guess is not one of you who voted against elimination of the death tax, not one of you that is worth, say, over $1 million today, so you are going to be subject to the death tax, not one of you has not already protected yourself through some kind of legal counseling on how to evade it. That is the same thing that is referenced in this letter. It is always easy to stand up and say, "Hey, I think it's a good tax" when you do not have to pay it.

It is pretty interesting, is it not, the support for a tax comes from the people who do not have to pay for it. That is exactly what that ad was about.

Let me go on to another letter. This one, by the way, was signed by Tony and his wife.

This is from John:

"I wish there were some way I could help to get these death taxes eliminated, the most discriminatory and socialistic taxes imaginable."

That is another key word, socialism. This is a society of capitalism. We have a democracy in the United States. We are not socialists, where we make everybody equal, where we go out and say, "All right, Johnny, you have a farm. You were successful in your farm. Joey over here didn't do any work, wasn't at all ingenious, didn't do anything to help society, but we're going to take the money and the rewards that you had and we're going to equal it out." That is what the original intent of the death tax was, and this individual, a fellow by the name of John, picked up on that.

He says, are we in a socialistic society? Why do we have this death tax? Where is the fairness of it? He goes on:

"How can anyone," and I want the Democrats that voted to keep the death tax in place, I want the Democrats to listen to this: "How can anyone advocate taxing somebody twice?"

How can you do it? Where is the fairness of it? How can you tell me it is not socialism? I do not care if it is a millionaire or a pauper. It is not the government's money and the taxes have been paid. That is what he writes in this letter. I do not care whether you are a pauper or a millionaire. It is not fair. And the taxes have already been paid.

Why should a family working for 45 years and paying taxes on time every year, year after year after year, be forced into this position? I do not know, John, other than the fact that we have Members of the U.S. House of Representatives, colleagues, who continue to support a death tax, who continue in force, especially, and there is a huge party difference on this, and let me repeat again. Last year, to the best of my knowledge, not one Republican stood up and supported the death tax. They all voted to eliminate it. Four-fifths or so of the Democrats supported the death tax and keeping it.

Let us go on. There are some other interesting letters. Marshall writes this letter, Marshall and his wife:

"We have operated as a family partnership since the middle 1930s. My parents died about 5 years apart in the 1980s. And the death tax on each of their one-fifth interest was three to four times more than the total cost of the ranch that was purchased in 1946."

In other words, because of the death tax, Marshall says his parents each owned a fifth, they each owned a fifth of this ranch, and the taxes on each of their fifths exceeded what the original purchase price of the ranch was. Where is the fairness in that?

"Eliminating the death tax will go a long way towards providing jobs."

In fact, Marshall, I will give a couple of points here that I think are pretty important, to tune in on Marshall's letter. Sixty percent of small business owners report they would create new jobs over the coming year if they knew the death taxes were eliminated. Half of those who must liquidate the business to pay the IRS will each have to eliminate 30 or more jobs. To pay that bill on average, small business will have to eliminate 30 or more jobs for each estate. One-third of small business owners today will have to sell outright or liquidate a part of their company to pay the death taxes. More than 70 percent of family businesses do not survive the second generation. And 87 percent do not make it to the third generation.

And Marshall, in talking to colleagues, this letter from Marshall, let me add something else for you to consider. The death tax hits women business owners hard.

□ 2015

The impact of the death tax on small business means it is especially threatening to women who are creating small businesses at twice the rate of men. Since 1987, the number of female-owned ventures has doubled from 4.5 million to 9.1 million. Last year, women-owned companies employed more than 27 million Americans, nearly 9 million more than in 1996. And their annual sales have risen from $2.3 trillion to $3.6 trillion. The National Association of Women Businessowners strongly supports eliminating the death tax.

So the next time, I say to my colleagues, and there is a campaign here, the next time my colleagues are out there on the campaign trail talking about what they are going to do for women, those of my colleagues who voted to continue the death tax better be ready to explain to the women that are asking you that question why you continue to support a tax that hurt women unproportionately.

Let me go on from Marshall's letter: "I have 3 sons involved in our operation, and a grandson starting college next year. It is important that we keep agriculture viable to keep our beef industry from being integrated. We must make sure that our youth can stay on our ranches and farms." I agree with Marshall.

Let us go on to Nathan. This is an interesting letter. This is a young man. This is a young college student, a college student who looks out into his future and perceives kind of what this death tax is going to mean to him and to his family: "I am a college student. I grew up in a family which has lived and thrived in agriculture. My parents and grandparents are involved in a typical family farm. We have had the farm more than 125 years. Grandpa is 76. He does not have long to go. My parents have been very worried and discussing this situation over the last several months. My parents worry about the 'death tax,' the eventual loss, and they worry about how they are going to be able to keep that farm going once he passes away. The loss of my grandfather will trigger this tax upon my family's inheritance. My parents hope that they will be able to pay this tax without having to sell any part of our family operation that our family has worked so hard in maintaining over these years. It does not look good."

The outlook really does not look good. Farmers and ranchers are having enough trouble keeping their family operations going.

"Statistics show that the farmers are having, from an economic viewpoint," he says, "a very difficult time, and yet, the Government continues to pursue this death tax. Those who say something about life insurance, we cannot afford the premiums. Statistics show that more than half of all of the people who pay these death taxes had estates that are valued at less than $1 million. My family falls under this category. It does not seem fair to me. My family's farm is not located in a rich district, but I can tell you I needed to talk to somebody. Even though we are not located where the land values are high."

What he says here is their family is still going to be subject to this punitive tax. And that is what it is. Do my colleagues know what the word "punitive" means? It means penalty. There is no way to explain the death tax to our society other than to say it is a penalty for success. It is a transfer of wealth devised strictly as that, as a penalty. It is not a net revenue for the government or, if it is, it is very, very minimal, by the time we take out all of the costs and so on of collection. So it has very little benefit to the Government. Even those who are socialists or believe in what is good for all, we should have all of this equal treatment, even when we take a look at the small benefit and we put it on the scale, that small incremental benefit that it gives to the Government as compared to the devastating loss that it does to individual families that are being hit with this death tax, that scale looks just like that. That is exactly what happens to the scale. So even those of us who believe in kind of a socialistic pattern, that upon a death, the property should go to the Government and be redistributed back into the communities, take a look at that scale and tell me about the impact.

I want to tell my colleagues about a true story down in my district. We had a very wealthy individual. This individual, by the way, started as a janitor in a local construction company. His name was Joe. Joe Ashley started out, as I said, as a janitor; but he could keep books, so pretty soon he was keeping books for the construction company. Over the period of his work career which spanned 50 some years, he went from janitor to bookkeeper, worked in the bidding part of the business, and pretty soon he owned a construction company, started his own construction company. Pretty soon he was into real estate investment. He started up in a bank there in the community. Obviously, he was very successful. He did not inherit it; he worked for it. He worked a lot of days, worked hard. The American dream, it came true.

What else did he do in the community? What else? Well, he happened to be the largest contributor to his church. In fact, he underwrote 75 percent of the church's budget. He was the largest contributor in the community to the charities. He was the biggest booster for the sports club at the high school. He employed the most people in the community, gave jobs to people sometimes that needed the jobs, but did not exactly have the work for them; but he put them to work. He found something for them to do. He was probably the most popular individual in the community, not because of his wealth, but because of his personality, because of his compassion, because of what he did for people. He gave them jobs. He gave them an opportunity to protect themselves.

Well, unfortunately, not too long ago, my friend, Joe, in this community got cancer, terminal cancer; and he passed away. Do we know what happened to the money in his estate? After they got done with capital gains, which is another tax we could discuss, but after they hit the family with capital gains, and then they put the death tax on top of that, 76 cents, 76 cents out of every dollar went to the U.S. Government. Now, do my colleagues think that money stayed in that local community where it was distributed by Joe? When Joe made the money, the money stayed in the community. It went to the local bank, it went to the local charities, it went for local employment, it went for local investment. But as soon as Joe died, the government reached into this little tiny community out in rural Colorado and sucked that money out of that community and back to Washington, D.C. And then what happens back here? The money gets redistributed.

What percentage of the money they took out of that community through the death tax do we think went back to that community after Washington got its hands on it? Probably not a thousandth of a percent. Probably not one-thousandth of a percent ever made it back to the community. And for those Democrats who continue to support the death tax, you go down to the local church down there or to the local charity or to those local people that no longer have their jobs and explain why it was more important to transfer that money, to take it out of a small community in Colorado and move it to Washington, D.C. under the theory that when you die, this property should go to the Government, that death should be a taxable event.

And I say to my colleagues, I know that when some of you are out there on the campaign trail, you try to avoid this, you get a direct look from a constituent, a small businessperson, a woman in business, a farmer, a rancher, somebody who owns some property and they say, Congressman, what are you going to do about the death tax? I hope every constituent out there demands that you give them an exact answer, that they do not let you puff and fluff around it. Either you support it or you do not. Do not hide it with all of these exemptions.

That is what I am worried about this week. We are going to get an opportunity to see the death tax come to a vote I think in the other body. The question is are they going to dilute it with a lot of other amendments? It is pretty simple. Do you support eliminating the death tax on a permanent basis, getting rid of it; or are you a supporter of the death tax? And if you are, you ought to go talk to Chris, you ought to talk to some of these people, to Tony, to John, to Marshall and look them right in the eye and say to them why you think it is appropriate for the Government, upon your death, to come and take your property simply for redistribution to other people that have nothing to do with you. That is exactly what happens with the money.

When the government takes the money and your property upon your death, do you think that they leave it in that community? Of course they do not leave it in your community. Do you think they give it to a special cause that you want it to go to? Of course not. That money is redistributed to sources you would not even imagine. That money is given out, given out to somebody other than the people that you had in mind. And people, by the way, who did not contribute to your success or your family's sweat on the farm or in the small business or some other way it was accumulated.

Let me talk about another couple. Here is H.B. and Roberta: "As you know, farming and ranching out here is no slam dunk. If our farm is ultimately faced with this death tax burden, there is absolutely no way we could ever afford and justify holding on to our farm. This, in turn, prevents us from the following." Think about this, and to those Democrats that support this, that vote continually for a death tax, think about what I am saying. I am not saying, I am just repeating it. These are constituents. These are constituents. "This, in turn, this death tax will keep us, it will keep us from having a farm for future generations. We want to keep it from becoming one more development out in the middle of the country."

This particular location is in Colorado. Do we know what is going to happen to that farm if it does not continue to be a farm? It is going to become condominiums. Anybody that cares about the environment ought to be adamantly opposed to the death tax, because in areas like I come from, I come from a fairly wealthy part of the country, I mean where the land has really increased in value. Same for California, same for Arizona, same for parts of many of these States. Do we know what happens to that farm land? They do not continue to do it as a farm once they get their hands on it. The developers come in, and they build condominiums or they build strip malls or they lay down pavement; and that is exactly what this family, H.B. and Roberta, are saying. You are going to keep this land from being available to the deer and elk. By the way, we just saw over 600 head of elk this afternoon, and you are going to keep it unavailable for other uses.

"Scott, we are only able to meet the daily operating costs of our farm under the present economic conditions of agriculture. Unless there is some kind of positive action to eliminate this death tax, we must start making the necessary plans to arrange our affairs so that my family is the ultimate winner of lifelong struggles of both my parents, Roberta and me. We cannot allow the IRS to take it. They do not deserve it." That is what they say in here. The Government does not deserve it. We have already paid our taxes. They say it right here. "We have already paid our taxes. Why are they coming back again? Is it just solely for the purpose of breaking us, of breaking up the family farm so it goes to condominiums, of taking out the ability for wildlife to enjoy those resources? Of taking the heritage of the family, the dream of many families to pass it from one generation to the next generation?"

Folks, do we not think that the Government ought to be in the business of encouraging business to go from generation to generation? Certainly my colleagues would agree, I would hope. A lot of my colleagues do not, but certainly I would hope that at some point my colleagues come to the agreement that the Government really has a role reversal here. They have it all wrong. What the Government ought to do instead of breaking up family business or family farms and preventing it from going to generation to generation, the Government ought to encourage it. The Government ought to put incentive out there.

There is a lot to be said for a farm that has generation after generation and generation of family on it, but 80 some percent of that is not going to happen primarily due to the death tax.

Let us look at a couple of other letters. Let me go on:

"Our 106-year-old mother passed away. Because we knew she was fearful of being placed in a nursing home and we never considered it an option, my husband and I took care of her in my own home for 2 days a week, alternating with my siblings. She was alert, but she was in the hospital for 5 weeks. When hoping to leave, she suddenly died. Now, guess what? We have discovered that we have to sell the family home which was acquired by our parents in 1929. We are six children who worked in it and grew up in this home.

□ 2030

"Prior to the WWII, my parents had a greenhouse business on 5 acres of farm property. After the end of WWII, the family returned from" the relocation center "where those of Japanese ancestry were incarcerated to our home and signs that said, 'No Japs wanted.' My father died of a heart attack in 1953. My mother lost the business located on 2 acres (four greenhouses, the heating plant, and the packing shed which had two bedrooms above where many of us slept" when they were children, or spent many nights as children. It went to the State.

"My mother was able to keep the family house, which she and my father built. The property lost its access frontage and now can only be reached by a dirt road in the back. I might add that all my siblings and I worked many hours in the business after school, weekends, and summer vacations. . . ."

Because of this death tax, this property will have to be sold. I urge Members and I ask Members, where is the fairness? How do we answer a letter like that? What do we say?

Look at this: "My family has ranched in northern Colorado for 125 years." That is what Derek says. "My sons are the sixth generation to work this land. We want to continue, but the IRS is forcing almost all ranchers and many farmers out of business." He says the problem is the estate taxes.

In Colorado, "The demand for our property is very high and 35-acre ranchettes are selling in this area" for unbelievable amounts. They have a lot of acres. "We want to keep it open space." They want to keep it as a farm. They want to keep it in the family. They want their sons and daughters to continue to work it, as they had the American dream of putting their hands in the soil, but the government is making it impossible because they have a death tax. They want to penalize them.

Mr. Congressman, we have paid these taxes. This family has paid our taxes when we bought the land. We pay our taxes for our equipment. We pay our taxes on any revenue we take off this land. But they haven't had enough. The government has not had enough. Now they want to penalize us because we have been successful. But in the long run, Congressman, you do not just penalize us, you hurt the institution of our government.

And they are right. What we are doing is breaking up a family from passing business from generation to generation. We are inviting the developers to come in and destroy the open space and build condos and parking lots. There are a lot of things, a lot of things that are being destroyed by this tax that cannot be justified.

"We are one of only two or three ranchers left around here. Dad is 90 years old. We do not have much time to decide what to do. Most ranches have been subdivided. One of the last to go was a family that had been there as long as ours. When the old folks died, the kids borrowed money to pay the taxes. Soon they had to start selling cattle to pay the interest."

When they ran out of cattle, the ranch was foreclosed on and now is in full development. That family which started out with this ranch, because of the punitive interest that they had to pay, the interest they had to pay on the punitive death tax, it broke them. Now they live in a trailer court on the other side of town.

Who would ever imagine this is what the American dream was all about? These letters go on and on and on. Every one of my colleagues, every one of them, has a duty, in my opinion, to go out to their constituents that are facing this tax. They have a duty.

And to those constituents of theirs whose businesses will be threatened because of this death tax, they have a duty to go to them and be straight with them. It is pretty easy because we have a definitive vote on the record right up there. There is a recorded vote that took place.

Members ought to be straight with them and say, "Look, I tried to eliminate the death tax on a permanent basis. I tried to even minimize the death tax." Or if they are from the other side of the aisle, they would say, "I support the death tax, even though it will break you; even though it brings very little benefit to the government." Even though the money that a death tax is levied against is money that is taken out of the local community and transferred to Washington, D.C., they supported that.

Keep in mind, as I said, and I will summarize it with this, I started my comments this evening by saying that my general intent when I may speak at night on these nightside chats is not to get into partisan flavor, because, as I described, there are a lot of issues up here that are not partisan. They are based more on geographical differences, the East and West, the cities and the rural areas. That is generally what I like to focus on.

But this issue is hitting us so hard and here there is a clear division between the parties. Not one Republican, to the best of my knowledge, not one Republican stood up last year in support of the death tax. Every Republican, to the best of my knowledge, every one of them that is a Republican opposed the death tax.

The same cannot be said for the Democrats. That is why I am taking this partisan approach, not to attack unnecessarily, but to say, come on, it is time to draw the line in the sand. Why is it that four-fifths of the Democrats in this House, why is it that they continue to support this death tax? Why is it that they will not stand with us shoulder to shoulder to eliminate the most punitive tax ever known in the history of this country?

The reason is simple. The reason is because they think it is appropriate to take money from an individual family, to take money from a community and transfer it to Washington, D.C.; take money and transfer wealth from this person to this person, for no other justification than the fact that the person that had the money or had the small business or had the farm or had the ranch is no longer alive.

They cannot fight them anymore, so I guess they think in the long run they won. But frankly, in the long run, if we continue with this death tax that has been primarily or solely supported by the Democrats, we all lose. All of us lose.

It is time to eliminate the death tax once and for all. I urge all of us on both sides of the aisle to stand shoulder to shoulder to eliminate this punishment upon the American people.

THE CONTRAST BETWEEN DEMOCRATS AND REPUBLICANS ON ENVIRONMENTAL PROTECTION ISSUES

The **SPEAKER** pro tempore (Mr. FORBES). Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. **PALLONE**. Mr. Speaker, tonight, although I know it is the day after Earth Day, I want to concentrate my remarks on the environment. The gist of my statements tonight are basically to point out the contrast between the Democrats and the Republicans on environmental protection issues.

Mr. Speaker, I have been very concerned over the last year or the last 18 months that the new administration, President Bush's administration, both in terms of actions in Congress with the Republican leadership or in agency actions as part of his administration, has done a great deal of damage to the environment, and has basically used the presidency and the power of agencies to break down a lot of environmental protection, not provide the type of enforcement action or the budgetary action that is necessary to protect the environment.

Much of this has been linked to special interests, to corporate interests, and to concerns that big business has about environmental protection, environmental regulation. Very little concern has been focused on the impact of these changes in environmental protection on the average American.

Mr. Speaker, the Democrats are committed to preserving America's air, water, and pristine lands for future generations, and are fighting to make sure that environmental protection and public health are not sacrificed to the corporate special interests.

I have been concerned, Mr. Speaker, to see both the President and the Republican leadership in the Congress not handling in a responsible way what needs to be done to protect our air, water, and land from the polluters, and forcing taxpayers to pay for the cleanup of many pollution problems, such as hazardous wastes or Superfund sites, instead of having the brunt of the cost paid for by the polluters themselves, the corporations and other responsible parties.

So in the aftermath of Earth Day, Mr. Speaker, I wanted to basically outline in some detail this evening some of the concerns I have about what has been happening under President Bush, and also with the Republican leadership that has a majority here in the House of Representatives.

I thought that I would start by detailing a few areas where I think the actions of this administration and the Republican leadership in the Congress have been particularly egregious. I wanted to start by talking about wetlands protection, because I represent a district, a large part of which is along the coast of New Jersey, along the Sandy Hook and Raritan Bay.

We have traditionally in New Jersey had a lot of wetlands, a lot of which has been destroyed. But we are trying very hard to make sure that what we have left continues to be protected.

Wetlands provide us, and I think many of us know, crucial habitat for fish and wildlife, and protect our homes from floods by soaking up water from storms and releasing it slowly over time. America has lost about 50 percent of the wetlands that it started out with, and I do not think that we can afford to let anymore of it be destroyed, Mr. Speaker. Yet, the Bush administration dramatically increased the ability of developers to develop the remaining wetlands, essentially losing those wetlands forever.

On January 14 of this year, 2002, the Bush administration undermined a balanced Army Corps of Engineers regulation protecting wetlands, which has opened the floodgates for building by developers. The EPA opposed a Corps of Engineers plan to allow more development permits, but the White House sided with the industries, with the corporate interests. This action resulted in increased wetlands development and the ability for developers to more easily qualify for development permits.

The Army Corps loosened the permit standards for this program, making it easier for developers and mining companies to destroy more streams and wetlands. Keep in mind that 50 percent of the wetlands in the country have already been destroyed, so now we are just accelerating the pace.

For more than a decade, the cornerstone of the United States' approach to wetlands protection has been a policy that calls for no net loss of wetlands. This is a policy, I might add, that originated with the first Bush administration.

I want to stress tonight that when I talk and criticize this administration and the Republican leadership in this House for doing things contrary to the environmental interest, I am not suggesting that historically the Republican Party or Republican Presidents have taken that view. In fact, it is just the opposite. We know about Theodore Roosevelt, a great conservationist. Most of the environmental protection laws that we have on the books date from the 1970s, when Richard Nixon was the President. Even the first President Bush did a lot to protect the environment.

But I see a concerted policy now with this President and the Republican leadership in this House to turn that around. With no notice or opportunity for comment, the U.S. Army's Corps of Engineers moved to reverse the long-standing policy of no net loss of wetlands by issuing a new guidance dramatically weakening standards for wetlands mitigation.

The new standards allowed wetlands to be traded off for dry upland areas, and will likely mean the loss of thousands of acres of wetlands annually. So instead of having to mitigate, when they develop, the loss of wetlands in the area, they are able to basically trade some other area in a different place, far away from the development. The consequence is that we continue to have a greater loss of wetlands.

The reversal of this no net loss policy on the part of the Bush administration is just one component, as I said, of a broader Bush administration effort to diminish wetlands protection.

Next, I want to talk a little bit, Mr. Speaker, about clean water. This is particularly close to my heart because, as I said, my district is mostly along the Atlantic Ocean, along the Raritan and Sandy Hook Bays, and along the Raritan River. Clean water is a major issue for New Jersey in general, as well as my district, because historically, we have suffered in my State from degradation of water quality.

One of the biggest problems we have had historically in New Jersey, and this is true around the country, is a problem with sewage and how to make sure that sewage is properly treated, and that we do not have raw sewage or partially-treated sewage go into our waters, into our rivers, into our harbors, into our ocean.

Sewage containing bacteria, fecal matter, and other waste is responsible each year for beach closures, fish kills, shellfish bed closures, and human respiratory illnesses. So understand, when I talk about the concern for clean water, it is not just because of human health, though that is the highest priority, but it is also because of the economic losses, the jobs that are lost because we have to close beaches, because people cannot use recreation areas.

According to the EPA, there were 40,000 discharges of untreated sewage into waterways in the year 2000. Before the current Bush administration took office, the EPA issued long overdue rules minimizing raw sewage discharges into waterways, and requiring public notification of any sewage overflows into our rivers and harbors.

The proposed rules were blocked. In other words, these rules that were going into effect to try to minimize the raw sewage discharge and the overflow, these rules were blocked by the regulatory freeze that was ordered by President Bush when he first took office in January, 2001.

Now, President Bush said then, as he did in many of these situations where he froze regulations that were about to go into place that were protective of the environment, he said at the time, in essence, "Don't worry about it because I am going to review these in a short time, and I will come back and maybe continue the regulations, these good regulations, or come up with better ones."

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Well, the fact of the matter is that it is well over a year later and the Bush administration still has not issued the sewage overflow safeguards. So the promise about coming up with a new system that maybe would make it better simply has not materialized. Meanwhile, sewage continues to flow into our waters around the country, and the Americans are still denied even rudimentary public notice of such contaminating in the waters where they swim and fish. Part of the regulatory scheme provided for notice about sewage contamination, and that also was taken away when the President essentially froze or took away the new regulations that were taken into place.

But when you talk about clean water, it is not just these regulations with regards to sewage overflows and raw sewage that have been negatively impacted. There are a number of other clean water programs that have been slashed because of budgetary cuts that have been put into place or suggested for the next year by President Bush, and also by the fact that there have been cutbacks in the people and the number of people that do enforcement to go out and survey and make sure that environmental laws are not being violated. I mean, if we have a law that is on the books; but you do not have the money or the people to go out and find the violators, then in effect we have no law because people may just not voluntarily abide by it. So I wanted to mention three programs that I consider very important that fall under the clean water rubric that have been slashed or are suffering because of lack of funds or enforcement.

The first is the Clean Water State Revolving Fund. Many people do not realize it, but when a new sewage treatment plant is built or upgraded or a new reservoir is constructed or upgraded to make sure that the drinking water is safe, a lot of money comes from the Federal Government. There is a Clean Water State Revolving Fund that the Federal Government basically puts money into for the States and the local municipalities or utilities to build or upgrade these sewage treatment or drinking water facilities.

That is where the biggest cut took place in the President's budget, in the Clean Water State Revolving Fund. This program provides loans to modernize and upgrade aging sewage and water treatment systems, and it is cut by $138 million in the President's proposed budget. The Drinking Water State Revolving Fund is similar. I was talking about the sewage treatment upgrading fund when I talked about the $138 million cut. But we see the same problem with this Drinking Water State Revolving Fund, which deals with the drinking water upgrades.

In fact, I think many people remember that the Bush administration reversed a previous executive order under President Clinton that increased the level of arsenic in drinking water to be deemed safe by the EPA after intense pressure by Democrats and moderate Republicans. Now they put in place better arsenic standards. I think it is ten parts per billion so they are back to what President Clinton had initially put in place. But we did have the lag time when in fact it was not the stricter safe drinking water standards for arsenic. But regardless of that, the bottom line is we need more funding to upgrade our drinking water; and that money has not been made available.

The third thing I would like to mention is what I call the "beaches act" and what I am very proud of because I was the Democrat in the House that sponsored the bill along with a Republican colleague on a bipartisan basis. This was modeled after the State of New Jersey where we started a program a few years ago after we had massive beach closings in the late 1980's and we lost billions of dollars in our tourism industry because we had to keep our beaches closed for almost one entire summer. We put in place a system on a State level in New Jersey that would require that each town that has bathing beaches, as well as any State or private bathing beach as well, would have to test on a regular basis the water quality; and if the water quality did not meet a certain standard, then the beach would have to be closed, and there would have to be public notice as well as posting of the fact that you could not use the beach.

Well, I tried to take this bill and one of my predecessors in Congress, Bill Hughes, also sponsored it, and we worked with some Republicans and passed this bill and finally got it signed into law in the last year of President Clinton's time in office, that would implement this type of program nationwide. Well, 2 years ago, as I said, this bill was passed, passed the House, passed the Senate, went to the President and was signed into law by President Clinton; but that bill provided $30 million a year in Federal grants to help coastal States protect their beaches through water quality monitoring and public notification, as I mentioned.

The administration's budget cuts $20 million out of this program. You are not going to be able to implement it with only $10 million as opposed to the $30 million. So I could go on and on about the clean water issues, but I would rather move on to some other issues.

I am very much concerned about the clean water issues because of the nature of my district, but there are many other areas where this administration and the Republican leadership have cut back on environmental protection. I would like to mention some of those as well before I finish tonight.

The third area I wanted to mention is clean air, obviously important to you no matter where you live in the United States. The Republicans, again, the Republican leadership, the President, and I do not mean to suggest that all Republicans support this but certainly the leadership does and they are basically deciding what bills are posted here and the President is deciding what agency actions are taken. Basically, as I said, the President and the Republican leadership have undertaken a very deliberate effort, in my opinion, to undermine the bipartisan clean air act that has been on the books now since the 1970's, one of the bills that was started, one of the statutes that was put on the books when President Nixon was in office.

Again, a lot of this breakdown or effort to downgrade and change in a very dangerous way the clean air act is linked to energy policies of the utilities in the energy industry. And, of course, we know that the President is very close to the oil industry. In fact, the top administration EPA official in charge of enforcing air pollution regulation for coal power plants, and coal power plants are a major source of air pollution, he was so tired of fighting the White House that he decided to resign I guess just a few weeks ago or about a month ago. And in his letter of resignation he said he was tired of "fighting a White House that seems determined to weaken the rules we are trying to enforce." That is from the New York Times last month, in March of this year.

The President issued with a lot of fanfare in this past February a new clear skies initiative. And this was his answer, I guess, to clean air and it met a lot of cheers in the big industry lobbyists that have been contributing to the Republican campaign coffers. But this clear skies initiative if passed into law will increase the amount of smog, soot, carbon dioxide, and toxic mercury emitted by power plants, by the smoke stacks, if you will, emissions by power plants and would roll back substantially the clean air standards found in the clean air act. The plan essentially provides no limits at all on carbon dioxide emissions, the prime culprit in global warming.

I wanted to spend a little time, if I could, on the national energy policy because I know that it is so important to the average American; and of course, our energy policy has been highlighted a great deal in the aftermath of September 11 and the conflict in the Mid East because of the concern that maybe oil supplies would be cut off and what would the United States do in those circumstances. And the national energy policy that has been proposed by the President and the Republicans differs dramatically from the national energy policy for the future that has been proposed by the Democrats.

The Republican leadership and President Bush continue to emphasize more production, more drilling. Democrats have talked about the need to address energy efficiency, renewable resources. And Democrats have been very much in favor of more production; but they want to couple that with more domestic production, I should say, of oil and natural gas and coal; but we want to couple that with energy efficiency, conservation programs, use of renewable resources because we realize that we cannot forever depend on fossil nonrenewable fuels, and that we cannot assume that we will be able to consume the great amount of energy resources that we have been consuming and having that increase on a regular basis.

Well, anyway, if I could talk a little bit, I would like to this evening, Mr. Speaker, about the President's national energy policy and this will fold in again the clean air issue that I mentioned briefly before. As I said, the Bush national energy policy, the President's national energy policy, seeks to primarily spur exploration and production of domestic oil and gas and increase the use of coal and nuclear power. In fact, the White House plan calls for the construction of more than 1,000 new power plants over the next 20 years and of course includes the drilling in the Arctic National Wildlife Refuge and other environmentally-sensitive areas.

Now, thankfully, we all know that last week the other body killed the drilling in the Arctic National Wildlife Refuge, so it does not seem that we will have to deal with that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FORBES). The Chair will remind the gentleman to refrain from characterizing Senate action.

Mr. PALLONE. I am sorry. I tried not to use the term Senate, but I will not characterize their action.

The point I am trying to make is that even though, I think, we do not have to worry about drilling in the Arctic anymore as an issue, the bottom line is that the Republican leadership in both Houses, as well as the President, continue to push for drilling and exploration as the major priority rather than energy efficiency, conservation, and use of renewable resources.

Let me give you, if I can, if I can just talk a little bit about some of these Republican energy policies and highlight them a little bit in the time that I have.

The President's energy plan encourages increased domestic oil production, as I said, whether that means using new technology to enhance oil and gas recovery from existing wells, modifying Federal land use plans that currently restrict energy development; and the plan also calls for more natural gas pipelines and for streamlining the permit process to build more refineries.

In addition to exploration in the Arctic refuge, they also suggest that this increased production is somehow going to correct other States' electricity problems. But I have to say, Mr. Speaker, the bottom line is even if we try, and we should try to increase domestic production overall in the United States, it is never going to provide the kind of demand that we are used to on an exponential level. We cannot assume that we will be able to continue to grow and use more and more energy resources. We have to come up with a way of refining that policy or defining that policy so it is more efficient and does not waste energy resources.

Let me talk about renewables for a minute because I think it is important to stress that when it comes to energy resources that it is possible to use resources other than fossil fuels, nonrenewables. Over the last 10, 20 years regardless of who was President, we continued a policy of trying to look for renewables in a way of coming up with energy resources, new types of energy resources. The President says in his plan, in his energy plan, that he wants an increased focus on renewable and alternative energies; but once again when we look at the budget and where the money is going and what is proposed for the budget, we see that those programs have been downgraded. They have not been prioritized. In many cases they have actually been cut.

In the President's 2002 budget proposal, it cuts Department of Energy funding for renewable and alternative energy sources by 37 percent; solar research funding is cut by nearly 54 percent; geothermal, hydrogen and wind research programs were cut by 48 percent. Funding to encourage the building of energy-efficient homes and offices and to reduce energy use at steel, glass, pulp and paper companies would also be reduced under the proposal.

Basically, what we are seeing, as I said, again, is a budget policy and an agency policy on behalf of the Bush administration that seeks to enhance the power of industry and the needs and the lobbying efforts, if you will, of the utility companies. I guess the best example of that in my opinion was when the President reversed his campaign promise with regard to carbon dioxide. The President's energy plan proposes requiring electric utilities to reduce emissions and improve air quality. And he talks about this multi-pollutant strategy to encourage a development of legislation that would establish mandatory reduction targets for sulphur dioxide, nitrogen oxide, and mercury. Because of pressure from industry and anti-environmental leaders in the Congress and Republican leadership, the President earlier this year reneged on a campaign promise to include the regulation of carbon dioxide emissions in this plan.

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Obviously, the environmental community and myself and most Democrats feel very strongly that carbon dioxide emissions have to be included if we are really going to get a handle on trying to fix the air pollution problem that we have.

The last thing I wanted to mention in this regard with regard to the national energy policy is a very important point I think; and that is, that under the Clean Air Act, when it was passed and with subsequent amendments, standards were put in place for any new power plants that are built, that they have to meet certain standards with regard to air emissions, but the plants that were built when the Clean Air Act came into effect are what we call grandfathered. In other words, they do not have to upgrade the plant to meet the air quality standards or air emission standards that exist for new plants.

When that happened back in the seventies and when the Clean Air Act was first passed, and again, that was under President Nixon, a Republican, it was anticipated that over the years, those old power plants would close and they would be replaced by new power plants that have the stricter standards. But what has been happening instead is that the older power plants continue to operate and, in fact, have expanded and used the grandfathering under the rubric of grandfathering to continue to go by the old standards that caused more air pollution.

What President Bush did or is proposing to do is to take aim at this so-called new source review. That is how we characterize the requirement, that for new power plants they have to adhere to stricter standards, and if just going by one of the environmental groups', National Resources Defense Council, quote that says, the Bush energy plan appears to invite all utility and coal industries, the Department of Energy and other agencies, to weaken Clean Air Act rules and interfere with pending enforcement cases.

What happened is that previously the EPA had actually sued some of the utilities that owned these older power plants and said that they were violating the law by expanding those older plants and letting them use the older pollution standards rather than build new power plants that would adhere to the stricter standards, and the EPA brought this suit, was very successful and, in many cases, were at the point where they were going to force some of the utilities to adhere to the new standards rather than expanding the older plants under the old standards.

Now the Bush administration has essentially said that they are going to step in and not require that these upgrades take place. So, once again, it is just another example of how this administration is taking a very anti-environmental position. After over 30 years of continual upgrading of the environment and environmental laws, now we are seeing the Federal Government go in the opposite direction.

There are two other areas, Mr. Speaker, that I wanted to talk about in this regard. I actually only have one other area that I wanted to talk about in this regard, and again, I take this back to my home State because this is such an important issue in New Jersey, and it is just as important really in the rest of the country and, that is, hazardous waste sites.

We have, as I think many of us know, again dating back to the seventies, we put in place on a national level a program called the Superfund, which essentially requires that the Federal Government identify the most severely polluted hazardous waste sites in the country, the ones that pose the greatest threat to the environment, and once they are identified and put on what we call the national priority list, that the Federal Government is obliged to go in and clean them up. And they work with the States in doing that.

The basic premise of the Superfund program is the concept of what we call polluter pays. In other words, that the company that caused the hazardous site to occur, the company that caused the hazardous waste to be produced and left on a particular site is the one that has to pay the cost to clean it up. The problem, though, is, as anybody who is familiar with corporate law knows, is that corporations, and therefore the polluters that caused this pollution or these hazardous waste sites, often will go bankrupt, will go out of business, or we cannot find them.

So even though the Federal Government and the EPA pursuant to the Superfund program goes out and identifies the Superfund sites and then finds out who the responsible party was that caused the pollution, oftentimes, usually in about a third of the cases, the corporation no longer exists or does not have any money, and they cannot go after them and force them to do the cleanup.

What they did, and this was basically what the Superfund law was all about from a financial point of view, was that when the Superfund law was set up, Congress established a tax primarily on the oil and chemical industry that is paid into a fund called the Superfund, hence the name, and that that money is then used to clean up those sites where we cannot find the polluter, the responsible party.

What happened, though, is that the Superfund program was moving along, and frankly, at the time when President Clinton took office and the 8 years that he was President, they accelerated the level of the cleanup at a lot of sites in the country so that now the majority of the Superfund sites are in some stage of cleanup, and many of them are actually completely done and totally remediated, as we said.

When the Republicans took the majority back in the House of Representatives, I guess 7 or so years ago, and Newt Gingrich became the Speaker at the time, the first thing or one of the first things that the Republican leadership did was to refuse to renew the authority for the Superfund tax. And so we have been going now for 7 years without that tax on the oil and chemical industry being renewed.

There was enough money carried over over those last 7 years or so that we have been able to continue to clean up a lot of these sites using the money left over from this Superfund tax, as well as providing some money through the budget from what we call general revenues. This is the money that the average American pays in their income tax primarily, or other taxes, to the Federal Government that has been used to make up for the fact that we do not have this Superfund tax in place.

The problem is that this budget year will be the last fiscal year when there is significant money left in the Superfund program generated by that tax on the oil and chemical industry. In the next fiscal year, even the President estimates there will only be about $28 million left in the Superfund to do these cleanups. Twenty-eight million dollars is woefully inadequate. I think the level of funding that we need on an annual basis is in the hundreds of millions.

So what do we do? Democrats have been saying since 1994, when the Republican leadership took over in the House, that it was wrong to abolish or not renew this tax on the oil and chemical industry because the consequences eventually would be that we would not have money to pay for hazardous waste cleanups, and also that the burden now would be shifted to the average American taxpayer to pay for this cleanup, rather than having it paid for by the companies of industry that primarily caused it.

Now we are faced with a crisis where in the next year or so we will not have any money coming from this tax because there is nothing left. We have been advocating as Democrats, I have been advocating as the ranking member on our Subcommittee on Environment and Hazardous Materials of the Committee on Energy and Commerce that we should simply renew the Superfund tax. It makes sense. That was the whole idea from the beginning, that the polluter pay, or if we cannot find the polluter, that the industry pay.

Again, so far as the Bush administration, President Bush has said he does not favor reimposing that tax. The Republican leadership in the House has said that they oppose it, and we are at a standstill and do not know what to do.

The President's budget this year calls for only about 40 Superfund sites to be cleaned up as opposed to the approximately 80 that have been cleaned up on the average, over the last 8 or 9 years. So we know that the program is already suffering because the number of sites to be cleaned up is half, and many of the States even in my own State of New Jersey and around the country, many of the States have been told that the money is not going to be forthcoming from the Federal Government to do the Superfund cleanup, even though those sites are ready and have a plan in place to do the cleanup.

In my home State, in my home district, in my congressional district, both in Edison, New Jersey, where we have a site called the chemical insecticide site, which basically produced Agent Orange during the Vietnam War, and a lot of the residue is still there on the site, they are ready to go with the remediation plan they have been working on for the last 20 years. And they have been told, no, they cannot start it, we do not have any money from the Federal Government.

There, again, the company that caused the problem went bankrupt, cannot be found, and so we cannot go after the polluter, and there is no money from the Federal Government.

Another site in Marlboro Township, again these sites are some of the most polluted Superfund sites in this country. This one is called Burnt Fly Bog. It was run by Imperial Oil Company, has all kinds of petroleum residue percolating from underground. That had experienced about 80 percent cleanup over the last 9 years, and they were supposed to do the last 20 percent starting now in the next few weeks, next few months. They were told by the EPA, we do not have the money to do it.

Here again what we are seeing, and maybe the Superfund program is the best example for me to use in the context of what I am trying to get across tonight, is that whether by regulatory action of the agencies or proposals to come to Congress or budgetary efforts to cut back on the amount of money that is available for cleanup or for enforcement, we have seen a concerted effort on the part of this administration of President Bush to try to cut back on environmental protections.

It is very unfortunate that on the anniversary of Earth Day, which was yesterday, we saw the President going around the country talking about Earth Day, but his actions and the actions of the Republican leadership in this House do not dovetail with real environmental protection. In fact, the opposite is happening, and they continue to work to downgrade the environment and not provide the funding and the apportionment that is necessary to adequately carry out the good environmental laws that are on the books.

I am not going to keep going, Mr. Speaker. I could use a lot of other examples. But I did want to come here tonight to stress what is going on, and I think that hopefully the American people and my colleagues will wake up and realize that this degradation of the environment cannot continue and that the historical commitment that this Congress and that previous Presidents, both Democrat and Republican, have been making on a bipartisan basis to try to improve the quality of our environment should continue and should not be allowed to reverse itself as we have seen in the last year or 18 months into this administration.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for today on account of business in the district.

Mr. CRANE (at the request of Mr. ARMEY) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. KAPTUR) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. NEY) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 5 minutes, April 24.

Mrs. MORELLA, for 5 minutes, April 24.

Mr. THUNE, for 5 minutes, today.

Mr. PAUL, for 5 minutes, April 24.

ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 24, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6330. A letter from the Administrator, Rural Housing Service, Department of Agriculture, transmitting the Department's final rule—Guaranteed Rural Rental Housing Program (RIN: 0575–AC26) received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6331. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's rule—Organization; Loan Policies and Operations; Termination of Farm Credit Status (RIN: 3052–AB86) received April 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6332. A letter from the Alternate OSD Federal Register Liaison Officer, Department of Defense, transmitting the Department's final rule—Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE; Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act for Fiscal Year 2001 (RIN: 0720–AA62) received April 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6333. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA–D–7517] received April 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6334. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations—received April 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6335. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations—received April 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6336. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations—received April 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6337. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Registration Form for Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies [Release Nos. 33–8088; IC–25522; File No. S7–9–98](RIN: 3235–AG37) received April 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6338. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Beryllium Lymphocyte Proliferation Testing (BeLPT)—received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6339. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Guide of Good Practices for Occupational Radiological Protection in Uranium Facilities—received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6340. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Republic of Korea (Transmittal No. 03–02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

6341. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6342. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6343. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6344. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6345. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6346. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 2002 Annual Performance Plan; to the Committee on Government Reform.

6347. A letter from the Chairman, Federal Election Commission, transmitting the Commission's FY 1999–2001 Performance Report; to the Committee on Government Reform.

6348. A letter from the Acting Chairman, National Endowment For The Arts, transmitting the FY 2003 Performance Plan and the FY 1999, FY 2000, and FY 2001 Performance Reports; to the Committee on Government Reform.

6349. A letter from the Chairman and the General Counsel, National Labor Relations Board, transmitting the Board's FY 2001 Program Performance Report and the FY 2003 Performance Plan; to the Committee on Government Reform.

6350. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Quino Checkerspot Butterfly (Euphydryas editha quino) (RIN: 1018–AH03) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6351. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the National Marine Fisheries

Service Strategic Plan for Fisheries Research, as required by Section 404 (a) of the Magnuson-Stevens Fishery Conservation and Management Act; to the Committee on Resources.

6352. A letter from the Assistant Secretary, OSHA, Department of Labor, transmitting the Department's final rule—Procedures for the Handling of Discrimination Complaints Under Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (RIN: 1218–AB99) received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6353. A letter from the Chairman, Surface Transportation Board, Department of Transportation, transmitting the Department's final rule—Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, and Acquisitions of Control; and Procedures for Surface Transportation Board Consideration of Safety Integration Plans in Cases Involving Railroad Consolidations, Mergers, and Acquisitions of Control [FRA Docket No. 1999–4985, Notice No. 4] received April 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6354. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule—Procedures for Compensation of Air Carriers [Docket OST–2001–10885] (RIN: 2105–AD06) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6355. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E5 Airspace; Batesville, MS [Airspace Docket No. 01–ASO–19] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6356. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Andrews-Murphy, NC; Correction [Airspace Docket No. 02–ASO–2] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6357. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Restricted Area 5201, Fort Drum, NY [Docket No. FAA–2001–10286; Airspace Docket No. 01–AEA–11] (RIN: 2120–AA66) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6358. A letter from the Acting, Director Office of Regulatory Law, Department of Veterans' Affairs, transmitting the Department's final rule—Board of Veterans' Appeals Title Change (RIN: 2900–AL15) received April 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

6359. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Revenue Procedure 2001–56—received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6360. A letter from the Secretary, Department of Energy, transmitting proposed legislation entitled, "Power Marketing Administration Authority Act"; jointly to the Committees on Resources, Transportation and Infrastructure, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 2963. A bill to establish the Deep Creek Wilderness Area, and for other purposes; with an amendment (Rept. 107–416). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1448. A bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa; with an amendment Rept. 107–417 Pt. 1.

Mr. SESSIONS: Committee on Rules. House Resolution 395. Resolution providing for consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosure made pursuant to the securities laws, and for other purposes Rept. 107–418. Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1448. Referral to the Committee on the Judiciary extended for a period ending not later than May 24, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself and Mr. QUINN):

H.R. 4545. A bill to authorize appropriations for the benefit of Amtrak for fiscal year 2003, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. STUMP (for himself and Mr. SKELTON) (both by request):

H.R. 4546. A bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for fiscal year 2003, and for other purposes; to the Committee on Armed Services.

By Mr. STUMP (for himself and Mr. SKELTON) (both by request):

H.R. 4547. A bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003; to the Committee on Armed Services.

By Mr. SMITH of Michigan (for himself, Mr. PASCRELL, Mr. WELDON of Pennsylvania, and Mr. HOYER):

H.R. 4548. A bill to amend the Federal Fire Prevention and Control Act of 1974 with respect to firefighter assistance; to the Committee on Science.

By Mr. BAIRD:

H.R. 4549. A bill to codify the duty-free treatment of imports of straight sawn shingles of western red cedar; to the Committee on Ways and Means.

By Mr. BALDACCI:

H.R. 4550. A bill to amend the trade adjustment assistance program under the Trade Act of 1974 to clarify the eligibility requirements with respect to adversely affected workers who are engaged in self-employment assistance activities, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN of Texas:

H.R. 4551. A bill to deem the nondisclosure of employer-owned life insurance coverage of employees an unfair trade practice under the Federal Trade Commission Act, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY:

H.R. 4552. A bill to amend the National Park Service Concessions Management Improvement Act of 1998 regarding certain small contracts; to the Committee on Resources.

By Mr. LEWIS of Kentucky (for himself, Mr. TANNER, Mr. HAYWORTH, Ms. DUNN, Mr. HERGER, and Mr. BLUNT):

H.R. 4553. A bill to amend the Internal Revenue Code of 1986 to provide that the vaccine excise tax shall apply to any vaccine against hepatitis A; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 4554. A bill to establish a program under which employees of the legislative branch may be reimbursed for the costs of graduate school tuition and fees, and for other purposes; to the Committee on House Administration.

By Mr. GARY G. MILLER of California:

H.R. 4555. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid by the Department of Defense toward the repayment of certain student loans owed by members of the uniformed services; to the Committee on Ways and Means.

By Mrs. TAUSCHER:

H.R. 4556. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Ways and Means.

By Mr. TIAHRT (for himself and Mr. KIRK):

H.R. 4557. A bill to reduce recurring reporting requirements imposed by law on the Department of Defense; to the Committee on Armed Services.

By Mr. WALSH:

H.R. 4558. A bill to extend the Irish Peace Process Cultural and Training Program; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.J. Res. 88. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. ISRAEL (for himself and Ms. DELAURO):

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. Wynn, Ms. Kilpatrick, and Ms. Norton.

H.R. 99: Mr. Ballenger.

H.R. 122: Mr. Gekas, Mr. Petri, and Mr. LaTourette.

H.R. 179: Ms. Watson.

H.R. 250: Mr. Tanner.

H.R. 303: Mrs. Myrick.

H.R. 440: Mr. Leach, Mr. Langevin, and Mr. Israel.

H.R. 491: Mr. Smith of Washington, Mr. Davis of Illinois, Mr. Jackson of Illinois, and Mr. Costello.

H.R. 536: Ms. DeGette.

H.R. 548: Mr. Otter, Mr. Grucci, Mr. Forbes, Mr. Kerns, Mr. Ose, and Mrs. Mink of Hawaii.

H.R. 638: Mr. Hoyer.

H.R. 699: Mr. Gordon.

H.R. 826: Mr. Bartlett of Maryland, Mr. Aderholt, and Mr. Putnam.

H.R. 835: Mr. Sullivan.

H.R. 877: Mr. McGovern, Mr. Graham, and Mr. Souder.

H.R. 914: Mr. Aderholt and Mr. McInnis.

H.R. 975: Mr. Nethercutt and Ms. Baldwin.

H.R. 984: Mr. Deal of Georgia.

H.R. 985: Mr. Rogers of Michigan.

H.R. 1011: Mr. Watt of North Carolina.

H.R. 1073: Mr. Jackson of Illinois and Mr. Lynch.

H.R. 1086: Mr. Waxman, Mr. Stenholm, and Ms. Millender-McDonald.

H.R. 1090: Mr. Hinojosa and Mr. Tancredo.

H.R. 1182: Mr. Tiberi.

H.R. 1256: Mr. Lynch, Mr. Larson of Connecticut, and Mr. Menendez.

H.R. 1265: Mr. Gutierrez.

H.R. 1294: Mr. McGovern, Mr. Goode, Mr. Levin, and Mr. Foley.

H.R. 1305: Mr. Gekas and Mr. Israel.

H.R. 1324: Mr. Serrano, Mr. Hilliard, Mr. Reyes, Mr. Cummings, and Mr. Sanders.

H.R. 1354: Mr. Callahan.

H.R. 1360: Mr. Honda, Mr. Gonzalez, and Ms. Baldwin.

H.R. 1464: Mr. Souder.

H.R. 1522: Mr. Wexler and Mr. Luther.

H.R. 1581: Mr. Foley.

H.R. 1609: Mr. Taylor of North Carolina.

H.R. 1688: Mr. Gekas.

H.R. 1764: Mr. Hoekstra, Mr. Gutknecht, and Mr. Johnson of Illinois.

H.R. 1784: Mr. Foley.

H.R. 1795: Mr. Sullivan, Mr. Blagojevich, Mr. Foley, and Mr. Honda.

H.R. 1808: Mr. Wynn.

H.R. 1810: Mr. Fattah, Mr. Kildee, and Mr. Strickland.

H.R. 1839: Mr. Jones of North Carolina.

H.R. 1904: Mr. Kennedy of Rhode Island, Mr. Bentsen, and Mr. Levin.

H.R. 1911: Mr. Shows.

H.R. 1919: Mr. Sawyer and Mr. Upton.

H.R. 1935: Mr. Carson of Oklahoma, Mrs. Lowey, Ms. McCollum, Mr. Hefley, Mrs. Jo Ann Davis of Virginia, Mr. Menendez, Mr. Hastings of Florida, Ms. Velázquez, Mr. Graham, Mr. Sawyer, Mr. Watts of Oklahoma, Mr. Castle, Mr. Wamp, Mr. Frelinghuysen, Ms. Roybal-Allard, Mr. Strickland, Mr. Evans, Mr. Nadler, and Mr. LoBiondo.

H.R. 1943: Mr. Greenwood.

H.R. 1956: Mr. Bryant, Mr. Ehrlich, and Ms. McCarthy of Missouri.

H.R. 1979: Mr. Simmons and Mr. Hayes.

H.R. 2125: Mr. Watkins, Mr. Langevin, Mr. McIntyre, and Mr. Wu.

H.R. 2148: Mrs. Davis of California.

H.R. 2173: Mrs. Lowey, Mr. Peterson of Minnesota, Mr. Brady of Pennsylvania, Mr. Wynn, and Mr. Lantos.

H.R. 2219: Mr. Gallegly.

H.R. 2374: Mr. Tiberi and Mr. Schrock.

H.R. 2388: Mr. Gibbons.

H.R. 2405: Mr. Serrano and Mr. Foley.

H.R. 2419: Mr. Lynch.

H.R. 2592: Mr. Wynn and Mr. Sanders.

H.R. 2631: Mr. Wamp.

H.R. 2670: Mr. Larsen of Washington.

H.R. 2674: Mr. Cummings.

H.R. 2820: Mr. Davis of Illinois, Mr. Hilleary, Mr. Capuano, Mr. Conyers, Mr. Larson of Connecticut, and Mr. Hinojosa.

H.R. 2868: Mr. Dooley of California.

H.R. 2953: Mr. Crowley and Ms. Millender-McDonald.

H.R. 3068: Mr. Crowley and Mr. Hinojosa.

H.R. 3105: Mr. Shays.

H.R. 3113: Mr. Udall of Colorado and Ms. Rivers.

H.R. 3132: Mr. Evans, Ms. Berkley, Mr. Dingell, Mr. Neal of Massachusetts, and Mr. Stark.

H.R. 3139: Mr. Levin.

H.R. 3185: Mrs. Kelley.

H.R. 3238: Mr. Skelton.

H.R. 3244: Mr. McIntyre, Mr. Lewis of California, Mr. Mica, Mr. Norwood, Mr. Vitter, Mr. Pence, Ms. McCollum, and Mr. Etheridge.

H.R. 3320: Mrs. Roukema and Mr. Lucas of Kentucky.

H.R. 3321: Mr. Crenshaw and Mr. Watt of North Carolina.

H.R. 3324: Mr. Langevin and Mr. Kennedy of Rhode Island.

H.R. 3414: Mrs. Roukema and Mr. Kind.

H.R. 3430: Mr. Kucinich, Mrs. Capito, and Mr. Whitfield.

H.R. 3439: Ms. Ros-Lehtinen, Mr. Frost, Mr. Kennedy of Minnesota, Mr. Souder, Mr. Carson of Oklahoma, Mr. McGovern, and Mr. Hastings of Florida.

H.R. 3450: Ms. Slaughter.

H.R. 3505: Mr. Frank.

H.R. 3512: Mrs. Mink of Hawaii and Mr. Hastings of Florida.

H.R. 3524: Mr. Evans.

H.R. 3569: Mr. Evans.

H.R. 3595: Ms. Rivers.

H.R. 3626: Ms. Velázquez.

H.R. 3661: Mr. McHugh and Mr. Bonilla.

H.R. 3670: Ms. Jackson-Lee of Texas, Mrs. Davis of California, Ms. Slaughter, Mr. Ortiz, Mr. Rothman, and Mr. Rodriguez.

H.R. 3686: Mr. Jones of North Carolina.

H.R. 3710: Mr. Rothman.

H.R. 3713: Mr. Jeff Miller of Florida.

H.R. 3717: Mr. Schaffer and Mr. Thornberry.

H.R. 3792: Ms. Rivers, Mr. Frank, and Ms. Millender-McDonald.

H.R. 3794: Mr. Blumenauer, Mr. McDermott, Mr. Inslee, Mr. Baca.

H.R. 3826: Ms. McKinney.

H.R. 3831: Mr. Hayes.

H.R. 3833: Mr. Bishop.

H.R. 3834: Mr. Evans.

H.R. 3847: Mr. Menendez.

H.R. 3884: Mr. Udall of New Mexico and Mr. McDermott.

H.R. 3890: Mrs. Clayton.

H.R. 3900: Mr. Whitfield.

H.R. 3912: Ms. Schakowsky.

H.R. 3956: Ms. McCollum.

H.R. 3957: Mr. Evans.

H.R. 3974: Mr. Dooley of California and Mr. DeFazio.

H.R. 4000: Mr. Paul, Mr. Wynn, Mr. Langevin, and Mr. Evans.

H.R. 4003: Mrs. Davis of California.

H.R. 4014: Ms. Velázquez, Mr. Kind, and Mrs. Johnson of Connecticut.

H.R. 4018: Mrs. Thurman, Mr. Frank, and Mr. McGovern.

H.R. 4030: Mr. McHugh.

H.R. 4066: Mr. Murtha, Mr. Boehlert, Mr. Hoeffel, Mr. Engel, Mr. Baird, Mr. Frost, and Mr. Kind.

H.R. 4089: Ms. Velázquez, Ms. Roybal-Allard, Mr. Clay, and Ms. Norton.

H.R. 4091: Ms. Velázquez, Ms. Roybal-Allard, Mr. Clay, and Ms. Norton.

H.R. 4108: Mr. Cantor, Mr. Stenholm, Mr. Shadegg, and Mr. Greenwood.

H.R. 4119: Mr. Hastings of Florida.

H.R. 4169: Mr. Sam Johnson of Texas.

H.R. 4187: Mr. Baldacci, Mr. Shays, Mr. Gilman, Mr. George Miller of California, Mr. Visclosky, Mr. DeFazio, and Mr. Roemer.

H.R. 4194: Mr. Isakson, Mrs. Clayton, Mr. Paul, Ms. McKinney, and Mr. Jefferson.

H.R. 4209: Ms. Brown of Florida, Mr. Wexler, Ms. Pelosi, Mr. Smith of Washington, and Mr. Young of Alaska.

H.R. 4446: Mr. Gary G. Miller of California, Mr. Diaz-Balart, Mr. Weldon of Pennsylvania, Ms. Pryce of Ohio, Mr. Bartlett of Maryland, Mr. English, and Mr. Quinn.

H.R. 4483: Ms. Ros-Lehtinen, Mr. Otter, Mr. Coble, Mr. Tiberi, Mr. Platts, and Mr. Sherman.

H.R. 4515: Mr. Peterson of Minnesota.

H.J. Res. 40: Mr. Lampson.

H.J. Res. 81: Mr. English and Mr. McCrery.

H. Con. Res. 46: Mr. English, Mr. Israel, Mr. Goode, and Mr. Carson of Oklahoma.

H. Con. Res. 177: Mr. Owens.

H. Con. Res. 271: Mr. Saxton.

H. Con. Res. 301: Mr. Gekas.

H. Con. Res. 315: Mr. Crane and Mr. Aderholt.

H. Con. Res. 346: Ms. McCollum.

H. Con. Res. 355: Mr. Lantos, Mr. Gilman, Mr. Rothman, Mr. Menendez, Mr. Brady of Pennsylvania, Mr. Pallone, Mr. Berman, Mr. Ackerman, Mr. McNulty, Mr. Clement, and Mr. Cantor.

H. Con. Res. 358: Mr. Towns, Ms. McCollum, Mr. Hansen, Mr. Rush, Mr. Lynch, Mr. Wolf, Mr. Hall of Texas, and Mr. Hilliard.

H. Con. Res. 378: Mr. Pence, Mr. Ehlers, Ms. Hart, Mr. Hobson, Mr. Hayworth, Mr. Kennedy of Minnesota, Mr. Pickering, Ms. Ros-Lehtinen, Mr. Simpson, Mr. Brown of South Carolina, Mr. Cunningham, Mr. Calvert, Mr. Bryant, Mr. Castle, Mr. Chabot, Mr. Cannon, Mr. Fletcher, Mr. Ferguson, Mr. Goss, Mr. Weller, Mr. Wicker, Mr. Wilson of South Carolina, Mr. Ramstad, Mr. Herger, Mr. Boozman, Mr. Whitfield, Mr. Radanovich, Mr. Wamp, Mr. Shimkus, Mr. Gallegly, Mr. Kirk, Mr. Chambliss, Mr. Ballenger, Mr. Graham, Mr. Ehrlich, Mr. Camp, Mr. Tauzin, Mr. Gary G. Miller of California, Mr. Keller, Mrs. Wilson of New Mexico, Mr. Goodlatte, Mrs. Morella, Mr. Dan Miller of Florida, Mr. Hayes, Mr. Abercrombie, Mr. Baird, Ms. Baldwin, Mr. Barcia, Mr. Berman, Mr. Bishop, Mr. Brady of Texas, Ms. Brown of Florida, Mrs. Capps, Mrs. Christensen, Mr. Condit, Mr. Coyne, Mr. Crowley, Mr. Davis of Illinois, Mr. DeFazio, Mr. Dingell, Mr. Evans, Ms. Eshoo, Mr. Faleomavaega, Mr. Frost, Mr. Hall of Ohio, Ms. Harman, Mr. Honda, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Ms. Kaptur, Mr. Kennedy of Rhode Island, Ms. Kilpatrick, Mr. Kind, Mr. Langevin, Ms. Lofgren, Mr. Lynch, Mr. Maloney of Connecticut, Ms. McCollum, Mr. McGovern, Ms. McKinney, Mr. McNulty, MS. MILENDER-MCDONALD, Mr. MORAN of Virginia, Mr. NADLER, Ms. NORTON, Mr. RAHALL, Mr. SAWYER, Mr. SCHIFF, Mr. SERRANO, Mr. SHERMAN, Mr. TURNER, Ms. WATERS, Mr. WATT of North Carolina, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, Mr. WYNN, Mr. COLLINS, Mr. FATTAH, MR. DAVIS of Florida, Mrs. BIGGERT, and Mr. OXLEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 448: Mr. MCDERMOTT.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3231

OFFERED BY: MR. KOLBE

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1. Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Immigration and Naturalization Service Reorganization Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Activities within Department of Justice.
Sec. 3. Activities within Department of State.
Sec. 4. Activities within Department of Labor.
Sec. 5. Conforming provisions.
Sec. 6. Effective date; transition.

SEC. 2. ACTIVITIES WITHIN DEPARTMENT OF JUSTICE.

(a) ABOLITION OF INS.—The Immigration and Naturalization Service and the office of Commissioner of Immigration and Naturalization are abolished.

(b) CONSOLIDATION OF BORDER PATROL, INSPECTIONS, INVESTIGATIONS, AND REMOVAL AND RELATED ENFORCEMENT FUNCTIONS WITHIN A BUREAU OF IMMIGRATION ENFORCEMENT.—Title I of the Immigration and Nationality Act is amended—

(1) by inserting the following after the heading to the title:

“CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES”; and

(2) by adding at the end the following new chapter:

“CHAPTER 2—ADMINISTRATION OF IMMIGRATION SYSTEM

“IMMIGRATION ENFORCEMENT THROUGH A BUREAU FOR IMMIGRATION ENFORCEMENT IN DEPARTMENT OF JUSTICE

“SEC. 111. (a) ESTABLISHMENT OF BUREAU.—There is hereby established in the Department of Justice the Bureau for Immigration Enforcement.

“(b) DIRECTOR.—

“(1) APPOINTMENT.—The head of such Bureau shall be the Director for Immigration Enforcement, who—

“(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

“(B) shall report directly to the Attorney General.

“(2) COMPENSATION.—The Director shall be paid at the rate of basic pay payable for level II of the Executive Schedule.

“(c) FUNCTIONS.—

“(1) IN GENERAL.—The Bureau shall perform functions under the immigration laws relating to the following:

“(A) Prevention of illegal entry.

“(B) Inspection at ports of entry.

“(C) Apprehension and detention, including programs of parole or supervised release.

“(D) Exclusion, deportation, and removal.

“(E) Investigations, including investigations of immigration-related smuggling operations and document fraud.

“(2) DELEGATION OF DETENTION AUTHORITY.—Under regulations of the Attorney General, the responsibilities of the Bureau relating to detention of aliens may be delegated to the Federal Detention Trustee.

“(d) GENERAL COUNSEL.—There shall be a position of General Counsel for the Bureau of Immigration Enforcement. The General Counsel and his or her delegates shall, in addition to such other duties as they may be assigned by the Director for Immigration Enforcement, shall represent the Bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review, including in proceedings to adjudicate relief from exclusion, deportation and removal, and in other legal, judicial, or administrative proceedings involving the functions performed by the Bureau.

“(e) FIELD OFFICES.—The Bureau shall conduct its enforcement activities through field offices. The location of such offices shall be determined based upon the enforcement priorities of the Bureau and without regard to the location of previous district offices of the Immigration and Naturalization Service or the location of service offices established to carry out section 112. Nothing in this subsection shall be construed as preventing the Bureau from continuing the use of regional offices for administrative and managerial oversight of field offices.”.

SEC. 3. ACTIVITIES WITHIN DEPARTMENT OF STATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 2(b), is amended by adding at the end the following new section:

“PERFORMANCE OF FUNCTIONS RELATED TO IMMIGRATION AND REFUGEE ADMISSIONS, ASYLUM AFFAIRS, CITIZENSHIP, AND PASSPORT ACTIVITIES IN DEPARTMENT OF STATE

“SEC. 112. (a) ASSISTANT SECRETARIES OF STATE.—There shall be appointed in the Department of State an Assistant Secretary of State for Immigration Affairs, an Assistant Secretary of State for Refugee Admissions and Asylum Affairs, and an Assistant Secretary of State for Citizenship and Passport Services. Such Assistant Secretaries shall be in addition to such Assistant Secretaries as are authorized under section 1(c) of the State Department Basic Authorities Act of 1956.

“(b) UNDER SECRETARY FOR CITIZENSHIP, IMMIGRATION, AND REFUGEE ADMISSIONS.—

“(1) IN GENERAL.—Such Assistant Secretaries shall be under the supervision and direction of an Under Secretary of State for Citizenship, Immigration, and Refugee Admissions who—

“(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

“(B) shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(2) RELATION TO OTHER AUTHORITY.—Such Under Secretary shall be in addition to such Under Secretaries as are authorized under section 1(b) of the State Department Basic Authorities Act of 1956.

“(c) FUNCTIONS.—The Assistant Secretaries appointed under subsection (a) shall perform functions under the immigration laws relating to adjudication of applications for citizenship, immigration, and refugee status, and related benefits, both within the United States and abroad, issuance of appropriate documentation, and overseas citizens services, and related anti-fraud activities.

“(d) REVIEW OF DECISIONS.—The Secretary of State shall establish by regulation procedures for internal review of decisions of consular and other officers in granting, refusing, or revoking visas, adjustment or change in immigration status, and naturalization.”.

(b) FUNDING.—Section 286 of such Act (8 U.S.C. 1356) is amended—

(1) in subsection (m)—

(A) by striking “as are designated by the Attorney General” and inserting “as are designated by the Secretary of State”,

(B) by striking “directly by the Attorney General” and inserting “directly by the Secretary of State, the Attorney General,”, and

(C) by striking “by the Attorney General” after “received”;

(2) in subsection (n)—

(A) by striking “Attorney General” and inserting “Secretary of State”, and

(B) by inserting “and other services described in section 112(c)” after “naturalization services”; and

(3) in subsection (o), by striking “Attorney General” and inserting “Secretary of State”.

SEC. 4. ACTIVITIES WITHIN DEPARTMENT OF LABOR.

Chapter 2 of title I of the Immigration and Nationality Act, as added by section 2(b) and as amended by section 3(a), is amended by adding at the end the following new section:

“RESPONSIBILITIES OF DEPARTMENT OF LABOR

“SEC. 113. (a) RESPONSIBILITY FOR VERIFICATION-RELATED ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary of Labor is responsible for enforcement of provisions of the immigration laws relating to verification of employment authorization under subsections (a)(1)(B), (a)(5), and (b) of section 274A.

“(2) ENFORCEMENT AUTHORITY.—The Secretary of Labor is authorized to impose penalties under section 274A(e)(5) for violations of section 274A(a)(1)(B).

“(3) NOTICE.—The Secretary of Labor shall notify the Director of the Bureau for Immigration Enforcement of any information discovered concerning a violation of section 274A(a)(1)(A).

“(b) RESPONSIBILITY FOR ENFORCEMENT OF TERMS AND CONDITIONS OF EMPLOYMENT.—

“(1) IN GENERAL.—The Secretary of Labor shall monitor employers' fulfillment of terms and conditions of attestations, labor certifications, and other applications filed in compliance with employment-related requirements for the admission of aliens under the immigration laws, including under subparagraphs (H), (L), (O), (P), and (Q) of section 101(a)(15) and under section 203(b).

“(2) AUTHORITY TO IMPOSE ADMINISTRATIVE FINES.—The Secretary of Labor may assess administrative fines against those found to have violated the terms and conditions of such attestations, labor certifications, and applications.

“(3) NOTICE.—The Secretary of Labor shall notify the Secretary of State of any finding of a substantial failure to meet the terms and conditions of such attestations, labor certifications, and applications.

“(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting the administration of section 274B (relating to unfair immigration-related employment practices).”.

SEC. 5. CONFORMING PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any reference in law or regulation to the Commissioner of Immigration and Naturalization, to the Immigration and Naturalization Service, or the Administrator described in section 104(b) of the Immigration and Nationality Act with respect to a function or authority shall be deemed a reference to the appropriate entity which has such function or authority under chapter 2 of title I of the Immigration and Nationality Act, as amended by this Act.

(b) SUPERSEDING OTHER PROVISIONS OF LAW.—Chapter 2 of title I of the Immigration and Nationality Act, as added by this Act, is amended by adding at the end the following:

"RELATIONSHIP TO OTHER PROVISIONS

"SEC. 114. (a) IN GENERAL.—The provisions of this chapter supersede sections 103 and 104 and other provisions of law to the extent such provisions are inconsistent with the provisions of this chapter.

"(b) NO APPLICATION TO ADMINISTRATION OF REFUGEE ASSISTANCE.—This chapter shall not affect the administration of title IV of this Act.".

(c) SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretaries of State and Labor and, as appropriate, with the heads of other Federal agencies, shall submit to the Congress, a legislative proposal proposing such technical and conforming amendments to the Immigration and Nationality Act and other immigration-related laws as are necessary to bring the law into conformity with the policies embodied in this Act.

(d) CLERICAL AMENDMENTS.—The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting before the item relating to section 101 the following:

"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES";

(2) by amending the item relating to section 103 to read as follows:

"Sec. 103. Powers and duties of the Attorney General.";

and

(3) by inserting after the item relating to section 105 the following:

"CHAPTER 2—ADMINISTRATION OF THE IMMIGRATION SYSTEM

"Sec. 111. Immigration enforcement through a bureau for immigration enforcement in Department of Justice.
"Sec. 112. Performance of refugee admissions, asylum affairs, citizenship, and passport activities in Department of State.
"Sec. 113. Responsibilities of Department of Labor.
"Sec. 114. Relationship to other provisions.".

SEC. 6. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—Except as provided in this section, this Act, and the amendments made by this Act, shall take effect on the date that is 6 months after the date of the enactment of this Act.

(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—The personnel of the Department of Justice or other agency employed in connection with the functions transferred by this Act, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to such Department or agency in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the entity to which such funds are so transferred for appropriate allocation by the head of such entity. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(2) EFFECT ON PERSONNEL.—

(A) IN GENERAL.—The transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation, if at all, for 1 year after the date of the transfer.

(B) EXECUTIVE SCHEDULE.—Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed into an agency established under this Act to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c) DELEGATION AND ASSIGNMENT.—Except as otherwise expressly prohibited by law or otherwise provided in this Act, an official to whom functions are transferred under this Act (including the head of any office to which functions are transferred under this Act) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this Act shall relieve the official to whom a function is transferred under this Act of responsibility for the administration of the function.

(d) SAVINGS PROVISIONS.—

(1) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any amendment made by this Act; and

(B) that are in effect at the time such transfer takes effect, or were final before the effective date of such transfer and are to become effective on or after the effective date of such transfer,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PENDING PROCEEDINGS.—(A) The provisions of any amendment made by this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any provision before any department, agency, commission, or component thereof, functions of which are transferred by any amendment. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(B) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the authorized Federal official, by a court of competent jurisdiction, or by operation of law.

(C) Nothing in this Act shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(D) The head of each of the Federal Departments is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this paragraph with respect to such Department.

(3) NO EFFECT ON JUDICIAL PROCEEDINGS.—Except as provided in paragraph (5)—

(A) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(4) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by any amendment made by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by any such amendment, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(5) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the date on which any amendment made by this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to another official, then such suit shall be continued with the other appropriate official substituted or added as a party.

(6) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Attorney General or other Federal official Secretary in the exercise of functions transferred under any amendment made by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any such amendment shall apply to the exercise of such function by the appropriate Federal official.

Amend the title so as to read: "A bill to amend the Immigration and Nationality Act to improve the administrative structure for carrying out the immigration laws.".

SENATE—*Tuesday, April 23, 2002*

The Senate met at 10:30 a.m. and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

The PRESIDING OFFICER. This morning our guest Chaplain, Chaplain Daniel Coughlin, Chaplain of the U.S. House of Representatives, will lead us in prayer.

PRAYER

The guest Chaplain offered the following prayer:

Lord our God, shepherd us as Your own flock. Speak Your Word in the hearts of all the Senators and to all who work for the Senate Chamber. Make all in the Nation attentive to Your voice; that they may walk as Your free children along the right path, fearing no evil.

On this new day, anoint us with Your Spirit, that only goodness and kindness flow from us. Having invited us to enjoy the banquet of equal justice, may we serve You all the days of our lives. Banish our foes into the darkness of confusion that great deeds of dignity may be accomplished in Your Name; and the nations may dwell in peace for years to come. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAUL D. WELLSTONE led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 23, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each and with the time equally divided between the two leaders or their designees.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip is recognized.

REQUEST FOR PRAYERS BY THE SENATE CHAPLAIN

Mr. REID. Mr. President, we have been honored this morning with the presence of the House Chaplain. The reason for that is our Chaplain's wife is very ill. She has been in intensive care now for more than a week. Our own Chaplain has expressed to each of us that we should not worry about sending cards or letters or flowers or plants because, of course, the flowers and plants are not allowed in intensive care, but he asked specifically that Members of the Senate pray for his wife.

SCHEDULE

Mr. REID. As you have announced, the Senate will be in a period of morning business until 11:30 a.m. At 11:30 a.m. the Senate will resume consideration of the energy reform bill, when we will vote on cloture on the Daschle-Bingaman substitute amendment. All second-degree amendments to this energy bill must be filed by 11 o'clock today.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party conferences.

ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent the hour begin running now and the time for the vote occur at 25 minutes until the hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

CLOTURE MOTION ON THE ENERGY BILL

Mr. BINGAMAN. Mr. President, I will yield myself up to 10 minutes to speak in favor of going ahead with the motion for cloture on this bill.

This is the sixth week we have been on the energy bill on the Senate floor. Today is the 22nd legislative day we have worked on the bill. We will be voting this morning on cloture on the substitute amendment that was first laid down on February 15. It was modified to its present form on March 5.

Since then, we have had a great many amendments. We have acted on 84 amendments to the substitute amendment. Of those 84 amendments, 68 were adopted, 9 were defeated or otherwise fell, and 7 were withdrawn. Seven other amendments are currently pending on the bill.

One would think that dealing with 84 amendments on a bill would represent fairly good progress on a bill, and in many ways it does. We have taken up almost all the major issues on the bill, and they have been disposed of with very few exceptions. I appreciate the help of Senator MURKOWSKI and others who have been active in this debate, trying to move this set of issues along and to move the legislation along.

At the same time, we have had many days when Senators have not been willing to come to the Chamber and offer amendments. We have had periods when Senators have delayed votes on their amendments and been anxious to wait until conditions seemed more favorable before a vote would occur on their amendments.

If we in fact were out of amendments, obviously that would be good news. The truth is, yesterday at the time of the filing deadline that was triggered by the cloture process, there were 115 additional amendments filed. Some of those amendments are variations on earlier amendments that have been filed. Some are variations on others that we understand can be handled. Clearly, we still have a substantial number of issues that Senators believe they need to have considered.

I am also disappointed that our efforts to get unanimous consent on a finite list of amendments have been blocked. We have asked unanimous consent several times on the Senate floor to get agreement, not on time limits—we had never got to the stage where we were asking for time limits—but first, before we asked for time limits on amendments, we were trying to get a finite list of amendments. The effort to get that has been blocked. Even adoption of amendments that both managers of the bill have been willing to clear has been a problem for us.

So we have not had, in my view, the cooperation we need to bring this bill

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

to conclusion. We need to have that change quickly if we are going to continue on the bill and conclude action on it.

I know there is great concern as we approach this cloture vote about the tax-related provisions. I strongly support those provisions, the tax incentive provisions that were voted out of the Finance Committee on February 28. I supported those. I believe they are dramatically better than the tax-related provisions that were attached to the House-passed energy bill last year.

The argument was made yesterday that the Senate should now think of this bill as some sort of omnibus tax bill. I think that would be a big mistake, for us to now look on this measure as the major tax bill of the year and see this as an opportunity for all Senators to come and offer all sorts of provisions relating to taxes, particularly those that do not relate to energy taxes. I think that would be a very major mistake.

This is not an omnibus tax bill. It is an energy bill. We need to bring debate on the bill to a close. I hope we can do so with tax provisions included. I know the Senator from Montana has tried to get unanimous consent to do that. I support us doing that, having the provisions coming out of the Finance Committee brought up, debated, and voted on. But clearly we need to keep in context that this is not the major tax bill the Senate is going to consider in this Congress, and therefore it should not be a vehicle for all sorts of non-energy-related tax proposals.

I compliment our majority leader, Senator DASCHLE, for the enormous amount of floor time he has committed to trying to pass this bill. A lot of speeches have been made over the last several months implying that our majority leader was not committed to moving an energy bill through this body.

His actions speak much louder than words and the rhetoric around here. It is clear from his actions and committing 5 weeks of the Senate's time to this important issue that he is committed to trying to get an energy bill through the Senate.

I also appreciate the strong support that Senator LOTT has been providing in trying to move to cloture and move ahead with invoking cloture and completing action on the bill. I think that is very important as well.

Energy is a central policy concern in the Senate in this session. It is appropriately so. Our President has made it an agenda item for the country. Many of us have felt strongly that there are provisions in this bill that should be enacted into law. I hope we can do so. If you exclude Mondays and Fridays from the calculation, we now have 15 working and voting days between now and the Memorial Day recess. Clearly, there is a limit as to how much of the Senate's time we can devote to this very important issue.

I hope all Senators will support the effort to invoke cloture on the substitute amendment. Even if cloture is invoked, there are several hard fought battles still to be waged on particular amendments that have been offered and that will remain germane.

I believe we have reached a point where further debate should be limited to germane amendments. For that reason, I urge Senators to support the motion to invoke cloture.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. REID. Mr. President, the majority controls 30 minutes. I do not know if the minority wishes to use any of their time. It is my understanding that Senator BAUCUS wishes to give remarks in opposition to cloture. Is that true?

Mr. BAUCUS. At this point.

Mr. REID. Mr. President, I am happy to yield 5 minutes to the chairman of the Finance Committee, Senator BAUCUS.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will suspend my statement at this time if someone else wishes to speak.

Mr. REID. Mr. President, the Senator from Nebraska wishes to speak on a subject not related to cloture. I yield 5 minutes to him.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague and friend from Nevada for giving me this opportunity.

RENEWABLE FUEL STANDARD

Mr. NELSON of Nebraska. Mr. President, as we proceed with the debate—and hopefully it will end with a cloture vote—on the renewable fuel standard in S. 517, it is important to clarify some of the main issues and to counter some of the misinformation that has been offered by opponents of ethanol and other biofuels and the RFS.

In today's New York Times, one of our colleagues is quoted as saying that the renewable fuel standard may raise the cost of gasoline by 10 cents a gallon in New York. I am not sure how that number is achieved given the fact that the wholesale price of ethanol today in New York is about 30 cents per gallon less than gasoline.

But it is frustrating. For 25 years, we have all worked to ward off the negative arguments presented by some of the opponents. The opponents are determined to maintain control over the transportation fuels market by excluding ethanol, by excluding reformulated fuels, and by excluding new opportunities for renewable resources. Yet because the ethanol industry is right for America and for our State, it has survived and expanded from essentially zero in 1977 to over 2 billion gallons a year capacity today.

It has taken sound public policy to achieve this strength and it will take sound public policy to take the next leap forward in these days of dangerous and growing foreign oil dependency and mounting concerns about the environment including climate change. The RFS is the next sound and critical policy leap forward to more than double biofuels production in the next 10 years.

In recent years, an enlightened sector of these industries ha accepted the benefits of ethanol blends. But the remaining and commanding sectors stand steadfast in their opposition. Old data, negative projections, and misinformation are their tools.

They have convinced some to actively embrace their campaign to maintain a fossil-interest stranglehold on transportation fuels. For these companies, national energy, economic and environmental security of the United States is not part of their global calculus as they pursue their determined path against ethanol and other biofuels. These biofuels are becoming an international force. If opponents can delay the United States in its embrace of the biorefinery concept, they will succeed in sustaining the position and profitability of their industry.

I will address the opponent's arguments issue by issue. It is my hope that, ultimately, an objective and thoughtful overview will lead to acceptance of the Renewable Fuel Standard.

I would first like to stress the urgent needs for a "Manhattan" type project to commercialize the biorefinery industry in the United States. This industry will take agricultural and forestry crops and residues, rights-of-way, park, yard and garden trimmings as well as the clean portion of municipal wastes that are disposal problems or end up in the our land fills or sewers and convert these renewable resources into biofuels, biochemicals and bioelectricity.

Poster 1 shows existing ethanol plants in gold, plants under construction in green, and other biorefineries in the planning stage in red.

You can see that the dispersal of biorefineries will be nationwide, not limited to the Midwest, and not limited to any location or region within our country.

Moving from planning to construction is largely contingent on implementation of the RFS since capitalization will not proceed without an assured and profitable market for their outputs.

America needs a Manhattan-type project to accelerate this process and to ensure the development of smaller, fully integrated, community-based biorefineries bringing new basic industries and quality jobs to rural and urban communities with ownership/partial ownership and value-added benefits accruing to local people. The RFS is part of this approach because it expands the market for biofuels and provides a 1.5 credit for cellulosic biomass ethanol and biodiesel compared to 1 credit for corn-based ethanol; that is, each gallon of ethanol from cellulosic biomass will be worth 1.5 gallons of corn-based ethanol. This extra credit is an important driver in advancing technology so that California, New York, and other States can join the Midwest in benefiting from new industries, better jobs, and improved incomes.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes has expired.

Mr. NELSON of Nebraska. Mr. President, we hope the cloture vote will move forward and that we will, in fact, pass the RFS.

Thank you very much.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, I have been in consultation with the distinguished Republican leader and our terrific chair of the committee, as well as others, with regard to finding some procedural arrangement to accommodate Senators and continue the effort to bring this bill to a close.

I think we are making progress, but in order to accommodate further discussion, I ask unanimous consent that the cloture vote be postponed until 2:30.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. I thank the Chair. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the time during quorum calls in this period be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

Mr. BAUCUS. I thank the Chair.

FINANCE COMMITTEE TAX INCENTIVES

Mr. BAUCUS. Mr. President, the cloture vote has been suspended until 2:30 this afternoon. I think that is very wise. There are a few provisions that various Senators are trying to work out. I hope very much that they are worked out.

One of the big provisions is the Finance Committee-passed tax package which I believe members of the Finance Committee believe very much should be part of this bill.

The Finance Committee has worked long and hard on tax provisions to help wean America from OPEC. They are not huge incentives, but on the margin they will help a bit. They are divided roughly equally between conservation incentives on the one hand and production incentives on the other. The conservation incentives are renewable energy provisions. For example, they extend and modify what is called the section 45 credit.

In addition, the alternative fuels and alternative-fuel vehicles credit is to help America develop automobiles that are much more fuel efficient so we will consume fewer gallons of gasoline for every mile driven. There are a lot of great ideas, whether hybrids or fuel cells, but it is important to give those incentives.

There are also some conservation and energy-efficiency incentives for energy efficiency in existing homes, for new home construction, a credit for residential solar, for example, wind, fuel cell properties, a credit for more efficient air-conditioners, water heaters, heat pumps, and the list goes on. That is the conservation side. As I said, it is about half of the total package.

The tax incentives for 1 year total about $8 billion and over the life of the bill—that is 10 years—$14 billion. Half of that, as I mentioned, is renewables and conservation. The other half is production incentives. The production incentives are for clean coal technologies. We know we can utilize coal significantly in the future. It makes sense that we use cleaner technologies so that there is less pollution. There are oil and gas conventional incentives as well as some electric industry restructuring incentives.

I might say, for our Native Americans on Indian reservations, we have provided accelerated depreciation and wage credit benefits for businesses that are on Indian reservations. This provision was thrashed out in committee. It passed out of the committee unanimously, albeit on a voice vote.

I believe that, by and large, most Members of the Senate support—and support strongly—these provisions. They do help, on the margin, wean us a bit from our dependency on OPEC because they provide a little more self-sufficiency and have actual, honest to goodness provisions; that is, the myriad of conservation measures I mentioned.

I take my hat off to our leader Senator DASCHLE, to Senator REID, and to Senator LOTT for trying to figure out ways to put this together so we can finally pass the energy bill. It is an almost impossible situation. You have 100 Senators, each with a different point of view. But as to the Finance Committee provisions, by and large, the President proposed many of them in his proposed energy tax package. Senator BINGAMAN, chairman of the Energy Committee, has proposed energy tax incentives. Senator MURKOWSKI has proposed energy tax incentives. That is some indication why we in the Finance Committee passed this measure out unanimously.

It is bipartisan by definition. It is broad based, but it is not germane, obviously. That is why I hope we can get the agreement in some responsible fashion to take up and pass the Finance Committee package in a posture so it will be included in the bill, that it is not excluded perhaps because cloture is invoked, therefore making the provision not germane.

It is a good provision, the Finance Committee package. I think it is also important we pass it because there may be scoping issues in conference. I cannot guarantee 100 percent, just because the House has about $30 billion in tax incentives, that necessarily any provision the Senate has in mind would be within the scope; it may not be.

Second, if we do not pass our energy tax incentive package, we will be disadvantaged in negotiating with the House. The House will have passed $33 billion, the Senate zero. One can argue, look at what is in the Finance Committee package, but I can tell you, having worked with the chairman of the Ways and Means Committee in conference many times, I know what he is going to say. I know it is going to give him a leg up. It is going to give him an advantage. And it is going to make it more different for us in the Senate to get provisions we want.

Third, that is no way to operate. The Finance Committee has done its business. We had many hearings. We have had a markup. We have debated these issues. We passed out our provision incentives to add, to complement—in fact, supplement—the underlying energy bill. We waited until the rest of the bill was about ready to pass to bring up our package. I think it is only appropriate—in fact, it is for the good of the country, definitely—that these provisions be included.

So with great respect I urge all my colleagues, in the next couple hours, to help all of us together, as 100 Senators, figure out a way we can bring up and pass the Finance Committee tax incentives. They are good. They are good for America—half conservation, half production. I think it is basically by and large agreed to.

I yield the floor.

EXTENSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The majority whip.

Mr. REID. Mr. President, I ask unanimous consent that the morning business be extended until the hour of 12:30 and that there be no controlled time, and that Senators be allowed to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I further ask unanimous consent that the time from 2:15 to 2:30 be equally divided with the time controlled by Senator DASCHLE or a designee and Senator LOTT or a designee to debate the cloture vote which will occur at 2:30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

THE MIDDLE EAST

Mr. WELLSTONE. Madam President, I have about only 5 minutes to speak on an issue that is important for all of us in our country and in the world. That is the Middle East. There is much to say, and 5 minutes is just a beginning.

We were not in session on Friday so today I will briefly present my analysis of Secretary Powell's trip. There was a lot of discussion in some of the media that Secretary Powell was unsuccessful in his endeavor. I actually choose to view his effort as but a first step. It is extremely important—I know the Chair believes as well—that our Government be engaged, even more so now.

Secretary Powell's trip was an important first step. There are now discussions under way, very tough discussions, about security measures. Ultimately, the question is, how do we get from where we are right now to where we all hope we can be so that there can be peace for Israel and for her neighbors? That is the question. The emotion people feel, the sentiment people feel, that I feel, that all of us feel, is very vivid.

When Israelis were murdered at a seder meal, as a first-generation American of a Jewish immigrant who fled persecution from Russia, it sent chills down my spine. When I read about the rise of anti-Semitism in Europe, some of what has happened in France, the targeting of Jewish teenagers, the physical attacks, the hatred, it is frightening. Inside, you feel the indignation, and you say to yourself: We will not let people do this to Jews anywhere in the world.

I called Assistant Secretary Wolfowitz, who spoke at the rally, and said: We also have to be concerned about the loss of life of innocent Palestinians—not terrorists, innocent Palestinians. He is right. I called him and said: I believe, based upon my own background, when I think about my mother and father, who are no longer here, what you said should have been said. I think it was important to say that. It is a very Jewish thing to say in terms of my sense of Jewish justice. I can't imagine my mother and father not saying exactly the same.

I thank Secretary Powell for his trip. Clearly, it takes courage to do what he did. He is out there. Frankly, he is doing the right thing. I believe now, however, we have to come forward with some very creative political ideas about how we can move to some kind of framework. It seems as if the present course will result in a deeper river of blood. How can we get to some kind of a framework that makes some sense so that we can get to where we want to get, which is people living in dignity side by side, with secure borders, and an end to the killing. That is, how do we get there?

I wish I had the answer. Secretary Powell needs to go back. I don't know whether he thinks I should be saying this in the Senate, but we will need him to go back. Our government has to stay engaged in these negotiations.

Over the next couple of days, I will try to talk about some of the discussions I have had with people about ways in which we can move to a different framework—not the present course but a different course. It is terribly important. I am not naive about this. It is very complicated, and it is very difficult.

Since we were not in session Friday, I didn't want to let some of the interpretation of Secretary Powell's work be the only interpretation. Again, the emotion we feel and the indignation that many of us have is quite understandable. The real question is, how can we be constructive? What can we do gestaltwise that makes sense? What kind of proposals can we propose that are credible, that somehow will result in a place and time when Israel lives in peace and Israel's neighbors also live in peace. That is the question.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

THE ENERGY BILL

Mr. MURKOWSKI. I thank the Chair.

Madam President, I want to take a moment to discuss where we are currently in the continued movement on the energy bill.

A cloture motion was filed last Thursday, and we are looking forward to moving forward on this bill. I know many Members have been somewhat frustrated with the pace. We have been on the bill almost 6 weeks, not continually but certainly for the most part.

I know the majority leader is working in good faith, and I support his efforts to move the bill forward in a timely manner, but I remind my colleagues that we are on an extremely difficult and complex piece of legislation. We have divisive issues, and we have dealt with them as best we could through a process of amendments.

Since the debate on this issue began, we have had 172 amendments—some 60 Republican, 112 Democratic. We have dispensed with 92 amendments—35 Republican, 57 Democratic. Most of the remaining amendments are currently on the other side of the aisle, but that is neither here nor there. I am sure we can deal with them in a relatively short timeframe.

Some of the more difficult amendments we have dealt with are: Whether Congress should decide on new vehicle standards or leave that discretion to the experts, specifically CAFE standards; whether Congress should impose a renewable portfolio standard on some electricity producers or leave the decision on appropriate renewable portfolio standards to the States; whether the Federal Government should continue the liability and introduce protection on our nuclear plants; that is, Price-Anderson. I think the sustainability and expansion of the nuclear industry certainly represents protection on that particular issue of limiting the liability for the industry if we are ever going to get nuclear power generation in this country. Further, how best to ensure reliability on our electricity grid—that was the reliability issue and significant progress was made on that—and whether to create a renewable fuels requirement, ethanol.

Our work is not complete. There are still many significant issues to resolve.

We need to close out the issues dealing with electricity. We need to reach some agreement on the massive climate change provision in the bill. We must address the tax provisions for renewables, conservation, alternative fuels, efficiency, and production. We need to decide how best to increase our domestic production of energy sources since there are no real production provisions in the substitute we have before us.

On the issue of supporting cloture, a vote in favor of cloture would cut off any opportunity to adopt a rational tax component on energy legislation, which I believe is so important in this package—taxes that would encourage the use of renewables, alternative fuels, increase our efficiency relative to conservation, increase our production of conventional fuels.

As far as oil is concerned, as this bill now stands, there is not one single provision that would increase our domestic production of oil because the tax package is not part of the bill at this time.

There are numerous studies and authorizations regarding oil production in title VI but no specific new production. As it stands now, this measure, in my opinion, is neither balanced nor comprehensive. In fact, many provisions in the legislation specifically exclude production of oil from the energy incentives.

The irony is that while there are provisions in the bill dealing with wind, solar, and biomass, these energy sources are not currently threatened by events around the world. I know of no world leaders calling for—or with the ability to—cutting off our wind supply or our Sun, although Saddam Hussein may be up to it. In any event, we are at a time when many in the Arab world are calling for using oil as a weapon against the United States.

We have seen today a release from Iraq where Saddam Hussein is quoted as indicating he will pay $25,000 for any of the Palestinians who may have lost their homes in the Israeli-Palestinian conflict. That comes after a previous statement by Saddam Hussein about providing payment to the survivors and family members of any of the individuals who saw fit to strap themselves with bombs and be used to initiate terrorist attacks associated with the issue in Israel, providing $25,000 to their families. I think that clearly is an incentive that those of us in the Western world find totally unacceptable and reprehensible.

As some in this Chamber may recall, on Thursday we passed, by a vote of 88 to 10, a sanction against Iraqi oil. The logic for that was the very fact that Saddam Hussein had seen fit to foster terrorism by providing incentives for human beings to be used as bombs in crowded areas. Furthermore, a justification for that deserves another reflection because we also saw several years ago sanctions against Libya, and the sanctions against Libya were justified because of terrorist attacks associated with the downing of the Pan Am flight over Scotland. Previous to that, we had initiated sanctions against Iraq under the same rationale. The attack on our U.S. Embassy in Iran is evidence of the country fostering terrorism.

So for anyone, including the administration, who might be critical of the action taken by the Senate, I remind them there is a principle involved, as our President stated on numerous occasions, that we will not stand by and let anyone or any country or any leader foster terrorism or use it as an incentive. That, clearly, is the case with Saddam Hussein. Hence, I think the action by the Senate last Thursday was most appropriate in terminating any imports of oil from Iraq.

So as we recognize today, again, some in the Arab world are calling for using oil as a weapon against this country. They do this at the same time they use the hard currency revenues from our dependence on their oil to fund homicide bombers and state-supported terrorism.

We must protect ourselves, and the tax title in the bill would help to slightly rectify this by providing incentives for marginal oil production, and heavy oil production as well, which would decrease our dependence on imported oil.

In the area of natural gas, we do have a provision dealing with the Alaskan natural gas pipeline and the underlying provisions in the development of that gas. The majority has indicated they recognize this is a provision that would create somewhere in the area of 400,000 jobs. However, as it currently stands, the provision would not create one job if cloture is invoked.

So without any real economic security, the project, of course, may not become a reality. I am sure we are all aware of this, but I certainly cannot agree to have moved this position this far and not see it completed.

In the interest of moving forward—I know the majority leader wants to move forward, and the minority leader as well. I understand that amendments involving the death and estate tax complicated the efforts. Certainly, cloture would end that provision. However, I think there is a better way. I propose we try to enter into a unanimous consent agreement—I understand there has been a shot at it now—that would limit the number of remaining amendments to be debated on energy-related amendments and limit that number by first-degree amendments. These would be specific amendments so the issue of germaneness would not come up.

If we are able to get such an agreement, I believe we could be off this bill by the end of the week. I would certainly be willing to work toward that end. Of course, it is not going to be an easy task. We still have the divisive issues of climate change to deal with, but I think it is possible to do that.

My purpose is to pledge my support to improve the legislation before us and get a bill to the President as soon as possible. I urge my colleagues to recognize the weight of the task before us to push aside some of the personal agendas and do what is right for the Nation, and that is to adopt an energy policy as developed in this bill by an amendment process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

GLOBAL WARMING

Mr. CARPER. Madam President, today marks, I believe, the 6th week during which we have been debating the energy legislation that is before us. In my own view, among the bills we will debate and discuss and vote on this year in this Chamber, few, if any, are as or more important.

I am encouraged there is a growing likelihood we actually may vote on cloture and begin to reduce the scope of the amendments and the amount of time that remains for this critical debate, to get to final passage, and hopefully to enter a conference with the House and provide a compromise the President can sign into law.

It is in our naked self-interest as a nation to finish our work and to do so with some dispatch. We have heard countless times about our growing dependence on foreign sources of oil, which is now approaching 60 percent. We have heard concerns from a number of Members related to the trade deficit our Nation continues to run, a trade deficit that exceeded $400 billion last year and roughly a third of which is attributable to the oil we import.

I will take the next few minutes and share one other reason why we should feel a sense of urgency in passing this legislation and attempting to finalize a compromise with the House and the administration. That deals with what is happening in the atmosphere of our Earth: global warming.

This past Saturday, in Wilmington, DE, the annual Commonwealth Awards were bestowed upon a variety of some of the most famous, remarkable people in the world. Among the people who received the Commonwealth this past weekend were a husband and wife team who are researchers who work out of Ohio State University in Columbus, OH. Their names are Dr. Lonnie Thompson and Dr. Ellen Mosley-Thompson.

I ask unanimous consent the full statement of Calvert A. Morgan, who presided at that event, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Remarks of Calvert A. Morgan

The issue of global warming has been vigorously debated for the past two decades. Is the climate on Earth getting dangerously warmer, and if so, is modern-day air pollution to blame? While many have exchanged rhetoric on the matter, two American researchers have trekked to the world's remote ice fields to dig for answers.

Dr. Lonnie Thompson and Dr. Ellen Mosley-Thompson are husband-and-wife collaborators who study climate change and global warming. They have spent the past 25 years collecting and analyzing ice cores extracted from glaciers on the five continents.

Their research has yielded a remarkable and priceless archive of the earth's ancient climate.

What's more, their findings offer some of the most convincing evidence yet that global warming is real, and human activity is a contributing factor.

For their work in deciphering the Earth's frozen history and its implications for our future, PNC honors these world-class scientists with the 2002 Common Wealth Award for Science and Invention.

The Thompsons conduct their work at the Byrd Polar Research Center at Ohio State University.

Dr. Lonnie Thompson is a professor of geological sciences. He has led some 40 international expeditions to collect ice cores from the mountains of Africa, South America and Asia. Dr. Mosley-Thompson is a professor of geography. She has led similar field programs to Greenland and Antarctica.

To understand the earth's past and present climate, our honorees and their research teams analyze the chemical and physical properties preserved in ice cores.

Lonnie Thompson's research is unique because it focuses on the ice fields of the tropics and sub-tropics instead of polar ice. He believes the hottest part of the globe is crucial to understanding global warming. Tropical glaciers, he says, are "the most sensitive spots on Earth" and serve as "an indicator of the massive changes taking place" in today's global climate.

But to find ice in the tropics, you have to climb pretty high. The physical and logistical challenges of this high-altitude research are staggering. First, there's the climb to a nearly inaccessible mountaintop with about six tons of equipment in tow.

Once the team gets to the expedition site, the challenges continue. Equipment maneuvers over crevasses, the danger of avalanches, frigid temperatures, thin air and frequent windstorms are all part of a day's work.

While six tons of equipment go up the mountain, 10 tons come back down when you add four tons of ice samples. Dr. Thompson has experimented with bringing the ice down in his hot air balloon, the Soaring Penguin. Most often, however, each core sample is carried by hand in an insulated box and brought back to laboratories at Ohio State University for analysis.

For our honorees, the thrill of discovery far outweighs the occupational hazards. For instance, a 1,000-foot-long ice core, drilled from the Tibetan Plateau, reveals China's climate history for the last 130,000 years. An ice core record of this length from the subtopics is unprecedented.

New cores from two sites in central and southern Tibet reveal that the past 50 years have been the warmest in the last 10,000 years in that part of the world.

Using two decades of ice core data and aerial mapping, the Thompsons offer proof that the world's tropical glaciers are melting faster and faster as the years pass.

The icecap on Mount Kilimanjaro, Africa's highest peak, has lost 82 percent of its area since it was first mapped in 1912. One-third of the area has disappeared just since 1989.

Based on this dramatic evidence, Lonnie Thompson predicts that the snow cap of this storied mountain will be gone by 2020. He says the same fate awaits other mountain ice caps in Peru and around the world. These vanishing glaciers "will have a massive effect on humanity," he says, posing an urgent natural and economic threat around the globe.

The Thompsons believe that it is already too late to save the tropical glaciers. Now, they race against time, gathering more core samples before Earth's frozen history is lost forever.

Ladies and gentlemen, please join me in showing our esteem to these dedicated and courageous scientist, Dr. Lonnie Thompson and Dr. Ellen Mosley-Thompson, winners of the 2002 Common Wealth Award for Science and Invention.

Mr. CARPER. I would like to share some excerpts of it today during my own remarks:

The issue of global warming has been vigorously debated for the past two decades. Is the climate on Earth getting dangerously warmer, and if so, is modern-day air pollution to blame? While many have exchanged rhetoric on the matter, two American researchers have trekked to the world's remote ice fields to dig for answers.

Dr. Lonnie Thompson and Dr. Ellen Mosley-Thompson are husband-and-wife collaborators who study climate change and global warming. They have spent the past 25 years collecting and analyzing ice cores extracted from glaciers on the five continents.

Their research has yielded a remarkable and priceless archive of the earth's ancient climate.

What's more, their findings offer some of the most convincing evidence yet that global warming is real, and human activity is a contributing factor. . . .

Dr. Lonnie Thompson is a professor of geological sciences. He has led some 40 international expeditions to collect ice cores from the mountains of Africa, South America and Asia. His wife, Dr. Mosley-Thompson, is a professor of geography. She has led similar field programs to Greenland and Antarctica.

To understand the Earth's past and present climate, our honorees and their research teams analyze the chemical and physical properties preserved in ice cores.

Lonnie Thompson's research is unique because it focuses on the ice fields of the tropics and sub-tropics instead of polar ice. He believes the hottest part of the globe is crucial to understanding global warming. Tropical glaciers, he says, are "the most sensitive spots on Earth" and serve as "an indicator of the massive changes taking place" in today's global climate.

Cores have been drawn from mountain tops from throughout the world.

New cores from two sites in central and southern Tibet reveal that the past 50 years have been the warmest in the last 10,000 years in that part of the world.

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I think it is important, as we come to the end of the debate on this energy bill, to remind ourselves that, yes, indeed, we import entirely too much oil from around the world from people who do not like us, in some cases, and who, I am convinced, use the resources we send to them to hurt us. I think it is important that we remind ourselves of the economic trouble we create for America by a growing trade deficit, a third of which is attributable to our dependence on foreign oil, on imported oil.

Lost in this discussion are the points that Drs. Thompson have made, of which we were reminded in Delaware just this last Saturday; that is, there is global warming. The climate of the Earth has changed and is changing more rapidly as time goes by. Fully one-quarter of the carbon dioxide that we put into the air comes from the cars, trucks, and vans we drive.

As we prepare to approach the end of this debate, I hope we will not only have done something to reduce our reliance on foreign oil, not only done something to reduce our growing trade deficit, but that we will have taken affirmative steps to reduce the amount of carbon dioxide we are putting into our atmosphere, that literally is destroying the icecaps of Mount Kilimanjaro and any number of other mountains throughout our tropics and subtropics.

I used to think global warming was a figment of somebody's imagination. I don't see how any of us anymore can say that is the case. It is real. It is here. It is imminent. It is something we can do something about, and we need to do that in the context of this energy bill. I hope we will.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Before the Senator from Delaware leaves the floor, I would like to say, the Senator from Delaware and I came here from the House of Representatives together in 1982. The Senator has always been very studious. What I mean by that is that legislation is something he reviews and studies and I am sure worries about. This legislation now before the Senate is no different.

The Senator from Delaware is concerned, as he has indicated, with the need for an energy bill. We had a vote on an issue that is of extreme importance to the country. It did not go the way a lot of us believed it should. The

Senator from Delaware is coming back at such time as I hope he can offer this amendment, with something on which he has spent hours and days, coming up with something that is reasonable and will meet many of the goals that need to be met, allowing the United States to become less dependent on production.

I say to my friend from Delaware, I am very glad he is in the Senate. He has brought to the Senate the same style that he had in the House of Representatives and, I am sure, to the office of Governor, although I am not as aware of his work as a two-term Governor of the State of Delaware. But he has brought, really, a fine dimension to the Senate. I am proud of the work he has done, as should be the people of Delaware.

Mr. CARPER. If the Senator will yield, I say to my friend, our assistant majority leader, those words mean more than you know. I have been called any number of things as Governor, as a Member of Congress, and as a Member of the Senate, and studious is one of the kinder and more generous.

It is an honor to work with the Senator. I thank him for his leadership.

The PRESIDING OFFICER. Who yields time? Who seeks recognition?

Mr. CARPER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

Mr. BAUCUS. Madam President, I ask unanimous consent that the Senate go into legislative session and that the energy bill be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Submitted amendment N. 3274, as modified is as follows:

The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security.

Reid amendment No. 3145 (to amendment No. 3008), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BAUCUS. Madam President, I appreciate the recognition. If no further statements are to be made at this time, I yield the floor.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 8

Mr. DASCHLE. Madam President, throughout the morning we have attempted to find ways to move the process along. I thank a number of Senators on both sides of the aisle for their cooperation. We are at a point now where procedurally I think we are in a position to move forward. We will make a unanimous consent request following this one having to do with amendments to the energy bill. But that is a separate matter. This has primarily to do with the question of estate taxes.

I ask unanimous consent that when the Senate considers Calendar No. 33, H.R. 8, the estate tax bill, no later than June 28, the only amendments in order are as follows:

Senator GRAMM of Texas, an estate tax amendment; the majority leader, or his designee, an estate tax amendment which shall be subject to two second-degree amendments to be offered by Senator DASCHLE, or his designee, with Senator DASCHLE's amendment being the first one offered; that all of the above amendments deal solely with the subject of estate tax; that all of the above estate tax amendments be subject to a 60-vote Budget Act point of order and that no other amendments or motions be in order to the bill, except motions to waive the Budget Act; and that if any of the above amendments, after each has had its motion to waive vote, is adopted, the bill be read a third time and the Senate vote on final passage of the bill without any intervening action or debate, and that if none of the amendments achieve 60 votes to waive the Budget Act, the bill be placed back on the calendar; further, that there be 2 hours for debate on each of the above amendments equally divided in the usual form; further, that upon the granting of this consent, Senator BAUCUS be recognized to offer the Baucus-Grassley Finance Committee tax amendment to the energy bill, and that the amendment be agreed to and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DASCHLE. Madam President, let me just say, it is the intention of Senator LOTT and me to offer the unanimous consent request shortly which would make in order a number of amendments pertaining to the energy bill that, hopefully, will bring us to closure.

What we have done in this case is simply agree to a debate on the estate tax legislation sometime prior to June 28. Senators will have an opportunity to debate the estate tax bill. I know there is a great deal of interest on both sides of the aisle.

We will also now entertain the Baucus amendment as it relates to the tax provisions of the energy bill. All Senators, of course, still retain their right to offer amendments on taxes prior to cloture.

Madam President, I yield the floor and thank all of my colleagues for their cooperation.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENT NO. 3286 TO AMENDMENT NO. 2917

(Purpose: To provide energy tax incentives)

The PRESIDING OFFICER. Under the previous order, the pending amendments are set aside.

The clerk will report the Baucus amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN, proposes an amendment numbered 3286.

(The text of the amendment is printed in the RECORD of Monday, April 22, under "Text of Amendments.")

Mr. BAUCUS. Madam President, this amendment consists of the energy tax incentives reported by the Finance Committee.

Let me explain why this amendment is necessary.

The short term energy crisis has ended. But the long term problem has not.

Earlier this year, at a House hearing, Energy Secretary Abraham summed up the energy situation. He said that "Over the last 12 months we have seen energy supply shortages, natural gas and gasoline price spikes in the Midwest and California, and terrorist attacks within our borders."

He was right on target. His words emphasize that energy independence matters. It matters to our economy, to our national security, and to the well-being of average American families.

Take one example. Gas prices.

Remember last summer. The price was $1.70 per gallon. A record high.

Just 6 weeks ago, the national average retail price for gasoline was $1.14 per gallon.

Since then, gas prices have climbed again. Today, the national average price is back up to $1.42 per gallon.

Over the past several years, prices have been extremely volatile.

This volatility has had a sharp economic effect, disrupting businesses and lives.

Here is why. The difference between $1.14 per gallon and $1.70 per gallon is 56 cents per gallon.

The average household uses about 1,100 gallons of automobile gasoline a year. All else being equal, that amounts to a swing in household fuel expenditures of more than $600, just for transportation.

That is like a $600 tax increase, on every American family.

For a small business, the economic impact of these price swings can be even worse.

And the situation is not likely to improve anytime soon.

Between now and 2020, worldwide demand for oil is projected to increase from 76 million barrels a day to nearly 120 million barrels per day. That's an increase of almost 60 percent.

Clearly, the more we depend on only one source of energy, the more we are subject to price fluctuations.

With that background, let's turn to the legislation.

The chairman of the Energy Committee, Senator BINGAMAN, has designed the underlying energy legislation that is the basis for our energy policy.

Now why should tax incentives be part of the bill?

The use of tax incentives to promote energy development is not some radical new idea. From the time of the enactment of the income tax in 1916, we have had tax incentives for the production of oil and gas.

In 1978, we went further. We created the first tax incentives for renewable fuels and for conservation.

These incentives were effective. Last July, at a Finance Committee hearing, economist Kevin Hassett told the committee that the tax credits "were fairly successful at stimulating conservation activity." More specifically, he found that "a 10 percentage point credit would likely increase the probability of investing [in conservation] by about 24 percent."

The Finance Committee amendment takes this experience to heart. We use targeted tax incentives to promote investments that are critical to energy independence.

We do this in three important ways. First, we create incentives for new production, especially production from important renewable sources.

Second, we create incentives for the development of new technology.

Third, we create incentives for energy conservation.

Let me explain each in turn.

First, new production. Regardless of the source, total U.S. energy production directly affects our dependence on foreign sources of energy.

If U.S. production rises, while consumption remains constant or falls, we become less reliant on foreign energy. Unfortunately, the opposite is expected to occur.

Through 2020, energy consumption is projected to increase more rapidly than domestic production. If that happens, our reliance on foreign energy—shown on the chart as "net imports" of energy—will increase accordingly.

Here is how we address the problem.

We extend the wind and biomass credit for an additional 5 years. We also qualify many more sources as renewable fuel sources, including geothermal, solar, plant life, and other sources.

We create incentives for clean coal. If you retrofit to use currently available clean coal technology, you are eligible for a production tax credit. If you use advanced technology, you're eligible for both an investment credit and a production credit.

We create a new credit for oil and gas production from marginal wells, and a limited tax break for geological and geophysical expenditures.

Each of these tax incentives will encourage more energy production, from a variety of renewable and traditional sources.

Let me turn to the second key element of the bill. New technology.

Think big. Thing new. Think way into the future.

New technology can bring both energy independence and a cleaner environment.

Before long, our cars and trucks will run on electricity, new and alternative fuels, and fuel cells. And maybe someday, when we get home from work, we'll plug our fuel cell automobiles in to generate the electricity for our homes.

But, we need to make investments in these technologies today. History tells us it can take a very long time to deploy new technology. The first commercial telephone service was offered in 1876, but it took more than 90 years to make the service available to 90 percent of residences in the United States.

It would be a shame if it takes half that time to bring these promising new technology vehicles to market.

So, here is what we do.

We create tax credits for the purchase of new technology vehicles. These vehicles of the future. They'll be powered by alternative fuels, by fuel cells, and by electricity.

In the near term, we provide tax credits for the purchase of hybrid vehicles, which run partly on electricity and partly on gasoline.

What is so great about these vehicles?

For starters, fuel cell and electric vehicles are zero-emissions vehicles. In the meantime, hybrid and alternative fuel vehicles can speed us toward the development of these zero emissions vehicles.

On top of that, when it comes to emissions and fuel economy, these vehicles have significant advantages compared to traditional fuel vehicles.

To make sure of this, we provide tax credits only to vehicles that meet very stringent emissions standards.

There's a related point. New vehicles require new fuels. And it takes new infrastructure to deliver these fuels. Therefore, we provide tax incentives for the installation of new refueling station technology and for the purchase of alternative fuels.

All told, these investments in new technology will transform automotive transportation in the United States, so that it is cleaner, more fuel efficient, and less reliant on imported oil.

The third key element of the bill is conservation.

Conservation is the only way to solve the problem of excessive dependence on foreign imports. When we increase conservation, it has the same effect as if we reduce consumption. We see that this will lessen our reliance on foreign sources of energy.

Conservation also will have positive environmental effects. Namely, cleaner aid.

Perhaps most important, tax investments in energy conservation will reduce monthly energy bills.

How do we accomplish this?

We create incentives for people to get more complete energy consumption information with devices like the smart meter, which allows people to track energy use in their homes.

We create incentives for people to buy energy efficient refrigerators, air conditioners, and other appliances.

And we encourage energy efficient construction, to make homes and commercial buildings more energy efficient.

Those are the three key elements of the bill. New production, new technology, and conservation.

We also address several other issues. Perhaps the most important is electric utility restructuring. This is important for investor owned utilities, municipal utilities, and cooperatives. And, of course, for consumers.

But, there is a lot of uncertainty. We all remember the rolling blackouts in California. Many other States also have been affected. In Montana, the legislature has had to delay the implementation of a law calling for retail choice, because the State does not yet have a competitive market in place.

There is similar uncertainty in other states and nationwide.

To my mind, we don't yet know what a restructured electric industry will look like.

In light of this, the amendment tells the Treasury Department to report back to us by the end of the year on restructuring and the tax issues it raises. The study will help us make the right decisions to address future issues raised by restructuring.

Senators BINGAMAN and MURKOWSKI may wish to go further, as part of this bill, and Senator GRASSLEY and I are discussing options with them now.

At the same time, there are some current problems, that we do know how to address.

The amendment does so with respect to nuclear decommissioning funds and the treatment of cooperatives.

Before closing, I'd like to acknowledge all of those who helped write the Finance Committee bill.

The President's budget called for tax incentives for renewable resources, residential solar systems, alternative fuel vehicles, and combined head and power systems.

Those are included.

Our committee members have also made very important contributions.

Our ranking member, Senator GRASSLEY, has worked hard to make this a balanced, bipartisan bill.

Senator HATCH and others were the principal authors of the alternative fuels provisions.

Senator ROCKEFELLER was the principal author of the clean coal provisions. Other Members were responsible for other important provisions.

I also appreciate the help of the leaders of the Energy Committee, Senators BINGAMAN and MURKOWSKI. We are lucky that they also are members of the Finance Committee, and we benefited from their expertise and dedication.

In other words, this has been a cooperative effort, all around.

Pulling this together, we have a package of tax incentives that are important in their own right and that will complement the broader energy bill.

In short, this amendment is good environmental policy and good energy policy.

Don't get me wrong. This bill is not a panacea. It is a work in progress. It is just a step. But it is a good step. A step in the right direction.

I thank members and urge adoption of the amendment.

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to and the motion to reconsider is laid upon the table.

The amendment (No. 3286) was agreed to.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, may I ask the Senator from Montana, my understanding is that there is going to be a managers' amendment out of the Finance Committee on the energy tax aspect.

Mr. BAUCUS. The Senator is correct. Given the posture we are in, I assume procedurally that is available at this time. But that is an assumption. I am not positive. That is an assumption. If procedurally that is available, the Senator is correct.

Mr. MURKOWSKI. Well, I would like to have some assurance that we will have an opportunity for input in the managers' amendment before I would agree to a unanimous consent which I assume will be forthcoming. The Senator from Montana has not proposed a unanimous consent, he has just proposed this; is that correct?

Mr. BAUCUS. In answer to the Senator, the Finance Committee tax incentives are now part of the energy bill. The Senate has adopted them. They are in the bill now. I am not at this point attempting to seek a UC request.

Mr. MURKOWSKI. Well, it would be my hope we could work to——

Mr. BAUCUS. I understand. I have been working with the Senator and with the distinguished chairman of the committee to try to figure out what appropriately could be put in that package.

Mr. MURKOWSKI. It would appear, Madam President, it would be a combination of either specifically identified amendments that could be agreed upon or we would have to address the issue of germaneness. If I have the assurance of the chairman of the Finance Committee that he is willing to work with us on that aspect, I would be satisfied.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, might I inquire of the Senator from Montana, it is the Senator's intention that the Finance Committee version—not a modified version of that—be offered for inclusion in the underlying bill; is that correct?

Mr. BAUCUS. I say to my good friend, the Senate has already adopted the measure that passed the Finance Committee. That is now an adopted amendment and now part of the energy bill.

Mr. KYL. The reason I ask is, there was some confusion at the desk as to which version the Senator was offering.

Mr. BAUCUS. That is correct.

Mr. KYL. Since there was not an amendment pending at the desk.

Mr. BAUCUS. The two versions at the desk were identical.

Mr. KYL. I thank the Senator.

Mr. MURKOWSKI. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The majority leader.

Mr. DASCHLE. Madam President, I want to just announce that we will be offering a unanimous consent request shortly that would propose that we limit the number of amendments to be taken post cloture to a certain number. I believe we are going to suggest seven on a side. But let me say, with or without that unanimous consent request, post cloture, Senators would still be eligible to offer amendments having to do with certain tax provisions or any other provisions of the bill.

What we are simply trying to do is to find a way, at long last, to bring this bill to closure. I remind my colleagues that I laid this bill down on February 15. It is now April 23, and the only way we are going to bring this to conclusion so that we can move to other legislation is to either get this unanimous consent request that Senator LOTT and I are about to propound or cloture.

So I ask my colleagues for their cooperation in this regard. And failing the unanimous consent, as my colleagues may note, I have moved the cloture vote to 2:30 this afternoon. So one or the other will occur. Either we will get a UC or we will have a vote on cloture at 2:30 this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, I appreciate the work we have been able to do to try to get a reasonable agreement as to how to proceed on the death tax matter. I think the agreement just entered is fair to all sides.

Also, I think it is very important that we have the tax section as a part of our energy package, when it is completed, because many of the important incentives to get more production and to find alternative fuels and develop new technologies—whether it is hybrid cells or whatever it may be—are in that section. We have almost $15 billion that came out of the Finance Committee unanimously, as I recall. So that needed to be included. The fact that it is included is a very important recognition that work has been done by Senator GRASSLEY, Senator BAUCUS, and others.

With regard to the unanimous consent request we are going to propound to limit the number of amendments and get to passage by a time certain, I also think that is the right thing to do. There may be many amendments that are out there, but we could not get an agreed-to number. I know we can accept a limited number of five or seven, whatever that number may be. Also, we are prepared to make a commitment to get final passage on this legislation no later than Thursday at 6 o'clock. I think that is the responsible thing to do. I support that. And Senator DASCHLE and I have been working for the last 24 hours to try to come to that agreement.

It is time we bring consideration of this bill to a conclusion. We have had a full debate, lots of amendments. I am sure nobody is perfectly happy with it, but to have expended over 5 weeks and then not be able to bring this to conclusion, would be disastrous for our country, and the Senate would look very bad.

So I hope we come to an agreement on how to get a vote on this legislation, complete action, and send it to conference for final activity.

With that, I yield the floor, Madam President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. DASCHLE. Madam President, yesterday was the 1:30 p.m. filing deadline. The Baucus-Grassley amendment was not part of the substitute then so people couldn't draft amendments to that section. To be fair, I ask unanimous consent that Members have until 1 p.m. tomorrow to file first-degree amendments to the Baucus-Grassley title and that Members have until 10 a.m. Thursday to file possible second-degree amendments to those amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I have noted on a couple of occasions this morning that it was our intention, in close consultation with the distinguished Republican leader, to see if we might find a way to bring closure to the bill, either with or without cloture. But I ask unanimous consent that immediately following cloture, notwithstanding the cloture vote, and notwithstanding the provisions of rule XXII, the Senate resume consideration of the energy bill with the opportunity of each leader or his designee to offer seven amendments which are either energy or tax related.

The PRESIDING OFFICER. Is there objection?

The Republican leader.

Mr. LOTT. Reserving the right to object, and I will not object, I want to say again, this is the right way to proceed. We have been on this legislation for 5 weeks. We have had a full debate. Senators on both sides of the aisle have had opportunities to offer their amendments. This will give us seven more opportunities on each side. We will have to get a limit. We will have to have a process, which will not be easy for either one of us. But we have discussed this in our caucus. We are prepared to accept the limitation. This would also be the process that would get us to a conclusion by, I believe, Thursday or Friday, at the latest, of this week.

I support this initiative, and it is a bipartisan effort. I thank Senator DASCHLE for making the request. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

The Senator from California.

Mrs. FEINSTEIN. Madam President, reserving the right to object, I would like to ask the majority leader if three amendments would be considered among his amendments. The first would be Senator SCHUMER's amendment to remove the ethanol mandate, the renewable fuels mandate from the bill; second would be Senator BOXER's amendment to remove the safe harbor provisions relating to liability; and the third would be my amendment to remove PADDs I and PADDs V from the renewable fuels requirement.

Mr. DASCHLE. Madam President, I certainly want to work with the distinguished Senator from California to accommodate her and other Senators who wish to be heard on the ethanol question. I know this is a very important matter for them. At this point, I would not be able to confirm that three of those seven amendments would be related to ethanol, although I would not want to assume that they would not be part of it.

I think we would want to negotiate with all of our colleagues to accommodate as many Senators with an interest in offering amendments as possible. Keep in mind, as I said earlier, this is in addition to, cloture notwithstanding. Those amendments that are eligible to be offered postcloture, we anticipate they would still be offered. It could be, and I would guess most likely would be, the case that one or more of those amendments would be able to be offered without the inclusion in this unanimous consent request.

Mrs. FEINSTEIN. In response to the majority leader, if I may, Madam President, we do not know at this time whether they would all be germane under the bill. Based on the fact that the majority leader is only reserving seven spaces and will not permit three spaces for this, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Madam President, I had a commitment to offer an amendment to the energy bill dealing with the right of the Eskimo people of Alaska to proceed with oil and gas development on their lands. This weekend I conferred with them and their representatives, and they would prefer not to raise that issue at this time and to allow the process to go forward in terms of the energy bill and in terms of their rights which they may wish to raise at another time but do not wish to have me raise at this time.

Under the circumstances, I want the manager of the bill to know we will not offer the amendment that would permit drilling on the lands in the Kaktovik area that are owned by the Kaktovik Eskimos, and the subsurface rights owned by the North Slope Borough. I believe the decision is a right one, and I am going to honor their request not to introduce the amendment at this time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate recess begin now rather than at 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

The PRESIDING OFFICER. The Senator from Nevada.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

MODIFICATION OF SUBMITTED AMENDMENT NO. 3274

Mr. REID. Mr. President, Senator LANDRIEU has timely filed an amendment, No. 3274, but there was a typographical error on page 2, I am told. This has been reviewed by the minority, and they have no problem with our doing this. I ask consent this be allowed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Submitted amendment No. 3274, as modified is as follows:

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

AMENDMENT NO. 3257 TO AMENDMENT NO. 2917, AS MODIFIED

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that amendment No. 3257 be modified with the change that is at the desk, the amendment be agreed to, and the motion to reconsider be laid upon the table.

Mr. REID. Mr. President, this has been cleared by Senator BINGAMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3257), as modified, is as follows:

At the appropriate place insert the following

SEC. . CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of sub-chapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ALASKA NATURAL GAS.

"(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gal entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

"(A) $3.25, over

"(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(g)(1)' for '1990').

"(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State of Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

"(d) RECAPTURE.—

"(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser or—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

"(2) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude for the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph: "(24) the Alaska natural gas credit determined under section 45M(a).".

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle/Bingaman substitute amendment No. 2917 for Calendar No. 65, S. 517, a bill to authorize funding for the Department of Energy and for other purposes:

Jeff Bingaman, Jean Carnahan, Edward Kennedy, Patty Murray, Mary Landrieu, Byron L. Dorgan, Robert Torricelli, Bill Nelson, John Breaux, Tom Carper, Tim Johnson, Hillary R. Clinton, Jon Corzine, John Rockefeller, Daniel Inouye, Max Baucus, Harry Reid, Maria Cantwell.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 2917 to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The yeas and nays resulted—yeas 86, nays 13, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—86

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carnahan
Carper
Chafee
Cleland
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone

NAYS—13

Boxer
Cantwell
Clinton
Feingold
Feinstein
Graham
Kyl
McCain
Murray
Reed
Schumer
Stabenow
Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 86, the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 3030 TO AMENDMENT NO. 2917

Mr. SCHUMER. Mr. President, I ask unanimous consent that the amendment now pending be laid aside, and I call up amendment No. 3030 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I further ask unanimous consent that following debate on the amendment, the Senate proceed to a rollcall vote on the amendment.

Mr. LOTT. I object.

Mr. SCHUMER. I withdraw that request.

The PRESIDING OFFICER. The request is withdrawn.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3030 to amendment No. 2917.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the section establishing a renewable fuel content requirement for motor vehicle fuel)

Beginning on page 186, strike line 9 and all that follows through page 205, line 8.

On page 236, strike lines 7 through 9 and insert the following:

is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

"(o) ANALYSES OF MOTOR VEHICLE FUEL CHANGES".

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this is an amendment on which we have had some discussion. It is the amendment to strike the ethanol mandate, the ethanol gas tax, from the energy bill.

Once again, I want to let my colleagues know how much I understand those who are for this amendment, their desire to do it, and I particularly want to let people know how much I respect our majority leader, TOM DASCHLE, and how painful it is for me to oppose him on something about which I know he cares very much.

He is a principled, compassionate, and an extraordinary public servant. He is a friend to the people of my State and the whole country, and I thought long and hard about this but felt compelled to speak out about it.

The ethanol mandate in this bill is something we have not seen in many years. It is one of those provisions that sort of starts out quietly, sometimes passes this body and the other body, and becomes law. There are these types of provisions that come up every so often without much debate, and then a year or two later there is an outcry in the Nation. We all come back and say to one another: How the heck did this thing pass? How did it pass with so little debate? How did it pass with such detrimental requirements to such a large percentage of our population?

It happened on the catastrophic illness bill about 10 years ago. It happened on the S&L bill about 20 years ago when we allowed S&Ls to take people's hard-earned money and invest it in almost anything they wanted. Each of these amendments, as this one, has the potential to sort of breeze right through the legislative process, be signed into law because it seems all the special interests that want it are lined up behind it, and only after it becomes law is there a public outcry. I believe that will happen with this amendment, and I ask my colleagues to be very careful before they vote for it because what this mandate provision does, above all, by requiring that every State use ethanol or buy ethanol credits for their gasoline, whether they need it or not, is it will raise gasoline prices. It is like a gas tax in every State of the Union, a minimum of 4 cents to 10 cents, and probably at certain times much more than that.

If we look at the States, those on the east coast and the west coast are more affected—I have a chart with maps—and even States in the heartland will be affected as well.

Why are we doing this? We know we want to keep the air clean, but the refiners tell us ethanol is not the only way to proceed. Many environmental leaders say ethanol is at best a neutral proposition; it sometimes will reduce carbon in the air but will increase smog. At the same time, we are saying as to those additives that cause trouble and might pollute the ground, you cannot sue those who put them there.

This provision is a combination. It is almost a bewitching brew of cats and dogs that leads to trouble for the American people.

I have gone over in my previous talks what this amendment does and why it has come about, but let me say that every one of us wants to see the air clean, every one of us wants to see no backsliding in the clean air provisions, and every one of us believes there are a number of ways to do it. In some States in the Middle West, ethanol is probably the best way to do it, but in many States on the coasts, in the heartland, and in the Rocky Mountain areas, ethanol is more expensive, less environmentally useful, and a needless mandate.

Let me again read the names of some of the States where the price of gasoline will go up a lot. This is a study that is conservative and that does not deal with spikes. In Arizona, it will go up 7.6 cents; in California, 9.6 cents; in Connecticut, 9.7 cents; Delaware, 9.7; Illinois, 7.3; Kentucky, 5.4; Maryland, 9.1 cents; Massachusetts, 9.7 cents; Missouri, 5.6 cents; New Hampshire, 8.4 cents; New Jersey, 9.1 cents; New York, 7.1 cents; Pennsylvania, 5.5 cents; Rhode Island, 9.7 cents; Texas, 5.7 cents; Virginia, 7.2 cents; Wisconsin, 5.5 cents; and in all the other States it goes up 4 cents.

Some of our colleagues say this is necessary in the Middle West. They tried to pass a mandate in Nebraska and in Iowa. In both cases it was defeated. The legislative bodies of those States, which will do a lot better under ethanol mandates than New York, California, Texas or Florida, defeated it, and yet we have the temerity to impose it on every State in the Union.

Many of my colleagues on the other side advocate free market policies. I have rarely seen a greater deviation from free market policies than this proposal. As somebody said to me, first the Government subsidizes ethanol and then mandates that everybody use it. That sounds more like something out of the Soviet Union than out of the United States of America.

I, too, want to help corn farmers, and my voting record shows it, but this is going to be trickle down for the farmers. As we have mentioned before, Archer Daniels Midland controls 41 percent of the ethanol market. If the mandate is tripled, which is what we do, there will be price spikes and somebody with monopoly power—as has Archer Daniels Midland or Coke—will be able to raise the prices through the roof. Remember the California electricity crisis where someone had a virtual monopoly on a necessity? They raised the price. That is what is going to happen if we pass this ethanol mandate.

I am going to yield for a few minutes and let my colleague from California join in. But the bottom line is simple: There are better ways to clean the air for most parts of the country. This is expensive, it is a mandate, it will raise our gasoline prices, and it is so antithetical to free market policies, I find it hard to believe we are going to pass it.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CARPER). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment of Senator SCHUMER, which is to remove the so-called renewable fuels part of the energy bill.

I am a member of the Energy Committee. You can imagine my consternation when I find a bill that is put together in the dark of night with this renewable fuels requirement that has had no hearing, no comment, no opportunity for the Energy Committee to take a good look at it.

This is a bill that adds to a subsidy of 53 cents a gallon on ethanol under existing law, it mandates a tripling of the ethanol use in the next 10 years throughout the Nation, this is in addition to protective tariffs of 54 cents a gallon in existing law, so no nation that might be able to produce it more cheaply has no chance of exporting it economically into the United States. It is protect, protect, protect.

It has been said that this is a massive transfer of wealth out of some States into other States. I deeply believe all of that is true.

Only 1.77 billion gallons of ethanol were produced in 2001. The Senate bill requires 5 billion gallons by 2012. Alone, California, the largest State in the Union, is forced to use 2.68 billion gallons of ethanol it does not need. It doesn't need this ethanol to clean the air because California has reformulated fuel and can meet the clean air standards at all times except for winter months in the southern California-Los Angeles market. Then it uses ethanol.

This chart very clearly indicates the situation. I have shown this before. Here, the blue is what my State would use of ethanol to meet clean air standards. This is what this mandate requires that the State either use or pay for. That is not good public policy. It is not good public policy because the State doesn't need it.

Additionally, the California Energy Commission has said this action will create a 5-percent to 10-percent shortfall in California's gasoline—a 5-percent to 10-percent shortfall.

Our refiners are at 98 percent of capacity, so how do we refine enough gasoline to meet the need? We do not. This means a gas tax.

It is estimated by some that it could even lead to gas prices of $4 per gallon. Senator SCHUMER has said it is 10 cents a gallon additional for California, New York and other States. If you put two tankfuls in your car a week, figure out what that costs in terms of an additional tax that every motorist will be paying.

Since 98 percent of the ethanol production is based in the Midwest, States outside the Corn Belt have severe infrastructure and ethanol supply problems. This is the reason we do: You cannot put ethanol in a pipeline. You have to barge it, truck it, or rail it in. We will have to rail in 2.68 billion gallons of ethanol that California does not need. The infrastructure is not presently there for it.

We have talked about the high market concentration, the fact that one company controls 41 percent of the ethanol production and that eight companies together control 71 percent. Some articles have been written said this is what creates a massive transfer of wealth: 70 percent of the dividends in this package go to the ethanol producers; only 30 percent go to the actual corn farmers.

Ethanol also has a mixed environmental impact. Let me tell you why. Ethanol helps retard carbon monoxide, but ethanol also produces more nitrogen oxide emissions. So the NO_X, which produces smog pollution, is actually greater as a product of ethanol.

In a State like California that has been very concerned about pollution, this is only going to do one thing: it is going to increase smog in the State of California.

Additionally, ethanol enables the separation of the components of gasoline; therefore, benzene, for example, which is in gasoline and which is carcinogenic, can separate from gasoline. So if there is a leak, then benzene is one of the additives that leaks. All of the reports say it enables gasoline leaks to travel farther and faster, once it is released.

Important in all of this to those of us who care about transit and highway funding is something that is really interesting. We presently put into the Highway Trust Fund about 18 cents a gallon. Since ethanol is only taxed at 13 cents a gallon the Highway Trust Fund will lose at least $7 billion. So this lessens the highway trust fund for everybody who looks to that fund for dollars for buses, for dollars for highways, for dollars for transportation systems. There will be at least $7 billion less according to CRS.

Let me read what the boilermakers say about that. The International Union of Boilermakers have written:

> Simply put, for each $1 billion the Trust Fund loses, America loses almost 42,000 jobs. . . . And that is a resource we cannot renew. It is our understanding that by mandating the use of ethanol, this legislation is encouraging the market penetration of ethanol, undermining America's infrastructure and America's environment.

The bottom line in this letter is that this ethanol mandate is a dangerous approach and is going to result in dramatic job loss.

Also, ethanol is not necessarily a renewable fuel, despite what everyone says. There are a number of scientific reports that have found it takes more energy to make ethanol than it saves. It actually takes 70 percent more energy to produce ethanol than it saves.

So the bottom line is that this is a bad deal. This deal is even made worse by the fact that despite these environmental considerations, nobody will be able to sue. There is a safe harbor provision, so no one can sue if the environment is damaged or the public health is damaged.

Here we have a bill that on top of the ethanol subsidies, it cuts the highway trust fund, it mandates an increase in the gas tax, and it benefits mainly producers in the Midwest. It is, in my view, a bad addition to this energy bill. Frankly, I think it is so bad that I am very pleased to support Senator SCHUMER's amendment which would remove this renewable fuels requirement from the bill, permit an oxygenate waiver but remove the ethanol from the bill.

I don't quite know how we defeat this. I wish to read from a Wall Street Journal editorial that ran last week:

> If consumers think the federal gas tax is ugly, this new ethanol tax will give them shudders. Moving ethanol to places outside the Midwest involves big shipping fees, or building new capacity. Refiners also face costs in adding ethanol to their products. According to independent consultant Hart Downstream Energy Services, the mandate would cost consumers an extra annual $8.4 billion at the pump the first 5 years. New York and California would see gas prices rise by 7 cents to 10 cents a gallon. . . .
>
> And that doesn't take into account inevitable price spikes. There simply isn't enough

> corn in all of Iowa to meet new ethanol demands. Last year the ethanol industry produced only 1.7 billion gallons. The Daschle mandate would require it to increase production by more than 35 percent in a mere 3 years.
>
> That is a tall order for any industry, much less one that relies on Mother Nature. Some estimates are that a shortage could double gas prices.

Why are we doing this? Why does this bill have to be so greedy? Why does it need to triple ethanol use? Nobody really knows what it does to the environment. Why triple it? How is a good energy bill going to be viewed, if it triples something about which there is great uncertainty and many States don't need to use it? The west coast and the east coast don't have the infrastructure to absorb it, let alone a $7 billion cut in the highway trust fund.

Cut the highway trust fund and Californians are forced to pay higher gas taxes, and have less money to build the roads, highways, and transportation systems they need, let alone cut 300,000 jobs nationwide.

I will admit that the ethanol lobby is a tough lobby. About a year ago, I was trying to negotiate in my office. I invited most of the California refiners, oil companies, the corn growers, and the renewable fuels associations. I thought we had worked out something. Then, the renewable fuels people backed off the table. Now they come back greedy.

What they have done—and let us call a spade a spade—is essentially quieted the refineries by promising them in this bill protection against liability, so that nobody can sue an oil company if the ethanol causes gasoline to separate, as it does, and benzene leaks, and people are adversely impacted. They cannot sue. The gasoline companies—because they told me this—wanted this protection against liability. If they had the protection against liability, they would reluctantly go along with this package.

That is not good energy policy. How is it good energy policy to triple something that has mixed environmental impact, at best? How is it good energy policy to increase gas prices? How is it good energy policy to take $7 billion out of the highway trust fund, cost 300,000 jobs, and cut funding to the transportation system, the highways, and the roads that this country needs? How is that good energy policy?

To mandate a tripling of the fuel, then saying they are credits, but if you do not use them, you pay for them. This is on top of fundamentally protecting the Midwest corn industry by putting a 54-cent-a-gallon tariff on any imported ethanol to keep it out of the country because it might cost the motorists less, how is that good energy policy?

Somebody come and tell me.

California would top the list in the amount of transit dollars lost because of the ethanol mandate. Maybe nobody cares about California, but Senator BOXER and I do.

I would like to reference an article that mentions the big losers.

California is a big loser. It loses $905 million from the highway trust fund over 9 years.

Texas is a big loser. It loses $750 million from the highway trust fund.

New York is a big loser. It loses $493 million that could be used for subways, for buses, and for transit systems.

Pennsylvania is a big loser. It loses $446 million.

Florida is a big loser. It loses $436 million from the highway trust fund.

Illinois: $337 million from the highway trust fund.

Ohio: $336 million from the highway trust fund.

Georgia: $333 million from the highway trust fund.

Michigan: $312 million from the Highway Trust Fund.

And New Jersey, the last State that is a big loser, loses $262 million from the highway trust fund.

Mr. SCHUMER. Mr. President, if the Senator will yield for a question, the Senator is saying that in those States we are going to charge the motorists more, but at the same time, because all roads lead to ethanol, we are going to give them less money for their highway trust fund. So they pay more for gasoline, but, unlike even the gasoline tax that doesn't go to road building, the effect of this amendment is to take money out of road building.

Mr. FEINSTEIN. That is exactly correct, because of the subsidy on ethanol, usually 18 cents a gallon, which goes into the highway trust fund. With ethanol, it drops to 13 cents a gallon. That is a $7 billion take from the highway trust fund over the years of this bill.

Mr. SCHUMER. I thank the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from New York.

How is this a good provision for the energy bill? How does it even justify the rest of the energy bill? I don't think it does.

How can you cost States this enormous amount? How can you force a tripling of ethanol when you don't know all of the environmental effects? How can you force it when you know the effect is increasing NOx which increases smog? How is that good legislation?

It may well be that some ethanol is good. The problem is tripling it. It is forcing ethanol where it isn't needed. It is forcing ethanol with a potential deterrent to health, to the environment, and to the highway trust fund.

I have a dramatic difference of opinion with respect to this bill. I believe that any shortfall in supply, because of manipulation, which we know is possible because just a small number of producers control the market—this is Enron redux; therefore, they will have unusual market control over price—will be exacerbated because the State will be reliant on ethanol coming from another region.

According to a recent report issued by the GAO, 98 percent of ethanol production is located just in the Midwest. I don't have a problem if the Midwest wants to use it; that is fine with me. The problem is as a matter of public policy pushing it here and pushing it there where States don't need it.

As you can see, if you can't pipe it, you have to truck it or barge it or rail it. Where is the infrastructure? How do you get these billions of additional gallons required to California? What if some of the plants aren't built?

With the electricity crisis in California, it is very interesting; there were a number of new electricity generating facilities that were going to come online. The economy dipped. Some of them aren't built. Companies have financial reverses, and they don't build.

What is to say that is not going to happen with ethanol? Who is to say that all of the facilities the ethanol supporters believe will be there will actually be there?

Who is to say there will not be price spikes? Who is going to say there is not going to be an increase in the gas tax? Who is to say we are not going to lose $7 billion from the highway trust fund and that that is not going to result in 300,000 less jobs in this country? How is that good public policy?

I think it is unconscionable public policy. It is selfish public policy. It is parochial public policy to the nth degree.

I must tell you, to me, this ethanol mandate overcomes everything else in the bill because I do not know any driver—California has some of the longest commutes in the Nation. Drivers sometimes fill their tanks three times a week. Some of our drivers travel 2½ hours in the morning and 2½ hours in the evening from the Central Valley to the coast to work.

What does that do to the price of gas? It is a huge tax increase. It would be hundreds of dollars a year at 10 cents a gallon. So nobody should think that you are not voting for a tax hike when you vote for this bill.

I think that I have covered it except I want, just once again, to repeat these losses for States. We have 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 States that are big losers as to the highway trust fund: California, Texas, New York, Pennsylvania, Florida, Illinois, Ohio, Georgia, Michigan, and New Jersey. As the distinguished Senator from New York has said, they are going to be forced to pay higher gas prices, to lose money for the trust fund, to put something in their gasoline that they do not need that increases pollution and may well have a detrimental environmental effect.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, ordinarily I am in agreement with my esteemed colleague from California and certainly with my esteemed friend and colleague from New York, but this is one occasion where I could not be in more opposition to what was said and to the positions which are being held.

Earlier this morning, I vented my frustration over the continuing attacks against ethanol and other biofuels that extend back almost a quarter of a century. In many instances, opponents simply have said that the marketplace will not permit the price to go to the bottom cost. Opponents have said this will actually create a challenge and increase gasoline prices at the pump. But the information being provided just simply isn't accurate.

The RFS and the biorefinery concept will actually lead to the construction of many of the biorefineries now being planned in locations indicated by the red dots on this map I have. It is not simply concentrated within the Midwestern States, as has been suggested. This may be where it began, but, as in so many things, where things end does not always depend on where they began. This is a perfect example. I think Delaware is close to being included in part of that because biomass of all kinds, as well as animal waste, can be utilized in the development of ethanol and other fuels.

I would like to move away from some of the negative things that have been said about ethanol to something which I think is more positive and provides some information. The RFS will not increase the cost of ethanol from 4 to 50 cents more than ethanol-free gasoline. Depending on which statistic is being provided, you simply have to ask this question: Which cost analysis do you believe?

A consulting firm, working for the Oxygenated Fuels Association, whose members produce and market MTBE, 70 percent of which is imported—and the defeat of the RFS will keep MTBE markets alive—says it will increase the cost $4 to $9.75 per gallon. Do you believe those figures or do you believe the Department of Energy's Energy Information Administration material which says the increase, at the most, is between a half a cent and 1 cent per gallon.

If you do not believe our Department of Energy's Energy Information Administration calculation and cost estimate, then let's just go to marketplace reality, because that is where we will end up in any event.

Twenty years' experience in Nebraska, 1 cent less than ethanol-free gasoline at the pump; 10 years' experience in Minnesota, 8 cents less than gasoline at the wholesale level; 1.5 years' experience in California, there is no essential difference to the public; 10 years' experience nationwide, no essential difference to the public.

The question is, which numbers do you believe? It is always about that when you come to projections.

Furthermore, the availability of ethanol blends has been shown to actually drive down the price of all gasoline as a result of market forces. If you take a look at the wholesale price of regular gasoline versus ethanol, as shown on the chart, you can see that ethanol, as indicated by the green line on this chart—and on one or so occasions spiked above regular gasoline, such as back in 1992—continues to trail regular gasoline at the wholesale price, as you see the amount of experience that we have had over this 12- or 10-year period.

If you go to the next chart and take a look at the retail price of motor gasoline versus ethanol, you can see that that is a similar trend factor, so that ethanol has trended a lower cost than ethanol-free gasoline or, if you will, regular gasoline.

So the question is, in many instances, which numbers do you believe? If you do not believe the Department of Energy's Energy Information Administration, and you want to believe another organization, that is fine, but what I think you should do, ultimately, is look at the marketplace reality of what has, in fact, happened to the price of ethanol.

Further, as evidenced by these graphs, the cost of ethanol has been at or below the cost of gasoline. That cost advantage for ethanol has become more pronounced in recent months and is now nearly 30 cents a gallon lower than gasoline at the wholesale level.

This is the principal reason we cannot delay implementation of the RFS. The smaller, newer ethanol producers urgently need fair market prices.

Furthermore, ethanol production capacity by the end of 2002 is expected to be 2.3 billion gallons, the level required by the RFS in 2004. There will not be any shortages.

For those who have suggested that somehow we will not be able to produce enough ethanol to meet the standards and requirements, the facts, once again—the marketplace reality and the production reality—just do not show that.

The bottom line is that history and realistic projections show that ethanol will be the least cost option for refiners to extend supplies and meet octane needs.

Now, it also takes much less fossil-fuel energy to produce ethanol than it contains in a renewable form; and, consequently, there are major energy security benefits from its production and use. Biodiesel and cellulosic ethanol are even much better.

If you take a look at the net energy balance of corn ethanol, it increased from 1.24 percent in 1995 to 1.34 percent in the year 2000. Since then—you can follow the chart—higher corn yields per acre and new technologies used to convert corn to ethanol have further improved the net energy savings or the net energy balance.

So if you really take a look at the production of ethanol, it now consumes much less nonrenewable oil as the ethanol replaces. The latest U.S. Department of Agriculture report demonstrates that ethanol production actually has this positive balance that we have displayed on this chart. The bulk of the energy used in fertilizing the crops and to power ethanol production plants comes from natural gas or coal. Additionally, with farmers using more ethanol and biodiesel in their vehicles, the use of fossil fuels to produce biofuels could actually approach zero. The bottom line: Ethanol and other biofuels are America's best bet in cutting imports and advancing national and energy security. Everybody seems to be in agreement, we need to have less reliance on foreign oil.

Homeland security also benefits because biorefineries will be much smaller than oil refineries and far more distributed, as the first chart demonstrated. We don't have the same concern about concentration when we talk about biorefineries and spreading the biorefinery concept across our Nation, with positive effects for energy security as well as for homeland security.

Additives to gasoline such as aromatics and alkylates to replace MTBE and ethanol are not better and less expensive. Some have suggested that what we ought to do is find another way to go. We ought to find other additives, and they actually are best. When lead was phased out of gasoline in the early 1980s, the ethanol industry was hopeful that refiners would turn to ethanol to gain needed octane. Instead, they turned to aromatics, driving levels up to the point that they threatened engine performance and human health.

The Clean Air Act amendments of 1990 actually put a cap on aromatics and an especially low cap on benzene, a potent carcinogen. A recent sampling in Nebraska revealed that in several instances aromatics in gasoline exceeded the cap and passed well into the danger area, threatening the environment and human health.

What is not commonly known is that the other two aromatics, toluene and xylene, to some extent convert to benzene in the combustion process; therefore, both in the engine and in the catalytic converter. Furthermore, last week's prices demonstrate that on average the three aromatics I am referring to were selling about 52 cents a gallon higher than ethanol and again on average have an octane number about 10 points lower than ethanol.

Bottom line: The aromatics are no match for ethanol in terms of cost, octane, human health, and the environment.

Please recognize that the wholesale prices for aromatics on average last week were twice the cost of ethanol and are 10 points short in providing sought-after octane.

Alkylates are a better bet. They have an octane number ranging from 92 to 95. Ethanol has an octane number of 113. They have a valuable blending pressure while ethanol's blending vapor pressure requires compensatory action. However, alkylates are the most valuable component in finished gasoline, at least the value of premium gasoline. Because they are so valuable and so clean burning, they are husbanded by refiners and are in short supply and not available on the open market.

The other alternative being offered, alkylates—bottom line—they are valuable and clean burning, but their octane number is lower than ethanol, and they are destined to be much more costly than ethanol, as is the case with aromatics.

There is another point. There will be no shortages. There has been the suggestion that somehow we might find ourselves short on the production of ethanol. There won't be any shortages of ethanol and other biofuels in the marketplace over the next 10 years. If you take a look at poster No. 1, you have already seen the map showing ethanol plants, biofuel plants that are, first, those that are under construction or expansion, those that are undergoing planning, and those that are actually operating. By the end of this year, there will be surplus supplies to meet the 2004 target, and the incentives of the RFS will keep supplies well ahead of the requirements in the standards. If that proves to be wrong, there are provisions in the RFS to protect consumers—in other words, a backup plan if all else fails. With the exception of the Strategic Petroleum Reserve, there are no such provisions to protect consumers from rising foreign oil costs.

Bottom line: The provisions of the RFS and biofuels provide the driving public with much greater protection against shortages, higher prices, and negative national security, as well as environmental consequences than MTBE, aromatics, and alkylates.

In yet a better world, biofuels and all three of these gasoline components should work cooperatively to provide an optimum fuel—optimum in considering the full spread of the Nation's needs.

If you review the map and you review historic and current pricing structures, you see they not only provide assurance that there will be no biofuels shortages under the RFS that could drive prices up, but they also give evidence that it will not be the three big ethanol producers benefiting from the new public policies. Rather, the beneficiaries will be smaller producers of feedstocks and owners of biorefineries spread all across the country.

Bottom line: We must in fact build a better and a new and more self-reliant energy policy in America.

Another point: Ethanol biodiesel and other biofuels, their incentives and the RFS will actually save the taxpayer money. Study after study has shown over the years—this is the most recent study—that biofuels policies, programs, and incentives are real bargains to Americans and of great import to the strength of our Nation. Americans are the big winners with ethanol and other biofuels and even bigger winners when these renewable fuels have ready access to the transportation fuels market at fair prices.

Some opponents of ethanol are simply wrong on their opposition. They have pointed out that the Iowa and Nebraska Legislatures were certainly trying to do something different than what we are proposing in this body. These were only exploratory regulatory efforts to increase the market for ethanol in both States and were in fact resolved in a positive manner that increased production and market share in Iowa and Nebraska. There was no effort to create a mandate but, rather, a standard for gasoline that would best serve the overall needs of the States.

The effort, though not embodied in law, was in fact successful. Between our two States of Iowa and Nebraska, we have the capacity to produce 920 million gallons of ethanol annually—more than enough in an emergency to meet 20 percent of our gasoline requirements with enough left over to give New York and California an additional helping hand.

By working together, we can find ways to make almost every State in the Union equally self-reliant when it comes to the additive to motor fuels gasoline. Just as the Senate passed the renewable portfolio standard for electricity that enjoyed the support of California and New York, structured to serve the overall electricity needs of the Nation, this standard is designed to help meet the overall transportation fuel needs of America.

In terms of national energy security, we are not importing electricity from distant nations unfriendly to the United States. Ours is a liquid fuel program. Failure to support the renewable fuel standard in reality will mandate our Nation to continue our dangerous and declining path to foreign oil dependency which everyone opposes.

In conclusion, it is clearly in the best interest of the United States for us to be able to pass this RFS. We in the Senate should band together to try to find ways that will help make the renewable fuel standard available for economic development and for the fuel security of all of our States. We need to advance a Manhattan-type project to ensure that we retake the world leadership in promoting biorefineries in order to increase energy, national and homeland security, create new basic industries and quality new jobs, while enhancing our environment.

The PRESIDING OFFICER (Mr. REED). The majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Senator from Nebraska for an outstanding statement and for the leadership he has shown on this issue for some time. He has been a stalwart advocate and an extraordinarily clear and strong voice on this issue. I congratulate him and thank him for all of his effort.

As the Senator from Nebraska has noted, there have been a number of myths perpetrated about methanol and ethanol that need to be addressed as we consider this RFS.

I want to take a couple of minutes—I know a number of my colleagues are on the floor and I know each one wants to speak—to address briefly these myths because they need to be knocked down.

A myth stated often enough becomes fact in the minds of many. We do not want these myths to become fact in the minds of our Senate colleagues before they have the opportunity to vote on amendments as critical as this one.

One myth is that this requires States to use ethanol. This does not require any State to use ethanol, not one drop, and I hope Senators will be clear about that point. Senators have heard that so frequently I am sure it is soon going to become fact in the minds of some, but because of the credit trading provisions, because of the waiver provisions in this legislation, there is no requirement that States use ethanol. So to begin with let's clarify that myth.

The second myth, and the one I have heard so often expressed on the Senate floor, is that this RFS is going to somehow increase the price of fuel. That assertion is made on the basis of one study done by Hart/IRI Research. That is the one cited by all of the opponents of RFS.

What they do not tell you is that the Hart/IRI Research organization is funded in large measure by the methyl tertiary butyl ether industry, by the MTBE industry. One-half of the revenue that is used to support Hart/IRI comes from Liondel Petrochemical, which is the largest marketer of MTBE, methyl tertiary butyl ether, and the advocate.

This is not, let me emphasize, an independent review. This is a very subjective review funded by the methanol industry to destroy the alternative energy fuels market. Their study, of course, advocates a position that is just not accurate and has no basis in fact. Their study projects that the price would increase 4 to 10 cents a gallon, and it is being used by our distinguished Senators from New York and California. The fact is, it is just wrong.

The Department of Energy said that the RFS requirement would mean less than 1 cent a gallon, nationwide one-half cent per gallon. That is a Department of Energy study.

The API study, the American Petroleum Institute study, said it would be a one-third of a cent increase—not 4 cents, not 10 cents. One would think the oil companies would be opposed to this. They support it. Why do they support it? Because they understand this has very significant opportunities for us to address the oxygenate market, the alternative energy market, the opportunities to deal with the challenges they are facing without MTBE. Their report, their review, their study says it would be a one-third of a cent increase, not 4 cents, not 10 cents, but one-third of a cent.

We have the Department of Energy and the American Petroleum Institute saying this will be less than a 1 cent increase in the overall cost of fuel.

Let us make sure that people understand. It is a myth, I say to my colleagues, it is a myth and do not let anybody tell you differently. There is no increase, no 4-cent, no 5-cent, no 10-cent increase. Who should know better than the Department of Energy and the American Petroleum Institute?

It is clear, Hart/IRI would lose most of its business if they could not sustain the position they have advocated from the very beginning in this very subjected, distorted, and erroneous assertion that we are going to see the kind of increase in cost that they have advocated and that is often repeated in the Senate Chamber.

There is another myth, and the myth is that somehow if we incorporate the renewable fuel standard, it is going to be disruptive to the petroleum market.

I will tell you what is going to be disruptive, Mr. President. What is going to be disruptive is if we phase out MTBE—14 States have already done that—if we phase out MTBE and we do not have anything in its place. You want to see disruption, wait until we phase out MTBE and there is nothing there. We have no alternative.

If you want to talk about the abrupt disruption of supply and the increase in cost, I cannot think of anything that will do that more effectively and in a more pronounced way than to simply do what we are scheduled to do right now: Phase out methyl tertiary butyl ether.

The very best thing we can do for the consumers is to pass this bill, to pass this standard to allow this gradual transition that this bill contemplates in phasing in an alternative to this disruptive approach that will currently be contemplated if we do not have something to substitute in its place.

That is the third myth, that we are subject to disruption if the bill passes. I would argue just the opposite. We are subject to major disruptions in supply and extraordinary increases in cost if this bill is not in place to address those disruptions now.

There are two more myths, and I want to talk about those. One is that it is ethanol that will affect this cost, and to find some alternative to ethanol is one that will provide the panacea. I have heard some of my colleagues come to the Chamber and say: We do not really need ethanol. The oil companies can come up with alternatives to ethanol, and we ought to give them the opportunity to come up with those alternatives without mandating that ethanol be used.

First, a large percentage of what the oil companies are going to have to use is either going to be imported or domestic. We know that. There is no other choice. The two alternatives to ethanol, in large measure, are imported product. We have alkylates and we have iso-octane. Both of those are imported. Both of those are far more expensive than ethanol. Both of those would cause the price hikes that our opponents continue to argue are the reason they oppose ethanol.

The only domestic alternative is ethanol. The only domestic alternative where we can guarantee a supply is ethanol. The only domestic alternative where we know we are going to have some control on price is ethanol, if you look at DOE and API reports. So do not let anybody think that somehow we can import all these products and not be subject to dramatic increases in price. What is it about energy policy that would ever cause somebody to advocate more imported product is the answer? That is what some of our opponents are doing. I do not understand that.

If they are concerned about price, if they are concerned about supply, if they are concerned about disruption, if they are concerned about all the ramifications of making sure their consumers are protected, the last thing they should do is depend more on imported product that we know is going to cost more than ethanol.

The final myth is we do not have consumer protections in the bill. I am amazed some people make that assertion. They could not possibly have read the bill. There are a number of consumer protections beyond those I have already addressed.

The first consumer protection is that DOE is required under this legislation to look at the ethanol market and the supply problems that exist. They have the opportunity written in the legislation—it is in writing; it is guaranteed—that the ethanol mandate will be reduced.

The second guarantee is in subsequent years any State can apply and have the mandate reduced within a 90-day period, which is the day we have agreed to. We had a vote last week, and we acknowledged that the 240 days is long. We are prepared to go to 90 days. DOE and the EPA argue they would like to have more time, but we are going to insist they do it within 90 days so States can see their mandate reduced if they can demonstrate there is going to be some concern for disruption.

Then we have what I said at the beginning, the credit trading provisions. Any refinery that uses more ethanol can trade the credits generated from the use of additional ethanol to those refineries that do not use ethanol or that come in at a lower level than what the mandate requires.

We have credit trading, the waiver, and the overall review that is stipulated in the bill requiring EPA to reduce the mandate if disruptions can be proved.

We offered, I might also say, another year prior to the implementation of the legislation, in exchange for banning MTBE on schedule, and at least to date our opponents have rejected that offer. That would have been a fourth consumer protection I thought would have sufficed in meeting some of their concerns, but they chose not to take that offer. It stands as we proposed it, and clearly Senators would have an opportunity to avail themselves of that offer if they chose to do it.

There have been a number of myths, and I am disappointed the myths continue to be perpetrated without an adequate response. We are going to continue to respond to those myths and try to knock them down and clarify the record so all Senators are very clear about what these alternatives are prior to the time they have a chance to vote.

Mr. SCHUMER. Will the majority leader yield?

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. SCHUMER. I would like to ask my colleague a question.

Mr. REID. Will the Senator yield for a unanimous consent request? Under the rule, I have 1 hour of time postcloture. While the majority leader is in the Chamber, I ask unanimous consent that 55 minutes of my hour be given to the Senator from New York, Mr. SCHUMER.

The PRESIDING OFFICER. The Senator from Nevada may yield that time to the majority leader or the manager but not directly to another Senator, absent unanimous consent.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that 55 minutes from the time of the Senator from Nevada be yielded to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I had asked my colleague from South Dakota to yield for a question. Before I ask him a question, I reiterate what I said at the beginning of my speech, how much I respect him, his leadership, his integrity, and his fighting for all of us. It is such a difficult job to be majority leader, and no one in all the years I have been a legislator has done it better than the Senator from South Dakota. So it pains me to stand up and oppose him and ask him questions.

The only question I have is the following, and that is, let us—I do not know what the truth is. I hear from my refiners that they could do this a lot more cheaply. I hear from my refiners that bringing ethanol over, whether it be from overseas or from the heartland of America, will raise the price dramatically. So I guess the only question I ask my colleague is: If it is going to be cheaper with ethanol than any other method, either the alkylates or the reformulation of gasoline or anything else, why not let the market determine it? Because what if we are wrong in this bill and the price does begin to go through the roof, through a price spike, where my constituents would not be happy to wait 90 days, 3 months, as the price goes up so much, or not through a price spike but just because there is a shortage of ethanol and the market goes up?

I think ethanol is going to do very well once the oxygenate requirement and MTBE is eliminated anyway. The ethanol market is going to get better. It has to. So I guess my question to my friend—and I really mean this, "my friend," not just in the legislative parlance—is, Why can't we let the market determine it? Why mandate it instead? Because the thrust of his argument is that ethanol is better—and maybe it is—and if it is, our argument does not mean much but then the market would have New York, California, and all these other States buy ethanol.

Mr. DASCHLE. Mr. President, the Senator from New York asks a very good question. My answer would be the same as I am sure he responded to Senator LEVIN about CAFE. Senator LEVIN said: Why not let the market work on CAFE? A lot of other Senators said: Why not let the market work on CAFE? I think the Senator disagreed, for good reason, because if we set goals oftentimes, as a country working within government and within the industry, we achieve them. Oftentimes, without the role of some goal-setting, we never achieve anything beyond where we are today. We did with CAFE in the past. I think we can do that with ethanol now. This is a goal, just as the Senator supported CAFE as a goal. We failed on that. I hope in this case we can achieve it.

The Senator understandably is concerned about price hikes. As I said a moment ago, if we are concerned about price hikes, I think we ought to be concerned about what happens when we phase out MTBE in a vacuum, because that is where we are going to get price hikes. We are going to get serious price hikes when we start relying on these imported products for which we are not certain of supply and we are certainly not certain of price.

As we phase in the RFS, we have an opportunity to do three things: First, require that DOE look at the supply and say, OK, if we need more time we are going to give it to you. We look at the States and we say, all right, if you want more time, you get an opportunity to ask us for a waiver and we will give it to you. And over all of that, we say beyond any other waiver or beyond a DOE review, we are going to say you can trade credits right now. You do not have to worry about any other decision. You can trade credits right off the bat.

So we have three protections built into the price hike. With this, we have no protections built in if we do nothing.

Mrs. FEINSTEIN. Will the majority leader yield for a question?

Mr. DASCHLE. I am happy to yield, but I know other Senators are waiting patiently. I came out of turn, but I would be happy to answer one question.

Mrs. FEINSTEIN. Since the majority leader attacked the points I made, I would like to have an opportunity to respond.

Mr. DASCHLE. The Senator will have the opportunity, but I think it would be preferable to do it on her own time, but I will answer one question.

Mrs. FEINSTEIN. My question is, Is the Senator saying, then, that the credits in this bill do not say if you do not use it you have to pay for it?

Mr. DASCHLE. The credits in this bill allow you to get out from under the mandate without any intervention from DOE or EPA or anybody else. You are not required, in this legislation, with the RFS, to use one drop of ethanol.

Mrs. FEINSTEIN. But then do you pay for it if you do not use it under the credit trading provision?

Mr. DASCHLE. Of course you pay for it, but the credits are available.

Mrs. FEINSTEIN. So you pay the amount?

Mr. DASCHLE. Let us put this in the proper context. You pay an amount, but what are you going to pay when there is no alternative to MTBE? How much is that going to cost? If we phase out MTBE in California, and they are then forced to go to alkylates or iso-octane and you do not know what it is going to cost, you do not know whether a supply is going to be available and the people of California are forced to pay 30 or 40 cents more per gallon because that is the only available supply, I say the people of California would rise up in huge opposition. That is, of course, the choice of each of us has to make.

What we are saying is we have a very careful and balanced approach in phasing out MTBE with ethanol in a way that gives every State an opportunity to fashion and to tailor its response to the circumstances they find themselves in, with credit trading, with the waiver opportunity, and with the DOE review, not to mention a delay of 1 year in the implementation should Senators wish to afford themselves of the opportunity we present.

So there are tremendous protections for each one of these States should the Senators or should the States choose to use them.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I appreciate an opportunity to respond. The majority leader might want to listen or he might not want to listen. What he said might be true if one needed to use an oxygenate, but California does not need to use an oxygenate because it has a reformulated gasoline, and it has to use just a limited oxygenate.

This bill forces California to use this much that it does not need, and a careful reading of the credit trading provision in this bill means you either use this ethanol or you have to pay for it.

Let me respond to another point he made on the issue of increased gas prices. He said we use one study. Let me give another study. This is an EPA staff white paper, study of unique gasoline blends, effects on fuel supply and distribution and potential improvements: Replacing the RFG oxygenate mandate with the renewable fuel mandate will result in a shift of ethanol use from RFG to conventional gasoline, while ethanol distribution costs and blending costs should decrease. However, this will be offset to some extent by an increase in ethanol production costs. For the purpose of this study, we have assumed, based on previous analyses, as discussed in the cost memorandum in the docket, that ethanol production costs would be increased by 15 cents per gallon relative to today's ethanol prices. So it shows there that the cost of ethanol is apt to go up.

With respect to the study that he mentioned, the Energy Information Administration report, that report used national averages. It does not adequately predict gas prices in California and other States.

The report he referred to did not model how infrastructure problems and market concentration can drive prices up.

So, what California is saying is we will not have the infrastructure in place, and that alone will create price spikes.

With respect to his comment on the 90-day amendment, the majority leader knows I have been interested in this for a long time. A 90-day waiver has never,

ever, by anyone, been offered to me. I will be very happy at the appropriate time to call up my amendment, which is a 90-day waiver. I hope, then, that that 90-day waiver will be agreed to. But at no time was a 90-day waiver ever mentioned to me.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I think we are having a good debate. I think it is informative to my colleagues. I thank and compliment my colleague from New York, Mr. SCHUMER, and my colleague from California, Senator FEINSTEIN, for their leadership in bringing out an amendment and exposing this for what it is. It will greatly increase costs, a couple of costs.

I haven't heard too many people talk about what is very obvious. We have already agreed to an amendment that extends the ethanol subsidy in the Tax Code. That is just a fact. We have extended it, I believe, for 10 years. Ethanol now receives a subsidy of 53 cents per gallon. It doesn't pay an excise tax that goes to the highway trust fund. That is already the case. That is present law. We just extended that for 10 years.

Presently, we are producing a little less than 2 billion gallons of ethanol a year. So that costs the trust fund a little over $1 billion. The trust fund loses that because we give ethanol the advantage over all other fuels. That is about $1 billion. OK, that is present law.

What the bill does if you look on page 189 of the bill, is increase the ethanol mandate. Right now, we are producing about 1.9 billion barrels per year. It says in the year 2004 it goes to 2.3 billion. It doesn't sound like a lot, but that is about a 20-percent increase.

Then, over the period of time to the year 2012 it goes to 5 billion. We go from 1.9 billion to 5 billion. That is a little less than a 200-percent increase in ethanol. So ethanol gets it both ways. They have the subsidy, so much per gallon it doesn't pay in excise taxes that all other motor fuels pay, and now we are going to mandate in addition that subsidy: Oh, yes, now refiners, you have to make 5 billion gallons, which is over two times what we are making right now.

That has a cost to it. Some people say there is a cost of an additional 4 cents or 5 cents a gallon. I think it probably does because it is more expensive to make than gasoline, probably to the tune of about 20 cents a gallon. But it also has a cost to the highway trust fund. I have heard people say when we take up the budget we are going to have to add billions of dollars to the highway trust fund. If we keep the ethanol mandate as it is, in addition to the tax subsidy, but increase the amount that must be produced from current law into a Federal mandate of a figure that I guess came from the sky—all of a sudden we are going to do 5 billion gallons—that means we are going to have to more than double the capacity of the plants we have right now.

The highway trust fund, which is presently losing in excess of $1 billion, is going to be losing in excess of $2.5 billion, if my quick math is right. If you are talking about 53 cents a gallon, and if you are going to make 5 billion gallons, that is over $2.5 billion that the highway trust fund is not going to get every year.

I believe ethanol vehicles—and they may be just great and it may be a fantastic fuel, and I am not arguing that—do damage to the roads. The highway trust fund is to repair the roads. Whether the cars are running on diesel or gasoline or ethanol, those roads have to be maintained and repaired. We are creating a giant gap or loophole for the highway trust fund that is going to be ever expanding by this ever-increasing mandate.

My point is that I think we can have it one way or the other. We can probably afford one, or maybe the other, but I question both. If we have a tax subsidy—and I see my friend and colleague, the former chairman of the Finance Committee, for whom I have the greatest respect—the tax subsidy giving the 53 cents exclusion from the highway gasoline tax is already in the law, and it has been extended. Fine. That is one big one. But to also say we should have a mandate to more than double the production I think is a lot to ask. That is a lot to ask of the highway trust fund, which most of us want to make sure we keep our highways maintained.

We are creating a big void. We are facing a lot of highway work that needs to be done. But where is that money going to be coming from? For awhile some people said maybe we will have general revenues pick it up. I think there is some legitimacy in having a highway user fund, having users pay for highway maintenance. That is the whole purpose of having a gasoline tax or diesel tax; it is for highway maintenance. To take one particular fuel and say we are going to exclude it from a very significant portion of the highway tax is one thing. Now we are going to have a mandate that, oh, yes, you have to increase your production by another 160 percent. I just question whether it is affordable, whether it is affordable for the highway trust fund, and whether it is needed.

I do not mind encouraging alternative sources of fuel. I certainly don't mind helping agriculture. I certainly don't mind doing anything that will reduce our dependency on foreign sources of fuel. But I look at this and I say: Wait a minute, aren't we going too far? Aren't we doing too much? We are doing the tax exemption. Do we really need a mandate that says you have to produce that much? I ask: Can we make this 2.3 billion gallons in the year 2004? Can we really increase production in all these plants in 2 years? At that point, we are at 2.3 billion. Maybe we can. In another 8 years, can we double it? Heaven forbid that we let the marketplace decide which fuel we should be burning.

Mr. SCHUMER. Mr. President, will my colleague from Oklahoma yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. SCHUMER. I have been following his very cogent arguments. I am glad we are on the same side on a few issues. Hopefully, there will be many more.

He made two points. I would like to ask him if I am wrong. There are double contradictions here. One is that we are going to raise the price of gasoline, as we would with the gas tax. But we are actually going to deplete the trust fund at the same time we lose the gas tax, whereas, at least the gas tax has the purpose of the user tax.

As my friend from Oklahoma accurately stated, at least that does improve the fund. We get hit both ways. There is a second sort of the anomaly here. I haven't seen anything like it. We have a large subsidy for a product—I think he mentioned 53 cents a gallon; that is huge already for the motorist—to help the farmers. I don't know anything else that gets up to that extent. At the same time, we are now forcing people to buy it with that subsidy.

Am I correct that those are two separate contradictions within this bill, two separate anomalies?

I ask my colleague from Oklahoma, has he ever seen anything such as this in his years of making sure the free market policies are pursued for our country?

Mr. NICKLES. I appreciate the question. I have seen something like it. I will allude to it. I hope we can fix it at a later date. That deals with the renewable portfolio standards that are also in this bill.

To show you how similar they are, in that particular section of the bill, there is a mandate that 10 percent of the electricity be produced from renewable fuels. Incidentally, if you can't do that, you can buy a credit for 3 cents per kilowatt hour. That is the price of electricity in the wholesale market today. In some cases, it is a lot less than that. You can get out of that mandate by giving the government 3 cents per kilowatt hour. Wow. That is expensive. That is the equivalent of about a 5-percent increase in the electricity bill.

I see this as very similar. This says: OK. Buy a lot more ethanol—up to 5 billion gallons—more than double what we are buying right now. And, oh, yes. We are going to subsidize that, too. We are going to mandate that you buy it and subsidize it. But consumers are going to pay for it. They are going to pay for it by having a shortfall in the highway trust fund to the tune of over $2.5 billion a year.

Obviously, if you are exempting 3 cents a gallon and mandating that you manufacture 5 billion gallons, the trust fund is coming up $2.6 billion short per year. As consumers of fuel, users of the highways are coming up short. That means other fuels or general revenue is going to have to make up the difference. It just doesn't fit.

I happen to think there is a reason why people say, well, we need the 53 cents per gallon to make ethanol competitive with other fuels. In other words, it is more expensive. I think that is obvious.

I understand the proponents, and I respect the proponents, but they are saying we need the tax subsidy to make it competitive. It is more expensive to produce ethanol than it is gasoline. So we give them the tax subsidy so they can afford to do it. We are now going to mandate that they more than double the production. If it is more expensive to make, that means the price of gasohol is going to go up. I think the estimates of 4 or 5 cents a gallon are probably accurate. That may not sound like very much. It is probably about a 6-percent increase in gasoline costs. Consumers are going to pay for that.

I was shocked. I didn't know until I heard Senator FEINSTEIN mention that under current law there is an import fee on ethanol. I asked my staff. I started looking for it. Where is it? It is not in here. It is in current law.

The ethanol industry has already been successful in having protectionism, saying we can't have ethanol imports. There is only domestic product. Guess what. We import a lot of gasoline. We import a lot of oil. We import a lot of fuel. Right now we are saying we are going to mandate this much more production but we are going to keep the protection.

I am troubled by that. Consumers will pay. If ethanol were competitive, it wouldn't need a tax subsidy and it wouldn't need us mandating 5 billion gallons by the year 2012. It costs more to produce. Consumers will pay it. This bill is going to cost consumers.

I know there are charts floating around here on the cost per gallon. I think 5 or 6 cents per gallon is a good estimate.

To answer my friend's question, is there another example of that? Yes. It is in the renewable portfolio standard. It is a 3 cents per kilowatt hour credit which we mandate in this bill. Senator BREAUX and I and others will have amendments to reduce that from 3 cents per kilowatt hour to 1.5 cents per kilowatt hour, which is the same amount the Clinton administration proposed. We will reduce the penalty—the tax—that is in the bill.

This bill we have before us right now increases the price of gasoline because of the ethanol standard, and it increases the price of electricity because of the renewable portfolio standards.

I compliment my colleagues from New York and California for trying to address the gasohol tax increase that will hit all consumers, all gasoline purchasers. Later on we will have an amendment to hopefully reduce the electricity penalty that is in the bill as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the Chair. I appreciate the desire of the Senators from New York and California to protect their States and their constituents.

I think it is unfortunate that so much misinformation about ethanol exists today. It has been distributed and is being distributed even as we speak. There is so much misunderstanding about what ethanol's role is, and also ethanol's potential in our energy future.

Today, the United States consumes 25 percent of all the oil that is produced in the world. One out of every four barrels of oil produced in the world is consumed in the United States.

Given the significance of the transportation sector in this country, one out of every seven barrels of oil goes into American gasoline. If those who continue to oppose any kind of alternative have their way, the policy of this country is going to be basically hang on and hope—hang on to the status quo, hang on to the present consumption of oil and gasoline, hang on to the present energy consumption patterns of this country and hope nothing changes.

I find it disappointing that we focus on these alternatives as though they are somehow going to impose something more onerous and more expensive on the American people when, in fact, if you look realistically at the future, 10, 20 years from now, the most expensive policy for the American consumer is for us to do nothing.

The notion that we will be able to continue to consume one-fourth or more of the world's oil production, the notion that prices will remain the same as today's prices, that there won't be disruptions, and to put ourselves in a situation where we will be faced with either supply disruption or price increases of major proportions, I think is putting our head in the sand and hoping for something that goes beyond what is realistic.

Despite the efforts of the manager of this bill, basically the position of the Senate on this bill is to do nothing in terms of bringing about any real reduction in the consumption of oil and gasoline or the development of real alternatives. We said no to the CAFE standards. We said no to basically any meaningful change or development of any alternative. Why? Because, as the opponents say, any alternative, any change in our practice, involves some dislocation and some price increase on a temporary basis—not nearly what this proposes. They may involve some need to refigure our supply. Anything that changes the status quo, therefore, changes some aspect of this system that we keep treating as though it is in place and it is secure for years to come.

How long, realistically, do we think we are going to be able to continue to have all the oil that we wish to consume, at the prices we are paying today, with no disruptions, and no price spikes? In fact, if we don't start developing alternatives, such as ethanol and other biofuels, we are going to guarantee that we are in the same predicament 10 years from now or 20 years from now. I guarantee you that those prices will not continue to be stable.

In Minnesota, we have been practicing an alternative for the last 5 years mandated by the Minnesota Legislature, which is a 10-percent blend of ethanol in every gallon of gasoline sold in the State of Minnesota. That ethanol is blended. Ten percent is used by every vehicle that puts gasoline into its tank. It requires no change in engines produced by General Motors, Ford, or any other company, foreign or domestic.

In fact, the engines in vehicles that use 10 percent ethanol requires no modification whatsoever. They have no supply problems.

The cost of a gallon of gasoline in Minnesota today is 20 cents less than a gallon of gasoline in California. It is a penny more than in New York. It is 5 cents a gallon less in Illinois, and it is less in our surrounding States that don't have this mandate. That is just the beginning.

My office leases a vehicle, a Chrysler Suburban, that travels around Minnesota. It consumes 85 percent ethanol—a fuel that is blended 85 percent ethanol and 15 percent gasoline. That is priced 20 cents less than a gallon of unleaded fuel in Minnesota today—meaning 40 cents less than a gallon in California, 10 cents less than a gallon of gasoline in New York, and so on.

Yes, this is a subsidy. Yes, this is an incentive provided to make the conversion to this kind of fuel. Again, if we don't provide some kind of incentive, we will have no alternative form of energy which is going to be competitive with what it is today.

On the other hand, if we don't follow the direction in this legislation that we begin to make this transition to having a supply of ethanol that will actually not just displace MTBE—that is far too limited a view of the future of ethanol. Ethanol could not only supplant MTBE, as this legislation encourages, but also ethanol could supplant gasoline itself.

As I said, right now in Minnesota, 10 percent of the gasoline has been supplanted by ethanol.

That could be 20 percent if we had the supplies available that could be applied across this country. And 85 percent of ethanol can be used in 2 million vehicles across the country. Imagine what it would do 10, 20 years from now to the energy independence of this country if we were using 20 percent, 40 percent, 60 percent ethanol instead of gasoline.

As I say, these changes are not going to happen overnight. We are not going to be able to find ourselves in an energy crisis down the road and be able to make these kinds of changes immediately. If we do not start now, if we do not have a goal of 10 years from now reaching a manageable amount of product that will encourage others to get into the market—for example, I hear criticism that one company now controls 41 percent of the market for ethanol in this country.

Twenty-five years ago that same company controlled 99 percent of the ethanol in this country, and that number has gone down every single year thereafter as more and more producers have gotten into the ethanol market. The production concentration in that industry is diminishing. It will continue to diminish with or without this mandate, but it will certainly accelerate the reduction in concentration as more and more producers get into the market.

We hear about supply difficulties and questions about supply which cannot be answered today for a market that will exist 10 years from now. But to think we are transporting oil and oil products from the Middle East, from South America—thousands of miles to our ports—to States such as California, which is now importing 75 percent of their MTBE by barge from Saudi Arabia, and we are saying that the supplies cannot be transported from the middle section of this country to either coast at a competitive transportation price boggles the mind and defies imagination.

Furthermore, I guarantee you, with this kind of mandate, the agricultural sector in California, which is enormous, and the agricultural sector in New York, which is very substantial, will move to producing the kinds of crops which can then be converted into ethanol. I guarantee producers and refineries will sprout in those States and elsewhere across this country to supply this additional product.

So this is not a static situation. It is a dynamic one, and one which—with this mandate, with this encouragement—has tremendous opportunity over the course of the next decade and thereafter to meet a significant part of our energy needs, our consumption of gasoline.

Finally, in terms of liability protection, I happen to agree with those who are concerned about that. I am willing to have that stripped from the bill. But this amendment, as it is proposed, does not just deal with some of these flaws; it would eliminate the entire ethanol provision entirely. So if there are particular concerns, let's deal with those particular concerns. But I think just to wipe this out entirely is shortsighted and, as I say, will result in American consumers paying higher prices for gasoline or gasoline products.

Finally, I wish to make one last comment on the highway trust fund. Again, I agree with the critics of this measure who say our actions will result in less dollars going into the highway trust fund. That is true. But anything that results in the lessening of the consumption of gasoline in this country results in fewer dollars going into the highway trust fund. If you follow that logic, then, it means, in order to maximize dollars going into the highway trust fund—which is important to Minnesota and every other State—we ought to lower the fuel efficiency of our vehicles, we ought to drive them more miles, and we should do whatever we can to burn more gasoline because that results in more dollars going into the highway trust fund.

I suggest we are better off to reconsider that policy, to reconsider whether we want the highway trust fund to be dependent on the number of gallons of gasoline consumed, when we know what the effects of that are on our economy elsewhere.

So I say it is better to change the policy over time, better to change the supplement, the funding mechanism of the highway trust fund, rather than sacrifice a sound alternative energy policy on that altar.

Again, in conclusion, if we do not start this now, if we do not start encouraging this transition, we are going to be nowhere in 10 years, we are going to be nowhere in 20 years, except where we are today with our energy dependency. And I guarantee we will have no solution to our energy predicament.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I only intend to take 4 or 5 minutes. I ask unanimous consent that the Senator from Iowa be recognized following my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, I certainly will not object. I see colleagues on the floor. I ask unanimous consent that after Senator DORGAN and Senator GRASSLEY—and I gather Senator MURKOWSKI also is going to speak; is that correct—and the Senator from Alaska speaks, that I then be recognized to speak after Senator MURKOWSKI, in that order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, what is the order?

The PRESIDING OFFICER. The Senator from Minnesota has requested that at the conclusion of Senator DORGAN's comments and Senator GRASSLEY's comments and Senator MURKOWSKI's comments, he would be recognized.

Mr. REID. I have no objection, but I do say that we have, under postcloture, 30 hours. There is going to come a time—certainly we are not approaching it quickly—but somebody will have to move either to table or to set a definite time for voting on this amendment because I do not think it is fair to spend the whole 30 hours on this one issue.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be very brief. I thank my colleagues.

Let me say that some issues are less complicated than they seem, and this, I think, is one of those issues. The ability to take a kernel of corn or barley, for example, take the starch from it, break it down into its simple sugars, ferment it into a drop of alcohol, and use it to extend America's energy supply makes great sense. Being able to take a drop of alcohol from a kernel of corn or barley to extend America's energy supply, and still have the protein feedstock left to feed animals, also makes great sense. We will produce ethanol in substantial quantities. The question is not whether it will be done; the question is when.

We produce a substantial amount of energy right now, but not nearly as much as we could from ethanol. We will, at some point, dramatically increase the ability to produce our own fuel. Producing renewable fuel that we can use for gasoline, the fuel we can use in other ways to extend America's energy supply, just makes sense.

The provision in this legislation makes good sense as well. It will substantially increase the quantity of ethanol that is produced in our country, and do it more quickly than we otherwise could.

One of my colleagues, Senator NICKLES, said: Let the market decide these things. Well, it is interesting that the market apparently has decided that we should import 57 percent of our oil supply, much of it from Saudi Arabia. Is that a market decision that makes a lot of sense? Is that a market decision that puts us in peril of someday waking up in the morning to find out that some heinous act by a terrorist has interrupted the energy supply from the Saudis or the Kuwaitis, and all of a sudden America's economy is flat on its back? Is that a marketplace decision that makes good sense? No, it does not make good sense. So, in a number of ways, we are trying to move in different directions.

This debate is about the replacement of MTBE. All of us understand that in various parts of the country it has been showing up in ground water. We understand that this has to be dealt with. And that gives rise to this provision in the energy bill. But this provision in the energy bill, in my judgment, has much more significance than just that issue.

I think my colleague from Minnesota, Senator DAYTON, just described that. It is not just about a replacement for MTBE; it is about additional production of energy in our country. It is about growing our fuel on a renewable basis year after year. It is about another market for family farmers who produce crops that can be turned into alcohol, and then use the protein feedstock later for animal feed. It just makes good sense for our country to do this.

I know there are some who have some heartburn about this provision, and I certainly respect their views. There are some who object to everything that is done for the first time. I am not suggesting that is the case with the opponents here, but we are going to march, inevitably, in this direction. The question for us is: Do we do it sooner, or do we do it later?

This is the time when we decide that we want additional production from renewable sources.

And yes, that is ethanol. It is good for our country, for the environment, and for our family farmers. Frankly, it is even good for those who are objecting to it today.

I hope we will reject this amendment, as we should, and continue to keep this provision in the bill.

I thank my colleague from Iowa for allowing me to proceed.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I speak about the volume of misinformation we have on the renewable fuel standard, there were a couple statements made in the debate by the Senator from Oklahoma that I want to address.

No. 1, don't assume ethanol is going to increase the cost of gasoline. At least in my State, you find in most cases ethanol in gasoline will sell for 2 cents a gallon cheaper than gasoline without ethanol. If that is not the case, it is the same price. Very rarely do you find anytime that ethanol in gasoline causes the price of that gasoline to be higher than gasoline without ethanol.

The other misinformation we ought to clear up is the use of the word "subsidy." Because of the consumer tax on gasoline not being as high if it has ethanol in it as without ethanol, that is a lower rate of taxation. The subsidy, as we use it in this body, refers to money coming from the Federal Treasury to benefit somebody. When a consumer pays less tax on a gallon of gasoline because it has some ethanol in it, that is less tax. Do the proponents of this bill suggest we ought to raise the tax on gasoline because there is ethanol in it? Some of these Members I hear abhor the idea that there ought to be any increase in any tax, let alone an increase in the gasoline tax.

Those are two things I wanted to clear up.

Now, about this misinformation, I know my colleagues who are supporting this amendment are very intelligent people. I don't think they are purposely misleading us. There has been some propaganda spread by some industries in this country, and it has been picked up by some Members of Congress. They have lent their credibility and voice to this antireformulated fuels standard in a way that, quite frankly, does not do anybody any good. This misinformation campaign can help only two interests: It can help producers of MTBE, which production contaminates our drinking water supplies—and it does this in the States of California and New York; that has been very well documented; secondly, Middle East producers of both oil and MTBE that seek to tighten a very dangerous grip they have upon America's energy security.

How does this misinformation campaign help MTBE producers? That is because the reformulated fuel standard includes an MTBE ban. The MTBE producers know that the entire reformulated fuel standard will unravel if they can chip away at it with some amendments.

A broad coalition of interests helped produce this balanced compromise we have before us. This coalition may very well be unprecedented. The coalition consists of farm groups, petroleum and renewable fuel producers, environmental groups, and State environmental agencies. I had an opportunity to address a group where the American Petroleum Institute had one of their employees. I had to tell him, when I heard of their supporting this compromise, it is a good thing I had a good heart. Otherwise, I would have passed out as a result of it because they have never been with this group of people in the past. Here they see the need for renewable fuels as well.

They all agreed to a compromise proposal embodied within the renewable fuel standard that in the past seemed impossible to accomplish.

What do MTBE producers do? They get their consultant, Hart/IRI, to cook numbers to make it look as if requiring ethanol usage will cause motor fuel prices to go up by almost 10 cents a gallon. This is blatantly false. The truth is, according to the Energy Information Administration, requiring ethanol under the renewable fuel standard will increase motor fuel costs, if at all, by one-half a cent to a penny per gallon.

So we have had a couple Senators address this issue in a Dear Colleague letter. I will quote from the letter, "MTBE Consultant Misleads Members on Ethanol Debate." Let me share with you the letter from Senators JOHNSON and HAGEL. I quote:

> Senators from New York and California have distributed charts and spoken on the floor, claiming that the renewable fuels standard will increase consumer costs by 4–9.75 cents per gallon. The source of this data is the MTBE consulting firm, Hart/IRI, which claims it based its cost estimates on data from the Energy Information Administration.

Further quoting:

> [The Energy Information Administration] has completed two analyses. . . . The first, found that the MTBE ban would increase gasoline costs 4–10.5 cents per gallon, while the renewable fuels standard could increase gasoline costs by 1 cent per gallon in reformulated gasoline areas, and .05 per gallon overall.

I want my colleagues to listen very carefully to the next sentence from this letter:

> Hart/IRI lumped these costs together and attributed . . . them to the renewable fuels standard, making that provision appear to be roughly ten times more expensive than it is.

Continuing to quote:

> Since the fuels compromise bans MTBE, Hart/IRI has every incentive to exaggerate and misrepresent the cost impacts on the legislation. It is ironic and unfortunate that some members—whose states have already banned MTBE, because it has poisoned their drinking water—chose to use this MTBE consulting firm's analysis rather than relying upon the objective EIA numbers.

We ought to repeat that sentence:

> It is unfortunate and ironic that some members—whose states have already banned MTBE, because it has poisoned their drinking water—chose to use this MTBE consulting firm's analysis rather than relying upon the objective EIA numbers.

We proponents of this renewable fuels standard are trying to help consumers in California and New York. We are trying to reduce their dependence upon MTBE, because it poisons the groundwater, and oil, and both of those come from the Middle East. In fact, we are trying to do so in a manner directly advocated in 1999 by the two California Senators and the senior Senator from New York when the Senate approved Senator BOXER's resolution calling for the ban of MTBE and replacing the MTBE with renewable ethanol. That is what the resolution said.

Yet today our efforts are opposed because our legislation would increase the use of ethanol made by farmers and ethanol producers in America's Middle West as opposed to getting our energy from the Middle East.

Our opponents claim they are worried about supply shortages and price spikes. Yet how can any Member of this body be more worried about ethanol from the Midwest than they are about MTBE and oil from the Middle East? How can anyone oppose America's farmers and ethanol by using bogus information from an MTBE consultant. It is unbelievable, isn't it?

Mr. President, what the MTBE consultant did was distort an analysis of banning MTBE included in an earlier proposal, not the proposal pending before the Senate. The Energy Information Administration did two analyses. The outdated one concluded that an MTBE ban under the old proposal would increase consumer costs by 4 to 10 cents a gallon. Requiring the use of ethanol under the old analysis would cost at most a penny a gallon.

A second Energy Information Administration analysis was conducted, but this time it focused on the pending legislation. The Energy Information Administration concluded that banning MTBE would increase the cost of motor fuel by about 2 to 4 cents per gallon, and again it found that requiring ethanol would increase consumers' cost by less than one penny a gallon.

Again, who are we to believe, the MTBE industry, which will lose if MTBE is banned, or the Energy Information Administration?

Let me critique this for my colleagues with a closer look. Those who are offering killer amendments to this renewable fuel standard point out in detail, State by State, the price increases consumers will supposedly suffer if the renewable fuel standard is adopted.

The bogus Hart/IRI analysis concluded, for instance, Arizona consumers would pay 7.6 cents more per gallon; Maryland, 9.1 cents; Texas, 5.7 cents; Pennsylvania, 9.1 cents; New York, 7.1 cents; California, 9.6 cents, and I can go through the 50 States.

When one looks slightly below the surface and gives the Hart/IRI study even a moment's attention, one will see but half a cent or a penny of these predicted price hikes are related to the ban of MTBE and not the cost of requiring ethanol.

Our renewable fuel standard opponents want us to fear price hikes, but they do not want us to figure out that the price hikes are driven by banning MTBE. Instead, the aim is to mislead us into thinking ethanol causes the price hikes, but by using this pro-MTBE consulting firm study and by subtracting the half cent or penny-cost increase supposedly relating to ethanol, we find that what our New York and California colleagues are really arguing is that if we ban MTBE, the cost of gasoline will go up by 8.6 cents per gallon in California and by 6.1 cents per gallon in New York.

What is the logical conclusion? Isn't that simple? If we are to believe the studies used by our colleagues from New York and California, the only conclusion we can draw is they do not want to ban MTBE because the price of gas will go up.

The opponents of the renewable fuel standard cannot have it both ways. They have to make up their minds. Either they want to ban MTBE to protect drinking water or they want to keep using MTBE so prices do not spike. The bed was made with Hart/IRI; now lay in it.

Mr. President, surely we can put a little more care into debate so important as our energy security. Some of our colleagues who are opposing the renewable fuel standard mentioned in passing that there is cleaner fuel at less cost and that we do not need to use oxygenates. Really.

In 1991, the California Energy Commission compared the cost of ethanol-blended motor fuel with motor fuel that included no oxygenates, neither ethanol nor MTBE. In short, the California Energy Commission found that nonoxygenated fuels could cost more per gallon than ethanol-blended motor fuels.

I note that the California Energy Commission analysis was done when annual ethanol production capacity stood at less than 1.7 billion gallons, and it was when skeptics said there would not be enough ethanol to replace MTBE. Today ethanol production capacity stands at 2.3 billion gallons per year.

I hope that settles some of the fears the Senator from Oklahoma had about whether we have the capacity to do it. We have unused capacity right now. We also have new plants coming online, and production capacity will increase to 2.7 billion gallons per year by the end of December and climb to between 3.5 billion and 4 billion gallons by the end of 2003.

I suggest that given the large increase in ethanol capacity, ethanol-blended motor fuel would be even cheaper than estimated by the California Energy Commission.

Moreover, even the recent Energy Information Administration study concluding motor fuel could go up a penny if ethanol is required may be too high because it does not take into consideration the efficiencies of the credit trading program.

Our California and New York colleagues argue that nonoxygenated motor fuel is cheaper than ethanol-blended fuel, but that contention is just the opposite of what the California Energy Commission reported. Our colleagues choose not to take their information from the California Energy Commission and they choose not to take their information from the U.S. Energy Information Administration. They would rather take their information from an MTBE consultant. Why would they do this? I wish I knew.

I want to share another independent source of energy analysis produced by the Department of Energy's Office of Transportation Technologies. These two draft studies underscore the extreme importance of expanding renewable fuel use, particularly now that we aim to ban MTBE because it poisons our water.

In short, these analyses conclude that alternative and replacement fuels leverage lower prices for consumers and reduce the impact of OPEC oil-producing nations.

Mr. President, I ask unanimous consent that these two economic analyses of the benefits of replacing gasoline with alternative fuels be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Oil Price Benefits of Increasing Replacement/Alternative Fuel Market Share, Draft Analysis, Office of Transportation Technologies, U.S. Department of Energy

Increasing the market share of alternative and replacement transportation fuels would have significant energy security and oil market benefits for the United States. Some of these benefits will occur even if use of the fuels is induced by regulations, subsidies, or demonstration programs. Additional energy security benefits would be generated if the fuels are competitive with petroleum fuels in at least some market segments.

Competitive alternative and replacement fuels produce energy security benefits in two principal ways:

First, by reducing the quantity of petroleum consumed and imported, they reduce the vulnerability of the economy to oil price shocks.

Second, by increasing the price-responsiveness of oil demand, they reduce the market power of the OPEC cartel, making it more difficult for OPEC to raise prices and the sustain those price increases.

Today alternative and replacement fuels account for 3.6 percent of total U.S. gasoline demand. The majority of this is blending stocks used in gasoline. Methyl tertiary butyl ether, MTBE, which is predominately derived from natural gas, comprises 2.6 percent of gasoline demand. Ethanol produced from renewable energy sources, which is primarily blended into gasoline, comprises 0.7 percent of gasoline demand. The use of MTBE is driven by clean air requirements, while ethanol use is subsidized by a partial exemption from motor fuel excise taxes. Alternatives to petroleum-based fuels, such as propane, compressed natural gas, alcohols, electricity and biodiesel comprise only 0.3 percent of total U.S. gasoline use.

Even these modest levels of alternative and replacement fuel uses are providing some energy security benefits. In a very preliminary, draft market simulation of world oil markets, we have estimated the world oil price impacts of U.S. alternative and replacement fuel use. The following results were obtained.

The present 3.6 percent market share of alternative/replacement fuels produces an approximately $1.00/barrel reduction in oil prices from what they would be if alternative/replacement fuels were not used at all. At current U.S. oil consumption levels of 6.8 billion barrels, this level of alternative/replacement fuel use results in a savings of approximately $7 billion on an annual basis.

If the U.S. were to achieve the 10 percent replacement fuel goal of the Energy Policy Act of 1992, oil prices could be reduced by approximately $3.00/barrel. At current U.S. oil consumption levels of 6.8 billion barrels, this level of alternative/replacement fuel use would result in a savings of approximately $20 billion on an annual basis.

The Impacts of Alternative and Replacement Fuel Use on Oil Prices—Draft

(By David L. Greene)

This memorandum presents estimates of the long-run oil market benefits of increased use of alternative and replacement fuels by highway vehicles in the United States. No attempt is made to estimate the costs of increasing use of alternative energy sources. Potential benefits in the event of possible future oil price shocks are not addressed. Nor are likely environmental benefits considered. Current use of alternative and replacement fuels is estimated to reduce total U.S. petroleum costs by about $1.3 billion per year (about $0.29 per barrel). Cumulative savings from 1992 to 2000 are estimated to be $9 billion. Increasing alternative and replacement fuel use to 10% of motor fuel use by 2010 is estimated to increase oil market benefits to $6 billion per year ($0.68/bbl), for a 2000–2010 cumulative savings of $35 billion. These estimates were made using a very simple model of world oil markets and are contingent on the assumption that historical and projected OPEC production levels do not change.

OIL MARKET BENEFITS OF ALTERNATIVE AND REPLACEMENT FUELS

Displacing petroleum with alternative and replacement transportation fuels helps hold down petroleum prices in two ways. First, reducing the demand for petroleum makes it harder for OPEC to raise oil prices. Although the actual impact will depend on precisely how OPEC responds, a reasonable rule of thumb is that a 1% decrease in U.S. petroleum demand will reduce world oil price by about 0.5%, in the long-run. Short-run (1 year or less) impacts would be even greater, due to the short-run inelasticity of oil supply and demand. The Energy Information Administration offers the following as a rule of thumb for short-run supply reductions.

"For every one million barrel per day (1 MMBD) of oil disputed, world oil prices could increase by $3–5 barrel." http://www.eia.doe.gov/emeu/security/rule.html

Demand reductions would have the exact opposite effect, assuming OPEC took no action to cut back production in response. One MMBD would be about 5% of U.S. oil consumption, whereas $3–5 per barrel would be a 15–25% price increase, if oil cost $20 per barrel, suggesting a short-run elasticity about ten times as large as the long-run elasticity. This leads us to the second oil price benefit of alternative and replacement fuel use, the potential for increased price elasticity in case of a supply disruption.

The existence of an alternative source of liquid fuels supply can also increase the elasticity of oil demand by providing a potential substitute for oil in the event of a price shock caused by a sudden reduction in supply. It is precisely the inelasticity of oil demand and supply that makes price shocks possible. Increasing the elasticity of demand mitigates the impact of a supply shortage on prices.

ESTIMATING THE LONG-RUN OIL PRICE BENEFITS

The long-run oil market benefit of alternative and replacement fuels can be approximately estimated by a simple simulation model of the world oil market. The model is comprised of two demand equations and two supply equations representing U.S. and Rest-of-World, and a assumed level of OPEC output. All supply and demand equations are linear and depend on current price and lagged quantity. A year-specific constant term is used to calibrate the equations to exactly match the 2000 Annual Energy Outlook Reference Case projections. Since the equations are linear, elasticity increases with increasing oil price and decreases with increasing oil demand. Representative elasticities are shown in table 1 for the U.S. and ROW at various oil prices and 1998 quantities.

TABLE 1.—LONG-RUN PRICE ELASTICITIES OF WORLD OIL MODEL

	U.S. demand	U.S. supply	ROW demand	ROW supply
MMBD	19.41	8.96	58.32	36.00
Price Slopes	−0.329	0.138	−0.966	0.376
ELASTICITY ESTIMATES				
Oil Price:				
$10	−0.17	0.15	−0.17	0.10
$20	−0.34	0.31	−0.33	0.20
$30	−0.51	0.46	−0.50	0.31
$40	−0.68	0.61	−0.66	0.41
$50	−0.85	0.77	−0.83	0.51

The historical data and the 2000 AEO projections reflect the current levels of alternative and replacement fuel use. The impact on oil prices is therefore best answered by answering the question, how much would prices rise if there were no alternative and replacement fuel use? This counterfactual analysis also requires an assumption about OPEC behavior. It is assumed that there is no change in OPEC behavior. In other words, oil supply by OPEC is held constant at historical and AEO 2000 projected levels. Given the relatively small amounts of alternative and replacement fuel use, this assumption seems quite reasonable. Of course, in reality OPEC could increase or decrease output. By increasing output, OPEC would lower prices further, increasing the oil market benefits. If OPEC cut production, say enough to restore oil price to the prior levels, there would still be oil market benefits, though they would be more difficult to quantify. First, at lower production levels OPEC would have a smaller market share and thus less market power than before. This would make it more difficult for OPEC to create a price shock, to raise prices further, and to maintain discipline among its members. Second, the loss of wealth by the U.S. economy due to monopoly pricing would be reduced, because the U.S. would be consuming less imported oil. Thus, if OPEC reacted to increased U.S. alternative and replacement fuel use by further production cutbacks to restore the price level, the nature and magnitude of oil market benefits might change, but there would still be significant benefits.

Two alternative "what if" scenarios were analyzed: (1) what if there had been no alternative or replacement fuel use after 1991? 2) what if, starting in 2001, alternative and replacement fuel use increased to 10% of U.S. motor fuel use by 2010? Actual U.S. alternative and replacement fuel use is shown in table 2. Alternative fuel use increased from 230 million gallons of gasoline equivalent in 1992 to 341 million gallons in 1999, with usage of 368 million gallons projected for 2000. Replacement fuel use increased from 2,106 million gallons in 1992 to 4,311 million gallons in 1999 with usage of 4,388 projected for 2000. As a fraction of total motor fuel use, alternative and replacement fuels amounted to 1.57% in 1992 and comprised 2.71% in 1999.

TABLE 2.—ESTIMATED CONSUMPTION OF VEHICLE FUELS IN THE U.S., 1992–2000

[Millions of gasoline-equivalent gallons]

Fuel	1992	1993	1994	1995	1996	1997	1998	1999	2000
Alternative	230	293	281	277	296	313	325	341	368
Oxygenates	2,106	3,123	3,146	3,879	3,706	4,247	4,156	4,311	4,388
Total Motor Fuel	134,231	135,913	140,719	144,775	148,180	151,598	156,839	159,171	163,149

Source: U.S. DOE/EIA, 2000, Alternatives to Traditional Transportation Fuels 1998, table 10, http//www.eia.doe.gov/cneaf/solar.renewables/alt-trans-fuel98/table10.html.

The first scenario assumes that there was no alternative or replacement fuel use by highway vehicles, and that petroleum use (before oil market equilibration) would increase by exactly the amount of actual alternative and replacement fuel use. Assuming OPEC production would not have changed, new world oil prices, supplies and demands were computed for the higher level of oil demand. The resulting price increases are modest, because the 0.14 to 0.29 million barrels per day (mmbd) of U.S. alternative and replacement fuel use is small relative to the 67.5 to 77.9 mmbd of world petroleum consumption over the 1992–2000 period. In 1992, oil prices are estimated to be $0.08/barrel higher, rising to an $0.16/bbl increment by 1999. Implied total oil cost savings from alternative and replacement fuel use rise from $500 million in 1999 to $1.3 billion by 2000, with a cumulative total savings of 9.1 billion by 2000 (undiscounted 1998 dollars).

The impacts of increasing alternative and replacement fuel use to 10% of motor fuel use by 2010 are estimated in a similar way. The AEO 2000 forecast includes increasing levels of alternative and replacement fuel use, but the projected levels are far lower than 10% of total motor fuel use. Rather than create an alternative world and U.S. oil market projection, it is assumed that the AEO 2000 projection contains no alternative or replacement fuel use. U.S. petroleum demand is then lowered by an amounts which increase gradually to 10% of motor fuel demand in 2010. Motor fuel demand is assumed to increase at the rate of 1.5% per year from 163.15 billion gallons in 2000 to 189.34 billion gallons in 2010. Thus, alternative and replacement fuel use is assumed to increase from its estimated 2000 level of 4.39 billion gallons (0.29 mmbd) to 18.93 billion gallons (1.23 mmbd) in 2010. As a result of the consequent reduction in U.S. oil demand, world oil prices drop by approximately $0.68/bbl in 2010. The estimated cumulative savings from 2000 to 2010 is $35 billion.

Neither of these estimates takes into account the potential benefits of increased alternative fuel use in mitigating the impacts of possible future oil price shocks, or even reducing the probability of oil price shocks. The size of the potential benefits would depend not only on the size and frequency of future price shocks, but on how much the substitution of alternatives for petroleum increased the price elasticity of demand for

> oil. Methods for making such calculations have yet to be developed. As a result, the numbers presented above should be considered lower bounds, in the sense that they estimate only part of the full range of oil market benefits of greater use of alternative and replacement fuels. Likewise, no attempt is made here to estimate the costs of increasing use of substitutes for petroleum.

Mr. GRASSLEY. Mr. President, these draft reports produced by the U.S. Department of Energy's Office of Transportation Technologies will further expose inaccuracies of these contentions that renewable fuel standard will increase the cost of motor fuel.

As these reports conclude, the opposite is the truth. The first draft is entitled "Oil Price Benefits of Increasing Replacement/Alternative Fuel Market Share." The second draft is entitled "The Impacts of Alternative and Replacement Fuel Use on Oil Prices." Allow me to read excerpts for my colleagues.

The very first sentence of the first draft states:

> Increasing the market share of alternative and replacement transportation fuels would have significant energy security and oil market benefits for the United States.

This Department of Energy analysis states further:

> First, by reducing the quantity of petroleum consumed and imported, they reduce the vulnerability of the economy to oil price shocks.

The economic analysis continues with a second point. By increasing the price responsiveness of oil demand, they reduce the market power of the OPEC cartel, making it more difficult for OPEC to raise prices and to sustain these prices.

It is very obvious that should be our goal—that is our goal. Do we not want to reduce the market power of OPEC? Do we not want to make it more difficult for OPEC to raise prices? Is not the object of our energy legislation to reduce the quantity of petroleum consumed and imported and to reduce the vulnerability of the economy to oil price shocks, particularly those caused by OPEC withdrawal of oil from the market?

If the Senate approves these killer amendments that are offered by our New York and California colleagues, OPEC will win; America will lose.

When the Department of Energy did this analysis, the market share for alternative replacement fuels amounted to only 3.6 percent of our motor fuel supply. About 2.6 percent was MTBE, about .7 was ethanol, and the remaining .3 came from propane, compressed natural gas, electricity, and others. That mere 3.6 percent, according to the Department of Energy analysis, leveraged a reduction of the cost of oil by $1 per barrel.

The Department of Energy study concluded that by using a mere 3.6 percent, alternative fuels saved Americans $7 billion a year. The study also pointed out:

> If the United States were to achieve the 10 percent replacement fuel goal of the Energy Policy Act of 1992, oil prices could be reduced by approximately $3 per barrel . . . (with) savings of approximately $20 billion on an annual basis.

The second draft offered more conservative estimates of consumer savings but nevertheless stated that current alternative motor fuel use reduced total U.S. petroleum costs by $1.3 billion per year, and if we increased usage to 10 percent by 2010, we would save $6 billion a year. Whether it is $20 billion a year or $6 billion a year, it is saving an awful lot of money for the consumers of America.

I appreciate the support of President Bush, as well as the Republican and Democrat leaderships in the Senate, in supporting and promoting renewable fuels. In addition to bipartisan unity, however, Congress needs to exhibit leadership that puts regional differences aside, for the sake of all Americans.

I will never understand why some people are more worried about the farmers and ethanol producers of the American Middle West than they are about oil and MTBE produced from the Middle East. I will never understand why people use MTBE-industry-generated misinformation about price spikes that, if taken to its logical conclusion, would argue that MTBE should not be banned, that drinking water contamination is no big deal in California or New York. It is very baffling to me.

I firmly believe the renewable fuel standard benefits all Americans, particularly including consumers in California. But even if California and New York do not get special treatment under this bill, would not my colleagues rather do something to benefit America's Midwest instead of doing things that continue to benefit the world's Middle East?

The opponents of ethanol suggest it costs too much or that it should be taxed at a higher level. That is their complaint. They think a gallon of gasohol should be taxed at around 18 cents a gallon instead of 13 cents a gallon. They want to raise taxes on the consumer who uses ethanol. For some reason, however, they choose to ignore the costs of the status quo: Our ever-increasing vulnerability on imported oil. They choose to ignore the real cost of imported oil.

Ten years ago, during debate on the Energy Policy Act of 1992, then-Energy Committee Chairman Senator Johnston of Louisiana reported that the United States was subsidizing imported oil to the tune of $200 per barrel.

Former Navy Secretary Lehman estimated the defense cost of protecting Middle East supply lines at around $40 billion a year, and we all know what the Persian Gulf war was about. It has been pointed out by numerous energy experts, including the ranking Republican of the Senate Energy Committee, that the Persian Gulf war was about oil.

So I hope my colleagues from California and New York will ponder on this truth: Not one of our sons or daughters who have proudly donned the military uniforms of the United States has ever lost his or her life or limb. None of our children has ever shed their blood to protect ethanol supply lines and the production of ethanol.

What value might my colleagues place on that, that there has been no loss of life in this country and that there has been loss of life elsewhere protecting our oil lines? I will be in shock if we cannot all agree that reducing the risks to our sons and daughters, the risk of them losing life and limb trying to protect Middle East oil supply lines, is worth far more than the few cents a gallon that was mentioned, albeit incorrectly, as the increased cost of using renewable fuels.

My New York and California colleagues used the term "mandate" much during the debate. None of us likes mandates. I, for one, did not like mandating sending our sons and daughters to defend Middle East oil supply lines.

I heard one talk about market principles. What market principles are involved when supply must be protected by military escort to the tune of what Secretary Lehman said, $40 billion a year?

We also hear complaints about the highway trust fund, that it does not collect enough revenue because gasohol is not taxed highly enough. One has to wonder why my colleagues are not equally upset by the fact that billions of dollars from the highway trust fund are diverted away from highway construction and instead used for mass transit subsidies of California and New York. Before we increase taxes on motorists, I suggest it makes more sense to first put a stop to this transfer of wealth from highway users to subsidize cities' mass transit users. At the same time, I wonder if our colleagues have ever considered that mass transit subsidies are justified for the same reason as charging lower taxes on gasohol.

Are we not in both cases trying to reduce our dependence upon foreign oil imports? Why are subsidies to encourage mass transit ridership in New York and California OK, but subsidies to encourage all Americans to use gasohol somehow not okay?

Ten years have passed since we took up and enacted the Energy Policy Act of 1992. Given the fact that our dependence upon foreign imports has increased substantially, I think we can agree that the Energy Policy Act was a dismal failure. Part of the reason we failed was that we let regional bickering get in the way of pulling together a comprehensive energy plan that is good for every American.

We do not dare fail again, as we did in 1992, and that is why I urge my colleagues to defeat these anti-renewable-fuel-standard amendments that are before us.

Mr. FEINGOLD. Mr. President, I rise today to oppose the amendment offered by the Senator from New York, Mr. SCHUMER, to strike the ethanol mandate from the fuels title and to address comments that have been made in opposition to the fuels title contained in the Senate energy bill currently before us. I want to share my perspective on the fuels title as a Midwestern Senator who has had a cautious record on extending Federal subsidies for ethanol production. But I also come to the floor as a Senator who represents a State that is part of the only market for reformulated gasoline—or RFG—that sells entirely ethanol blends, the Chicago-Milwaukee market, and as a Senator who supports the Clean Air Act. We need to make certain that there are adequate supplies of ethanol so that when State bans on MTBE go into effect the short supplies of ethanol for Chicago and Milwaukee aren't stretched even further. It is appropriate that we ramp up that production over time, as the fuels title would do.

Despite the speculation by opponents of this title about policy reasons for using ethanol in reformulated gasoline, we use solely ethanol blended RFG in Wisconsin because of consumer preference due to public health concerns. Unlike other jurisdictions that continue today to use reformulated gas containing the additive methyl tertiary butyl ether, or MTBE, the citizens of the six non-attainment counties in Southeastern Wisconsin switched within the first month of the RFG program to ethanol blends.

This consumer demand was overwhelming. The EPA Regional Office in Chicago and my office received thousands of calls from individuals in Southeastern Wisconsin during the first week of February 1995, when the reformulated gasoline program was first implemented nationwide. Phone calls to my offices were coming in at rates of dozens per hour, and several hundred constituents contacted me to share their experiences. Most callers said that reformulated gasoline containing MTBE was making them ill.

The rest of the country now shares Wisconsin's concerns about MTBE's effect on health and the environment, and several States have acted to ban MTBE. These State bans on MTBE are having and will continue to have serious consequences for fuel markets, especially if the oxygenate requirements remain in place which they will unless this title passes. As ethanol is the second most used oxygenate, it is likely that it would be used to replace MTBE. But, quite simply, as even the proponents of this amendment acknowledge, there is not currently enough U.S. ethanol production capacity to meet the potential demand to replace the 3.8 billion gallons of MTBE used annually in reformulated fuel. The mandate in the energy bill seeks to create and guarantee a nationwide supply of ethanol to meet this new demand.

The fuel provisions in the energy bill require a uniform phase-down of the use of MTBE as an additive to produce reformulated gas, remove the oxygen content requirement for reformulated gas, and put in place a nationwide renewable fuels standard—or RFS—that will phase-in gradually over a number of years. These provisions provide for a more orderly and cost-effective solution to the MTBE issue than State-by-State action. Because individual States are banning or are considering banning the use of MTBE, without the action in this title, the existing Federal oxygenate requirement for RFG will increase the cost of complying with these bans and lead to an inefficient pattern of fuel-type by State.

In his floor statements, my colleague from New York, Senator SCHUMER, read at length the cost increases that ethanol RFG use would have on several States. My constituents are well aware of the 5-cent estimate of cost increase due to the use of reformulated fuel containing ethanol cited by the Senator from New York and have already paid for that increase and much more. And what has caused that price increase is, quite simply, limited supply.

Before the start of the second phase of the reformulated gas program in 2000, when the reformulated fuels were required to be cleaner, estimates of the increased cost to produce the blend stock for ethanol-blended RFG ranged from 2 to 4 cents per gallon, to as much as 5 to 8 cents per gallon. In summer 2000, RFG prices in Chicago and Milwaukee were considerably higher than RFG prices in other areas, ranging from 11 to 26 cents higher, in part due to the higher production cost of producing ethanol RFG just for this market. To decrease the potential for price spikes, on March 15, 2001, EPA changed its enforcement guidelines to allow for the blending of cleaner burning reformulated gasoline containing ethanol during the summer months. Nevertheless, we are continuing to see gas prices again increase in Wisconsin as the time for having summer reformulated fuels at the pump grows closer. We in Wisconsin see States that are banning MTBE as reaching for our small and limited supply of ethanol RFG. Congress must act to make certain that our supplies increase.

Despite all indications that the energy bill fuels title will produce sufficient ethanol supplies to meet the needs of a State's banning MTBE and will not increase prices, the bill includes additional safeguards. Prior to 2004, the Department of Energy is to conduct a study to determine whether the bill is likely to significantly harm consumers in 2004. If the Department determines this to be the case, then the Environmental Protection Agency must reduce the volume of the renewable fuels mandate for 2004. Also, upon petition of a State or by EPA's own determination, and in consultation with DOE and USDA, EPA may waive the renewable fuels standard, in whole or in part, if it determines the standard would severely harm the economy or environment of a State, a region, or the United States, or if there is an inadequate domestic supply or distribution capacity to meet the requirement.

In addition to the ethanol mandate, there are other provisions in the fuels title that would improve fungibility of RFG nationwide, by standardizing volatile organic compound—or VOC—reduction requirements. In practice, when combined with the energy bill's renewable fuels mandate, this would enable the part of Wisconsin that uses Federal RFG to draw on supplies of Federal RFG from other areas, such as St. Louis and Detroit, if necessary. The ability to rely on other sources of RFG is especially important when sudden supply shortages arise due to unexpected events, such as refinery fires or pipeline breakdowns, which we in Wisconsin have also experienced. The fuels language in the energy bill would help address this problem by bringing other areas that use Federal RFG in line with Wisconsin's blend by standardizing VOC reduction requirements nationwide.

With State bans on the books and a continuation of the Federal RFG oxygen requirement, we face a serious ethanol shortfall. Consumers want and deserve affordable gasoline and clean air. We cannot let this bill go by and not do everything we can to achieve this goal. I urge my colleagues, even those who have concerns about ethanol, to think seriously about how we meet our obligations under the Clean Air Act without these provisions and to rethink efforts to strip this language from the bill.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the time until 6 p.m. today be divided with respect to Schumer amendment No. 3030 and that the time be divided as follows: Ten minutes each under the control of Senators SCHUMER and FEINSTEIN; 20 minutes under the control of Senator WELLSTONE; and 10 minutes under the control of Senator MURKOWSKI; that at 6 p.m. today, without further intervening action or debate, the Senate proceed to vote in relation to the amendment, with no intervening amendment in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Madam President, I thank my good friend from Iowa for reminding Members we are talking about considerable expense to the taxpayer, providing a domestic source of energy that would ordinarily come from the technological advancements of looking for oil either offshore or on land. We already had a debate on ANWR; I will not go back into that.

However, I call my colleagues' attention to a couple of realities. I am sympathetic to the concerns raised by the Senators from California and New York. I don't like mandates of any kind. I find it ironic that the same Senators who voted for a renewable portfolio standard argue against a renewable fuel standard. This forces some $88 billion in higher costs to consumers and forces consumers in California and New York to pay 3 cents per kilowatt for electricity they are not going to use.

Again, I ask why they voted for the renewable portfolio standards. No new energy supply was created, no national security benefit. So although we do not like mandates, the renewable portfolio standards have increased our energy supply. As the Senator from Iowa said, it certainly enhances our national security.

If we are not going to have the courage to develop our domestic oil and gas reserves in an environmentally sound manner, the only option we have to extend our supply is to reduce dependence on imported oil in provisions such as ethanol. Again, mandates I find unacceptable, but they are a part of the price. We simply don't have to pay for our failure to develop domestic resources.

Consequently, I remain in opposition to the amendment of the Senators from New York and California. Different regions of the country have different points of view on energy, and alternative fuels are recognized in this body, but most Members thought any deal between the oil industry and the American farmers was doomed at one time. I think this proposal proves them wrong. I am basically opposed to gutting the amendment before the Senate.

One of the things I am particularly opposed to, after a discussion of gasoline prices, was the issue of whose figures are right. The Energy Information Agency supports using those figures, addressing some of the amendments that are before the Senate. The point is, where did the report come from? We asked for it. I asked the Energy Information Agency to study different provisions of the bill because the Senate committees were denied the chance to mark up the bill in committee, as we have discussed previously.

The Senate leadership and I have had strong and opposing words about the energy bill consideration. As for ethanol, on the other hand, I think we have collectively tried to do what is right for the country, as part of a comprehensive bill. What has driven all parties to this agreement is the price of gasoline.

We want fair prices for consumers. If States ban MTBE and don't use ethanol, the price of gasoline is certainly going to go up. That is not what the ethanol part of this bill does.

Senator DASCHLE and I wrote a letter asking the EIA for clarification on what their report said about the impact of ethanol in the MTBE provisions of the bill. I ask unanimous consent the letter dated April 12 from the Department of Energy be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, April 12, 2002.

Hon. FRANK H. MURKOWSKI,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: Enclosed is an analysis responding to you and Senator Daschle's April 10, 2002, request to analyze the provisions of Senate Bill 517 (The Energy Policy Act of 2002) requiring a four-year phase down of the use of methyl tertiary butyl ether (MTBE) and a ten-year ramp-up in the amount of renewable fuels included in gasoline. Per your request, we have provided results of: 1) a 14-State ban on the use of MTBE based on those States that have already banned the use of MTBE, 2) a Northeast State ban on MTBE in 2004 along with the 14-state ban which is the Reference Case of this study, 3) the provisions of S. 517 requiring an MTBE ban with State waivers including the provisions of the above two cases, and 4) no MTBE ban, but including the renewable fuel requirement. We implemented the State waiver provision in S. 517 according to your instructions of assuming the continual use of MTBE in gasoline at 13 percent for the remaining States. This results in an effective MTBE reduction of 87 percent. We did not implement the banking and trading provisions of the Bill because of the complex modeling required and your need for immediate results. We have found from our other analyses that banking results in meeting the required targets at a later date than without banking, and that trading lowers the cost of the provision because it allows for the least cost entities to meet the requirements first. Thus, the results below should be treated as an upper bound on the price impacts.

The results indicate:

That reformulated gasoline (RFG) prices are projected to increase in 2006 by about 4 cents per gallon because of a 14 State ban on MTBE, by an additional 2 cents per gallon if the remaining Northwest States ban MTBE (for a total of 6 cents per gallon), and by an additional 2 cents per gallon if S. 517 is passed and the assumed States exercise the waiver option (for a total of 8 cents per gallon);

The comparable numbers for average prices of all gasoline in 2006 are an increase of: about 2 cents per gallon for the 14-State Ban, an additional 0.5 cents per gallon when the remaining Northeast States ban MTBE (total of 2.5 to 3 cents per gallon), an additional 0.5 cents per gallon when the State waiver provisions of S. 517 are assumed (3 to 3.5 cents per gallon).

Assuming a Renewable Fuel Standard (FTS) without an MTBE ban has much less impact on prices. An RFS increases RFG prices by less than 1 cent per gallon and increases the average prices for all gasoline by less than 0.5 cent per gallon. This is the same finding that was in our original analysis.

If you have further questions, please contact me.

Sincerely,

MARY J. HUTZLER,
Acting Administrator,
Energy Information Administration.

Mr. MURKOWSKI. I refer to the last paragraph on the first page of that letter.

The results indicate:

That reformulated gasoline (RFG) prices are projected to increase in 2006 by about 4 cents per gallon because of a 14 State ban on MTBE, by an additional 2 cents per gallon if the remaining Northeast States bang MTBE (for a total of 6 cents per gallon), and by an additional 2 cents per gallon if S. 517 is passed and the assumed States exercise a waiver option (for total of 8 cents per gallon);

Assuming a Renewable Fuel Standard (RFS) without an MTBE ban has much less impact on prices.

That is a reasonable explanation relative to the alleged costs associated with ethanol that is really associated with the MTBE provisions.

Further, it is fair to say the farmers previously supported our opening of ANWR as part of the comprehensive bill. I thank them for that support, because the bottom line is reducing our dependence.

I make one point, however, since I have had a long history and some association with charts. As we recall in the ANWR debate, we had quite a discussion about footprints. Let me show one chart, the footprint associated with ethanol. The point is, there is no free ride on footprints. This happens to be a chart which shows the comparison. If you had 2,000 acres of grain corn in an ethanol farm, you would produce the energy equivalent to 25 barrels a day. If you had 2,000 acres of ANWR production, you would be producing a million barrels of oil a day.

As we look at the expansion of ethanol and its contribution to our national security in relieving us of the dependence on imported sources, it would take 80 million acres of farmland, or all of New Mexico and Connecticut, to produce as much energy as 2,000 acres of ANWR.

So, there is a comparison, whether we talk of popcorn or oil. Obviously, there is a footprint.

With that profound observation, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Alaska.

Let me start not with a disclaimer but just to be clear. My State of Minnesota is a leader in ethanol production. We have 14 ethanol plants, of which 12 are owned and operated by farmer co-ops. Last year, the total production from Minnesota ethanol was 200 million gallons, which was 95 percent of our State's ethanol needs.

After having said that, because this is so important to Minnesota, so important to farm country, so important to what we call greater Minnesota, I make some other arguments that go beyond Minnesota.

Expanded ethanol production promises to relieve us from some of our dependence on foreign energy supplies. With the current cost of home heating oil and gasoline going up, every American knows the value of achieving more energy independence. Ethanol is important to achieving energy independence.

Some of my colleagues say: Of course you are for ethanol, Paul, given you represent Minnesota. But I can make a lot of good public interest arguments for ethanol.

Second, expanded ethanol production provides a clean fuel which can be relatively pollution-free; that is certainly not the case with oil. As United States negotiators hammer out agreements—I hope—over global climate change, we are being constantly reminded of the long-term environmental costs of fossil fuel use.

We have, A, energy independence; and, B, a compelling environmental case. Also, because ethanol is oxygen-rich when added to gasoline, it burns cleaner, reducing the amount of harmful tailpipe emissions in the air. Fewer toxins, carcinogens enter your lungs. So better health is a third compelling public interest argument for ethanol. Finally, ethanol means rural development, bringing employment to a lot of the parts of our country where people are hurting the most. A recent study by Northwestern University concluded that nationwide, ethanol production boosts employment by 195,000 jobs, it improves America's balance of trade by $2 billion, and it adds $450 million to State tax receipts.

There are a lot of compelling arguments that can be made. In Minnesota, it creates jobs for Minnesotans. In fact, Minnesota has the Nation's most significant cooperative—I am really proud of that—ethanol industry owned by more than 7,000 Minnesota farm families.

I want to go back to the argument about energy independence, and I will make it in a different context. The whole war on terrorism has renewed interest, as it should, in reducing the energy imports and diversifying our energy sector. Oil imports today account for 56 percent of our oil consumption. The EIA estimates that our import dependency could grow to 70 percent by 2020—70 percent of our oil production imports by 2020. We spend more than $300 million a day for imported oil, with an annual cost of more than $100 billion imported oil.

Alarmingly, Iraq represents the fastest growing source of United States oil imports, exporting 700,000 barrels per day to the United States. We send Saddam Hussein more than $12 million per day—$4.3 billion annually—for his oil.

I do not know that I need to make any more of this case. I just don't see the point of subsidizing terrorism through the importation of oil from rogue nations. American agriculture, rural America, has part of the answer for energy independence. As to environmental benefits, I will make the point again. Ethanol continues to be an important tool for improving air quality in our Nation's cities. Ethanol reduces all the criteria of pollutants—carbon monoxide, hydrocarbons, NOx, toxics, and particulates—all of them. The benefits are going to continue. Studies show that ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent and particulates in the air by 40 percent.

So there is a compelling case to make for Minnesota, a compelling case to make for our co-ops and family farmers. Value-added agriculture? You had better believe it. But a compelling case to make for the country: More energy independence, less dependence on Middle Eastern oil; in addition, much better for the environment; and some compelling public health reasons.

The final point is that this renewable fuel standard will cause price spikes. I don't get this. The EIA, which is the independent research arm of the Department of Energy, released a report last week on what would be the price impact of this RFS standard which is before us in the Senate. Their analysis says that requiring renewables would add about one-half cent per gallon to the price of gasoline—a half a cent. This is not renewable fuels organizations. I am talking about the EIA, U.S. Energy Information Administration, the independent research arm of the Department of Energy. That is what we get.

Finally, I have heard arguments that farmers do not benefit from this renewable fuel standard. That is simply wrong. If we use corn, soybeans, and other commodities grown on farms as the feedstock for renewable fuels such as ethanol and biodiesel, then farmers benefit, rural America benefits. The farmers who benefit in Minnesota are not monopolies. I am not talking about ADM. I am talking about farmer co-ops.

Companies owned by farmers are creating most of the new production in ethanol. I think Senator DAYTON made this point earlier. Today, 61 ethanol facilities produce more than 2.3 billion gallons of ethanol, and 26 percent of these facilities are farmer owned. Additionally, there are 14 ethanol facilities under construction, of which 11 are farmer owned.

So the only thing I can tell you is that this requirement of 5 billion gallons ethanol biodiesel, as you look to the future—I will say it right now. I do not want to offend anybody. I wish ADM did not have the control. Thank goodness it is actually less and less a percentage of locally owned market control, but they still have way too much. I am not in favor of oligopoly or monopoly. But there are a lot of farmer co-ops that are formed. This is very good for farm country, very good for family farmers, very good for economic development in our rural communities.

Frankly, it is win-win-win. It is a win for energy independence, it is a win for public health, it is a win for the environment, it is a win for family farmers, and it is a win for Minnesota, the last point being the most important.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. FEINSTEIN. Madam President, I would like to sum up on behalf of the sponsors of this amendment. The amendment deletes this particular renewable fuel mandate from the bill.

This is a tripling of ethanol. It may be fine in the Midwest where all the facilities that produce ethanol are located, but for those of us on the west coast and those of us on the east coast, it is truly egregious.

One of the reasons it is egregious is that we don't have the infrastructure to really accept it. Another reason is that, for many of us, our gasoline is already reformulated and already meets clean air standards and therefore we are forced to use a specific product, ethanol, way in excess of what is necessary.

Sure, we want to be relieved from the MTBE oxygenate requirement. But to replace it with a renewable fuels requirement that mandates a tripling of this additive on States that do not need it imposes some very substantial detriments.

I would like to read from the letter from the Governor of California. I know there are a lot of people who are experts on California in this body, but I think the Governor's position also bears scrutiny. He points out that:

> While the [California Energy Commission's] Fall 2001 survey indicated that there may be adequate ethanol production capacity in the Midwest to meet California demand, both the [California Energy Commission] and its independent experts concluded that the infrastructure necessary to deliver ethanol and distribute it within California is not in place. Specifically, they pointed out the following problems:
>
> Lack of unit-train off-loading facilities for ethanol in California; lack of storage tanks at distribution terminals; inadequate rail and marine capacity for handling ethanol; inadequate facilities to transport ethanol from marine terminals to inland distribution points.
>
> Furthermore, the two-year delay in the decision by the federal government on California's request for a waiver of the oxygenate requirement has delayed completion of the infrastructure changes necessary to make a successful transition to ethanol within our current timeframe.

It also goes on to point out that:

> California's Air Resources Board reformulated fuel standards—so critical to California's air quality—make it nearly impossible

> to replace gasoline with supplies from other states. In 2004 and 2005, a more stringent federal reformulated fuel standard begins to phase in, which will make it easier to import cleaner burning gasoline from other states and maintain California's strict air quality standards.

The point is, we can do a lot of this without tripling of ethanol.

The letter goes on to point out California has:

> Limited refining capacity—California refineries have been running at operating rates approaching 95 percent of their nameplate capacity which, in effect, means California's refineries are operating at maximum levels now. Without new capacity, California cannot replace the volume lost by replacing MTBE with ethanol. In 2005, the Longhorn pipeline and other pipeline projects will be completed, freeing up California fuel that is now being shipped to Arizona.

The point of this is that ethanol absorbs more gasoline. It needs more gasoline. MTBE needs less gasoline.

California's refining plants are at capacity. Therefore, it cannot refine enough gasoline to take the amount of ethanol that we are required to take under this bill. That is the rub. It is a kind of strict mandated formula all across the Nation.

I can't believe people think this is good public policy. I can't believe people think the lack of flexibility in this policy is good for all States. Every State is in a different position with respect to ethanol. Some can absorb it. Some can't. Some need it. Some don't.

It seems to me that the key is the clean air standards in the Clean Air Act. If you can meet those clean air standards in other ways, good policy would allow a State to have that capacity.

This, in essence, is a selfish public policy. It is selfish just for a specific area of the United States that produces it, that has the plants there, that has the producers there, and, therefore, has adequate supply and adequate infrastructure. That is why we will move to delete this from the bill. Obviously, we don't expect to win it, but we expect to make the case. And I believe we have.

After this amendment is considered, it will be my intent—if I need to wait, I will wait—to call up the 90-day waiver amendment, which Senator DASCHLE has offered, and also the amendment which would produce a 1-year delay in the mandate which Senator DASCHLE has said he is agreeable to, and see what happens with these two amendments.

By and large, as somebody who has been in public life for 30 years now, as a lifelong Californian, to be part of a body that places my State in this kind of jeopardy in terms of loss of revenues from the highway trust fund, which is probably the most vital Federal appropriations we have, from a State that produces much more in taxes than we get back in services from the Federal Government, and to create a loss in the highway trust fund, and in all probability a gas tax hike—the Senator from Iowa particularly criticized us using a study to show the gas tax.

The reason we don't agree with the Energy Information Office study is because the Energy Information Office study does not account for problems with infrastructure or market concentration as criteria in evaluating any impact that this would have on increased fuel prices.

I see the Senator from New York on the floor. I know he wishes to sum up as well.

Mr. SCHUMER. Madam President, I have 10 minutes. But we will finish ahead of time. Because not everyone used their time, I ask unanimous consent that the order be modified so that in addition to my 10 minutes, the Senator from South Dakota could have 5 minutes to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Madam President, I thank my colleague from New York for his gracious willingness to allow me to make a few remarks about this pending amendment.

I rise in opposition to the amendment on the renewable fuels standard.

The Senate energy bill contains a landmark renewable fuels standard that is an essential part of a sound national energy policy. The bill provides for an orderly phase-down of MTBE use, removal of the oxygen content requirement for reformulated gasoline—RFG—and the establishment of a nationwide renewable fuels standard—RFS—that will be phased in over the next decade. The standard has strong bipartisan support and is the result of long and comprehensive negotiations between farm groups, the American Petroleum Institute, and coastal and Midwestern States. It is the first time that a substantive agreement has been reached on an issue that will reduce our dependency on foreign oil and greatly improve the Nation's energy security.

I have spoken in the past about the benefits of renewable fuels. These home-grown fuels will improve our energy security and provide a direct benefit for the agricultural economy of South Dakota and other rural States. The new standard is largely based on legislation that I introduced with Senator CHUCK HAGEL. The leadership of Senators DASCHLE and BINGAMAN resulted in the consensus legislation on this issue.

The consensus package would ensure future growth for ethanol and biodiesel through the creation of a new, renewable fuels content standard in all motor fuel produced and used in the United States. Today, ethanol and biodiesel comprise less than 1 percent of all transportation fuel in the United States, 1.8 billion gallons is currently produced in the United States. The consensus package would require that 5 billions gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol production.

I don't need to convince anyone in South Dakota and other rural States of the benefits of ethanol to the environment and the economies of rural communities. We have many plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring States, demonstrate the hard work and commitment being expended to serve a growing market for clean domestic fuels.

The new standard does not require that a single gallon of renewable fuel must be used in any particular State or region. Moreover, the language includes credit trading provisions that give refiners flexibility to meet the standard's requirements. In no way is this intended to penalize California, New York, or any other region in the country.

Much has been made on the Senate floor and in the press recently about the possibility of additional costs that could be incurred when the new standard is enacted into law. I understand the concerns raised by the Senators from California and New York. This is a major change in the makeup of our transportation fuel. However, the goal of the agreement that has been reached on this title is to phase in the renewable fuels standard in a manner that is fair to every region of the country.

The ban on MTBE and the elimination the oxygenate standard are two changes that Californians, New Yorkers, and others have sought for years. The goal of this agreement is not to raise gas prices, but to diversify our energy infrastructure and increase the number of fuel options. This helps to increase our energy security, increase competition and reduce consumer costs of gasoline.

Moreover, little has been made about the source of information that has been cited to alarm Members or about its potential impacts about the consequences of failing to enact these provisions. Senators from New York and California have distributed charts and spoken on the floor, claiming that the renewable fuels standard will increase consumer costs by 4 to 10 cents per gallon. The source of this data is the MTBE consulting firm, Hart/IRI, which claims it based its cost estimates on data from the Energy Information Administration.

EIA has completed two analyses of the fuels provisions of S. 517. The first, completed in February on the original provisions of the bill, found that the MTBE ban could increase gasoline costs by 4 to 10 cents per gallon, while the renewable fuels standard could increase gasoline costs by 1 cent per gallon in reformulated gasoline—RFG—areas and a half cent per gallon overall.

Hart/IRI lumped these costs together and attributed them solely to the use of renewable fuels, making that provision appear to be roughly 10 times more expensive than it is.

The second EIA analysis on the new compromise agreement found that, because 14 States already have banned MTBE, the incremental costs of the MTBE ban in S. 517 would be only 2 to 4 cents per gallon, while the cost of the renewable fuels provision would be less than a penny per gallon in RFG areas and less than a half cent per gallon overall. The analysis did not consider the positive economic effects of the banking and trading provisions of the bill, which the American Petroleum Institute has said will reduce the costs to less than one-third of a cent per gallon.

The difference between the Hart/IRI analysis and the EIA analysis is not surprising. Hart/IRI is an MTBE consultant whose business depends on the continued existence of the MTBE industry. Since the fuels compromise bans MTBE, Hart/IRI has every incentive to exaggerate and misrepresent the cost impacts of the legislation. It is unfortunate and ironic that some Members have misinterpreted the data from this analysis.

The renewable fuels standard in S. 517 addresses the difficulties that States have encountered in meeting Federal gasoline requirements, while promoting the use of home-grown fuels that will reduce our Nation's dependency on foreign oil. Any further attempts to reduce or eliminate the standard should be opposed so that we can move forward and improve our Nation's energy security.

The inclusion of the renewable fuels standard will result in cleaner air, more jobs across America, a better trade balance for the United States, less reliance on the politics of very troubled parts of the country, fewer gallons of oil imported from Saddam Hussein, and it will result in better prices for our farmers and overall be a major plus as our Nation moves in the direction of renewable fuels.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Madam President, I believe I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. SCHUMER. Madam President, I will get into the substance of this amendment once again, but before I do, I alert my colleagues to one particular provision that is in the bill that is particularly odious, and that is a pretty strong accomplishment given how many pretty odious provisions there are in this bill. But this is the ethanol gas tax safe harbor provision. The chart I have shows what it says. It is adding insult to injury to make a deal with the petroleum industry, which has always opposed ethanol. They have given them a safe harbor so you cannot sue if an additive causes pollution of the ground water. So here we are.

And I beg to disagree with my colleague from South Dakota, and others. This bill abolishes MTBE. The Schumer amendment does not change that. So anyone who likes MTBE is not going to be for either the bill or my amendment.

The reason so many States have abolished MTBE—and this bill does—is that it pollutes, and all of a sudden we are giving the petroleum industry a total safe harbor exemption from being sued, even if they knowingly pollute. Can you imagine that?

Senator BOXER has an amendment to get rid of that, but we do not even know if she will be able to offer it. Therefore, if you do not like this safe harbor, the one sure way of making sure that this safe harbor is eliminated is to vote for the Schumer amendment, which not only gets rid of the ethanol mandate but also this particularly odious safe harbor.

I am utterly amazed that so many on my side, who believe in the right to sue, are going to vote to keep this particular safe harbor, all to subsidize ethanol.

I guess, in a certain sense, this is a regional fight.

I have looked at who has spoken out for the ethanol mandate and not a single person comes outside of this Middle West region. So if you think the decision is totally on the merits, just look at this chart: 98 percent of the ethanol comes from this particular region. No wonder the people from the Middle West want it. Although, I will tell you this. When Iowa and Nebraska legislators were given a chance to mandate MTBE in their States, they rejected it. They rejected it because they knew their drivers would pay more. Even in States with so many corn farmers, the legislators said no. The editorial opinion throughout the States was against it.

That is another thing that makes me incredulous about this amendment, that it is not done in the Middle West by its own States. Yet they are imposing it on everybody else.

In New York, I think we are the largest producer of cabbage in the country. Maybe we should mandate that the rest of the country buy our cabbage. California is probably the biggest producer of almonds in the country. Maybe we should say that you have to buy almonds in the other 49 States. By the way, if you do not want almonds, you like cashews, you are still going to have to buy an almond credit; so you will have to pay for it. Or maybe you like peaches, where South Carolina and Georgia and Pennsylvania lead. Maybe we should require the whole country to buy peaches.

This is utterly amazing, I say to my colleagues. One region of the country requires everybody else to buy ethanol.

Both my colleagues and friends from South Dakota and Minnesota argue this will not cost that much. If it will not cost that much, how come you have to mandate it? If this is so good, why do you require us to do it? If the market is going to work, and these other additives are more expensive, let it.

Well, we think something is rotten in Denmark.

I do not think the people here who are for this mandate believe it is going to be so inexpensive or they would not have done a mandate. Let me tell you, ethanol is going to be a more valued commodity the minute we ban MTBEs nationwide because it is the only other additive that is produced domestically.

We believe that in New York we can reformulate our gasoline without an oxygenate. We are not given the chance to do that, even though it would be cleaner, it would be environmentally preferred, and it would be cheaper. There would still be plenty of other places that it would be in their market interest to buy ethanol.

Also, my colleague from Oklahoma, Senator NICKLES, talked about the highway trust fund. That is decreased. It is very hard, my colleagues, to think of an amendment that has bad provision after bad provision after bad provision.

I guess another thing I call this amendment is the "piling on provision." Not only do you mandate ethanol, not only do you provide a safe harbor for polluters, not only do you deplete the highway trust fund, but, to boot, you raise our gas prices 4, 5, 6, 7, 8 cents a gallon.

My colleagues say this study is an MTBE-based study. We are abolishing MTBE. Anybody who wants MTBE is not going to be for this amendment.

My colleagues from Minnesota and South Dakota have brought up a straw horse. Yes, if it were MTBE or ethanol, I would guess ethanol would win. But there are other alternatives, and those other alternatives, in a classic way that a free market economy should not work but a planned, socialistic, fascistic economy would work are being mandated. We do not do that for virtually anything else.

Do we set clean air standards? Yes. My good friend from South Dakota said there is a mandate on CAFE standards. That is correct. But we do not say the only way you can meet the CAFE standards is that you have to use aluminum or you have to use plastic. We set a standard and then let the market meet that standard.

That is all we are asking: Set a clean air standard. Require us all to meet it. Get rid of polluting materials such as MTBE, but do not say the only road to salvation is ethanol, although I know many of my colleagues truly believe that.

We always get on the floor and debate about working families. To me, this amendment, simply put, is: Whose side are you on? Are you on the side of working families who struggle and raise their gas tax 5, 6, 7, 8, 9, 10 cents—that is during good times—and then during spikes raise their gas prices 25, 30, 40 cents? Are you on the side of working families or are you on the side of Archer Daniels Midland? Because this is not going to even help the farmers. It will trickle down a little bit, but first Archer Daniels Midland, and the other companies, take their vig. They decide how much the farmer gets.

I have listened and often supported my colleagues who say the middle man gets all the money out of agriculture. But all of a sudden, the one middle man who has 41 percent of the market, Archer Daniels Midland, is being exalted. I would feel a lot better if every nickel here had to go to the farmer. It still would not be a good bill, but at least it would take away one of the objections.

So this is a "whose side are you on" amendment? Are you on the side of working families or are you going to make the guy or the gal who makes $25,000 a year and has to drive their car 25 miles to work subsidize Archer Daniels Midland to a large extent, and farmers who make more money than them, by and large, to the rest of the extent? That is not fair. That is not cricket.

This amendment is really appalling. As I have said before, if any proposal should have a skull and crossbones on it—beware, voter; beware, Senator—it is this one.

I mentioned this before, but I want to mention it again because I have a feeling 2, 3 years from now my colleagues will be coming back to me and saying: You were right; I should have listened.

I have seen every so often terrible amendments pass. They usually pass quietly. This one is passing pretty quietly. The number of us getting up to oppose it is small, and it wouldn't have even been debated had I not offered the amendment. In 1982, I think it was, Garn-St Germain seemed sort of innocuous. There were about 25 Members of the House who said: You had better watch out. This is allowing banks to use free money. It passed. Five years later, everyone was trying to explain why the heck they voted for it.

In the early 1990s, catastrophic illness: There was a mandate to help the few who needed help, but it was imposed on everybody else—not too dissimilar to this, except the people who were helped with catastrophic illness were a lot more worthy than the people being helped here—mainly agribusiness. It passed. It seemed all right. It was not debated. Then we all rued the day.

Madam President, I ask unanimous consent, since I don't think there is anyone else who wishes to speak, for 2 additional minutes to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Will the Senator yield?

The PRESIDING OFFICER. Will the Senator from New York yield?

Mr. SCHUMER. I ask unanimous consent that I be given 5 additional minutes and then I will yield.

The PRESIDING OFFICER. Is there objection?

Mr. SCHUMER. If the Senator from New Mexico wishes to speak, I won't ask for that.

Mr. BINGAMAN. Reserving the right to object, as I understand it, the Senator from California continues to retain 2 minutes of her own time and, in addition, the Senator from New York has asked for an additional 2 minutes of time. I ask my colleagues if that will be sufficient for them to conclude their remarks.

Mr. SCHUMER. That would be great. That is fine with the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Would the Senator from California like me to use my 2 minutes first?

Mrs. FEINSTEIN. I would like to put some documents in the RECORD that just came over from the House.

Mr. SCHUMER. Please.

Mrs. FEINSTEIN. These documents were just disclosed in a House hearing this afternoon. They were disclosed to the FTC. What they show are competitors in the ethanol industry sharing bidding information to rig bids. One memo describes bringing European ethanol and laundering it through the Caribbean to avoid the tariff. These are hearings that are now going on in the House. I cannot, in the 5 minutes I have had these documents, have an opportunity to really confirm to anybody what they do or what they don't do. There are a number of suggestive comments in them, such as one company saying to the other: We are prepared to stop bidding should the price drop below $1.38 a gallon.

Interestingly enough, this all concerns ethanol going into your State, Washington, Madam President, a few years ago.

Whether this shows price manipulation or not, I don't know. But because these documents have just been made public this afternoon in the House, I ask unanimous consent to print them in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WESTERN ETHANOL COMPANY LLC,
September 29, 2000.

To: HERBERT WOLF
From: DOUG VIND
Re: Sales Opportunity—Requires Immediate Attention/Response

Further to our telephone conversation of today, I am writing to inform you of the details of a sales opportunity for LAICA's anhydrous alcohol. In order to participate in this opportunity, I must hear back from you by no later than close of business on Tuesday October 2.

British Petroleum ("BP") has scheduled an on-line reverse auction to be conducted via the internet next week. They are requesting pre-qualified ethanol suppliers to bid on supplying product into the Ohio and Washington State markets beginning November 2000 and running through January 2001. We are interested in bidding to supply a portion of the volume requested into Washington State. This Lot is broken into partial supply percentages of 10, 25, 50 and 100%. The total volume requested for Washington State is 9,600,000 gallons over the 3 month period.

I am specifically recommending that LAICA consider committing to this reverse auction the 38,000 HL it has scheduled to receive from Europe. I believe this feedstock will arrive Costa Rica sometime during the month of November and be available for delivery into the US in December.

The delivery of denatured ethanol of BP into Washington State can only be made by either Railcar or Barge. Direct deliveries of undenatured ethanol cannot be accepted. For this reason, WEC is prepared to source railcars of domestic ethanol in order to supplement the volume coming from LAICA. This would allow us to bid on up to 25% of the requested volume, for a total of 2,400,000 gallons. We are also in discussion with Man with regard to their participation for a small piece of this business.

I expect that the winning bid for the 25% volume will be somewhere in the upper $1.30's to low $1.40's. We are prepared to stop bidding should the price drop below $1.38 per gallon. As I mentioned above, the delivery mode into Washington State allows for only barge or railcar. In view of this, it will be necessary to first discharge and denature the imported ethanol. We then will schedule a barge to transport the denatured ethanol to BP's terminal in Seattle. I am in the process of verifying the barging, terminaling and denaturing costs but I have been given a range of $.03—$0.4 per gallon. I should have this information on Monday.

I believe that the BP "Request for Quotation" presents a very good sales opportunity for LAICA's anhydrous alcohol. However, in order to participate in the on-line auction, WEC needs to receive LAICA's commitment to supply the 38,000 HL. We must obtain LAICA's commitment to this program by no later than close of business next Tuesday.

For your guidance, I have enclosed a listing of the Lots to be included in the Reverse Auction. As you will notice, we will be required to participate in a "Qualifying Round" of bidding on Wednesday September 3. This will enable us to move on to the competitive bidding event scheduled for Friday September 5.

I greatly appreciate your presenting this proposal to your Board of Directors on Monday. I will be in my office and be prepared to answer any further questions regarding this matter.

Best regards,

DOUGLAS VIND.

REGENT INTERNATIONAL,
Brea, CA, November 20, 1995.

To: Dick Bok, ADM Ingredients
From: Dick Vind

Finally received a phone call from Tuite at 3:30 PM PDT USA. Jeff stated he had at last been successful in talking to the Kriete's and they have agreed to split the tender with us.

Jeff's only reservation was that Kriete insisted that Man be the purchaser of the tender. In order to avoid a "show down" or bidding contest, I agreed to this request.

Therefore, Man will be bidding on the 75,000 hl out of France at a price of 5.02. I would suggest that ADM underbid at a price of 4.85. This will serve as a safety net in the event Man's bid is rejected for any reason. As a reminder, bids are due in this Thursday, November 23.

With regards to the sharing, I made it explicitly clear to Jeff that we (ADM & Western) would be purchasing the product FOB Port-la-Nouvelle from Man on a totally transparent basis. We would then assume responsibility for our own shipping which presumably we would be able to coordinate jointly in the future.

I would suggest you contact Tuite tomorrow at your convenience to confirm and request a signed agreement between both parties in order to assure compliance with this accord.

Best regards,

DICK.

June 17, 1996.

To: Dick Bok
From: Dick Vind
Subject: EU Wine Alcohol Tender—Due date: June 24

This will confirm that Archer Daniels Midland will be bidding 5.9 ecu on Spanish tender (194-96) and somewhat less, (say 5.75) on Italian tender (195-96).

I assume you have discussed with Man, and that all is OK. Please call if this is not the case.

Hope all is well.

Best regards,

DICK.

REGENT INTERNATIONAL,
March 18, 1992.

To: Ed Harjehausen, Archer Daniels Midland Co.
From: Doug Vind

Per our previous discussion, I have prepared a price and cost comparison demonstrating the sensitivity of the proposed bid price options and the resulting "out turned" finished ethanol costs FOB Acajulta, El Salvador.

FOB COST CALCULATION

Bid Price (ECUs) Per Hectoliter	4.2	4.3	4.4
Bid Price ($ per gallon)	.2336	.2392	.2448
Fobbing	.1700	.1700	.1700
Ocean Freight (in)	.1350	.1350	.1350
Inland Truck Freight (in)	.0147	.0147	.0147
Raw Material Cost	.5533	.5589	.5645
Processing Costs	.3800	.3825	.3850
FOB Value Plant	.9333	.9414	.9495
Inland Truck Freight (out)	.0147	.0147	.0147
FOB Cost Port (Acajulta)	.9480	.9561	.9642

VALUE ADDED CALCULATION

Direct Costs	.3450	.3475	.3500
Divided by FOB Val. Plant	.9333	.9414	.9495
Value Added (percent)	36.9	36.9	36.9

Ed, as the previous example illustrates, a .1 ECU per hectoliter change in our bid price results in approximately a $.008 per gallon change in total FOB out turned value. For purposes of this analysis, I have targeted a value added percentage of 36.9%. This percentage should be adjusted to reflect our mutual comfort level in order not to jeopardize duty free qualifications. As one further observation, please note the difference between "processing costs" and "direct costs". This difference results from customs guidelines limiting only certain types of costs as "direct" and applicable to the Value Added calculation.

Recommendation: In reviewing the three lots being offered by the EC for this tender, I suggest we bid "competitively" on lot number 77 and submit lower priced bids on lots 75 and 76 as "back up" bids in the event other potential purchasers fail in their attempt to secure these two lots.

I recommend our bid price on lot number 77 should be 4.15 ECUs per hectoliter. I recommend our bid price on lots number 75 and 76 should be 4.10 ECUs per hectoliter each.

As you are aware, our bids must be formally submitted by Friday, March 20, 1992. It will, therefore, be necessary to communicate this pricing information to your office in London by our close of business on Thursday.

Please give me a call with your recommendation after you have reviewed this memo.

Regards.

ED & F MAN ALCOHOLS
London, England, May 13, 1993.

To: Dick Vind,
From: Jeffrey Tuite
Regent International, Brea
El Salvador

On Tuesday evening I talked to the Kriets and here is what was said.

They were still keen to make a bid on these tenders. I cautioned once more against this. I said that Man would be able to offer a compromise wherein Man offered 1 million gallons when their plant was up and running. This would come from these tenders and they would buy from Man and the alcohol would be supplied equally by Vind and Hogan. Ideally it would be swap deal with them returning the ethanol next time around. In return it was expected that they did not interfere with these tenders.

The Kriete response was that they were still very nervous about being outmaneuvered and that we would block any alcohol for them from the next round of June/July tenders. I said that this was not the case and that if they could persuade the Commission to call five lots next time we would support them.

In summary Kriete is prepared to stay away from these tenders if Man can guarantee that they will get 1.4 million gallons from these tenders on a straight sale basis. I said that 1 million gallons was more realistic. Tony Hogan is prepared to make a straight sale and feels that this commits him less to Krite and there is the point that Kriet may not get any alcohol to return for one reason or another. My recommendation to you is to make available a straight 500,000 gallons sale (preferrably 750,000!) without strings and I feel this will mend things.

Can I please have your agreement to do this. I already have Tony's agreement. Naturally Man will secure ADMs P Bond risk for this sale.

I talked to George Fitch in Brussels today who is suffering the usual frustration one gets in Brussels. He had little to add to your fax of yesterday.

I will call you latter when I get home.

Best Regards.

REGENT INTERNATIONAL,
Brea, CA, April 6, 1994.

To: Dick Bok
From: Richard Vind
Subject: CBI Tenders

MEMORANDUM

I appreciate your quick response. Given the politics in the EU, I agree we should prepare "bids as usual".

As mentioned in our conversation this AM, I will have price information for you on or before April 14.

My travel plans now are to go to Europe the week of April 18. Meetings in Brussels, probably 19/20.

I will not know my exact travel plans until probably April 12 so I will communicate my itinerary along with pricing information prior to April 14 to your office.

Best regards,

DICK.

WESTERN PETROLEUM IMPORTERS INC.,
July 13, 1998.

To: Jeff Tuite
From: Doug Vind

I had hoped to hear from you today regarding the situation that has developed in the Northwest. You can imagine my surprise and disappointment today to learn that the "deal" I have been discussing with you for the past several weeks involving the shipment out of Costa Rica and El Salvador had already been concluded last week. You can also imagine my embarrassment with my customer when I called them today to firm up the transaction only to learn that they had been offered product which I had been previously told was not available.

My current frustration with the recent sequence of events is matched only by the humiliation of relying on what was indicated as timely and accurate information, representing that information as fact, and having my credibility at risk when the "facts" changed.

As you are aware, I have been actively working with your office in seeking a vessel to accommodate the delivery of both parcels. Because the sale was to involve a direct contract between Man and the customer, I revealed the targeted value for the product to you for your concurrence, which you provided. Late last week I attempted to reach you several times to discuss this matter but did not receive the benefit of a return call. As it turns out, you had already concluded this transaction but elected not to inform me. A simple call would have saved me from looking foolish today.

At this point I need to reconfirm your commitment to providing the 900,000 gallons out of El Salvador in a joint shipment sometime on or after mid August. As I have already actively represented this volume as available for delivery, I would prefer to avoid a repeat of today's confusion in the event you have made other unilateral arrangements.

Additionally, I wish to discuss this entire situation with you in greater detail in order to try and understand exactly how things got off track. Please call me at your soonest opportunity.

NOVEMBER 13, 1995.

To: George Fitch
From: Dick Vind
Subject: DGVI "Doublespeak"

Please review the enclosed articles from a recent [October 20, 1995] issue of Agra Europe Magazine.

This article seems to completely refute Alex's comments made to us at our meeting of last week. Although the lead paragraph is not easily readable because the fax machine "ate" it, what it says is that The Commission is increasing the amount of compulsory distillation for this coming year [1995-96] versus last year [1994-95] by 137,000 HL. Although small, it nonetheless is a definite increase, and shows that the total amount of alcohol to be distilled via compulsory distillation for the three primary countries of Italy, Spain and France for this coming year will be a total of 5,400,000 HL.

It must further noted that this year's total wine production for these three countries is estimated to be 131,900,000 HL versus last year's 130,927,000 HL. With compulsory distillation being 4% of the total, if you take the total EU wine production of 155,400,000, this means that a total of 6,216,000 HL will be available for EU stocks this coming year.

It is apparent that there will continue to be significant overproduction in the EU for years to come, in that the Commission's efforts to reduce production have failed.

On a related matter, I have reviewed your memo to the CBI group. Your suggestion on opening up future tenders to avoid the GATT limits are troubling unless we couple it with some type of end-use restriction. This is because, as you can also see from the second article, notwithstanding what Tuite said at the meeting, it appears that the Brazilians will be back into the market in a big way next year. Unless we place some type of restriction on end-use, they'll easily outbid us for the entire EU output.

What happened to our end-use language we discussed with Olsen last year?

I would appreciate your investigating these matters as soon as possible and giving me the benefit of your thoughts. Also, I want to report the results of my meeting with the SENPA folks.

DICK.

REGENT INTERNATIONAL,
Brea, CA, November 20, 1995.

To: Dick Bok, ADM Ingredients
From: Dick Vind

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I would suggest you contact Tuite tomorrow at your convenience to confirm and request a signed agreement between both parties in order to assure compliance with this accord.

Best regards,

DICK.

Mrs. FEINSTEIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from California for that useful addition and also for her great work on this issue.

I was concluding by saying: There will be a stampede to deny knowledge of this amendment, to deny knowledge of the consequences of this amendment, in a few short years. I wish we wouldn't have to do that. I urge my colleagues, if you want to subsidize ethanol—it is now subsidized already 53 cents a gallon; there is a tariff barrier so it can't be imported; no good in our society has gotten as much—do that. If you want to raise the subsidy a little more, do that, because then it is the General Treasury that is paying. But for God's sake, don't make the drivers of Massachusetts pay 9 cents more a gallon and the drivers of Rhode Island and Delaware pay 9 cents more a gallon and the drivers of Pennsylvania pay 6 cents more a gallon.

That is the most regressive tax we are going to pass this year. Somehow, because it is coated in ethanol, that tax seems to be OK. The very same people who would get up on the floor and oppose taxes on any basis or on a regessive basis are allowing this one to go through.

We will rue the day we support an ethanol mandate. I urge my colleagues to think twice before they vote and support our amendment which still allows the banning of MTBE, still keeps the clean air standard, gets rid of oxygenate, but lets each State decide the best route to clean the air and clean the water.

Mandates are no good for American families. Mandates are no good for our economy. This is an ethanol gas tax. I urge it to be defeated.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, how much time do I have?

The PRESIDING OFFICER. Three and a half minutes.

Mr. BINGAMAN. Whose time is that?

The PRESIDING OFFICER. The time is not allocated.

Mr. BINGAMAN. That is not time either for or in opposition?

The PRESIDING OFFICER. That is correct.

The Senator from Nevada.

Mr. REID. Madam President, that time was allocated to Senator WELLSTONE. He didn't use all that time. Senator WELLSTONE is not here. Unless the Senators from New York and California want to use the time, I will yield back his time and we will start the vote now.

I yield back the time of the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3030. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—69

Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cochran
Collins
Conrad
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Fitzgerald
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchinson
Inhofe
Jeffords
Johnson
Kerry
Kohl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Reid
Roberts
Rockefeller
Sarbanes
Smith (NH)
Snowe
Stabenow
Stevens
Thurmond
Torricelli
Voinovich
Wellstone

NAYS—30

Akaka
Allard
Allen
Boxer
Cleland
Clinton
Corzine
Ensign
Enzi
Feinstein
Gramm
Hollings
Hutchison
Inouye
Kennedy
Kyl
Leahy
McCain
Nickles
Reed
Santorum
Schumer
Sessions
Shelby
Smith (OR)
Specter
Thomas
Thompson
Warner
Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. CHAFEE. Mr. President, on rollcall vote No. 78 I voted "nay." It was my intention to vote "yea." I ask unanimous consent to change my vote. This will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

EXECUTIVE SESSION

NOMINATION OF JEFFREY R. HOWARD OF NEW HAMPSHIRE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to executive session to consider the following nomination: Calendar No. 773; that the Senate vote immediately on confirmation of the nomination; that upon the disposition of the nomination, the motion to reconsider be laid upon the table, any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session without intervening action or debate; and Senator GREGG be recognized prior to the vote for 1 minute and Senator SMITH of New Hampshire be recognized for 1 minute prior to the vote; and I ask further consent this vote time count postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today, the Senate is voting on the 46th judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Senate majority changed. With today's vote on Jeffrey Howard to the Court of Appeals for the 1st Circuit, the Senate will confirm its 46th judicial nominee and its 9th judge to our Federal Courts of Appeals in the less than 10 months since I became chairman this past summer.

This is the 18th judge confirmed since the beginning of this session in late January. Under Democratic leadership, in less than 4 months the Senate has confirmed more judges than were confirmed in all 12 months of 1996 under Republican leadership. The Senate has confirmed more judges in the last 10 months than were confirmed in 4 out of 6 full years under Republican leadership. The number of judicial confirmations over these past 10 months—46—exceeds the number confirmed during all 12 months of 2000, 1999, 1997, and 1996.

Mr. Howard is the 9th Court of Appeals judge confirmed in the less than 10 months since the Judiciary Committee was permitted to reorganize last July. This is more circuit judges than were confirmed in all 12 months of 2000, 1999, 1997, and 1996, 4 of the 6 years of Republican control of the Senate during the Clinton administration. It is triple the number of circuit judges confirmed in 1993, when a Democratic Senate majority was working with a President of the same party and received some cooperation from the administration. It exceeds the number of Court of Appeals judges confirmed by a Republican Senate majority in the first 12 months of the Reagan administration and it equals the number of circuit judges confirmed in the first 12 months of the first Bush administration.

As our action today demonstrates, again, we are moving at a fast pace and confirming conservative nominees. Since the change in Senate majority, the Democratic majority has moved to confirm President Bush's nominees at a faster pace than the nominees of prior Presidents. The rate of confirmations in the past 10 months actually exceeds the rates of confirmation in the past three Presidencies. It took 15 months for the Senate to confirm 46 judicial nominees for the Clinton administration. The pace at the beginning of the Clinton administration amounted to 3.1 judges confirmed per month. In the first 15 months of the first George H.W. Bush administration, only 27 judges were confirmed. The pace at the beginning of the George H.W. Bush administration amounted to 1.8 judges confirmed per month. In President Reagan's first 15 months in office, 54 judges were confirmed. The pace at the beginning of the Reagan administration amounted to 3.6 judges confirmed per month. By comparison, in the less than 10 months since the shift to a Democratic majority in the Senate, President Bush's judicial nominees have been confirmed at a rate of 4.6 per month, a faster pace than for any of the last three Presidents.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed. Some like to talk about the 377 judges confirmed during the Clinton administration, but forget to mention that more than one-third were confirmed during the first 2 years of the Clinton administration while the Senate majority was Democratic and Senator BIDEN chaired the Judiciary Committee. The pace of confirmations under a Republican majority was markedly slower, especially in 1996, 1997, 1999, and 2000.

During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year, a pace of consideration and confirmation that we have already exceeded under Democratic leadership in fewer than 10 months, in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path. We have confirmed 46 judicial nominees in less than 10 months. This is almost twice as many confirmations as George W. Bush's father had over a longer period, 27 nominees in 15 months, than the period we have been in control of the Senate.

Our Republican critics like to make arguments based on false rather than fair comparisons. They complain that we have not done 24 months of work in the less than 10 months we have been in the majority. That is an unfair complaint. A fair examination of the rate of confirmation shows, however, that Democrats are working harder and faster on judicial nominees, confirming judges at a faster pace than the rates of the past 20 years.

I ask myself how Republicans can justify seeking to hold the Democratic majority in the Senate to a different standard than the one they met themselves during the last 6½ years. There simply is no answer other than partisanship. This double standard is most apparent when Republicans refuse fairly to compare the progress we are making with the period in which they were in the Senate majority with a President of the other party. They do not want to talk about that because we have exceeded the number of judges they confirmed per year.

They would rather unfairly compare the work of the Senate on confirmations in the less than 10 months since the shift in majority to full, 2-year Congresses. I say that it is quite unfair to complain that we have not done 24 months of work on judicial vacancies in the less than 10 months since the Senate reorganized. These double standards asserted by the Republicans are wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

Republicans have been imposing a double standard on circuit court vacancies as well. The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the Courts of Appeals. Well, the Democratic majority in the Senate has more than kept up with attrition and we are seeking to close the vacancies gap on the Courts of Appeals that more than doubled under the Republican majority.

In less than 10 months since the change in majority and reorganization, the Senate has confirmed 9 judges to the Courts of Appeals and held hearings on two others, with another circuit judge hearing scheduled for this week. In contrast, the Republican-controlled majority averaged only seven confirmations to the Courts of Appeals per year. Seven. In the less than 10 months the Democrats have been in the majority, we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors. The Senate in the last 10 months has confirmed more Court of Appeals judges than were confirmed in 2000, 1999, or 1997, and nine more than the zero from 1996. In an entire session of the 105th Congress, the Republican majority did not confirm a single judge to fill vacancies on the Courts of Appeals. That year has greatly contributed to the doubling of vacancies on the Courts of Appeals during the time in which the Republican majority controlled the Senate.

The Republican majority assumed control of judicial confirmation in January 1995 and did not allow the Judiciary Committee to be reorganized after the shift in majority last summer until July 10, 2001. During the period in which the Republican majority controlled the Senate and in which they delayed reorganization, the period from January 1995 through July 2001, vacancies on the Courts of Appeals increased from 16 to 33, more than doubling.

When Members were finally assigned to the Judiciary Committee on July 10, we began with 33 Courts of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, five additional vacancies have arisen on the Courts of Appeals around the country. With this week's confirmation of Jeffrey Howard, we have reduced the number of circuit court vacancies to 29. Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there now remain 29 vacancies. That is more than keeping up with the attrition on the Circuit Courts.

Since our Republican critics are so fond of using percentages, I will say that we will have filled almost a quarter—29 of 38, or 23.8 percent—of the vacancies on the Courts of Appeals in the last 10 months. In other words, by confirming four more nominees than the five required to keep up with the pace of attrition, we have not just matched the rate of attrition but surpassed it by 80 percent.

While the Republican Senate majority increased vacancies on the Courts of Appeals by over 100 percent, it has taken the Democratic majority less than 10-months to reverse that trend, keep up with extraordinary turnover and, in addition, reduce circuit court vacancies by more than 10 percent overall—from 33 down to 29, or 12.1 percent. This is progress. Rather than having the circuit vacancy numbers skyrocketing, as they did overall during the prior 6½ years—more than doubling from 16 to 33—the Democratic-led Senate has reversed that trend. The vacancy rate is moving in the right direction—down.

Despite claims to the contrary, under Democratic leadership, the Senate is confirming President Bush's Circuit Court nominees more quickly than the nominees of other Presidents were confirmed by Senates, even some with majorities from the President's own party. The number of confirmations to the Circuit Courts has exceeded those who were confirmed over 10-month time frames at the beginning of past administrations. With the confirmation of Jeffrey Howard, 9 Circuit Court nominees will have been confirmed in less than 10-months. This number greatly exceeds the number of Court of Appeals confirmations in the first 10 months of the Reagan administration (three), the first Bush administration (three), and the Clinton administration (two). This is three times, or 300 percent, the number of Court of Appeals nominees confirmed in the comparable 10-month periods of past administrations. With nine circuit judges confirmed in the less than 10 months since the Senate reorganized under Democratic leadership, we have greatly exceeded the number of circuit judges confirmed at the beginning of prior presidencies. Our achievements also compare quite favorably to the 46 Court of Appeals nominees confirmed by the Republican majority in the 76 months during which they most recently controlled the Senate. Their inaction led to the number of Courts of Appeals vacancies more than doubling. With a Democratic Senate majority, the number of circuit vacancies is going down.

Overall, in little less than 10 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated longstanding vacancies into this year. Vacancies continue to exist on the Courts of Appeals in part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

Despite the newfound concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate in the 107th Congress last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001. Had the Republicans not delayed and obstructed progress on Courts of Appeals nominees during the Clinton administration, we would not now have so many vacancies. Had the Republicans even reversed course just this past year and proceeded on the circuit court nominees sent to the Senate in January, the number of circuit court vacancies today could be in the low twenties, given the pace of confirmation of circuit nominees since the shift in majority last summer.

The Democratic leadership acted promptly to address the number of circuit and district vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate and held that hearing on the day after the committee was assigned new members.

That initial hearing included a Court of Appeals nominee on whom the Republican majority had refused to hold a hearing the year before. We held unprecedented hearings for judicial nominees during the August recess. Those hearing included a Court of Appeals nominee who had been a Republican staff member of the Senate. We proceeded with a hearing the day after the first anthrax letter arrived at the Senate. That hearing included a Court of Appeals nominee. In less than 10 tumultuous months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations—including 11 circuit court nominees—and we are hoping to hold another hearing this week for half a dozen more nominees, including another Court of Appeals nominee. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. The Republican majority never held 16 judicial confirmation hearings in 12 months. We will hold our 17th judicial confirmation hearing this week.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny committee consideration of judicial nominees. We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope to continue to hold hearings and make progress on judicial nominees in order to further the administration of justice. In our efforts to address the number of vacancies on the circuit and district courts we inherited from the Republicans, the committee has focused on consensus nominees for all Senators. In order to respond to what Vice President CHENEY and Senator HATCH now call a vacancy crisis, the committee has focused on consensus nominees. This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our nation.

The committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senators GRASSLEY, LOTT, SPECTER, ENZI, and SMITH of New Hampshire—five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May 2001. Each of the previous 45 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the committee.

Mr. Howard was given a hearing by the Senate Judiciary Committee due to Senator BOB SMITH's efforts. The Senator from New Hampshire is not someone with whom I agree on all issues. Indeed, we have had our disagreements on judicial nominations. He has applied a litmus test over the years and voted against nominees he felt were not against abortion. He voted against at least 20 Clinton judicial nominees. Nonetheless, when Senator SMITH spoke to me about his support for Mr. Howard, I accommodated Senator SMITH's request that we proceed promptly with a hearing on him. Mr. Howard is being confirmed by the U.S. Senate today, because Senator SMITH worked to have this nomination considered favorably.

Some on the other side of the aisle have falsely charged that if a nominee has a record as a conservative Republican, he will not be considered by the committee. That is simply untrue. Take, for example, the nomination of Jeffrey Howard. Just 2 years ago, he campaigned for the Republican nomination for Governor of New Hampshire. He has been a prominent figure in Republican politics in New Hampshire for many years. He served as the New Hampshire Attorney General, the State Deputy Attorney General, and the Chief Counsel in the Consumer Protection Division. He also served as the U.S. Attorney for the District of New Hampshire and the Principal Associate Deputy Attorney General during the first Bush administration. Thus, it would be wrong to claim that we will not consider President George W. Bush's nominees with conservative credentials. We have done so repeatedly.

The committee voted unanimously to report Mr. Howard's nomination to the floor, even though a minority of the ABA committee found the nominee to be not qualified for appointment to the U.S. Court of Appeals for the First Circuit. No Senator is bound by the recommendations of the ABA, but we have always valued their contribution to the process and the willingness of the members of the ABA standing committee to volunteer their time, efforts and judgment to this important task. Based on the judgment of each individual Member about the qualifications of a particular nominee, the Judiciary Committee has reported out other Bush nominees who received mixed ABA peer review ratings and even some with negative recommendations. Mr. Howard is well-regarded by his home-State Senators. The next time Republican critics are bandying around charges that the Democratic majority has failed to consider conservative judicial nominees, I hope someone will ask those critics about Jeffrey Howard, as well as the many other conservative nominees we have proceeded to consider and confirm.

Mr. HATCH. Mr. President, I rise in support of the confirmation of Mr. Jeffrey Howard to the First Circuit Court of Appeals. Mr. Howard's record is impressive. He will make a valuable contribution to an already prestigious First Circuit Court of Appeals.

Mr. Howard graduated summa cum laude from Plymouth State College. While attending Georgetown University Law Center, he became Editor of that institution's American Criminal Law Review.

After law school, Mr. Howard began an illustrious period of service in the New Hampshire Attorney General's Office. There he quickly moved through the ranks to head that office's Consumer Protection and Antitrust Division. Upon successful completion of this assignment, he was promoted to Associate Attorney General in charge of the division of Legal Counsel. He eventually became Deputy Attorney General, in essence, the second in command in this office.

Mr. Howard was then nominated and confirmed as U.S. Attorney for the District of New Hampshire. During his tenure in that office, he became Principal Associate Deputy Attorney General at the Justice Department. Here his responsibilities included advising Attorney General Barr and supervising the Department of Justice's Executive Office for Asset Forfeiture.

Mr. Howard then returned to New Hampshire and was appointed that State's attorney general. He wrote and implemented one of the Nation's first effective comprehensive statewide interdisciplinary protocols to combat domestic violence.

Clearly, Mr. Howard is a leader in the areas of fighting for consumers that were the victims of fraud and the rights of abused women.

The people of New Hampshire can be proud of this nominee; Jeffrey Howard has been a servant of New Hampshire's people. President Bush has done right by the people of New Hampshire and of New England with this nomination. Mr. Howard is a good example of the kind of high-quality judicial nominees selected by President Bush.

Mr. President, I am proud to say that Jeffrey Howard has my support and I believe he will be an outstanding addition to the first circuit.

Mr. SMITH of New Hampshire. Mr. President, I rise in very strong support of the nomination of Jeffrey Howard to the First Circuit Court. I thank the distinguished chairman of the Judiciary Committee, Senator LEAHY, for bringing this nomination forward promptly, and also Senator HATCH, the ranking member. I spoke to Senator LEAHY a couple of weeks ago, and he promised he would bring this nomination forward, and he did. I am deeply appreciative because Jeff Howard is very qualified for this position and I look forward to him having a long and distinguished career on the First Circuit Court. I am proud to support the nomination. I urge my colleagues to do likewise.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join my colleague, Senator SMITH, in strongly endorsing the nomination of Jeff Howard. I hope my colleagues will vote for him for the First Circuit Court. Jeff Howard has been an extraordinary public servant in New Hampshire. He has served as attorney general, as U.S. attorney. He continues the long tradition of quality individuals who bring integrity, intelligence, and ability to the appeals court in Boston. We are very proud of the fact he will be serving down there upon an affirmative vote from this body.

I yield the floor.

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Jeffrey R. Howard to be United States Circuit Judge for the First Circuit.

On this question, the yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 79 Ex.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye

Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Helms

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENTS NOS. 3231, 3232, 3157, 3242, 3244, 3245, 3246, 3247, 3248, 3249, AND 3250

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the pending amendment be set aside and that it be in order for the Senate to consider en bloc the following amendments:

Amendments Nos. 3231, 3232, 3157, 3242, 3244, 3245, 3246, 3247, 3248, 3249, and 3250.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 3157 AND 3231, AS MODIFIED

Mr. BINGAMAN. Mr. President, I further ask unanimous consent that amendments No. 3157 and amendment No. 3231 be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3157 and 3231), as modified, are as follows:

AMENDMENT NO. 3157, AS MODIFIED

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to the production or use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

AMENDMENT NO. 3231 AS MODIFIED

On page 470, beginning with line 10, strike through line 7 on page 532 and insert the following:

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or

(B) land-use changes that affect ecosystem extent and function.

(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $230,000,000 for fiscal year 2006.

(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following:

"(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

"(A) reduce or avoid anthropogenic emissions of greenhouse gases;

"(B) remove and sequester greenhouse gases from emissions streams; and

"(C) remove and sequester greenhouse gases from the atmosphere;" and

(2) in subsection (b)—

(A) in paragraph (2), by striking "subsection (a)(1) through (3)" and inserting "paragraphs (1) through (4) of subsection (a)"; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking "and" at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

"(i) renewable energy systems;

"(ii) advanced fossil energy technology;

"(iii) advanced nuclear power plant design;

"(iv) fuel cell technology for residential, industrial and transportation applications;

"(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

"(vi) efficient electrical generation, transmission and distribution technologies; and

"(vii) efficient end use energy technologies.".

Subtitle B—Department of Agriculture Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(b) Applied Research.—

(1) In general.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;

(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and

(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and

(C) evaluate leakage and performance issues.

(2) Requirements.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and

(B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) Minimization of adverse environmental impacts.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) Natural resources conservation services.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and

(B) net emissions of other greenhouse gases.

(5) Cooperative state research, extension, and education service.—

(A) In general.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) Consultation on research topics.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) Research Consortia.—

(1) In general.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) Selection.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(3) Eligible consortium participants.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;

(B) private research institutions;

(C) State geological surveys;

(D) agencies of the Department of Agriculture;

(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;

(F) other Federal agencies;

(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and

(H) representatives of the private sector with demonstrated expertise in these areas.

(4) Reservation of funding.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(d) Standards of Precision.—

(1) Conference.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the Government, academic, and private sectors) to—

(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;

(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and

(C) evaluate results of analyses on baseline, permanence, and leakage issues.

(2) Development of benchmark standards.—

(A) In general.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

(i) information from the conference under paragraph (1);

(ii) research conducted under this section; and

(iii) other information available to the Secretary.

(B) Opportunity for public comment.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).

(3) Report.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, of the Senate a report on the results of the conference.

(e) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.

(2) Allocation.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.

(a) Demonstration Projects.—

(1) Development of monitoring programs.—

(A) In general.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly, programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) Benchmark levels of precision.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) Projects.—

(A) In general.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(ii) net changes in emissions of other greenhouse gases.

(B) Evaluation of implications.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.

(C) Submission of proposals.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.

(D) Limitation.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) National forest system land.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(b) Outreach.—

(1) In general.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouses gases).

(2) Project results.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and

(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) Policy outreach.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).

Subtitle C—International Energy Technology Transfer

SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term "clean energy technology" means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term "interagency working group" means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and development of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies,

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) examine relevant trade, tax, international, and other policy issues to asses what policies would help open markets and improve U.S. clean energy technology exports in support of the following areas—

(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology;

(E) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;

(F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency's role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clear energy technology as part of that program.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and on the April 1st of each year thereafter, 2002, and each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and U.S. clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral environmental agreements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.

SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (l) and inserting the following:

"(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'international energy deployment project' means a project to construct an energy production facility outside the United States—

"(i) the output of which will be consumed outside the United States; and

"(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—

"(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

"(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

"(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

"(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'qualifying international energy deployment project' means an international energy deployment project that—

"(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

"(ii) uses technology that has been successfully developed or deployed in the United States;

"(iii) meets the criteria of subsection (k);

"(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

"(v) complies with such terms and conditions as the Secretary establishes by regulation.

"(C) UNITED STATES.—For purposes of this paragraph, the term 'United States', when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

"(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

"(C) FINANCIAL ASSISTANCE.—

"(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

"(ii) Rate of interest.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

"(iii) Amount.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

"(iv) Developed countries.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

"(v) Developing countries.—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

"(vi) Capacity building research.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

"(D) Coordination with other programs.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

"(E) Report.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

"(F) Recommendation.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

"(3) Authorization of appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.".

Subtitle D—Climate Change Science and Information

PART I—AMENDMENTS TO THE GLOBAL CHANGE RESEARCH ACT OF 1990

SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking "Earth and Environmental Sciences" inserting "Global Change Research".

SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2932) is amended—

(1) by striking "**EARTH AND ENVIRONMENT SCIENCES**" in section heading and inserting "**GLOBAL CHANGE RESEARCH**";

(2) by striking "Earth and Environmental Sciences" in subsection (a) and inserting "Global Change Research";

(3) by striking the last sentence of subsection (b) and inserting "The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).";

(4) by striking "Chairman of the Council," in subsection (c) and inserting "Director of the Office of National Climate Change Policy with advice from the Chairman of the Council, and";

(5) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively; and

(6) by inserting after subsection (c) the following:

"(d) Subcommittees and Working Groups.—

"(1) In general.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

"(2) Membership.—The membership of the Subcommittee shall consist of—

"(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and

"(B) such additional members as the Chair of the Committee may, from time to time, appoint.

"(3) Chair.—A high ranking official of one of departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of the scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.".

"(4) Other subcommittees and working groups.—The Committee may establish such additional subcommittees and working groups as it sees fit.".

SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2934) is amended—

(1) by inserting "short-term and long-term" before "goals" in subsection (b)(1);

(2) by striking "usable information on which to base policy decisions related to" in subsection (b)(1) and inserting "information relevant and readily usable by local, State, and Federal decision-makers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigation, and adapting to";

(3) by adding at the end of subsection (c) the following:

"(6) Methods for integration information to provide predictive and other tools for planning and decision making by governments, communities and the private sector.";

(4) by striking subsection (d)(3) and inserting the following:

"(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policy makers, and other end-users, attempting to formulate effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.";

(5) by striking "and" in subsection (d)(2);

(6) by striking "change." in subsection (d)(3) and inserting "change; and";

(7) by adding at the end of subsection (d) the following:

"(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes."; and

(8) by adding at the end the following:

"(g) Strategic Plan; Revised Implementation Plan.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit revised implementation plans as required under subsection (a).".

SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) inserting before subsection (b), as redesignated, the following:

"(a) Integrated Program Office.—

"(1) Establishment.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

"(2) Organization.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include, to the maximum extent feasible, a representative from each Federal agency participating in the global change research program.

"(3) Function.—The integrated program office shall—

"(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

"(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

"(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

"(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

"(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.";

(3) by striking "Committee." in paragraph (2) of subsection (c), as redesignated, and inserting "Committee and the Integrated Program Office."; and

(4) by inserting "and the Integrated Program Office" after "Committee" in paragraph (1) of subsection (d), as redesignated.

SEC. 1336. RESEARCH GRANTS.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as (d); and

(2) by inserting after subsection (b) the following:

"(c) RESEARCH GRANTS.—

"(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being addressed by Federal agencies.

"(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

"(3) FUNDING THROUGH NSF.—

"(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

"(B) AUTHORIZATION.—For fiscal year 2003 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $17,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.".

SEC. 1337. EVALUATION OF INFORMATION.

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking "**Scientific**" in the section heading;

(2) by striking "and" after the semicolon in paragraph (2); and

(3) by striking "years." in paragraph (3) and inserting "years; and"; and

(4) by adding at the end the following:

"(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.".

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

SEC. 1342. CHANGES IN FINDINGS.

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking "Weather and climate change affect" in paragraph (1) and inserting "Weather, climate change, and climate variability affect public safety, environmental security, human health,";

(2) by striking "climate" in paragraph (2) and inserting "climate, including seasonal and decadal fluctuations,";

(3) by striking "changes." in paragraph (5) and inserting "changes and providing free exchange of meteorological data."; and

(4) by adding at the end the following:

"(7) The present rate of advance in research and development and application of such advances is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.

"(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.".

SEC. 1343. TOOLS FOR REGIONAL PLANNING.

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

"(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decision-making on land use, water hazards, and related issues;";

(3) by inserting "sharing," after "collection," in paragraph (5), as redesignated;

(4) by striking "experimental" each place it appears in paragraph (9), as redesignated;

(5) by striking "preliminary" in paragraph (10), as redesignated;

(6) by striking "this Act," the first place it appears in paragraph (10), as redesignated, and inserting "the Global Climate Change Act of 2002,"; and

(7) by striking "this Act," the second place it appears in paragraph (10), as redesignated, and inserting "that Act,".

SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking "1979," and inserting "2002,";

(2) by striking "1980," and inserting "2003,";

(3) by striking "1981," and inserting "2004,"; and

(4) by striking "$25,500,000" and inserting "$75,500,000".

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

SEC. 6. NATIONAL CLIMATE SERVICE PLAN.

"Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

"(1) a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce bias;

"(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

"(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long and short term time schedule and at a range of spatial scales;

"(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

"(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;

"(6) a program for long term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and

"(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.".

SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) ATMOSPHERIC MONITORING AND VERIFICATION PROGRAM.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) ANNUAL REPORTING.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

SEC. 1348. ARCTIC RESEARCH AND POLICY.

(a) ARCTIC RESEARCH COMMISSION.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)) is amended—

(1) by striking "exceed 90 days" in the second sentence of paragraph (1) and inserting "exceed, in the case of the chairperson of the Commission, 120 days, and, in the case of any other member of the Commission, 90 days,";

(2) by striking "Chairman" in paragraph (2) and inserting "chairperson".

(b) GRANTS.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:

"(c) FUNDING FOR ARCTIC RESEARCH.—

"(1) IN GENERAL.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—

"(A) make grants to persons to conduct research concerning the Arctic; and

"(B) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.

"(2) EFFECT OF ACTION BY EXECUTIVE DIRECTOR.—An action taken by the executive director under paragraph (1) shall be final and binding on the Commission.

"(3) Authorization of Appropriations.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.".

SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.

(a) In General.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) Abrupt Climate Change Defined.—In this section, the term "abrupt climate change" means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce **$10,000,000** for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) Establishment.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military preparedness;

(4) enhancing the safety and efficiency of marine operations;

(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;

(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;

(7) reducing and mitigating ocean and coastal pollution; and

(8) providing information that contributes to public awareness of the Sate and importance of the oceans.

(b) Council Functions.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—

(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;

(B) determines how current and planned observing activities can be integrated in a cost-effective manner;

(C) provides for regional and concept demonstration projects;

(D) describes the role and estimated budget of each Federal agency in implementing the plan;

(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and

(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;

(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;

(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;

(4) approve standards and protocols for the administration of the system, including—

(A) a common set of measurements to be collected and distributed routinely and by uniform methods;

(B) standards for quality control and assessment of data;

(C) design, testing and employment of forecast models for ocean conditions;

(D) data management, including data transfer protocols and archiving; and

(E) designation of coastal ocean observing regions; and

(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(c) System Elements.—The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.

(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.

(3) Coastal, relocatable, and cabled sea floor observatories.

(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.

(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.

(6) Focused research programs.

(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.

(8) Public outreach and education.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated **$235,000,000** in fiscal year 2003, **$315,000,000** in fiscal year 2004, **$390,000,000** in fiscal year 2005, and **$445,000,000** in fiscal year 2006.

Subtitle E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) striking "and" after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

"(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and".

SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

(a) In General.—The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;

(2) non-carbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

"(a) In General.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).

"(b) Research Program.—

"(1) In general.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

"(2) Research projects.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

"(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

"(B) to assist in establishing of a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

"(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouses gases; and

"(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

"(c) NATIONAL MEASUREMENT LABORATORIES.—

"(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

"(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

"(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

"(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and

"(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low or no-emission technologies into building designs.

"(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building sub-systems and 'smart buildings', and improve test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

"(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.".

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new "green" manufacturing technologies and techniques by the more than 380,000 small manufacturers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) evaluate, based on predictions and other information developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) increases in severe weather events;

(B) sea level rise and shifts in the hydrological cycle;

(C) natural hazards, including tsunami, drought, flood and fire; and

(D) alteration of ecological communities including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act that identifies and recommends implementation and funding strategies for short- and long-term actions that may be taken at the national, regional, State, and local level—

(1) to reduce vulnerability of human life and property;

(2) to improve resilience to hazards;

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological ecological processes.

(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies and products.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.

SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.

(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;

(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and

(3) economic impact on local, State, and regional economics, including the impact on abundance or distribution of economically important living marine resources.

(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaption plans that recommend targets and strategies to address coastal impacts. associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and

(6) funding requirements and mechanisms.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.

(d) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.

(2) ELIGIBLE PROJECTS.—A project is eligible for financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(3) FUNDING SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(A) the Secretary may take into account in-kind contributions and other non-cash support or any project to determine the Federal funding share for that project; and

(B) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project's costs.

(f) DEFINITIONS.—Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1373. ARCTIC RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

SEC. 1381. REMOTE SENSING PILOT PROJECTS.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration may establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(B) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaption to coastal and land use consequences of global climate change or climate variability.

(d) DURATION.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.

(e) RESPONSIBILITIES OF GRANTEES.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(f) REGULATIONS.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops require by this section.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

SEC. 1383. DEFINITIONS.

In this subtitle:

(1) CENTER.—The term "Center" means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term "geospatial information" means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 1384. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(1) $17,500,000 for fiscal year 2003;

(2) $20,000,000 for fiscal year 2004;

(3) $22,500,000 for fiscal year 2005; and

(4) $25,000,000 for fiscal year 2006.

SEC. 1385. AIR QUALITY RESEARCH, FORECASTS AND WARNINGS.

(a) REGIONAL STUDIES.—The Secretary of Commerce, through the Administration of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), conduct regional studies of the air quality within specific regions of the United States. Such studies should assess the effect of in-situ emissions of air pollutants and their precursors, transport of such emissions and precursors from outside the region, and production of air pollutants with region via chemical reactions.

(b) FORECASTS AND WARNINGS.—The Secretary of Commerce, through the Administrator of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), establish a program to provide operational air quality forecasts and warnings for specific regions of the United States.

(c) DEFINITION.—For the purposes of this section, the term "specific regions of the United States" means the following geographical areas:

(1) the Northeast, composed of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, and West Virginia;

(2) the Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida;

(3) the Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan;

(4) the South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas;

(5) the High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas;

(6) the Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming;

(7) the Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico;

(8) Alaska; and

(9) Hawaii.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 for studies pursuant to subsection (b) of this section, and $5,000,000 for fiscal year 2003 and such sums as may be necessary for subsequent fiscal years for the forecast and warning program pursuant to subsection (c) of this section.

The text of submitted amendment No. 3274, as modified, which was to have been printed in yesterday's RECORD, is as follows:

(Purpose: To increase the transfer capability of electric energy transmission systems through participant-funded investment)

At the appropriate place, insert the following:

SEC. . TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

"(i) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

"(1) TRANSMISSION PRICING PRINCIPLES.—Rules for transmission pricing issued by the Commission under this subsection shall adhere to the following principles:

"(A) transmission pricing must provide accurate and proper price signals for the efficient and reliable use and expansion of the transmission system; and

"(B) new transmission facilities should be funded by those parties who benefit from such facilities.

"(2) FUNDING OF CERTAIN FACILITIES.—The rules established pursuant to this subsection shall, among other things, provide that, upon request of a regional transmission organization or other Commission-approved transmission organization, certain new transmission facilities that increase the transfer capability of the transmission system may be Participant Funded. In such rules, the Commission shall also provide guidance as to what types of facilities may be participant funded.

"(3) PARTICIPANT-FUNDING.—The term 'participant-funding' means an investment in the transmission system controlled by a RTO, made after the date that the RTO or other transmission organization is approved by the Commission, that—

"(A) increases the transfer capability of the transmission system; and

"(B) is funded by the entities that, in return for payment, receives the tradable transmission rights created by the investment.

"(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission system without payment of transmission congestion charges, or other rights as determined by the Commission.".

Mr. BYRD. Mr. President, I am a product of West Virginia. I was pulled from the hard scrabble mountains of Appalachia, and I burn with a passion to serve this nation. I remember my roots. I am proud of them as they have served me well throughout my career in Congress. I recall the words of the legendary President of the United Mine Workers of America, John L. Lewis:

When ye be an anvil,
lie ye very still;
When ye be a hammer,
strike with all thy will.

I believe that we should work diligently on legislation that is beneficial to the American people—on education reform, Campaign Finance Reform, border security, homeland defense, energy security, and a common sense climate change policy. But, surely, we should not allow the White House to hammer us, disregarding what we have introduced, debated, and passed in this Chamber on a number of important policy matters. We must let the democratic process work. It is an open process, and it is the process that the Founders established so long ago to make it possible to consider the people's business.

It was a little over a year ago that the Administration began a comprehensive review of climate change—their alternative approach to the Kyoto Protocol. I understand that any new Administration must examine and develop its own set of policies and ideas on these issues, but they should also understand that so must the Senate. In the absence of any Executive Branch action last year, the Members of the Senate on both sides of the aisle took the lead, putting forward new ideas and approaches to address this climate change challenge.

In June 2001, I introduced bipartisan climate change legislation with Senator STEVENS. Our bill received unanimous support in the Government Affairs Committee in July 2001, and Senators DASCHLE and BINGAMAN then included this bipartisan legislation along with other climate change provisions in the larger energy bill in December 2001. Our proposal is based on scientifically, technically, economically, and environmentally sound principles and would put into place a long-term, comprehensive, national climate change strategy. I believe that this is the right policy framework. The Byrd/Stevens legislation recognizes that what we truly need is to find new ways to begin to solve the climate change problem. Additionally, I believe that such innovation will be key to the long-term viability of coal as an energy resource.

The primary cause of global climate change is due to the increase in greenhouse gases in the atmosphere, especially CO_2 which results from the burning of fossil fuels. To deal with climate change during this century, the world must find better, more efficient, and cleaner ways to burn the very fossil fuels, including coal, that power virtually the entire economy. Addressing climate change is one of the greatest challenges facing the world in this century, and it will require the development of advanced energy technologies, ideas, and responses far beyond today's endeavors. Therefore, the U.S. must set in place a framework with a comprehensive strategy and structure to better address this global challenge.

The Byrd/Stevens legislation calls for the development of a national strategy to coordinate the Federal Government's response to climate change and to examine how the U.S. and other nations can stabilize greenhouse gas concentrations over the long term. The strategy is built upon a foundation of four key elements, including technology development, scientific research, climate adaptation research, and mitigation measures to deal with climate change in an economically and environmentally sound manner.

Byrd/Stevens recognizes that the large number of Federal agencies are engaged in climate change-related activities, often resulting in a hodgepodge of ad hoc approaches. Our legislation calls for the creation of a new, statutory office in the Executive Office of the President to serve as a focal point of accountability and to integrate the work of these Federal agencies while enhancing congressional oversight.

Byrd/Stevens also fills a critical technology gap with a long-term research and development program through the creation of a new office at the Department of Energy which will focus on the innovative technologies necessary to move beyond the current, incremental steps being taken to address climate change today and authorizes $4.75 billion over ten years for such programs. We must develop the critical, innovative energy technologies that will help reduce emissions, while simultaneously preserving a diversity of energy options to support our growing economy.

Additionally, Byrd/Stevens understands that enhancing international research and development efforts as well as opening markets and exporting a range of clean energy technologies globally will be key to addressing the long-term climate change challenge. Finally, while it is critical to put in place the framework to address this long-term, multifaceted issue, it should be noted that the Byrd/Stevens legislation does not purposely include a mandatory or regulatory regime for emission reductions.

Senator STEVENS and I want to work in a bipartisan way to thread this needle—to find a way to establish a balanced, long-term framework so that the U.S. can better address the climate change challenge in a more comprehensive way. Climate change policy is no more and no less than cumulatively addressing good economic, energy, environmental, transportation, agriculture, forestry, and other relevant policy measures. At no time, was it our intent to presuppose or dictate any specific policy outcomes to the Executive Branch or the public at large. Rather, the Byrd/Stevens legislation incorporated the views of many Members and was built upon the experiences from past Administration's efforts in order to create a stronger, more stable foundation that would span this and many Administrations to come.

In summary, I believe that, by working in a bipartisan way in the Senate, we have refined the Byrd/Stevens legislation without undermining its core principles. I hope to work with the White House and other Members of Congress in the energy conference on this and other energy-related provisions. I look forward to the eventual inclusion of Byrd/Stevens in a comprehensive energy plan that can ultimately pass the Congress and be signed by the President. Finally, I ask unanimous consent that my full statement before the Senate Government Affairs Committee on July 18, 2001, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY U.S. SENATOR ROBERT C. BYRD: "MEETING THE CHALLENGE OF CLIMATE CHANGE"—TESTIMONY BEFORE THE SENATE GOVERNMENT AFFAIRS COMMITTEE, JULY 18, 2001

Mr. Chairman, Senator Thompson, Senator Stevens, and Members of the Committee:

I thank you very much for inviting me to speak on behalf of S. 1008, the Climate Change Strategy and Technology Innovation Act of 2001, and I appreciate your holding this hearing on legislation that I believe incorporates the interests of a wide range of Members.

I have spoken twice in recent months on the Senate floor about the issue of global climate change. My desire to discuss this important issue derives not only from my sense of personal concern but also from my optimistic belief that we can meet the climate change challenge if we are willing to make a commitment to do so. It is my position that all nations, industrialized and developing countries alike, must begin to honestly address the multifaceted and very complex global climate change problem. At the same time, I believe that our nation is particularly well positioned, with the talent, the wisdom, and the drive, in leading efforts to address the problem that is before us.

For these reasons, I, along with Senator Stevens, introduced the legislation (S. 1008) that is under consideration today. The Byrd/Stevens climate change action plan recognizes the awesome problem posed by climate change, and it puts into place a comprehensive framework, as well as research and development effort to guide U.S. efforts into the future. This insidious diseases that have ravaged the earth. Our nation is a world leader in medical and telecommunications technologies, and we should also be a leader when it comes to revolutionizing our energy technologies. Such a commitment would be important for our economy, our energy security, and the global environment overall. But I must ask how long are we going to wait to develop these technologies. This is a huge opportunity for our nation, but our efforts will only be rewarded if can we make a concerted commitment and dedicate ourselves to the task ahead.

Make no mistake about it, global climate change is a reality. There are some who may have misinterpreted my stance on this issue based on Senate Resolution 98 of July 1997, which I co-authored with Senator HAGEL. That resolution, which was approved by a 95–0 vote, said that the Senate should not give its consent to any future binding international climate change treaty which failed to include two important provisions. That resolution simply stated that developing nations, especially those largest emitters, must also be included in any treaty and that such a treaty must not result in serious harm to the U.S. economy. I still believe that these two provisions are vitally important components of any future climate change treaty, but I do not believe that this resolution should be used as an excuse for the United States to abandon its shared responsibility to help find a solution to the global climate change dilemma.

At the same time, we should not back away from efforts to bring other nations along. The U.S. will never be successful in addressing climate change alone. This is a global problem that requires a global solution. It is critical that nations such as China, India, Mexico, Brazil, and other developing nations adopt a cleaner, more sustainable development path that promotes economic growth while also reducing their pollution and greenhouse gas emissions.

In the Senate's Fiscal Year 2001 Energy and Water appropriations bill, I inserted language that created an interagency task force to promote the deployment of U.S. clean energy technologies abroad. Such an initiative is complementary to the effort proposed in S. 1008. The Clean Energy Technology Exports Initiative is now underway and will help foreign nations deploy a range of clean energy technologies that have been developed in our laboratories. These technologies are hugely marketable. For example, if nations like China continue to depend on coal and other fossil fuels to grow their economies into the future, it is incumbent upon the U.S. to accelerate the development, demonstration, and deployment of clean coal and other clean energy technologies that will be critical to meeting all nations' energy needs while also providing for a cleaner environment.

I believe that S. 1008 maps a responsible and realistic course. That road may be bumpy—and I am sure that there will be disagreements along the way—but it is a journey that we must take.

We owe it to future generations. S. 1008, if adopted and signed by the President, will commit the U.S. to a serious undertaking, but one that should no longer be ignored. If we are to have any hope of solving one of the world's—one of humanity's—greatest challenges, we must begin now.

Mr. McCAIN. Mr. President, first, I thank the many Senators for their involvement in these discussions on the very complex issue of climate change. I applaud their efforts to reach agreement on these titles.

It is not often that several Committees come together to discuss an issue that cuts across their respective jurisdictions. I think that the agreement that has been reached thus far represents major progress on the road toward addressing the problem of climate change. I, like other Members, have concerns that need further discussion. I think that a dialogue with the House and the Administration will be invaluable as we continue our efforts to finalize a domestic approach to the problem. Therefore, I look forward to working with the various Senators as we continue these discussions on the bill during the conference with the House.

In closing, I would like to note that I have concerns with the newly established Office of Climate Change Technology in Title X of the bill. I hope these concerns can be further addressed as we proceed on the bill. Additionally, I have issues with the loan guarantee provisions of Title XIII. I will speak further on these in a separate statement.

Mr. BINGAMAN. Mr. President, I further ask unanimous consent that the foregoing amendments be agreed to en bloc and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments Nos. 3157, and 3231, as modified, were agreed to.

The amendments (Nos. 3232, 3242, 3244, 3245, 3246, 3247, 3248, 3249, and 3250) were agreed to, as follows:

AMENDMENT NO. 3232

(The amendment is printed in the RECORD of April 22, under "Text of Amendments.")

AMENDMENT NO. 3242

On page 177, line 20, insert after "information" the following: "retrospectively to 1998,"

On page 177, line 25, strike "consumed" and insert "blended".

On page 187, line 2, strike "commodities and".

On page 188, line 20, strike "distributors".

On page 191, line 6, strike "refiners" and insert "refineries".

On page 191, line 17, strike "distributes".

On page 198, strike line 24 and all that follows through page 199, line 21.

On page 204, line 3, strike "importer, or distributor" and insert "or importer".

On page 205, line 5, strike "(2) EFFECTIVE DATE.—This section" and insert the following:

"(2) EXCEPTIONS.—This subsection shall not apply to ethers.

"(3) EFFECTIVE DATE.—This subsection".

On page 222, line 23, strike "(B)" and insert "(C)".

On page 233, line 18, strike "(k)" and insert "paragraph".

AMENDMENT NO. 3244

On page 3, line 4, strike "ELECTRICAL" and insert "ENERGY".

On page 3, line 5, strike "electrical" and insert "energy".

On page 5, line 4, strike "electrical" and insert "energy".

On page 5, lines 12–13, strike "standard established by a" and insert "applicable".

On page 5, lines 13–14, strike "standard described in" and insert "low emissions vehicle standards established under authority of".

On page 6, line 5, strike "electrical" and insert "energy".

AMENDMENT NO. 3245

(Purpose: To clarify the definition of "tribal lands")

On page 101, strike line 24 and all that follows through page 102, line 2 and insert the following:

"(6) TRIBAL LANDS.—The term 'tribal lands' means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe's reservation.".

AMENDMENT NO. 3246

(Purpose: To clarify the definition of "Indian land")

On page 93, lines 8 through 9, strike "on the date of enactment of this section was" and insert "is".

AMENDMENT NO. 3247

(Purpose: To preserve oil and gas resource data)

Add at the end of title VI the following:

"SEC. 612. PRESERVATION OF OIL AND GAS RESOURCE DATA.

"The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.".

AMENDMENT NO. 3248

(Purpose: To facilitate resolution of conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana)

Add at the end of title VI the following:

"SEC 611. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

"The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of

Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts."

AMENDMENT NO. 3249

(Purpose: To facilitate timely action on oil and gas leases and applications for permits to drill and inspection and enforcement of oil and gas activities)

On page 126, strike line 2 and all that follows through line 14 and insert the following: "the States; and

"(3) improve the collection, storage, and retrieval of information related to such leasing activities.

"(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior.

"(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

"(2) $20,000,000 for the purpose of carrying out subsection (b).".

AMENDMENT NO. 3250

(Purpose: To clarify the application of section 927 to certain air conditioners)

On page 294, after line 18, insert the following and renumber the subsequent paragraph:

"(6) Air conditioners and heat pumps that—

"(A) are small duct,

"(B) are high velocity, and

"(C) have external static pressure several times that of conventional air conditioners or heat pumps—

shall not be subject to paragraphs (1) through (4), but shall be subject to standards prescribed by the Secretary in accordance with subsections (o) and (p). The Secretary shall prescribe such standards by January 1, 2004.".

VITIATION OF ADOPTION OF AMENDMENT NO. 3061

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate vitiate the adoption of amendment No. 3061, adopted on March 21, and that the text of amendment No. 2917 stricken by amendment No. 3061 be reinstated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3008, AS AMENDED, AND AMENDMENT NO. 3145, AS MODIFIED, TO AMENDMENT NO. 3008

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the Senate now consider amendment No. 3008; that amendment No. 3145 to amendment No. 3008 be modified by the changes at the desk; that amendment No. 3145, as modified, be agreed to; that amendment No. 3008, as amended, be agreed to, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3145), as modified, was agreed to, as follows:

In lieu of the matter proposed to be added, insert the following:

SEC. 8 . FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) ETHANOL-BLENDED GASOLINE.—the head of each Federal agency shall ensure that in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than non-ethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in paragraphs (A) and (B) is available at a generally competitive price—

"(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel rather than nonbiodiesel-blended diesel fuel.

"(3) the provisions of this subsection shall not be considered at requirement of Federal law for the purposes of section 312.

"(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of "fleet" by subparagraphs (A) through (H) of section 301 (9).".

The amendment (No. 3008), as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from New Mexico mentioned that all these amendments have been cleared on the other side.

AMENDMENT NO. 3115, WITHDRAWN

Mrs. FEINSTEIN. Mr. President, I withdraw amendment No. 3115.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3225 TO AMENDMENT NO. 2917

(Purpose: To modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004)

Mrs. FEINSTEIN. Mr. President, I call up, for the purposes of setting them aside, two amendments. The first one is amendment No. 3225, and I ask the clerk to report the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3225.

(The text of the amendment is printed in the RECORD of Monday, April 22, under "Text of Amendments.")

Mrs. FEINSTEIN. Mr. President, all this amendment would do is provide 1 additional year to prepare for the mandate. That would change one date, changing this mandate from 2004 to 2005. And I ask unanimous consent the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

AMENDMENT NO. 3170 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 3170, and I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3170.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement)

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

"(B) PETITION FOR WAIVERS.—

"(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

"(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

Mrs. FEINSTEIN. Mr. President, this amendment would say that in an emergency, instead of having to wait 240 days for the EPA to respond, either to serious harm to the economy or an inadequate domestic supply or distribution capacity to meet the requirements of the mandate, the EPA would have 90 days to consider that.

I ask unanimous consent this amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3124 TO AMENDMENT NO. 2917

Mr. FITZGERALD. Mr. President, I ask unanimous consent to set aside the pending amendment to call up amendment No. 3124, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. FITZGERALD], for himself, Mr. CORZINE, Mr. JEFFORDS, and Mr. CHAFEE, proposes an amendment numbered 3124.

Mr. FITZGERALD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the definitions of biomass and renewable energy to exclude municipal solid waste)

On page 81, between lines 2 and 3, insert the following:

SEC. 2 . DEFINITIONS OF BIOMASS AND RENEWABLE ENERGY FOR THE PURPOSES OF THE FEDERAL PURCHASE REQUIREMENT AND THE FEDERAL RENEWABLE PORTFOLIO STANDARD.

(a) FEDERAL PURCHASE REQUIREMENT.—

(1) BIOMASS.—In section 263, the term "biomass" does not include municipal solid waste.

(2) RENEWABLE ENERGY.—Notwithstanding anything to the contrary in subsection (a)(2) of section 263, for purposes of that section, the term "renewable energy" does not include municipal solid waste.

(b) FEDERAL RENEWABLE PORTFOLIO STANDARD.—

(1) BIOMASS.—Notwithstanding anything to the contrary in subsection (l)(1) of section 606 of the Public Utility Regulatory Policies Act of 1978 (as added by section 265), for the purposes of that section, the term "biomass" does not include municipal solid waste.

(2) RENEWABLE ENERGY RESOURCE.—Notwithstanding anything to the contrary in subsection (l)(10) of section 606 of the Public Utility Regulatory Policies Act of 1978 (as added by section 265), for the purposes of that section, the term "renewable energy resource" does not include municipal solid waste.

Mr. FITZGERALD. Mr. President, I rise today to offer an amendment that excludes the incineration of municipal solid waste from the definitions of renewable energy and biomass in the energy bill's Federal purchase requirement and renewable portfolio standard. This amendment, which is cosponsored by Senators CORZINE, JEFFORDS, and CHAFEE, closes a loophole in the bill that would encourage the use of municipal solid waste incinerators that emit harmful pollutants into our air. Increased incineration will result in greater pollution which, in turn, will lead to greater health problems for all Americans.

The goal of the renewable portfolio standard and the Federal purchase requirement in the energy bill is to promote a cleaner environment and diversify our Nation's energy sources. My amendment to the Daschle substitute helps to achieve that goal by eliminating the incentive for environmentally hazardous municipal solid waste incinerators. Whatever your thoughts are on the ultimate merits of incineration as a tool of waste management, its inclusion in the energy bill as a clean and renewable energy source is hard to defend.

This amendment does not preclude communities that elect to generate electricity from incinerating their waste from doing so, but, rather, prevents them from receiving special treatment under Federal law. As many of you know, the renewable portfolio standard requires that utilities either produce a percentage of their power from renewable energy sources or that they purchase credits from another party for any shortfall.

Similarly, the Federal purchase requirement in the bill, which I championed during my tenure on the Energy and Natural Resources Committee, requires that a percentage of the power consumed by the Federal Government come from renewable energy sources. Under the existing language now in the Daschle substitute, as amended by Senators BINGAMAN and THOMAS, the incineration of waste would be considered alongside wind and solar as a clean and renewable energy source. I doubt that those in communities with waste incinerators would consider those incinerators as environmentally innocuous as solar and wind energy.

During my years in the Illinois General Assembly, in the Illinois State Senate, I was confronted by a similar scheme to promote incentives for waste incinerators. In 1987, prior to my arrival in the General Assembly, that body approved a tax incentive that encouraged the construction of waste incinerators to generate electricity.

This subsidy to the waste incineration industry, which amounted to nearly $360 million over 20 years, according to some estimates, led to a proliferation of planned incinerators in mostly poor communities surrounding the city of Chicago. In response to significant public health and environmental concerns raised by these and surrounding communities, I joined several colleagues in repealing this subsidy and preventing the actual construction of many of these incinerators in my home State. I would hope that my colleagues could benefit from the experience that Illinois gained from providing special incentives to waste incinerators.

As many of you already know, municipal solid waste consists of residential and commercial refuge or garbage and is the largest source of waste in industrialized countries. Municipal solid waste is often burned as an alternative to placing the waste in landfills. Municipal solid waste incinerators burn this waste and, in the process, can generate electricity. This process only produces a minimal amount of electricity, while the environmental costs are immense. The incineration of municipal solid waste releases numerous pollutants into the air, including acid gases, toxic heavy metals, dioxins, particulate matter, nitric oxide, hydrogen chloride, and furans, to name but a few. The EPA has found that municipal solid waste incinerators are the No. 1 source of dioxin emissions nationwide and are responsible for nearly 20 percent of the Nation's mercury emissions.

The release of pollutants from municipal solid waste incinerators can lead to a myriad of serious public health problems. The hazardous materials emitted by municipal solid waste incinerators are deposited in fields, streams, woodlands, and other places. Municipal solid waste pollutants are linked to cancer, respiratory ailments, and reproductive problems.

Some contend that incineration can be made clean by removing harmful materials from the waste prior to its incineration or by limiting emissions by using filters and other pollution-control equipment. But regardless of these or other steps taken by municipal solid waste incinerator operators, such as scrubbing technologies, to limit the pollution, incinerators are still not a clean source of energy.

Pollution control efforts are largely ineffective because they fail to contain 100 percent of these emissions. And even when most of the emissions are contained, the resulting ash left over from the incineration process must be disposed of as a hazardous waste. If this hazardous waste is not disposed of properly, the ash can also cause considerable health problems. When fly ash is released into the air, people breathe in the small particles which can then sit in their lungs and lead to a number of the ailments I have already mentioned.

My amendment clarifies that the definition of biomass in the energy bill should not be construed to provide any special incentives to businesses that incinerate municipal solid waste. Eliminating these types of waste from the definition of biomass is consistent with the definition of biomass provided in the tax portion of the energy bill. The tax portion of the energy bill specifically excludes municipal solid waste in its biomass definition. If we choose to include municipal solid waste incinerators in the definition of biomass, we will be advocating for the economic interest of waste incinerator operators at the expense of the health of the American people.

The amendment I am offering seeks to preserve the health of our citizens and to keep our environment clean. Excluding municipal solid waste from the definition of biomass and renewable energy is the environmentally responsible thing to do. It would seem incomprehensible to me to grant municipal solid waste incinerators a special incentive to increase the burning of municipal solid waste that would spoil the environment and put the public's health in jeopardy.

This is a commonsense amendment that separates municipal solid waste incinerators from the other clean and renewable energy sources already included in the Daschle substitute amendment. It is consistent with the tax provisions and the energy bill's overarching goal of providing clean energy and a safe environment for future generations.

I hope you will join me in voting for this amendment to protect our environment and the health of the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the amendment proposes to eliminate municipal solid waste as a qualifying generator type for the purpose of the renewable portfolio standard. I rise to oppose the amendment.

Specifically, I am opposed to the renewable portfolio standard as a matter of policy because I think the cost to consumers is exorbitant, some $88 billion over the next 20 years. I also am opposed to the pending amendment because consumers are going to pay even more than that. By reducing the types of qualifying generators, that will increase the cost of renewable credits which will be passed on to consumers through, obviously, the only alternative, which is higher electric rates.

I encourage consideration of opposing the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3234 TO AMENDMENT NO. 2917

Ms. CANTWELL. Mr. President, I send to the desk amendment No. 3234.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. DAYTON, Mr. WELLSTONE, Mr. FEINGOLD, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS, proposes an amendment numbered 3234 to Amendment No. 2917.

Ms. CANTWELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Monday, April 22, under "Text of Amendments.")

Ms. CANTWELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I would like to say a word about an amendment to the energy bill that I filed today and about a couple tax provisions on which I have been working. As my colleagues know well, I have long sought to promote hydrogen and fuel cells as clean, efficient energy technologies that also will enable an economy based on domestic renewable energy sources. There are a number of provisions in the energy bill that help move us in this direction. I am pleased that the bill includes the Hydrogen Future Act I introduced in the Senate to reauthorize DOE hydrogen energy programs. The energy tax provisions intended for the bill include strong tax credits for both stationary fuel cells and fuel cell vehicles, as well as for hydrogen and hydrogen fueling appliances.

However, I believe more Federal action is needed to accelerate the commercialization of fuel cell technologies and bring their benefits to our country. In particular, the Federal Government needs to take bolder action to bring about the introduction of fuel cell passenger vehicles and of a hydrogen refueling infrastructure. Thus my amendment would create a federal fuel cell vehicle pilot program. In this program the Department of Energy would work with other federal agencies to identify several Federal fleets that would be suitable for demonstrating fuel cell vehicles under a variety of real-world conditions. DOE would help install the necessary fueling infrastructure at those sites; this infrastructure could also be used for a stationary fuel cell at the same location and be made available to other fuel cell vehicles. DOE would purchase several hundred fuel cell vehicles, and DOE and the companies that make the vehicles would assist the federal fleets to operate and maintain these vehicles in normal service. Data would be collected both to improve the next generation of vehicles and to assist fleet operators in incorporating fuel cell cars, and there would be regular reporting to Congress. The amendment also requires at least a 50 percent cost share from non-federal sources, as in most DOE demonstration programs. The total authorization for the program over six years would be $350 million.

This amendment includes a second provision for a study of the potential of stationary fuel cells in federal buildings. Even before fuel cell vehicles are commercially available, fuel cells have a great potential for providing distributed, highly reliable power for buildings, as well as heat. This study would look at what should be done to incorporate fuel cells into new federal buildings, so that planning for the buildings from the first stages can optimize the use of fuel cells and so that appropriate incentives can be put in place to encourage Federal purchase of stationary fuel cells. Again the Federal Government can become a lead consumer to foster commercialization of fuel cells and to demonstrate their benefits.

We also need to build a hydrogen fueling infrastructure. I am working with the Finance Committee to make two important changes to the excellent alternative fuel provisions that are in their package, in order to make the provisions effective for hydrogen fuel. The first would extend the credit for installation of hydrogen fueling property through 2011. This would simply match the credit for the fuel cell vehicles themselves, and recognizes that it will be several years before commercial fuel cell vehicles are readily available and there is significant demand for hydrogen fuel. The second change would alter the definition of refueling property so that not only storage and dispensing of hydrogen but also production of hydrogen from natural gas and other alternative fuels would be included. This is necessary because unlike natural gas, for example, today you can't just pipe in the hydrogen to a fueling station. You need to make the hydrogen on-site, most likely be reforming natural gas. This amendment would clarify the definition to be sure that such equipment is covered.

Finally, on the tax provisions, I hope to extend the tax credit and the exemption from the excise tax for biodiesel. Biodiesel is a renewable product made from soy beans that can be mixed with diesel roughly like ethanol is mixed with gasoline. Its use would cut our use of diesel and thus our consumption of petroleum, and also cut associated emissions. The tax provisions include a three-year tax credit for biodiesel. While this credit could be very helpful to establishing a strong biodiesel industry, three years is not enough to ensure return on investment in a new biodiesel plant. Both the investors and the creditors need a longer planning horizon to be confident of a stable market for the biodiesel. Thus I hope we will be able to extend this important new incentive in order to maximize its effectiveness.

With these provisions, and many others in the bill and the tax package, I look forward to a bright, clean, domestic, renewable energy future.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Mr. REED. Mr. President, my colleague, Senator COLLINS, and I would like to engage in a colloquy regarding the Low-Income Home Energy Assistance Program, or LIHEAP.

The Northeast-Midwest Senate Coalition, which I chair with Senator COLLINS, is a bipartisan coalition of Senators from the Northeast, Midwest and Mid-Atlantic dedicated to improving the environmental quality and economic vitality of the region. The Low-Income Home Energy Assistance Program is a vital program to our region. LIHEAP provides home energy assistance to some of our Nation's most vulnerable citizens, including families with children, the elderly, and disabled individuals.

People in our region know that cold weather kills. Mr. President, the facts speak for themselves. According to the Centers for Disease Control, between 1979 and 1998, hypothermia claimed the lives of over 13,000 Americans, twice as many Americans than died due to excessive heat. Residential energy costs in the Northeast and Midwest are more expensive which means that families in the region spend a greater amount of their incomes on home heating. It also requires more energy to heat a home than to cool one. LIHEAP households in our region spend over twice as much to heat their homes in the winter than it costs to cool a home in the south in the summer. According to the Department of Health and Human Services, during the peak winter heating season, energy bills can frequently reach up to 30 percent of a low-income family's income, especially if they live in substandard housing.

This winter, the average temperature in Rhode Island was in the low-30s. Without heat, these temperatures are life-threatening. In my State, sweaters and blankets are not enough to keep you warm. If heating assistance is not available, low-income families, senior citizens and disable individuals living on fixed incomes make drastic choices, they go without food, prescription drugs and other basic necessities in order to maintain heat in their homes. On average, it cost $1,200 to heat a home in Rhode Island last year. Low-income families cannot afford these costs. LIHEAP provides vital assistance to keep the heat on for these households.

In February, my home State of Rhode Island ran out of LIHEAP funding and had to close its program. I received phone calls from a number of senior citizens who were unable to heat their homes because they ran out of heating oil. To help low-income families address the runaway costs of home energy bills, we need greater funding for this program. This year, Senator COLLINS and I lead a bi-partisan letter supported by 37 Senators that requested $3 billion for the LIHEAP program in fiscal 2003. I will ask unanimous consent to print a copy of the letter in the RECORD, and I want to thank Senators HARKIN and SPECTER for their strong and consistent support of this program.

Senators HARKIN and SPECTER increased LIHEAP funding by $300 million in fiscal year 2002. Unfortunately this was not enough to help States address the unmet need. During the winter of 2000/2001, the Nation experienced extraordinarily and unprecedented levels in energy costs along with colder winter temperatures. Many low-income families and senior citizens are still trying to pay off from the energy debt they incurred last winter. While energy prices are lower this year, they are not low by historic standards and the prices for natural gas and home heating oil remain at significant costs for many Americans. The recession is also an increasing need for assistance.

There is something that President Bush can do immediately to help low-income households meet their energy needs. Congress appropriated $300 million in the FY2001 Supplemental Appropriations bill for emergency LIHEAP assistance. For incomprehensible reasons, the President has chosen not to release the emergency LIHEAP funding. And, the President's budget inexplicably requests $300 million less for this program in 2003. Leadership and action are urgently needed to help low-income working families and senior citizens, and I hope the President will take action to release the emergency funds.

Next year, the Health, Education and Labor and Pensions Committee will begin reauthorizing the LIHEAP program. I want to thank Senator KENNEDY for his support of this program. I look forward to working with him and my colleagues to improve the LIHEAP program and increase funding.

Ms. COLLINS. Mr. President, I would like to thank Senator REED for his comments. LIHEAP is a vital heating assistance program for low-income families with children, senior citizens and disabled individuals. My colleagues in the Northeast-Midwest Senate Coalition work tirelessly every year to increase funding for this program and to ensure that these resources get to those most in need.

There is a terrible reality some low-income households must face each winter, to heat or to eat. Imagine a hard working low-income family that cannot cover the costs of basic necessities in the winter having to ask: Do I heat my home or provide enough food for my children? Or, imagine being an elderly couple and living on a fixed income who has to decide: Do we pay the heating bill or do we buy medicine? In Maine, a majority of our low-income families use heating oil to stay warm. When there is no oil, there is no heat. LIHEAP is the program that keeps the heat on for these families.

My State of Maine had to lower this year's benefit by $100 in order to serve the 48,000 households that needed assistance. Over 60 percent of the recipient in my State are elderly living on a fixed income of only $10,000 a year. This year, 4,500 additional households applied for assistance. Many of these families needed help because they are unemployed and have exhausted unemployment benefits. While energy prices are lower this year, they are high for low-income Mainers. The average LIHEAP benefit of $338 per household pays for only a little more then one tank of fuel for these families. In Maine, the average annual cost to heat a home with oil is $1,200.

The LIHEAP program was enacted to respond to the higher fuel prices and severe winters in cold weather States. Its primary focus is to alleviate winter heating crises. Heating homes is expensive. According to the National Fuel Funds Network, at the end of the 2000/2001 winter heating season, at least 4.3 million low-income households were at risk of having their utility service cut-off because of an inability to pay their winter home energy bills. In the Northeast and Midwest, the cost to heat a home is more expensive than to cool a home in the south, and families have to spend a greater amount of their incomes on home heating. LIHEAP households in the Northeast and Midwest spend over $1,200 on residential energy. This is 14 percent of their household income in the Northeast and 18 percent in the Midwest. LIHEAP households spend over twice as much to heat their homes in the winter than it costs to cool a home in the south.

The current allocation formula acknowledges the important public health role this program serves in cold weather States. Since its enactment, Congress reaffirmed the commitment of this goal. The program has been reauthorized a number of times and Congress maintained its commitment to low-income families faced with high heating bills. It did this by ensuring that no State would receive less than it did when the program was enacted.

Low-income households will take drastic, and unsafe, measures to try to stay warm in winter when they are in jeopardy of losing heat. When home energy bills are unaffordable in winter, low-income households rely on alternative heating sources such as ovens or space heaters. The National Fire Protection Association reports that house fires show a sharp increase in the cold-weather months. Half of the home heating fires and three-fourths of the home heating fires deaths occurred in the months of December, January, and February. Not being able to afford utilities place low-income households at increased risk to house fires and illness or death.

We need to increase funding for this vital program. Thirty-seven of my colleagues joined Senator REED and I in seeking increased appropriations for this program for fiscal year 2003. I look forward to working with Chairman KENNEDY and Ranking Member GREGG on the HELP Committee on reauthorization of this important program.

Mr. REED. Mr. President, I ask unanimous consent the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 2, 2002.

Hon. TOM HARKIN, *Chairman*
Hon. ARLEN SPECTER, *Ranking Member*
Subcommittee on Labor, Health and Human Services, and Education Appropriations, Senate Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER SPECTER: We are writing to express our strong support for the Low Income Home Energy Assistance Program (LIHEAP). We appreciate your consistent support for this critical program to help low-income families and senior citizens address high energy burdens. We recognize the difficult choices that you face this fiscal year, however, we believe that the strong and continued growth in households requesting LIHEAP assistance demonstrates that the funding needed for this program has never been greater. We respectfully request that you consider appropriating $3 billion in regular LIHEAP funds for FY2003 and provide advanced appropriations for FY2004.

LIHEAP is a vital safety net for our nation's low-income households. For many low-income families, disabled individuals and senior citizens living on fixed incomes, home energy costs are unaffordable. Without LIHEAP assistance, low-income families and senior citizens face the impossible choice between paying their home energy bills or affording other basic necessities such as prescription drugs, housing and food. In FY2001, states received $2.25 billion in regular and contingency LIHEAP funding. Despite this historic level of funding, it is estimated that states were only able to serve 17 percent of the 29 million eligible households. Currently, states only have $1.7 billion available in LIHEAP funds for FY2002. Sixteen states estimate that they will be out of funding by the end of March.

We also request advanced appropriations for the program for FY2004. Advance funding allows states to plan more efficiently, and therefore, more economically. State LIHEAP directors begin planning in spring and early summer for the upcoming year. Without advanced funding, state directors are unable to plan program outreach or leverage resources as effectively. Advanced funding will also ensure that states have the necessary funding to open their programs at the beginning of the fiscal year in order to provide timely assistance to low-income families who cannot afford to wait.

We look forward to working with you to secure the necessary LIHEAP funding to meet the needs of millions of low-income families. Thank you for your consideration of our request.

Sincerely,

Jack Reed, Susan M. Collins, Olympia Snowe, Carl Levin, Joseph Biden, Paul D. Wellstone, Debbie Stabenow, Joseph Lieberman, Paul Sarbanes, Charles Schumer, George V. Voinovich, Dick Lugar, James M. Jeffords, Bob Smith, Mark Dayton, Hillary Rodham Clinton, John F. Kerry, Lincoln Chafee, Patrick Leahy, Herb Kohl, Barbara A. Mikulski, Edward Kennedy, Max Baucus, Kent Conrad, Jay Rockefeller, Dick Durbin, Robert Torricelli, Conrad Burns, Christopher Dodd, Mike DeWine, Patty Murray, Gordon Smith, Blanche Lincoln, Byron L. Dorgan, Jeff Bingaman, Ron Wyden, Jean Carnahan, Maria Cantwell, Jon S. Corzine.

ETHANOL AND THE HIGHWAY TRUST FUND

Mr. BAUCUS. Mr. President, ensuring necessary and affordable energy supplies, including ethanol-blended motor fuels and other initiatives, is important to the quality of life and economic prosperity of all Americans. Policies to achieve these objectives, however, should not come at the expense of transportation infrastructure improvements.

By directing 2.5 cents from the sale of gasohol to the highway trust fund, we can begin to alleviate a growing problem for many States—lower highway trust fund contributions and therefore lower highway apportionments.

Furthermore, a major goal of TEA–21 was to restore the integrity of the highway trust fund by depositing all motor fuel taxes in the trust fund and then spending that money on highway, and some transit, programs. Gasohol's 2.5 cents is the only user tax on vehicle fuel that does not flow into the highway trust fund . I am proud to have it as part of the energy tax package.

I would especially like to thank Senators HARKIN, WARNER, and the ranking member of the Finance Committee, Senator GRASSLEY for their help in getting the 2.5 cent provision in the energy tax package. But the 2.5 cents is just the beginning.

I had planned to introduce an amendment, along with Senators HARKIN and WARNER, that would truly make the highway trust fund "whole." This amendment would keep the ethanol subsidy, but make sure that it is the Treasury's General Fund that subsidizes ethanol—not the highway trust fund.

The ethanol subsidy is good energy policy, good agriculture policy and good tax policy. Yet, ironically, it is the highway trust fund that bears the burden of the subsidy. Since it is good general policy, I believe that the general fund should bear the burden of the subsidy.

I have been asked by several Senators not to offer an amendment at this time. I have complied with the requests of my colleagues. However, I am fully committed to recouping the 5.3 cents for the highway trust fund at the next possible opportunity.

I would like to thank Senators WARNER and HARKIN for working so closely with me on this matter. I look forward to continuing that work as soon as possible.

I am pleased to see progress being made to include the highway trust fund in our collective thoughts as we discuss energy policy.

Mr. HARKIN. Mr. President, I congratulate the chairman of the Finance Committee, Senator BAUCUS, for his strong leadership in working to secure the integrity of the highway trust fund and promote the use of ethanol and other renewable fuels like biodiesel. I also commend the hard work of Senator WARNER to preserve the trust fund.

There is no question that a strong highway system is vitally important to the efficiency of our economy. Poor roads mean higher costs to move goods, raising prices to consumers and making us less competitive in a world marketplace. It also means inconvenience to our citizens. The use of fuels containing ethanol or soy is both extremely important to the economy of rural America and good for the environment. The Federal Government wisely promotes ethanol as a fuel through the Tax Code and in other ways. But, on the negative side, against the logic of our country's need, current law provides that increased use of ethanol in fuel means a reduction in the highway trust fund and fewer dollars being spent to repair and improve our roads and bridges. I would note that mass transit currently is not adversely impacted under the law.

I was very pleased to be an original cosponsor of S. 1306, Highway Trust Fund Recovery Act, which provides for the shifting of the excise taxes on alcohol fuels from the general fund to the highway trust fund starting on October 1, 2003. I am very pleased that the measure has been included in the package of tax measures that the Finance Committee proposed to be added to the energy bill along with the very important legislation on biodiesel.

Enacting the Highway Trust Fund Recovery Act is the first step. The next step is to provide that the highway trust fund be made truly whole for the 5.3 cents not collected for gasohol. We have agreed to not offer a proposal to accomplish that goal during the floor debate of this measure. However, it is my intention to work with Senator BAUCUS, Senator WARNER and others to try to accomplish the goal of passing legislation to fully reimburse the highway trust fund from the general fund as soon as possible.

Mr. INHOFE. I commend the Senators from Montana and Iowa for their vigorous support of the highway trust fund. Because of their efforts, the measure pending before us, the trust fund, will recoup an additional 2.5 cents per gallon of ethanol currently being deposited into general revenue.

The Senator from Montana has also been very aggressive at trying to make the trust fund whole with respect to the current 5.3-cent per gallon ethanol subsidy. Although he and I do not agree on how to best address this issue, we are in agreement that the highway trust fund should not pay to subsidize any fuel source. Our surface transportation infrastructure needs are such that we cannot afford to forego any revenue source.

Certainly one of the key factors in the economic engine that drives our economy is a safe, efficient transportation system. If our economic recovery is going to continue to expand we cannot ignore the immediate and critical infrastructure needs of highways, bridges, and State and local roadways systems.

I believe this issue is best resolved through the reauthorization of the surface transportation program next year. Furthermore, it is my hope that the final result will be one that can be embraced by all sides in this debate.

Thus, I will be pulling together a working group of the highway community, the renewable fuels community, the refiners and the agricultural community to begin discussions on how we can make the highway trust fund whole. I ask unanimous consent that a letter from the Renewable Fuels Association be printed in the RECORD.

(See Exhibit 1.)

Again, I thank my colleagues from Montana and Iowa for their leadership on this issue and look forward to working with them to devise a permanent solution to this drain on the highway trust fund.

Mr. JEFFORDS. I applaud Senator BAUCUS for his efforts to enhance the flow of revenues into the highway trust fund. In particular, his suggestion that the time has come to redirect the 2.5 cents in ethanol tax that is now going into the general fund back to the highway trust fund is both timely and constructive.

As we reauthorize the surface transportation program over the coming months, I look forward to working with Senator BAUCUS and others on the broader issue of the Nation's shifting fuel mix and the implications of that trend on the highway trust fund.

Mr. SMITH of New Hampshire. As the Senators know, the compromise fuels package in the Daschle energy bill, which includes my language to ban MTBE and clean up the contamination caused by this gas additive, will also dramatically increase the use of ethanol. This compromise came after lengthy negotiations with several members of the Senate. We all worked in good faith to reach this agreement.

However, the increase in ethanol use will, over time, have a negative impact on the highway trust fund due to the ethanol subsidy which exempts ethanol from a good portion of the gasoline tax that pays into the trust fund. This is a concern that virtually all members of the Environment & Public Works Committee share, and it is problem that we will have to address. I believe that reauthorization of TEA–21 is the proper place to fix the trust fund problems caused by the increased ethanol use.

Between now and the time we introduce TEA–21 reauthorization, I would encourage all parties to work together, in a similar fashion to the way we reached the fuels compromise, in order to reach a consensus on the ethanol tax subsidy. If we work together in good faith, I have little doubt we will find a solution that can be included in reauthorization. I look forward to working my colleagues in that process.

Mr. DASCHLE. Our Nation's vulnerability to foreign energy production has been brought into bold relief by the continuing turmoil in the Middle East. It is imperative that our Nation take greater strides to promote the use of domestic, renewable fuels as a means of reducing our dangerous dependence on imported oil and strengthening U.S. energy security.

An aggressive program to produce and use more renewable fuel should be one of the pillars of our Nation's energy policy. And, as America uses more renewable fuel, we need to make sure that the financial soundness of the highway trust fund is not inadvertently undermined. That is why I strongly support Chairman BAUCUS' efforts to ensure that future use of ethanol will have no impact on the trust fund. I applaud his efforts in this regard and pledge to do whatever I can to see that we hold the highway trust fund harmless as we seek to make America more energy independent.

Mr. WARNER. Mr. President, I rise to support the efforts of Chairman BAUCUS and Ranking Member GRASSLEY to ensure that the tax package from the Finance Committee begins to reform our tax policies to provide equitable treatment for the highway trust fund, the only source of Federal revenues to improve our Nation's transportation infrastructure.

The Finance Committee's package ensures that revenue from the 2.5-cent excise tax on the sale of gasohol will be transferred to the highway trust fund.

It has been my privilege to work closely with Senator BAUCUS as a senior member of the Committee on Environment and Public Works during the development of the Transportation Equity Act for the 21st Century, TEA–21. He has always been a steadfast partner on surface transportation issues, and once again, he is providing the necessary leadership to protect the solvency and purpose of the highway trust fund. All vehicles, regardless of whether they use gasoline or gasohol, cause the same damage to our roads. The highway trust fund is the only means to finance highway maintenance and expansion activities, and without the Highway Trust Fund Recovery Act our States would receive less funding to improve our roads.

Depositing the 2.5 cents into the highway trust fund, however, is an important first step, but only part of the solution. I have been working with Senator BAUCUS and others to offer an amendment to provide for the full transfer of 5.3 cents to the highway trust fund, but we have decided to reserve this issue for another time. I remain fully committed to restoring the integrity of the highway trust fund by recovering the entire 5.3 cent per gallon subsidy that gasohol currently receives.

The bill before the Senate also contains other provisions which will contribute to further reductions in revenues to the highway trust fund. Depending on the final disposition of the renewable fuels provisions, revenues to the highway trust fund could significantly decrease as the renewable fuels mandate increases. I look forward to working with Chairman BAUCUS, Ranking Member GRASSLEY, and the leadership of both parties to fully restore revenues to the highway trust fund so that our national network of highways remains a premiere system.

Mr. REID. I share my colleagues' concern about the losses to the highway trust fund that result from the sale of ethanol-blended fuels. These losses to the highway trust fund have two causes. First, 2.5 cents of the existing tax on ethanol goes into the General Fund rather than the highway trust fund. Senator BAUCUS has introduced a bill to address this problem and I am a cosponsor of that legislation.

Second, the trust fund loses revenue because the tax on ethanol-blended gasoline is lower than taxes on other fuels. With the mandate contained in this bill, this subsidy will have an increasingly negative impact on revenues into the highway trust fund.

Next year we will reauthorize the Transportation Equity Act for the 21st Century. This Nation has tremendous transportation infrastructure needs that must be addressed if we are to keep our roads safe and our economy moving. As we begin work on this important legislation, I hope that we can address the significant losses to the trust fund that result from current ethanol policy. I look forward to working with my colleagues on this and other issues related to the reauthorization of TEA–21.

Mr. BAUCUS. Once again, I would like to state my intention of dealing with the "5.3-cent problem" as soon as possible. I look forward to working with these Senators and others as we work to protect the highway trust fund our Nation's source of funding for our surface transportation system.

EXHIBIT 1

RENEWABLE FUELS ASSOCIATION,
Washington, DC, March 22, 2002.

Hon. JAMES M. INHOFE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS INHOFE, BAUCUS, SMITH, CONRAD, GRASSLEY, JEFFORDS, REID AND DASCHLE: The Renewable Fuels Association

(RFA) appreciates your leadership on including a "Renewable Fuel Standard" in the Energy Policy Act of 2002 (S. 517). This program will provide significant energy, environmental and economic benefits for the Nation.

At the same time, we recognize that an increase in the production and use of renewable fuels, including ethanol, will have an impact on Federal highway excise tax receipts. The RFA does not believe any state should be penalized by the use of renewable fuels. Sound transportation policy and sound energy policy should not be mutually exclusive. Thus, as Congress works to reauthorize highway and transportation funding next year, we wholeheartedly encourage Congress to work towards addressing the issues surrounding the Highway Trust Fund and other transportation trust funds as they relate to ethanol.

Much has been made of ethanol's impact on Highway Trust Fund receipts in FY 2003, and at the appropriate time, prior to or during the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, we look forward to working with the United States Senate, the House of Representatives and the Administration, to create the appropriate program to address the needs of these programs.

Additionally, we support transferring the 2.5 cents currently directed to the General Fund for deficit reduction, back to the Highway Trust Fund as is included in the "Energy Tax Incentives Act of 2002" (S. 1979), which has been approved by the Senate Finance Committee earlier this year.

Transportation funding issues are not simple, and we look forward to working with you on this important issue on a unified front to address the many needs of the transportation, petroleum, and renewable fuels industries.

Sincerely,

BOB DINNEEN,
President.

Mr. GRASSLEY. Mr. President, I appreciate the efforts by Chairman BAUCUS for correcting an oversight by Congress when it failed to shift from the general fund to the highway trust fund, 2.5 cents per gallon collected from sales of gasohol. Similar adjustments for other fuels were made by a previous Congress, but not for gasohol.

I also want to thank the chairman for refraining from offering an amendment at this time that would require the general fund to contribute 5.3 cents to the highway trust fund for every gallon of gasohol sold.

It is wise to wait until next Congress when we can look at the big picture. Next year, we need to analyze all revenue sources for the highway trust fund to determine if adjustments are appropriate.

We also need to determine if adjustments are appropriate in the way we spend the Highway Trust Funds that are collected. For instance, we may determine that it makes better sense for mass transit subsidies to come from general funds instead of from the highway trust fund.

We may find that the subsidies for special motor fuels such as propane, methanol, and liquified natural gas should be paid from the general fund instead of the highway trust fund. These three fuels are not paying the full 18.3 cents per gallon. Propane receives a 4.7 cent subsidy, liquified natural gas receives a 6.4 cent subsidy, and methanol receives a 9.15 cent subsidy. Much needs to be addressed as we reauthorize the highway bill, and approaching this very important matter in a piecemeal fashion would be a mistake.

AVIATION EMISSIONS

Mr. BURNS. At this time, the General Accounting Office is working on a study—requested by the House Committee on Transportation and Infrastructure, Aviation Subcommittee—to conduct a comprehensive overview of key issues associated with emissions from aviation activities. This study would cover the same subject matter as contemplated in Section 803 of H.R. 4. At this time of tight budget constraints, it is not a good use of limited resources to produce redundant studies. Accordingly, I urge Senator MURKOWSKI in conference on the Energy Bill to strike the language in H.R. 4 requesting an aircraft emissions study.

Mr. MURKOWSKI. I agree that this study does appear duplicative.

Mr. BURNS. In addition to the GAO study, I wish to bring your attention to a voluntary effort to address emissions from the aviation sector, known as the "EPA/FAA Local Air Quality Initiative." As part of this voluntary initiative, the Environmental Protection Agency, Federal Aviation Administration, States, airlines, aerospace manufacturers, and environmental groups are working together to develop analyses that address the same subject matter detailed in H.R. 4.

Mr. MURKOWSKI. I agree with my colleague from Montana that there is no need at this time for another study on this issue. The Senator has my assurance that I will work to remove this provision when we go to conference.

CLIMATE CHANGE PROVISIONS

Mr. BINGAMAN. Mr. President, the substitute for Title X of the Senate Amendment 2917, and title XIII, encompass significant bipartisan progress on the topic of climate change policy. This progress has been reached in discussions involving staff for many Senators with keen interests in this area, including myself and Senator MURKOWSKI on behalf of the Committee on Energy and Natural Resources, Senators BYRD and STEVENS, Senators KERRY and HAGEL, and the chair and ranking members of the Committee on Governmental Affairs and the Committee on Commerce, Science and Transportation. All these Committees that I just mentioned have important jurisdictional responsibilities under rule XXV related to the climate change provisions in this bill. There is one major area in the proposed changes to Senate Amendment 2917 that is still not in agreement, and that will be left to conference for further discussion, but will describe that in a moment. What has been agreed to, and for which there is commitment on the part of the co-sponsors of this amendment to advocate for here in the Senate and maintain in conference, is substantial.

First, we have developed a streamlined set of findings and a Sense of Congress relating to climate change, the shared international responsibility to address the problem, and the role of the United States in that matrix of shared responsibility. Senate Amendment 2917 had, in effect, two sets of findings in this regard. Developing a single set of agreed-to-statements, on the part of a broad cross-section of Senators with active interests in climate change policy, is an important accomplishment.

Second, we have taken the fundamental elements of S. 1008, introduced by Senators BYRD and STEVENS and agreed to nearly all of them. S. 1008 was introduced on June 8, 2001 and referred to the Committee on Governmental Affairs. That committee held a hearing on the bill on July 18, and marked the bill up in a business meeting on August 2, 2001. It was ordered reported by voice vote, and the Committee's report, as well as additional views of some members, was filed on November 15, 2001. This legislative history should be relevant to those who will be responsible for implementing these provisions. One of the agreed-to elements brought in from S. 1008 is a requirement for the development of a National Climate Change Strategy, which will be updated every 4 years. That Strategy and its updates will be reviewed by the National Academy of Sciences, which will provide its findings and recommendation both to the President and to Congress. The Strategy will be the central focus for integrating, across the government, a consideration of the broad range of activities and action that can be taken to reduce, avoid, and sequester greenhouse gas emissions both in the United States and in other countries. The development of the Strategy is also intended to draw on broad participation from the public, scientific bodies, academia, industry, and various levels of State, local, and tribal governments. Another agreed-to element from S. 1008 is the creation of an Office of Climate Change Technology in the Department of Energy, and authority for creation of other necessary offices to carry out the National Climate Change Strategy in other agencies. The DOE Office will have a special role in bridging the gap that now exists between the more conventional energy technology R&D programs now in place at DOE and the necessary research that is pointing the way to breakthrough technologies that could have a pronounced effect on our ability to meet the climate change challenge. The substantial increase in authorization for this function that was contained in S. 1008 is maintained.

Third, we have come to agreement on how to improve the structure of coordination of climate change science and monitoring programs across government, including the creation of a mechanism to fill gaps in research efforts among the various agency programs. Substantial portions of a bipartisan Commerce Committee bill, S. 1716, the Global Climate Change Act of 2001, introduced by Senators KERRY, STEVENS, HOLLINGS, INOUYE and AKAKA, are included in these sections. This bill emerged from a series of hearings held by the Committee during the 107th Congress on the state of scientific knowledge of climate change and its impacts and possible technological means to address the problem. These Commerce Committee provisions include amendments to the Global Change Research Act, as well as language that ensures the programs and capabilities of the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology to monitor, measure, understand, and respond to climate change and climate variability.

The one area of remaining disagreement in Title X relates to the proposed White House Office of National Climate Change Policy, in Section 1013 of the proposed text for Title X. I believe that it would be true to say that the cosponsors of this amendment, at a minimum, all support having a locus of accountability for the development and implementation of climate change policy in the Executive Office of the President. All of us believe that it should be headed by a Senate-confirmed appointee. We did not, however, reach consensus on how this position should be structured and whether the appointee should be a new or existing position. We have agreed to move forward to conference with the language of S. 1008, with the expectation that we would be able to engage the White House at that point and come to a final resolution of how to provide for the central accountability in the Executive Office of the President that is acceptable to all parties.

On all other issues in Titles X and XIII aside from Section 1013, though, we are in agreement. We recommend their acceptance to our colleagues here in the Senate and, if adopted, plan to support these provisions strongly in conference.

Mr. MURKOWSKI. I would like to thank my colleague for his statement and indicate my support for the agreement that we have reached. These two titles of Senate Amendment 2917 lay the foundation for a sensible approach to managing the risk of climate change while providing the energy we will need for continued economic growth. The elements contained in these titles—improved scientific research, investment in development of improved energy technology, transfer of these technologies to markets at home and overseas, and coordinated climate policy development—are the same elements that were contained in S. 882 and S. 1776 in the 106th Congress, and S. 1294 in the 107th Congress, legislation that I was pleased to sponsor or cosponsor along with others. Title XIII also contains the elements of my legislation, S. 815, to improve research in the Arctic, including on topics of climate change. I want to thank Senator BINGAMAN and his staff for their leadership on forging this important bipartisan approach to our Nation's climate policy, and I want to thank all those Senators and staff who helped to bring these Titles into being.

Mr. BYRD. I would like to thank my colleagues for their statements and indicate my support for the agreement that we have reached. I would also note the historic nature of what has been negotiated, refined, and supported by the Senate here today. The passage of a national climate change strategy, along with the improved integration of science and technology programs, is critical to our Nation's long-term energy policy. I appreciate that other Members also believe that, at a minimum, there needs to be a Senate-confirmed appointee in the White House to oversee climate change policy. While I understand that there is not full agreement on this issue at this time, I believe that it is important to have a new, separate office in the White House to serve as a focal point for this multifaceted, multidimensional, long-term issue. After further discussion, I hope that these important provisions will be supported by the House energy conferees and the White House as a part of a national energy policy.

Mr. STEVENS. I would like to thank my colleagues for their statements and indicate my support for the agreement that we have reached. Title X, of Senate Amendment 2917, will address an immediate need to stimulate our Nation's research and development in innovative technologies and attempt to resolve any remaining uncertainties on the causes of climate change. Title XIII will provide the mechanisms to better assess coastal vulnerability from climate variances and improve climate monitoring, observing and prediction. The Barrow Arctic Research Center, authorized in Title XIII, is intended to replace the decades old and poorly equipped Naval Arctic Research Laboratory in Barrow and will perform the desperately needed scientific research on climate change that is already impacting America's Arctic.

Mr. LIEBERMAN. I would like to thank my colleagues for their statements and indicate my support for the agreement that we have reached. As Senator BINGAMAN has indicated, this language incorporates the essential components of S. 1008, the Climate Change Strategy and Technology Innovation Act of 2001. Senators BYRD and STEVENS introduced this important legislation, and I am proud that the Governmental Affairs Committee which I chair quickly endorsed the bill. The committee report accompanying the bill explains the reasoning behind the legislation and, as Senator BINGAMAN stated, should provide direction to those charged with executing the provisions of Title X. But I would like to summarize a few key points about why this is such an important contribution by Senators BYRD and STEVENS. First, they have found a constructive way to move forward in a bipartisan fashion on the issue of climate change, one of the most profound and daunting challenges we face as a Nation and, indeed, a world community. Second, the bill establishes a regime of accountability on climate change—under the legislation, the administration would be required to articulate a strategy to reach the long-agreed upon goal of stabilizing greenhouse gas concentrations in the atmosphere. Third, the bill provides support for the innovative technologies that will be essential to meet the challenge of climate change. This legislation is an important step forward on climate change, and I thank my colleagues for their work on this provision.

Mr. THOMPSON. I would like to thank my colleagues for their statements and indicate my support for the agreement that we have reached with regard to Title X. A lot of hard work has gone into this agreement. It is my belief that there are still many uncertainties with regard to climate change. However, I also believe that the potential risks of climate change warrant study, research and technological development. This substitute to Title X goes a long way towards achieving those goals. This amendment also recognizes that there are many contributors to climate change beyond CO_2 and I appreciate that black soot is included. My biggest concern with the substitute is the creation of a White House Office on Climate Change. As ranking member of the Committee on Governmental Affairs, I have great concerns about duplication and overlayering in government. I hope we can work this out in conference and I look forward to the White House weighing in on this important issue.

Mr. HOLLINGS. I would like to thank my colleagues for their statements and indicate my support for this bipartisan agreement on climate science and technology policy. The Committee on Commerce, Science, and Transportation over the years has developed and implemented the key statutes governing these matters. These include statutes establishing interagency science and research programs like the Global Climate Change Act, a coordinated Federal science and technology policy, such as is called for in the National Science and Technology Policy, Organization and Priorities Act, and those establishing the first tier atmospheric science and technology programs within NOAA and NIST. I fully agree that responsibility for policy relating to climate issues should rest with an individual who is accountable to Congress, much as we have done for overall science and technology policy by exercising our oversight authority over the White House Office of Science Technology Policy, which will shoulder substantial responsibilities under this agreement.

Mr. KERRY. I would like to thank my colleagues for their statements and indicate my support for the agreement that we have reached. Included in that agreement is a Sense of the Congress on the international climate change negotiations. The resolution originally passed the Foreign Relations Committee in August of 2001. At that time, Senator BIDEN and Senator ROCKEFELLER played an important role in crafting it. The text as passed out of Committee called on President Bush to engage in the international negotiations and to present a proposal to the Conference of the Parties by October 2001 for a revised Kyoto Protocol or other binding agreement. However, since the Committee acted the state of the international negotiations has fundamentally changed. The revised text, as included in this legislation, reflects those important changes. I appreciate the work of Senators BIDEN and HAGEL in crafting the updated text.

I believe that the bipartisan consensus also strengthens the scientific and technical work that needs to be carried out and improves upon the structure for doing so. I am particularly pleased that the agreement incorporates provisions from the Commerce Committee's bill that will bring the world-class science, technology, and planning expertise of the National Oceanic and Atmospheric Administration (NOAA), the National Institute of Standards and Technology (NIST) and other Department of Commerce programs to bear on this problem—whether it is in climate observation, measurement and verification, information management, modeling and monitoring, technology development and transfer, or hazards planning and prevention. I am also pleased to see the bill includes language to establish a framework for a national coastal and ocean observing system, which is essential for climate prediction and coastal response planning.

Mr. HAGEL. I would like to thank Chairman BINGAMAN and Senator MURKOWSKI, and their staff, for their leadership in reaching an agreement on Title X. I would also like to thank my colleagues on both sides of the aisle for their efforts, particularly Senators BYRD and STEVENS who authored many of the original provisions included in Title X. This agreement represents the hard work of reaching a bipartisan consensus on a very challenging and difficult issue. While recognizing the need for greater coordination of climate change policy, I share Senator THOMPSON'S concerns regarding the overlapping bureaucracy created by a new White House office and look forward to addressing this issue more fully in conference. Nonetheless, through the agreement reached on Title X we have made considerable progress in advancing climate change policy on a bipartisan foundation.

Ms. SNOWE. I thank my esteemed colleagues, Senator BINGAMAN and Senator MURKOWSKI, and those Senators who have taken part in this colloquy today as it shows an unprecedented effort to forge a bipartisan agreement to address the various issues relating to climate change and what our domestic approach and strategy should be for short and long term goals for stabilizing greenhouse gas concentrations through U.S. actions. In addition, it will help the nation continue its efforts to carry out the objectives of the United Nations Framework Convention on Climate Change signed by President George H.W. Bush in 1992 and ratified by the U.S. Senate. The major objective of the Conference is for the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic, or manmade, interference with the climate system.

I am pleased that Title X calls for an Office of National Climate Change Policy in the White House and hope this direction is pursued as last year I expressed my concerns to the Administration that the national energy policy being developed in the White House should not be developed independently of our U.S. climate change policy. These policies should be seamlessly coordinated across a number of our federal agencies through a broad range of research activities and actions that begin to reduce our Nation's greenhouse gas emissions in an environmentally and technologically sound and economically feasible manner.

I am particularly pleased that Title XIII calls for an ocean and coastal observing system that will give us real time observations to help those of us on the Commerce Committee's Subcommittee on Atmosphere, Oceans and Fisheries greater understand, assess and respond to both human-induced and natural processes of climate change and support efforts to restore the health of and manage coastal and marine ecosystems and living resources. Activities will also include research on abrupt climate change urged in December 2001 by the National Academies for NOAA research to identify the likelihood and potential impact of a sudden change in climate in response to global warming. I look forward to working with my colleague sand the White House on this issue of great importance not only to me, but to the Nation, to the international community, and to those generations to follow.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO CAPTAIN, SELECT, TARA L. LACAVERA, U.S. NAVY

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding Naval Officer, Captain, Select, Tara L. LaCavera, upon her change of command from Naval Station Pascagoula. Throughout her career, Captain, Select, LaCavera has served with distinction. It is my privilege to recognize her many accomplishments and to commend her for the superb service she has provided the Navy, the great State of Mississippi, and our Nation.

Captain, Select, LaCavera began her career as a Fleet Support Officer in 1980 after completing a Bachelor of Arts in Journalism from the University of Georgia and attending the Officer Candidate School in Newport, RI. She served with distinction early in her career as Message Center Officer on the staff of Commander, Oceanographic Systems Command Atlantic; Regional Evaluation Center Watch Officer and Surveillance Training Operational Procedures Standardization at Naval Facility Brawdy, Wales, UK; Fleet Telecommunications Officer, Naval Telecommunications Area Master Station, Naples, Italy; and Intelligence Officer at Commander Naval Allied Forces Mediterranean, Naples, Italy. Later assignments included Administrative Department Head and Public Affairs Officer at NAS Whiting Field, FL; Protocol Officer and Special Assistant to the Commander, Commander in Chief, U.S. Atlantic Fleet; and Executive Officer, Naval Station Norfolk, VA. She received a Master of Science degree in International Affairs from Troy State University in 1990 and was selected as a 1994 Federal Executive Fellow at the John F. Kennedy School of Government, Harvard University.

As Commanding Officer, Naval Station Pascagoula, Captain, Select, LaCavera's foresight during the planning and execution of numerous construction projects greatly enhanced the quality of life for the many Sailors of the home ported ships and tenant commands. The results include construction of a new Gulf Coast USO and Learning Resource Center, major expansions of the Fire Department and cardio-fitness center/gymnasium, addition of an on-base service station, and site selection for an off-base military housing project. She was responsible for the intense coordination and certification procedures required for the unprecedented full weapons off-load of the USS COLE, DDG 67, that entailed the safe handling of 86.3 thousand pounds of explosives from the severely damaged destroyer. After the terrorist attack of September 11, 2001, Captain, Select, LaCavera immediately executed an increased security posture, utilizing recalled reservist, auxiliary security force personnel, and available base assets to provide harbor patrol and protection for home ported ships and other pre-commissioning units located at Ingalls Shipyard. Her strong guidance and leadership ensured that Naval Station Pascagoula's personnel, facilities, and weapons platforms were well protected.

Throughout her distinguished career, Captain, Select, LaCavera has served the United States Navy and the nation with pride and excellence. She has been an integral member of, and contributed greatly to, the best-trained, best-equipped, and best-prepared naval force in the history of the world. Captain, Select, LaCavera's superb leadership, integrity, and limitless energy have had a profound impact on Naval Station Pascagoula and will continue to positively impact the United States Navy and our nation. Captain, Select, LaCavera relinquishes her command on April 25, 2002 and reports as Chief Staff Officer, Naval Surface Warfare Center, Dahlgren, VA where she will continue her successful career. On behalf of my colleagues on both sides of the aisle, I wish Captain, Select, LaCavera "Fair Winds and Following Seas."

SCOTTIE STEPHENSON

Mr. HELMS. Mr. President, this past week a deep sense of sadness settled in on the Helms family—and countless other families as well. Scottie Stephenson's life was finally ended at age 80 by an unyielding illness.

Scottie had gone on to her reward after 80 years of loving and being loved by everybody around her. For various reasons, I had to cancel my plans to be there when the final tributes were being paid to this remarkable lady who was declared many times to be the First Lady of Capitol Broadcasting Company in Raleigh—which, is where I began my years in broadcasting—and where I ended them when in 1972 I allowed myself to be talked into seeking election to the U.S. Senate.

Mrs. Louise "Scottie" Stephenson never quite accepted the death of her handsome husband, Nelson W. Stephenson, whom she married in 1948 but who died in 1961.

Scottie knew the end was approaching early this year. We discussed it a number of times always with the conclusion that when it happened, she would probably be the No. One Gate Keeper serving Saint Peter. As her condition worsened, I set aside a time each day to be devoted to discussions with Scottie about those years gone by when she and I were officers of Capitol Broadcasting Company. Those, she used to remark, were the "salad days".

Then came that inevitable morning when I called and a tape responded. Scottie had mentioned that she would arrange that.

Jim Goodmon, now president and CEO of Capitol Broadcasting Company, was in high school when he began working nights at Capitol Broadcasting.

Our hometown morning paper, the News and Observer, published in its April 17 editions a comprehensive obituary outlining many of the aspects of Scottie's remarkable life. I ask unanimous consent that it and an editorial from the same paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[The News & Observer, Wed., Apr. 17 2002]

LOUISE 'SOTTIE' STEPHENSON—'FIRST LADY OF CAPITOL BROADCASTING' WORKED THERE 58 YEARS

(By Sarah Lindenfeld Hall)

Louise "Scottie" Stephenson, known as the first lady of Capitol Broadcasting Co., who helped win the original license for WRAL–TV, died Monday morning after a long illness. She was 80.

Stephenson starting working for Capitol 58 years ago and was the communications company's longest-serving employee, with a tenure even longer than that of its founder, A.J. Fletcher. She spent at least three days a week at work until October, when she became ill, but continued to work at home. In February, she attended a board meeting of the A.J. Fletcher Foundation, held at Springmoor retirement community where she lived so she could participate.

"She was a great lady, and she had the respect of everybody that's ever worked for Capitol, and we're going to really miss her personally and we're going to miss her professionally," said James F. Goodmon, president and CEO of Capitol Broadcasting Co. "Scottie was sort of our contact with who we are and what we stand for and was an important continuity beginning with the founding of the TV station. She was there when it started."

Stephenson started her career as a receptionist, secretary and record librarian for what was then WRAL–AM. She answered the phones for the popular radio show "The Trading Post," with Fred Fletcher as host, where listeners could swap and sell goods over the air. She became the company's corporate secretary and member of the board of directors in 1953.

She was the only woman on a five-member team seeking a television station license for WRAL.

She helped prepare 3,000 pages of paperwork and testified before the Federal Communications Commission in Washington, D.C., during the 75-day hearing, according to a Capitol press release. The company received its license in December 1956.

Stephenson, a native of Goldsboro, graduated from Broughton High School and took classes at N.C. State University. She married Nelson W. "Steve" Stephenson in May 1948. He died in 1961, and she never remarried.

Stephenson served on the board of the Fletcher Foundation and volunteered with local arts groups. For more than four decades, she coordinated the Golden Agers Club Christmas parties in Raleigh. And for a half-century, Stephenson had lunch once a week with her good friend Pota Vallas, whose family founded National Art Interiors at Hillsborough Street and Glenwood Avenue.

Scottie was active in the Triangle community as well, serving on the board of the A.J. Fletcher Foundation and supporting the arts through volunteer work with the Raleigh Fine Arts Society and the North Carolina Symphony. She coordinated the Golden Age Club of Raleigh's annual Christmas luncheon for over four decades and saw that luncheon grow from 50 to over 1,500 people. Scottie served on the Board of Directors and as Secretary of the Tammy Lynn Center, a resident care facility for severely retarded children, and worked with a variety of other community organizations.

In 1992, she was named Business and Professional Woman of the Year of the Wake County Academy of Women, sponsored by the YWCA. She was also the first recipient of the Junior Women's Club Outstanding Working Member award.

Scottie most recently resided at Springmoor where she was once again a leader and an inspiration to many. She organized and coordinated outings for her friends to everything from dinner parties to Durham Bulls games.

She was preceded in death by her husband, Nelson W. "Steve" Stephenson, in 1961. Her brother, Sam D. Scott, Jr.; sister, Nancy Scott Reid; and niece, Betty Scott Toomes, also preceded her in death.

Funeral services will be 10 a.m. Thursday, April 18 at St. Michael's Episcopal Church in Raleigh. Burial will be at Montlawn Memorial Park.

Surviving family members include niece, Alice Reid Ritter and husband, Doug of Severna Park, MD; nephew, Samuel Scott Reid and wife, Kathy of Raleigh, NC; niece, Nancy Scott Young and husband, Gary of Manhattan, KS; nephew, Sam D. Scott III and wife, Carolyn of Lousville, KY; great-nephew, Christopher James Stephenson and wife, Ann; and many great nieces and nephews. She is also survived by longtime friend, Roberta Glover.

[From the News & Observer]

ALWAYS ON THE GO

Even after she moved to the Springmoor retirement community in Raleigh, Scottie Stephenson had not retired from her vocation, and avocation, of getting things done. At Springmoor, she organized her neighbors in all sorts of activities, getting them out and about.

For 58 years, Stephenson, who died Monday at the age of 80, served Raleigh's Capitol Broadcasting Company—the first employee and the one who worked there longer than anyone, including the founder, the late A.J. Fletcher. She was out and about there, too—from helping the company obtain the first television station license in Raleigh for WRAL–TV, to writing commercials, to filing complicated federal reports. Stephenson, a gracious and merry person, also served in a multitude of community endeavors through volunteer work in the arts and as a board member of the A.J. Fletcher Foundation.

For thousands of citizens in the Capital City, she'll be remembered as coordinating the Golden Age Club's annual Christmas luncheon.

Pillars of the community, such people are called, and too often as they become older their accomplishments seem to fade in memory. It should not be so, for those accomplishments, by one person at a time, build a city. And thankfully, it was not so with Scottie Stephenson, who was acclaimed after her death in on-air tributes from her latest generation of admirers at WRAL. She would have appreciated them. And they were well-earned.

RECOGNITION OF REVEREND KENNETH DYKSTRA

Mr. GRASSLEY. Mr. President, today I rise in recognition of the steadfast service and commitment of a principled man of God, Reverend Kenneth Dykstra of Pella, IA. Reverend Dykstra served in the capacity as Senior Pastor of Third Reformed Church in Pella from 1969 to 1979. During this period he was involved and actively participated in two extremely consequential missionary trips, one to India and the other to Mexico—both with the Reformed Churches of America.

Kenneth Dykstra devoted the next 8 years of his admirable career to prison inmates through a Bible study ministry as the Senior Pastor with the Worthington Reformed Church in Worthington, MN.

Reverend Dykstra returned home to the beautiful state of Iowa in 1987 to retire in the Dutch community of historic Pella. Knowing "true" retirement for a pastor is rarely an option, he served in a variety of roles including mentor for a church's new pastor and as a Minister of Calling with focused attention on visitations to shut-ins and nursing home residents.

Kenneth Dykstra's significant contribution to not only those his ministry touched, but also the entire State of Iowa, in no way goes unnoticed. I thank and commend him today for all of his dedication, commitment and positive influence on those fortunate enough to know him.

ADDITIONAL STATEMENTS

OUR WESTERN AGENDA

• Mr. CRAIG. Mr. President, as I sit here and look around at my surroundings, there is a dominant feature, our Nation's Capitol. The Rotunda is a landmark that is recognized throughout our country.

What is noticeably missing from this landscape is Idaho!

Our Nation's Capitol is vastly different from Idaho. Each day, Congressmen come to work and see the historical landmarks of the Capitol. They do not see Idaho's vast mountains, rural countrysides, expansive farmland, or raging rivers, the landmarks we all feel in part define Idaho.

Every day, I work to promote and advocate for our Western principles and our Western lifestyle. These Western principles are the touchstone for my service in Congress.

And every day, my goal is to work to establish Federal policies that are responsive to the needs and interests of Idaho and the West, as well as to lead in developing natural resource and energy policies that protect Western water and ensure a clean, safe environment, consistent with sound science, community stability, economic growth and the principle of multiple use.

I am a fiscal conservative who believes in the principles of multiple use, conservation, and management at the local level. I believe these fundamental ideas should guide all natural resource decisions. Natural resource management is about balancing the needs of the people with the needs of the land. I have never met someone who wants dirty air, undrinkable water, or devastated forests. We all want a livable environment. Where people differ is over how these goals will be accomplished.

That being said, I have compiled all of my thoughts and feelings on Western issues to create what I call "Our Western Agenda."

"Our Western Agenda" is designed to provide suggestions on specific Idaho and Western issues. It proposes a compass for how our natural resource policy should address these issues.

While the list of issues that touch the West is much longer than this, I believe the following ideas comprise the core. First, I believe access must be guaranteed to our public lands for multiple uses, including ranching, mining, and recreation.

In order to maintain the values of public lands, I believe the most critical characteristic that needs to be preserved is access. Conservation and multiple use, for a century now the dominant policy of our public lands, require access. Only by accessing these areas can active management take place, providing protection for our public lands against disease, wildfire, and insect epidemics.

Next, the long struggle over public access to our lands has left many with battle fatigue and I believe through collaborative conservation, mutual goals of various user groups can be accomplished. Clearly, we need a new approach to solving natural resource conflicts, user conflicts, and management conflicts.

In order to resolve conflict, all the players need to come "to the table" to explore our shared ideals instead of reinforcing our disagreements.

I think we should adopt the strategies of some local activists who have turned away from the existing national standoff. Instead, they are working to bridge differences, to find a common solution that reflects the national environmental ethic. In a phrase: collaborative conservation.

I believe collaborative conservation should include the following. We must discard the doctrine of national communities of interest, where decision makers are selected from national organizations, and return to a doctrine of local community interest. We should not allow Federal bureaucracies and national organizations to upset the fragile process of local consensus making.

We need a process of continuous improvement in reducing our impacts on the land. We must stipulate that for all the progress made by commodity-producing industries, loggers and ranchers, and recreationists, we can always do better.

Federal Government policies desperately need modernization. The Government needs to manage better. It must not allow restrictive approaches based upon inflexible national mandates to trump what would otherwise be environmentally sound activities and shut out local people who have to live with the consequences of Federal decisions.

As a community, we need to come together to solve the challenges of multiple-use in order to achieve conservation and balance on our public lands. I also believe as our Nation's energy policy continues to develop, we will continue to look to have access to our public lands to provide resources.

During the past decade, we have heard a chorus of energy marketers and environmentalists sing the praises of natural gas as a cost-effective and environmentally sensitive energy source. The past administration hailed natural gas as the cleanest fuel for home heating and aggressively pushed utility companies to convert oil and coal-fired electric plants to gas.

The irony is that all this aggressive promotion has not been backed by commensurate efforts to ensure supply. Indeed, the Clinton administration complicated our ability to retrieve adequate supplies of gas by locking up Federal land deposits of this valuable energy source, with an estimated 40 percent of potential gas resources in the United States on Federal lands that are either closed to exploration or covered by severe restrictions.

Increases in Federal red tape and bureaucratic inefficiency raised consumer costs while denying consumers the choices they were promised. The fact of the matter is as the United States enters the 21st century, our Nation lacks a readily available and sufficient supply of natural gas to satisfy current demand, let alone the increasing demand that we expect in the immediate future. Consequently, natural gas prices are high and will likely rise in the future.

This will not change until we reverse government policies that have foreclosed opportunities for choice of fuels.

Furthermore, failure to encourage investment in the transmission of electricity has threatened the reliability of service throughout the country.

The Department of Energy has estimated that we will need to construct over the next several years an additional 255,000 miles of distribution lines, at an estimated cost of $120 to $150 billion, to ensure that our electric system remains the most reliable in the world.

The notion that our Nation can rely so heavily on natural gas, maintain severe restrictions on exploration and production, and still enjoy low prices is, as Secretary Abraham has stated, "a dangerous assumption."

Last, I believe a common sense approach will protect our public lands against catastrophic fires, weeds, and exclusive policies. Fire is a natural component of any ecosystem. It stimulates plant growth, maintains a plant understory, and creates diversity. All of these aspects are healthy characteristics of a thriving forest.

However, when fire is suppressed and active forest management activities—thinning, prescribed burns, etc.—that mimic fire behavior are ignored, this is a prescription for disaster.

The neglectful management practices of the past will continue to plague our public lands unless we pursue active management practices that result in a balanced ecosystem. In order to prevent devastating fires, the agencies need the resources and flexibility to make management decisions that maintain our public lands.

Increased fuel loads create catastrophic fires, contribute to declining watersheds, increase sedimentation and decrease water quality, and lead to the demise of fisheries.

This disastrous spiral must be stopped. Non-native weeds are a serious problem on both public and private lands across the Nation. They are particularly troublesome in the West, where much of our land is entrusted to the management of the Federal Government.

Like a "slow burning wildfire," noxious weeds take land out of production, force native species off the land, and interrupt the commerce and activities of all those who rely on the land for their livelihoods, including farmers, ranchers, recreationists, and others.

Forests and rangelands are dynamic systems that constantly change in response to both natural and man-made events. They are never static. Any scientist will tell you that a healthy forest or rangeland requires active management. Like your backyard garden, you can't just let it go and expect it to be productive and healthy. You have to actively manage the resource by doing everything from thinning trees, to spraying for weeds, to maintaining roads.

Without access to our lands, it is impossible to manage our public lands properly. Without access, we will end up with unhealthy lands that are prime candidates for catastrophic wildfires and insect infestations of epic proportions.

It is time to move our public lands management agencies away from a "one-size-fits all" management policy and back toward their original missions.

As set forth in law, the missions are to achieve high-quality land management under the sustainable multiple-use management concept to meet the diverse needs of all users.

In all of this, I believe we still have an Old West, a rural society centered on the original commodity-producing industries and agriculture, and then there is a New West, centered on the vigorous quest for a quality of life that includes the enjoyment of the outdoors.

What ties "the old" and "the new" together is an appreciation for the resources and the value that multiple uses contribute to our livelihoods and communities.

Natural resource management is about bringing the Old West and the New West together to balance the needs of all the people with the needs of the land.•

HADASSAH'S 90TH ANNIVERSARY

• Mr. SCHUMER. Mr. President, I rise today to speak in honor of Hadassah, the Women's Zionist Organization of America, on its 90th Anniversary. Hadassah, the largest Zionist, largest Jewish, and largest women's membership organization in the country, was founded in 1912 by Henrietta Szold to help meet medical needs in what was then Palestine.

Since that time, Hadassah has been a leading force in Israel's medical needs through Mt. Scopus Hospital, Ein Karem Hospital, and various clinics across the country. Hadassah hospitals, in addition to serving as a model of peaceful coexistence in the Middle East, provide state-of-the-art health care to 600,000 patients a year—regardless of race, religion, creed or national origin—and often treat the most critically wounded in the region's ongoing conflicts.

Through the College of Technology, the Career Counseling Institute, and Youth Villages in Israel and through Young Judaea and the Hadassah Leadership Academy in the United States, Hadassah has been critical in upgrading the educational and learning opportunities for the people of Israel.

In the United States, Hadassah women sold $200 million in US World War II bonds as its first national domestic effort. Since then, Hadassah women have been actively engaged in health education programs on breast cancer and osteoporosis; voter registration efforts; Jewish education; grassroots advocacy on US-Israel relations, Jewish communal concerns; women's issues; humanitarian relief to distressed communities and countries; and volunteer work in literacy programs and at domestic violence shelters.

In conclusion, I would like to acknowledge the continued efforts of Hadassah members and their ninety year history.•

TRIBUTE TO FREDERICK BISHOP

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Frederick W. Bishop of Hooksett, NH. Frederick has been chosen as New Hampshire's Citizen of the Year for his exceptional leadership and devoted service to the community.

I commend his active role in both the community of Hooksett and the Granite State. He has served countless hours on Boards and holds positions in numerous organizations within the state. Mr. Bishop has served as Chairman of the Hooksett Police Commission, President of the Hooksett Men's Club, member of the Memorial School Booster's Club, Chairman of the Hooksett Winter Carnival, Treasurer of the Hooksett Underhill School PTO, Chairman of the Librarian of the Year Award Event, and numerous other positions and memberships.

Along with his positions, Frederick has found time to serve as a Little League Coach, a member of the Hooksett Emergency Medical Services Committee, and a volunteer for Catholic Charities. Frederick is also a member of the Business and Industry Association of NH, the New Hampshire Easter Seal Society, and the Kiwanis Club. His efforts to improve the community in which he lives serve as a positive role model for people in towns across the country. He has been instrumental in raising the membership of the Hooksett Kiwanis Club by personally sponsoring 180 new members.

Frederick Bishop is one of the most deserving candidates of this recognition that I have encountered. His efforts and devotion have made the Town of Hooksett a better place to live. He should be proud of his accomplishments and service. It is truly an honor to represent him in the U.S. Senate.•

STEEL INDUSTRY RETIREE BENEFITS PROTECTION ACT OF 2002

• Mr. WELLSTONE. Mr. President, I am pleased to join as a cosponsor of this extremely important legislation, S. 2189, the Steel Industry Retiree Benefits Protection Act of 2002. This legislation is coming none too soon, for hardworking steelworker retirees who, through no fault of their own are facing the loss of health and death benefits, and for the industry itself that needs this relief in order to revitalize itself and remain competitive.

In particular, the act would preserve the health and death benefits for the retirees of steel, iron ore, and coke companies facing consolidation or liquidation. The bill establishes a health benefits program for steel retirees of acquired or shuttered steel companies modeled on health plans available for Federal workers. Like its model, the new program will require retirees to pay reasonable monthly premiums, will provide coverage for prescription drugs, and will deliver medical care through preferred provider organizations. In addition to health coverage, the proposed legislation extends a $5,000 death benefit to the designated beneficiary of each enrolled retiree.

The hard working families of the Iron Range of Minnesota are facing excruciatingly tough times. Their situation is truly desperate and they need our help.

The taconite industry in which generations of workers have proudly labored has been ravaged by surges of semi-finished steel slab dumped in this country by our trading partners. Many have lost their jobs, just last year 1,400 workers were laid off when LTV Steel Mining closed its doors. Now, 10,000 former employees, their spouses and dependents face loss of health insurance and many are finding that they stand to lose a good portion of the pensions the company had promised.

Last month, the HELP Committee held hearings on the need for legacy cost legislation both for retirees and for the industry. The testimony was riveting. The need compelling. My good friend, Jerry Fallos, president of Local 4108 of the United Steelworkers of America, testified at those hearings. The stories he had to tell were grim indeed.

As Jerry said, the people of the Iron Range are used to hard times. They have weathered any number of challenges over the years. They are good people, proud, hard-working, the best you can find anywhere. They are survivors, and they will get through these difficult times as well. They have given much to their country, and now they need our help.

I am determined to give them that help. The good people of the range have responded to their country in its times of needs. Over the years our Nation's economy flourished and our manufacturing industries boomed from the iron ore produced through the labors of steelworkers on the range.

There is both a moral imperative to meeting this challenge as well as a business necessity in doing so.

As a matter of fairness and economic justice, we must help the working families who gave their all to this industry and who, through no fault of their own, indeed because of the unfair practices of our trading partners, find themselves without jobs, health care or adequate pensions. In the last 2 years, 32 U.S. steel companies have filed for bankruptcy, and these companies represent nearly 30 percent of our domestic steel making capacity. These failures were not the fault of the workers at these companies. These failures resulted from unfair and predatory practices of our trading partners over an extended period.

Equally as important, our domestic steel industry will simply not be able to revitalize itself and remain competitive while shouldering the massive legacy cost burdens that exist. With on average three retirees for every active employee, the industry faces virtually insurmountable barriers. Government assistance is essential and we will need the President's active support for legacy cost legislation if we are to prevail.

Unfortunately, however, the President appears to have washed his hands of this problem. He claims to have done his part by providing section 201 relief to the industry. The issue of legacy costs, he says, for the sake of retirees and to permit industry consolidation, is someone else's problem.

It is not, however, as simple as that. First, the jury is still out on whether the section 201 relief will in fact be that meaningful. According to recent accounts, there are over 1,000 exceptions to the President's section 201 decisions being considered. And, Secretary O'Neill is reported as saying that he suspects "a significant proportion of them will be favorably decided." Moreover, the President's section 201 decision did nothing for the iron workers in Minnesota and Michigan. While the President imposed a fairly significant tariff on every other product category for which the International Trade Commission found injury, for steel slab he decided to impose "tariff rate quotas." This brings us virtually no relief. Nearly 7 million tons of steel slab can continue to be dumped on our shores before any tariff is assessed. The injury will continue.

Second, by ignoring the legacy cost issue, the President is walking away from the hard work that must be done to promote industry consolidation and re-vitalization, an objective this administration has been advancing from the start.

We need serious legacy cost legislation and that is precisely what this bill represents. I urge my colleagues in the Senate and the House to support its passage. And I urge the President to take another look at this issue and work with us on a meaningful solution.

The viability of our domestic steel industry, and our national security, are at stake here. We must act, and we must act soon.•

RECOGNITION OF MR. BEN LAMENSDORF

• Mr. COCHRAN. Mr. President, I am pleased to commend Mr. Ben Lamensdorf of Cary, MS, for his distinguished service as President of Delta Council.

Delta Council is an economic development organization representing eighteen counties of Northwest Mississippi. Organized in 1935, Delta Council brings together the agricultural, business, and professional leadership of the area to solve common problems and promote the economic development of the Mississippi Delta region.

As President of Delta Council, Ben has been an effective leader in promoting sound agricultural policy in a year when that issue has been so vital to rural America. His insights and experience have been of invaluable assistance to my staff and me as we addressed policies to make American agriculture stronger.

Ben also distinguished himself in other areas of public policy that have impacted on his beloved Mississippi Delta region. He has been a proponent for better schools and innovative educational models; he has supported transportation and water resource projects that are vital to the future of Northwest Mississippi; his personal farming practices have served as an example for sound conservation and environmental measures, and he has been a leader in defining and shaping alliances in health care that can have both an immediate and long-term impact on the well-being of citizens in the Delta.

The level of Ben's commitment to Mississippi and its people has been evident since he returned home to Cary after graduating from Mississippi State University. In addition to operating a cotton, soybean, wheat, and pecan farm in Sharkey and Issaquena Counties, he owns and operate Grundfest and Klaus Gin.

Ben serves as a chairman of the board for the Bank of Anguilla. He is a member of the Anshe Chesed Temple in Vicksburg and serves on the board of the Institute of Southern Jewish Life. A Founding Director and current Board member of Delta wildlife. Ben has also served as a member of the Sharkey-Iaasquena Soil and Water Commission.

I congratulate Ben Lamensdorf for his contributions to the Delta region Mississippi and the Nation, and I look forward to his future contributions in improving the quality of life for our citizens.•

EXPEDITED BANKRUPTCY PROCEDURES

• Mrs. CARNAHAN. Mr. President, the expedited bankruptcy procedures provided in Chapter 12 of the bankruptcy code are extremely important for family farmers struggling during difficult times. I have been working diligently to extend these provisions and to make them permanent. I am pleased that both the Farm Bill and the Bankruptcy Bill Conference Committees are currently considering permanent extensions. The bill we are about to pass is an important stop-gap measure that will provide much needed assistance to family farmers until a permanent extension is enacted.●

NATIONAL CRIME VICTIMS RIGHTS WEEK

● Mr. JOHNSON. Mr. President, statistics show that a woman is raped every 5 minutes in the United States and that one in every three adult women experiences at least one physical assault by a partner during adulthood. In fact, more women are injured by domestic violence each year than by automobile accidents and cancer deaths combined. Statistics that report the abuse of our children are equally staggering. Nationwide, an estimated 826,000 children are victims of abuse and neglect, a number greater than the population of my home State of South Dakota.

April is recognized as both Child Abuse Prevention Month and Sexual Assault Awareness Month. This week, the week of April 21–27, is National Crime Victims Rights Week and is a good time to take a serious look at the progress we have made in addressing the problem of abuse against women and children in our communities. In 1983, I introduced legislation in the South Dakota State Legislature to use marriage license fees to help fund domestic abuse shelters. At that time, thousands of South Dakota women and children were in need of shelters and programs to help them. However, few people wanted to acknowledge that domestic abuse occurred in their communities, or even in their homes.

During the last 7 years, I have led efforts in the U.S. Congress to authorize the original Violence Against Women Act, VAWA, and, most recently, expand and improve the program to assist rural communities. South Dakota has received over $8 million in VAWA funds for women's shelters and family violence prevention services. In addition, the law has doubled prison time for repeat sex offenders, established mandatory restitution to victims of violence against women, and strengthened interstate enforcement of violent crimes against women. South Dakotans can also call a nationwide toll-free hotline for immediate crisis intervention help and free referrals to local services. The number to call for help is 1-800-799-SAFE.

In South Dakota last year, over 5,500 women were provided assistance in domestic violence shelters and outreach centers thanks, in part, to VAWA funds. While I am pleased that we have made significant progress in getting resources to thousands of South Dakota women in need, it is important to look beyond the numbers. Mr. President, 5,500 neighbors, sisters, daughters, and wives in South Dakota were victimized by abuse last year. Thousands of other women are abused and do not seek help. We must also recognize that the problem is multiplied on the reservations where Native American women are abused at two-and-a-half times the national rate and are more than twice as likely to be rape victims as any other race of women.

The words of a domestic abuse survivor may best illustrate the need to remain vigilant in Congress and in our communities on preventing domestic abuse. A woman from my State wrote me and explained that she was abused as a child, raped as a teenager, and emotionally abused as a wife. Her grandchildren were also abused. In her letter, she pleaded:

> Don't let another woman go through what I went through, and please don't let another child go through what my grandchildren have gone through. You can make a difference.

We all can make a difference by protecting women and children from violence and abuse.●

GREEK SUPPORT FOR THE WAR ON TERROR

● Mr. WARNER. Mr. President, I ask to have printed in the RECORD the remarks of President George W. Bush in regard to the stance that Greece has taken in our war against terror.

The remarks follow.

> PRESIDENT BUSH:
>
> There's a huge number of Greek Americans who live in our country, who still have got great fondness for the country of their ancestors.
>
> I am most appreciative of Greece's strong stand against terror. Greece has been a friend in our mutual concerns about routing our terror around the world, and I want to thank them for that very much.
>
> I'm also very appreciative of Greek Prime Minister Simitis' administration working with Turkey. Relations have improved with Turkey, and as a result the world is better off. And I want to thank Greece for their vision, for their Foreign Ministry's hard work to do what is right for the world, to make the world more peaceful.●

TRIBUTE TO THE HONORABLE THURMAN G. ADAMS, JR.

● Mr. BIDEN. Mr. President, on May 3, 2002, the Delaware State Bar Association will present its prestigious Liberty Bell Award to Thurman G. Adams, Jr.

I could introduce Thurman Adams to my colleagues in any number of ways, he is the dean of the Delaware State Senate, the majority leader, and by the time his current term ends, he will have served longer than any Delaware State Senator in history. And Delaware has a long history.

Senator Adams has served on and, in fact, chaired virtually every major committee, including 25 years-and-counting as chairman of the Executive Committee, current chairmanship of the Banking Committee, past chairmanship of the Agriculture Committee, and current service on the Judiciary, Administrative Services, Permanent Rules and Ethics Committees, as well as his role in the Senate leadership.

I could also introduce Thurman Adams as, in many ways, the quintessential Delawarean. I should add Sussex Countian, and I can pinpoint it even more to his beloved town of Bridgeville.

Like his father, Thurman was born on the family farm on the road now known as Adams Road. His grandson lives there now, and runs the farming operations day-to-day. Thurman graduated from Bridgeville High School, and then from the University of Delaware. After college, he joined the family feed, grain and farm business, T.G. Adams & Sons, which he now serves as president.

So, I could introduce Thurman Adams as one of the longest serving and most influential leaders of our State. I could introduce him as representing the great tradition of Delaware agriculture, Delaware towns, Delaware small business and Delaware families.

I also have the very great privilege of being able to introduce Thurman Adams as my friend, a friend I deeply admire as a man of his word, a man of conviction, a man of values and of principle.

And in a much higher tribute to him, I could introduce Thurman as the husband of one of the truly great ladies I have met in my life, Hilda McCabe Adams.

I have been with Hilda and Thurman Adams in times of victory and celebration, and I have been with them in times of tragedy and loss. In every circumstance, they have been the definition of class, and they have more integrity in their little fingers than most of us will be able to summon in our lifetimes.

Their journey together has been inspiring to those of us who are lucky enough to be around them, but it has not always been easy. They endured the loss of an infant grandchild, and then tragically in May of 2000, the death of that baby's father, their son, Brent McCabe Adams, Sr., at the age of 45. And now they are facing, with characteristic strength and courage, a serious illness for Hilda.

In honoring Thurman Adams, the Delaware Bar Association will, rightly, pay tribute to his decades of service to our State, his particular contribution as a leader on the Judiciary Committee, and his role in leading the Senate confirmation process, never as a mere matter of procedure, but thoughtfully and skillfully, for so many members of the Bar, and other Delawareans, who have been appointed to positions within our State government.

For my part, I would like to pay tribute to Thurman and Hilda Adams as, simply, exceptional and inspiring human beings, the best of citizens, the best of neighbors, and the best friends anyone could ask for. They just don't make them like Hilda and Thurman very often. We in Delaware are very lucky.•

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 18, 1993 in Menomonie, WI. A lesbian college student was beaten by three men and a woman. During the beating, the attackers were heard to yell anti-lebian slurs.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

JEWISH HERITAGE WEEK

• Mr. LEVIN. Mr. President, it is with great pleasure I rise today to call my colleagues' attention to Jewish Heritage Week, which was recognized from April 14 through 21, 2002.

Every spring since 1976, during the season in which Jewish people commemorate Passover, Yom Hashoah (Holocaust Memorial Day) and Yom Ha'atzmaut (Israel Independence Day), a week is set aside to promote and encourage all Americans to learn about the history of Jewish Americans and to participate in activities that highlight the accomplishments of these citizens. It is in light of that charge I come to the Senate floor to highlight this important week.

For centuries, Jews from across the globe have come to America seeking the ability to worship in freedom and to pursue their individual and hopes and dreams in peace. Throughout the many years, nearly every facet of American culture has been cultivated and enriched by the talents of Jewish people, including business, education, research, fine arts, and government. In fact many of their names and accomplishments are found in the textbooks of students across this country. Their contributions to our character and culture help make America a better place.

We also commend our friends in Israel as they celebrated the 54th anniversary of the founding of the modern State of Israel. This milestone is a tribute to the strength and resilience of the Jewish spirit in the face of great adversity. At this time, it is imperative that freedom loving people from around the world stand with the people of Israel in affirming Israel's right of existence and its right to defend itself against those who would use terror to achieve their goals.

I know my Senate colleagues will join with me and the millions of Americans to mark this special week to pay tribute to the countless people of Jewish faith and descent who have contributed so much to the definition of our nation and the world.•

CLINTON ADMINISTRATION ROADLESS POLICY: STILL AND ALWAYS A BAD IDEA

• Mr. CRAIG. Mr. President, I rise today to discuss the issue of roadless areas in our national forests and to discuss the manner in which the last administration developed their roadless area conservation rule. Recently, the OMB released a draft report on the costs and benefits of Federal regulations. In this report, the Clinton roadless rule is estimated at costing $164 million and saving only $219,000. I find these numbers outrageous and add this to the extensive list of reasons why this rule would hinder our rural economies. With this, I would like to again express my objections to the Clinton roadless rule and explain why I feel it is still a bad idea.

As chairman of the Subcommittee on Forests and Public Lands of the Energy and Natural Resource Committee I held a series of five hearings between November 1999 and March 2001 to examine the development and potential consequences of the Clinton administration's roadless area conservation rulemaking. Our hearing record details numerous questions about the process and data used to develop the roadless area conservation rule. While I will not recite the entire history of this controversy, I do want to highlight some of the key dates and events to help my colleagues better understand this issue.

To begin, the issue of roadless has been around for more than 30 years. In 1972, the Forest Service began Roadless Area Review and Evaluation One, RARE I, to examine how much land should be set aside and recommended for potential Wilderness.

A more comprehensive RARE II inventory was undertaken in 1982. That review examined a little more than 62 million acres. A variety of wilderness bills passed by Congress allocated 24 percent of the RARE II lands to Wilderness. The forest plans completed by the Forest Service between 1983 and 1998 recommended—10 percent of the 62 million acres for wilderness; 17 percent of the land for future wilderness study; 38 percent of the land for other multiple-uses that excludes timber harvesting; and 14 percent of the 62 million acres to be considered as potentially available for timber harvesting.

It is important to know that from the time RARE I was completed, through 1998, that less than 1.1 million acres of the original 62 million RARE II acres were utilized for timber harvesting. Thus, less than 2 percent of the entire 62 million acres had been entered, or would be entered in the next 5 years, for timber harvesting.

In 1998, after an Interior Appropriations vote on funding for Forest Service road construction, I invited then chief of the Forest Service Mike Dombeck to my office to discuss the roadless issue. I offered the chief my help in working to legislatively resolve this thorny issue. I was politely informed by Chief Dombeck that they would rather resolve the issue administratively.

In May of 1999, then Vice President Al Gore, during a speech to the League of Conservation Voters stated that not only would he eliminate all road building, but he would prohibit all timber harvesting in roadless areas. In effect he announced the selection of the final alternative for the Clinton roadless area conservation rule before the draft rulemaking had even begun.

On October 13, 1999, President Clinton, speaking at Reddish Knob, VA, directed the Forest Service to develop regulations to end road construction and to protect inventoried and uninventoried roadless areas across the National Forest System.

On October 19, 1999, the Forest Service published a notice of intent to prepare an environmental impact statement to propose protection of certain roadless areas.

In June of 2000, Chief Dombeck, in a letter to his employees on the roadless issue, stated that "Collaboration does not alleviate our responsibility to make decisions that we believe are in the best long-term interests of the land or the people who depend on and enjoy it." Mr. Dombeck made it very clear to me that Mr. Gore's desires would be carried out.

In the 2000 State of the Union Address, nearly 11 months before the final roadless area conservation plan was published, President Clinton said that together, the Vice President and he had "in the last three months alone helped preserve 40 million acres of roadless in the national forests."

On November 13, 2000, the final EIS for the roadless area conservation plan was published. And on January 12, 2001 the final roadless area conservation rule was published in the Federal Register. This meant that over the Christmas holiday the agency read, absorbed and responded to more than 1.2 million public comments in a little less than 2 months.

The Public Lands and Forest Subcommittee hearings that were held, made it clear to me that the decision on what to do about the roadless issue was sealed on October 13, 1999 when the President spoke at Reddish Knob and the rest of this effort was little more than window dressing.

It was also no surprise to me when U.S. Federal District Court Judge Edward Lodge stayed the implementation of this rule in May of 2001. While Judge Lodge's stay has been appealed to the Ninth Circuit Court of Appeals, the fact remains that no administration, not the Bush administration, not the Clinton administration, nor any future administration can ignore Judge Lodge's ruling.

I know that many in the environmental community, proponents of the Roadless Rule, would like to convince us that the Bush administration is somehow skirting the law by refusing to fully implement the roadless area conservation rule. But, the simple fact is that Judge Lodge ENJOINED all aspects of the roadless area conservation rule.

Some have decried the fact that the Bush administration chose not to contest Judge Lodge's decision in the Ninth Circuit Court of Appeals. They claim this action by the Bush administration is an attempt to rollback a much-needed environmental rule. I think we would be wrong to draw this conclusion. The fact is that every administration faced with defending agency decisions in court examines each case on its merit and then decides which course of action is best for the government.

In April of 2001 the Washington Legal Foundation provided an analysis of the Clinton administration's failure to defend or appeal cases that went against its natural resource agencies during its 8 long years in office.

They found "13 occasions when the Clinton administration refused to defend resource management decisions of its predecessors, choosing to accept an injunction or remand from a U.S. District Court rather than defend those decisions in a U.S. court of appeals." [There are] "at least 28 other occasions, when the Clinton administration refused to defend its own resource management decisions in a court of appeals after receiving an injunction or remand from a U.S. district court." In the past, many of the last-minute rules promulgated by a variety of departments and agencies have been pulled-back and reviewed. We must realize that this is normal and rational behavior when the White House changes hands.

So when it came to the roadless area conservation rule, the Bush administration faced a rule that was rushed through the process, that impacted a tremendous amount of land and people, which had been, at least temporarily, struck down by the courts.

I want to shift gears here and help my colleagues better understand what makes this issue so contentious. Beyond the obvious questions of whether or not the process used to develop this rule was honest and fair, we have to remember that every rule and regulation any administration undertakes impacts individuals in some local community in our great country. As we have taken the time to learn more about how the Clinton roadless conservation rule was developed, it has become increasingly clear to me how rushed the process was and how completely the Forest Service failed to include a level of detail needed by local people to assess how the policy might affect them on an individual basis.

While one might be tempted to think the Forest Service was knowingly hiding the details of its proposal, I think we all must understand the enormity of the task they undertook. They had a policy that covered over 60 million acres of our Nation. The last time they attempted a similar policy, in RARE II, the environmentalists successfully sued and the courts found that the policy failed to examine the proposal at the local level and sent the Forest Service back to the drawing board.

Last summer, my staff took time to better understand why people are so upset over the roadless area conservation rule. We found nearly 43,500 acres of State lands within the RARE II roadless areas and more than 421,500 acres of privately owned lands within these areas. This is important because, like any neighborhood, how your neighbor manages his or her lands greatly impacts how and when you can manage your land.

If implemented, the roadless area conservation rule would convey a wilderness like management regime on these lands. Think about States that have one or more roadless areas that the Federal Government is managing as a quasi-wilderness.

Imagine for a moment that the State has a constitution that directs State lands be managed to produce revenue to pay for the operation and building of the schools in that State. Such as my home, the State of Idaho happens to have. Don't you think that the State will, in the face of this new roadless area conservation rule, experience a new public expectation that they will manage the State lands in a manner similar to the surrounding Forest Service roadless area.

Let me take this scenario just one more step. Imagine that when Sally and Joe come to Idaho to visit the Panhandle National Forest to hike in the wilderness and roadless areas on that forest. They have absolutely no idea, nor do they care, that the State of Idaho has State lands in the Panhandle National Forest that are surrounded by Roadless lands. They have no idea, nor do they care, that the State of Idaho by law must manage those lands to generate a revenue stream to support its educational system. They arrive in the area knowing they are going into a roadless area where no timber harvesting, or mining, or any other activities are allowed, and they stumble upon a timber harvesting operation on State lands. Most likely they don't even take the time to find out who's land they are looking at. And why should they, they came to the Panhandle National Forest to hike in the wilderness.

If they are like most Americans they don't know that national forests have a different set of rules than National Parks. Then we are off to the races. They go home to New Jersey or California knowing in their hearts that the U.S. Forest Service is carrying out a secret timber sale program to circumvent the hard fought roadless area conservation rule that they have read so much about in their monthly Sierra Club magazine.

They then mount a campaign to end all commodity management on any lands within the bounds of roadless areas, no matter who owns those lands and no matter what the legitimate goals of that State or private landowner might be.

If a local government were going to change the zoning around your home and failed to notify you of the change or what it might mean, I imagine you would be skeptical about the process used to develop the zoning rule. This is no different. The Forest Service developed this rule in a very compressed time frame, with little or no description of the potential impacts of the rule at the local level. As a result a number of local communities and States became so upset that they have gone to court to get this rule overturned. To date there are at least nine cases that have been brought to challenge the Clinton administration's roadless area conservation rule.

I want to finish up with a series of examples of the types of land and infrastructure we have found in some of the national forest roadless areas that we examined. Interestingly, we found little or no evidence in the Forest Service EIS to suggest that State, private, and other Federal landowners were notified by either national or local Forest Service officials that this policy could affect the National Forests that surround their lands.

Our staff analysis found some very disturbing information. For instance, on the Boise National Forest we found five roadless areas with forest development roads within them. We also found a fire tower and an FAA radar site in a RARE II roadless area, and as a result road maintenance and reconstruction will no longer be allowed.

On the Panhandle National Forest in Idaho, we found 13 roadless areas with National Forest System Roads within them, along with at least three mines, one Forest Service campground and one power line in one or more of the roadless areas.

On the Superior National Forest in the State of Minnesota, we found three roadless areas with National Forest System roads in them, along with four public boat ramps, three Forest Service campgrounds, and one mine in the roadless areas.

On the Chequamegon-Nicolet National Forests in northern Wisconsin we found 1,317 acres of private land and 2,886 acres of State lands within the RARE II roadless areas.

On the Monongahela National Forest in West Virginia we found 10 RARE II roadless areas that contain national forest system roads, along with a pipeline and parts of a railroad right-of-way within the roadless areas. One roadless area that we examined was made up of 75 percent private property.

On the Dixie National Forest in the State of Utah we found 14 RARE II roadless areas with national forest system roads within them, as well as one reservoir and one water pipeline in a roadless area.

On the Gila National Forest, in the State of New Mexico, 11 of the RARE II roadless areas on that forest have national forest system roads within them, as well as one that had a water pipeline within it.

I will finish with the Pisgah National Forest in North Carolina, where we found five areas with one or more national forest system roads within them, and one roadless area with a Federal Aviation Agency, FAA, microwave tower site in it.

The point of going through this litany is to help my Senate colleagues better understand why national policy, such as this, can be better developed at the local level, and to help put Judge Edward Lodge's decision, to stay the implementation of this wrongheaded rule, in a better context.

We can, and will, continue to argue over the environmental policies of this country in this body. There is room in this debate for opposing views. But in the case of the environmentalist concerns on the Bush administrations new look at the roadless area conservation rule and their efforts to gain political support to ignore the courts on this issue, I would hope that none of us would want this, or any future administration to ignore decisions made by the Federal courts.

In closing, I applaud the efforts undertaken by this administration to take a careful look at this wrongheaded rule. I hope they listen to Judge Lodge and any other court rulings that result from the other cases. I am happy to see that the new chief of the Forest Service is more sensitive to local communities and the private and State landowners who will be affected by this or any new roadless area policy.●

87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mr. JOHNSON. Mr. President, tomorrow marks the 87th anniversary of the start of the Armenian genocide, and I rise today to honor the victims of this horrific event.

As we take time to reflect on this dark chapter of world history, I am not sure what is more troubling: The fact that so many people no longer remember the Armenian genocide, or that there are still people who deny it ever took place. To those who would deny it, I refer them to the U.S. National Archives which contains thousands of pages of source material proving the Armenian genocide did occur. To those who no longer remember, we must tell the story or face the possibility that history may repeat itself.

On April 24, 1915, approximately 200 Armenian religious, political, and intellectual leaders were arrested in Constantinople and subsequently killed. Shortly afterward, the entire Armenian people were forcibly removed from their homeland in present-day eastern Turkey and deported. Over a million and a half Armenians were killed or died as a result of the deportation between 1915 and 1923, and another 500,000 were forced into exile. All told, one-third of the Armenian population was killed during this brutal episode.

Despite having their population decimated and scattered into exile, the Armenian people have been able to maintain a rich culture and a strong sense of their own history. They should be proud of their many accomplishments in the nearly nine decades since the genocide. It is with this strong sense of the past that the Armenian people today are building a brighter future.

As we know all too well, the Armenian genocide was the first, but not the last, genocide of the 20th Century. We join with the Armenian people to remember the victims and to keep alive the memory to ensure such a tragic event never occurs again.●

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—PM 81

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report that my Administration has prepared on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995.

GEORGE BUSH.

THE WHITE HOUSE, *April 23, 2002.*

MESSAGE FROM THE HOUSE

At 3:28 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 15 U.S.C. 1024(a), the Speaker appoints the following Member of the House of Representatives to the Joint Economic Committee: Mr. HILL of Indiana.

The message also announced that pursuant to section 801 of title 2 of the United States Code, the minority leader appoints the following Members to the Congressional Recognition for Excellence in Arts Education Awards Board: Mr. HINCHEY of New York and Ms. MCCOLLUM of Minnesota.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6554. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Program of Research on Reading Comprehension—Notice of Final Priority" received on April 17, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-6555. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Release of Information Regarding Immigration and Naturalization Service Detainees in Non-Federal Facilities" (RIN1115-AG67) received on April 17, 2002; to the Committee on the Judiciary.

EC-6556. A communication from the Secretary of Health and Human Services and the Attorney General, transmitting jointly, pursuant to law, the fifth Annual Report on the Health Care Fraud and Abuse Control Program for Fiscal Year 2001; to the Committee on Finance.

EC-6557. A communication from the Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Capital Standards: Claims on Securities Firms" (12 CFR Part 3) received on April 17, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-6558. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Compensation of Air Carriers" ((RIN2105-

AD06)(2002–0002)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6559. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sodium Starch Glycolate; Exemption from the Requirement of a Tolerance" (FRL6833–9) received on April 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6560. A communication from the Administrator, Livestock and Seed Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Lamb Promotion, Research and Information Order" ((Doc. No. LS–01–12)(RIN0581–AC06)) received on April 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6561. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Cuban Immigration Policies"; to the Committee on Foreign Relations.

EC–6562. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination Number 2002–14, relative to Palestine Liberation Organization; to the Committee on Foreign Relations.

EC–6563. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the San Bernardino Kangaroo Rat" (RIN1018–AH07) received on April 17, 2002; to the Committee on Environment and Public Works.

EC–6564. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL7175–3) received on April 18, 2002; to the Committee on Environment and Public Works.

EC–6565. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Arkansas: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL7173–7) received on April 18, 2002; to the Committee on Environment and Public Works.

EC–6566. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination that State has Corrected the Rule Deficiencies and Stay of Sanction in California, San Joaquin Valley Unified Air Pollution Control District" (FRL7174–2) received on April 18, 2002; to the Committee on Environment and Public Works.

EC–6567. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District" (FRL7158–4) received on April 18, 2002; to the Committee on Environment and Public Works.

EC–6568. A communication from the Vice President for Legal Affairs, General Counsel and Corporate Secretary, Legal Services Corporation, transmitting jointly, pursuant to law, the Corporation's report under the Government in the Sunshine Act for calendar year 2001; to the Committee on Governmental Affairs.

EC–6569. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the Commission's Performance Report for Fiscal Years 1999–2001; to the Committee on Governmental Affairs.

EC–6570. A communication from the Administrator, General Service Administration, transmitting, the Administrations Strategic Plan dated April 3, 2002; to the Committee on Governmental Affairs.

EC–6571. A communication from the Administrator, General Service Administration, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 2222. A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself and Mr. Smith of Oregon):

S. 2223. A bill to provide for the duty-free entry of certain tramway cars for use by the city of Portland, Oregon; to the Committee on Finance.

By Mr. LEAHY:

S. 2224. A bill to repeal the Antidumping Act of 1916; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. Warner) (by request):

S. 2225. A bill to authorize appropriations for fiscal year 2003 for military activities of Department of Defense, to prescribe military personnel strengths for fiscal year 2003, and for other purposes; to the Committee on Armed Services.

By Mr. WELLSTONE:

S. 2226. A bill to require States to permit individuals to register to vote in an election for Federal office on the date of the election; to the Committee on Rules and Administration.

By Mr. ROCKEFELLER:

S. 2227. A bill to clarify the effective date of the modification of treatment for retirement annuity purposes of part-time services before April 7, 1986, of certain Department of Veterans Affairs health-care professionals; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER:

S. 2228. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to operate up to 15 centers for mental illness research, education, and clinical activities; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (by request):

S. 2229. A bill to amend title 38, United States Code, to authorize a cost-of-living increase in rates of disability compensation and dependency and indemnity compensation, and to revise the requirement for maintaining levels of extended-care services to veterans; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself and Mr. Rockefeller):

S. 2230. A bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs to guarantee adjustable rate mortgages, to authorize the guarantee of hybrid adjustable rate mortgages, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself and Mr. Rockefeller):

S. 2231. A bill to amend title 38, United States Code, to provide an incremental increase in amounts of educational assistance for survivors and dependents of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DAYTON:

S. 2232. A bill to amend title XVIII of the Social Security Act to establish a program to provide for medicate reimbursement for health care services provided to certain medicare-eligible veterans in facilities of the Department of Veterans Affairs; to the Committee on Finance.

By Mr. THOMAS (for himself, Mr. Rockefeller, Mr. Jeffords, Mr. Specter, Mrs. Carnahan, Ms. Snowe, and Mr. Cleland):

S. 2233. A bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans; to the Committee on Finance.

By Mrs. BOXER:

S. 2234. A bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities of the Office on Women's Health in the Department of Health and Human Services with respect to autoimmune disease in women; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE:

S. Res. 248. A resolution concerning the rise of anti-Semitism in Europe; to the Committee on Foreign Relations.

By Mr. HATCH:

S. Res. 249. A resolution designating April 30, 2002, as "Dia de los Ninos: Celebrating Young Americans", and for other purposes; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. Res. 250. A resolution extending sympathy and condolences to the families of the Canadian Soldiers who were killed and the Canadian soldiers who were wounded on April 18, 2002, in Afghanistan, and to all of the Canadian people; considered and agreed to.

By Mr. LOTT:

S. Res. 251. A resolution making Minority party appointments for the Committees on Environment and Public Works and Governmental Affairs for the 107th Congress; considered and agreed to.

By Mr. DODD:

S. Con. Res. 102. A concurrent resolution proclaiming the week of May 14 through May 11, 2002, as "National Safe Kids Week"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 525

At the request of Mrs. Feinstein, her name was added as a cosponsor of S.

525, a bill to expand trade benefits to certain Andean countries, and for other purposes.

S. 659

At the request of Mr. CRAPO, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 659, a bill to amend title XVIII of the Social Security Act to adjust the labor costs relating to items and services furnished in a geographically reclassified hospital for which reimbursement under the medicare program is provided on a prospective basis.

S. 812

At the request of Mr. SCHUMER, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Missouri (Mrs. CARNAHAN), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 999

At the request of Mr. BINGAMAN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1248

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, housing for low-income families, and for other purposes.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1549

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1549, a bill to provide for increasing the technically trained workforce in the United States.

S. 1616

At the request of Mr. TORRICELLI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1616, a bill to provide for interest on late payments of health care claims.

S. 1683

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1683, a bill to amend the Emergency Food Assistance Act of 1983 to permit States to use administrative funds to pay costs relating to the processing, transporting, and distributing to eligible recipient agencies of donated wild game.

S. 1686

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1934

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1934, a bill to amend the Law Enforcement Pay Equity Act of 2000 to permit certain annuitants of the retirement programs of the United States Park Police and United States Secret Service Uniformed Division to receive the adjustments in pension benefits to which such annuitants would otherwise be entitled as a result of the conversion of members of the United Stats Park Police and United States Secret Service Uniformed Division to a new salary schedule under the amendments made by such Act.

S. 1945

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1992

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. SNOWE) was withdrawn as a cosponsor of S. 1992, a bill to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes.

S. 2026

At the request of Mr. LUGAR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2026, a bill to authorize the use of Cooperative Threat Reduction funds for projects and activities to address proliferation threats outside the states of the former Soviet Union, and for other purposes.

S. 2051

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2053

At the request of Mr. FRIST, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2053, a bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, and for other purposes.

S. 2187

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2187, a bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish health care during a major disaster or medical emergency, and for other purposes.

S. 2189

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2189, a bill to amend the Trade Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry.

S. 2194

At the request of Mrs. CARNAHAN, her name was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from Florida (Mr. NELSON) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 2194, supra.

S. 2200

At the request of Mr. BAUCUS, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2200, a bill to amend the Ineternal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

S. 2201

At the request of Mr. HOLLINGS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2201, a bill to protect the online privacy of individuals who use the Internet.

S. 2215

At the request of Mrs. CARNAHAN, her name was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

At the request of Mrs. BOXER, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2215, supra.

S. RES. 246

At the request of Mr. CAMPBELL, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 246, a resolution demanding the return of the USS *Pueblo* to the United States Navy.

S. RES. 247

At the request of Ms. STABENOW, her name was added as a cosponsor of S. Res. 247, a resolution expressing solidarity with Israel in its fight against terrorism.

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. Res. 247, supra.

At the request of Mrs. CARNAHAN, her name was added as a cosponsor of S. Res. 247, supra.

At the request of Mr. LIEBERMAN, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Florida (Mr. GRAHAM), the Senator from Arizona (Mr. KYL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Res. 247, supra.

S. CON. RES. 84

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution providing for a joint session of Congress to be held in New York City, New York.

AMENDMENT NO. 3140

At the request of Mr. NELSON of Nebraska, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of amendment No. 3140 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3258

At the request of Mr. FITZGERALD, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of amendment No. 3258 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 2222. A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation that will address an equity issue for one of Alaska's rural village corporations.

Cape Fox Corporation is an Alaska Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, ANCSA, by the Native Village of Saxman, near Ketchikan, AK. As with other ANCSA village corporations in Southeast Alaska, Cape Fox was limited to selecting 23,040 acres under Section 16 of ANCSA. However, unlike other village corporations, Cape Fox was further restricted from selecting lands within six miles of the boundary of the home rule City of Ketchikan. All other ANCSA corporations were restricted from selecting within two miles of such a home rule city.

The six mile restriction went beyond protecting Ketchikan's watershed and damaged Cape Fox by preventing the corporation from selecting valuable timber lands, industrial sites, and other commercial property, not only in its core township but in surrounding lands far removed from Ketchikan and its watershed. As a result of the six mile restriction, only the mountainous northeast corner of Cape Fox's core township, which is nonproductive and of no economic value, was available for selection by the corporation. Under ANCSA, however, Cape Fox was required to select this parcel.

Cape Fox's land selections were further limited by the fact that the Annette Island Indian Reservation is within its selection area, and those lands were unavailable for ANCSA selection. Cape Fox is the only ANCSA village corporation affected by this restriction.

Clearly, Cape Fox was placed on unequal economic footing relative to other village corporations in Southeast Alaska. Despite its best efforts during the years since ANCSA was signed into law, Cape Fox has been unable to overcome the disadvantage the law built into its land selection opportunities by this inequitable treatment.

To address the inequity, I have introduced the "Cape Fox Land Entitlement Adjustment Act of 2002." This bill will address the Cape Fox problem by providing three interrelated remedies.

1. The obligation of Cape Fox to select and seek conveyance of the approximately 160 acres of unusable land in the mountainous northeast corner of Cape Fox's core township will be annulled.

2. Cape Fox will be allowed to select and the Secretary of Agriculture will be directed to convey 99 acres of timber land adjacent to Cape Fox's current holdings on Revilla Island.

3. Cape Fox and the Secretary of Agriculture will be authorized to enter into an equal value exchange of lands in southeast Alaska that will be of mutual benefit to the Corporation and the U.S. Forest Service. Lands conveyed to Cape Fox in this exchange will not be timberlands, but will be associated with a mining property containing existing Federal mining claims, some of which are patented. Lands anticipated to be returned to Forest Service ownership will be of wildlife habitat value and will consolidate Forest Service holdings in the George Inlet area of Revilla Island. The Forest Service supports the transfer of these lands back to Federal ownership.

The land exchange provisions of this bill will help rectify the long-standing inequities associated with restrictions placed on Cape Fox in ANCSA. It will help allow this Native village corporation to make the transition from its major dependence on timber harvest to a more diversified portfolio of income-producing lands.

The bill also provides for the resolution of a long-standing land ownership problem within the Tongass National Forest. The predominant private landowner in the region, Sealaska Corporation, holds the subsurface estate on several thousand acres of National Forest System lands. This split estate poses a management problem which the Forest Service has long sought to resolve. Efforts to address this issue go back more than a decade. Provisions in the Cape Fox Land Entitlement Adjustment Act of 2002 will allow the agency to consolidate its surface and subsurface estate and greatly enhance its management effectiveness and efficiency in the Tongass National Forest.

I urge my colleagues to support this important legislation.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 2223. A bill to provide for the duty-free entry of certain tramway cars for use by the city of Portland, Oregon; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today to introduce legislation to extend an import duty suspension for the Central City Streetcar in the City of Portland, OR. The City of Portland purchases the streetcars from a manufacturer in the Czech Republic. Previous streetcar shipments were duty-free under legislation granting special status to the exporting nation, the Czech Republic. The City has ordered two new streetcars which will be shipped on May 1, 2002. However, that duty-free exemption has expired, adding $130,000 to the price of these streetcars. This legislation will provide duty-free entry for those two streetcars ordered by the City of Portland, thus saving the City of Portland $130,000.

I am pleased to be joined by my colleague from Oregon, Senator SMITH, in introducing this bipartisan legislation to provide this duty suspension for the

City of Portland's Central City Streetcar. I urge all my colleagues to support this legislation.

By Mr. ROCKEFELLER:

S. 2227. A bill to clarify the effective date of the modification of treatment for retirement annuity purposes of part-time services before April 7, 1986, of certain Department of Veterans Affairs health-care professionals; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I introduce legislation today to fix a long-standing inequity.

Last December, Congress passed the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. Enacted as Public Law 107-135, this legislation gave VA several tools to respond to the looming nurse crisis. In addition, it altered how part-time service performed by certain title 38 employees would be considered when granting retirement credit.

Previously, the law required that title 38 employees' part-time services prior to April 7, 1986, be prorated when calculating retirement annuities, resulting in lower annuities for these employees. Section 132 of the VA Health Programs Enhancement Act was intended to exempt all previously retired registered nurses, physician assistants, and, expanded-function dental auxiliaries from this requirement. However, the Office of Personnel Management has interpreted this provision to only apply to those health care professionals who retire after its enactment date.

The legislation I introduce today would require OPM to comply with the original intent of the VA Health Programs Enhancement Act, and therefore to recalculate the annuities for these retired health care professionals. This clarification would not extend retirement benefits retroactively to the date of retirement, but would ensure that annuities are calculated fairly from now on for eligible employees who retired between April 7, 1986, and January 23, 2002.

I ask my colleagues to join me in restoring our original legislative intent to this issue of fairness for retired VA health care professionals, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECTIVE DATE OF MODIFICATION OF TREATMENT FOR RETIREMENT ANNUITY PURPOSES OF CERTAIN PART-TIME SERVICE OF CERTAIN DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROFESSIONALS.

(a) EFFECTIVE DATE.—The effective date of the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (Public Law 107-135; 115 Stat. 2454) shall be as follows:

(1) January 23, 2002, in the case of health care professionals referred to in subsection (c) of section 7426 of title 38, United States Code (as so amended), who retire on or after that date.

(2) The date of the enactment of this Act, in the case of health care professionals referred to in such subsection (c) who retired before January 23, 2002, but after April 7, 1986.

(b) RECOMPUTATION OF ANNUITY.—The Office of Personnel Management shall recompute the annuity of each health-care professional described in the first sentence of subsection (c) of section 7426 of title 38, United States Code (as so amended), who retired before January 23, 2002, but after April 7, 1986, in order to take into account the amendment made by section 132 of the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. Such recomputation shall be effective only with respect to annuities paid after the date of the enactment of this Act, and shall apply beginning the first day of the first month beginning after the date of the enactment of this Act.

By Mr. ROCKEFELLER:

S. 2228. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to operate up to 15 centers for mental illness research, education, and clinical activities; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I introduce legislation today to allow researchers and clinicians in the Department of Veterans Affairs to establish up to ten more centers to study and treat mental illnesses.

Historically, as many as one-third of veterans seeking care at VA have received mental health treatment, and research suggests that serious mental illnesses affect at least one-fifth of veterans who use the VA health care system. About 450,000 of the approximately 2.3 million veterans who receive compensation from VA have service-connected psychiatric and neurological disorders. These statistics do not reflect problems that affect veterans alone: in 1999, the Surgeon General of the United States reported that mental disorders account for more than 15 percent of the overall burden of disease from all causes, slightly more than all forms of cancer. Major depression alone ranked second only to heart disease in impact.

In 1996, Congress authorized VA to establish five centers dedicated to mental illness research, education, and clinical activities. These Mental Illness Research, Education, and Clinical Centers, called "MIRECCs" by VA, integrate basic and clinical research with a training mission that allows VA to translate new findings into improved patient care. Research undertaken within these centers has helped to increase our fundamental understanding of mental illnesses, and has given VA caregivers more and better tools to treat patients with mental disorders so they can function more easily within their communities.

Because they have proved so effective at fostering scientific, clinical, and educational improvements, in mental health care, I have introduced legislation today that would allow VA to expand the number of these centers from the five authorized programs to a possible total of fifteen. Based on the programs' success, VA researchers have already started three more centers, expanding the number of existing programs to eight, and have demonstrated their willingness to open more in the near future. I urge my colleagues to join me in supporting the expansion of this program, which benefits not only veterans but the entire mental health care community.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO OPERATE ADDITIONAL CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

Section 7320(b)(3) of title 38, United States Code, is amended by striking "five centers" and inserting "15 centers".

By Mr. ROCKEFELLER (by request):

S. 2229. A bill to amend title 38, United States Code, to authorize a cost-of-living increase in rates of disability compensation and dependency and indemnity compensation, and to revise the requirement for maintaining levels of extended-care services to veterans; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, today I introduce legislation requested by the Secretary of Veterans Affairs, as a courtesy to the Secretary and the Department of Veterans Affairs, VA. Except in unusual circumstances, it is my practice to introduce legislation requested by the Administration so that such measures will be available for review and consideration.

This "by-request" bill contains two sections. The first would authorize the Secretary of Veterans Affairs to increase administratively the rates of compensation for service-disabled veterans, and for the dependent survivors of veterans whose deaths were service-related, beginning this December. The rate of increase, as requested by VA in its proposed budget for FY 2003, would be the same as the cost-of-living adjustment provided under current law to veterans' pension and Social Security recipients.

The second section of this bill would allow VA to change the way that it calculates the number of veterans receiving VA long-term care. In 1999, Congress passed the Veterans Millennium Health Care Benefits Act, which required VA to maintain the level of extended care services offered to veterans at the 1998 level. VA has argued that this law, based on the average daily census in VA-operated nursing homes, unfairly ignores care provided through contracts with private nursing homes and by VA-subsidized State nursing homes. The requested bill would amend the law to include nursing home care furnished by community providers and State veterans homes when determining whether VA has maintained extended care services at the mandated 1998 level.

I ask unanimous consent that the text of the bill and Secretary Principi's transmittal letter that accompanied the draft legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits Improvement Act of 2002".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—INCREASE IN COMPENSATION RATES AND LIMITATIONS

SEC. 101. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2002, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation (DIC) by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—The dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—The dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—The dollar amounts in effect under paragraph (3) of section 1311(a) of such title.

(b) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2002, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 101 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(e) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2003, the Secretary shall publish in the Federal Register the amounts specified in subsection (b) as increased under this section.

TITLE II—HEALTH MATTERS

SEC. 201. NURSING HOME STAFFING LEVELS.

Section 1710B(b) is amended to read as follows:

"(b)(1) The Secretary shall ensure that the staffing and level of extended care services, excluding nursing home care, provided by the Secretary nationally in facilities of the Department during any fiscal year is not less than the staffing and level of such services provided nationally in facilities of the Department during fiscal year 1998.

"(2) The Secretary shall ensure that the average daily census in nursing homes over which the Secretary has direct jurisdiction, plus the average daily census of veterans placed by the Secretary in community nursing homes pursuant to a contract, plus the average daily census of veterans for which the Secretary pays per diem to States for nursing home care in a State nursing home, is not less in total than in fiscal year 1998.".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, April 18, 2002.

Hon. RICHARD B. CHENEY,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill containing two very important components of the President's FY 2003 budget request for the Department of Veterans Affairs: legislation to (1) authorize a cost of living increase in rates of disability compensation and dependency and indemnity compensation, and (2) revise the requirement for maintaining levels of extended-care services to veterans. I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 101 of the draft bill would direct the Secretary of Veterans Affairs to increase administratively the rates of compensation for service-disabled veterans and of dependency and indemnity compensation (DIC) for the survivors of veterans whose deaths are service related, effective December 1, 2002. As provided in the President's FY 2003 budget request, the rate of increase would be the same as the cost-of-living adjustment (COLA) that will be provided under current law to veterans' pension and Social Security recipients, which is currently estimated to be 1.8 percent.

We estimate that enactment of this section would cost $279 million during FY 2003, $1.66 billion over the period FY 2003–2007 and $3.45 billion over the period FY 2003–2012. Although this section is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA), the PAYGO effect would be zero because OBRA requires that the full compensation COLA be assumed in the baseline. We believe this proposed COLA is necessary and appropriate in order to protect the benefits of affected veterans and their survivors from the eroding effects of inflation. These worthy beneficiaries deserve no less.

Section 201 of the draft bill would amend section 1710B(b) of title 38, United States Code, to revise the statutory requirement that the Secretary continue to provide veterans with extended care services at 1998 levels. Current law, established in the 1999 Veterans Millennium and Health Care Benefits Act, requires VA to maintain the staffing and level of extended care services provided by the Department nationally in facilities of the Department at levels not less than the staffing and level of such services provided nationally during FY 1998. We propose to amend the law as it applies to nursing home care to allow VA to also count nursing home care VA procures in the community, and supports in State nursing homes, when determining whether the Department is maintaining its level of effort in providing such care.

For more than 30 years, VA has provided veterans with nursing home care through contracts with private sector nursing homes and by paying states per diem for nursing home care furnished in State nursing homes. Of the total amount of VA-supported nursing home care in FY 2000, VA furnished approximately thirty-eight percent directly in VA-operated, nursing homes. VA supported approximately twelve percent through contracts with private nursing homes, and fifty percent through care furnished in State nursing homes.

VA also provides up to sixty-five percent of the cost of construction of State nursing homes. That has encouraged the expansion of the State Home Program to the point that there are currently 108 such homes nationwide. The availability of the State Home Program and the contract program has improved veterans' access to nursing home care, and has provided veterans with greater choice to meet both clinical needs and preferences of placement near family. We believe it is appropriate and these two sources of nursing home care be counted when assessing the effort VA puts into nursing home care.

Increasing the FY 2002 average daily census in VA nursing homes to 1998 levels would require us to divert to that program large amount of funds VA currently devotes to other health-care purposes, including payments for community nursing-home care, and grants to construct State nursing homes. However, as stated above, the community and State nursing home programs enable VA to offer veterans both choice and access to care closer to loved ones, values that VA does not want to jeopardize. Using other extended care funds to immediately move to achieve 1998 levels could jeopardize the excellent mix of those other services that VA now offers. The Department now provides veterans a balanced program of extended care services that best meets their needs. It would greatly disserve veterans to dramatically shift funding to meet the strictures of the current requirement for provision of care in VA-operated nursing homes, particularly when the cost of contract nursing homes care is significantly less than the cost of providing care in VA facilities.

Enactment of our proposal would permit us to continue the overall FY 1998 level of effort for this care as measured by average daily census, without the need to divert an estimated $161.2 million by the end of FY 2004 from resources which would otherwise be available to meet other critical health-care needs.

We are advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to the Congress and its enactment would be in accord with the program of the President.

Sincerely yours,

ANTHONY J. PRINCIPI.

By Mr. SPECTER (for himself and Mr. ROCKEFELLER):

S. 2230. A bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs to guarantee adjustable rate mortgages, to authorize the guarantee of hybrid adjustable rate mortgages, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition today to comment briefly on legislation I am introducing which will help many veterans achieve the dream of home ownership. The legislation would permit the Department of Veterans Affairs, VA, to guarantee adjustable rate mortgage, ARM, loans as part of its loan guaranty program. The legislation would also give VA the authority to guarantee a relatively new type of ARM financing, "hybrid" ARM loans. Hybrid ARM's provide a fixed rate of interest during the first three to ten years of the loan, and an annual interest rate adjustment thereafter. Both conventional ARM's and hybrid ARM's would expand the financing options available to veterans, options which are currently available under Federal Housing Administration, FHA, insured loan programs for non-veterans.

The VA loan guaranty benefit has helped millions of active duty service members and veterans to purchase homes without a down payment. VA currently provides a guaranty only on loans applying a fixed rate of interest over a thirty year period, so-called "30-year conventional" loans. While a 30-year conventional loan makes sense for some home buyers, it does not provide the flexibility others need given differing personal circumstances. ARM loans and hybrid ARM loans provide that flexibility.

Traditional ARM and hybrid ARM loans provide flexibility by offering lower rates of interest during an initial period, one year for traditional ARM's and three, five, seven, or ten years for hybrid ARM's, as compared to 30-year conventional rates. Lower rates translate into lower monthly payments, often making a home more affordable and permitting home buyers to qualify for loans. In addition, hybrid ARM's have another attractive aspect in that they provide the security of a lower interest rate for a fixed number of years prior to the annual adjustment period. Service members and veterans who know beforehand they will be moving out of their homes in a set number of years may find hybrid ARM's make financial sense given their circumstances. While home buyers must be prudent in choosing to use ARM financing, foreclosing the option to veterans, in my estimation, smacks of paternalism. ARM loans are insured by FHA; my legislation would simply apply to the VA loan guaranty program a principle already embraced by FHA and the commercial lending sector: one type of financing does not meet all home buyer needs.

This bill would also extend certain protections to veterans who use ARM financing. During an annual interest rate adjustment period, rates would not be permitted to increase more than one percent. Further, interest rates would not be permitted to exceed more than five percentage points above the initial fixed rate. These are standards that have evolved in the marketplace over the past 20 years; veterans, like other home purchasers, should gain the benefit of these protections.

The VA supports the addition of an ARM option to its loan guaranty program. It administered a successful, and popular, ARM pilot program in the mid 1990's; the program was so popular that ARM's constituted up to 21 percent in 1995, of VA- guaranteed home loans. Unfortunately, the program was not reauthorized by Congress. The time has arrived to rectify that oversight. I ask my colleagues for their support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) PERMANENT AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES.—Subsection (a) of section 3707 of title 38, United States Code, is amended to read as follows:

"(a) The Secretary may guarantee adjustable rate mortgages for veterans eligible for housing loan benefits under this chapter.".

(b) AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—That section is further amended—

(1) in subsection (b), by striking "Interest rate adjustment provisions" and inserting "Except as provided in subsection (c)(1), interest rate adjustment provisions";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) Adjustable rate mortgages that may be guaranteed under this section include adjustable rate mortgages (commonly referred to as 'hybrid adjustable rate mortgages') having interest rate adjustment provisions that—

"(1) are not subject to subsection (b)(1);

"(2) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

"(3) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (2); and

"(4) comply in such initial adjustment, and any subsequent adjustment, with paragraphs (2) through (4) of subsection (b).".

(c) IMPLEMENTATION OF AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—The Secretary of Veterans Affairs may exercise the authority under section 3707 of title 38, United States Code, as amended by this section, to guarantee adjustable rate mortgages described in subsection (c) of such section 3707, as so amended, in advance of any rulemaking otherwise required to implement such authority.

By Mr. SPECTER (for himself and Mr. ROCKEFELLER):

S. 2231. A bill to amend title 38, United States Code, to provide an incremental increase in amounts of educational assistance for survivors and dependents of veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on legislation I have introduced today which would increase educational assistance benefits for two highly worthy groups: survivors of service members who were killed on active duty or who died after service as consequence of service-related disabilities; and immediate family members of veterans who survived service but who are living with permanent and total disabilities.

No one can doubt that spouses and children of service-deceased members of the armed forces are worthy of our Nation's gratitude. No less worthy are those whose veteran-spouse returned from service in a profoundly disabled state and, in many cases, later died as a direct result of that same disability. It is entirely proper that the Nation provide these worthy people with sufficient educational assistance benefits to offset the loss of support that would have been provided by the veteran but for his or her service-related wounds.

The legislation I introduce today would increase the rate of monthly Survivors' and Dependents' Education Assistance, DEA, benefits from $670 to $985. The increase would be phased in over a two-year period, and would reflect the same phased-in increase provided to veterans eligible for Montgomery GI Bill, MGIB, benefits under

Public Law 107–103, the recently-enacted "Veterans Education and Benefits Expansion Act of 2001." Under my bill, DEA benefits would first increase from $670 to $900 per month on October 1, 2002, and to $985 per month on October 1, 2003. In addition, the legislation would equalize with MGIB benefits the number of months, at 36, an eligible person would be allowed to use his or her benefit.

This legislation would create parity between DEA and MGIB monthly benefits as recommended by a recent Department of Veterans Affairs, VA, program evaluation. Both programs would provide an aggregate of $35,460 worth of education benefits. Thus, both veterans and survivors would have the resources necessary to meet the average cost of tuition, fees, room, and board at four-year, public institutions of higher learning. As was stated by VA's Deputy Secretary, Dr. Leo Mackay, in connection with a Committee on Veterans Affairs hearing on June 28, 2001, VA "believe[s] it is only fair that these benefits should be at the same level as those provided to veterans." VA estimates that a monthly benefit at that level will entice 90% of eligible persons to use the benefit.

In addition to increasing DEA benefits, the legislation I have introduced today would provide a $4 million funding increase for State Approving Agencies, SAA, State educational program certifying offices which are funded by VA grants. These offices protect the integrity of VA educational assistance and job-training programs and protect veterans and survivors, and, not unimportantly, taxpayers, from fraudulent "providers" of education and training opportunities. Since 1989, funding for SAAs has been nearly flat, but SAA responsibilities have grown. Most recently, Public Law 107–103 tasked the SAAs with veteran and servicemember outreach in each state, and expanded the scope of education programs which SAAs must review and approve. My legislation would provide an increase, from $14 million to $18 million in fiscal year 2003, to address the loss of purchasing power absorbed by SAAs over the last decade, and to adequately fund the additional responsibilities SAAs have been given.

I hope there will be unanimous support for this legislation. Our troops in Afghanistan and elsewhere need to know that if they die or are seriously injured on the battlefield, their loved ones will be cared for. This legislation will assure that survivors' needs in the critical area of education will be met.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Survivors' and Dependents' Educational Assistance Adjustment Act of 2002".

SEC. 2. INCREMENTAL INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "at the monthly rate of" and all that follows and inserting "at the monthly rate of—

"(A) for months occurring during fiscal year 2003, $900 for full-time, $676 for three-quarter-time, or $450 for half-time pursuit; and

"(B) for months occurring during a subsequent fiscal year, $985 for full-time, $740 for three-quarter-time, or $492 for half-time pursuit."; and

(B) in paragraph (2), by striking "at the rate of" and all that follows and inserting "at the rate of the lesser of—

"(A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay; or

"(B)(i) for months occurring during fiscal year 2003, $900 per month for a full-time course; or (ii) for months occurring during a subsequent fiscal year, $985 per month for a full-time course.";

(2) in subsection (b), by striking "at the rate of" and all that follows and inserting "at the rate of—

"(1) for months occurring during fiscal year 2003, $900 per month; and

"(2) for months occurring during a subsequent fiscal year, $985 per month."; and

(3) in subsection (c)(2), by striking "shall be" and all that follows and inserting "shall be—

"(A) for months occurring during fiscal year 2003, $727 for full-time, $545 for three-quarter-time, or $364 for half-time pursuit; and

"(B) for months occurring during a subsequent fiscal year, $795 for full-time, $596 for three-quarter-time, or $398 for half-time pursuit.".

(b) CORRESPONDENCE COURSES.—Section 3534(b) of that title is amended by striking "for each $670" and all that follows and inserting "for each amount which is paid to the spouse as an educational assistance allowance for such course as follows:

"(1) For amounts paid during fiscal year 2003, $900.

"(2) For amounts paid during a subsequent fiscal year, $985.".

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) of that title is amended—

(1) by inserting "(1)" after "(a)";

(2) by designating the second sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin;

(3) in paragraph (1), as so designated, by striking "the basic rate of $670 per month." and inserting "the basic rate of—

"(A) for months occurring during fiscal year 2003, $900 per month; and

"(B) for months occurring during a subsequent fiscal year, $985 per month."; and

(4) in paragraph (2), as so designated—

(A) by striking "$184 per calendar month" and inserting "$282 per calendar month for months occurring during fiscal year 2003, or $307 per calendar months for months occurring during a subsequent fiscal year"; and

(B) by striking "$184 a month" and inserting "$282 a month for months occurring during fiscal year 2003, or $307 a month for months occurring during a subsequent fiscal year".

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) of that title is amended by striking "shall be $488 for the first six months" and all that follows and inserting "shall be—

"(A) $655 for the first six months, $490 for the second six months, $325 for the third six months, and $164 for the fourth and any succeeding six-month period of training, if such six-month period of training begins during fiscal year 2003; and

"(B) $717 for the first six months, $536 for the second six months, $356 for the third six months, and $179 for the fourth and any succeeding six-month period of training, if such six-month period of training begins during a subsequent fiscal year.".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect as of October 1, 2003, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

(2) No adjustment in rates of monthly training allowances shall be made under section 3687(d) of title 38, United States Code, for fiscal years 2003 and 2004.

SEC. 3. MODIFICATION OF DURATION OF EDUCATIONAL ASSISTANCE.

Section 3511(a)(1) of title 38, United States Code, is amended by striking "45 months" and all that follows and inserting "45 months, or 36 months in the case of a person who first files a claim for educational assistance under this chapter after the date of the enactment of the Survivors' and Dependents' Educational Assistance Adjustment Act of 2002, or to the equivalent thereof in part-time training.".

SEC. 4. INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) INCREASE IN AMOUNT.—Section 3674(a)(4) of title 38, United States Code, is amended in the first sentence by striking "may not exceed $13,000,000" and all that follows through the end and inserting "may not exceed $18,000,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

By Mr. THOMAS (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. SPECTER, Mrs. CARNAHAN, Ms. SNOWE, and Mr. CLELAND):

S. 2233. A bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the Medicare Equity for Veterans Act of 2002 with Senators ROCKEFELLER, JEFFORDS, SPECTER, CARNAHAN, SNOWE, and CLELAND. This legislation, known as Medicare Subvention, will require the Centers for Medicare and Medicaid Services, (CMS), to reimburse VA facilities for services provided to certain Medicare-eligible veterans. These servicemen and women have paid into the

Medicare system over the course of their careers, just as every other American has done, but are prohibited from utilizing the program when treated at a VA facility. It is only fair that they be allowed to use their Medicare coverage in the private sector or at a VA facility.

The number of veterans enrolled in the VA health system has more than doubled since 1996. In many VA facilities, Medicare-eligible veterans, called Priority 7 or Category C veterans, compose the largest increase in patient caseloads. At the VA facility in Cheyenne, WY, only 131 Priority 7 veterans were treated in fiscal year 1997. However, in fiscal year 2001 the same facility treated over 2,200 Priority 7 veterans. Clearly, the VA is experiencing substantial growth and even more obvious is the fact that veterans want to receive their health care services at a VA facility. Unfortunately, funding for the VA health care system has not kept pace. In my state, Medicare Subvention would expand access to services as most communities are designated primary care health professional shortage areas. Private sector physicians and other primary care providers are not as readily available as they are in other part of the country, which means that the VA is sometimes the only option.

Specifically, the Medicare Equity for Veterans Act of 2002 establishes a three-year demonstration program at ten VA sites, three of which must be in rural areas. The Secretaries of VA and HHS may either choose Medicare+Choice or Preferred Provider Option model for the sites. These options give the Secretaries flexibility to determine which model works best for each particular site—ensuring veterans receive quality and timely care.

The VA can provide Medicare covered services more efficiently and cost effectively than the private sector, which could potentially save the Medicare program money. Under the Preferred Provider Option, the VA would be reimbursed at 95 percent of the comparable private sector rate and 100 percent of the Medicare+Choice applicable rate, after excluding such targeted private hospital adjustments as Medicare Disproportionate Share Hospital payments, Graduate Medical Education, Indirect Medical Education and capital-related costs.

The VA will be responsible for continuing to pay for services provided to Medicare-eligible veterans who have been treated prior to fiscal year 1998. This ensures a good faith effort on the part of the VA, but will also allow the agency to immediately begin billing Medicare for services provided to Medicare-eligible veterans after fiscal year 1998. Additionally, this bill protects the Medicare Trust Fund by capping Medicare payments to the VA at $75 million a year for the duration of the three-year demonstration.

Prior to the end of the demonstration, the Government Accounting Office, GAO, must conduct a thorough program evaluation. The GAO report ensures the demonstration met its goal of providing quality and cost effective care to our nation's veterans. The GAO is further required to provide specific recommendations to the Secretaries of VA and HHS on how best to expand Medicare Subvention nationwide.

Veterans deserve quality, efficient and equitable health care treatment. Enactment of this legislation is the first step toward attaining that goal. I urge all my colleagues to consider cosponsoring the Medicare Equity for Veterans Act of 2002.

Mr. ROCKEFELLER. Mr. President, I am pleased to join with Senators THOMAS and JEFFORDS to introduce the Medicare Equity for Veterans Act of 2002. This bill will authorize a demonstration project to allow VA to bill Medicare for health care services provided to certain dual eligible beneficiaries. The legislation, known as VA subvention, is a concept that has been discussed over the years by many of us in Congress, by veterans service organizations, and by advisory bodies studying the VA health care system. Although the VA subvention proposal is a small effort compared to the other changes that must be made to the Medicare program, it is enormously important to our veterans and the health care system they depend upon.

Until recently, when we looked at the VA health care budget, we focused on the declining veteran population and declining demand. We are in a totally different predicament today. More and more veterans are turning to the VA health care system, and that is a success story. More than 38 percent of all veterans are Medicare eligible; unfortunately, many of these veterans are seeking VA care because of the lack of drug benefits in the Medicare program. An uncertain economy and the collapse of many HMOs have also contributed to the rising number of veterans turning to VA. While I will continue to push for Medicare prescription drug benefits, something must be done to alleviate the pressure on the VA health care system. VA simply does not have unlimited resources to meet this demand.

VA now has more than 6 million veterans enrolled in health care services. That's more than double the figure in 1996. Not surprisingly, access to care has been affected by the high demand for services. It is not unusual for some veterans in certain pockets of the country to have to wait for more than a year to have their initial appointment with a VA primary care physician. Because of concerns about access and quality of care, last fall the VA was prepared to cease enrolling new higher income veterans, so called Category C or Priority 7 veterans, into the VA health care system. Their decision was based simply upon budgetary constraints, as VA suffered from a $400 million shortfall. Except for a last minute approval of supplemental funding, veterans would have been turned away from VA health care services.

This legislation would allow VA and HHS to either choose a Medicare+Choice or Preferred Provider Option at ten VA sites, three of these sites must be in rural areas. Several years ago the Department of Defense attempted a Medicare subvention pilot and lost money, primarily on the restrictive nature of the capitation model they set up. This proposal will give VA the opportunity to look at both the preferred provider and Medicare+Choice model, and in the end select the model that works best for them.

For veterans, approval of this veterans subvention would mean the infusion of new revenue to their health care system and, thus, greater access to care. For the Department of Health and Human Services, a VA subvention demonstration project will provide the opportunity to assess the effects of coordination on improving efficiency, access, and quality of care for dual-eligible beneficiaries. In addition, it would also present an opportunity to reduce Medicare expenditures. Under the Medicare+Choice option in our legislation, the reimbursable rate will be 100 percent of the rate normally paid to a Medicare+Choice provider. However, under the Preferred Provider Option, reimbursement rates would be 95 percent of otherwise applicable rates. For both options the rates would be further discounted by excluding Disproportionate Hospital Share adjustments, VA's direct graduate medical education costs, its indirect medical education costs, and 67 percent of capital-related costs. As a further way to limit exposure to the Trust Fund during the three year demonstration portion of this bill, this proposal caps all Medicare payments to the VA at $75 million per year. Allowing VA to bill Medicare is good for the Federal health care system overall. It's a classic "win-win" situation.

VA would also be required to maintain its current level of services to Medicare-eligible veterans who have been served prior to 1998, and would be effectively limited to reimbursement for care provided to new patients since then. In 1998, Congress allowed all veterans to enroll for VA care and receive a standard benefits package, which includes prescription drugs.

Prior to the end of the three year demonstration, GAO will do a thorough evaluation of the program and submit a report to Congress, complete with details on performance measures and justification for planned expansion. Based upon the GAO recommendations, VA and HHS will jointly determine the most appropriate health care delivery models for the expansion of the program through the entire VA health care system. GAO will continue to evaluate the expansion of the program for an additional six years.

During the first session of the 106th Congress, Senator JEFFORDS and I successfully pushed a similar proposal through the Senate Finance Committee. Indeed, over the last couple years, we have tried to enact this proposal several times. Unfortunately, we have continually met resistance. Our goal is to overcome this resistance and enact this proposal without delay. I believe that without enactment of a Medicare subvention program, VA may well choose to bar middle-income veterans without a service-connected disability from coming to the VA for care. I think we all want to avoid that prospect.

There are over 33 thousand Medicare eligible veterans enrolled in the VA health benefits program in my State of West Virginia. The VA spent almost $116 million providing health care to them last year. Though this is telling information, I cannot provide my colleagues with the truly crucial piece of the story, that is, the number of these Medicare-eligible veterans who aren't coming to VA because of long waiting lines and lack of adequate resources. This demonstration project would encourage these eligible veterans, who have not previously received care from the Huntington, Beckley, Martinsburg, and Clarksburg VAMCs, to do so.

Truly, this VA/Medicare proposal is a way to provide quality health care to veterans who are eligible for both systems of care, while at the same time preserving and protecting the Medicare Trust Fund. Let us not delay any longer.

I wish to remind my colleagues of the burden VA now carries in providing health care to Medicare-eligible veterans. Many Senators have asked me for a solution to the financial woes of the hospitals in their States. Enacting this proposal is part of the answer.

Veterans deserve the opportunity to come to VA facilities for their care and bring their Medicare coverage with them. It makes sense for all parties.

Mr. GRASSLEY. Mr. President, today, Senator THOMAS has introduced a bill to establish a medicare subvention demonstration project for veterans and I would like to take this opportunity to say a few words about the issue of medicare subvention for Department of Veterans Affairs (VA) health care. I have heard from many Iowa veterans who are frustrated that Medicare does not reimburse for medical care provided by the VA. While veterans who have a disability connected to military service have their health care paid for in whole or in part by the VA, veterans who do not have a service connected disability are listed as "priority 7" and are required to pay co-payments for the receipt of VA health care. Many of these priority 7 veterans are Medicare eligible, yet they cannot use their Medicare benefits to pay for VA health care.

The number of priority 7 veterans enrolled in VA health care has increased greatly in recent years, especially in my state of Iowa. This is only the tip of the iceberg in terms of the number of veterans eligible to enroll in the VA health system as priority 7. However, the current VA funding formula does not allocate resources to pay for the care of priority 7 veterans. These costs are intended to be recouped by billing private insurance or through out-of-pocket co-pays charged to the veteran, which in fact fall far short of covering the additional costs to the VA system of serving priority 7 veterans. Allowing Medicare to reimburse for health care provided in VA facilities would help alleviate this funding short-fall in the VA system while giving Medicare eligible veterans greater choice and flexibilty in meeting their health care needs. Medicare subvention for VA health care would be a win-win situation for veterans, which is why I strongly support the concept of Medicare subvention for VA health care.

Questions remain about what effect Medicare subvention for VA health care could have on the Medicare trust fund. It is possible that Medicare outlays will increase if Medicare begins to pay for health care at VA facilities for Medicare eligible veterans currently using the VA. However, if veterans who are covered by Medicare begin to use the VA in lieu of private health care and the VA is able to provide those services at a lower cost, Medicare could actually see savings.

In the 106th Congress, the Senate Finance Committee reported a bill, S. 1928, which included a Medicare subvention demonstration program similar to the one introduced by Senator THOMAS today. The CBO scored the Medicare subvention portion of this bill as costing Medicare $70 million over five years. This is a matter that should be studied further and is an issue that would be closely examined in a demonstration program such as the one Senator THOMAS has proposed.

At the end of the day, Medicare subvention for VA health care is a good idea. I believe that Senator THOMAS is on the right track with his proposed Medicare subvention demonstration program and I look forward to working with him and other members of the Senate Finance Committee to move forward on this important issue.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 248—CONCERNING THE RISE OF ANTI-SEMITISM IN EUROPE

Mr. CORZINE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 248

Whereas there has been a significant rise in anti-Semitic attacks on Jewish people and Jewish institutions in Europe during the last 18 months;

Whereas the continued violence in the Middle East has fueled anti-Semitic sentiments in Europe;

Whereas on March 31, 2002, the Or Aviv synagogue in Marseille, France, was burned to the ground by anti-Semitic arsonists;

Whereas on March 30, 2002, Shneur Zalman Teldon and Zev Goldberg, Yeshiva students from New Jersey, were brutally beaten on the streets of Berlin, Germany, in an anti-Semitic attack;

Whereas in April 2002, supporters of Swiss Ambassador to Germany, Thomas Borer, alleged that he was removed from his post as a result of a "Jewish plot" against him;

Whereas in Belgium, many anti-Semitic attacks have been reported against Jewish institutions, including a gasoline bomb attack on a Brussels synagogue;

Whereas on April 11, 2002, in Bondy, France, 15 hooded attackers wielding sticks and metal bars assaulted a teen-age soccer team from the Maccabi Bondy association after making anti-Semitic remarks; and

Whereas anti-Semitic attacks have impacted every nation in Europe: Now, therefore, be it

Resolved, That it is the sense of the Senate that the governments of Europe should—

(1) take all necessary steps to protect the safety and well-being of their respective Jewish communities; and

(2) make a concerted effort to cultivate an atmosphere of cooperation and reconciliation among the Jewish and non-Jewish residents of Europe.

Mr. CORZINE. Mr. President, I rise today to submit a resolution calling upon the governments of Europe to take all necessary steps to protect the safety and well being of the European Jewish Community and to make an effort to foster cooperation and reconciliation between Jewish and non-Jewish residents.

The recent success in the first round of the French Presidential election of Jean-Marie LePen, a candidate who once dismissed the horrific atrocities committed against the Jews and others by the Nazis as "a detail in history", stands as the latest and perhaps the most troubling sign of a growing tide of anti-Semitism in France. As the second-highest vote getter in France's multi-candidate presidential election, Le Pen will face Jacques Chirac in the upcoming runoff. The election of LePen has sent shockwaves throughout the Jewish community, which has watched as a nascent but virulent strain of anti-Semitism has gained momentum in France, a county with nearly 600,000 Jews.

But, France is not the only country that has experienced a surge in anti-Semitism in the last few months. There has been a horrifying increase in the number of anti-Semitic acts throughout Europe, with major incidents in Belgium, Switzerland, and Germany, as well as France. Synagogues in Brussels and Marseille have been burned. Jews have been physically assaulted in Berlin and in Bondy, an eastern suburb of Paris. Community Centers, school buses, and Jewish sites have been vandalized throughout the region. And the Jewish community has faced a persistent barrage of anti-Semitic propaganda and libel.

This is not a trifling matter. In France alone, police estimate that there are 10 to 12 anti-Semitic incidents each day. Germany, which has made historic strides since the Second World War to reduce anti-Semitism, has experienced a troubling surge in hate crimes against the Jewish Community. Anti-Semites in Germany, for example, have spray-painted swastikas on a monument memorializing Jews murdered during the Holocaust, and have attacked Jewish youths returning home from a Passover seder. The unrelenting wave of anti-Semitic activities has terrorized the European Jewish community and dredged up memories of Europe's anti-Semitic past.

The international community must not allow this situation to intensify before significant action is taken. It was only a short time ago that the bigotry of a few evil people snowballed into an international phenomenon of tragic proportions. There are disturbing similarities between the recent proliferation of anti-Semitism and the increase in anti-Semitism in interwar Europe. The Holocaust also began with small, seemingly isolated events, but developed into a methodical campaign to exterminate an entire people. It is imperative that something be done immediately to quell the pernicious tide of anti-Semitism throughout the continent.

Anti-Semitism is an abomination against civilized society and must be condemned in the strongest possible terms. The international community must not stand idly by as this problem worsens. Europe has a fundamental responsibility to encourage toleration and understanding between all of its citizens, Jew and non-Jew alike.

I strongly urge my colleagues to support this resolution as an important message to Europe's Jews that we stand with them and to Europe's leaders that more needs to be done to guarantee peaceful coexistence for all of its citizens. I hope it can be adopted without delay.

SENATE RESOLUTION 249—DESIGNATING APRIL 30, 2002, AS "DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS", AND FOR OTHER PURPOSES

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 249

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate "Día de los Niños" on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and there are, in 2002, approximately 12.3 million Hispanic children in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition of children of the United States will provide an opportunity to children to reflect on their future, to articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as "Día de los Niños: Celebrating Young Americans"—a day to bring together Latinos and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2002, as "Día de los Niños: Celebrating Young Americans"; and

(2) requests that the President issue a proclamation calling on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including—

(A) activities that center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) activities that are positive, uplifting, and that help children express their hopes and dreams;

(C) activities that provide opportunities for children of all backgrounds to learn about one another's cultures and share ideas;

(D) activities that include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) activities that provide opportunities for families within a community to get acquainted; and

(F) activities that provide children with the support they need to develop skills and confidence, and find the inner strength—the will and fire of the human spirit—to make their dreams come true.

Mr. HATCH. Mr. President, it is with great pleasure that I rise to submit a resolution designating the 30th day of April 2002 as "Día de los Niños: Celebrating Young Americans."

Nations throughout the world, and especially within Latin America, celebrate Día de los Niños on the 30th of April, in recognition and celebration of their country's future, their children. Many American Hispanic families continue the tradition of honoring their children on this day by celebrating Día de los Niños in their homes.

The designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community. This special recognition of children will provide them with an opportunity to reflect on their future, articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities. This resolution calls on the American people to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies and activities.

I urge my colleagues to join me in supporting America's youth by endorsing the resolution designating April 30, 2002 Día de los Niños: Celebrating Young Americans.

SENATE RESOLUTION 250—EXTENDING SYMPATHY AND CONDOLENCES TO THE FAMILIES OF THE CANADIAN SOLDIERS WHO WERE KILLED AND THE CANADIAN SOLDIERS WHO WERE WOUNDED ON APRIL 18, 2002, IN AFGHANISTAN, AND TO ALL OF THE CANADIAN PEOPLE

Ms. LANDRIEU submitted the following resolution; which was considered and agreed to:

S. RES. 250

Whereas United States and Canadian military forces have fought side by side in conflicts since the World War I;

Whereas the fighting men and women of Canada have always proved themselves to be brave and courageous warriors;

Whereas the Canadian forces are currently fighting alongside United States and European troops in the hunt for the remnants of Osama bin Laden's terrorist organization, al Qaeda, and Afghanistan's former ruling militia, the Taliban;

Whereas the Canadian soldiers of the 3rd Battalion, Princess Patricia's Canadian Light Infantry Battle Group, have been in Afghanistan since late January 2002, as part of Operation Apollo, and have distinguished themselves for their heroism and professionalism; and

Whereas despite this tragic incident, the Canadian Army is focusing on the task at hand and is still fully engaged in its mission in Afghanistan: Now, therefore, be it

Resolved, That the Senate—

(1) expresses sorrow for the loss of life and wounding of Canadian servicemen in Afghanistan;

(2) offers sympathy and condolences to the families of the Canadian soldiers who were killed and the Canadian soldiers who were wounded on April 18, 2002, in Afghanistan, and to all of the Canadian people;

(3) affirms that the centuries-old bond between the Canadian and American peoples and their Armed Forces remains solid; and

(4) praises the performance of Canadian servicemen in Afghanistan for their heroism and professionalism.

SENATE RESOLUTION 251—MAKING MINORITY PARTY APPOINTMENTS FOR THE COMMITTEES ON ENVIRONMENT AND PUBLIC WORKS AND GOVERNMENTAL AFFAIRS FOR THE 107TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 251

Resolved, That the following be the minority membership on the Committees on Environment and Public Works and Governmental Affairs for the remainder of the 107th Congress, or until their successors are appointed:

Environment and Public Works: Mr. Smith of New Hampshire, Mr. Warner, Mr. Inhofe, Mr. Bond, Mr. Voinovich, Mr. Crapo, Mr. Chafee, Mr. Specter, and Mr. Domenici.

Governmental Affairs: Mr. Thompson, Mr. Stevens, Ms. Collins, Mr. Voinovich, Mr. Cochran, Mr. Bennett, Mr. Bunning, and Mr. Fitzgerald.

SENATE CONCURRENT RESOLUTION 102—PROCLAIMING THE WEEK OF MAY 14 THROUGH MAY 11, 2002, AS "NATIONAL SAFE KIDS WEEK"

Mr. DODD submitted the following concurrent resolution, which was referred to the Committee on the Judiciary.

S. CON. RES. 102

Whereas unintentional injury is the number 1 killer of children under 15 years of age;

Whereas in 2000, more than 373,000 children under 15 years of age were treated in hospital emergency rooms for bicycle-related injuries, and more than 16,600 children under 15 years of age were treated for equestrian-related injuries;

Whereas more than 40 percent of all bicycle-related deaths are due to head injuries, approximately three-fourths of all bicycle-related head injuries occur among children under 15 years of age, and 60 percent of all equestrian-related deaths are related to head injury;

Whereas the single most effective safety device available to reduce head injury and death from bicycle and equestrian accidents is a properly fitted and safety certified helmet;

Whereas national estimates report that helmet use among child bicyclists is only between 15 and 25 percent;

Whereas every dollar spent on a bicycle helmet saves this Nation $30 in direct medical costs and other costs to society;

Whereas there is no national safety standard in place for equestrian helmets;

Whereas the National Safe Kids Campaign supports efforts to reduce equestrian-related head injuries;

Whereas the National Safe Kids Campaign promotes childhood injury prevention by uniting diverse groups into State and local coalitions, developing innovative educational tools and strategies, initiating legislative changes, promoting new technology, and raising awareness through the media; and

Whereas the National Safe Kids Campaign, with the support of founding sponsor Johnson & Johnson, has planned special childhood injury prevention activities and community-based events for National Safe Kids Week 2002, which will focus on the prevention of wheel-related traumatic brain injuries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) proclaims the week of May 4 through May 11, 2002, as "National Safe Kids Week";

(2) supports the efforts and activities of the National Safe Kids Campaign to prevent childhood injuries, including bicycle-related traumatic brain injuries and equestrian-related brain injuries; and

(3) requests that the President issue a proclamation calling upon the people of the United States to observe National Safe Kids Week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3293. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3294. Mrs. MURRAY (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3295. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3296. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3297. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3298. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3299. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3300. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3301. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. NELSON of Nebraska and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3302. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3303. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3304. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3305. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3306. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. NELSON of Nebraska and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3307. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 3190 submitted by Mr. TORRICELLI (for himself and Mr. GRAHAM) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3308. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 3190 submitted by Mr. TORRICELLI (for himself and Mr. GRAHAM) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3309. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 3190 submitted by Mr. TORRICELLI (for himself and Mr. GRAHAM) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3310. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 517, supra; which was ordered to lie on the table.

SA 3311. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 517, supra; which was ordered to lie on the table.

SA 3312. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 517, supra; which was ordered to lie on the table.

SA 3313. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3281 submitted by Mr. SCHUMER and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3314. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3203 submitted by Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3315. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3275 submitted by Ms. CANTWELL and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3316. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. NELSON of Nebraska and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3317. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr . HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3318. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3319. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3320. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3321. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3322. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3323. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3324. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. CHAFEE, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3239 submitted by Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. REID) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3325. Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3326. Mrs. MURRAY (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3327. Mr. REID (for Mr. THOMPSON) proposed an amendment to the bill H.R. 169, to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes.

SA 3328. Mr. REID (for Mr. THOMPSON) proposed an amendment to the bill H.R. 169, supra.

SA 3329. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3330. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3331. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3293. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. ESTATE TAX WITH FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.

(a) ELIMINATION OF ESTATE TAX REPEAL.—

(1) IN GENERAL.—Subtitle A of title V, sections 511(d), 511(e), and 521(b)(2), and subtitle E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table contained in section 2001(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "2007, 2008, and 2009" and inserting "2007 and thereafter".

(B) The table contained in section 2010(c) of such Code is amended by striking "2009" and inserting "2009 and thereafter".

(C) Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(i) by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.", and

(ii) by striking ", estates, gifts, and transfers" in subsection (b).

(b) INCREASE IN EXCLUSION AMOUNT.—The table contained in section 2010(c) of the Internal Revenue Code of 1986 (relating to applicable credit amount), as amended by subsection (a)(2)(B), is amended by striking "$3,500,000" and inserting "$4,000,000".

(c) FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057(a) (relating to deduction for family-owned business interests) is amended—

(A) by striking paragraphs (2) and (3), and

(B) by striking "GENERAL RULE.—" and all that follows through "For purposes" and inserting "ALLOWANCE OF DEDUCTION.—For purposes".

(2) PERMANENT DEDUCTION.—Section 2057 is amended by striking subsection (j).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2002.

SA 3294. Mrs. MURRAY (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 103, line 19, strike all through page 104, line 7, and insert the following:

"(i) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent.

"(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(i) 30 percent of the basis of such property, or

"(ii) $500 for each 0.5 kilowatt of capacity of such property.

SA 3295. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction is consistent with the public interest, the Commission shall approve the transaction.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The term "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(A) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall maintain, and shall produce for the Commission's examination, such books, accounts, memoranda, records, and any other materials the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an affiliate or associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

SA 3296. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-base rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales

of electric energy at wholesale in interstate commerce.

(14) Public utility company.—The term "public utility company" means an electric utility company or a gas utility company.

(15) State commission.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) Subsidiary company.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) Voting security.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) In General.—Each holding company and each affiliate or associate company thereof shall maintain, and shall produce for the Commission's examination, such books accounts, memoranda, records, and any other materials the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an affiliate or associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

SA 3297. Ms. CANTWELL (for herself, Mrs. Boxer, Mr. Wyden, Mrs. Murray, Ms. Stabenow, and Mr. Jeffords) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. Dayton (for himself, Mr. Wellstone, and Mr. Feingold) to the amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) Approval.—

"(A) In general.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

"(B) Minimum required findings.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) Rules and Procedures To Ensure Competitive Wholesale Markets.—

(1) In general.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) Rules and Procedures To ensure Competitive Wholesale Markets.—

"(1) In general.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) Conditions on grants of authority.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) No limitation on federal antitrust remedies.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) Ineffectiveness of other provision.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) Remedial Measures for market power.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.)(as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) Definition of Market Power.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) Commission Jurisdictional Sales.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) Affiliate.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) Associate company.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) Commission.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) Company.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) Electric utility company.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) Exempt wholesale generator and foreign utility company.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) Gas utility company.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) Holding company.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) Holding company system.—The term "holding company system" means a holding

company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—the term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

SA 3298. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transition.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) results in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(a) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) Commission.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) Company.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) Electric utility company.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) Exempt wholesale generator and foreign utility company.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in the sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) Gas utility company.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) Holding company.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) Holding company system.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) Jurisdictional rates.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) Natural gas company.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) Person.—The term "person" means an individual or company.

(13) Public utility.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) Public utility company.—The term "public utility company" means an electric utility company or a gas utility company.

(15) State commission.—The term "State commission" means any commission, board, agency, or officer, by whatever names designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) Subsidiary company.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) Voting security.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) In General.—Each holding company an each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) Court Jurisdiction.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) Cost Recovery.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) Confidentiality.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) Auditing.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) Preemption.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) Prohibited Activities.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer or assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans, or guarantees or indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) Commission Rules.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditions review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) Requirements.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods, or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(d) Limitation on Authority.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SA 3299. Ms. CANTWELL (for herself, Mrs. Boxer, Mr. Wyden, Mrs. Murray, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will advance the public interest, the Commission shall approve the transaction.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

"(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.c. 824d) is amended by adding at the end the following:

"(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

"(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); or

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISIONS.—

Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) Is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and record.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans, or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interests or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditions review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding companies diversification.

(c) REQUIREMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods, or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(d) LIMITATION ON AUTHORITY.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SA 3300. Ms. CANTWELL (for herself, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3097 proposed by Mr. DAYTON (for himself, Mr. WELLSTONE, and Mr. FEINGOLD) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding for Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) APPROVAL.—

"(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

"(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

"(i)(I) enhance competition in wholesale electricity markets; and

"(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

"(ii) produce significant gains in operational and economic efficiency; and

"(iii) include employee protective arrangements, as defined in Sec. 222 of the Public Utility Holding Company Act of 2002, that the Commission concludes will fairly and equitable protect the interests of employees affected by the proposed transaction; and

"(iv) result in a corporate and capital structure that facilitates effective regulatory oversight.".

SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

"(A) to maintain competitive wholesale markets;

"(B) to effectively monitor market conditions and trends;

"(C) to prevent the abuse of market power and market manipulation;

"(D) to protect the public interest; and

"(E) to ensure the maintenance of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

"(2) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

"(B) establish and impose remedies applicable to a public utility that—

"(i) violates a rule or procedures adopted under paragraph (1); and

"(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

"(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.".

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

"SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

"(a) DEFINITION OF MARKER POWER.—In this section the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

"(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.".

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EMPLOYEE PROTECTIVE ARRANGEMENT.—The term "employee protective arrangement" means a provision that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired companies;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(7) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(8) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(9) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(10) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(11) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(12) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(13) PERSON.—The term "person" means an individual or company.

(14) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(15) PUBLIC UTILITY COMPANY.—The term "public utility company" means an electric utility company or a gas utility company.

(16) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(17) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(a) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(18) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) Is repealed.

SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into nay financial transaction (including the issuance of securities, loans, or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) REQUIREMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services.

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company of affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(8) the interest of employees affected by a proposed transaction shall be protected under employee protective arrangements the Commission concludes are fair and equitable.

(d) LIMITATION ON AUTHORITY.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SA 3301. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. NELSON of Nebraska and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

(a) ALTERNATIVE CONDITIONS.—The Federal Power Act is amended by inserting after section 4 (16 U.S.C. 797) the following:

"SEC. 4A. ALTERNATIVE CONDITIONS.

"(a) DEFINITION OF SECRETARY.—In this section, the term 'Secretary', with respect to an application under subsection (e) of section 4 for a license for a project works within a reservation of the United States, means the Secretary of the department under whose supervision the reservation falls.

"(b) PROPOSAL OF ALTERNATIVE CONDITION.—When a person applies for a license for any project works within a reservation of the United States under subsection (e) of section 4, and the Secretary deems a condition to the license to be necessary under the first proviso of that subsection, the license applicant or any other interested person may propose an alternative condition.

"(c) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding the first proviso of section 4(e), the Secretary may accept an alternative condition proposed under subsection (b), and the Commission shall include in the license that alternative condition, if the Secretary determines, based on substantial evidence, that the alternative condition—

"(1) provides for the adequate protection and use of the reservation; and

"(2) will cost less to implement, or result in improved operation of the project works for electricity production, as compared with the condition initially deemed necessary by the Secretary.

"(d) WRITTEN STATEMENT.—The Secretary shall submit into the public record of the Commission proceeding, with any condition under section 4(e) or alternative condition that the Secretary accepts under subsection (c), a written statement explaining the basis for the condition or alternative condition, and each reason for not accepting any alternative condition under this subsection, including—

"(1) a statement of the goals, objectives, or applicable management requirements established by the Secretary for protection and use of the reservation;

"(2) the consideration by the Secretary of all studies, data, and other factual information made available to the Secretary that are relevant to the decision of the Secretary; and

"(3) any information made available to the Secretary regarding the effects of the condition or alternative condition on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply (including information voluntarily provided in a timely manner by the applicant and any other person).

"(e) PROCEDURE.—Not later than 1 year after the date of enactment of this section, the Secretary of each department that exercises supervision over a reservation of the United States shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section.".

(b) ALTERNATIVE PRESCRIPTIONS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended—

(1) by striking "SEC. 18. The Commission" and inserting the following:

"SEC. 18. OPERATION OF NAVIGATION FACILITIES.

"(a) IN GENERAL.—The Commission"; and

(2) by adding at the end the following:

"(b) ALTERNATIVE PRESCRIPTIONS.—

"(1) IN GENERAL.—When the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under subsection (a), the license applicant or licensee, or any other interested person, may propose an alternative condition.

"(2) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, may accept an alternative condition proposed under paragraph (1), and the Commission shall include in the license the alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence, that the alternative condition—

"(A) will be no less effective to meet the goals, objectives, or applicable management requirements identified by the Secretary under this section, than the fishway initially prescribed by the Secretary; and

"(B) will cost less to implement, or result in improved operation of the project works for electricity production, as compared to the fishway initially prescribed by the Secretary.

"(3) WRITTEN STATEMENT.—The Secretary shall submit into the public record of the Commission proceeding, with any prescription under subsection (a) or alternative condition that the Secretary accepts under paragraph (2), a written statement explaining the basis for the prescription or alternative condition, and reason for not accepting any alternative condition under this subsection, including—

"(A) a statement of the biological and other goals, objectives, or applicable management requirements identified by the Secretary under this section;

"(B) the consideration by the Secretary of all studies, data, and other factual information made available to the Secretary and relevant to the decision of the Secretary; and

"(C) any information made available to the Secretary regarding the effects of the prescription or alternative condition on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply (including information voluntarily provided in a timely manner by the applicant and any other person).

"(4) PROCEDURE.—Not later than 1 year after the date of enactment of this subsection, each Secretary concerned shall, by regulation, establish a procedure to expeditiously any resolve conflict arising under this subsection.".

SEC. 302. RELICENSING STUDY.

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term "new license condition" means any condition imposed under—

(1) section 4(e) of the Federal Power Act (16 U.S.C. 797(e));

(2) section 10(a) of the Federal Power Act (16 U.S.C. 803(a));

(3) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));

(4) section 10(j) of the Federal Power Act (16 U.S.C. 803(j));

(5) section 18 of the Federal Power Act (16 U.S.C. 811); or

(6) section 401(d) of the Clean Water Act (33 U.S.C. 1341(d)).

(b) STUDY.—The Federal Energy Regulatory Commission shall, jointly with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licenses issued for existing projects under section 15 of the Federal Power Act (16 U.S.C. 808) since January 1, 1994.

(c) SCOPE.—The study shall analyze—

(1) the length of time the Commission has taken to issue each new license for an existing project;

(2) the additional cost to the licensee attributable to new license conditions;

(3) the change in generating capacity attributable to new license conditions;

(4) the environmental benefits achieved by new license conditions;

(5) significant unmitigated environmental damage of the project and costs to mitigate such damage; and

(6) litigation arising from the issuance or failure to issue new licenses for existing projects under section 15 of the Federal Power Act or the imposition or failure to impose new license conditions.

(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes findings made as a result of the study.

SEC. 302. DATA COLLECTION PROCEDURES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall jointly develop procedures for ensuring complete and accurate data concerning the time and cost to parties in the hydroelectric licensing process under part I of the Federal Power Act (16 U.S.C. 791 et seq.).

(b) PUBLICATION OF DATA.—Data described in subsection (a) shall be published regularly, but not less frequently than every 3 years.

SA 3302. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, after line 25, add the following:

"(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

SA 3303. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the amendment strike all after the first word and insert the following:

SEC. ____. ESTATE TAX WITH FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.

(a) ELIMINATION OF ESTATE TAX REPEAL.—

(1) IN GENERAL.—Subtitle A of title V, sections 511(d), 511(e), and 521(b)(2), and subtitle E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table contained in section 2001(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "2007, 2008, and 2009" and inserting "2007 and thereafter".

(B) The table contained in section 2010(c) of such Code is amended by striking "2009" and inserting "2009 and thereafter".

(C) Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(i) by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.", and

(ii) by striking ", estates, gifts, and transfers" in subsection (b).

(b) INCREASE IN EXCLUSION AMOUNT.—The table contained in section 2010(c) of the Internal Revenue Code of 1986 (relating to applicable credit amount), as amended by subsection (a)(2)(B), is amended by striking "$3,500,000" and inserting "$4,000,000".

(c) FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057(a) (relating to deduction for family-owned business interests) is amended—

(A) by striking paragraphs (2) and (3), and

(B) by striking "GENERAL RULE.—" and all that follows through "For purposes" and inserting "ALLOWANCE OF DEDUCTION.—For purposes".

(2) PERMANENT DEDUCTION.—Section 2057 is amended by striking subsection (j).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2002.

SA 3304. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____. ESTATE TAX WITH FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.

(a) ELIMINATION OF ESTATE TAX REPEAL.—

(1) IN GENERAL.—Subtitle A of title V, sections 511(d), 511(e), and 521(b)(2), and subtitle E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 are repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table contained in section 2001(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "2007, 2008, and 2009" and inserting "2007 and thereafter".

(B) The table contained in section 2010(c) of such Code is amended by striking "2009" and inserting "2009 and thereafter".

(C) Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(i) by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.", and

(ii) by striking ", estates, gifts, and transfers" in subsection (b).

(b) INCREASE IN EXCLUSION AMOUNT.—The table contained in section 2010(c) of the Internal Revenue Code of 1986 (relating to applicable credit amount), as amended by subsection (a)(2)(B), is amended by striking "$3,500,000" and inserting "$4,000,000".

(c) FULL TAX DEDUCTION FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057(a) (relating to deduction for family-owned business interests) is amended—

(A) by striking paragraphs (2) and (3), and

(B) by striking "GENERAL RULE.—" and all that follows through "For purposes" and inserting "ALLOWANCE OF DEDUCTION.—For purposes".

(2) PERMANENT DEDUCTION.—Section 2057 is amended by striking subsection (j).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2002.

SA 3305. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2005, in the case of any coke or coke gas produced in a facility described in paragraph (1)(B))" after "January 1, 2003".

SA 3306. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. NELSON of Nebraska and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

"SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

"(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

'(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

'(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

'(A) provides for the adequate protection and utilization of the reservation; and

'(B) will either—

‘(i) cost less to implement, or

‘(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

‘(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

‘(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.’

“(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 881) is amended by—

“(1) inserting “(a)” before the first sentence; and

“(2) adding at the end the following:

‘(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

‘(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—

‘(A) will be no less protective of the fish resources that the fishway initially prescribed by the Secretary; and

‘(B) will either—

‘(i) cost less to implement, or

‘(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

‘(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

‘(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.’”

“(c) TIME OF FILING APPLICATION.—Section 15(c)(1) of the Federal Power Act (16 U.S.C. 808(c)(1)) is amended by striking the first sentence and inserting the following:

‘(1) Each application for a new license pursuant to this section shall be filed with the Commission—

‘(A) at least 24 months before the expiration of the term of the existing license in the case of licenses that expire prior to 2008; and

‘(B) at least 36 months before the expiration of the term of the existing license in the case of licenses that expire in 2008 or any year thereafter.’”

SA 3307. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 3190 submitted by Mr. TORRICELLI (for himself and Mr. GRAHAM) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. . RECYCLED OIL LIABILITY.

Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(c)) is amended by adding at the end the following:

“(5) PRIOR TO EFFECTIVE DATE.—

“(A) IN GENERAL.—Except on occurrence of a condition described in subparagraph (B), with respect to any period before the effective date described in paragraph (4), no person (including the United States or any State) may—

“(i) recover, under paragraph (3) or (4) of section 107(a), from a service station dealer for any response costs or damages resulting from a release or threatened release of recycled oil; or

“(ii) use the authority of section 106 against a service station dealer (other than a person described in paragraph (1) or (2) of section 107(a)).

“(B) CONDITIONS.—A condition referred to in subparagraph (A) is that a service station dealer—

“(i) mixes recycled oil with any other hazardous substance; or

“(ii) fails to store, treat, transport, or otherwise manage the recycled oil in compliance with any applicable standard in effect on the date on which the storage, treatment, transportation, or management activity occurred.

“(C) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE ACTION.—Nothing in this paragraph affects any final judicial or administrative action.”.

SA 3308. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 3190 submitted by Mr. TORRICELLI (for himself and Mr. GRAHAM) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION H—MISCELLANEOUS

TITLE —COMPREHENSIVE SUPERFUND REAUTHORIZATION AND REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the “Superfund Amendments and Reauthorization Act of 2002”.

Subtitle A—State Delegation

SEC. 11. DELEGATION TO STATES OF AUTHORITY WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

“SEC. 129. DELEGATION TO STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

“(a) DELEGATION OF AUTHORITY.—

“(1) IN GENERAL.—A State that seeks to administer this Act at facilities in the State that are listed on the National Priorities List may, after providing notice and an opportunity for a public hearing, submit to the Administrator for approval under subsection (b) an application, in such form as the Administrator may require, for delegation to the State of the authority described in paragraph (2).

“(2) AUTHORITY.—

“(A) IN GENERAL.—In accordance with an application of a State approved under subsection (b), the Administrator shall delegate to the State (referred to in this section as an ‘authorized State’) sole administrative authority to administer this Act at facilities in the State that are listed on the National Priorities List.

“(B) INCLUSIONS.—A delegation of authority to a State under subparagraph (A) includes the authority to—

“(i) collect information;

“(ii) allocate liability;

“(iii) conduct technical investigation, evaluations, and risk assessments;

“(iv) develop response alternatives;

“(v) select responses;

“(vi) carry out remedial design, remedial action, and operation and maintenance;

“(vii) recover response costs;

“(viii) require potentially responsible parties to carry out response actions; and

“(ix) otherwise compel implementation of a response action.

“(C) SCOPE.—An authorized State shall administer this Act, in lieu of the President or the Administrator, as applicable, at facilities in the State to which the application of the State approved under subsection (b) applies.

“(b) APPROVAL OF APPLICATION.—

“(1) IN GENERAL.—Not later than the deadline determined under paragraph (3), the Administrator shall—

“(A) issue a notice of approval of the application; or

“(B) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the disapproval.

“(2) FAILURE TO ACT.—If the Administrator fails to issue a notice of approval or disapproval of an application by the deadline determined under paragraph (3), the application shall be deemed to have been approved.

“(3) DEADLINE.—The deadline referred to in paragraphs (1) and (2) is—

“(A)(i) in the case of a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), 60 days after the date on which the Administrator receives an application under subsection (a) from the State; and “(ii) in the case of a State that is not authorized to administer and enforce the corrective action requirements described in clause (i), 120 days after the date on which the Administrator receives an application under subsection (a) from the State; or

“(B) in the case of a State that agrees to a greater period of time than the applicable period described in subparagraph (A), that greater period.

“(c) NO DUPLICATION OF RESPONSE EFFORTS.—

“(1) NO DUPLICATION OF DOCUMENTS.—If, as of the date of delegation of authority to a State over a facility under subsection (a), an investigational or other response document relating to the facility has been completed at the facility in coordination with the Administrator, the authorized State shall not require the document to be modified.

“(2) PARITY WITH CORRECTIVE ACTION PROGRAM.—A response action carried out under this Act that is approved by an authorized State shall be deemed to satisfy corrective action requirements under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

“(d) INCREASED COSTS OF RESPONSE ACTION.—

“(1) IN GENERAL.—An authorized State may select a remedial action based on remedy selection criteria that are more stringent than the criteria identified in section 121(b) if the authorized State agrees to pay any increased costs resulting from selection of the remedial action.

“(2) NO COST RECOVERY.—If an authorized State selects a remedial action under paragraph (1) that results in increased costs, the authorized State shall neither seek nor accept from any person, under this Act or any other Federal or State law, assistance to pay the increased costs.

“(e) JUDICIAL REVIEW.—An order that is issued by an authorized State under section 106 shall be reviewable only in an appropriate United States district court in accordance with section 113.

“(f) COST RECOVERY.—

“(1) BY A DELEGATED STATE.—Of the amount of any response costs recovered by an authorized State from a responsible party under section 107 with respect to a facility listed on the National Priorities List—

“(A) the authorized State may retain an amount equal to the sum of—

“(i) 25 percent of the response costs; and

“(ii) the amount of response costs incurred by the authorized State with respect to the facility; and

“(B) any remaining amount shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

“(2) BY THE ADMINISTRATOR.—The Administrator shall carry out cost recovery efforts of the Administrator—

“(A) in States that are not authorized States; and

“(B) in authorized States, in any case in which an authorized State requests in writing that the Administrator continue cost recovery efforts in the authorized State.

“(g) FUNDING.—

“(1) IN GENERAL.—The Administrator shall provide grants to, or enter into cooperative agreements with, each authorized State to carry out this section.

“(2) FACILITY-SPECIFIC GRANTS.—A grant under paragraph (1) shall be—

“(A) made to an authorized State on a facility-specific basis; and

“(B) funded by the Administrator as costs relating to each facility covered by the grant arise.

“(3) PERMITTED USE OF GRANT FUNDS.—An authorized State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the authorized State.

“(4) PROHIBITED USE OF GRANT FUNDS.—An authorized State to which a grant is made under this section may not use grant funds to pay any amount required under section 104(c)(3).

“(5) NO CLAIM AGAINST FUND.—Notwithstanding any other provision of law, funds that may be provided under this subsection shall not constitute a claim against the Hazardous Substances Fund or the United States.

“(h) INSUFFICIENT FUNDS.—If funds made available in any fiscal year are insufficient to fund all commitments made by the Administrator under this section, the Administrator shall have sole authority and discretion to establish priorities and delay payments until such time as sufficient funds are available.

“(i) COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—Nothing in this section affects the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.

“(2) PARTIAL AND FACILITY-SPECIFIC DELEGATIONS.—The Administrator may use authority provided under paragraph (1) to make partial or facility-specific delegations of authority under this section (including the authority to select a remedy).”.

(b) CONFORMING AMENDMENT.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

“(7) Making grants to authorized States under section 129(g).”.

Subtitle B—Selection of Remedial Actions

SEC. 21. SELECTION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended by striking subsection (b) and inserting the following:

“(b) GENERAL RULES.—

“(1) REMEDY SELECTION CRITERIA.—In selecting a remedy under this section, subject to paragraph (3), the President shall take into consideration each of the factors described in paragraph (2).

“(2) FACTORS.—The factors referred to in paragraph (1) are—

“(A) factors described in section 300.430 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the Superfund Amendments and Reauthorization Act of 2002), consisting of—

“(i) the threshold criterion of protection of human health and the environment (as described in clauses (i) and (ii) of paragraph (3)(B));

“(ii) balancing criteria, including—

“(I) long-term effectiveness and permanence;

“(II) reduction of toxicity, mobility, or volume of hazardous substances or pollutants or contaminants, through treatment;

“(III) short-term effectiveness;

“(IV) implementability; and

“(V) cost; and

“(iii) modifying criteria, including—

“(I) State acceptance of the remedy; and

“(II) community acceptance of the remedy; and

“(B) the additional threshold criterion of compliance with all applicable environmental and siting laws (as described in paragraph (3)(B)(iii)).

“(3) REMEDY SELECTION.—

“(A) IN GENERAL.—The President shall select a remedial action from among alternatives that achieve the threshold criteria described in paragraph (2)(A) in accordance with—

“(i) the goals described in subparagraph (B); and

“(ii) a facility-specific risk assessment under paragraph (4).

“(B) GOALS OF THRESHOLD CRITERIA.—With respect to the selection of a remedial action under this section, the goals of the threshold criteria described in paragraph (2)(A) shall be as follows:

“(i) PROTECTION OF HUMAN HEALTH.—A remedial action shall be considered to be protective of human health if, taking into consideration any expected exposures associated with the actual, planned, or reasonably anticipated future use of the land and water resources covered by the remedial action, and on the basis of a facility-specific risk evaluation conducted in accordance with this section, the remedial action achieves—

“(I) from exposure to nonthreshold carcinogenic hazardous substances, or pollutants or contaminants, at the facility, concentration levels that represent a cumulative lifetime additional cancer risk from 10^{-4} to 10^{-6} for a representative exposed population; and

“(II) from exposure to threshold carcinogenic and noncarcinogenic hazardous substances, or pollutants or contaminants, at the facility, a residual risk that does not exceed a hazard index of 1.

“(ii) PROTECTION OF THE ENVIRONMENT.—A remedial action shall be considered to be protective of the environment if the remedial action—

“(I) protects ecosystems from significant threats to sustainability arising from exposure resulting from a release of 1 or more hazardous substances at a site; and

“(II) does not cause a greater threat to the sustainability of the ecosystems than would be caused by a release of a hazardous substance.

“(iii) COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS.—

“(I) IN GENERAL.—A remedial action shall comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under—

“(aa) each Federal environmental law that is legally applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

“(bb) any State law relating to the environment, or to the siting of facilities, that is more stringent than Federal law, is legally applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions, and is demonstrated by the State to be generally applicable and consistently applied to other remedial actions in the State.

“(II) CONTAMINATED MEDIA.—With respect to a remedial action, compliance with section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) shall not be required with respect to the return, replacement, or disposal of contaminated media (including residuals of contaminated media and other solid wastes generated onsite in the conduct of a remedial action) into the same media in or near areas of contamination onsite at a facility (as those areas exist as of the date of the return, replacement, or disposal of the contaminated media).

"(4) Risk assessment.—

"(A) In general.—A facility-specific risk assessment relating to a remedial action selected under this section shall be based on known levels or scientific estimates of exposure, developed by taking into consideration the actual, planned, or reasonably anticipated future use of the land and water resources covered by the remedial action.

"(B) Regulations.—Not later than 18 months after the date of enactment of this subparagraph, the Administrator shall promulgate final regulations that—

"(i) implement this section; and

"(ii) promote a realistic characterization of the risks posed by a facility or a proposed remedial action that neither minimizes nor exaggerates the risks.

"(C) Uses.—A facility-specific risk assessment shall be used to—

"(i) determine the need for remedial action;

"(ii) evaluate the current and potential hazards, exposures, and risks at a facility;

"(iii) identify potential contaminants, areas, or exposure pathways from further study at a facility;

"(iv) evaluate the protectiveness of alternative remedial actions proposed for a facility;

"(v) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment; and

"(vi) establish protective concentration levels, if no applicable requirement relating to concentration levels exists under subsection (d).".

SEC. 22. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)(C)) is amended—

(1) by striking "consistent with the remedial action to be taken" and inserting "not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility,";

(2) by striking "$2,000,000" and inserting "$4,000,000"; and

(3) by striking "12 months" and inserting "2 years".

SEC. 23. CONFORMING AMENDMENTS.

(a) Section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) is amended by striking "or relevant and appropriate".

(b) Section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)) is amended—

(1) in paragraph (1), by striking the second sentence;

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "or is relevant and appropriate under the circumstances of the release or threatened release of such hazardous substance or pollutant or contaminant"; and

(ii) in the second sentence, by striking ", where such goals or criteria are relevant and appropriate under the circumstances of the release or threatened release" and inserting "in cases in which those goals or criteria are applicable";

(B) by striking subparagraph (B) and inserting the following:

"(B) Alternate concentration limits.—

"(i) In general.—Except as provided in clause (ii), for the purposes of this section, a process for establishing alternate concentration limits to those otherwise applicable to hazardous constituents in groundwater under subparagraph (A) may not be used to establish applicable standards under this paragraph if the process assumes a point of human exposure beyond the boundary of the facility, as defined at the conclusion of the remedial investigation and feasibility study.

"(ii) Exception.—Clause (i) shall not apply in any case in which—

"(I) there are known and projected points of entry of groundwater described in clause (i) into surface water;

"(II) on the basis of measurements or projections, there is or will be no statistically significant increase of those constituents from the groundwater in the surface water—

"(aa) at the point of entry; or

"(bb) at any point at which there is reason to believe accumulation of constituents may occur downstream; and

"(III) a remedial action includes enforceable measures that will preclude human exposure to the contaminated groundwater at any point between the facility boundary and all known and projected points of entry of the groundwater into surface water.

"(iii) Points of entry.—In a case described in clause (ii), an assumed point of human exposure described in clause (i) may be at each known or projected point of entry described in clause (ii)(III)."; and

(C) in subparagraph (C)(i), by striking "of a proposed remedial action which does not permanently and significantly reduce the volume, toxicity, or mobility of hazardous substances, pollutants, or contaminants"; and

(3) in the first sentence of paragraph (4), by striking "or relevant and appropriate".

(c) Section 121(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(f)) is amended—

(1) in the second sentence of paragraph (2)(A), by striking "or relevant and appropriate"; and

(2) in the second sentence of paragraph (3)(A), by striking "or relevant and appropriate".

Subtitle C—Recycled Oil Liability

SEC. 31. RECYCLED OIL LIABILITY.

Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(c)) is amended by adding at the end the following:

"(5) Prior to effective date.—

"(A) In general.—Except on occurrence of a condition described in subparagraph (B), with respect to any period before the effective date described in paragraph (4), no person (including the United States or any State) may—

"(i) recover, under paragraph (3) or (4) of section 107(a), from a service station dealer for any response costs or damages resulting from a release or threatened release of recycled oil; or

"(ii) use the authority of section 106 against a service station dealer (other than a person described in paragraph (1) or (2) of section 107(a)).

"(B) Conditions.—A condition referred to in subparagraph (A) is that a service station dealer—

"(i) mixes recycled oil with any other hazardous substance; or

"(ii) fails to store, treat, transport, or otherwise manage the recycled oil in compliance with any applicable standard in effect on the date on which the storage, treatment, transportation, or management activity occurred.

"(C) No effect on judicial or administrative action.—Nothing in this paragraph affects any final judicial or administrative action.".

Subtitle D—Natural Resource Damages

SEC. 41. RESTORATION OF NATURAL RESOURCES.

Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by striking "(f)(1) Natural Resources Liability.—In the case" and inserting the following:

"(f) Natural Resource Damages.—

"(1) Liability.—

"(A) In general.—In the case"; and

(2) in paragraph (1)(A) (as designated by paragraph (1))—

(A) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration, replacement, or acquisition of the equivalent of those natural resources by the Indian tribe. A restoration, replacement, or acquisition conducted by the United States, a State, or an Indian tribe shall proceed only if the restoration, replacement, or acquisition is technologically feasible from an engineering perspective (at a reasonable cost) and consistent with all known or anticipated response actions at or near the facility."; and

(B) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) Limitations on liability.—

"(i) Measure of damages.—The measure of damages in any action for damages for injury to, destruction of, or loss of natural resources shall be limited to—

"(I) the reasonable costs of restoration, replacement, or acquisition of the equivalent of the natural resources that suffer injury, destruction, or loss caused by a release; and

"(II) the reasonable costs of assessing damages.

"(ii) Nonuse or lost use values.—There shall be no recovery under this Act for any impairment of—

"(I) nonuse values; or

"(II) lost use values.

"(iii) No double recovery.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for the costs described in clause (i) shall not be entitled to recovery under this Act or any other Federal or State law for the same injury to or destruction or loss of the natural resource.

"(iv) Restrictions on recovery.—There shall be no recovery from any person under this section for the costs of restoration, replacement, or acquisition of the equivalent of a natural resource if the natural resource injury, destruction, or loss for which the restoration, replacement, or acquisition is sought, and the release of the hazardous substance from which the injury resulted, occurred wholly before December 11, 1980.".

SEC. 42. ASSESSMENT OF INJURY TO AND RESTORATION OF NATURAL RESOURCES.

Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) Natural resource injury and restoration assessments.—

"(i) Regulation.—A natural resource injury and restoration assessment conducted for the purposes of this Act by a Federal, State, or tribal trustee shall be performed, to the maximum extent practicable, in accordance with—

"(I) the regulations promulgated under section 301(c); and

"(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

"(ii) Facility-specific conditions.—Injury assessment, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on facility-specific information.

"(iii) Recoverable costs.—A claim by a trustee for assessment costs—

"(I) may include only—

"(aa) costs that arise from work performed for the purpose of assessing injury to a natural resource to support a claim for restoration of the natural resource; and

"(bb) costs that arise from developing and evaluating a reasonable range of alternative restoration measures; but

"(II) may not include the costs of conducting any type of study relying on the use of contingent valuation methodology.

"(iv) Payment period.—In a case in which injury to or destruction or loss of a natural resource was caused by a release that occurred over a period of years, payment of damages shall be permitted to be made over a period of years that is appropriate based on—

"(I) the period of time over which the damages occurred;

"(II) the amount of the damages;

"(III) the financial ability of the responsible party to pay the damages; and

"(IV) the period over which, and the pace at which, expenditures are expected to be made for restoration, replacement, and acquisition activities.

"(v) Trustee restoration plans.—

"(I) Administrative record.—

"(aa) In general.—A participating natural resource trustees may designate 1 or more lead administrative trustees.

"(bb) Record.—A lead administrative trustee may establish an administrative record on which the trustees will base the selection of a plan for restoration of a natural resource.

"(cc) Plan.—A restoration plan selected under item (bb) shall include a determination of the nature and extent of the natural resource injury.

"(dd) Public availability.—The administrative record shall be made available to members of the public located at or near the facility at which the release occurred.

"(II) Public participation.—

"(aa) In general.—The Administrator shall promulgate regulations that provide for procedures under which interested persons (including potentially responsible parties) may participate in the development of the administrative record that is described in subclause (I)(bb) and on which judicial review of restoration plans will be based.

"(bb) Minimum requirements.—The procedures described in item (aa) shall include, at a minimum, each of the requirements described in section 113(k)(2)(B).".

SEC. 43. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS.

(a) Restoration Standards and Alternatives.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by adding at the end the following:

"(3) Compatibility with remedial action.—

"(A) In general.—A response action and a restoration measure may be implemented—

"(i) at the same facility; or

"(ii) to address releases from the same facility.

"(B) Consistency.—A response action and restoration measure described in subparagraph (A)—

"(i) shall not be inconsistent; and

"(ii) shall be implemented, to the maximum extent practicable, in a coordinated and integrated manner.".

(b) Consideration of Natural Resources in Response Actions.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) is amended—

(1) in the first sentence, by striking "The President shall" and inserting the following:

"(1) In general.—The President shall";

(2) in the second sentence, by striking "In evaluating" and inserting the following:

"(2) Evaluation.—

"(A) Cost-effectiveness.—In evaluating"; and

(3) by adding at the end the following:

"(B) Injury to natural resources.—In evaluating and selecting remedial actions, the President shall take into account the potential for injury to a natural resource resulting from those actions.".

SEC. 44. CONTRIBUTION.

Section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting "and natural resource damages" after "costs".

Subtitle E—Miscellaneous

SEC. 51. CLARIFICATION OF TIMING OF REVIEW.

(a) Congressional Intent.—Congress declares that, contrary to the decision in Fort Ord Toxics Project v. California Environmental Protection Agency, 189 F.3d 828 (9th Cir. 1999), and as recognized by the decisions in Werlein v. United States, 746 F. Supp. 887 (D. Minn. 1990), Heart of America Northwest v. Westinghouse Hanford Co., 820 F. Supp. 1265 (E.D. Wash. 1993), and Worldworks I v. U.S. Army, 22 F. Supp. 1204 (D. Colo. 1998), the challenges to a remedial action "selected under section 104" referred to in section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) include a remedial action selected under section 120 of that Act (42 U.S.C. 9620).

(b) Clarification.—

(1) In general.—Section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) is amended by striking "section 104," and inserting "section 104 (including under section 120),".

(2) Federal facilities.—Section 120(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(e)(2)) is amended in the second sentence by inserting "under section 104" after "remedial action".

SEC. 52. FAIR SHARE ALLOCATION AND SETTLEMENTS.

Section 122(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)) is amended—

(1) by striking "(e) Special" and all that follows through the end of paragraph (1) and inserting the following:

"(e) Fair Share Allocation.—

"(1) Process.—With respect to a facility listed on the National Priorities List, the President shall notify potentially responsible parties and initiate an impartial fair share allocation conducted by a neutral third party, if—

"(A) there is more than 1 potentially responsible party that is not—

"(i) eligible for an exemption or limitation under section 107;

"(ii) eligible to receive a settlement under subsection (g); or

"(iii) insolvent, bankrupt, or defunct; and

"(B) 1 or more of the potentially responsible parties agree to bear the costs of the allocation (which shall be considered to be response costs under this Act) under such conditions as the President may prescribe.";

(2) by striking paragraph (4);

(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(4) by inserting after paragraph (1) the following:

"(2) Allocation factors.—

"(A) In general.—In conducting an allocation under this subsection, the allocator, without regard to any theory of joint and several liability, shall estimate the fair share of each potentially responsible party using—

"(i) principles of equity;

"(ii) the best information reasonably available to the President, including information received from the potentially responsible parties during the allocation process; and

"(iii) the factors described in subparagraph (B).

"(B) Factors.—The factors referred to in subparagraph (A)(iii) are—

"(i) the quantity of hazardous substances contributed by each party;

"(ii) the degree of toxicity of hazardous substances contributed by each party;

"(iii) the mobility of hazardous substances contributed by each party;

"(iv) the degree of involvement of each party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

"(v) the degree of care exercised by each party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

"(vi) the cooperation of each party in contributing to any response action and in providing complete and timely information to the United States or the allocator; and

"(vii) such other equitable factors as the President considers appropriate.";

(5) in paragraph (3) (as redesignated by paragraph (3))—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as redesignated by subparagraph (B)), by striking "negotiation" each place it appears and inserting "allocation";

(6) in paragraph (4) (as redesignated by paragraph (3))—

(A) by striking subparagraphs (A), (D), and (E);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(C) in subparagraph (A) (as redesignated by subparagraph (B)), by striking "subparagraph (A) or for otherwise implementing"; and

(D) in subparagraph (B) (as redesignated by subparagraph (B)), by striking "preliminary" each place it appears; and

(7) by adding at the end the following:

"(7) Settlements based on allocations.—

"(A) Authority.—

"(i) In general.—The President may use the authority under this section to enter into a settlement agreement with respect to any response action that is the subject of an allocation.

"(ii) SETTLEMENT.—A party may settle the liability of the party for response costs under this Act for an amount equal to the sum of—

"(I) the allocated fair share of the party (including a reasonable risk premium that reflects uncertainties existing at the time of settlement); and

"(II) a portion of unfunded and unattributable shares described in subparagraph (B).

"(B) UNFUNDED AND UNATTRIBUTABLE SHARES.—Any share attributable to an insolvent, defunct, or bankrupt party, or a share that cannot be attributed to any particular party, shall be allocated among any responsible parties not exempted under this Act.

"(C) EFFECT ON PRINCIPLES OF LIABILITY.—Except as provided in paragraph (2), the authorization of an allocation process under this section shall not modify or affect the principles of liability under this title, as determined by the courts of the United States.".

Subtitle F—Funding

SEC. 61. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking "not more than **$8,500,000,000** for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than **$5,100,000,000** for the period commencing October 1, 1991, and ending September 30, 1994" and inserting "**$8,500,000,000** for the period of fiscal years 2003 through 2007".

SEC. 62. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

"(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(A) LIMITATION.—For each of fiscal years 2003 through 2007, not more than **$40,000,000** of the amounts available in the Hazardous Substance Superfund may be used for purposes (other than basic research) to carry out the program authorized under section 311(b).

"(B) AVAILABILITY.—Amounts made available under subparagraph (A) shall remain available until expended.

"(2) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 2003 through 2007, not more than **$7,000,000** of the amounts available in the Hazardous Substance Superfund may be used to carry out section 311(d).".

SEC. 63. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to the Hazardous Substance Superfund **$850,000,000** for each of fiscal years 2003 through 2007.

"(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year specified in subparagraph (A) an amount, in addition to the amount authorized by subparagraph (A), equal to the portion of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 that is not appropriated before the beginning of the fiscal year.".

SEC. 64. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) (as amended by section 11(b)) is amended by inserting after paragraph (7) the following:

"(8) Payment of orphan shares under section 122.".

SEC. 65. LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

"(q) RECOVERIES.—Any response cost recoveries collected by the United States under this Act shall be credited as offsetting collections to the Superfund appropriations account.".

SEC. 66. COEUR D'ALENE RIVER BASIN, IDAHO.

Title III of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651 et seq.) is amended by adding at the end the following:

"SEC. 313. COEUR D'ALENE RIVER BASIN, IDAHO.

"(a) DEFINITION OF COEUR D'ALENE RIVER BASIN.—In this section, the term 'Coeur d'Alene River Basin' means the watersheds in northern Idaho (including the Bunker Hill Superfund Facility) that contain—

"(1) the north and south forks of the Coeur d'Alene River (including tributaries of the forks);

"(2) the main stem of the Coeur d'Alene River (including tributaries and lateral lakes of the main stem);

"(3) Lake Coeur d'Alene; and

"(4) any area in the State downstream of Lake Coeur d'Alene that is or has been affected by mining-related activities.

"(b) FUNDING.—

"(1) IN GENERAL.—There is appropriated to the Coeur d'Alene River Basin Commission established under section 39-3613 of the Idaho Code (or a successor commission) to carry out a pilot program to provide for environmental response, natural resource restoration, and other related activities in the Coeur d'Alene River Basin, **$250,000,000**, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Coeur d'Alene River Basin Commission shall be entitled to receive the funds and shall accept the funds made available under paragraph (1).".

SA 3309. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 3190 submitted by Mr. TORRICELLI (for himself and Mr. GRAHAM) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION H—COMPREHENSIVE SUPERFUND REAUTHORIZATION AND REFORM

TITLE XIX—SUPERFUND

Subtitle A—State Role

SEC. 1901. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 129. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE DELEGATION STATE.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

"(2) DELEGABLE AUTHORITY.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

"(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

"(i) a preliminary assessment or facility evaluation under section 104;

"(ii) facility characterization under section 104;

"(iii) a remedial investigation under section 104;

"(iv) a facility-specific risk evaluation under section 130;

"(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

"(vi) any other authority identified by the Administrator under subsection (b).

"(B) CATEGORY B.—All authorities necessary to perform alternatives development and remedy selection, including—

"(i) a feasibility study under section 104; and

"(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

"(II) remedial action planning under section 132(b)(5);

"(iii) enforcement authority related to the authorities described in clauses (i) and (ii); and

"(iv) any other authority identified by the Administrator under subsection (b).

"(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

"(i) remedial design under section 121;

"(ii) enforcement authority related to the authority described in clause (i); and

"(iii) any other authority identified by the Administrator under subsection (b).

"(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

"(i) a removal under section 104;

"(ii) a remedial action under section 104;

"(iii) operation and maintenance under section 104(c);

"(iv) enforcement authority related to the authorities described in clauses (i) through (iii); and

"(v) any other authority identified by the Administrator under subsection (b).

"(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

"(i) information collection activity under section 104(e);

"(ii) allocation of liability under section 135;

"(iii) a search for potentially responsible parties under section 104 or 107;

"(iv) settlement under section 122;

"(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

"(vi) any other authority identified by the Administrator under subsection (b).

"(3) DELEGATED AUTHORITY.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

"(4) DELEGATED FACILITY.—The term 'delegated facility' means a non-Federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

"(5) DELEGATED STATE.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

"(6) ENFORCEMENT AUTHORITY.—The term 'enforcement authority' means all authorities necessary to recover response costs, require potentially responsible parties to perform response actions, and otherwise compel implementation of a response action, including—

"(A) issuance of an order under section 106(a);

"(B) a response action cost recovery under section 107;

"(C) imposition of a civil penalty or award under subsection (a)(1)(D) or (b)(4) of section 109;

"(D) settlement under section 122; and

"(E) any other authority identified by the Administrator under subsection (b).

"(7) NONCOMPREHENSIVE DELEGATION STATE.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

"(8) NONDELEGABLE AUTHORITY.—The term 'nondelegable authority' means authority to—

"(A) make grants to community response organizations under section 117; and

"(B) conduct research and development activities under any provision of this Act.

"(9) NON-FEDERAL LISTED FACILITY.—The term 'non-Federal listed facility' means a facility that—

"(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government; and

"(B) is listed on the National Priorities List.

"(b) IDENTIFICATION OF DELEGABLE AUTHORITIES.—

"(1) IN GENERAL.—The President shall by regulation identify all of the authorities of the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

"(2) LIMITATION.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

"(c) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

"(2) APPLICATION.—An application under paragraph (1) shall—

"(A) identify each non-Federal listed facility for which delegation is requested;

"(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

"(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate—

"(i) has statutory and regulatory authority (including appropriate enforcement authority) to perform the requested delegable authorities in a manner that is protective of human health and the environment;

"(ii) has resources in place to adequately administer and enforce the authorities;

"(iii) has procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 132; and

"(iv) agrees to exercise its enforcement authorities to require that persons that are potentially liable under section 107(a), to the extent practicable, perform and pay for the response actions set forth in each category described in subsection (a)(2).

"(3) APPROVAL OF APPLICATION.—

"(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

"(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

"(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

"(C) RESUBMISSION OF APPLICATION.—

"(i) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(ii) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

"(D) NO ADDITIONAL TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

"(E) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

"(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

"(5) LIMITED DELEGATION.—

"(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

"(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

"(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

"(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

"(2) AGREEMENTS FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

"(B) NO AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or interstate body that is, or includes as a component an entity that is, a potentially responsible party with respect to a delegated facility covered by the agreement.

"(C) CONTINUING RESPONSIBILITY.—A delegated State that enters into an agreement under subparagraph (A)—

"(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

"(ii) shall remain responsible for ensuring performance of the delegated authority.

"(3) COMPLIANCE WITH ACT.—

"(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

"(B) COMPREHENSIVE DELEGATION STATES.—

"(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

"(ii) COSTLIER REMEDIAL ACTION.—

"(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

"(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

"(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be reviewable only in United States district court under section 113.

"(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

"(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

"(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with paragraphs (1) and (2) of section 121(a);

"(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under subsection (u) or (v) of section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924); or

"(iii) if the State is a comprehensive delegation State with respect to the facility.

"(B) EFFECT OF DELISTING.—A delisting under clause (ii) or (iii) of subparagraph (A) shall not affect—

"(i) the authority or responsibility of the State to complete remedial action and operation and maintenance;

"(ii) the eligibility of the State for funding under this Act;

"(iii) notwithstanding the limitation on section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

"(iv) the enforceability of any consent order or decree relating to the facility.

"(C) NO RELISTING.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

"(ii) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A) if cleanup is not completed in accordance with the enforceable agreement under subparagraph (A)(ii).

"(6) COST RECOVERY.—

"(A) RECOVERY BY A DELEGATED STATE.—Of the amount of any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107—

"(i) 25 percent of the amount of any Federal response cost recovered with respect to a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

"(ii) the remainder shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

"(B) RECOVERY BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if—

"(I) the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party; or

"(II) the delegated State fails to take action to recover response costs within a reasonable time in light of applicable statutes of limitation.

"(ii) NOTICE.—If the Administrator proposes to commence an action for recovery of response costs under section 107, the Administrator shall give the State written notice and allow the State at least 90 days after receipt of the notice to commence the action.

"(iii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107 relating to a release from a delegated facility, the delegated State may not take any other action for recovery of response costs relating to that release under this Act or any other Federal or State law.

"(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

"(1) REVIEW USE OF FUNDS.—

"(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

"(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the certification of the Governor.

"(C) EXPLANATION.—Not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

"(i) explain why the finding of the Administrator is in error; or

"(ii) explain to the satisfaction of the Administrator how any misapplication or misuse of funds will be corrected.

"(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the satisfaction of the Administrator, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

"(E) REPAYMENT OF FUNDS.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

"(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

"(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

"(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

"(ii) does not have adequate legal authority to request and accept delegation; or

"(iii) is failing to materially carry out the delegated authorities of the State, the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(C) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

"(D) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (C), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(E) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

"(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

"(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

"(4) RETAINED AUTHORITY.—

"(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the intention of the Administrator to perform the removal.

"(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

"(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

"(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegated State, the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority that has been delegated to a State with respect to a delegated facility.

" FUNDING.—

"(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

“(2) No claim against fund.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

“(3) Insufficient funds available.—If funds are unavailable in any fiscal year to satisfy all commitments made under this section by the Administrator, the Administrator shall have sole authority and discretion to establish priorities and to delay payments until funds are available.

“(4) Determination of costs on a facility-specific basis.—The Administrator shall—

“(A) determine—

“(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

“(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

“(B) publish a list describing the delegable authorities in each category.

“(5) Facility-specific grants.—The costs described in paragraph (4)(A)(ii) shall be funded as such costs arise with respect to each delegated facility.

“(6) Nonfacility-specific grants.—

“(A) In general.—The costs described in paragraph (4)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

“(B) Formula.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

“(i) the cost of administering the delegated authority;

“(ii) the number of sites for which the State has been delegated authority;

“(iii) the types of activities for which the State has been delegated authority;

“(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under subsection (d)(5);

“(v) the number of other high priority facilities within the State;

“(vi) the need for the development of the State program;

“(vii) the need for additional personnel;

“(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

“(ix) the benefit to human health and the environment of providing the funding.

“(7) Permitted use of grant funds.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

“(8) Cost share.—

“(A) Assurance.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

“(B) Prohibited use of grant funds.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

“(9) Certification of use of funds.—

“(A) In general.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

“(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan; and

“(ii) information describing the manner in which the State used the funds.

“(B) Regulations.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that a State shall be required to provide under subparagraph (A)(ii).

“(g) Cooperative Agreements.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.”.

(b) State Cost Share.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking “(c)(1) Unless” and inserting the following:

“(c) Miscellaneous Limitations and Requirements.—

“(1) Continuance of obligations from fund.—Unless”;

(2) by striking “(2) The President” and inserting the following:

“(2) Consultation.—The President”; and

(3) by striking paragraph (3) and inserting the following:

“(3) State cost share.—

“(A) In general.—The Administrator shall not provide any remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

“(B) Activities with respect to which state cost share is required.—No State cost share shall be required except for remedial actions under section 104.

“(C) Specified percentage.—

“(i) In general.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

“(ii) Maximum in accordance with law prior to 1996 amendments.—

“(I) In general.—On petition by a State, the Director of the Office of Management and Budget (referred to in this clause as the ‘Director’), after providing public notice and opportunity for comment, shall establish a cost share percentage, which shall be uniform for all facilities in the State, at the percentage rate at which the total amount of anticipated payments by the State under the cost share for all facilities in the State for which a cost share is required most closely approximates the total amount of estimated cost share payments by the State for facilities that would have been required under cost share requirements that were applicable prior to the date of enactment of this subparagraph, adjusted to reflect the extent to which the ability of the State to recover costs under this Act were reduced by reason of enactment of amendments to this Act by division H of the Energy Policy Act of 2002.

“(II) Adjustment.—The Director may adjust the cost share of a State under this clause not more frequently than every 3 years.

“(D) Indian tribes.—In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if the land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph shall not apply.”.

(c) Uses of Fund.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

“(7) Grants to delegated states.—Making a grant to a delegated State under section 129(f).”.

(d) Relationship to Other Laws.—

(1) In general.—Section 114(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(b)) is amended by striking “removal” each place it appears and inserting “response”.

(2) Conforming amendment.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking “section 114(c)” and inserting “section 114(b)”.

Subtitle B—Community Participation

SEC. 1911. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) Amendment.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

“(e) Community Response Organizations.—

“(1) Establishment.—The Administrator shall create a community response organization for a facility that is listed or proposed for listing on the National Priorities List—

“(A) if the Administrator determines that a representative public forum will be helpful in promoting direct, regular, and meaningful consultation among persons interested in remedial action at the facility; or

“(B) at the request of—

“(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

“(ii) a representative group of the potentially responsible parties; or

“(iii) any local governmental entity with jurisdiction over the facility.

“(2) Responsibilities.—A community response organization shall—

“(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

“(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties;

“(C) serve as a representative of the local community during the remedial action planning and implementation process; and

“(D) provide reasonable notice of and opportunities to participate in the meetings and other activities of the community response organization.

“(3) Access to documents.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

“(4) Community response organization input.—

“(A) Consultation.—The Administrator (or if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall—

“(i) consult with the community response organization in developing and implementing the remedial action plan; and

“(ii) keep the community response organization informed of progress in the development and implementation of the remedial action plan.

“(B) Timely submission of comments.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

“(C) Consensus.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

“(5) Technical assistance grants.—

“(A) Preferred recipient.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

“(B) Prior award.—If a technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

“(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

“(ii) 1 person representing the grant recipient shall serve on the community response organization.

“(6) Membership.—

“(A) Number.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

“(B) Notice.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

“(C) Represented groups.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

“(i) Persons who reside or own residential property near the facility.

“(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

“(iii) Persons who are members of the local public health or medical community and are practicing in the community.

“(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

“(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

“(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

“(vii) Members of the local business community.

“(D) Proportion.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

“(E) Pay.—Members of a community response organization shall serve without pay.

“(7) Participation by government representatives.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, other Federal agencies, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

“(8) Administrative support.—The Administrator, to the extent practicable, shall provide administrative services and meeting facilities for community response organizations.

“(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

“(f) Technical Assistance Grants.—

“(1) Definitions.—In this subsection:

“(A) Affected citizen group.—The term ‘affected citizen group’ means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

“(B) Technical assistance grant.—The term ‘technical assistance grant’ means a grant made under paragraph (2).

“(2) Authority.—

“(A) In general.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

“(B) Availability of application process.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

“(3) Special rules.—

“(A) No matching contribution.—No matching contribution shall be required for a technical assistance grant.

“(B) Availability in advance.—The Administrator shall make all or a portion (but not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

“(4) Limit per facility.—

“(A) 1 grant per facility.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

“(B) Duration.—The Administrator shall by regulation limit the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

“(5) Availability for facilities not yet listed.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

“(6) Funding limit.—

“(A) Percentage of total appropriations.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

“(B) Allocation between listed and unlisted facilities.—Not more than the portion of funds equal to ⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

“(7) Funding amount.—

“(A) In general.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

“(B) Increase.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

“(8) Use of technical assistance grants.—

“(A) Permitted use.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

“(i) the nature of the hazardous substances located at a facility;

“(ii) the work plan;

“(iii) the facility evaluation;

“(iv) a proposed remedial action plan, a remedial action plan, and a final remedial design for a facility;

“(v) response actions carried out at the facility; and

“(vi) operation and maintenance activities at the facility.

“(B) Prohibited use.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

“(9) Grant guidelines.—

“(A) In general.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

“(B) Hiring of experts.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

“(g) Improvement of Public Participation in the Superfund Decisionmaking Process.—

“(1) In general.—

“(A) Meetings and notice.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

“(i) a facility evaluation, as appropriate;

“(ii) announcement of a proposed remedial action plan; and

“(iii) completion of a final remedial design.

“(B) Information.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community, with respect to a facility concerning the facility activities and pending decisions of the Administrator.

“(2) Participants and subject.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

“(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

“(B) the subject of the meeting involves discussions directly affecting—

“(i) a legally enforceable work plan document, or any significant amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

“(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

“(3) Limitation.—Nothing in this subsection—

“(A) provides for public participation in or otherwise affects any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

“(B) provides for public participation in or otherwise affects any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

“(C) waives, compromises, or affects any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

“(4) Evaluation.—

“(A) In general.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

“(B) Procedure.—An evaluation under subparagraph (A) shall include, as appropriate—

“(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

“(ii) a public meeting;

“(iii) written responses to significant concerns; and

“(iv) other appropriate participatory activities.

“(5) Views and preferences.—

“(A) Solicitation.—During the facility evaluation, the Administrator (or other person performing the facility evaluation) shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

“(B) Consideration.—The views and preferences of the community shall be described in the facility evaluation and considered in the screening of remedial alternatives for the facility.

“(6) Alternatives.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

“(7) Information.—

“(A) The community.—The Administrator, with the assistance of the community response organization under subsection (g) if there is one, shall provide information to the community and seek comment from the community throughout all significant phases of the response action at the facility.

“(B) Technical staff.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

“(C) Responses.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

“(8) Nonprivileged information.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

“(9) Presentation.—

“(A) Documents.—

“(i) In general.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

“(ii) Risk.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to describe the degree of risk to human health shall be consistent with the risk communication principles outlined in section 130(c).

“(B) Comparisons.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

“(10) Requirements.—

“(A) Lengthy removal actions.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

“(i) the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1); and

“(ii) the removal action shall achieve the goals of protecting human health and the environment in accordance with section 121(a)(1).

“(B) Other removal actions.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.”.

(b) Issuance of Guidelines.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

Subtitle C—Selection of Remedial Actions

SEC. 1921. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

“(42) Actual or planned or reasonably anticipated future use of the land and water resources.—The term ‘actual or planned or reasonably anticipated future use of the land and water resources’ means—

“(A) the actual use of the land, surface water, and ground water at a facility on the date of submittal of the proposed remedial action plan; and

“(B)(i) with respect to land—

“(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

“(II) any other reasonably anticipated use that the local land use authority, in consultation with the community response organization (if any), determines to have a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

“(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by the governmental unit that regulates surface or ground water use or surface or ground water use planning in the vicinity of the facility, on the date of submission of the proposed remedial action plan.

“(43) Sustainability.—The term ‘sustainability”, for the purpose of section 121(a)(1)(B)(ii), means the ability of an ecosystem to continue to function within the normal range of its variability absent the effects of a release of a hazardous substance.”.

SEC. 1922. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

“SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

“(a) General Rules.—

“(1) Selection of cost-effective remedial action that protects human health and the environment.—

“(A) In general.—The Administrator shall select a cost-effective remedial action that achieves the goals of protecting human health and the environment as stated in subparagraph (B), and complies with other applicable Federal and State laws in accordance with subparagraph (C) on the basis of a facility-specific risk evaluation in accordance with section 130 and in accordance with the criteria stated in subparagraph (D) and the requirements of paragraph (2).

“(B) Goals of protecting human health and the environment.—

“(i) Protection of human health.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources and on the basis of a facility-specific risk evaluation in accordance with section 131, the remedial action achieves a residual risk—

“(I) from exposure to nonthreshold carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

“(II) from exposure to threshold carcinogenic and noncarcinogenic hazardous substances, pollutants, or contaminants at the facility, that does not exceed a hazard index of 1.

“(ii) Protection of the environment.—A remedial action shall be considered to be protective of the environment if the remedial action—

“(I) protects ecosystems from significant threats to their sustainability arising from exposure to releases of hazardous substances at a site; and

"(II) does not cause a greater threat to the sustainability of ecosystems than a release of a hazardous substance.

"(iii) PROTECTION OF GROUND WATER.—A remedial action shall prevent or eliminate any actual human ingestion of drinking water containing any hazardous substance from the release at levels—

"(I) in excess of the maximum contaminant level established under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); or

"(II) if no such maximum contaminant level has been established for the hazardous substance, at levels that meet the goals for protection of human health under clause (i).

"(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

"(i) SUBSTANTIVE REQUIREMENTS.—

"(I) IN GENERAL.—Subject to clause (iii), subparagraphs (A) and (D), and paragraph (2), a remedial action shall—

"(aa) comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under each Federal law and each State law relating to the environment or to the siting of facilities (including a State law that imposes a more stringent standard, requirement, criterion, or limitation than Federal law) that is applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

"(bb) comply with or attain any other promulgated standard, requirement, criterion, or limitation under any State law relating to the environment or siting of facilities, as determined by the State, after the date of enactment of the Energy Policy Act of 2002, through a rulemaking procedure that includes public notice, comment, and written response comment, and opportunity for judicial review, but only if the State demonstrates that the standard, requirement, criterion, or limitation is of general applicability and is consistently applied to remedial actions under State law.

"(II) IDENTIFICATION OF FACILITIES.—Compliance with a State standard, requirement, criterion, or limitation described in subclause (I) shall be required at a facility only if the standard, requirement, criterion, or limitation has been identified by the State to the Administrator in a timely manner as being applicable to the facility.

"(III) PUBLISHED LISTS.—Each State shall publish a comprehensive list of the standards, requirements, criteria, and limitations that the State may apply to remedial actions under this Act, and shall revise the list periodically, as requested by the Administrator.

"(IV) CONTAMINATED MEDIA.—Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination onsite at a facility.

"(ii) PROCEDURAL REQUIREMENTS.—Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

"(iii) WAIVER PROVISIONS.—

"(I) DETERMINATION BY THE PRESIDENT.—The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (i).

"(II) SELECTION OF REMEDIAL ACTION THAT DOES NOT COMPLY.—The Administrator may select a remedial action at a facility that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in clause (i) if the Administrator makes any of the following findings:

"(aa) IMPROPER IDENTIFICATION.—The standard, requirement, criterion, or limitation, which was improperly identified as an applicable requirement under clause (i)(I)(aa), fails to comply with the rulemaking requirements of clause (i)(I)(bb).

"(bb) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements of clause (i) when the total remedial action is completed.

"(cc) GREATER RISK.—Compliance with or attainment of the standard, requirement, criterion, or limitation at the facility will result in greater risk to human health or the environment than alternative options.

"(dd) TECHNICALLY IMPRACTICABILITY.—Compliance with or attainment of the standard, requirement, criterion, or limitation is technically impracticable.

"(ee) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard, requirement, criterion, or limitation described in clause (i) through use of another approach.

"(ff) INCONSISTENT APPLICATION.—With respect to a State standard, requirement, criterion, limitation, or level, the State has not consistently applied (or demonstrated the intention to apply consistently) the standard, requirement, criterion, or limitation or level in similar circumstances to other remedial actions in the State.

"(gg) BALANCE.—In the case of a remedial action to be undertaken under section 104 or 135 using amounts from the Fund, a selection of a remedial action that complies with or attains a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

"(III) PUBLICATION.—The Administrator shall publish any findings made under subclause (II), including an explanation and appropriate documentation.

"(D) REMEDY SELECTION CRITERIA.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B) pursuant to a facility-specific risk evaluation in accordance with section 130, the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

"(i) The effectiveness of the remedy in protecting human health and the environment.

"(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

"(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

"(iv) The acceptability of the remedial action to the affected community.

"(v) The implementability and technical feasibility of the remedial action from an engineering perspective.

"(vi) The reasonableness of the cost.

"(2) TECHNICAL IMPRACTICABILITY.—

"(A) MINIMIZATION OF RISK.—If the Administrator, after reviewing the remedy selection criteria stated in paragraph (1)(D), finds that achieving the goals stated in paragraph (1)(B) is technically impracticable, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

"(B) BASIS FOR FINDING.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

"(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

"(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

"(3) PRESUMPTIVE REMEDIAL ACTIONS.—A remedial action that implements a presumptive remedial action issued under section 131 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(D).

"(4) GROUND WATER.—

"(A) IN GENERAL.—The Administrator or the preparer of the remedial action plan shall select a cost effective remedial action for ground water that achieves the goals of protecting human health and the environment as stated in paragraph (1)(B) and with the requirements of this paragraph, and complies with other applicable Federal and State laws in accordance with subparagraph (C) on the basis of a facility-specific risk evaluation in accordance with section 130 and in accordance with the criteria stated in subparagraph (D) and the requirements of paragraph (2). If appropriate, a remedial action for ground water shall be phased, allowing collection of sufficient data to evaluate the effect of any other remedial action taken at the site and to determine the appropriate scope of the remedial action.

"(B) CONSIDERATIONS FOR GROUND WATER REMEDIAL ACTION.—A decision regarding a remedial action for ground water shall take into consideration—

"(i) the actual or planned or reasonably anticipated future use of ground water and the timing of that use; and

"(ii) any attenuation or biodegradation that would occur if no remedial action were taken.

"(C) UNCONTAMINATED GROUND WATER.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock if the water is uncontaminated and suitable for such use at the time of submission of the proposed remedial action plan. A remedial action to protect uncontaminated ground water may utilize natural attenuation (which may include dilution or dispersion, but in conjunction with biodegradation or other levels of attenuation necessary to facilitate the remediation of contaminated ground water) so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the uncontaminated ground water.

"(D) CONTAMINATED GROUND WATER.—

"(i) IN GENERAL.—In the case of contaminated ground water for which the actual or planned or reasonably anticipated future use of the resource is as drinking water for humans or livestock, if the Administrator determines that restoration of some portion of the contaminated ground water to a condition suitable for the use is technically practicable, the Administrator shall seek to restore the ground water to a condition suitable for the use.

"(ii) DETERMINATION OF RESTORATION PRACTICABILITY.—In making a determination regarding the technical practicability of ground water restoration—

"(I) there shall be no presumption of the technical practicability; and

"(II) the determination of technical practicability shall, to the extent practicable, be made on the basis of projections, modeling, or other analysis on a site-specific basis without a requirement for the construction or installation and operation of a remedial action.

"(iii) DETERMINATION OF NEED FOR AND METHODS OF RESTORATION.—In making a determination and selecting a remedial action regarding restoration of contaminated ground water the Administrator shall take into account—

"(I) the ability to substantially accelerate the availability of ground water for use as drinking water beyond the rate achievable by natural attenuation; and

"(II) the nature and timing of the actual or planned or reasonably anticipated use of such ground water.

"(iv) RESTORATION TECHNICALLY IMPRACTICABLE.—

"(I) IN GENERAL.—A remedial action for contaminated ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock for which attainment of the levels described in paragraph (1)(B)(iii) is technically impracticable shall be selected in accordance with paragraph (2).

"(II) NO INGESTION.—Selected remedies may rely on point-of-use treatment or other measures to ensure that there will be no ingestion of drinking water at levels exceeding the requirement of subclause (I) or (II) of paragraph (1)(B)(iii).

"(III) INCLUSION AS PART OF OPERATION AND MAINTENANCE.—The operation and maintenance of any treatment device installed at the point of use shall be included as part of the operation and maintenance of the remedy.

"(E) GROUND WATER NOT SUITABLE FOR USE AS DRINKING WATER.—Notwithstanding any other evaluation or determination of the potential suitability of ground water for drinking water use, ground water that is not suitable for use as drinking water by humans or livestock because of naturally occurring conditions, or is so contaminated by the effects of broad-scale human activity unrelated to a specific facility or release that restoration of drinking water quality is technically impracticable or is physically incapable of yielding a quantity of 150 gallons per day of water to a well or spring, shall be considered to be not suitable for use as drinking water.

"(F) OTHER GROUND WATER.—Remedial action for contaminated ground water (other than ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock) shall attain levels appropriate for the then-current or reasonably anticipated future use of the ground water, or levels appropriate considering the then-current use of any ground water or surface water to which the contaminated ground water discharges.

"(5) OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.";

(2) by redesignating subsection (c) as subsection (b);

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 1923. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 1901(a)) is amended by adding at the end the following:

"SEC. 130. FACILITY-SPECIFIC RISK EVALUATIONS.

"(a) USES.—

"(1) IN GENERAL.—A facility-specific risk evaluation shall be used to—

"(A) identify the significant components of potential risk posed by a facility;

"(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

"(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

"(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

"(2) COMPLIANCE WITH PRINCIPLES.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

"(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

"(B) all of the components of the evaluation are, to the maximum extent practicable, scientifically objective and inclusive of all relevant data.

"(b) RISK EVALUATION PRINCIPLES.—A facility-specific risk evaluation shall—

"(1) be based on actual information or scientific estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources to the extent that substituting such estimates for those made using standard assumptions alters the basis for decisions to be made;

"(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

"(3) use chemical and facility-specific data and analysis (such as bioavailability, exposure, and fate and transport evaluations) in preference to default assumptions when—

"(A) such data and analysis are likely to vary by facility; and

"(B) facility-specific risks are to be communicated to the public or the use of such data and analysis alters the basis for decisions to be made; and

"(4) use a range and distribution of realistic and scientifically supportable assumptions when chemical and facility-specific data are not available, if the use of such assumptions would communicate more accurately the consequences of the various decision options.

"(c) RISK COMMUNICATION PRINCIPLES.—The document reporting the results of a facility-specific risk evaluation shall—

"(1) contain an explanation that clearly communicates the risks at the facility;

"(2) identify and explain all assumptions used in the evaluation, any alternative assumptions that, if made, could materially affect the outcome of the evaluation, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

"(3) present—

"(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

"(i) the most scientifically supportable assumptions or a weighted combination of multiple assumptions based on different scenarios; or

"(ii) any other methodology designed to characterize the most scientifically supportable estimate of risk given the information that is available at the time of the facility-specific risk evaluation; and

"(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

"(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

"(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

"(d) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

"SEC. 131. PRESUMPTIVE REMEDIAL ACTIONS.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

"(b) PRACTICABILITY AND COST-EFFECTIVENESS.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(c) VARIATIONS.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

"(d) ENGINEERING CONTROLS.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.".

SEC. 1924. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 1923) is amended by adding at the end the following:

"SEC. 132. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

"(a) IN GENERAL.—

"(1) BASIC RULES.—

"(A) PROCEDURES.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be developed and selected in accordance with the procedures set forth in this section.

"(B) NO OTHER PROCEDURES OR REQUIREMENTS.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

"(C) LIMITED REVIEW.—In a case in which the potentially responsible parties prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

"(D) DESIGNATION OF POTENTIALLY RESPONSIBLE PARTIES TO PREPARE WORK PLAN, FACILITY EVALUATION, PROPOSED REMEDIAL ACTION, AND REMEDIAL DESIGN AND TO IMPLEMENT THE REMEDIAL ACTION PLAN.—In the case of a facility for which the Administrator is not required to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

"(i) if a potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the expertise to perform those functions;

the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and

"(ii) if more than 1 potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible parties or group of potentially responsible parties has the financial resources and the expertise to perform those functions,

the Administrator, based on an assessment of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

"(E) APPROVAL REQUIRED AT EACH STEP OF PROCEDURE.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, until a work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

"(F) NATIONAL CONTINGENCY PLAN.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

"(2) USE OF PRESUMPTIVE REMEDIAL ACTIONS.—

"(A) PROPOSAL TO USE.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

"(B) LIMITATION.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

"(b) REMEDIAL ACTION PLANNING PROCESS.—

"(1) IN GENERAL.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

"(2) CONTENTS.—A remedial action plan shall consist of—

"(A) the results of a facility evaluation, including any screening analysis performed at the facility;

"(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a), the respective capital costs, operation and maintenance costs, and estimated present worth costs of the remedies, and how the remedies balance the factors stated in section 121(a)(1)(D);

"(C) a description of the remedial action to be taken;

"(D) a description of the facility-specific risk-based evaluation under section 130 and a demonstration that the selected remedial action will satisfy sections 121(a) and 131; and

"(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

"(3) WORK PLAN.—

"(A) IN GENERAL.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

"(B) SUBMISSION.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

"(C) PUBLICATION.—The Administrator or other person that prepares a work plan shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer of the work plan, the Administrator, the State, or the local community response organization.

"(D) FORWARDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

"(E) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a work plan, the Administrator shall—

"(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(4) FACILITY EVALUATION.—

"(A) IN GENERAL.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

"(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

"(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

"(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

"(B) SUBMISSION.—A draft facility evaluation shall be submitted to the Administrator for approval.

"(C) PUBLICATION.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

"(D) AVAILABILITY OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

"(E) NOTICE OF APPROVAL.—If the Administrator approves a facility evaluation, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a facility evaluation, the Administrator shall—

"(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised facility evaluation within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(5) PROPOSED REMEDIAL ACTION PLAN.—

"(A) SUBMISSION.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

"(B) PUBLICATION.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization.

"(C) AVAILABILITY OF COMMENTS.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

"(D) HEARING.—The Administrator shall hold a public hearing at which the proposed remedial action plan shall be presented and public comment received.

“(E) REMEDY REVIEW BOARDS.—

“(i) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish and appoint the members of 1 or more remedy review boards (referred to in this subparagraph as a “remedy review board”), each consisting of independent technical experts within Federal and State agencies with responsibility for remediating contaminated facilities.

“(ii) SUBMISSION OF REMEDIAL ACTION PLANS FOR REVIEW.—Subject to clause (iii), a proposed remedial action plan prepared by a potentially responsible party or the Administrator may be submitted to a remedy review board at the request of the person responsible for preparing or implementing the remedial action plan.

“(iii) NO REVIEW.—The Administrator may preclude submission of a proposed remedial action plan to a remedy review board if the Administrator determines that review by a remedy review board would result in an unreasonably long delay that would threaten human health or the environment.

“(iv) RECOMMENDATIONS.—Not later than 180 days after receipt of a request for review (unless the Administrator, for good cause, grants additional time), a remedy review board shall provide recommendations to the Administrator regarding whether the proposed remedial action plan is—

“(I) consistent with the requirements and standards of section 121(a);

“(II) technically feasible or infeasible from an engineering perspective; and

“(III) reasonable or unreasonable in cost.

“(v) REVIEW BY THE ADMINISTRATOR.—

“(I) CONSIDERATION OF COMMENTS.—In reviewing a proposed remedial action plan, a remedy review board shall consider any comments submitted under subparagraphs (B) and (D) and shall provide an opportunity for a meeting, if requested, with the person responsible for preparing or implementing the remedial action plan.

“(II) STANDARD OF REVIEW.—In determining whether to approve or disapprove a proposed remedial action plan, the Administrator shall give substantial weight to the recommendations of the remedy review board.

“(F) APPROVAL.—

“(i) IN GENERAL.—The Administrator shall approve a proposed remedial action plan if the plan—

“(I) contains the information described in section 130(b); and

“(II) satisfies section 121(a).

“(ii) DEFAULT.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 180 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

“(G) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

“(i) notify the community response organization; and

“(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

“(H) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

“(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

“(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

“(I) JUDICIAL REVIEW.—A recommendation under subparagraph (E)(iv) and the review by the Administrator of such a recommendation shall be subject to the limitations on judicial review under section 113(h).

“(6) IMPLEMENTATION OF REMEDIAL ACTION PLAN.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

“(7) REMEDIAL DESIGN.—

“(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

“(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

“(i) notify the community response organization; and

“(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

“(C) COMMENT.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

“(D) APPROVAL.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

“(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design, the Administrator shall—

“(i) notify the community response organization; and

“(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

“(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall—

“(i) identify with specificity any deficiencies in the submission; and

“(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

“(c) ENFORCEMENT OF REMEDIAL ACTION PLAN.—

“(1) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator, to—

“(A) comply with the terms of the remedial action plan; or

“(B) submit a notice for modifying the plan.

“(2) FAILURE TO COMPLY.—

“(A) CLASS ONE ADMINISTRATIVE PENALTY.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

“(B) ADDITIONAL ENFORCEMENT MEASURES.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

“(d) MODIFICATIONS TO REMEDIAL ACTION.—

“(1) DEFINITION.—In this subsection, the term ‘major modification’ means a modification that—

“(A) fundamentally alters the interpretation of site conditions at the facility;

“(B) fundamentally alters the interpretation of sources of risk at the facility;

“(C) fundamentally alters the scope of protection to be achieved by the selected remedial action;

“(D) fundamentally alters the performance of the selected remedial action; or

“(E) delays the completion of the remedy by more than 180 days.

“(2) MAJOR MODIFICATIONS.—

“(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

“(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

“(ii) that the revised remedy will continue to satisfy section 121(a).

“(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days' opportunity to comment on any such proposed modification.

“(C) PROMPT ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable and relevant requirements that the Administrator may specify.

“(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.”.

SEC. 1925. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 1924) is amended by adding at the end the following:

“SEC. 133. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

“(a) IN GENERAL.—

“(1) PROPOSED NOTICE OF COMPLETION AND PROPOSED DELISTING.—Not later than 180 days after the completion by the Administrator of physical construction necessary to implement a response action at a facility, or not later than 180 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

“(2) PHYSICAL CONSTRUCTION.—For the purposes of paragraph (1), physical construction necessary to implement a response action at a facility shall be considered to be complete when—

“(A) construction of all systems, structures, devices, and other components necessary to implement a response action for the entire facility has been completed in accordance with the remedial design plan; or

“(B) no construction, or no further construction, is expected to be undertaken.

“(3) COMMENTS.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

“(4) FINAL NOTICE.—Not later than 60 days after the end of the comment period, the Administrator shall—

“(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

“(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

“(5) FAILURE TO ACT.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (4)—

“(A) the remedial action plan shall be deemed to have been completed; and

“(B) the facility shall be delisted by operation of law.

“(6) EFFECT OF DELISTING.—The delisting of a facility shall have no effect on—

“(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act;

“(B) any liability of a potentially responsible party or the obligation of any person to provide continued operation and maintenance;

“(C) the authority of the Administrator to make expenditures from the Fund relating to the facility; or

“(D) the enforceability of any consent order or decree relating to the facility.

“(7) FAILURE TO MAKE TIMELY DISAPPROVAL.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

“(b) CERTIFICATION.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

“(c) FUTURE USE OF A FACILITY.—

“(1) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of physical construction, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not satisfy section 121(a).

“(2) FACILITY NOT AVAILABLE FOR ANY USE.—If, after completion of physical construction, a facility is not available for any use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

“(A) review the status of the facility every 5 years; and

“(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not satisfy section 121(a).

“(3) FACILITIES AVAILABLE FOR RESTRICTED USE.—The Administrator may determine that a facility or portion of a facility is available for restricted use while a response action is under way or after physical construction has been completed. The Administrator shall make a determination that uncontaminated portions of the facility are available for unrestricted use when such use would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

“(d) OPERATION AND MAINTENANCE.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

“(e) CHANGE OF USE OF FACILITY.—

“(1) PETITION.—Any person may petition the Administrator to change the use of a facility described in paragraph (2) or (3) of subsection (c) from that which was the basis of the remedial action plan.

“(2) GRANT.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 121(a), considering the different use of the facility.

“(3) RESPONSIBILITY FOR RISK.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.”.

SEC. 1926. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 1925) is amended by adding at the end the following:

“SEC. 134. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

“(a) NO RECORD OF DECISION.—

“(1) OPTION.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 132 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

“(2) SUBMISSION OF FACILITY EVALUATION.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

“(b) REMEDY REVIEW BOARDS.—

“(1) AUTHORITY.—A remedy review board established under section 132(b)(5)(E) (referred to in this subsection as a ‘remedy review board’) shall have authority to consider a petition under paragraph (3) or (4).

“(2) GENERAL PROCEDURE.—

“(A) COMPLETION OF REVIEW.—The review of a petition submitted to a remedy review board under this subsection shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

“(B) COSTS OF REVIEW.—All reasonable costs incurred by a remedy review board, the Administrator, or a State in conducting a review or evaluating a petition for possible objection shall be borne by the petitioner.

“(C) DECISIONS.—At the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

“(D) OPPORTUNITY FOR COMMENT AND MEETINGS.—In reviewing a petition under this subsection, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board under this subsection.

“(E) REVIEW BY THE ADMINISTRATOR.—

“(i) IN GENERAL.—The Administrator shall have final review of any decision of a remedy review board under this subsection.

“(ii) STANDARD OF REVIEW.—In conducting a review of a decision of a remedy review board under this subsection, the Administrator shall accord substantial weight to the decision of the remedy review board.

“(iii) REJECTION OF DECISION.—Any determination to reject a decision of a remedy review board under this subsection must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

“(F) JUDICIAL REVIEW.—A decision of a remedy review board under subparagraph (C) and the review by the Administrator of such a decision shall be subject to the limitations on judicial review under section 113(h).

“(G) CALCULATIONS OF COST SAVINGS.—

“(i) IN GENERAL.—A determination with respect to relative cost savings and whether construction has begun shall be based on operable units or distinct elements or phases of remediation and not on the entire record of decision.

“(ii) ITEMS NOT TO BE CONSIDERED.—In determining the amount of cost savings—

“(I) there shall not be taken into account any administrative, demobilization, remobilization, or additional investigation costs of the review or modification of the remedy associated with the alternative remedy; and

“(II) only the estimated cost savings of expenditures avoided by undertaking the alternative remedy shall be considered as cost savings.

“(3) CONSTRUCTION NOT BEGUN.—

“(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section and which meet the criteria of subparagraph (B), the implementor of the record of decision may file a petition with a remedy review board not later than 90 days after the date of enactment of this section to determine whether an alternate remedy under section 132 should apply to the facility or operable unit.

“(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

“(i) the alternative remedial action proposed in the petition satisfies section 121(a);

“(ii)(I) in the case of a record of decision with an estimated implementation cost of between $5,000,000 and $10,000,000, the alternative remedial action achieves cost savings of at least 25 percent of the total costs of the record of decision; or

“(II) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $2,500,000 or more;

“(iii) in the case of a record of decision involving ground water extraction and treatment remedies for substances other than dense, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $2,000,000 or more; or

"(iv) in the case of a record of decision intended primarily for the remediation of dense, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $1,000,000 or more.

"(C) CONTENTS OF PETITION.—For the purposes of facility-specific risk assessment under section 130, a petition described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

"(D) INCORRECT DATA.—Notwithstanding subparagraphs (B) and (C), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

"(4) ADDITIONAL CONSTRUCTION.—

"(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section and which meets the criteria of subparagraph (B), but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether an alternative remedial action should apply to the facility or operable unit.

"(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

"(ii)(I) in the case of a record of decision valued at a total cost between $5,000,000 and $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision;

"(II) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $5,000,000 or more; or

"(III) in the case of a record of decision involving monitoring, operations, and maintenance obligations where construction is completed, the alternative remedial action achieves cost savings of $1,000,000 or more.

"(C) INCORRECT DATA.—Notwithstanding subparagraph (B), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information, and the alternative remedial action achieves cost savings of at least $2,000,000.

"(D) MANDATORY REVIEW.—A remedy review board shall not be required to entertain more than 1 petition under subparagraph (B)(ii)(III) or (C) with respect to a remedial action plan.

"(5) DELAY.—In determining whether an alternative remedial action will substantially delay the implementation of a remedial action of a facility, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.

"(6) OBJECTION BY THE GOVERNOR.—

"(A) NOTIFICATION.—Not later than 7 days after receipt of a petition under this subsection, a remedy review board shall notify the Governor of the State in which the facility is located and provide the Governor a copy of the petition.

"(B) OBJECTION.—The Governor may object to the petition or the modification of the remedy, if not later than 90 days after receiving a notification under subparagraph (A) the Governor demonstrates to the remedy review board that the selection of the proposed alternative remedy would cause an unreasonably long delay that would be likely to result in significant adverse human health impacts, environmental risks, disruption of planned future use, or economic hardship.

"(C) DENIAL.—On receipt of an objection and demonstration under subparagraph (C), the remedy review board shall—

"(i) deny the petition; or

"(ii) consider any other action that the Governor may recommend.

"(7) SAVINGS CLAUSE.—Notwithstanding any other provision of this subsection, in the case of a remedial action plan for which a final record of decision under section 121 has been published, if remedial action was not completed pursuant to the remedial action plan before the date of enactment of this section, the Administrator or a State exercising authority under section 129(d) may modify the remedial action plan in order to conform the plan to the requirements of this Act, as in effect on the date of enactment of this section.".

SEC. 1927. NATIONAL PRIORITIES LIST.

(a) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(1) in subsection (a)(8), by adding at the end the following:

"(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

"(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

"(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed."; and

(2) by adding at the end the following:

"(i) LISTING OF PARTICULAR PARCELS.—

"(1) DEFINITION.—The term 'parcel of real property', as used in subsection (a)(8)(C) and paragraph (2), means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

"(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) limits the authority of the Administrator under section 104 to obtain access to, and undertake response actions at, any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in ground water.".

(b) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later that 180 days of the date of enactment of this Act.

Subtitle D—Liability

SEC. 1931. CONTRIBUTION FROM THE FUND.

Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9612) is amended by adding at the end the following:

"(g) CONTRIBUTION FROM THE FUND.—

"(1) COMPLETION OF OBLIGATIONS.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement decree with the United States or a State as of the date of enactment of this subsection shall complete the obligations of the person under the order or settlement decree.

"(2) CONTRIBUTION.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs (excluding attorneys' fees) incurred for the performance of the response action after the date of enactment of this subsection if the person is not liable for such costs by reason of a liability exemption or limitation under this section.

"(3) APPLICATION FOR CONTRIBUTION.—

"(A) IN GENERAL.—Contribution under this section shall be made upon receipt by the Administrator of an application requesting contribution.

"(B) PERIODIC APPLICATIONS.—Beginning with the 7th month after the date of enactment of this subsection, 1 application for each facility shall be submitted every 6 months for all persons with contribution rights (as determined under subparagraph (2)).

"(4) REGULATIONS.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

"(5) DOCUMENTATION.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

"(6) EXPEDITION.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

"(7) CONSISTENCY WITH NATIONAL CONTINGENCY PLAN.—No contribution shall be made under this subsection unless the Administrator determines that such costs are consistent with the National Contingency Plan.".

SEC. 1932. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 1926) is amended by adding at the end the following:

"SEC. 135. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATED SHARE.—The term 'allocated share' means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under subsection (f)(4).

"(2) ALLOCATION PARTY.—The term 'allocation party' means a party named on a list of parties that will be subject to the allocation process under this section, as issued by an allocator.

"(3) ALLOCATOR.—The term 'allocator' means an allocator retained to conduct an allocation for a facility.

"(4) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' means—

"(A) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section and at which there are 2 or more potentially responsible persons, if at least 1 potentially responsible person is viable;

"(B) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which 1 or more potentially responsible parties (other that a department, agency, or instrumentality of the United States) are liable or potentially liable; and

"(C) a codisposal landfill listed on the National Priorities List with respect to which costs are incurred after the date of enactment of this section.

"(5) ORPHAN SHARE.—The term 'orphan share' means the total of the allocated shares determined by the allocator under subsection (h).

"(b) ALLOCATIONS OF LIABILITY.—

"(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section.

"(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

"(A) incurred response costs with respect to a response action; or

"(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

"(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

"(4) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under paragraph (2) or (3) of subsection (b) shall not require payment of an orphan share under subsection (h) or contribution under subsection (p).

"(5) EXCLUDED FACILITIES.—

"(A) IN GENERAL.—A codisposal landfill listed on the Natural Priorities List at which costs are incurred after January 1, 2002. This section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

"(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there was not in effect as of the date of enactment of this section a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to subsection (h)(2) for any response costs incurred after the date of enactment of this section.

"(6) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

"(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subparagraph (A), (B), or (C) of subsection (a)(4); and

"(B) response costs incurred at a facility that is the subject of a requested or permissive allocation under paragraph (2) or (3) of subsection (b).

"(7) OTHER MATTERS.—This section shall not limit or affect—

"(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

"(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of the allocation process, subject to subsection (h)(3);

"(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree, issued prior to the date of enactment of this section with respect to liability under this Act; or

"(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

"(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

"(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost (including a claim for insurance proceeds) under this Act or any other Federal or State law in connection with a response action—

"(A) for which an allocation is required to be performed under subsection (b)(1); or

"(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (f)(4) or, if a second or subsequent report is issued under subsection (m), the date of issuance of the second or subsequent report.

"(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (f)(4) or, if a second or subsequent report is issued under subsection (m), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

"(3) TOLLING OF PERIOD OF LIMITATION.—

"(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

"(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

"(ii) the date of initiation of the allocation process under this section.

"(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (f)(4), or of a second or subsequent report under subsection (m).

"(4) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

"(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

"(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party;

"(C) file a proof of claim or take other action in a proceeding under title 11, United States Code; or

"(D) require implementation of a response action at an allocation facility during the conduct of the allocation process.

"(d) ALLOCATION PROCESS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall establish by regulation a process for conduct of mandatory, requested, and permissive allocations.

"(2) REQUIREMENTS.—In developing the allocation process under paragraph (1), the Administrator shall—

"(A) ensure that parties that are eligible for an exemption from liability under section 107—

"(i) are identified by the Administrator (before selection of an allocator or by an allocator);

"(ii) at the earliest practicable opportunity, are notified of their status; and

"(iii) are provided with appropriate written assurances that they are not liable for response costs under this Act;

"(B) establish an expedited process for the selection, appointment, and retention by contract of an impartial allocator, acceptable to both potentially responsible parties and a representative of the Fund, to conduct the allocation process in a fair, efficient, and impartial manner;

"(C) permit any person to propose to name additional potentially responsible parties as allocation parties, the costs of any expenses incurred by the nominated party (including reasonable attorney's fees) to be borne by the party that proposes the addition of the party to the allocation process if the allocator determines that there is no adequate basis in law or fact to conclude that a party is liable based on the information presented by the nominating party or otherwise available to the allocator; and

"(D) require that the allocator adopt any settlement that allocates 100 percent of the recoverable costs of a response action at a facility to the signatories to the settlement, if the settlement contains a waiver of—

"(i) a right of recovery from any other party of any response cost that is the subject of the allocation; and

"(ii) a right to contribution under this Act,

with respect to any response action that is within the scope of allocation process.

"(3) TIME LIMIT.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

"(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

"(B) the date that is 60 days after the date of selection of a removal action.

"(4) NO JUDICIAL REVIEW.—There shall be no judicial review of any action regarding selection of an allocator under the regulation issued under this subsection.

"(5) Recovery of contract costs.—The costs of the Administrator in retaining an allocator shall be considered to be a response cost for all purposes of this Act.

"(e) Federal, State, and Local Agencies.—

"(1) In general.—Other than as set forth in this Act, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

"(2) Orphan share.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

"(f) Allocation Authority.—

"(1) Information-gathering authorities.—

"(A) In general.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

"(B) Requests.—Any person may request that an allocator request information under this paragraph.

"(C) Authority.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

"(D) Disclosure.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under subparagraph (C) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

"(E) Orders.—In a case of contumacy or failure of a person to obey a subpoena issued under subparagraph (C), an allocator may request the Attorney General to—

"(i) bring a civil action to enforce the subpoena; or

"(ii) if the person moves to quash the subpoena, to defend the motion.

"(F) Failure of attorney general to respond.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

"(2) Additional authority.—An allocator may—

"(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

"(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

"(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

"(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

"(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

"(3) Conduct of allocation process.—

"(A) In general.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (g).

"(B) Opportunity to be heard.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

"(C) Responses.—The allocator shall not be required to respond to comments.

"(D) Streamlining.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

"(4) Allocation report.—The allocator shall provide a written allocation report to the Administrator and the allocation parties that specifies the allocation share of each allocation party and any orphan shares, as determined by the allocator.

"(g) Equitable Factors for Allocation.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

"(1) the amount of hazardous substances contributed by each allocation party;

"(2) the degree of toxicity of hazardous substances contributed by each allocation party;

"(3) the mobility of hazardous substances contributed by each allocation party;

"(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

"(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

"(7) such other equitable factors as the allocator determines are appropriate.

"(h) Orphan Shares.—

"(1) In general.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

"(2) Composition of orphan share.—The orphan share shall consist of—

"(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party; and

"(B) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States otherwise if—

"(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

"(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

"(iii) the person settled with the United States before the completion of the allocation.

"(3) Unattributable shares.—A share attributable to a hazardous substance that the allocator determines was disposed at the facility that cannot be attributed to any identifiable party shall be distributed among the allocation parties and the orphan share in accordance with the allocated share assigned to each.

"(i) Information Requests.—

"(1) Duty to answer.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

"(2) Certification.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

"(A) the answer is correct to the best of the representative's knowledge;

"(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

"(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

"(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

"(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

"(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

"(j) Penalties.—

"(1) Civil.—

"(A) In general.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (i)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

"(B) Assessment of penalty.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(2) Criminal.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (i) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

"(k) Document Repository; Confidentiality.—

"(1) Document repository.—

"(A) In general.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

"(B) Availability.—Subject to paragraph (2), the documents and information in the document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

"(2) Confidentiality.—

"(A) In general.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

“(B) MAINTENANCE.—The allocator, each allocation party, the Administrator, and the Attorney General—

“(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

“(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

“(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

“(D) DISCOVERY AND ADMISSIBILITY.—

“(i) IN GENERAL.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

“(I) a new allocation under subsection (m) or (r) for the same response action; or

“(II) an initial allocation under this section for a different response action at the same facility.

“(ii) OTHERWISE DISCOVERABLE OR ADMISSIBLE.—

“(I) DOCUMENT OR MATERIAL.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

“(II) FACTS.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

“(3) NO WAIVER OF PRIVILEGE.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

“(4) PROCEDURE IF DISCLOSURE SOUGHT.—

“(A) NOTICE.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

“(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

“(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

“(B) RELEASE.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

“(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

“(ii) as may be required by court order.

“(5) CIVIL PENALTY.—

“(A) IN GENERAL.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

“(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

“(C) DEFENSES.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

“(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

“(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

“(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

“(l) REJECTION OF ALLOCATION REPORT.—

“(1) REJECTION.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

“(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

“(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

“(2) FINALITY.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding an expedited settlement under section 122) based on the allocation.

“(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

“(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

“(m) SECOND AND SUBSEQUENT ALLOCATIONS.—

“(1) IN GENERAL.—If a report is rejected under subsection (l), the allocation parties shall select an allocator to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

“(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

“(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine that an allocator whose previous report at the same facility has been rejected under subsection (l) is unqualified to serve.

“(n) SETTLEMENTS BASED ON ALLOCATIONS.—

“(1) DEFINITION.—In this subsection, the term ‘all settlements’ includes any orphan share allocated under subsection (h).

“(2) SETTLEMENTS.—Unless an allocation report is rejected under subsection (l), any allocation party at a mandatory allocation facility (including an allocation party whose allocated share is funded partially or fully by orphan share funding under subsection (h)) shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

“(A) offers to settle with the United States based on the allocated share specified by the allocator; and

“(B) agrees to the other terms and conditions stated in this subsection.

“(3) PROVISIONS OF SETTLEMENTS.—

“(A) IN GENERAL.—A settlement based on an allocation under this section—

“(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

“(ii) shall include—

“(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

“(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

“(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

“(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

“(V) provisions through which a settling party shall receive prompt contribution from the Fund under subsection (o) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

“(B) RIGHT TO CONTRIBUTION.—A right to contribution under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

“(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

“(A) information comparing allocation results with actual settlements at multiparty facilities;

“(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

“(C) a description of any impediments to achieving complete recovery; and

“(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

“(5) PREMIUM.—In each settlement under this subsection, the premium authorized—

“(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement;

"(B) shall not exceed—

"(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

"(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

"(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

"(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response; and

"(C) shall be reduced proportionally by the percentage of the allocated share for that party paid through orphan funding under subsection (h).

"(o) FUNDING OF ORPHAN SHARES.—

"(1) CONTRIBUTION.—For each settlement agreement entered into under subsection (n), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

"(2) ENTITLEMENT.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

"(3) AMOUNTS OWED.—

"(A) DELAY IF FUNDS ARE UNAVAILABLE.—If funds are unavailable in any fiscal year to reimburse all allocation parties pursuant to paragraph (1), the Administrator may delay payment until funds are available.

"(B) PRIORITY.—The priority for reimbursement shall be based on the length of time that has passed since the settlement between the United States and the allocation parties pursuant to subsection (n).

"(C) PAYMENT FROM FUNDS MADE AVAILABLE IN SUBSEQUENT FISCAL YEARS.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

"(4) DOCUMENTATION AND AUDITING.—The Administrator—

"(A) shall require that any claim for contribution be supported by documentation of actual costs incurred; and

"(B) may require an independent auditing of any claim for contribution.

"(p) POST-ALLOCATION CONTRIBUTION.—

"(1) IN GENERAL.—An allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt payment of contribution for the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (l).

"(2) NOT CONTINGENT.—The right to contribution under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

"(3) TERMS AND CONDITIONS.—

"(A) RISK PREMIUM.—A contribution payment shall be reduced by the amount of the litigation risk premium under subsection (n)(5) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

"(B) TIMING.—

"(i) IN GENERAL.—A contribution payment shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

"(ii) CONSTRUCTION.—Contribution for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

"(C) EQUITABLE OFFSET.—A contribution payment is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

"(D) INDEPENDENT AUDITING.—The Administrator may require independent auditing of any claim for contribution.

"(E) WAIVER.—An allocation party seeking contribution waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

"(F) BAR.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

"(q) POST-SETTLEMENT LITIGATION.—

"(1) IN GENERAL.—Subject to subsections (m) and (n), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

"(2) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (h), but shall not include any share allocated to a Federal, State, or local governmental agency, department, or instrumentality.

"(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

"(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

"(5) RESPONSE COSTS.—

"(A) ALLOCATION PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

"(B) FUNDING OF ORPHAN SHARES.—The cost attributable to funding an orphan share under this section—

"(i) shall be considered as a necessary cost of response cost; and

"(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (n).

"(r) NEW INFORMATION.—

"(1) IN GENERAL.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

"(A) the allocator did not have information concerning—

"(i) 35 percent or more of the materials containing hazardous substances at the facility; or

"(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

"(B) the information was discovered subsequent to the issuance of the report by the allocator.

"(2) NEW ALLOCATION.—Any new allocation of responsibility—

"(A) shall proceed in accordance with this section;

"(B) shall be effective only after the date of the new allocation report; and

"(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

"(s) DISCRETION OF ALLOCATOR.—A contract by which the Administrator retain an allocator shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner, and the Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

"(t) ILLEGAL ACTIVITIES.—Subsections (s), (t), and (u) of section 107 and section 112(g) shall not apply to any person whose liability for response costs under section 107(a)(1) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility.".

SEC. 1933. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) LIABILITY OF CONTRACTORS.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

"(H) LIABILITY OF CONTRACTORS.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

"(ii) LIABILITY LIMITATIONS.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

"(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

"(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

"(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

"(IV) transport a hazardous substance, pollutant, or contaminant.

"(iii) EXCEPTION.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment ancillary to a response action.".

(b) NATIONAL UNIFORM NEGLIGENCE STANDARD.—Section 119(a) of the Comprehensive

Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking "title or under any other Federal law" and inserting "title or under any other Federal or State law"; and

(2) in paragraph (2)—

(A) by striking "(2) NEGLIGENCE, ETC.—Paragraph (1)" and inserting the following:

"(2) NEGLIGENCE AND INTENTIONAL MISCONDUCT; APPLICATION OF STATE LAW.—

"(A) NEGLIGENCE AND INTENTIONAL MISCONDUCT.—

"(i) IN GENERAL.—Paragraph (1)"; and

(B) by adding at the end the following:

"(ii) STANDARD.—Conduct under clause (i) shall be evaluated based on the generally accepted standards and practices in effect at the time and place at which the conduct occurred.

"(iii) PLAN.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under clause (i).

"(B) APPLICATION OF STATE LAW.—Paragraph (1) shall not apply in determining the liability of a response action contractor under the law of a State if the State has adopted by statute a law determining the liability of a response action contractor.".

(c) EXTENSION OF INDEMNIFICATION AUTHORITY.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: "The agreement may apply to a claim for negligence arising under Federal or State law.".

(d) INDEMNIFICATION DETERMINATIONS.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

"(4) DECISION TO INDEMNIFY.—

"(A) IN GENERAL.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) STANDARD.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

"(C) DILIGENT EFFORTS.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) CONTINUED DILIGENT EFFORTS.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) LIMITATIONS ON INDEMNIFICATION.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.".

(e) INDEMNIFICATION FOR THREATENED RELEASES.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting "or threatened release" after "release" each place it appears.

(f) EXTENSION OF COVERAGE TO ALL RESPONSE ACTIONS.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D), by striking "carrying out an agreement under section 106 or 122"; and

(2) in the matter following subparagraph (D)—

(A) by striking "any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act," and inserting "any response action,"; and

(B) by inserting before the period at the end the following: "or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release".

(g) DEFINITION OF RESPONSE ACTION CONTRACTOR.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended—

(1) by striking "and" at the end; and

(2) by striking "and is carrying out such contract" and inserting "covered by this section and any person (including any subcontractor) hired by a response action contractor".

(h) NATIONAL UNIFORM STATUTE OF REPOSE.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

"(h) LIMITATION ON ACTIONS AGAINST RESPONSE ACTION CONTRACTORS.—

"(1) IN GENERAL.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

"(A) injury to property, real or personal;

"(B) personal injury or wrongful death;

"(C) other expenses or costs arising out of the performance of services under the contract; or

"(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

"(2) EXCEPTION.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

"(3) INDEMNIFICATION.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

"(i) STATE STANDARDS OF REPOSE.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.".

SEC. 1934. RELEASE OF EVIDENCE.

(a) TIMELY ACCESS TO INFORMATION FURNISHED UNDER SECTION 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after "shall be available to the public" the following: "not later than 14 days after the records, reports, or information is obtained".

(b) REQUIREMENT TO PROVIDE POTENTIALLY RESPONSIBLE PARTIES EVIDENCE OF LIABILITY.—

(1) ABATEMENT ACTIONS.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking "(a) In addition" and inserting the following: "(a) ORDER.—"

"(1) IN GENERAL.—In addition"; and

(B) by adding at the end the following:

"(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in subparagraphs (A) through (D) of section 107(a)(1), as applicable, is present.".

(2) SETTLEMENTS.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

"(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in subparagraphs (A) through (D) of section 107(a)(1), as applicable, is present.".

SEC. 1935. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting "or cost recovery" after "contribution".

SEC. 1936. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) DEFINITION.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) (as amended by section 1933(a)) is amended by adding at the end the following:

"(I) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.".

(b) LIMITATION ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(s) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—

"(1) LIMITATION ON LIABILITY.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

"(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

"(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

"(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

"(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

"(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

"(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).".

SEC. 1937. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking "a published tariff and acceptance" and inserting "a contract".

SEC. 1938. LIMITATION ON LIABILITY OF RAILROAD OWNERS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 1936(b)) is amended by adding at the end the following:

"(t) LIMITATION ON LIABILITY OF RAILROAD OWNERS.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

"(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

"(2) the spur track is 10 miles long or less; and

"(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.".

Subtitle E—Federal Facilities

SEC. 1951. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

"(g) TRANSFER OF AUTHORITIES.—

"(1) DEFINITIONS.—In this section:

"(A) INTERAGENCY AGREEMENT.—The term 'interagency agreement' means an interagency agreement under this section.

"(B) TRANSFER AGREEMENT.—The term 'transfer agreement' means a transfer agreement under paragraph (3).

"(C) TRANSFEREE STATE.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

"(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

"(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

"(B) listed on the National Priorities List.

"(3) TRANSFER OF AUTHORITIES.—

"(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

"(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

"(ii) the State has demonstrated experience in exercising similar authorities;

"(iii) the State has agreed to be bound by all Federal requirements and standards under section 132 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

"(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

"(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

"(i) shall incorporate the determinations of the Administrator under subparagraph (A);

"(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

"(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

"(4) EFFECT OF TRANSFER.—

"(A) STATE AUTHORITIES.—A transferee State—

"(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

"(ii) shall have exclusive authority to exercise authorities that have been transferred.

"(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

"(5) SELECTED REMEDIAL ACTION.—The remedial action selected for a facility under section 132 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

"(A) any corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

"(B) any remedial action in excess of remedial action under section 132 that the State selects in accordance with paragraph (10).

"(6) DEADLINE.—

"(A) IN GENERAL.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

"(7) RESUBMISSION OF APPLICATION.—

"(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

"(8) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

"(9) WITHDRAWAL OF AUTHORITIES.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

"(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

"(B) has violated the transfer agreement, in whole or in part; or

"(C) no longer meets one of the requirements of paragraph (3).

"(10) STATE COST RESPONSIBILITY.—The State may require a remedial action that exceeds the remedial action selection requirements of section 121 if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 132.

"(11) DISPUTE RESOLUTION AND ENFORCEMENT.—

"(A) DISPUTE RESOLUTION.—

"(i) FACILITIES COVERED BY BOTH A TRANSFER AGREEMENT AND AN INTERAGENCY AGREEMENTS.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(ii) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provided in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(iii) FAILURE TO RESOLVE.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action. To compel implementation of the selected remedy of the State, the State must bring a civil action in United States district court.

"(B) ENFORCEMENT.—

"(i) AUTHORITY; JURISDICTION.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement only in the United States district court for the district in which the facility is located.

"(ii) REMEDIES.—The district court shall—

"(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

"(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

"(III) compel implementation of the selected remedial action; and

"(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State under this section, in accordance with section 113(j).

"(12) COMMUNITY PARTICIPATION.—If, prior to the date of enactment of this section, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'restoration advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

"(A) shall be considered to be a community response organization for the purposes of—

"(i) paragraphs (2), (3), (4), and (9) of section 117(e);

"(ii) this subsection;

"(iii) section 130; and

"(iv) section 132; but

"(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of—

"(i) paragraph (1), (5), (6), (7), or (8) of section 117(e); or

"(ii) subsection (f).".

SEC. 1952. LIMITATION ON CRIMINAL LIABILITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

"(k) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

"(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

"(2) appropriated funds were available to pay for the response action.".

SEC. 1953. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

"(h) FEDERAL FACILITIES.—

"(1) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

"(2) USE OF FACILITIES.—

"(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

"(B) COORDINATION.—The Administrator—

"(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

"(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

"(3) CONSIDERATIONS.—

"(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

"(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.".

(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking "At the time" and inserting the following:

"(1) IN GENERAL.—At the time"; and

(2) by adding at the end the following:

"(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).".

Subtitle F—Natural Resource Damages

SEC. 1961. RESTORATION OF NATURAL RESOURCES.

Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting "NATURAL RESOURCE DAMAGES.—" after "(f)";

(2) by striking "(1) NATURAL RESOURCES LIABILITY.—In the case" and inserting the following:

"(1) LIABILITY.—

"(A) IN GENERAL.—In the case"; and

(3) in paragraph (1)(A) (as designated by paragraph (2))—

(A) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration, replacement, or acquisition of the equivalent of such natural resources by the Indian tribe. A restoration, replacement, or acquisition conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically feasible from an engineering perspective at a reasonable cost and consistent with all known or anticipated response actions at or near the facility."; and

(B) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

"(i) MEASURE OF DAMAGES.—The measure of damages in any action for damages for injury to, destruction of, or loss of natural resources shall be limited to—

"(I) the reasonable costs of restoration, replacement, or acquisition of the equivalent of natural resources that suffer injury, destruction, or loss caused by a release; and

"(II) the reasonable costs of assessing damages.

"(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of nonuse values.

"(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for the costs of restoring an injury to or destruction or loss of a natural resource (including injury assessment costs) shall not be entitled to recovery under this Act or any other Federal or State law for the same injury to or destruction or loss of the natural resource.

"(iv) RESTRICTIONS ON RECOVERY.—

"(I) LIMITATION ON LOST USE DAMAGES.—There shall be no recovery from any person under this section for the costs of a loss of use of a natural resource for a natural resource injury, destruction, or loss that occurred before December 11, 1980.

"(II) RESTORATION, REPLACEMENT, OR ACQUISITION.—There shall be no recovery from any person under this section for the costs of restoration, replacement, or acquisition of the equivalent of a natural resource if the natural resource injury, destruction, or loss for which the restoration, replacement, or acquisition is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.".

SEC. 1962. ASSESSMENT OF INJURY TO AND RESTORATION OF NATURAL RESOURCES.

(a) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENTS.—

"(i) REGULATION.—A natural resource injury and restoration assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

"(I) the regulation issued under section 301(c); and

"(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

"(ii) Facility-specific conditions.—Injury assessment, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on facility-specific information.

"(iii) Recoverable costs.—A claim by a trustee for assessment costs—

"(I) may include only—

"(aa) costs that arise from work performed for the purpose of assessing injury to a natural resource to support a claim for restoration of the natural resource; and

"(bb) costs that arise from developing and evaluating a reasonable range of alternative restoration measures; but

"(II) may not include the costs of conducting any type of study relying on the use of contingent valuation methodology.

"(iv) Payment period.—In a case in which injury to or destruction or loss of a natural resource was caused by a release that occurred over a period of years, payment of damages shall be permitted to be made over a period of years that is appropriate in view of the period of time over which the damages occurred, the amount of the damages, the financial ability of the responsible party to pay the damages, and the time period over which and the pace at which expenditures are expected to be made for restoration, replacement, and acquisition activities.

"(v) Trustee restoration plans.—

"(I) Administrative record.—Participating natural resource trustees may designate a lead administrative trustee or trustees. The lead administrative trustee may establish an administrative record on which the trustees will base the selection of a plan for restoration of a natural resource. The restoration plan shall include a determination of the nature and extent of the natural resource injury. The administrative record shall be made available to the public at or near the facility at which the release occurred.

"(II) Public participation.—The Administrator shall issue a regulation for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the trustees will base selection of a restoration plan and on which judicial review of restoration plans will be based. The procedures for participation shall include, at a minimum, each of the requirements stated in section 113(k)(2)(B).".

(b) Regulations.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

"(c) Regulations for Injury and Restoration Assessments.—

"(1) In general.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of injury to natural resources and the costs of restoration of natural resources (including the costs of assessment) for the purposes of this Act and for determination of the time periods in which payment of damages will be required.

"(2) Contents.—The regulation under paragraph (1) shall—

"(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of natural resources;

"(B) identify the best available procedures to determine the reasonable costs of restoration and assessment;

"(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources;

"(D) provide for the designation of a single lead Federal decisionmaking trustee for each facility at which an injury to natural resources has occurred within 180 days after the date of first notice to the responsible parties that an assessment of injury and restoration alternatives will be made; and

"(E) set forth procedures under which—

"(i) all pending and potential trustees identify the injured natural resources within their respective trust responsibilities, and the authority under which such responsibilities are established, as soon as practicable after the date on which a release occurs;

"(ii) assessment of injury and restoration alternatives will be coordinated to the greatest extent practicable between the lead Federal decisionmaking trustee and any present or potential State or tribal trustees, as applicable; and

"(iii) time periods for payment of damages in accordance with section 107(f)(2)(C)(iv) shall be determined.

"(3) Deadline for issuance of regulation; periodic review.—The regulation under paragraph (1) shall be issued not later than 1 year after the date of enactment of the Energy Policy Act of 2002 and shall be reviewed and revised as appropriate every 5 years.".

SEC. 1963. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS.

(a) Restoration Standards and Alternatives.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by adding at the end the following:

"(3) Compatibility with remedial action.—Both response actions and restoration measures may be implemented at the same facility, or to address releases from the same facility. Such response actions and restoration measures shall not be inconsistent with one another and shall be implemented, to the extent practicable, in a coordinated and integrated manner.".

(b) Consideration of Natural Resources in Response Actions.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) (as amended by section 1922) is amended by adding at the end the following:

"(6) Coordination.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to a natural resource resulting from those actions.".

SEC. 1964. CONTRIBUTION.

Subparagraph (A) of section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting "and natural resource damages" after "costs".

Subtitle G—Miscellaneous

SEC. 1971. RESULT-ORIENTED CLEANUPS.

(a) Amendment.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by inserting after paragraph (10) the following:

"(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

"(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

"(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

"(C) be subject to the requirements of sections 117, 120, 121, and 132 in the same manner and to the same degree as those sections apply to response actions; and

"(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).".

(b) Amendment of National Hazardous Substance Response Plan.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 1972. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) (as amended by section 1927(a)(2)) is amended by adding at the end the following:

"(j) National Priorities List.—

"(1) Limitation.—

"(A) In general.—After the date of the enactment of this subsection, the President may add vessels and facilities to the National Priorities List only in accordance with the following schedule:

"(i) Not more than 30 vessels and facilities in 2002.

"(ii) Not more than 25 vessels and facilities in 2003.

"(iii) Not more than 20 vessels and facilities in 2004.

"(iv) Not more than 15 vessels and facilities in 2005.

"(v) Not more than 10 vessels and facilities in any year after 2005.

"(B) Relisting.—The relisting of a vessel or facility under section 129(d)(5)(C)(ii) shall not be considered to be an addition to the National Priorities List for purposes of this subsection.

"(2) Prioritization.—The Administrator shall prioritize the vessels and facilities added under paragraph (1) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

"(3) State concurrence.—A vessel or facility may be added to the National Priorities List under paragraph (1) only with the concurrence of the Governor of the State in which the vessel or facility is located.".

SEC. 1973. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C), by striking “consistent with the remedial action to be taken” and inserting “and not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility,”;

(2) by striking “$2,000,000” and inserting “$4,000,000”; and

(3) by striking “12 months” and inserting “2 years”.

Subtitle H—Funding

SEC. 1981. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking “not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994” and inserting “a total of $8,500,000,000 for the period of fiscal years 2003 through 2007”.

SEC. 1982. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), (as amended by section 1901(c)), is amended by inserting after paragraph (7) the following:

“(8) Orphan share funding.—Payment of orphan shares under section 135.”.

SEC. 1983. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

“(m) Health Authorities.—

“(1) In general.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 2003 through 2007.

“(2) Unobligated funds.—Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.”.

SEC. 1984. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

“(n) Limitations on Research, Development, and Demonstration Programs.—

“(1) Alternative or innovative technologies research, development, and demonstration programs.—

“(A) Limitation.—For each of fiscal years 2003 through 2007, not more than $30,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

“(B) Continuing availability.—Amounts described in subparagraph (A) shall remain available until expended.

“(2) Hazardous substance research, demonstration, and training.—

“(A) Limitation.—From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a):

“(i) For fiscal year 2003, $37,000,000.

“(ii) For fiscal year 2004, $39,000,000.

“(iii) For fiscal year 2005, $41,000,000.

“(iv) For each of fiscal years 2006 and 2007, $43,000,000.

“(B) Further limitation.—No more than 15 percent of those amounts shall be used for training under section 311(a) for any fiscal year.

“(3) University hazardous substance research centers.—For each of fiscal years 2003 through 2007, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).”.

SEC. 1985. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

“(1) Authorization of appropriations.—

“(A) In general.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

“(i) for fiscal year 2003, $250,000,000;

“(ii) for fiscal year 2004, $250,000,000;

“(iii) for fiscal year 2005, $250,000,000;

“(iv) for fiscal year 2006, $250,000,000; and

“(v) for fiscal year 2007, $250,000,000.

“(B) Additional amounts.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.”.

SEC. 1986. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

“(q) Community Response Organization.—For the period commencing January 1, 2003, and ending September 30, 2007, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

“(r) Recoveries.—Effective beginning January 1, 2003, any response cost recoveries collected by the United States under this Act shall be credited as offsetting collections to the Superfund appropriations account.”.

SEC. 1987. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) (as amended by section 1982) is amended by inserting after paragraph (8) the following:

“(9) Reimbursement of potentially responsible parties.—If—

“(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

“(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

“(i) are unallowable due to contractor fraud;

“(ii) are unallowable under the Federal Acquisition Regulation; or

“(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

a potentially responsible party may be reimbursed for those costs.”.

SA 3310. Mrs. BOXER (for herself and Mrs. Feinstein) submitted an amendment intended to be proposed by her to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, strike line 15 on page 204 and all that follows through line 8 on page 205.

SA 3311. Mrs. BOXER (for herself and Mrs. Feinstein) submitted an amendment intended to be proposed by her to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

“(1) In general.—Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.

“(2) Effective date.—This subsection shall be effective one day after the enactment of this Act.”.

SA 3312. Mrs. BOXER (for herself and Mrs. Feinstein) submitted an amendment intended to be proposed by her to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be stricken, insert the following:

“(e) Renewable Fuels Safe Harbor.—Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.”.

SA 3313. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3281 submitted by Mr. Schumer and intended to be proposed to the amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . AUTHORITY TO CARRY FIREARMS AND MAKE ARRESTS.

Section 161 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(k)) is amended to read as follows:

"k. (1) authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties;

"(2) authorize—

"(A) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security; and

"(B) such of those employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors or licensees or certificate holders) engaged in the protection of (i) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission, or (ii) property of significance to the common defense and security located at facilities or operated by a Commission licensee or certificate holder or being transported to or from such facilities—

to carry firearms while in the discharge of their official duties.

"(3) authorize employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors of licensees or certificate holders) who are trained and qualified as guards and whose duty is the protection of facilities designated under paragraph (2)(B)(i) or property described in paragraph (2)(B)(ii) to carry and use, where necessary to the discharge of their official duties, such weapons, devices, or ammunition as the Commission may require. Such employees shall have the power to carry and use such weapons while in the discharge of their official duties, regardless of whether such employees have been designated as Federal, State, or local law enforcement officers. Such employees shall have such law enforcement powers as are provided to them under this section and section 161 i. of this Act. The Nuclear Regulatory Commission shall issue guidelines, with the approval of the Attorney General, to implement this paragraph. The authority conferred by this paragraph with respect to employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors of licensees or certificate holders) who are trained and qualified as guards and whose duty is the protection of facilities designated under paragraph (2)(B)(i) or property described under paragraph (2)(B)(ii) shall not be implemented until such guidelines have become effective.

"(4) A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without a warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of—

"(A) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or a licensee or certificate holder of the Commission;

"(B) laws applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission pursuant to this subsection, and property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission; or

"(C) any provision of this chapter that may subject an offender to a fine, imprisonment, or both.

"(5) The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary and the Nuclear Regulatory Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection;".

SEC. . UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended by inserting before the period at the end of the first sentence the following: "or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act".

SEC. . SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended to read as follows:

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who attempts or conspires to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage, treatment, or disposal facility licensed under this Act;

"(3) any nuclear fuel for a utilization facility licensed under this act, or any spent nuclear fuel from such a facility;

"(4) any uranium enrichment or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission; or

"(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fabrication facility subject to licensing or certification under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility—

shall be fined not more than $10,000 or imprisoned for not more than 20 years or both, or shall be imprisoned for any term of years or for life if death results to any person.".

SA 3314. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3203 submitted by Mr. JEFFORDS for himself and Mr. SMITH of New Hampshire) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 510. AUTHORITY TO CARRY FIREARMS AND MAKE ARRESTS.

Section 161 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(k)) is amended to read as follows:

"k. (1) authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties;

"(2) authorize—

"(A) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security; and

"(B) such of those employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors or licensees or certificate holders) engaged in the protection of (i) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission, or (ii) property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities—

to carry firearms while in the discharge of their official duties.

"(3) authorize employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors of licensees or certificate holders) who are trained and qualified as guards and whose duty is the protection of facilities designated under paragraph (2)(B)(i) or property described in paragraph (2)(B)(ii) to carry and use, where necessary to the discharge of their official duties, such weapons, devices, or ammunition as the Commission may require. Such employees shall have the power to carry and use such weapons while in the discharge of their official duties, regardless of whether such employees have been designated as Federal, State, or local law enforcement officers. Such employees shall have such law enforcement powers as are provided to them under this section and section 161 i. of this Act. The Nuclear Regulatory Commission shall issue guidelines, with the approval of the Attorney General, to implement this paragraph. The authority conferred by this paragraph with respect to employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors of licensees or certificate holders) who are trained and qualified as guards and whose duty is the protection of facilities designated under paragraph (2)(B)(i) or property described under paragraph (2)(B)(ii) shall not be implemented until such guidelines have become effective.

"(4) A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without a warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractors or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of—

“(A) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or a licensee or certificate holder of the Commission;

“(B) laws applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission pursuant to this subsection, and property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission; or

“(C) any provision of this chapter that may subject an offender to a fine, imprisonment, or both.

“(5) The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary and the Nuclear Regulatory Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection;”.

SEC. 510A. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended by inserting before the period at the end of the first sentence the following: “or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act”.

SEC. 510B. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended to read as follows:

“a. Any person who intentionally and willfully destroys or causes physical damage to, or who attempts or conspires to destroy or cause physical damage to—

“(1) any production facility or utilization facility licensed under this Act;

“(2) any nuclear waste storage, treatment, or disposal facility licensed under this Act;

“(3) any nuclear fuel for a utilization facility licensed under this act, or any spent nuclear fuel from such a facility;

“(4) any uranium enrichment or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission; or

“(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fabrication facility subject to licensing or certification under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility—

shall be fined not more than $10,000 or imprisoned for not more than 20 years or both, or shall be imprisoned for any term of years or for life if death results to any person.”.

SA 3315. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3275 submitted by Ms. CANTWELL and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS

(a) REVIEW OF ALTERNATIVE MANDATORY CONDITIONS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of: (1) options for a process whereby license applicants and third parties to a relicensing proceeding being undertaken pursuant to Part I of the Federal Power Act could propose alternative mandatory conditions and alternative mandatory fishway prescriptions to be included in the license in lieu of conditions and prescriptions initially deemed necessary or required pursuant to section 4(e) and section 18, respectively, of the Federal Power Act; (2) the standards which should be applicable in evaluating and accepting such conditions and prescriptions; (3) the nature of participation of parties other than the license applicants in such a process; (4) the advantages and disadvantages of providing for such a process, including the impact of such a process on the length of time needed to complete the relicensing proceedings and the potential economic and operational improvement benefits of providing for such a process; and (5) the level of interest among parties to relicensing proceedings in proposing such alternative conditions and prescriptions and participating in such a process.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section. The report shall contain any legislative or administrative recommendations relating to implementation of the process described in subsection (a).

SEC. 302. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of the process for issuance of a license under section Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

SA 3316. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3140 submitted by Mr. NELSON of Nebraska and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS.

(a) REVIEW OF ALTERNATIVE MANDATORY CONDITIONS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of: (1) options for a process whereby license applicants and third parties to a relicensing proceeding being undertaken pursuant to Part I of the Federal Power Act could propose alternative mandatory conditions and alternative mandatory fishway prescriptions to be included in the license in lieu of conditions and prescriptions initially deemed necessary or required pursuant to section 4(c) and section 18, respectively, of the Federal Power Act; (2) the standards which should be applicable in evaluating and accepting such conditions and prescriptions; (3) the nature of participation of parties other than the license applicants in such a process; (4) the advantages and disadvantages of providing for such a process, including the impact of such a process on the length of time needed to complete the relicensing proceedings and the potential economic and operational improvement benefits of providing for such a process; and (5) the level of interest among parties to relicensing proceedings in proposing such alternative conditions and prescriptions and participating in such a process.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and

Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section. The report shall contain any legislative or administrative recommendations relating to implementation of the process described in subsection (a).

SEC. 302. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of the process for issuance of a license under section Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Commission on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

SA 3317. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —ENVIRONMENTAL CLEANUP FINANCING AND REINSURANCE AND CORPORATE INVERSION LIMITATIONS

Subtitle A—Environmental Cleanup Financing

SEC. 01. EXTENSION OF SUPERFUND, OIL SPILL LIABILITY, AND LEAKING UNDERGROUND STORAGE TANK TAXES.

(a) EXCISE TAXES.—

(1) SUPERFUND TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.".

(2) OIL SPILL LIABILITY TAX.—Section 4611(f) is amended to read as follows:

"(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.".

(3) LEAKING UNDERGROUND STORAGE TANK RATE.—Section 4081(d)(3) is amended by striking "April 1, 2005" and inserting "October 1, 2007.".

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A is amended—

(1) by striking "0.12 percent" in subsection (a) and inserting "0.06 percent", and

(2) by striking subsection (e) and inserting the following:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after the date of the enactment of the Energy Policy Act of 2002 and before January 1, 2007.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 4611(b) is amended—

(A) by striking "or exported from" in paragraph (1)(A),

(B) by striking "or exportation" in paragraph (1)(B), and

(C) by striking "AND EXPORTATION" in the heading.

(2) Section 4611(d)(3) is amended—

(A) by striking "or exporting the crude oil, as the case may be" in the text and inserting "the crude oil", and

(B) by striking "OR EXPORTS" in the heading.

(d) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle B—Reinsurance Inversion Limitations

SEC. 11. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.

(a) IN GENERAL.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

"(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))."

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

"(A) IN GENERAL.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

"(B) EXCEPTIONS.—This paragraph shall not apply to any premium to the extent that—

"(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

"(I) such reinsurer, or

"(II) 1 or more domestic corporations or citizens or residents of the United States, or

"(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

"(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

"(i) elects to so treat such income, and

"(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) UNITED STATES RISK.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

"(ii) RELATED INSURER.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment."

(c) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

"(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversion Limitations

SEC. 21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

“(iii) Lower Stock Ownership Requirement in Certain Cases.—Subclause (II) of clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

“(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

“(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

“(iv) Partnership Transactions.—The term ‘corporate expatriation transaction’ includes any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

“(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

“(v) Special Rules.—For purposes of this subparagraph—

“(I) a series of related transactions shall be treated as 1 transaction, and

“(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

“(vi) Other Definitions.—For purposes of this subparagraph—

“(I) Nominally Foreign Corporation.—The term ‘nominally foreign corporation’ means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

“(II) Expanded Affiliated Group.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).”

(b) Effective Dates.—

(1) In General.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) Special Rule.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 3318. Mr. Torricelli (for himself and Mr. Graham) submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. Baucus (for himself, Mr. Grassley, Mr. Rockefeller, Mr. Hatch, Mr. Thomas, Mr. Hagel, and Mrs. Carnahan) to the amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —ENVIRONMENTAL CLEANUP FINANCING AND REINSURANCE AND CORPORATE INVERSION LIMITATIONS

Subtitle A—Environmental Cleanup Financing

SEC. 01. EXTENSION OF SUPERFUND, OIL SPILL LIABILITY, AND LEAKING UNDERGROUND STORAGE TANK EXCISE TAXES.

(a) Superfund Taxes.—Section 4611(e) is amended to read as follows:

“(e) Application of Hazardous Substance Superfund Financing Rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.”.

(b) Oil Spill Liability Tax.—Section 4611(f) is amended to read as follows:

“(f) Application of Oil Spill Liability Trust Fund Financing Rate.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.”.

(c) Leaking Underground Storage Tank Rate.—Section 4081(d)(3) is amended by striking “April 1, 2005” and inserting “October 1, 2007.”.

(d) Technical Amendments.—

(1) Section 4611(b) is amended—

(A) by striking “or exported from” in paragraph (1)(A),

(B) by striking “or exportation” in paragraph (1)(B), and

(C) by striking “and Exportation” in the heading.

(2) Section 4611(d)(3) is amended—

(A) by striking “or exporting the crude oil, as the case may be” in the text and inserting “the crude oil”, and

(B) by striking “or exports” in the heading.

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Reinsurance Inversion Limitations

SEC. 11. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.

(a) In General.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

“(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9)).”

(b) Treatment of Reinsurance With Related Reinsurers.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

“(9) Denial of Deduction Under Paragraph (4) for Reinsurance of U.S. Risks With Certain Related Persons.—

“(A) In General.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

“(B) Exceptions.—This paragraph shall not apply to any premium to the extent that—

“(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

“(I) such reinsurer, or

“(II) 1 or more domestic corporations or citizens or residents of the United States, or

“(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

“(C) Election by Reinsurer to Be Taxed on Income.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

“(i) elects to so treat such income, and

“(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

“(D) Definitions.—For purposes of this paragraph—

“(i) United States Risk.—The term ‘United States risk’ means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

“(ii) Related Insurer.—The term ‘related insurer’ means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment.”

(c) Technical Amendment.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

“(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9).”.

(d) Effective Date.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversion Limitations

SEC. 21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) In General.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

“(4) Domestic.—

“(A) In General.—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) Certain Corporations Treated as Domestic.—

“(i) In General.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

“(ii) Corporate Expatriation Transaction.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b))."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 3319. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself, and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —CURB TAX ABUSES

Subtitle A—Tax Shelters

SEC. 01. SHORT TITLE.

This subtitle may be cited as the "Abusive Tax Shelter Shutdown Act of 2002".

SEC. 02. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that:

(1) Many corporate tax shelter transactions are complicated ways of accomplishing nothing aside from claimed tax benefits, and the legal opinions justifying those transactions take an inappropriately narrow and restrictive view of well-developed court doctrines under which—

(A) the taxation of a transaction is determined in accordance with its substance and not merely its form,

(B) transactions which have no significant effect on the taxpayer's economic or beneficial interests except for tax benefits are treated as sham transactions and disregarded,

(C) transactions involving multiple steps are collapsed when those steps have no substantial economic meaning and are merely designed to create tax benefits,

(D) transactions with no business purpose are not given effect, and

(E) in the absence of a specific congressional authorization, it is presumed that Congress did not intend a transaction to result in a negative tax where the taxpayer's economic position or rate of return is better after tax than before tax.

(2) Permitting aggressive and abusive tax shelters not only results in large revenue losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.

(b) PURPOSE.—The purpose of this subtitle is to eliminate abusive tax shelters by denying tax attributes claimed to arise from transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions to be used to avoid penalties on tax underpayments resulting from transactions without significant economic substance or business purpose.

PART I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE

SEC. 11. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction are substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law referred to in section 6662(i)(2), and the requirements of this subsection shall be construed as being in addition to any such other rule of law."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

PART II—PENALTIES

SEC. 21. INCREASE IN PENALTY ON UNDERPAYMENTS RESULTING FROM FAILURE TO SATISFY CERTAIN COMMON LAW RULES.

(a) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalty) is amended by adding at the end the following new subsection:

"(i) INCREASE IN PENALTY IN CASE OF FAILURE TO SATISFY CERTAIN COMMON LAW RULES.—

"(1) IN GENERAL.—To the extent that an underpayment is attributable to a disallowance described in paragraph (2)—

"(A) subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent', and

"(B) subsection (d)(2)(B) and section 6664(c) shall not apply.

"(2) DISALLOWANCES DESCRIBED.—A disallowance is described in this subsection if such disallowance is on account of—

"(A) a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(m)(2),

"(B) a lack of business purpose for such transaction or because the form of the transaction does not reflect its substance, or

"(C) a failure to meet the requirements of any other similar rule of law.

"(3) INCREASE IN PENALTY NOT TO APPLY IF COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—Paragraph (1)(A) shall not apply if the taxpayer discloses to the Secretary (as such time and in such manner as the Secretary shall prescribe) such information as the Secretary shall prescribe with respect to such transaction.".

(b) MODIFICATIONS TO PENALTY ON SUBSTANTIAL UNDERSTATEMENT OF INCOME TAX.—

(1) MODIFICATION OF THRESHOLD.—Subparagraph (A) of section 6662(d)(1) is amended to read as follows:

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) $500,000, or

"(ii) the greater of 10 percent of the tax required to be shown on the return for the taxable year or $5,000."

(2) MODIFICATION OF PENALTY ON TAX SHELTERS, ETC.—Clauses (i) and (ii) of section 6662(d)(2)(C) are amended to read as follows:

"(i) IN GENERAL.—Subparagraph (B) shall not apply to any item attributable to a tax shelter."

"(ii) DETERMINATION OF UNDERSTATEMENTS WITH RESPECT TO TAX SHELTERS, ETC.—In any case in which there are one or more items attributable to a tax shelter, the amount of the understatement under subparagraph (A) shall in no event be less than the amount of understatement which would be determined for the taxable year if all items shown on the return which are not attributable to any tax shelter were treated as being correct. A similar rule shall apply in cases to which subsection (i) applies, whether or not the items are attributable to a tax shelter."

(c) TREATMENT OF AMENDED RETURNS.—Subsection (a) of section 6664 is amended by adding at the end the following new sentence: "For purposes of this subsection, an amended return shall be disregarded if such return is filed on or after the date the taxpayer is first contacted by the Secretary regarding the examination of the return."

SEC. 22. PENALTY ON PROMOTERS OF TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.

(a) PENALTY.—

(1) IN GENERAL.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTY ON SUBSTANTIAL PROMOTERS FOR PROMOTING TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.—

"(1) IMPOSITION OF PENALTY.—Any substantial promoter of a tax avoidance strategy shall pay a penalty in the amount determined under paragraph (2) with respect to such strategy if such strategy (or any similar strategy promoted by such promoter) fails to meet the requirements of any rule of law referred to in section 6662(i)(2).

"(2) AMOUNT OF PENALTY.—The penalty under paragraph (1) with respect to a promoter of a tax avoidance strategy is an amount equal to 100 percent of the gross income derived (or to be derived) by such promoter from such strategy.

"(3) TAX AVOIDANCE STRATEGY.—For purposes of this subsection, the term 'tax avoidance strategy' means any entity, plan, arrangement, or transaction a significant purpose of the structure of which is the avoidance or evasion of Federal income tax.

"(4) SUBSTANTIAL PROMOTER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'substantial promoter' means, with respect to any tax avoidance strategy, any promoter if—

"(i) such promoter offers such strategy to more than 1 potential participant, and

"(ii) such promoter may receive fees in excess of $500,000 in the aggregate with respect to such strategy.

"(B) AGGREGATION RULES.—For purposes of this paragraph—

"(i) RELATED PERSONS.—A promoter and all persons related to such promoter shall be treated as 1 person who is a promoter.

"(ii) SIMILAR STRATEGIES.—All similar tax avoidance strategies of a promoter shall be treated as 1 tax avoidance strategy.

"(C) PROMOTER.—The term 'promoter' means any person who participates in the promotion, offering, or sale of the tax avoidance strategy.

"(D) RELATED PERSON.—Persons are related if they bear a relationship to each other which is described in section 267(b) or 707(b).

"(4) COORDINATION WITH SUBSECTION (a).—No penalty shall be imposed by this subsection on any promoter with respect to a tax avoidance strategy if a penalty is imposed under subsection (a) on such promoter with respect to such strategy."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 6700 is amended—

(A) by striking "PENALTY" and inserting "PENALTIES", and

(B) by striking "penalty" the first place it appears in the text and inserting "penalties".

(b) INCREASE IN PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—The first sentence of section 6700(a) is amended by striking "a penalty equal to" and all that follows and inserting "a penalty equal to the greater of $1,000 or 100 percent of the gross income derived (or to be derived) by such person from such activity."

SEC. 23. MODIFICATIONS OF PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY INVOLVING TAX SHELTERS.

(a) IMPOSITION OF PENALTY.—Section 6701(a) (relating to imposition of penalty) is amended to read as follows:

"(a) IMPOSITION OF PENALTIES.—

"(1) IN GENERAL.—Any person—

"(A) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

"(B) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

"(C) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(2) CERTAIN TAX SHELTERS.—If—

"(A) any person—

"(i) aids or assists in, procures, or advises with respect to the creation, organization, sale, implementation, management, or reporting of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

"(ii) opines, advises, represents, or otherwise indicates (directly or indirectly) that the taxpayer's tax treatment of items attributable to such tax shelter or such entity, plan, arrangement, or transaction and giving rise to an understatement of tax liability would more likely than not prevail or not give rise to a penalty,

"(B) such opinion, advice, representation, or indication is unreasonable,

then such person shall pay a penalty in the amount determined under subsection (b). If a standard higher than the more likely than not standard was used in any such opinion, advice, representation, or indication, then subparagraph (A)(ii) shall be applied as if such standard were substituted for the more likely than not standard."

(b) AMOUNT OF PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by inserting "or (3)" after "paragraph (2)" in paragraph (1),

(2) by striking "subsection (a)" each place it appears and inserting "subsection (a)(1)", and

(3) by redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2) the following:

"(3) TAX SHELTERS.—In the case of—

"(A) a penalty imposed by subsection (a)(1) which involves a return, affidavit, claim, or other document relating to a tax shelter or an entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

"(B) any penalty imposed by subsection (a)(2),

the amount of the penalty shall be equal to 100 percent of the gross proceeds derived (or to be derived) by the person in connection with the tax shelter or entity, plan, arrangement, or transaction."

(c) REFERRAL AND PUBLICATION.—If a penalty is imposed under section 6701(a)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) on any person, the Secretary of the Treasury shall—

(1) notify the Director of Practice of the Internal Revenue Service and any appropriate State licensing authority of the penalty and the circumstances under which it was imposed, and

(2) publish the identity of the person and the fact the penalty was imposed on the person.

(d) CONFORMING AMENDMENTS.—

(1) Section 6701(d) is amended by striking "Subsection (a)" and inserting "Subsection (a)(1)".

(2) Section 6701(e) is amended by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(3) Section 6701(f) is amended by inserting ", tax shelter, or entity, plan, arrangement, or transaction" after "document" each place it appears.

SEC. 24. FAILURE TO MAINTAIN LISTS.

Section 6708(a) (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by adding at the end the following: "In the case of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) from each person with respect to which there was a failure and the limitation of the preceding sentence shall not apply."

SEC. 25. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE TAX SHELTER INFORMATION WITH RETURN.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include with its return of Federal income tax any information required to be included under section 6011 with respect to a reportable transaction shall pay a penalty in the amount determined under subsection (b). No penalty shall be imposed on any such failure if it is shown that such failure is due to reasonable cause.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The amount of the penalty under subsection (a) shall be equal to the greater of—

"(A) 5 percent of any increase in Federal tax which results from a difference between the taxpayer's treatment (as shown on its return) of items attributable to the reportable transaction to which the failure relates and the proper tax treatment of such items, or

"(B) $100,000.

For purposes of subparagraph (A), the last sentence of section 6664(a) shall apply.

"(2) LISTED TRANSACTION.—If the failure under subsection (a) relates to a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011, paragraph (1)(A) shall be applied by substituting '10 percent' for '5 percent'.

"(c) REPORTABLE TRANSACTION.—For purposes of this section, the term 'reportable transaction' means any transaction with respect to which information is required under section 6011 to be included with a taxpayer's return of tax because, as determined under regulations prescribed under section 6011, such transaction has characteristics which may be indicative of a tax avoidance transaction.

"(d) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under section 6662."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include tax shelter information on return."

SEC. 26. REGISTRATION OF CERTAIN TAX SHELTERS WITHOUT CORPORATE PARTICIPANTS.

Section 6111(d)(1)(A) (relating to certain confidential arrangements treated as tax shelters) is amended by striking "for a direct or indirect participant which is a corporation".

SEC. 27. EFFECTIVE DATES.

(a) IN GENERAL.—Except ,as provided in subsections (b) and (c), the amendments made by this part shall apply to transactions after the date of the enactment of this Act.

(b) SECTION 21.—The amendments made by subsections (b) and (c) of section 21 shall apply to taxable years ending after the date of the enactment of this Act.

(c) SECTION 22.—The amendments made by subsection (a) of section 22 shall apply to any tax avoidance strategy (as defined in section 6700(c) of the Internal Revenue Code of 1986, as amended by this part) interests in which are offered to potential participants after the date of the enactment of this Act.

(d) SECTION 26.—The amendment made by section 26 shall apply to any tax shelter interest which is offered to potential participants after the date of the enactment of this Act.

PART III—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN LOSSES

SEC. 31. LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(1) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in paragraph (2) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(2) PROPERTY DESCRIBED.—For purposes of paragraph (1), property is described in this paragraph if—

"(A) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(B) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(3) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of paragraph (1), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in paragraph (2) which is transferred in such transaction would (but for this subsection) exceed the fair market value of such property immediately after such transaction."

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(2) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 32. DISALLOWANCE OF PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following:

"(C) if any property so contributed has a built-in loss—

"(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

"(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property over its fair market value immediately after the contribution."

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period "or unless the partnership has a substantial built-in loss immediately after such transfer".

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting "or with respect to which there is a substantial built-in loss immediately after such transfer" after "section 754 is in effect".

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

"(d) SUBSTANTIAL BUILT-IN LOSS.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds 110 percent of the basis of such partner's interest in the partnership."

(4) Clerical amendments.—

(A) The section heading for section 743 is amended to read as follows:

"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS."

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

"Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss."

(c) Adjustment to Basis of Undistributed Partnership Property if There Is Substantial Basis Reduction.—

(1) Adjustment required.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period "or unless there is a substantial basis reduction".

(2) Adjustment.—Subsection (b) of section 734 is amended by inserting "or unless there is a substantial basis reduction" after "section 754 is in effect".

(3) Substantial basis reduction.—Section 734 is amended by adding at the end the following new subsection:

"(d) Substantial Basis Reduction.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds 10 percent of the aggregate adjusted basis of partnership property immediately after the distribution."

(4) Clerical amendments.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION."

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction."

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) Subsection (b).—The amendments made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

(3) Subsection (c).—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

Subtitle B—Reinsurance

SEC. 41. SHORT TITLE.

This subtitle may be cited as the "Reinsurance Tax Equity Act of 2002".

SEC. 42. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.

(a) In General.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

"(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))."

(b) Treatment of Reinsurance With Related Reinsurers.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) Denial of deduction under paragraph (4) for reinsurance of U.S. risks with certain related persons.—

"(A) In general.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

"(B) Exceptions.—This paragraph shall not apply to any premium to the extent that—

"(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

"(I) such reinsurer, or

"(II) 1 or more domestic corporations or citizens or residents of the United States, or

"(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

"(C) Election by reinsurer to be taxed on income.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

"(i) elects to so treat such income, and

"(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

"(D) Definitions.—For purposes of this paragraph—

"(i) United states risk.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

"(ii) Related insurer.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment."

(c) Technical Amendment.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

"(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(d) Effective Date.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversions

SEC. 51. SHORT TITLE.

This subtitle may be cited as the "Corporate Patriot Enforcement Act of 2002".

SEC. 52. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) In General.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) Domestic.—

"(A) In general.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) Certain corporations treated as domestic.—

"(i) In general.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) Corporate expatriation transaction.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) Lower stock ownership requirement in certain cases.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) Partnership transactions.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) Special rules.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) Other definitions.—For purposes of this subparagraph—

"(I) Nominally foreign corporation.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b))."

(b) Effective Dates.—

(1) In general.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) Special rule.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 3320. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 3286 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "2003" and inserting "2012".

SA 3321. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) Modifications to New Qualified Fuel Cell Motor Vehicle Credit.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000",

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000",

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500",

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000",

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$3,500",

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$4,000",

(7) by striking "$3,500" in paragraph (2)(A)(vi) and inserting "$4,500",

(8) by striking "$4,000" in paragraph (2)(A)(vii) and inserting "$5,000", and

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004".

(b) Modifications to New Qualified Hybrid Motor Vehicle Credit.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 5 percent but less than 10 percent	$500
At least 10 percent but less than 20 percent	$750
At least 20 percent but less than 30 percent	$1,000
At least 30 percent	$1,500.",

(2) by striking "$500" in paragraph (2)(B)(i)(I) and inserting "$1,000",

(3) by striking "$1,000" in paragraph (2)(B)(i)(II) and inserting "$1,500",

(4) by striking "$1,500" in paragraph (2)(B)(i)(III) and inserting "$2,000",

(5) by striking "$2,000" in paragraph (2)(B)(i)(IV) and inserting "$2,500",

(6) by striking "$2,500" in paragraph (2)(B)(i)(V) and inserting "$3,000",

(7) by striking "$3,000" in paragraph (2)(B)(i)(VI) and inserting "$3,500", and

(8) by striking "for 2002" in paragraph (3)(B)(i) and inserting "for 2003".

(c) Conforming Amendments for Vehicle Credits.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "September 30, 2002" and inserting "the effective date of this section".

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(h) Application of Section.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

"(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

"(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.".

(d) Additional Modifications to Credit for Qualified Electric Vehicles.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "$3,500" in subsection (b)(1)(B)(i) and inserting "$6,000",

(2) by striking "$6,000" in subsection (b)(1)(B)(ii) and inserting "$9,000", and

(3) by striking "2006" in subsection (e) and inserting "2007".

(e) Modifications to Extension of Deduction for Certain Refueling Property.—

(1) In general.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) Extension of phaseout.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) Effective date.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) Modification to Credit for Installation of Alternative Fueling Stations.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(g) Effective Date.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3322. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself, and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) Modifications to New Qualified Fuel Cell Motor Vehicle Credit.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000",

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000",

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500",

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000",

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$3,500",

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$4,000",

(7) by striking "$3,500" in paragraph (2)(A)(vi) and inserting "$4,500",

(8) by striking "$4,000" in paragraph (2)(A)(vii) and inserting "$5,000", and

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004".

(b) Modifications to New Qualified Hybrid Motor Vehicle Credit.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 2.5 percent but less than 5 percent	$250
At least 5 percent but less than 10 percent	$500
At least 10 percent but less than 20 percent	$750
At least 20 percent but less than 30 percent	$1,000
At least 30 percent	$1,500.",

(2) by striking "$500" in paragraph (2)(B)(i)(I) and inserting "$1,000",

(3) by striking "$1,000" in paragraph (2)(B)(i)(II) and inserting "$1,500",

(4) by striking "$1,500" in paragraph (2)(B)(i)(III) and inserting "$2,000",

(5) by striking "$2,000" in paragraph (2)(B)(i)(IV) and inserting "$2,500",

(6) by striking "$2,500" in paragraph (2)(B)(i)(V) and inserting "$3,000",

(7) by striking "$3,000" in paragraph (2)(B)(i)(VI) and inserting "$3,500", and

(8) by striking "for 2002" in paragraph (3)(B)(i) and inserting "for 2003".

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "September 30, 2002" and inserting "the effective date of this section".

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(h) APPLICATION OF SECTION.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

"(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

"(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.".

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "$3,500" in subsection (b)(1)(B)(i) and inserting "$6,000",

(2) by striking "$6,000" in subsection (b)(1)(B)(ii) and inserting "$9,000", and

(3) by striking "2006" in subsection (e) and inserting "2007".

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3323. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself, and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000",

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000",

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500",

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000",

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$3,500",

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$4,000",

(7) by striking "$3,500" in paragraph (2)(A)(vi) and inserting "$4,500",

(8) by striking "$4,000" in paragraph (2)(A)(vii) and inserting "$5,000", and

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004".

(b) MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent	$500
At least 10 percent but less than 20 percent	$750
At least 20 percent but less than 30 percent	$1,000
At least 30 percent	$1,500.",

(2) by striking "$500" in paragraph (2)(B)(i)(I) and inserting "$1,000",

(3) by striking "$1,000" in paragraph (2)(B)(i)(II) and inserting "$1,500",

(4) by striking "$1,500" in paragraph (2)(B)(i)(III) and inserting "$2,000",

(5) by striking "$2,000" in paragraph (2)(B)(i)(IV) and inserting "$2,500",

(6) by striking "$2,500" in paragraph (2)(B)(i)(V) and inserting "$3,000",

(7) by striking "$3,000" in paragraph (2)(B)(i)(VI) and inserting "$3,500", and

(8) by striking "for 2002" in paragraph (3)(B)(i) and inserting "for 2003".

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "September 30, 2002" and inserting "the effective date of this section".

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(h) APPLICATION OF SECTION.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

"(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

"(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.".

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking "$3,500" in subsection (b)(1)(B)(i) and inserting "$6,000",

(2) by striking "$6,000" in subsection (b)(1)(B)(ii) and inserting "$9,000", and

(3) by striking "2006" in subsection (e) and inserting "2007".

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3324. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. CHAFEE, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 3239 submitted by Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. REID) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the title heading and insert the following:

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term "baseline" means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term "database" means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term "designated agency" means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term "entity" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term "facility" means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(9) INDIRECT EMISSIONS.—The term "indirect emissions" means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by another entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(10) REGISTRY.—The term "registry" means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(11) SEQUESTRATION.—

(A) IN GENERAL.—The term "sequestration" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) INCLUSIONS.—The term "sequestration" includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(A) are established as of the date of enactment of this Act under other law;

(B) provide for the collection of data relating to greenhouse gas emissions and effects; and

(C) are necessary for the operation of the database;

(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and

(B) maximize the use of available resources of those departments and agencies; and

(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:

(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—

(A) measurement standards for the monitoring of emissions; and

(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.

(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and

(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—

(A) developing measurement techniques for—

(i) soil carbon sequestration; and

(ii) forest preservation and reforestation activities; and

(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.

(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).

(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the "National Greenhouse Gas Database", to collect, verify, and analyze information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) COMPREHENSIVE SYSTEM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline (including all of the entity's greenhouse gas emissions on an entity-wide basis); and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting reductions under this section)—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(ii)(I) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); and

(II) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, an entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) Annual Report.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

(e) Confidentiality of Reports.—

(1) In general.—Subject to section 552 of title 5, United States Code, information collected and maintained in the database by a designated agency shall be made available to the public.

(2) Exception.—Notwithstanding paragraph (1), a designated agency shall not disclose information obtained under this section directly or indirectly from an entity, if such information would, upon being made public, disclose—

(A) a trade secret; or

(B) other proprietary information of the entity.

(3) Disclosure for validity.—Notwithstanding paragraph (2), proprietary information shall be made available to the public if 1 or more of the designated agencies determine that disclosure of the information is necessary to determine the validity of emission reductions that have been—

(A) recorded in the registry; and

(B) transferred or traded based on value created through recording in the registry.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) Standards.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) Requirements.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) Review and Revision.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) Public Participation.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) Experts and Consultants.—

(1) In general.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) Available arrangements.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS.

(a) In General.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) Review of Scientific Methods.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) In General.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) Increased Applicability of Requirements.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) Resolution of Disapproval.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SA 3325. Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 8 and 9, insert the following:

( ) Establishment of a Program for the Production of Fuel Ethanol From Municipal Solid Waste.—

(1) Definition of municipal solid waste.—In this section, the term "municipal solid waste" has the meaning given the term "solid waste" in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(2) Establishment of program.—The Secretary of Energy shall establish a program that promotes expedited construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol to supplement fossil fuels.

(3) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out programs that promote expedited construction of commercially viable facilities for the processing and conversion of municipal solid waste to fuel ethanol to supplement fossil fuels including, but not limited to, loan guarantees to private institutions.

(4) Requirements.—The Secretary may provide a loan guarantee under paragraph (2) to an applicant if—

(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (2);

(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(5) Criteria.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(A) meet all applicable Federal and State permitting requirements;

(B) are most likely to be successful; and

(C) are located in local markets that have the greatest need for the facility because of—

(i) the limited availability of land for waste disposal; or

(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(6) Maturity.—A loan guaranteed under paragraph (2) shall have a maturity of not more than 20 years.

(7) Terms and conditions.—The loan agreement for a loan guaranteed under paragraph (2) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(8) Assurance of repayment.—The Secretary shall require that an applicant for a loan guarantee under paragraph (2) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(9) Guarantee fee.—The recipient of a loan guarantee under paragraph (2) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(10) Full faith and credit.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(11) Reports.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(12) Termination of Authority.—The authority of the Secretary to issue a loan guarantee under paragraph (2) terminates on the date that is 10 years after the date of enactment of this Act.

SA 3326. Mrs. MURRAY (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 103, line 19, strike all through page 104, line 7, and insert the following:

"(i) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent.

"(B) Limitation.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(i) 30 percent of the basis of such property, or

"(ii) $500 for each 0.5 kilowatt of capacity of such property.

SA 3327. Mr. REID (for Mr. THOMPSON) proposed an amendment to the bill H.R. 169, to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; as follows:

On page   , insert between lines   and the following:

(c) Studies on Statutory Effects on Agency Operations.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the General Accounting Office shall conduct—

(A) a study on the effects of section 201 on the operations of Federal agencies; and

(B) a study on the effects of section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) on the operations of Federal agencies.

(2) Contents.—Each study under paragraph (1) shall include, with respect to the applicable statutes of the study—

(A) a summary of the number of cases in which a payment was made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code;

(B) a summary of the length of time Federal agencies used to complete reimbursements of payments described under subparagraph (A); and

(C) conclusions that assist in making determinations on how the reimbursements of payments described under subparagraph (A) will affect—

(i) the operations of Federal agencies;

(ii) funds appropriated on an annual basis;

(iii) employee relations and other human capital matters;

(iv) settlements; and

(v) any other matter determined by the General Accounting Office to be appropriate for consideration.

(3) Reports.—Not later than 90 days after the completion of each study under paragraph (1), the General Accounting Office shall submit a report on each study, respectively, to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

SA 3328. Mr. REID (for Mr. THOMPSON) proposed an amendment to the bill H.R. 169, to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; as follows:

On page   , insert between lines   and the following:

(c) Study on Administrative and Personnel Costs Incurred by the Department of the Treasury.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall conduct a study on the extent of any administrative and personnel costs incurred by the Department of the Treasury to account for payments made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code, as a result of—

(A) this Act; and

(B) the Contracts Dispute Act of 1978 (41 U.S.C. 601 note; Public Law 95-563).

(2) Report.—Not later than 90 days after the completion of the study under paragraph (1), the General Accounting Office shall submit a report on the study to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

SA 3329. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 68, line 22, strike all through page 72, line 19, and insert:

"(f) Termination.—This section shall not apply to any fuel sold after December 31, 2009.".

(2) Credit treated as part of general business credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at

the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) TAX PRIOR TO MIXING.—

"(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

"(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).".

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2010.

SA 3330. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself, and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 68, line 22, strike all through page 72, line 19, and insert:

"(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2007.".

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) TAX PRIOR TO MIXING.—

"(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

"(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).".

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2008.

SA 3331. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself, and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 50, strike lines 23 and 24, and insert the following:

"(1) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2006.".

(b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 24, 2002, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, April 30, 2002, at 9:30 a.m., in room 428A of the Russell Senate Office Building to conduct a joint hearing with the Senate Small Business Committee on "Small Business Development in Native American Communities: Is the Federal Government Meeting Its Obligations?"

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, April 23, 2002, at 10 a.m., to conduct an oversight hearing on "The Federal Deposit Insurance System and Recommendations for Reform."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, April 23, 2002, at 9:30 a.m. on "Generic Pharmaceuticals: Marketplace Access and Consumer Issues".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 23, 2002, at 10:15 a.m., to hold a hearing titled, "Increasing out Nonproliferation Efforts in the Former Soviet Union."

Agenda

Witnesses

Panel 1: The Honorable William S. Cohen, Former Secretary of Defense, Chairman and Chief Executive Officer, The Cohen Group, Washington, DC.

Panel 2: Dr. Siegfried S. Hecker, Senior Fellow, Los Alamos National Laboratory, Los Alamos, NM, and Dr. Constantine C. Menges, Senior Fellow, the Hudson Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, April 23, 2002, immediately following the first rollcall vote of the day for a business meeting to consider the nomination of Paul A. Quander, Jr., to be Director of the District of Columbia Court Services and Offender Supervision Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Implementation of ESEA: Status and Key issues" during the session of the Senate on Tuesday, April 23, 2002, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS AND COMPETITION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Antitrust, Business Rights and Competition, be authorized to meet to conduct a hearing on "Dominance on the Ground: Cable Competition and the ATT-Comcast Merger," on Tuesday, April, 23, 2002, at 2 p.m., in SD-226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENTAL MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. REID. Mr. President I ask unanimous consent that the Committee on governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, be authorized to meet on Tuesday, April 23, 2002, at 10 p.m., for a hearing to examine "The Economic Implications of the Human Capital Crisis."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC HEALTH

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on "Protecting Human Subjects in Research: Are Current Safeguards Adequate?" during the session of the Senate on Tuesday, April 23, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY FARMER BANKRUPTCY PROTECTION

Mr. REID. Mr. President, it is my understanding H.R. 4167, received from the House, is at the desk. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4167) to extend for 8 additional months the period for which chapter 12 title 11 of the United States Code is reenacted.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate will pass H.R. 4167, to retroactively renew family farmer bankruptcy protection until June 1, 2002. After months of inaction, the House of Representatives finally passed this legislation two days ago to reinstate Chapter 12 of the Bankruptcy Code. It is past time for Congress to act to restore this basic safety net for America's family farmers.

Unfortunately, too many family farmers have been left in legal limbo in bankruptcy courts across the country since Chapter 12 of the Bankruptcy Code expired on October 1, 2001. Since last November, Senator CARNAHAN and I have tried to pass S. 1630, a Carnahan-Grassley bipartisan bill to retroactively restore chapter 12. The Senate Judiciary Committee unanimously reported the bill to the Senate on November 8, 2001, but it has been subject to a secret hold by the minority for the last six months.

This is the third time in the last year that this Congress must act to retroactively restore basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage into law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

In 2000 and into last year, for example, the Senate, then controlled by the other party, failed to take up a House-passed bill to retroactively renew chapter 12 and, as a result, family farmers lost chapter 12 bankruptcy protection for 8 months. The current lapse of chapter 12 has lasted more than 6 months. Enough is enough.

Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming. It is time for

Congress to make chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our nation's family farmers.

I strongly support Senator CARNAHAN's bipartisan amendment to make chapter 12 a permanent part of the Bankruptcy Code that is part of the Senate-passed farm bill. The Senate unanimously approved the Carnahan amendment by a 93-0 vote. Unfortunately, the House majority is objecting to including the Carnahan amendment in the farm bill conference report.

In the current bankruptcy reform conference, I am hopeful Congress will update and expand the coverage of chapter 12. In the meantime, the farm bill conference should make permanent basic bankruptcy protection for our family farmers across the country by adopting the Carnahan amendment.

I commend Senator CARNAHAN for her continued leadership in protecting family farms across the country.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4167) was read the third time and passed.

EXTENDING SYMPATHY AND CONDOLENCES TO FAMILIES OF CANADIAN SOLDIERS KILLED AND WOUNDED IN AFGHANISTAN

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 250 submitted earlier today by Senator LANDRIEU.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 250) extending sympathy and condolences to the families of the Canadian soldiers who were killed and the Canadian soldiers who were wounded on April 18, 2002, in Afghanistan, and to all the Canadian people.

There being no objection, the Senate proceeded to consider the resolution.

Ms. LANDRIEU. Mr. President, I rise today to speak on a rather unpleasant subject.

I wish to offer a resolution offering the condolences of the United States Senate to the families and loved ones of those Canadian servicemen who were killed and wounded in Afghanistan last week.

The Canadian and American armies have fought side-by-side since the first world war and that tradition has continued during our current war on terrorism. The servicemen and women of Canada have always proven to be brave and courageous fighters and they are certainly keeping up that reputation in engagements such as Operation Anaconda. Without the assistance of our Canadian allies, the burden of this present war would be much heavier on our own Soldiers, Sailors, Airmen and Marines.

It is with heavy heart that I offer this measure. Not since the Korean War has a Canadian soldier died in a combat zone. It is my hope that Canadian servicemen and women will not be again called upon to make the ultimate sacrifice for a long time.

I would like to honor today the Canadian soldiers of the 3rd Battalion, Princess Patricia's Canadian Light Infantry Battle Group, who have been in Afghanistan since late January as part of Operation Apollo and have distinguished themselves for their heroism and professionalism. No doubt today is a sad day amongst that unit as they mourn the loss of their comrades. Despite this horrible setback, the Canadian Army is focusing on the task at hand and is still fully engaged in its mission.

For these reasons and for the countless acts of friendship between our two nations, I offer this resolution to extend the sympathy of this Senate to the people and fighting forces of Canada.

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 250) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 250), with its preamble, reads as follows:

S. RES. 250

Whereas United States and Canadian military forces have fought side by side in conflicts since the World War I;

Whereas the fighting men and women of Canada have always proved themselves to be brave and courageous warriors;

Whereas the Canadian forces are currently fighting alongside United States and European troops in the hunt for the remnants of Osama bin Laden's terrorist organization, al Qaeda, and Afghanistan's former ruling militia, the Taliban;

Whereas the Canadian soldiers of the 3rd Battalion, Princess Patricia's Canadian Light Infantry Battle Group, have been in Afghanistan since late January 2002, as part of Operation Apollo, and have distinguished themselves for their heroism and professionalism; and

Whereas despite this tragic incident, the Canadian Army is focusing on the task at hand and is still fully engaged in its mission in Afghanistan: Now, therefore, be it

Resolved, That the Senate—

(1) expresses sorrow for the loss of life and wounding of Canadian servicemen in Afghanistan;

(2) offers sympathy and condolences to the families of the Canadian soldiers who were killed and the Canadian soldiers who were wounded on April 18, 2002, in Afghanistan, and to all of the Canadian people;

(3) affirms that the centuries-old bond between the Canadian and American peoples and their Armed Forces remains solid; and

(4) praises the performance of Canadian servicemen in Afghanistan for their heroism and professionalism.

MAKING MINORITY PARTY APPOINTMENTS

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of S. Res. 251, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 251) making Minority party appointments for the Committee on Environment and Public Works and the Governmental Affairs Committee for the 107th Congress.

There being no objection, the Senate proceeded to the immediate consideration of the resolution.

Mr. REID. I ask consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 251) was agreed to, as follows:

S. RES. 251

Resolved, That the following be the minority membership on the Committees on Environment and Public Works and Governmental Affairs for the remainder of the 107th Congress, or until their successors are appointed:

Environment and Public Works: Mr. Smith, of New Hampshire, Mr. Warner, Mr. Inhofe, Mr. Bond, Mr. Voinovich, Mr. Crapo, Mr. Chafee, Mr. Specter, and Mr. Domenici.

Governmental Affairs: Mr. Thompson, Mr. Stevens, Ms. Collins, Mr. Voinovich, Mr. Cochran, Mr. Bennett, Mr. Bunning, and Mr. Fitzgerald.

NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT OF 2002

Mr. REID. I ask consent the Senate proceed to the consideration of Calendar No. 346, H.R. 169.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 169) to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with amendments.

(Omit the parts in black brackets and insert the part printed in italic.)

H.R. 169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Notification and Federal Employee Antidiscrimination and Retaliation Act of [2001] *2002*".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

[TITLE I—GENERAL PROVISIONS

[Sec. 101. Findings.
[Sec. 102. Definitions.
[Sec. 103. Effective date.]

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Sense of Congress.
Sec. 103. Definitions.
Sec. 104. Effective date.

TITLE II—FEDERAL EMPLOYEE DISCRIMINATION AND RETALIATION

Sec. 201. Reimbursement requirement.
Sec. 202. Notification requirement.
Sec. 203. Reporting requirement.
Sec. 204. Rules and guidelines.
Sec. 205. Clarification of remedies.
[Sec. 206. Study by General Accounting Office regarding exhaustion of administrative remedies.]
Sec. 206. Studies by General Accounting Office on exhaustion of remedies and certain Department of Justice costs.

TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA DISCLOSURE

Sec. 301. Data to be posted by employing Federal agencies.
Sec. 302. Data to be posted by the Equal Employment Opportunity Commission.
Sec. 303. Rules.

TITLE I—GENERAL PROVISIONS

[SEC. 101. FINDINGS.

[The Congress finds that—

[(1) Federal agencies cannot be run effectively if they practice or tolerate discrimination,

[(2) the Committee on the Judiciary of the House of Representatives has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees that point to chronic problems of discrimination and retaliation against Federal employees,

[(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against a senior social scientist, and awarded that scientist $600,000,

[(4) in October 2000, an Occupational Safety and Health Administration investigation found that the Environmental Protection Agency had retaliated against a senior scientist for disagreeing with that agency on a matter of science and for helping Congress to carry out its oversight responsibilities,

[(5) there have been several recent class action suits based on discrimination brought against Federal agencies, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshals Service,

[(6) notifying Federal employees of their rights under discrimination and whistleblower laws should increase agency compliance with the law,

[(7) requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over agencies' compliance with the law, and

[(8) penalizing Federal agencies by requiring them to pay for any discrimination or whistleblower judgments, awards, and settlements should improve agency accountability with respect to discrimination and whistleblower laws.]

SEC. 101. FINDINGS.

Congress finds that—

(1) Federal agencies cannot be run effectively if those agencies practice or tolerate discrimination;

(2) Congress has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees, that point to chronic problems of discrimination and retaliation against Federal employees;

(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against a senior social scientist, and awarded that scientist $600,000;

(4) in October 2000, an Occupational Safety and Health Administration investigation found that the Environmental Protection Agency had retaliated against a senior scientist for disagreeing with that agency on a matter of science and for helping Congress to carry out its oversight responsibilities;

(5) there have been several recent class action suits based on discrimination brought against Federal agencies, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service, the Department of Agriculture, the United States Information Agency, and the Social Security Administration;

(6) notifying Federal employees of their rights under discrimination and whistleblower laws should increase Federal agency compliance with the law;

(7) requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law; and

(8) requiring Federal agencies to pay for any discrimination or whistleblower judgment, award, or settlement should improve agency accountability with respect to discrimination and whistleblower laws.

SEC. 102. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Federal agencies should not retaliate for court judgments or settlements relating to discrimination and whistleblower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce to pay for such judgments or settlements;

(2) the mission of the Federal agency and the employment security of employees who are blameless in a whistleblower incident should not be compromised;

(3) Federal agencies should not use a reduction in force or furloughs as means of funding a reimbursement under this Act;

(4)(A) accountability in the enforcement of employee rights is not furthered by terminating—

(i) the employment of other employees; or

(ii) the benefits to which those employees are entitled through statute or contract; and

(B) this Act is not intended to authorize those actions;

(5)(A) nor is accountability furthered if Federal agencies react to the increased accountability under this Act by taking unfounded disciplinary actions against managers or by violating the procedural rights of managers who have been accused of discrimination; and

(B) Federal agencies should ensure that managers have adequate training in the management of a diverse workforce and in dispute resolution and other essential communication skills; and

(6)(A) Federal agencies are expected to reimburse the General Fund of the Treasury within a reasonable time under this Act; and

(B) a Federal agency, particularly if the amount of reimbursement under this Act is large relative to annual appropriations for that agency, may need to extend reimbursement over several years in order to avoid—

(i) reductions in force;

(ii) furloughs;

(iii) other reductions in compensation or benefits for the workforce of the agency; or

(iv) an adverse effect on the mission of the agency.

SEC. [102]. *103.* DEFINITIONS.

For purposes of this Act—

(1) the term "applicant for Federal employment" means an individual applying for employment in or under a Federal agency[,]*;*

(2) the term "basis of alleged discrimination" shall have the meaning given such term under section 303[,]*;*

(3) the term "Federal agency" means an Executive agency (as defined in section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission[,]*;*

(4) the term "Federal employee" means an individual employed in or under a Federal agency[,]*;*

(5) the term "former Federal employee" means an individual formerly employed in or under a Federal agency[,]*;* and

(6) the term "issue of alleged discrimination" shall have the meaning given such term under section 303.

SEC. [103]. *104.* EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning more than 180 days after the date of the enactment of this Act.

TITLE II—FEDERAL EMPLOYEE DISCRIMINATION AND RETALIATION

SEC. 201. REIMBURSEMENT REQUIREMENT.

(a) APPLICABILITY.—This section applies with respect to any payment made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code (relating to judgments, awards, and compromise settlements) to any Federal employee, former Federal employee, or applicant for Federal employment, in connection with any proceeding brought by or on behalf of such employee, former employee, or applicant under—

(1) any provision of law cited in subsection (c)[.]*;* or

(2) any other provision of law which prohibits any form of discrimination, as identified under rules issued under section 204.

(b) REQUIREMENT.—An amount equal to the amount of each payment described in subsection (a) shall be reimbursed to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, of such fund, or of such account available for the enforcement of any Federal law) available for operating expenses of the Federal agency to which the discriminatory conduct involved is attributable as determined under section 204.

(c) Scope.—The provisions of law cited in this subsection are the following:

(1) Section 2302(b) of title 5 [of the], United States Code, as applied to discriminatory conduct described in paragraphs (1) and (8), or described in paragraph (9) of such section as applied to discriminatory conduct described in paragraphs (1) and (8), of such section.

(2) The provisions of law specified in section 2302(d) of title 5 [of the], United States Code.

[(3) The Whistleblower Protection Act of 1986 and the amendments made by such Act.]

SEC. 202. NOTIFICATION REQUIREMENT.

(a) In General.—Written notification of the rights and protections available to Federal employees, former Federal employees, and applicants for Federal employment (as the case may be) in connection with the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) shall be provided to such employees, former employees, and applicants—

(1) in accordance with otherwise applicable provisions of law[,]*;* or

(2) [if to the extent that] *if, or to the extent that,* no such notification would otherwise be required, in such time, form, and manner as shall under section 204 be required in order to carry out the requirements of this section.

(b) Posting on the Internet.—Any written notification under this section shall include, but not be limited to, the posting of the information required under paragraph (1) or (2) (as applicable) of subsection (a) on the Internet site of the Federal agency involved.

(c)• Employee Training.—Each Federal agency shall provide to the employees of such agency training regarding the rights and remedies applicable to such employees under the laws cited in section 201(c).

SEC. 203. REPORTING REQUIREMENT.

(a) Annual Report.—Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, *the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency,* the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year—

(1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged[,]*;*

(2) the status or disposition of cases described in paragraph (1)[,]*;*

(3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any[,]*;*

(4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1)[,]*;*

(5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2))[, and]

[(6) a detailed description of—

[(A) the policy implemented by such agency to discipline employees who are determined in any judicial or administrative proceeding to have discriminated against any individual in violation of any of the laws cited in section 201(c), and

[(B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken.]

(6) a detailed description of—

(A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who—

(i) discriminated against any individual in violation of any of the laws cited under section 201(a) (1) or (2); or

(ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a) (1) or (2); and

(B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;

(7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including—

(A) an examination of trends;

(B) causal analysis;

(C) practical knowledge gained through experience; and

(D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

(b) First Report.—The 1st report submitted under subsection (a) shall include for each item under subsection (a) data for each of the 5 immediately preceding fiscal [years (or, if not available for all 5 fiscal years, for however many of those 5 fiscal years for which data are available).] *years (or, if data are not available for all 5 fiscal years, for each of those 5 fiscal years for which data are available).*

SEC. 204. RULES AND GUIDELINES.

(a) Issuance of Rules and Guidelines.—The President (or the designee of the President) shall issue—

(1) rules to carry out this title[,]*;*

[(2) rules to require that a comprehensive study be conducted in the Executive Branch to determine the best practices for Federal agencies to take appropriate disciplinary actions against Federal employees who are determined in any judicial or administrative proceeding to have discriminated against any individual in violation of any of the laws cited in section 201(c), and]

(2) rules to require that a comprehensive study be conducted in the executive branch to determine the best practices relating to the appropriate disciplinary actions against Federal employees who commit the actions described under clauses (i) and (ii) of section 203(a)(6)(A); and

(3) based on the results of such study, advisory guidelines incorporating best practices that Federal agencies may follow to take such actions against such employees.

(b) Agency Notification Regarding Implementation of Guidelines.—Not later than 30 days after the issuance of guidelines under subsection (a), each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a written statement specifying in detail—

(1) whether such agency has adopted and will fully follow such guidelines[,]*;*

(2) if such agency has not adopted such guidelines, the reasons for the failure to adopt such guidelines[,]*;* and

(3) if such agency will not fully follow such guidelines, the reasons for the decision not to fully follow such guidelines and an explanation of the extent to which such agency will not follow such guidelines.

SEC. 205. CLARIFICATION OF REMEDIES.

Consistent with Federal law; nothing in this title shall prevent any Federal employee, former Federal employee, or applicant for Federal employment from exercising any right otherwise available under the laws of the United States.

[SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES.

[(a) Study.—Not later than 180 days after the date of the enactment of this Act, the General Accounting Office shall conduct a study relating to the effects of eliminating the requirement that Federal employees aggrieved by violations of any of the laws specified in paragraphs (7) and (8) of section 201(c) exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission. Such study shall include a detailed summary of matters investigated, of information collected, and of conclusions formulated that lead to determinations of how the elimination of such requirement will—

[(1) expedite handling of allegations of such violations within Federal agencies and will streamline the complaint-filing process,

[(2) affect the workload of the Commission,

[(3) affect established alternative dispute resolution procedures in such agencies, and

[(4) affect any other matters determined by the General Accounting Office to be appropriate for consideration.

[(b) Report.—Not later than 90 days after completion of the study required by subsection (a), the General Accounting Office shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a report containing the information required to be included in such study.]

SEC. 206. STUDIES BY GENERAL ACCOUNTING OFFICE ON EXHAUSTION OF ADMINISTRATIVE REMEDIES AND ON ASCERTAINMENT OF CERTAIN DEPARTMENT OF JUSTICE COSTS.

(a) Study on Exhaustion of Administrative Remedies.—

(1) Study.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall conduct a study relating to the effects of eliminating the requirement that Federal employees aggrieved by violations of any of the laws specified under section 201(c) exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission.

(B) Contents.—The study shall include a detailed summary of matters investigated, information collected, and conclusions formulated that lead to determinations of how the elimination of such requirement will—

(i) expedite handling of allegations of such violations within Federal agencies and will streamline the complaint-filing process;

(ii) affect the workload of the Commission;

(iii) affect established alternative dispute resolution procedures in such agencies; and

(iv) affect any other matters determined by the General Accounting Office to be appropriate for consideration.

(2) Report.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the

Equal Employment Opportunity Commission, and the Attorney General a report containing the information required to be included in such study.

(b) STUDY ON ASCERTAINMENT OF CERTAIN COSTS OF THE DEPARTMENT OF JUSTICE IN DEFENDING DISCRIMINATION AND WHISTLEBLOWER CASES.—

(1) STUDY.—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall conduct a study of the methods that could be used for, and the extent of any administrative burden that would be imposed on, the Department of Justice to ascertain the personnel and administrative costs incurred in defending in each case arising from a proceeding identified under section 201(a) (1) and (2).

(2) REPORT.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing the information required to be included in the study.

TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA DISCLOSURE

SEC. 301. DATA TO BE POSTED BY EMPLOYING FEDERAL AGENCIES.

(a) IN GENERAL.—Each Federal agency shall post on its public Web site, in the time, form, and manner prescribed under section 303 (in conformance with the requirements of this section), summary statistical data relating to equal employment opportunity complaints filed with such agency by employees or former employees of, or applicants for employment with, such agency.

(b) CONTENT REQUIREMENTS.—The data posted by a Federal agency under this section shall include, for the then current fiscal year, the following:

(1) The number of complaints filed with such agency in such fiscal year.

(2) The number of individuals filing those complaints (including as the agent of a class).

(3) The number of individuals who filed 2 or more of those complaints.

(4) The number of complaints (described in paragraph (1)) in which each of the various bases of alleged discrimination is alleged.

(5) The number of complaints (described in paragraph (1)) in which each of the various issues of alleged discrimination is alleged.

(6) The average length of time, for each step of the process, it is taking such agency to process complaints (taking into account all complaints pending for any length of time in such fiscal year, whether first filed in such fiscal year or earlier). Average times under this paragraph shall be posted—

(A) for all such complaints,

(B) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is not requested, and

(C) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is requested.

(7) The total number of final agency actions rendered in such fiscal year involving a finding of discrimination and, of that number—

(A) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(B) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(8) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

(A) the number and percentage involving a finding of discrimination based on each of the respective bases of alleged discrimination, and

(B) of the number specified under subparagraph (A) for each of the respective bases of alleged discrimination—

(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(9) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

(A) the number and percentage involving a finding of discrimination in connection with each of the respective issues of alleged discrimination, and

(B) of the number specified under subparagraph (A) for each of the respective issues of alleged discrimination—

(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(10)(A) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the number that were first filed before the start of the then current fiscal year.

(B) With respect to those pending complaints that were first filed before the start of the then current fiscal year—

(i) the number of individuals who filed those complaints, and

(ii) the number of those complaints which are at the various steps of the complaint process.

(C) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the total number of complaints with respect to which the agency violated the requirements of section 1614.106(e)(2) of title 29 of the Code of Federal Regulations (as in effect on July 1, 2000, and amended from time to time) by failing to conduct within 180 days of the filing of such complaints an impartial and appropriate investigation of such complaints.

(c) TIMING AND OTHER REQUIREMENTS.—

(1) CURRENT YEAR DATA.—Data posted under this section for the then current fiscal year shall include both—

(A) interim year-to-date data, updated quarterly, and

(B) final year-end data.

(2) DATA FOR PRIOR YEARS.—The data posted by a Federal agency under this section for a fiscal year (both interim and final) shall include, for each item under subsection (b), such agency's corresponding year-end data for each of the 5 immediately preceding fiscal years (or, if not available for all 5 fiscal years, for however many of those 5 fiscal years for which data are available).

SEC. 302. DATA TO BE POSTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

(a) IN GENERAL.—The Equal Employment Opportunity Commission shall post on its public Web site, in the time, form, and manner prescribed under section 303 for purposes of this section, summary statistical data relating to—

(1) hearings requested before an administrative judge of the Commission on complaints described in section 301, and

(2) appeals filed with the Commission from final agency actions on complaints described in section 301.

(b) SPECIFIC REQUIREMENTS.—The data posted under this section shall, with respect to the hearings and appeals described in subsection (a), include summary statistical data corresponding to that described in paragraphs (1) through (10) of section 301(b), and shall be subject to the same timing and other requirements as set forth in section 301(c).

(c) COORDINATION.—The data required under this section shall be in addition to the data the Commission is required to post under section 301 as an employing Federal agency.

SEC. 303. RULES.

The Equal Employment Opportunity Commission shall issue any rules necessary to carry out this title.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

AMENDMENTS NOS. 3327 AND 3328, EN BLOC

Mr. REID. It is my belief that Senator THOMPSON has two amendments at the desk. I ask consent it be in order to consider these amendments en bloc and that the amendments be considered agreed to.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. THOMPSON, proposes amendments Nos. 3327 and 3328, en bloc.

The amendments are as follows:

AMENDMENT NO. 3327

(Purpose: To provide for the General Accounting Office to conduct studies on the effects of the Act and of the Contract Disputes Act of 1978 (41 U.S.C. 601 note; Public Law 95-563) on operations of agencies)

On page , insert between lines and the following:

(c) STUDIES ON STATUTORY EFFECTS ON AGENCY OPERATIONS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the General Accounting Office shall conduct—

(A) a study on the effects of section 201 on the operations of Federal agencies; and

(B) a study on the effects of section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) on the operations of Federal agencies.

(2) CONTENTS.—Each study under paragraph (1) shall include, with respect to the applicable statutes of the study—

(A) a summary of the number of cases in which a payment was made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code;

(B) a summary of the length of time Federal agencies used to complete reimbursements of payments described under subparagraph (A); and

(C) conclusions that assist in making determinations on how the reimbursements of payments described under subparagraph (A) will affect—

(i) the operations of Federal agencies;

(ii) funds appropriated on an annual basis;

(iii) employee relations and other human capital matters;

(iv) settlements; and

(v) any other matter determined by the General Accounting Office to be appropriate for consideration.

(3) REPORTS.—Not later than 90 days after the completion of each study under paragraph (1), the General Accounting Office shall submit a report on each study, respectively, to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

AMENDMENT NO. 3328

(Purpose: To provide for the General Accounting Office to conduct a study on the administrative and personnel costs incurred by the Department of the Treasury in the administration of the Judgment Fund)

On page ___, insert between lines ___ and ___ the following:

(c) STUDY ON ADMINISTRATIVE AND PERSONNEL COSTS INCURRED BY THE DEPARTMENT OF THE TREASURY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall conduct a study on the extent of any administrative and personnel costs incurred by the Department of the Treasury to account for payments made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code, as a result of—

(A) this Act; and

(B) the Contracts Dispute Act of 1978 (41 U.S.C. 601 note; Public Law 95-563).

(2) REPORT.—Not later than 90 days after the completion of the study under paragraph (1), the General Accounting Office shall submit a report on the study to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3327 and 3328) were agreed to.

Mr. REID. I ask unanimous consent the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I support H.R. 169, the Notification and Federal Employee Anti-Discrimination Act. This historic bill—the first civil rights bill of the new century—strengthens existing laws protecting Federal employees from discrimination and harassment in the workplace.

H.R. 169 will create a more productive work environment by ensuring that agencies enforce the laws intended to protect Federal employees from harassment, discrimination and retaliation for whistleblowing.

I thank the chairman of the Government Affairs Committee, Senator LIEBERMAN, as well as Ranking Member THOMPSON and Senator AKAKA for their leadership on this issue in committee. Their dedication to the passage of this ground-breaking initiative has proven to be of monumental importance.

I applaud the leadership of Congressman JIM SENSENBRENNER for introducing this important legislation. Working with Congressman SENSENBRENNER, I introduced a similar bill in the Senate S. 201, the Federal Employee Protection Act. After the House passed H.R. 169 by a vote of 420 to 0, I urged the Senate Committee on Governmental Affairs to act on H.R. 169 rather than my bill in the interest of moving the process forward.

Finally, I recognize the work of the No Fear Coalition led by Marsha-Coleman Adebayo on this bill. Their efforts have been incredible.

The Notification and Federal Employee Anti-discrimination Act contains three main provisions: one, when agencies lose judgments or make settlements in harassment, discrimination and whistleblower cases, the responsible Federal agency would pay any financial penalty out of its own budget, rather than out of a general Federal judgment fund; two, Federal agencies are required to notify their employees about any applicable discrimination, harassment and whistleblower protection laws; and three, each Federal agency is required to send an annual report to Congress and the Attorney General.

Under current law, agencies are not accountable financially when they lose harassment, discrimination and retaliation cases because any financial penalties are paid out of a Government-wide fund and not the agency's budget. I firmly believe that because there is no financial consequence to their actions, Federal agencies are essentially able to escape responsibility when they fail to comply with the law and are unresponsive to their employees' concerns.

Reports that Federal agencies are indifferent or hostile to complaints of sexual harassment and racial discrimination undermine the ability of the Federal Government to enforce civil rights laws, and hamper efforts to recruit talented individuals for Federal employment. Retaliation against whistleblowers creates a climate in which those people best able to provide accountability to the Government—and to the taxpayer—are unwilling to speak out.

The Federal Government must set an example for the private sector by promoting a workplace that does not tolerate harassment or discrimination of any kind but encourages employees to report illegal activity and mismanagement without fear of reprisal. I urge my colleagues to support this meaningful legislation.

Mr. REID. I ask unanimous consent the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 169), as amended, was read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 169) entitled "An Act to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.", do pass with the following amendments:

(1)Page 2, line 6, strike out [2001] and insert: *2002*

(2)Page 2, in the table of contents, strike out

[TITLE I—GENERAL PROVISIONS]

[Sec. 101. Findings.]
[Sec. 102 Definitions.]
[Sec. 103 Effective date.]

and insert:

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Sense of Congress.
Sec. 103. Definitions.
Sec. 104. Effective date.

(3)Page 2, in the table of contents, strike out

[Sec. 206 Study by the General Accounting Office regarding exhaustion of administrative remedies.]

and insert:

Sec. 206. Studies by General Accounting Office on exhaustion of remedies and certain Department of Justice costs.

(4)Page 2, strike out all after line 9 over to and including line 13 on page 4 and insert:

SEC. 101. FINDINGS.

Congress finds that—

(1) Federal agencies cannot be run effectively if those agencies practice or tolerate discrimination;

(2) Congress has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees, that point to chronic problems of discrimination and retaliation against Federal employees;

(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against a senior social scientist, and awarded that scientist $600,000;

(4) in October 2000, an Occupational Safety and Health Administration investigation found that the Environmental Protection Agency had retaliated against a senior scientist for disagreeing with that agency on a matter of science and for helping Congress to carry out its oversight responsibilities;

(5) there have been several recent class action suits based on discrimination brought against Federal agencies, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service, the Department of Agriculture, the United States Information Agency, and the Social Security Administration;

(6) notifying Federal employees of their rights under discrimination and whistleblower laws

should increase Federal agency compliance with the law;

(7) requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law; and

(8) requiring Federal agencies to pay for any discrimination or whistleblower judgment, award, or settlement should improve agency accountability with respect to discrimination and whistleblower laws.

SEC. 102. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Federal agencies should not retaliate for court judgments or settlements relating to discrimination and whistleblower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce to pay for such judgments or settlements;

(2) the mission of the Federal agency and the employment security of employees who are blameless in a whistleblower incident should not be compromised;

(3) Federal agencies should not use a reduction in force or furloughs as means of funding a reimbursement under this Act;

(4)(A) accountability in the enforcement of employee rights is not furthered by terminating—

(i) the employment of other employees; or

(ii) the benefits to which those employees are entitled through statute or contract; and

(B) this Act is not intended to authorize those actions;

(5)(A) nor is accountability furthered if Federal agencies react to the increased accountability under this Act by taking unfounded disciplinary actions against managers or by violating the procedural rights of managers who have been accused of discrimination; and

(B) Federal agencies should ensure that managers have adequate training in the management of a diverse workforce and in dispute resolution and other essential communication skills; and

(6)(A) Federal agencies are expected to reimburse the General Fund of the Treasury within a reasonable time under this Act; and

(B) a Federal agency, particularly if the amount of reimbursement under this Act is large relative to annual appropriations for that agency, may need to extend reimbursement over several years in order to avoid—

(i) reductions in force;

(ii) furloughs;

(iii) other reductions in compensation or benefits for the workforce of the agency; or

(iv) an adverse effect on the mission of the agency.

(5) Page 4, line 14, strike out **[**102.**]** and insert: *103.*

(6) Page 4, line 18, strike out **[**agency,**]** and insert: *agency;*

(7) Page 4, line 21, strike out **[**303,**]** and insert: *303;*

(8) Page 4, line 25, strike out **[**Commission,**]** and insert: *Commission;*

(9) Page 5, line 2, strike out **[**agency,**]** and insert: *agency;*

(10) Page 5, line 5, strike out **[**agency,**]** and insert: *agency;*

(11) Page 5, line 9, strike out **[**103.**]** and insert: *104.*

(12) Page 6, line 3, strike out **[**(c),**]** and insert: *(c);*

(13) Page 6, line 19, strike out **[**of the**]** and insert: *,*

(14) Page 7, line 2, strike out **[**of the**]** and insert: *,*

(15) Page 7, strike out lines 3 and 4

(16) Page 7, line 14, strike out **[**law,**]** and insert: *law;*

(17) Page 7, line 15, strike out **[**if to the extent that**]** and insert: *if, or to the extent that,*

(18) Page 8, line 8, after "ate," insert: *the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency,*

(19) Page 8, line 14, strike out **[**alleged,**]** and insert: *alleged;*

(20) Page 8, line 16, strike out **[**(1),**]** and insert: *(1);*

(21) Page 8, line 21, strike out **[**any,**]** and insert: *any;*

(22) Page 8, line 25, strike out **[**(1),**]** and insert: *(1);*

(23) Page 9 , line 3, strike out **[**, and**]** and insert: *;*

(24) Page 9, strike out lines 4 through 14 and insert:

(6) a detailed description of—

(A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who—

(i) discriminated against any individual in violation of any of the laws cited under section 201(a) (1) or (2); or

(ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a) (1) or (2); and

(B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;

(7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including—

(A) an examination of trends;

(B) causal analysis;

(C) practical knowledge gained through experience; and

(D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

(25) Page 9, strike out lines 18 and 19 and insert:

years (or, if data are not available for all 5 fiscal years, for each of those 5 fiscal years for which data are available).

(26) Page 9, line 23, strike out **[**title,**]** and insert: *title;*

(27) Page 9, strike out all after line 23 over to and including line 6 on page 10 and insert:

(2) rules to require that a comprehensive study be conducted in the executive branch to determine the best practices relating to the appropriate disciplinary actions against Federal employees who commit the actions described under clauses (i) and (ii) of section 203(a)(6)(A); and

(28) Page 10, line 20, strike out **[**guidelines,**]** and insert: *guidelines;*

(29) Page 10, lines 22 and 23, strike out **[**guidelines,**]** and insert: *guidelines;*

(30) Page 11, strike out all after line 9 over to and including line 16 on page 12 and insert:

SEC. 206. STUDIES BY GENERAL ACCOUNTING OFFICE ON EXHAUSTION OF ADMINISTRATIVE REMEDIES AND ON ASCERTAINMENT OF CERTAIN DEPARTMENT OF JUSTICE COSTS.

(a) Study on Exhaustion of Administrative Remedies.—

(1) Study.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall conduct a study relating to the effects of eliminating the requirement that Federal employees aggrieved by violations of any of the laws specified under section 201(c) exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission.

(B) Contents.—The study shall include a detailed summary of matters investigated, information collected, and conclusions formulated that lead to determinations of how the elimination of such requirement will—

(i) expedite handling of allegations of such violations within Federal agencies and will streamline the complaint-filing process;

(ii) affect the workload of the Commission;

(iii) affect established alternative dispute resolution procedures in such agencies; and

(iv) affect any other matters determined by the General Accounting Office to be appropriate for consideration.

(2) Report.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a report containing the information required to be included in such study.

(b) Study on Ascertainment of Certain Costs of the Department of Justice in Defending Discrimination and Whistleblower Cases.—

(1) Study.—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall conduct a study of the methods that could be used for, and the extent of any administrative burden that would be imposed on, the Department of Justice to ascertain the personnel and administrative costs incurred in defending in each case arising from a proceeding identified under section 201(a) (1) and (2).

(2) Report.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing the information required to be included in the study.

(31) Page 12, after line 16, insert:

(c) Studies on Statutory Effects on Agency Operations.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the General Accounting Office shall conduct—

(A) a study on the effects of section 201 on the operations of Federal agencies; and

(B) a study on the effects of section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) on the operations of Federal agencies.

(2) Contents.—Each study under paragraph (1) shall include, with respect to the applicable statutes of the study—

(A) a summary of the number of cases in which a payment was made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code;

(B) a summary of the length of time Federal agencies used to complete reimbursements of payments described under subparagraph (A); and

(C) conclusions that assist in making determinations on how the reimbursements of payments described under subparagraph (A) will affect—

(i) the operations of Federal agencies;

(ii) funds appropriated on an annual basis;

(iii) employee relations and other human capital matters;

(iv) settlements; and

(v) any other matter determined by the General Accounting Office to be appropriate for consideration.

(3) REPORTS.—Not later than 90 days after the completion of each study under paragraph (1), the General Accounting Office shall submit a report on each study, respectively, to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

(32) Page 12, after line 16, insert:

(d) STUDY ON ADMINISTRATIVE AND PERSONNEL COSTS INCURRED BY THE DEPARTMENT OF THE TREASURY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall conduct a study on the extent of any administrative and personnel costs incurred by the Department of the Treasury to account for payments made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code, as a result of—

(A) this Act; and

(B) the Contracts Dispute Act of 1978 (41 U.S.C. 601 note; Public Law 95-563).

(2) REPORT.—Not later than 90 days after the completion of the study under paragraph (1), the General Accounting Office shall submit a report on the study to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

ORDERS FOR WEDNESDAY, APRIL 24, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., tomorrow, Wednesday, April 24; following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the Senate resume consideration of the energy reform bill; that the next amendment to be offered be a Craig amendment regarding hydro; further, that 18 hours remain under cloture on the Daschle-Bingaman substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. In the morning, the first issue we will take up is the Cantwell amendment, followed by the amendment of the Senator from Idaho, Mr. CRAIG.

ADJOURNMENT UNTIL 9:30 A. M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Wednesday, April 24, 2002, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 23, 2002:

THE JUDICIARY

JEFFREY R. HOWARD, OF NEW HAMPSHIRE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT.

EXTENSIONS OF REMARKS

CONGRATULATIONS TO VOLUNTEERS OF LAKE COUNTY PURDUE UNIVERSITY COOPERATIVE EXTENSION OFFICE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. VISCLOSKY. Mr. Speaker, it is with great enthusiasm and respect that I wish to congratulate the multitude of volunteers who donate their time and effort to the Lake County Purdue University Cooperative Extension Office located in Crown Point, Indiana. The devoted assistance of these selfless individuals has brought a spirit of volunteerism to the Northwest Indiana community that embodies the culture of its people. The citizens of Northwest Indiana owe them a debt of gratitude, and they will be honored for their commitment, at a dinner reception celebrating National Volunteer Week on April 23, 2002.

Mr. Speaker, National Volunteer Week has been celebrated since 1974, when President Nixon issued an executive order establishing the week as an annual celebration to honor those who volunteer at the local, state, and national levels, and also as an opportunity to impress upon others the benefits and sense of satisfaction that volunteerism provides. This year's theme, "Celebrate the American Spirit—Volunteer!", carries added significance after the tragic events of September 11, 2001. The outpouring of generosity was evident in the days and weeks following the attacks, as volunteers around the country helped initiate the healing process. Through the efforts to these courageous individuals, the Northwest Indiana community continues to unite.

Through a variety of programs, the Lake County Purdue University Cooperative Extension Office assistance to those throughout Lake County. The local 4–H Club is committed to positive youth development by planning camps, workshops, and other activities in which the young citizens of Lake County can participate. Master Gardeners is a program that provides volunteers an opportunity to revitalize their communities through activities related to gardening. Members of this group answer questions related to gardening, conduct gardening schools, and work diligently on community beautification projects. The Extension Homemakers Association works to strengthen Lake County families and help them to develop their homes and communities. Volunteers in this group assist families to maintain physical and mental health and to use their human and economic resources in the most efficient manner. These programs, along with the many others that the Lake County Purdue University Cooperative Extension Office provide, serve as vital resources to the citizens of Lake County.

Mr. Speaker, I ask that you and my other distinguished colleagues in the United States House of Representatives join me in congratulating the volunteers of the Lake County Purdue University Cooperative Extension Office for their loyalty and dedication to the Northwest Indiana community. The contributions these individuals make to their fellow citizens and the improvements they provide to their communities cannot be measured with numbers. They create a feeling of camaraderie that expands throughout their neighborhoods and helps to bring a sense of belonging to each of their follow citizens. Volunteers are a vital part of our community, and I am proud to represent these dedicated individuals in Congress.

IN HONOR OF THE PUERTO RICAN ACTION BOARD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the Puerto Rican Action Board on its 30th Anniversary, which was celebrated on Saturday, April 20, 2002, at Pines Manor in New Jersey.

For three decades, the Puerto Rican Action Board (PRAB) has been developing proactive programs to address the needs of the community and improve the quality of life of our families. A private, nonprofit corporation, they have improved local neighborhoods by caring for our children, educating our youth, maintaining and improving our homes, ensuring job placement opportunities, and fighting for justice in our communities.

Serving all people regardless of age, race, creed, color, or national origin, the PRAB is the only social services agency in central New Jersey that offers comprehensive home improvement, preschool, and social services through a bilingual/culturally sensitive approach.

The present programs and services of PRAB include: Greater New Brunswick and Ocean County Multi-Service Program; Pilot Project for Better Housing; "Our Children" Project; Youth Development Program; Latino Scholars Program; Student Re-Engagement Program; Healing Through the Arts: Artists Mentoring Against Racism Summer Program; Bilingual/Multi-cultural Daycare and Preschool Program; Middlesex County Weatherization Assistance Program; Home Energy Assistance Program; New Jersey Statewide Heating Assistance and Referral for Energy Services; English Classes; and numerous other community-oriented programs.

Today, I ask my colleagues to join me in honoring the Puerto Rican Action Board for its efforts to improve the quality of community life for all people. Their presence in our community does not go unnoticed and we give our heartfelt thanks for all that they do.

HONORING THE 7TH ANNIVERSARY OF THE CONSUMER ART SHOW SPONSORED BY THE MORNINGSIDE-WESTSIDE COMMUNITY ACTION CORPORATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. RANGEL. Mr. Speaker, I rise today to honor the Morningside-Westside Community Action Corporation as they prepare to host the Seventh Annual Consumer Art Show in New York city.

Working outside the conventional restraints, art participants are mental health consumers from the five boroughs who employ art to communicate their singular expressions, idioms, and viewpoints. The artists represented in this show have one thing in common, and that is a history of serious and persistent mental illness. The beautiful and inspirational art in this show celebrates the artist's individual vision, humanity, and insight.

I applaud the good people at the Morningside-Westside Community Action Corporation for spearheading such a superb gathering of artistic genius.

Founded in 1994, Morningside-Westside Community Action Corporation is an organization that has been actively involved in issues of the mentally ill. Comprised of a group of mental health consumers, family members, providers, and friends—they work as a team to serve not only the mental health community, but the community at large. Through day-to-day activities, employment, and special events, the Morningside-Westside Community Action Corporation not only promotes the rights of those suffering from mental illness, but helps increase the understanding of these rights as well.

These dedicated individuals work hard in order to build a better future for those with mental illness. Their commitment to educate, empower, and enrich the mental health consumer should be an inspiration to us all.

HONORING THE DISTINGUISHED PUBLIC SERVICE OF CLARENCE "PETE" PHILLIPS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding public service of a good friend of mine, Clarence "Pete" Phillips. Pete is retiring at the end of his current term as a representative of the 62nd Legislative District of Tennessee, a seat he has held since 1973.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

During his nearly 30 years in the Tennessee House of Representatives, Pete served his constituents faithfully and honorably. He has done a remarkable job helping the communities he represents grow and prosper. Pete's never-ending work to bolster educational opportunities for our children is admirable. And his unflinching commitment to help communities provide better services and better jobs for their residents is unequaled.

Pete has never shied away from his commitments, a trait displayed not only in the Tennessee General Assembly, but also in the South Pacific during World War II. Pete's grit and determination to get the job done has benefitted a wonderful state and a grateful Nation.

The people of Bedford and Lincoln counties could not have asked for a better public servant. His leadership and work ethic will be sorely missed in the General Assembly. As his wife, Faith, once told me, "If ever a man had his heart in his work, Pete Phillips did." I cordially congratulate Pete on his distinguished career as a public servant and wish him well in future endeavors.

TRIBUTE TO NEW LIFE MEMBERS AND OTHER MEMBERS OF GARY, INDIANA BRANCH OF NAACP

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to recognize and commend the members of the Gary, Indiana, branch of the National Association for the Advancement of Colored People (NAACP). On Friday, May 3, 2002, the Gary NAACP will hold its 39th Annual Life Membership Banquet and Scholarship Dinner at the St. Timothy Community Church in Gary, Indiana.

This annual event is a major fundraiser for the Gary branch of the NAACP. The funds generated through this activity, and others like it, go directly to the organization's needed programs and advocacy efforts. In addition, the dinner serves to update and keep the community aware of the activities, accomplishments, and accolades of the local and national chapters of the NAACP on an annual basis.

The featured speaker at this gala event will be Ms. Janette Wilson, Director of Community Intervention and Human Relations for the Chicago Public School System. She has worked diligently to develop partnerships with local schools and public agencies. This network provides mentoring programs, community service programs and assistance with after-school homework centers.

This year, the Gary NAACP will honor seven outstanding community leaders for their lifelong efforts to further equality in society, as well as one sorority. Joining more than four hundred outstanding civil, community, and religious leaders of the region, the following distinguished individuals will be inducted as life members of the Gary NAACP: Larry Pruitt, Willie Watkins, Mary Dennis, Hollis Hite, George Tardy, Barbara Bolling, and Cheron Reed. Additionally, the Sigma Phi Omega Chapter of the Alpha Kappa Alpha Sorority, Inc., will be inducted.

The Gary NAACP was organized in 1915 by a group of residents that felt there was a need for an organization that would monitor and defend the rights of African-Americans in Northwest Indiana. The organization focuses on providing better and more positive ways of addressing the important issues facing minorities in social and job-related settings. Along with its national organization, the Gary branch of the NAACP serves its community by combating injustice, discrimination, and unfair treatment in our society.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in paying tribute to the new life members, as well as the other members of the Gary NAACP for the efforts, activities, and leadership that these outstanding men and women have championed to improve the quality of life for all residents of Indiana's First Congressional District.

INTRODUCTION OF LEGISLATION TO RENAME THE POST OFFICE IN LAKE LINDEN, MI, AFTER THE HONORABLE PHILIP E. RUPPE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. CAMP. Mr. Speaker, today I rise to pay much deserved tribute to former Congressman Philip Edward Ruppe, who ably represented the people of northern Michigan, in Congress, for over a decade.

This bill, introduced by Representative BART STUPAK, designates the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building." I am pleased to report to my colleagues that the entire Michigan House delegation has signed on as original cosponsors of the measure.

Congressman Ruppe, whose family has lived in northern Michigan since the late 19th Century, was born in Laurium, Michigan on September 29, 1926. He is not only an active civic leader but also a businessman, actively involved in the community, and a veteran, who served his country as a lieutenant in the United States Navy during the Korean conflict.

In 1966, Congressman Ruppe was elected by the people of northern Michigan to serve in the 90th Congress. He served his constituents faithfully until January 3, 1979. As a member of the Merchant Marine and Fisheries Committee, as well as the Interior and Insular Affairs Committee, Congressman Ruppe was able to devote much of his focus to the specific needs of northern Michigan. Congressman Ruppe demonstrated his devotion to his constituents by becoming the first Congressman from the district to operate district offices.

Congressman Ruppe has dedicated his life to serving his community and his country. He is an example of everything that is good and decent in public service and this institution. Naming the post office in Lake Linden, Michigan is just one way we can pay tribute to this fine man and I urge support for the bill.

CONGRATULATIONS TO FORT HAYS STATE UNIVERSITY DEBATE AND FINANCIAL PLANNING TEAMS

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. MORAN of Kansas. Mr. Speaker, it has been a year of remembrance for Fort Hays State University, which is in the midst of celebrating its centennial year. Few events provide greater reason to pause and appreciate the continuing excellence of this university than the accomplishments of the last week. In the course of one week the university claimed not one, but two national championships. I stand today to recognize this tremendous feat. It is truly an honor to represent such an outstanding institution.

Two students from my own district, Joe Ramsey of Nickerson and Jason Regnier of Salina started this remarkable week by winning the Cross Examination Debate Association National Tournament. These students captured the individual team title and were honored as top speaker in the tournament. The team was challenged by opponents from a number of the country's most well known universities, however they proved that some of the brightest minds reside in western Kansas and at Fort Hays State University. I commend Joe Ramsey and Jason Regnier on their tremendous drive and resolve over the course of their competitive debate careers. Their success speaks highly of their talent and commitment, as well as that of their coach Dr. William Shanahan and teammates Brent Saindon and Paul Marbrey.

Following the triumphant return of the debate team, three more students from my district were declared national academic champions. This time Sarah Evans of Garfield, Steven Sutter, of Abilene and Nicolette Zeigler of Mankato were honored for their victory at the American Express Financial Planning Invitational. This prestigious competition tests the financial knowledge of students at top universities from across the country. Once again, Fort Hays State University students proved themselves among the best in the country. I commend these students for their dedication and energy in preparing for and attaining this victory. It is a clear testament to their financial knowledge, motivation, and academic ability. I also offer my thanks to Dr. Thomas Johansen and Dr. Rory Terry for preparing this team so very well.

It is a tremendous accomplishment to be recognized as the very best. This level of achievement would not have been possible without the leadership of President Edward Hammond and the support of many other members of the Fort Hays State University community.

I congratulate the Fort Hays State University Debate and Financial Planning Teams on their victories. They have helped make the history of Fort Hays State University that much richer in this its centennial year.

HONORING THE DEDICATED SERVICE OF BARBARA KREYKENBOHM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GORDON. Mr. Speaker, I rise today to recognize the tremendous contributions Barbara Kreykenbohm has made to Tennessee's Sixth Congressional District. A Brookings Fellow from NASA, Barbara became an invaluable part of my Washington, D.C., office over these past eight months.

As a fellow Tennessean, Barbara started in my office as a NASA Fellow eager to assist me with my work as the Ranking Member of the House Space and Aeronautics Subcommittee. But, she soon assumed a wide variety of responsibilities.

Throughout all the pressures exerted in such a fast-paced workplace, compounded with the tragic events of September 11 occurring in her first days with my office, her commitment has been a positive influence on everyone. Barbara accomplished each and every assignment with thoroughness and commitment. Her standards are high and her efforts reflect a commitment to excellence.

Although Barbara was originally assigned to work in my office for only a few months, her work ethic, research skills and desire to continue to learn the workings and intricacies of Capitol Hill soon prompted me to ask her to extend her fellowship and stay on as part of my staff.

But, her skills and talents are needed back at NASA. This is her final week as a member of my staff. Although my staff and I are sad to see her leave, Barbara's dedication to science and man's quest for discovery will continue to serve NASA and the American people well.

SITUATION IN THE MIDDLE EAST

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in support of Israel and its right to defend itself and its people from terrorism. The struggle between the Israelis and the Palestinians is one of the most longstanding and explosive of all the world's conflicts. It has its roots in the historic claim to the land which lies between the eastern shores of the Mediterranean Sea and the Jordan River. Both peoples have suffered greatly as they struggle to coexist and maintain their cultural and political identities.

However, the continued suicide attacks over the past six months have triggered the worst crisis in the Middle East since the outbreak of the Palestinian intifada 18 months ago. The terror and violence must be stopped. The Chairman of the Palestinian Authority, Yasser Arafat, has not consistently opposed or confronted terrorists or renounced terror. The situation in which he finds himself today is largely of his own making. Given his inability to stop terrorist attacks, the Israeli government feels it must defend itself against the terrorist networks that are killing its innocent citizens. Israel is our most dependable and only democratic ally in the Middle East, and it is important that the United States steadfastly stand by Israel at this critical juncture to fight terror. The United States and Israel have suffered terrible losses and stand shoulder to shoulder in the war on terrorism. For these reasons, I support Israel and urge my colleagues to join me.

CONGRATULATIONS TO MR. MICHAEL LOPEZ: EAST CHICAGOAN OF THE YEAR

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and esteem that I wish to congratulate Mr. Michael Lopez for being selected as the East Chicagoan of the Year. For thirteen years, the Twin City Community Services in East Chicago, Indiana has awarded prominent members of the community with this title. This year's activity will be held on Thursday, April 25 at the Knights of Columbus Hall in East Chicago. During this prestigious event, his family and friends will participate in a roast held in his honor.

As a child growing up in East Chicago, Mickey Lopez, as he is affectionately known to his friends and family, understood that if he were armed with patience and determination, he would overcome all obstacles as he ventured on the path to success. After graduating from Washington High School, Mickey left the confines of the Harbor to attend Indiana University in Bloomington. While on campus, a patriotic spirit awakened within him, and he sought an outlet for its release. Selflessly setting aside his own aspirations so that his natural leadership abilities could serve a greater good, Mickey enlisted into the United States Marine Corps, where he served as a sergeant for over three years. The ideals of discipline, honor, and loyalty that he presently upholds were fomented during these years as he fulfilled his duty to his country.

Having completed his commitment to the Marine Corps, Mickey returned to East Chicago, eager to establish himself among the business leaders of the city. His years spent at the Laidlow and Industrial Disposal companies became the foundation from which his entrepreneurial spirit flourished. Ever conscious of the relationship between industry and community, Mickey keenly observed the growing need for an industrial and environmental cleaning organization in East Chicago that would serve both the Northwest Indiana and Chicago steel mills. Bolstered by his ambition, he approached his childhood friend John Hurubean, and together in 1980, the two partners opened Actin, Inc. Now more than twenty years later, from this small seed has sprouted many other services spanning different types of business throughout Northwest Indiana and the Chicagoland area. In spite of the vast area the company covers, the business is still intimate and family oriented, employing roughly 100 people. More impressive, however, is Mickey's commitment to extending his success to underrepresented individuals in the business world, 85 percent of his employee base are minorities.

Under the leadership of Mickey Lopez, Actin Inc. continues to provide a valuable service to the residents and businesses of Northwest Indiana. Yet his devotion to his fellow East Chicagoans is not limited to this particular enterprise. His philanthropic nature extend to various civic organizations in his native city. Among those touched by his generosity and his tireless efforts are the Northwest Indiana Business Development Commission, the Saint Catherine's Hospital Foundation, the East Chicago School Foundation, Twin City Community Services, the Lake Shore Chamber of Commerce, and the Lake Area United Way. He is one of the founders of American Legion Post 508 and most recently he was asked to participate in the newly developed High Tech Business Incubator sponsored by Purdue University. These organizations, as well as various minority organizations, reciprocate in kind—their gratitude is evident as they bestow upon him and Actin, Inc. awards commending his service to the community and to his field of expertise. As always, Mickey accepts these accolades with a deep sense of humility.

The Knights of Columbus Hall will be filled with individuals who have been blessed with the opportunity to enjoy Mickey's quick wit, his friendly winks, and his warm, inviting smile. Perhaps the most fortunate are his sister Cathy and his six children—Laura, Michael, Melissa, Chris, Mark, and Eric—all of whom have been able to glean from him an appreciation for all the opportunities life has to offer, and a respect for the delicate relationship forged as one interacts with the greater human family. The next generation of Lopezes, which currently includes ten beautiful grandchildren, will undoubtedly embrace these virtues as they continue to uphold Mickey's tradition of civic mindedness.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in congratulating Mr. Michael Lopez on being recognized as the East Chicagoan of the Year. His commitment and dedication to the citizens of the First Congressional District deems him worthy of this commendation. I wish him continued success, both personally and professionally, and I am honored to represent him in Congress.

HONORING MICHAEL BURR FOR HIS CHARITABLE WORK AND HIS SELECTION AS THOMASTON ROTARY CLUB CITIZEN OF THE YEAR

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to acknowledge the achievements of Mr. Michael Burr of Thomaston, Connecticut. Mr. Burr has been selected by The Thomaston Rotary Club as its Distinguished Citizen of the Year for 2002.

Mr. Speaker, as an airline pilot with American Airlines, Mr. Burr organized Americans United Flag Across America, a tribute to the victims of the September 11th terrorist attacks. Beginning on October 11th, at Boston's Logan Airport, airline employees ran 3,800 miles across the country, carrying an American flag. Their run followed the planned flight paths of American Airlines Flight 11 and United Airlines Flight 175. Nearly 4,000 runners took part in this remembrance. Proceeds from AAmericans United Flag Across America have gone toward charities helping victims and families of the September 11th attacks.

Mr. Speaker, Michael Burr's tireless efforts on behalf of the AAmericans United Flag Across America were crucial to making this remarkable tribute and fund-raiser a reality. Michael Burr exemplifies the American ideals of freedom, democracy, tolerance and charity toward others. It is people like him who make our Nation the most peaceful and prosperous in the history of mankind. His dedication to honoring the memory of September 11th was extraordinary. I am proud to share a Congressional District with him, and thank him for his charitable works and efforts on behalf of the victims of September 11th.

EXTENDING BIRTHDAY GREETINGS AND BEST WISHES TO LIONEL HAMPTON

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 2002

Mr. RANGEL. Mr. Speaker, I rise today to support H. Con. Res. 363 extending birthday greetings and best wishes to Lionel Hampton on the Occasion of his 94th birthday.

I also take great pleasure in not only paying tribute to a great American and renowned jazz artist, but to recognize a constituent, a friend, and a community leader—Lionel Hampton.

Because of the enormous volume of work Lionel Hampton has consistently contributed to the National Endowment of the Arts, only his most outstanding contributions will be listed in these remarks.

Lionel Hampton was the first black musician to perform for a presidential inauguration; President Harry S. Truman in 1949. He also was one of the first black musicians to perform in venues and events previously opened only to white performers, including performances with the Benny Goodman Quartet from 1936–1940.

Mr. Hampton furthered the cause of cultural understanding and international communication. He received a Papal Medallion from Pope Pius XII, the Israel Statehood Award, and served as a Goodwill Ambassador for the United States. He also received the Honor Cross for Science and the Arts, First Class, one of Austria's highest decorations. Lionel Hampton is one of the most recorded artists in the history of jazz.

For decades, Lionel Hampton has worked to perpetuate the art form of jazz by offering his talent, inspiration, and production acumen to the University of Idaho, since 1983. In 1985, the University of Idaho named its school of music after him. He became the first jazz musician to have both a music school and jazz festival named in his honor.

His composition, Midnight Sun, became a jazz classic and his two major symphonic works, The King David Suite and Blues Suite, have been performed by major orchestras throughout the world. Mr. Hampton has received many honors during his distinguished career and has been a frequent guest and performer at the White House.

President Ronald Reagan once conducted a jazz salute to him. In 1992, he received the Kennedy Center Honors award, and in 1995, he was the focus of a Kennedy Center all-star gala. In 1996, Lionel Hampton's original recording Flying Home was entered into the Grammy Hall of Fame. He holds more than 15 honorary doctorate degrees.

As a constituent, Lionel Hampton's talent and fame has not compromised his commitment to community service. He is a long-term supporter of public housing and a staunch advocate for the homeless. In the early 1970s, he developed the Lionel Hampton Housing community and later built the Gladys Hampton Housing community in honor of his late wife. As of this date, those communities are considered to be among the premier public housing communities in the country. The Lionel Hampton Community Development Corporation has built more than 500 low and moderate income apartments in my Congressional District of Harlem alone.

Lionel Hampton's contributions to excellence to the art form of jazz, personal commitment to community development, and outstanding accomplishment to cultural diversity has more than secured his musical genius in the world of jazz. His record and commitment to jazz is unparallel. His legacy and commitment to excellence, education, and inspiration continue to gain him special recognition as "leader," "genius," and "jazz great."

Lionel Hampton has received numerous awards and commendations by local and State governments, and has received acknowledgments from hundreds of civic and performance groups. It is for these reasons, that it is both an honor as well as a pleasure for me to submit these remarks in the CONGRESSIONAL RECORD in his behalf, for the decades of outstanding service and achievements to this American hero, acclaimed jazz artist, and community activist from my Congressional District.

A JOB WELL DONE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. FRANK. Mr. Speaker, this current semester marks the last in the tenure of Dr. Adrian Tinsley as President of Bridgewater State College in the Congressional district I have been privileged to represent for the past ten years. Dr. Tinsley came to this very important institution of public higher education on July 1, 1989, and will thus be finishing up 13 years in this difficult and demanding position. She has performed her duties with enormous skill and grace and she will be very deeply missed by a multiple of constituencies. Her fellow administrators, the faculty, most importantly of course the students who have been educated under her tenure, her fellow administrators of higher education elsewhere in Massachusetts, and the people of the Greater Bridgewater community whose interest she has advanced by her effective administration of this important institution all regret her leaving, even as we all acknowledge that she has earned a dozen times over the right to a little rest and relaxation. This is not to say that she will no longer be an active and committed member of the intellectual and educational community, but few jobs can equal the Presidency of a major public institution of higher education today in terms of the demands made on those who hold this position.

Bridgewater State is one of the oldest such institutions in our country, and has a long tradition of preparing teachers. Recently it has broadened its mission even while maintaining its commitment to the training of educators, and Adrian Tinsley has significantly advanced the college's academic curriculum by adding important new programs in economics, criminal justice, public administration and management science and provided strong leadership in the implementation of advanced technology for teaching and learning.

Indeed Mr. Speaker, thanks to Dr. Tinsley's leadership, the college today has three new Schools created during her presidency, the School of Arts and Sciences, the School of Education and Allied Studies, and the School of Management and Aviation Science.

Mr. Speaker, one highlight of Adrian Tinsley's tenure was the work she did with our greatly admired and respected colleague the late Joe Moakley, who represented this district during the 80s and early 90s before redistricting moved it. One of their joint legacies is the state of the art John Joseph Moakley Center for Technological Applications, which is a great source of intellectual and economic strength for the entire region, not just for the college where it is located. Indeed Mr. Speaker, in cooperation with members of the state legislative delegation from Southeastern Massachusetts, Adrian Tinsley has helped BSC become a vital resource for the Southeastern Massachusetts region with outreach programs that serve the public and private sectors.

Adrian Tinsley has presided over significant growth at Bridgewater State College, and she has done so in a way that has not allowed dilution of the spirit of collegiality that is so important for an institution of higher education. I join with all of those whose lives she has touched with her excellent work in congratulating her and telling her how grateful we are on the occasion of her moving on.

MAYOR WINDY SITTON LEAVES MARK ON LUBBOCK LANDSCAPE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. COMBEST. Mr. Speaker, I rise today to call my colleagues' attention to the tireless dedication and tremendous accomplishments of Lubbock Mayor Windy Sitton. Mayor Sitton, the first female mayor of Lubbock, TX, began her political career as a city councilwoman in Lubbock in 1994. Mayor Sitton will focus her public service efforts on her new role as member of the Texas Higher Education Coordinating Board when her current term as mayor expires next month. I have every confidence that all Texans will benefit from her new endeavor as those in Lubbock have while she has been their city council representative and mayor.

Mayor Sitton earned a Bachelor of Science degree in education from North Texas State University in 1966. She also has earned a Master of Art degree in counseling from Texas Women's University in 1971. She received the prestigious honor of "Distinguished Alumni" from Texas Women's University in 1997. Mayor Sitton is married to Frank and has one son, John, and two grandchildren.

Before entering public office, Mayor Sitton taught High School English for 10 years and was a high school counselor for more than 7 years. During her public service in Lubbock, Mayor Sitton has helped foster a more cooperative spirit among business, education, and government, which created a stronger and more diversified economy in Lubbock. During her service as mayor, she also supported the adoption of the Ports-to-Plains Corridor, which will link Lubbock to an internationally important trade route and provide Lubbock and the West Texas region with continued economic growth. She also was instrumental in forming the Community Relations Commission and the Youth Commission, which have opened dialogues to address complex community issues. Mayor Sitton's accomplishments have reached far into her community affecting numerous local government services Lubbock residents receive, including the areas of parks, police training, firefighting, libraries, sanitation, economic development, race relations, and establishing a much needed drainage system that better protects Lubbock residents and their property.

Mayor Sitton's achievements have been met with accolades at the local and state level. Some of her notable recognitions include designation as the Best Business Leader in 2000 by the Lubbock Avalanche-Journal, a recipient of the Women of Excellence Award in 2000, and the "Woman of Distinction" Award in 1997 by the Leadership Texas Hall of Fame.

Her desire to help more women enter the political arena and take advantage of community service opportunities can only be benefitted from the example Mayor Sitton has given through her successes in public office. Mayor Sitton exemplifies the positive impact women can have in the political arena.

I would like to extend to Mayor Sitton my thanks for her generous service to the city of Lubbock, and my sincerest best wishes in all her future endeavors.

IN HONOR OF WEEK OF THE YOUNG CHILD AND PROJECT HEAD START

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize the Week of the Young Child, and commemorate the 37th Anniversary of Project Head Start. A luncheon to honor Jersey City's community leaders was held by the Jersey City Child Development Centers, Inc., Wednesday, April 17, 2002, in Jersey City, New Jersey.

Week of the Young Child, April 7–13, 2002, provides us with the opportunity to reflect on the importance of providing our children with strong foundations; a successful start leads to a successful future. And with the help of parental involvement and the guidance from child care professionals, our youngest citizens can look forward to a future full of opportunity.

A national early childhood development program, Project Head Start, focuses on parental involvement and provides education, health, nutrition, and psychological, and social development services. Eight million children and their families across the United States enjoy a brighter future thanks to Project Head Start. Under the direction of Esther G. Lee, Jersey City Head Start serves 875 children and their families in fifteen centers.

Today, I ask my colleagues to join me in honoring Week of the Young Child and Project Head Start; the well being of our nation depends on the livelihood of our children. Thank you to the community leaders that dedicate themselves to these outstanding programs.

IN RECOGNITION OF THE 50TH ANNIVERSARY OF CARNIVAL IN THE U.S. VIRGIN ISLANDS

HON. DONNA M. CHRISTENSEN

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mrs. CHRISTENSEN. Mr. Speaker, I rise today, to commend the people of the Virgin Islands on occasion of the fiftieth year of Carnival in the U.S. Virgin Islands. This yearlong observance is an important and historic time for all of us because not only is it Carnival's Golden Anniversary but also is an affirmation that our culture is vibrant and strong. This Golden Jubilee promises to be one of our grandest celebrations, the one currently taking place this week on St. Thomas and the Crucian Christmas Fiesta on St. Croix in December which will complete our year-long observance of Virgin Islands culture at its finest. The road to this Golden Jubilee was long and difficult surviving over the years with the help of so many talented minds and hands that have made this all possible.

Impressed with a Carnival in Rio de Janeiro, Brazil in 1911, Adolph "Ding" Sixto brought the idea back to the Virgin Islands and became the inspiration of the first St. Thomas Carnival that was held on Valentine's Day February 14, 1912. A Carnival King, Valdemar Miller and Carnival Queen Cassilda Durbo reigned over that event of pomp and pageantry. Carnival revelry included donkey, bicycle and boat races, greased pig catching, greased pole, confetti battles, Dixieland plantation life, comedic skits, a regal torchlight procession and masquerading throughout Charlotte Amalie. This event was repeated in 1914 with the royalty being King Lt. Knudsen and Queen Amie LaBeet.

Unfortunately, with the advent of World War I, Carnival came to an abrupt halt. Inspired by Albert "Happy Holiday" Halliday, an editorial by Ruflis Martin in the Virgin Islands Daily News 38 years alter, suggested the need to revitalize Carnival. Radio personality Mango Jones (former Virgin Islands Delegate to Congress, Ron DeLugo) echoed the call to "Let's have a Carnival." A committee headed by Eldra Shulterbrandt put together the first revitalized festival. The focus was on the parade of Masqueraders led by a cavalcade of men and women on horseback adorned in uniform procession.

That day and for years after, Carnival started out from Frenchtown. This particular Carnival and that first Road March was the frame from which the novel "Don't Stop The Carnival" by Herman Wouk emerged. The Book of the Month Club made it a featured selection; it received critical acclaim from the New York Times and because a national bestseller. Carnival royalty that year were Leo Sibilly and Carmen Nicholson. In those early years, royalty was selected solely on number of votes sold. By the 1960s, a competition to judge poise, grace and beauty replaced the votes sold criteria. Since 1952, Carnival Queens, and in some years, Kings, reigned over this large and colorfully cultural event.

Road marches were introduced in 1952 when amidst heavy rain, the Duke of Iron, a Calypsonian from Trinidad and Tobago, spot-composed and started to sing Rain Don't Stop the Carnival. Like a contagion, everyone took up the strains and braved the weather to the song in the mile-long procession. Many of the revelers were in paper type colorful costumes that were ruined by the heavy downpour. the high spirits of these masqueraders were not dampened by the rains. It only served to driving them forward into 48 years of Carnival.

Though the first steel band came to St. Thomas in 1949, Casablanca, Hell's Gate and Bute Force steelbands came in from nearby islands, Antigua and St. Kitts to participate in the revived Carnival in 1952. It is from these groups, the first local steel bands including the Lincoln School, the Molyneaux All Girls and the Charlotte Amalie High School (CAHS) Shooting Stars steelbands were organized. Names like Lezmore Emanuel and Alfred Lockhart are pioneers of the early local steelband movement. By the 1970s, steelbands had diminished to the extent that by the mid 1970s, through the efforts of Glenn 'Kawabena' Davis, Bingley Richardson and his troupe Cavalcade Africana, steelbands such as the Harmonites, Superstars and Halycyon were brought in from Antigua. For several years, as many as four steelbands were hosted each Carnival season in areas on St. Thomas such as Polyberg, Frenchtown, and Mandahl. By the 1990s, through the effort of former Presiding Judge Verne A. Hodge and the Virgin Islands Territorial Court sponsored Rising Stars Youth Steel Orchestra, steelbands made a dramatic return and dominated Carnival in the 1990s more than in any other decade.

The Prince and Princess were made a part of Carnival Royalty in 1953, the first being former Governor Roy L. Schneider, M.D., and Dr. Gwen Moolenaar. On a few occasions, there were only Princesses. The Carnival Village, like the Food Fair, became an institution of Carnival by 1957 serving up a plethora of delicacies and cuisine representing the ethnic diversity of the Virgin Islands. In this same year, Carnival was viewed as a Virgin Islands festival when Crucian, Melba Canegata was crowned Queen of Carnival. The village was first in the parking lot directly south of Emancipation Garden. It has been in Lionel Roberts Stadium, on the Waterfront and since the early 1970s, it has been housed in the Fort Christian Parking Lot where 39 booths are placed offering an unmatched variety of culinary pleasure. The Carnival Village stage was increased from 22′22′ to 40′40. Since 1985, the village has been named in honor of someone who has made significant contributions to Carnival, the first being Christian's Court in 1985 in honor of Judge Alphonso Christian, a former Chairman of Carnival.

Initially, the Carnival Food Fair was dominated by foods, locally grown fruits, vegetables and plants and drinks. Arts and Craft came later. Since food dominates this event, it is now called the "Food Fair." This event also gives recognition to persons who have contributed to the advancement of Carnival. From as far back as 1987 persons have been singled out starting with Horatio Millin Sr., a noted farmer and fair participant. The Fair was conducted on Tuesdays, then moved to Carnival Thursday. In 1996, the fair was moved to Wednesday to avoid conflict with J'ouvert, which is held on early Thursday morning of Carnival Week.

The first Virgin Islander to win an international Calypso competition was Calypso Bombshell, (Beryl Hill) in 1954 against Caribbean renowed artists such as Zebra, Duke of Iron, and Lord Melody. The only locals to hold that distinction since are Lord Blakie (Kenneth Blake), 1979 and Mighty Potter (Cecil Potter), 1980. The local calypso competition was conducted sporadically in the 1960's at the then Center Theater and later CAHS Auditorium. Names such as Lord Blakie, Mighty Bird, and Lord Sausage dominated that period. It was institutionalized in 1973, the first sovereigns being Mighty Lark and Ferrari. The current sovereign is St. Clair "Whadablee" DaSilva. The competition was renamed the Virgin Islands Calypso Competition about the mid 1980s and several calypsonians from St. Croix have won or were runners-up in the finals since their involvement. In the mid 1970s local Calypso tents were organized to select through the process of elimination, a field of 10 finalists for the local calypso competition. Today, almost 100 contenders perform in several tents hoping to be among the finalists and sovereign who holds the distinction of musical hero of Carnival. The oldest active Calypso Tent is the "Sanctum of Wisdom and Fun."

The inspirational mono of 1952, now called the Carnival theme, was "Roast-a-time & Bamboushay." Carnival themes were institutionalized in the 1970s. "Unity in '73" is the earliest recorded since '52.

Since 1952, the Gypsie Troupe, founded by the late Gertrude Lockhart Dudley Melchoir, and others, as well as the Traditional Indians have participated in every Carnival parade. I salute the organizers and members of these two long-standing organizations and thank them for keeping their tradition going for 50 years.

One event that has remained popular from it's inception is Brass-O-Rama, now renamed, "Band-O-Rama" to include bands that do not have brass instruments. Formally a part of Carnival since 1980, Mandingo Brass was the first winner. This event started utilizing local bands but has expanded to involve bands from around the region. What used to be called Warm Up Morning when the Carnival was revived in 1952 was reintroduced as J'ouvert on Carnival Friday, 1973. The early risers would be adorned as in masquerade fashion, cross-dressing and sleepwear. Then they take to the streets reveling from 4:00 AM until it's time for the Children's Parade. Because the bands would be engaged earlier, then subsequently ready themselves to participate in J'ouvert, they would be tired to continue on in the Children's Parade. Thus, that parade suffered from a lack of live music, J'ouvert was eventually moved to Thursdays in 1996 to ensure live music for the children.

The full week of international Calypso Tents was reduced to two nights and the World Calypso King was dropped in 1986. In recent years, Calypsonians from across the region can be enjoyed rather than just performers from Trinidad. Cultural Night is a free event night that goes back to the 1960's where a variety of Quadrille groups backed up by the fungi bands performed the seven figures of flat German Quadrille and other European dances such as Lancers, Seven Step, Two-step Mazurka, Skottiche and more.

Names such as Magnus "Mongo" Niles, Lucille Roberts and Moses Baptiste can still be heard rolling off the cultural memory scrolls. Today Cultural Night also features Bamboula Dancers, Quelbe, Merengue and the highlight is the King and Queen of the Band competition in Junior and Adult categories. On this night, the first glimpse of the troupe's most elaborate male and female costumes are on grand exhibition. The most recorded winners by any adult entry is William "Champagne" Chandler (King) and Arah Lockhart (Queen) and Alrid Lockhart, Jr. (Jr. King) and Ambi Lockhart (Junior Queen) in the children's category.

In 1977, our Carnival was graced with the presence of the late Esther Rolle of television fame for her role as a strong willed but sweet mother in the sitcom "Good Times."

In 1986, in response to Irving "Brownie" Brown's call, this author started the Quelbe Tramp. It features persons playing acoustical instruments such as guitar, ukulele, guiro, triangle, "donkey" pipe, tambourines, maracas, bottles, cans, and anything that can make rhythmic noise. Those who are not playing an instrument, sing as they tramp up Main Street. This tramp brings out from senior citizens to toddlers in strollers, spanning as many as five generations, dancing from Market Square to Carnival Village. It has been conducted on Carnival Wednesdays past but now starts around 8 p.m. on Carnival Tuesday following the Pre-Teen Tramp. On occasion, steel bands have added a level of grandeur to the Tramp.

In 1989, the Carnival Committee opened its first office after years of Operating from trunks of cars of the various Chairpersons, or from the workstations of the Chairperson of a given tenure. Today, an Executive Director with an Administrative Officer who coordinates and facilitates the efforts of the 29 Committees and activity centers of Carnival mans the office. The Virgin Islands Carnival Office is located on Kronprindsens Gade in the heart of downtown Charlotte Amalie. Since the establishment of this office, it has become the authority on revising operating procedures throughout the Caribbean. On any given day, a number of phone calls would be made to this office from other Caribbean committees seeking ways to improve the way they function.

The Virgin Islands Carnival's greatest impact was realized when the sequel to the movie "Weekend At Bernie's" was scheduled to be filmed entirely in the Virgin Islands and they wanted a Carnival scene. The Carnival parade scene which lasted over five minutes of the final scene, was a spirited climax of the movie titled "Weekend at Bernie's II."

Fifty years later, Carnival is still the single largest display of all aspects of Virgin Islands culture. This Golden Jubilee is a celebration of our struggles and triumphs as a people, and a sign that there is much more pageantry, creativity, camaraderie and tradition to be seen and to share with the rest of the world. May God bless the Virgin Islands of the United States of America, our Nation and us all. Happy 50th Carnival Anniversary!

A TRIBUTE TO MAS AND MARCIA HASHIMOTO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. FARR of California. Mr. Speaker, I rise today to recognize and honor the contributions made by two longtime community leaders. Mas and Marcia Hashimoto have been working tirelessly for years to educate our local communities about the World War II incarceration of Japanese and Japanese Americans.

Mas and Marcia created the idea of "Liberty Lost . . . Lessons in Loyalty", a re-enactment of the incarceration of Japanese and Japanese Americans and inspired in the larger community a call to action to commemorate an event of enormous historical significance to the Pajaro Valley and the United States. "Liberty Lost . . . Lessons in Loyalty" honors those incarcerated as well as those who, in single acts of kindness and compassion bravely and generously supported the internees. It also has captured the courageous stories and memories of Japanese and Japanese Americans incarcerated during WWII in a series of invaluable oral history recordings that will forever be treasured. "Liberty Lost . . . Lessons in Loyalty" educates the entire community about the dangers of wartime hysteria and racism and serves as a forum from which new cross cultural understanding of alliances may be formed.

Mas and Marcia are recognized community leaders and have each served as the president of the Watsonville-Santa Cruz JACL and where, in their capacity as leaders, they have encouraged, motivated, and inspired all with which they have worked. Mas and Marcia Hashimoto have greatly contributed to the strength and vitality of the Watsonville-Santa Cruz JACL, the Japanese American community, and to the Pajaro Valley. As a team, Mas and Marcia have shared their lives, their warmth and enthusiasm, and their energy and passion in creating "Liberty Lost . . . Lessons in Loyalty." Their work, and this project, shall be forever cherished for all to remember.

IN SUPPORT OF THE LIFE INSURANCE EMPLOYEE NOTIFICATION ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GREEN of Texas. Mr. Speaker, I rise today to introduce the Life Insurance Employee Notification Act or the LIEN Act for short.

As a strong supporter of the American worker, I am here on the floor introducing legislation to stop American companies from profiting in the deaths of their employees.

A recent article in the Houston Chronicle brought to my attention a business practice involving employers purchasing secret life insurance policies on their employees without their knowledge or consent.

These policies are known as Corporate-owned Life Insurance or COLI.

Unfortunately, they also have another name, "dead peasant policies."

They are called dead peasant policies because these Corporate-owned Life Insurance policies are usually purchased for the rank-and file employees and not the CEO, CFO, or the Board of Directors.

Executive Insurance is the norm in corporate America and I have no problem with that because it is disclosed to investors and the individual.

Dead peasant policies, on the other hand, are not disclosed to the low-level employee because he or she is not eligible to collect the death benefit.

This failure to notify the ownership of the death benefit is the crux of the problem.

American companies are purchasing secret life insurance on the chanced that one of their employees dies and they can collect the six figure death benefit.

These companies have created a death derivative.

In a large company with thousands of employees, economic modeling can be done to predict how many policies will be collected on in a given year.

This blood money can be used for whatever the company wants, but most importantly it is rarely used to compensate the families of the dead employee.

While I find the use of life insurance in this manner offensive, I understand it is not illegal and is in fact condoned in many states; Texas is not one of them.

The LIEN Act is a sunshine bill that forces companies to disclose to the employee that a dead peasant policy has been purchased in their name.

In addition, it requires the company to provide the name of the insurer, the benefit amount, and under whose name the policy is in.

I do not want to ban this practice, but simply provide workers with more information about what the employer is doing on their behalf.

As we saw with Enron, corporations often do not provide pertinent financial information to their employees.

I am frankly disgusted with this whole practice and am amazed that this all began as a simple tax dodge worth billions of dollars.

In the mid 1990s, the Internal Revenue Service (IRS) disallowed the classification of these policies as a legitimate business expense for the purpose of reducing their federal tax obligation.

I urge my colleagues to cosponsor this important legislation to protect all hard working Americans from dead peasant insurance.

IN HONOR OF ST. JOSEPH'S DAY AND THE DOWNRIVER ITALIAN-AMERICAN CLUB

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. BONIOR. Mr. Speaker, as members of the Downriver Italian-American Club gathered together to celebrate St. Joseph's Day, they celebrated a feast day cherished by Italians and Italian-Americans everywhere. Honoring the patron saint of families, working men, social justice, and the church, St. Joseph is remembered in the Catholic tradition as the husband of Mary and the earthly father of Jesus Christ. Celebrated across the villages of Italy on March 19th as a day of feast, the traditions of St. Joseph's Day continue to be honored by families outside of Italy by sharing the blessings of food, family, and good fortune with those in need.

Our nation's estimated 25 million Italian-Americans from all walks of life have left a permanent and undeniable mark on the history of America. From Alphonse de Tonty, the cofounder of Detroit, Michigan to Mother Frances Cabrini, the first American to be canonized, Italian-Americans have contributed in countless ways to the greatness of this country. Today, the strong relationship between the United States and Italy is a testament to the countless immigrants from Italy who made America their home generations ago.

Here in Michigan, the seeds of the Downriver Italian-American Club were planted when Joseph Menna of Trenton and Salvatore DiPasquale of Wyandotte visualized an Italian club inclusive of all the downriver communities in the fall of 1970. One year later, on April 28, 1971, with just 41 members and a slate of officers, they celebrated the chartered birth of the Downriver Italian-American Club and began a tradition for generations to come. Today, with a seventeen-member Board of Directors and social, civic, and entertainment committees, the Downriver Italian-American Club is a thriving center of language, culture, music, and social events. With over 500 members, communities are able to join together and celebrate Italian culture, traditions, food and wine. Joyfully celebrating St. Joseph's Day, the Downriver Italian-American Club continues to bring the traditions of Italian culture and customs to families across Michigan.

Italian Americans are an integral part of this nation's success. As Italians and Italian-Americans celebrate the holiday commemorating St. Joseph, we join them in their tribute and honor the contributions Americans of Italian descent have made to our great country.

IN RECOGNITION OF NATIONAL VOLUNTEER WEEK

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. HASTERT. Mr. Speaker, I rise today at the start of National Volunteer Week to recognize the invaluable contributions of volunteers to communities across the nation.

From the earliest days of our Nation's history, the spirit of volunteer service has been reflected by neighbors helping one another to overcome obstacles in the pursuit of happiness. The freedom and individual rights at the core of our society come from a shared responsibility for the health and well being of our communities and for each other.

National Volunteer Week is a time to recognize and celebrate the efforts of volunteers who play such an integral part in creating a sense of community and shared responsibility for our future. This year's National Volunteer Week theme, "Celebrate the American Spirit—VOLUNTEER!" is particularly appropriate as we continue to witness the outpouring of contributions and compassion following the September 11 terrorist attacks. By celebrating the volunteer spirit, we can show the world that helping is healing for our country and can encourage men, women, and children to help make positive changes in the lives of others.

Volunteerism not only improves the lives of others, it builds a sense of community, breaks down barriers between people and develops leadership skills. Americans, young and old alike, can and do play important roles in our communities. For as long as the American people volunteer their time for the benefit of their neighbors, America's community spirit will continue to hold tremendous promise for the future.

IN RECOGNITION OF FIRST ANNUAL NATIONAL HEALTHCARE VOLUNTEER DAY

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Ms. BALDWIN. Mr. Speaker, I rise today in recognition of the first annual National Healthcare Volunteer Day, which occurred on Monday, April 22, 2002, during National Volunteer Week. This day was created to recognize the time and effort that many volunteers contribute in healthcare settings and was initiated and supported by the American Society of Directors of Volunteer Services, a national association of managers of healthcare volunteers, and the American Hospital Association.

The hope for this celebration is that through an annual recognition, the accomplishments of volunteers serving the needs of patients, residents, families, visitors, physicians, and staff may be publicized and commended.

I am proud to say that Reedsburg Area Medical Center, located in my district, was an enthusiastic participant in kicking off the annual National Healthcare Volunteers celebration!

I congratulate Reedsburg Area Medical Center on its participation in this day as well as the celebration of its 100th anniversary. I am proud to recognize both this medical center and the first annual National Healthcare Volunteer Day!

PROTECTING AMERICAN INDIAN AND ALASKA NATIVE SACRED LANDS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. PALLONE. Mr. Speaker, as a member of the Congressional Native American Caucus, I rise today in strong support of H.R. 2085, the Valley of Chiefs Native American Sacred Site Preservation Act, which would safeguard an area very sacred to a number of Indian tribes, and ask that my colleagues support this bill as well. In addition, I want to comment on the need to protect other threatened American Indian and Alaska Native (AI/AN) sacred lands.

Our many democratic forums establish an opportunity for discussions to take place to better understand the social, economic, legal, and political complexity of AI/AN realities, before related legislation is brought to the House floor for a vote. As congressional history demonstrates, the decisions to make as Representatives can either positively or negatively impact AI/AN people, and their nations, tribes, bands, villages, and communities.

For example, between 1887 and 1934, the U.S. Government took over 90 million acres of land from American Indians without compensation—including sacred lands. More recently, between 1945 and 1968, Congress decided that Federal recognition and assistance to more than 100 tribes should be terminated. This termination policy created economic disaster for many American Indians, and their nations, resulting in millions of acres of valuable natural resource land being lost through tax forfeiture sales. This is a primary reason why AI/AN families have the biggest poverty level of any group in the country, at a rate of 31 percent on some Indian reservations.

By holding hearings on the impact of legislation related to American Indians and Alaska Natives, Congress moved to rectify its prior decisions by passing self-determination and self-governance policies. As a result of such policies, AI/AN nations and villages have greater control over their lands and resources. They have made great strides toward reversing the economic blight that resulted from previous Federal policies, and have revived their unique cultures and nations.

Congress must withstand pressure from those individuals and groups that call for back tracking to old AI/AN policies, such as termination and reduction of AI/AN sovereign rights. We must acknowledge and learn from our mistakes, and not repeat them in the future because AI/AN nations and people are relying upon our commitments.

The United States Constitution recognizes that American Indian Nations are sovereign governments. Hundreds of treaties, the Supreme Court, the President, and the Congress have repeatedly affirmed that Indian nations retain their inherent powers of self-government. In addition, the U.S. Government is committed to a trustee relationship with the Indian nations. This trust relationship requires the Federal Government to exercise the highest degree of care with tribal and Indian lands and resources.

Sacred lands, and ceremonies associated with those lands, are a necessary expression of AI/AN spirituality, and often are key to individual an collective wellness. This necessity is situated deep in the ancient history of these Indian nations and maintains a prominent place in the fact-based stories hand down from one generation to another. Since the coming of the Europeans to these shores in the late 14th century, these sacred lands have been subject to intrusion and disturbance as settlers laid claim to lands of the AI/AN people.

In 1978, Congress passed the American Indian Religious Freedom Act, recognizing the necessity of upholding the protection of AI/AN spirituality within the ambit of the religious freedom guaranteed by the first amendment to the United States Constitution. Unfortunately, litigation in the courts since then to safeguard sacred lands, and the ceremonies associated with those lands, has for the most part been unsuccessful.

Rather than safeguard sacred lands, these cases have upheld multiple intrusions upon them and maintained a history of subordination of AI/AN spirituality to the interests of dominating groups. Federal Government representatives, leaders of historic religions, and judiciary members must develop more tolerance and expand their definitions of what constitutes a proper sacred place.

Culture and legal scholar, Davis Mayberry-Lewis, writes:

> American Indian religions consider the earth as sacred, whereas the secular culture that surrounds them considers the earth to be real estate. It is hard for the strong to give up their ingrained habit of overpowering the weak, but it is essential if we are to make multiethnic societies like our own work with a minimum of civility.

Anthropologist Elizabeth Brandt states:

> The free practice of many Indian religions requires privacy and undisturbed access to culturally and religiously significant sites and their resources. It is irrevocably tied to specific places in the world which derive their power and sacred character from their natural undisturbed state.

Ultimately, how free are we, really, if the first religions of our great country cannot be protected? I also ask you, what if, despite your objections to the contrary, your spiritual place was being bull dozed for economic activity or spiked for scaling purposes? How would you feel, what would you think and what would you do?

Therefore I strongly support H.R. 2085, the Valley of Chiefs Native American Sacred Site Preservation Act, which would safeguard an area very sacred to a number of Indian tribes, and ask that my colleagues support this bill as well.

I also call for additional Sacred Land legislation to be developed in consultation with Indian Country. Furthermore, the establishment of a governmentwide, effective, and comprehensive procedure that safeguards the loss of further AI/AN sacred lands must be enacted. We must move swiftly in conjunction with AI/AN nations before more sacred lands, such as Mt. Shasta and Medicine Lake of California, Devil's Tower, and Black Hills of South Dakota, to name a few, are further desecrated and damaged.

IN HONOR OF DR. EUGENE CARL STROBEL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. BONIOR. Mr. Speaker, the German-American Heritage Foundation International gathered for their 6th Annual Dinner and Musical Cabaret on April 6, 2002, to celebrate an evening of music, culture, and the life of Dr. Eugene Carl Strobel. Dr. Strobel was a man who touched the lives of so many in this community, who was devoted to his family and his community. Dr. Strobel's memory will continue to be remembered and cherished after his passing from this earth on November 21, 2001.

One of southeastern Michigan's unsung heroes, Dr. Strobel was always a leader and an activist in his community. As a family man, university teacher, administrator, and an activist in humanitarian causes his entire life, Dr. Strobel's contributions left an indelible impression on us all. As one of the founders of Detroit's Wayne County Community College, an administrator at both Eastern Michigan University and Lawrence Technological University, and a pioneer of televised credit courses on WTVS-TV, Dr. Strobel's dedication to education was unparalleled. A true civil rights advocate and activist for so many humanitarian causes, Dr. Strobel devoted his life to working for peace and equality in his community and beyond.

Finally, Dr. Strobel demonstrated outstanding commitment to his German heritage and worked tirelessly to bring together the German American community. As founding president of the German American Heritage Foundation International, Dr. Strobel worked tirelessly to organize programs and actively support several committees to promote German culture and traditions. Bringing together members of the German American community, Dr. Strobel was instrumental in coordinating projects with the German Consulate, the German American Chamber of Commerce, DaimlerChrysler, and many other businesses and corporations.

Dr. Strobel has always given 100 percent in every aspect of his life; his work, his community, his family, and his friends. Those who had the pleasure of knowing him and the benefit of working with him will continue to remember him as a dedicated, faithful friend. He will truly be missed.

I invite my colleagues to please join me in paying tribute to one of the most influential citizens of southeastern Michigan, and saluting him for his exemplary years of care and service.

TRIBUTE TO MADELEINE H. BERMAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. LEVIN. Mr. Speaker, I ask my colleagues to rise today to recognize Madeleine H. Berman, as the Detroit Zoological Society establishes the Madeleine Berman Academy for Humane Education. The Academy has been established in recognition of both a generous grant from the Mandell L. and Madeleine H. Berman Support Foundation and Madeleine "Madge" Berman's lifelong commitment to the promotion of the Arts and Humanities.

Madge is a Detroit native, who has worked tirelessly on behalf of the Arts in Metro Detroit, the State of Michigan and, indeed, the Nation. She was a pioneer in the establishment of a number of activities and organizations, both locally and state-wide, now recognized as "institutions" of our art community. As a member of New Detroit's Arts Committee, she helped establish the first Detroit Arts Council and served as one of the seven original members of that board. She pioneered efforts for the Legendary WTVS Public Television Auction and she participated in creating the Friends of WDET, Detroit Public Radio. She served for almost a decade on the Michigan Council of the Arts.

In 1984, President Clinton appointed her to the President's Committee for the Arts and Humanities. In addition to many other boards, she presently serves on the Board of the Michigan Humane Society where she works with public schools in humane educational work.

Madge's most recent endeavor wonderfully melds her concern for the animals that share our world, her focus on involving children in creative efforts, and her background in the Arts. The Madeleine Berman Academy for Humane Education seeks to provide a forum, through innovative educational programs and creatie activities, where children can explore and learn to respect the intricate connections between animals and humans.

I know my colleagues join me in celebrating and honoring Madge's admirable endeavors. Her husband, Bill Berman, has been a bright beacon of community involvement and philanthropic work. Together, they have tremendously enriched our communities and the lives of countless children. We know that their work will endure for many years to come.

IN RECOGNITION OF THE AMERICA IN BLOOM PROGRAM

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. HASTERT. Mr. Speaker, I rise today to recognize the important contribution of the America in Bloom program to communities across the nation.

America in Bloom is a national beautification contest that began last year with the participation of four cities across the United States. This unique program helps to foster community involvement, patriotism and civic pride through the challenge of a friendly competition between participating communities across the country. The contest is judged on the basis of eight categories, including tidiness, environmental awareness, heritage, urban forestry, landscaped area, floral displays, turf and ground cover areas and, most importantly, community involvement.

This year, the contest will again provide communities with a forum to increase civic pride and community involvement through the challenge of a national evaluation. The program has registered almost thirty communities to date, including Batavia, Illinois, which I am proud to represent.

It is my hope that more communities will take part in this program as it brings together citizens of all ages, municipal governments and local organizations to work collectively for the visual improvement of America's parks, neighborhoods, open spaces and streets. This can only encourage the preservation of our collective heritage and culture while creating a sense of unity and pride among citizens.

IN HONOR OF REVEREND DR. JOHN L. PRATT, SR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of Reverend Dr. John L. Pratt, Sr. in recognition of his 25th Pastoral Anniversary.

Reverend Dr. John L. Pratt, Sr. was born in Fredericksburg, Virginia. He graduated from Walker-Grant High School and attended Storer College in Harpers Ferry, WVA, where he majored in education. He went on to receive his graduate degree from the Bible Institute and American Divinity School also earning a B.A. Degree and Doctorate of Theology.

When Rev. Dr. Pratt was elected pastor of Zion Shiloh Baptist Church, he told the congregation, "I accept the challenge" and he continues to "accept the challenge" as he remains there to this day. Rev. Dr. Pratt will quickly tell you that his greatest reward is working for the Lord. Among his many accomplishments since arriving at the Church, he has led his congregation to a new church building.

In addition, to his work on behalf of the church, the wider church community has also recognized him. He is a past recording secretary for Progressive National Baptist Convention, past moderator of the New York Missionary Association, member of the Advisory Board of Community Board #2, member of Cumberland Community Board, past Secretary of Moderator's Department of the Progressive National Baptist Convention, member of the Hampton Ministers Conference Board, member of the Fort Greene Support and Rescue Group, Instructor for New York Missionary Baptist Association of Ministers and newly elected President of the Brooklyn Council of Churches and many others.

Rev. Dr. Pratt is married to Mrs. Gertrude Pratt. They are blessed with two sons; Leo C. Pratt and John L. Pratt, Jr.; a daughter in law, Michelle and a loving grandson, Leo Sterling Pratt.

Mr. Speaker, Rev. Dr. John L. Pratt, Sr. has been accepting the challenge as the pastor of Zion Shiloh Baptist Church for twenty-five years and is still telling everyone to "Keep Praying, Caring, Loving and . . ." for God answers all prayers. As such, he is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly remarkable man of God.

HONORING TONY J. SIRVELLO ON HIS RETIREMENT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GREEN of Texas. Mr. Speaker, on June 30, 2002, Harris County Elections Administrator Tony Sirvello will retire after overseeing the local electoral process for more than two decades. Tony has been a constant in the elections office for a majority of my political career, and I want to congratulate him on a job well done.

Tony has been a life-long resident of Houston. He graduated from St. Thomas High School and then earned a bachelor's degree and a law degree from the University of Houston. He also served in the United States Army and was awarded the Army Commendation Medal.

In June 1973, he begin to work for Harris County, and in October 1980, he was promoted to the position of Supervisor of Elections. In a time in our nation's history when more and more Americans do not vote, Tony has taken significant steps to ensure that everyone has an opportunity to vote.

He has had a distinguished career. He has attended every single Texas Secretary of State Seminar for Election Officials since the very first one. He is a member of the Federal Elections Commission Advisory Panel on Election Administration. He is a member of the International Association of Clerks, Recorders, Election Officials and Treasurers. He helped organize South African absentee voting in Houston. He helped organize Russian absentee voting in Houston. And, he was the first election official in the United States to email a ballot to a NASA Astronaut on the space station.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring and congratulating Tony J. Sirvello on his retirement. Tony, we wish you well.

TRIBUTE TO THE PHILIPPINE AMERICAN COMMUNITY CENTER OF MICHIGAN

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Philippine American community of Michigan, who celebrated the historic unveiling of "Philippine Street", the newly renamed home of the Philippine American Community Center on April 19, 2002.

As Michigan is home to a thriving Philippine American population and Asian American community, we have the opportunity to recognize the accomplishments and contributions of a fabulous people. They possess a focused vision of their future and will do all they feel is necessary to ensure prosperity.

Today, the United States is enriched by the many Philippine Americans who have made this country their home. As the second largest Asian group in the United States, Philippine Americans are making their mark, serving as actors and novelists, elected officials and boxing champions. They have made major contributions to nearly every facet of American society. The Philippine American community adds to the wonderful diverse American culture by sharing with us their customs, traditions and beliefs.

The renaming of the Northland Park Court as "Philippine Street" attests to the wealth of the culture we have developed here in Michigan. The spirit and enthusiasm of the Philippine American community of Southeastern Michigan has been such an invaluable asset to our great state, and has truly been the driving force in their success.

I urge my colleagues to join me in congratulating the Philippine American community of Michigan on this landmark day, and I salute them all for their tremendous contributions and support.

CALLAWAY GARDENS 50TH ANNIVERSARY

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. COLLINS. Mr. Speaker, on May 21, 2002 one of Georgia's treasures will celebrate its 50th anniversary. Created as a place "prettier than anything since the Garden of Eden," Cason and Virginia Callaway envisioned a verdant preserve of some of the most beautiful flora and fauna in our Nation. Today, Callaway Gardens is all of that and so much more.

Featuring the world's largest man-made inland, white-sand beach, a world-class resort, the world's largest azalea garden, acclaimed golf, birds of prey program, and a collection of plumleaf azaleas, a plant which the Callaway's rescued from the verge of extinction, Callaway Gardens has been a place of relaxation and beauty for generations of Americans.

Keats once wrote,

> A thing of beauty is a joy forever:
> Its loveliness increases; it will never
> Pass into nothingness; but still will keep
> A bower quiet for us, and a sleep
> Full of sweet dreams, and health, and quiet breathing.

That is the most appropriate description I have ever heard for Callaway Gardens.

As the family of Cason and Virginia Callaway celebrate the 50th anniversary of their parents' dream, I congratulate them for continuing to make that dream a reality. A friend of farmers, environmentalists, and those who appreciate beauty, the Callaways have crafted a marvel of modern day horticulture and botany in the midst of rural Georgia. I am pleased to represent the people who work at and lead Callaway Gardens, and I am pleased that such a thing of beauty is located in the Third District of the great State of Georgia.

HONORING THE 50TH ANNIVERSARY OF THE BROYHILL CREST CITIZEN'S ASSOCIATION

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor a community in Fairfax County, Broyhill Crest Citizen's Association, on its 50th Anniversary. This neighborhood has been providing families with the best Annandale, Virginia has to offer for many years and is well-positioned to continue to do so in the future.

Broyhill Crest Citizen's Association was founded in 1952 and held its first meeting on Annandale Road with 24 families in attendance. Today, the membership includes 1150 families covering an area of almost 20 miles, including 15 subdivisions. With a goal of being more effective in county matters, the Broyhill Crest Citizen's Association joined the Fairfax County Federation of Citizens Associations in 1953, and today is one of the largest associations in the County Federation.

Priding itself on community relations, the Broyhill Crest Citizen's Association is in constant contact with its residents. Monthly board meetings and an annual meeting held each Spring allow residents an opportunity to have their voices heard, discuss problems and speak directly to elected officials. The monthly newsletter, which has evolved from a mimeograph hand-delivered bulletin in the last 50s to a printed publication mailed to residents today, is the Association's main means of communication with its residents.

The Broyhill Crest Citizen's Association strives to make our community a better place. Through close relationships with local government officials, it monitors plans and policies to keep residents informed. Social activities, including the annual Easter Egg Hunt, July 4th Celebration, and Santa Visit, have become highlights of the community calendar, providing a festive gathering place for residents, guests, local officials, and families.

Mr. Speaker, in closing, I want to thank the Broyhill Crest Citizen's Association for all it has provided to the community and congratulate all of its members on this momentous occasion which will be celebrated on Tuesday, April 23, 2002. I hope that all of my colleagues will join me in congratulating the Broyhill Crest Citizen's Association on 50 years of service and wishing them the best in the years to come.

INTRODUCTION OF OVARIAN CANCER DETECTION LEGISLATION

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. ISRAEL. Mr. Speaker, today I am proud to announce I am introducing in Congress with Representative DELAURO of Connecticut a resolution that will result in the National Institutes of Health conducting a complete, multi-institutional trial of a potentially huge breakthrough in early ovarian cancer detection.

About 75 percent of women with ovarian cancer are diagnosed in the advanced stage of the disease, when survival rates are only 20 percent for five years. Early detection brings survival up to 95 percent. Scientists from the FDA and the National Cancer Institute reported in early February that patterns of protein found in blood serum may reflect the presence of the disease.

Our resolution will make sure that the National Institutes of Health completes a full field test of the new ovarian cancer early detection process. If the full trial of this simple blood test for ovarian cancer proves effective, I will fight to require that the blood test be given to all women as part of their annual gynecological exam and that Medicare/Medicaid and private insurance fully cover the procedure.

Tough legislation? You bet! But the time to act is now.

Ovarian cancer, the deadliest of the gynecologic cancers, is the fourth leading cause of cancer death among U.S. women. Ovarian cancer occurs in one out of 57 women; an estimated 13,900 American women died from ovarian cancer in 2001 alone.

The question before us today is whether we have the determination to commit our national resources to the health of our people. Some people say we don't have the resources to provide for the health needs of our women. But if we would stop throwing away $40 billion to farmers not to grow crops, maybe then we could insure that women who undergo the trauma of mastectomy are not thrown out of hospitals after 1 day. Instead of spending $35 billion in subsidies to the biggest Gas, Oil, Drilling and Mining Companies in America, how about subsidizing a prescription drug benefit for seniors? If we would stop retroactive corporate tax giveaways to provide the biggest corporations in America with a retroactive repeal, a rebate check, of corporate taxes dating back to 1986 so that ENRON would have received a payment from you for $125 million in rebated corporate taxes when it did not pay a penny in corporate taxes for the past 4 years. How about making sure those companies pay their fair share and maybe we could save the lives of our women from ovarian cancer. If we would close tax loopholes that permit rich corporations to run off to Bermuda to avoid paying US taxes, then maybe we could provide a prescription health benefit, reform the HMO system, broaden the scope of research and coverage on women gynecological cancers.

Governing is about making choices, and Representative ROSA DELAURA and I are here today to make a choice. We are choosing the life of the women of America, and that's why we are introducing this important resolution.

Our nation has found the resolve and the resources to tackle the most difficult problems on earth, to produce the most advanced technology, to produce the weapons we need to protect our national security. We must now find the resolve and the resources to protect our people, and especially our women, from the ravages of disease.

Mr. Speaker, that is our obligation. It is my obligation. I am confident we can achieve our goals by working together.

100TH ANNIVERSARY OF NATIONAL 4-H PROGRAM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate and pay tribute to 4-Hers all over America as they celebrate 4-H's centennial. This year, the National 4-H Program celebrates 100 years of helping young people develop skills to improve their lives and contribute to their communities.

This year, 4-H programs in all 50 states will conduct meetings, seminars, and listening sessions at the local, state, and national levels to discuss strategies for youth development in the 21st century. The National 4-H Program Centennial Initiative will culminate in a report to Congress and the President with recommendations on the programs that are best suited to helping America's youth.

Missouri 4-H programs are coordinated by University Outreach and Extension, which is a partnership of the University of Missouri, Lincoln University, the United States Department of Agriculture, and county governments. 4-H is often associated with rural communities, but today more than 1000 Missouri 4-H clubs serve as many young people from suburban and urban areas as from farms and small towns.

Although 4-H has changed over the years to meet the changing needs of Missouri families, clubs continue to live up to the 4-H motto: to make the best better. Group focused and family oriented, 4-H promotes positive physical, mental, and emotional growth through programs that help young people build self-confidence and acquire essential life skills. Today's 4-H features programs covering traditional topics such as cooking and agriculture as well as classes about the environment, workforce preparation, leadership and teamwork, and community involvement.

Missouri 4-H programs are intended for youth of all income levels, abilities, and ethnic backgrounds. With the upcoming centennial celebrations, it is an especially good time for anyone who is interested in joining or volunteering for 4-H to get involved. I know the Members of the House will join me in congratulating the National 4-H Program on reaching this outstanding milestone.

TRIBUTE TO ANTHONY J. BELLOMO, LITURGICAL ARTIST OF THE YEAR AWARD

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. BONIOR. Mr. Speaker, today I rise to pay tribute to a man whose leadership and achievements in art, building, and craftsmanship has touched the lives of so many across southeastern Michigan and beyond. Anthony Bellomo, or Tony, as many of his friends and associates have come to know him, has put Mount Clemens, MI, on the map as a center of some of America's finest liturgical art. This year, as the Ministry and Liturgy Magazine of San Jose, CA, selected their "Liturgical Artist of the Year", they honored Tony Bellomo for his winning art "Trinity in Glory" which is incorporated in the Sanctuary of St. Joseph's Church in Trenton, MI.

As the former director of art at L'Anse Creuse High School North, Tony left his teaching job to pursue his love of art and good craftsmanship. His strong interest in building and construction led him to launch the Black Forest Building Company in 1982, which has since grown into a highly successful company specializing in uniquely designed decks, gazebos, gardens, and buildings. As a deeply devoted Christian, Tony then brought his unique talents and style to the field of liturgical art. Recognized nationally for his prayerful approach and artistic sincerity, today Tony's liturgical art is in 50–100 churches in 10 States across the Nation.

Additionally, Tony's innovative style and artistic philosophy will bring him to the next White House conference on the "Healing Arts" in Washington, DC. His philosophy on art and its healing power has also led him to begin pioneering work with hospital traumatic units, cancer treatment centers, and psychiatric units.

Tony Bellomo's commitment to art and faith has truly been the driving force in his success. He is a distinguished artist and leader in his community. It gives me great pleasure to honor Tony, and I urge my colleagues to join me in saluting him on this milestone occasion.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. SHAYS. Mr. Speaker, I rise in strong support of this motion.

This Congress has consistently, and in a bipartisan manner, supported easing our failed trade embargo on Cuba. A few years ago, we had a breakthrough and enacted legislation that allows the export of food, medicine, and humanitarian aid to the island nation. Unfortunately, that landmark legislation placed restrictions on these sales, the most onerous of which was the prohibition on U.S. financing.

For the life of me I've never understood why we are allowing United States farmers access to the Cuban market, but prohibiting our banks from financing these sales. This type of inconsistency doesn't just harm our financial institutions, it ultimately harms the very farmers we are tying to help.

The continued restrictions are also hurting the Cuban people. I don't think endangering the health and nutrition of the Cuban people is a proper response to our political disagreements with Fidel Castro. United States policy must focus on promoting a peaceful transition to democracy in Cuba. As Castro grows older, it is more important than ever for the United States to open the Cuban embargo to some trade and make efforts to develop a meaningful relationship with the people of Cuba.

Mr. Speaker, changing United States policy toward Cuba is long overdue. Unfortunately, the current restrictions on trade show there is still a cold war mentality, when it comes to our Nation's Cuba policy. Yet, I find it difficult to understand how a small island nation of 11 million people—without the Soviet Union and Warsaw Pact to protect it—could threaten the world's last remaining superpower.

I urge my colleagues on both sides of the aisle to support this motion which will clear away legal restrictions on the sale of food and medicine to Cuba. Besides benefiting the people of Cuba, passage of this motion will benefit United States trade interests, strengthen our economy, and create jobs.

RECOGNIZING MARY ANNE CASADEI

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. BOEHLERT. Mr. Speaker, I rise today to recognize Mary Anne Casadei, President of the American Legion Auxiliary, Department of New York Inc. for her outstanding efforts in assisting veterans and children. Ms. Casadei's dedicated service and leadership has helped enhance the quality of life for many veterans and children in the Rome, New York area. I applaud Ms. Casadei's achievements and those of the American Legion Auxiliary.

I am inserting into the CONGRESSIONAL RECORD, an article that outlines Ms. Casadei's accomplishments for the review of my colleagues.

ARTICLE BY THE AMERICAN LEGION AUXILIARY, DEPARTMENT OF NEW YORK, INC.

Mary Anne Casadei is a resident of Rome, New York. She is currently serving as President of the American Legion Auxiliary, Department of New York.

As a member of the largest women's patriotic organization in the world, assisting veterans is a top priority. She volunteers at the Rome Veterans Administration Clinic and Memorial Hospital. Mary Anne is the founder and Coordinator of the Griffiss Independent Veterans Effort Program (G.I.V.E. Program),• which supports the Griffiss VA Clinic with donations and supplies.

One of the major programs that the American Legion Auxiliary deals in, involves Children and Youth. Not only has President Casadei been the recipient of State and National Awards for her auxiliary efforts, she has also served as a Youth Director for the Rome Family YMCA. As Youth Director she led programs for youth at risk and for developmentally delayed participants from age 8 to adults. In addition, President Casadei is involved in the Family Nurturing Center of Central New York State as a facilitator of parenting programs. She is also involved at the Court Street Diagnostic and Treatment in the Social Work Development.

As President of this great organization her focus is on Parkinson's Disease. No one knows the causes of Parkinson's Disease; therefore monies raised will go toward much needed research. The Parkinson's Alliance goal is to find a cure by 2005. Due to the generosity and commitment of the Tugman Family Foundation, all donations received by the American Legion Auxiliary during Mary Anne's year as Department President will be matched dollar-for-dollar. "We have an amazing opportunity to make a difference," said President Casadei. President Casadei's passion for this program can be attributed to the love and support she has for her ailing mother who suffers from Parkinson's disease. Ms. Casadei and her family have seen this disease ravage her mother's body and take away her independence. However, she and her family remain confident that a cure for this dreadful disease will eventually become a reality. The Veteran's Administration has recently allocated funds to six VA facilities to be used directly for Parkinson's research. These allocations are a crucial component in the quest to find a cure for this devastating disease.

President Casadei is also a strong supporter to an amendment to the U.S. Constitution that would ban burning of the American flag. Traveling throughout the 62 counties in New York State, President Casadei has vowed to protect the American Flag from physical desecration. The prominence of the American flag in just hours following the September 11th attacks on America is a matter of visual record that will stand for some time. Americans revere the Flag as a symbol that unites us all across our great nation.

President Casadei's leadership and loyalty is evident not only to the American Legion Auxiliary but throughout her community; to her family and friends; and especially to the veterans that sacrificed their lives while defending our country.

80TH ANNIVERSARY OF THE BOROUGH OF LINCOLN PARK, NJ

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 80th anniversary of the Borough of Lincoln Park, County of Morris, NJ.

The history of Lincoln Park dates back to the founding of our Nation, with settlers first taking up residence as early as 1690. Originally referred to as Two Bridges and later as Beavertown, the town's current name was adopted in 1872.

In April of 1922 the residents established the Borough of Lincoln Park as a separate town from the Township of Pequannock following the passing of a referendum.

Today Lincoln Park is home to 10,930 proud citizens and has been voted by the State of New Jersey as its "Third Kindest Town."

As the Borough of Lincoln Park commemorates its 80th anniversary its residents also remember those that were lost on September 11, 2001, with a memorial service and the dedication of a "Living Memorial" near the railroad station.

In September 2001, Lincoln Park suffered the loss of three of its residents, Peter Wallace, Catherine Nardella, and Mark Zangrilli. Despite the tragedy, the Borough banded together and raised $20,000 for the World Trade Center Fund at its annual Lincoln Park Day on September 22.

"By serving causes greater than ourselves," the men, women, and children of Lincoln Park are helping to defeat terrorism with the "Best of America," as President Bush has urged us all to do.

Mr. Speaker, for the past 80 years, the Borough of Lincoln Park has played a significant role in helping to create the cultural fabric of our State and the municipality will certainly continue to do so in the years to come. I congratulate the citizens of the Borough of Lincoln Park on their special anniversary year, and urge all my colleagues to join me in wishing them well.

CONGRATULATING SISTER KATHLEEN QUINN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and admiration that I congratulate Sister Kathleen Quinn upon her retirement as chairperson of the Ancilla Systems Board of Directors. I can truly say Sister Kathleen is one of the most dedicated, distinguished, and committed citizens of Indiana's First Congressional District. Northwest Indiana and Ancilla Systems, Inc., has certainly been rewarded by the true service and uncompromising loyalty she has displayed to her community.

Sister Kathleen entered the religious community and made her First Profession in June of 1949. She graduated from St. Joseph's School of Nursing in 1952, and received a BSN in Nursing from Loyola University and a MSN in Nursing Service Administration from the Catholic University of America, located in Washington, DC. She began her nursing career in the Obstetrics Department at St. Anne's Hospital in Chicago and later served as the hospital's Director of Nursing Services from 1960 to 1965. For the next 2 years, Sister Kathleen served as the Assistant Administrator of Nursing at St. Mary's Hospital in East St. Louis. She then became the Assistant Provincial of the PHJC Community from July of 1967 to July of 1973. For the next twelve years, Sister Kathleen held hospital administrator positions at St. Joseph's Hospital in Fort Wayne, Indiana and St. Mary's Hospital in East St. Louis, IL. From 1985 to 1991 Sister Kathleen served as Provincial of the PHJC congregation. Most recently, Sister Kathleen served as chairperson of Ancilla, Inc., from July 1991 to April 2002. While serving as chairperson, she has served on a number of boards and committees, including: American Hospital Association, Catholic Health Association, Illinois Catholic Health Association, Gary Community Health Foundation, Edgewater Systems for Balanced Living, Legacy Foundation, Inc., St. Joseph Community Health Foundation, Health Visions Midwest, St. Joseph Hospital Advisory Board, St. Joseph Hospital Ethics Committee and Mission Effectiveness Committee, Sagamore Health Network and Advantage Health Plan Mission Effectiveness Committee, Community Foundation of Northwest Indiana, Inc., St. Joseph Regional Medical Center Board, The Discovery Alliance Board, YWCA of Gary, and Linden House of Gary.

Among her many contributions to the care of all God's people, Sister Kathleen founded the Nazareth Home in East Chicago, IN, in 1993. Nazareth Home is a foster home for children born of mothers who are addicted to various substances or who have AIDS. She was also a leader in founding the Sojourner Truth House, which is a daytime ministry for needy women and children in Gary, IN. Sister Kathleen is currently active in parish life at Holy Angels Cathedral in Gary.

Mr. Speaker, America is made a better place because of the tireless and unselfish service of its citizens. Sister Kathleen Quinn is a woman who has dedicated her entire life to helping those around her, resolutely working to aid the needy, and serving as an upright pillar of morality and conscience. In so doing, she has strengthened her community and the whole of our country and society. I ask you and my other distinguished colleagues to join me in commending Sister Kathleen Quinn for her lifetime of remarkable accomplishments, enduring service, and the unforgettable effect she has had on the people of northwest Indiana. The staff at Ancilla Systems, Inc., will surely miss her enthusiasm, but we thank her for her years of service and wish her happiness in her well-deserved retirement.

IN RECOGNITION OF THE SHORELINE/SOUTH COUNTY YMCA

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. INSLEE. Mr. Speaker, it is with great pleasure that I commend the Shoreline/South County YMCA on their outstanding contribution to youth and families in the greater Shoreline/South Snohomish County area of the State of Washington.

Now in their 49th year of service in the community, the YMCA builds upon a long-standing tradition of putting kids and families first by providing a location where families can spend time together and young children and teens can find a safe environment full of stimulating and educational activities. For an increasing number of children, the YMCA fills the void in their lives and gives them direction and support in our ever-changing world.

Through a variety of innovative and supportive programs, the Shoreline/South County YMCA serves more than 3,450 individuals each year. The YMCA reaches out to families of young children through such programs as Y-Guides & Y-Princesses and an endless array of youth sports activities. Additionally, the YMCA child care sites at public schools and summer day camps give working parents the security of quality, affordable day care, with nearly a third of participants receiving financial assistance from the YMCA. In an effort to reach out to teens in the community—many of whom are considered at-risk—the YMCA partners with area schools and city governments to provide tutors at middle schools, after school programs through Klub Kellogg, and leadership building skills for teens through their YMCA Youth & Government program.

The YMCA does not do this alone. The greater Shoreline/South County community generously supports the YMCA to sustain these invaluable services. This year alone, Shoreline/South County residents, community leaders and area businesses donated a record-breaking $100,000 to the annual Partners for Youth Campaign.

Mr. Speaker, I urge my colleagues to join me in honoring the Board of Directors, staff, and volunteers of the Shoreline/South County YMCA for their unwavering commitment to youth and families and their tireless work to improve their community, one child, one family at a time.

TRIBUTE TO MR. RICHARD SHOWLER

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GARY MILLER of California. Mr. Speaker, I rise today to recognize the accomplishments of Richard Showler, a professional truck driver for Roadway Express, Inc. who recently logged over one million miles on the road without a preventable accident.

To put Mr. Showler's accomplishment in perspective, a million miles is the equivalent of circling the earth's equator 38 times. That's quite a distance.

Although a million miles is probably more than an entire family ever drives—or more than I would ever drive—what is particularly important and noteworthy about Mr. Showler's record is that he's managed to log all of those miles responsibly and attentively.

Even more impressive, perhaps, is that Mr. Showler has driven the majority of these miles on what are arguably the most congested parts of Southern California's highway system. Indeed, anyone familiar with the gridlock and traffic that is characteristic of Southern California could attest to the difficulty of negotiating those roads in a car, much less a semi-truck with a full trailer of goods. In short, Mr. Showler is among the most distinguished and safe drivers out on the road today.

Mr. Showler, a member of Local 952 of the International Brotherhood of Teamsters, has been with Roadway for twenty-two years. Happily married, with a son, Mr. Showler resides in Yorba Linda, California. I have no doubt his family is proud of him. When he's not out on the road, Mr. Showler is an active long board surfer and helps coach his son's Little League games.

Mr. Speaker, I am proud to rise today to pay tribute to Mr. Showler's record of safety, and I hope my colleagues will join me in saluting his one million-mile driving safety achievement.

SMALL BUSINESS AND DISLOCATED WORKER OPPORTUNITY ACT

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. BALDACCI. Mr. Speaker, at a time when American workers are facing new challenges, it is important to open new avenues to prosperity and economic success. Entrepreneurship has long been such a path: it holds the promise that anyone can pursue his or her own dream. Workers who have been laid off because of import competition deserve to be able to pursue such opportunities. They also deserve a helping hand as they forge this new path for themselves.

The Trade Adjustment Assistance Program was designed to help workers who are displaced due to foreign competition. It provides assistance so that such workers may seek training to gain new skills, and launch themselves onto a more stable and prosperous career track. However, the program can do more to help people who want to start their own businesses.

This bill will accomplish that goal. It specifies that workers who pursue self-employment assistance activities—such as entrepreneurial training, business counseling, technical assistance and related training approved by an appropriate State agency—can still qualify for Trade Readjustment Allowances (extended benefits equal to unemployment insurance) under the TAA program.

In addition, this bill also ensures that displaced workers have a more realistic chance to succeed in their new business. People who have unexpectedly lost their jobs have rarely had the chance to plan or to save the extra resources needed to start a business. On top of that, they face ongoing living and medical expenses. Unemployment Insurance and TRA can help to meet these costs, but they stop as soon as a new business starts, at a time when most businesses are still struggling and when the income they bring is most insecure.

That is why this bill will allow workers who have undergone entrepreneurial training to continue receiving TRA during the first six months after the start of their new business. This gives displaced workers a crucial source of income support, and helps them overcome the distinct disadvantage their job dislocation has caused. However, to ensure that businesses succeed on their own merits, the bill provides for these extended payments to be phased out over time. Thus, workers would be eligible for full TRA in the first 14 weeks after they start their new business, 75 percent of their benefit in the 6 weeks thereafter, and 50 percent of the benefit in the next six weeks.

This bill not only gives hard-working Americans the freedom to pursue a new professional path, it also gives them the means to do so. It levels the playing field so that workers who have lost their job because of foreign competition have a fair chance at turning misfortune into opportunity. As the wave of global economic change forces our workers to adapt, we must give them the tools to succeed. This bill is a strong step in the right direction.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. MORAN of Virginia. Mr. Speaker, I rise in strong support of my friend, Representative BACA, and his motion to instruct farm bill conferees to restore food stamp benefits to immigrants.

The Baca motion supports immigrants being allowed to apply for food stamps if they are low-income and have been in the United States for 5 or more years. Children would also be eligible for food stamps regardless of when they entered the United States.

In my congressional district, the restoration of food stamps benefits is very important. Everyday, many of my constituents, who often hold more than one job, wake up and go to work to provide for their families. Studies have shown that 43 percent of legal immigrants are working jobs that pay less than $7.50 an hour, with little increase in wage rates.

Restoring these benefits would be inexpensive. In fact, the cost for restoring these benefits has already been built into the $6.4 billion allotment for the nutrition title in the farm bill.

The diet of our nation's children and families, whether they were born in the United States or somewhere else, should be one of the most important considerations in this year's farm bill debate. Restoring food stamps benefits to immigrants would be a step in the right direction.

While the Senate and House farm bill conferees continue to work hard to reconcile the differences in their farm bills, I urge them to consider the Baca motion and make restoring food stamps benefits to our hardworking immigrants a reality.

COMMEMORATING SAM L. ERVIN, HEALTHCARE PIONEER

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. HORN. Mr. Speaker, I rise today to recognize the long and distinguished career of Sam L. Ervin, a pioneer in the development of innovative and cost effective programs that enhance the quality of life for older and disabled adults.

Mr. Ervin was the founding executive officer of the original Senior Care Action Network (SCAN), a social health maintenance organization in Long Beach, California. SCAN was selected by the then Health Care Financing Administration in 1982 to be one of four demonstration sites for the Social HMO program. The Social HMO expands comprehensive HMO benefits to include community-based long-term care and some nursing home care.

Thanks to Sam Ervin's many years of remarkable leadership and dedication to improving the lives of senior citizens, today, SCAN serves more than 50,000 members in four Southern California counties. Since its inception, SCAN has made a unique and significant contribution to seniors' ability to remain healthy, independent and in control of where they live and how they live.

As a testament to SCAN's success and necessity, I have introduced H.R. 2953, the Coordinated Community Care Act of 2001 to make Social HMOs a permanent part of the Medicare+Choice program. I am proud to do so and to recognize Sam Ervin for his contributions to the improved quality of life for thousands of seniors.

INTRODUCING THE TAX EXEMPTION FOR MILITARY STUDENT LOAN REPAYMENTS ACT

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GARY MILLER of California. Mr. Speaker, today, I am introducing the "Tax Exemption for Military Student Loan Repayments Act."

Today's military requires more high-tech skilled personnel than ever before and the military continues to have a dire need to recruit for its shortage of medical personnel. To fill these jobs known as military occupational specialists or MOSs, the Army, Navy and Air Force utilize student loan repayment programs to attract skilled recruits who have gained high-tech, medical, or other valuable skills, but may be hesitant to join the military because they have incurred substantial indebtedness to finish their college education.

The military student loan repayment program remains popular among military officials because it targets a growing population of people with skills that the services can use. Unfortunately, these payments made towards student loan debt are considered taxable income although these payments are made directly to the student loan creditor, and the soldier, sailor, or airman never sees these payments reach their wallets. As a result, unless the military person requests additional funds to be withheld from their pay, they will in most cases owe a significant amount in taxes for each year repayments are made.

Having to pay taxes on this important recruitment incentive reduces the effectiveness of the program, which is designed to attract highly skilled military personnel to fill critical military occupational specialities. Further, the taxation of these payments seems to place an overly burdensome tax on the pay of military personnel who must already contend with a 7.6% military to civilian gap in pay. To enhance these recruitment efforts and deliver tax relief to military personnel, the "Tax Exemption for Military Student Loan Repayments Act" will amend Section 134 of the Internal Revenue Code of 1986 to exclude the military's student loan repayment from taxable gross income.

Mr. Speaker, I urge my colleague to support this legislation, which will enhance the military's effort to recruit highly skilled personnel, deliver tax relief to our underpaid men and women in uniform, and make the military a more viable option for people who wish to serve their country but are weighted down by their student loan debt.

CONGRATULATING COW CREEK BAND OF THE UMPQUA TRIBE OF INDIANS ON THEIR 20TH ANNIVERSARY

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. DEFAZIO. Mr. Speaker, I rise today to recognize and to congratulate the Cow Creek Band of the Umpqua Tribe of Indians on the twentieth anniversary of their federal restoration. Saturday, April 27, 2002, will be a day of joyous celebration of their renewal.

In 1954, the Termination Act severed the trust relationship between the Federal Government and the small tribes and bands of western Oregon, Including the Cow Creek Band of the Umpqua Tribe. If you can imagine losing your home and having your identity expunged by an action of Congress, you can begin to understand the consequences of termination for the Cow Creek Umpqua.

The termination of the Cow Creek Band of the Umpqua Tribe was only one of many catastrophic events in the history of their relationship with the United States Government. By 1954, they had been stripped of their homelands, survived relocation, and suffered the loss of their reservation lands. Yet, despite great tragedy and unimaginable loss, the Cow Creek Umpqua endured.

In 1982, the Cow Creek Umpqua were restored as an Indian tribe and established formal relations with the Federal Government. The Recognition Law was a tribute to the indomitable spirit of countless tribal elders and tribal leaders, like Ellen Furlong Crispen and Sue Crispen Shaffer, who refused to let the Cow Creek Umpqua be extinguished.

Recognition of the Cow Creek Umpqua enriched the lives of tribal members, and local communities gained a strong and active partner in their efforts to help youth and families. The Cow Creek Umpqua Foundation and the Tribal Council have given nearly three million dollars to the Special Olympics, local schools, community organizations, and civic projects.

The history of the Cow Creek Umpqua is an impressive story of remarkable perseverance in the face of overwhelming challenges. I am pleased to offer my warmest congratulations on this historic anniversary and my good wishes for continued success.

HONORING THE 22ND ANNUAL RADIO VISION RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. GILMAN. Mr. Speaker, I rise today in recognition of the volunteers of Radio Vision in Orange County, New York for their 22 years of devout service in my Congressional district. Radio vision is a radio reading service for over 600 blind and visually handicapped listeners located in the Mid-Hudson region of southeastern New York. This outstanding organization informs its listeners of local events and news, which is broadcast by Radio Vision's dedicated volunteers.

To the more than 8 million Americans with visual impairments, programs such as Radio Vision are valuable assets.

Radio Vision, an outreach service of the Ramapo Catskill Library System, is a radio reading program for the blind, visually handicapped and print impaired listeners 24 hours a day in the lower Hudson Valley region.

Radio Vision allows listeners daily to stay informed with news of their community and the world-at-large and thus enables them to participate in discussions of local and current events. This service is made possible by the dedication of volunteers that have helped make this service a success since 1979, and it is supported by Outreach Funds from the New York State Legislature.

Many of us take the gift of sight for granted, especially with our ability to watch television or read newspapers in order to learn of the daily worldwide events. We are incapable of knowing what it is like to be blind and have no other means of gathering information without the sense of sight. Radio Vision provides the blind residents of our Mid-Hudson region the opportunity to find out news and current events, since the means of conveying information via television and newspapers to the blind is impossible.

It is our duty in the United States Congress to help the citizens of our nation with disabilities and to support the programs that focus on creating a better life for others.

Moreover, I have cosponsored H.R. 1601, which would have amended the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating their ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

Last year, I supported the Medicare Vision Rehabilitation Coverage Act which would have provided for coverage of vision rehabilitation services under the Medicare Program. These bills will increase older individuals' access to vision rehabilitation services and increase Medicare reimbursement for vision services, respectively.

Mr. Speaker, I am proud to bring Radio Vision, their cause, and the honorable deeds of those devoted volunteers at Radio Vision to the attention of Congress and I invite my colleagues to join me in praising their continuing efforts in helping the blind.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of Mr. BACA's motion to instruct conferees to restore food stamp benefits to legal immigrants. I applaud Mr. BACA's efforts on this issue and am happy to support him in this worthy endeavor.

In addition, I would also like to applaud President Bush's effort to restore food stamps for legal immigrants, which is of critical importance to so many families all across this country. Unfortunately, conferees from the President's own party voted to block the Administration's proposal to restore food stamps to legal immigrants on April 10th.

Instead, they voted for a far more stringent proposal that would make it virtually impossible for immigrant families to qualify for food stamp benefits. This opposition is preventing more than 350,000 people from benefiting from this program that helps poor families feed their children.

Mr. Baca's proposal contains the same provisions that were in the Administration's proposal, which passed the Senate by the overwhelming vote of 96 to 1. These provisions include allowing legal immigrants access to food stamps after 5 years, allowing individuals with 16 quarters of work to be eligible for food stamps, and restoring food stamp benefits to children and other vulnerable populations regardless of date of entry.

I urge my colleagues to support this motion to instruct conferees and help ensure that all legal immigrants, especially children, are eligible for food stamps. Legal immigrants who work hard, live by the rules, pay taxes, and even serve in our armed forces deserve access to food stamps. Lets do the right thing and pass this motion to instruct conferees.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. WATERS. Mr. Speaker, today, we are voting on H.R. 3839, "Keeping Children and Families Safe Act." Preventing child abuse, providing family support to decrease the numbers of abandoned infants, and establishing transitional housing for domestic violence victims are all critical pieces of keeping people safe. Making sure they have adequate food is another.

Congress has an opportunity to do just that through the Farm Bill. Last week, Rep. BACA introduced a Motion to Instruct the Conferees to restore food stamp benefits to legal immigrants. It would allow children to be eligible for food stamps regardless of when they entered the U.S., and to reduce the work requirement for adults from 40 quarters to 16 quarters. I support this Motion to Instruct and urge my colleagues to do so as well.

Nationwide, 37 percent of all children of immigrants lived in families that had trouble affording food. In 1999, the incidence of food insecurity in immigrant households was almost three times that of White non-Hispanic households. Extensive research has shown that children who do not have adequate diets have poor health, slow development, and difficulty concentrating in school.

This Motion to Instruct does not take an extreme stance. We're talking about legal immigrants. These are people who work hard, pay their taxes, and contribute a great deal to our Nation. The Motion to Instruct also requires people to work 16 quarters, or approximately four years, before they can become eligible for food stamps.

Importantly, restoring benefits to legal immigrant children will also help reach citizen children. Over 85 percent of immigrant families are "mixed status" and include at least one citizen child. Seventy-four percent of those families left the food stamp program from 1994 to 1998.

Once someone has come in legally, and has worked hard to support this economy, they should be entitled to a little support for their families and their children. They should be eligible for food stamps. While we're working at keeping children and families safe, let's not forget that adequate food is the first step.

Support the Baca Motion to Instruct the Conferees.

40TH ANNIVERSARY OF ST. JUDE CHILDREN'S RESEARCH HOSPITAL

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. RAHALL. Mr. Speaker, "You give but little when you give of your possessions," the Lebanese poet Khalil Gibran once wrote. "It is when you give of yourself that you truly give." Danny Thomas lived this truth. His generosity of spirit endures at the St. Jude Children's Research Hospital forty years after he established this essential institution.

"As a member of the Professional Advisory Board since 1996, I was honored to work with Danny Thomas to further the Hospital's mission. It is one of the world's leading centers of research and treatment for life-threatening childhood illnesses, particularly cancer. Remarkably, no child pays for St. Jude's services. I am proud that the American Lebanese Syrian Associated Charities raise the funds to cover all costs of patient care."

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Ms. DEGETTE. Mr. Speaker, I rise today to voice my support of restoring food stamp benefits to legal immigrants, recently arrived children, the disabled and refugees. This is the right thing to do, it is the decent thing to do and I urge my colleagues to act today to accomplish this.

Legal Permanent Residents pay taxes and their labor helps to drive our economy. Food stamps can provide these needy families with a temporary safety net during difficult times.

Food stamps provide a crucial safety net that allows working men and women to feed their families during hard times. Hunger does not limit itself to American citizenship; therefore, we should not create a policy to systematically deny food assistance to needy immigrants in this country.

Immigrants come to this country to work hard and make a better life for themselves and their family. Cutting off needed benefits to those who legally reside in this country is both unnecessary and cruel. I have both co-sponsored and voted for legislation to restore the benefits to legal immigrants since I was first elected to Congress.

Most of the legal immigrants in this country are employed. These workers, like all other residents, pay taxes. In many cases, they are the fathers, mothers, sisters, and brothers of American citizens. Their labor helps to drive our economy and they deserve help when they need it.

Immigrant workers can also be the most vulnerable during an economic downturn. Prior to September 11th, the Hispanic unemployment rate was rising faster than the national average. The terrorist attacks and subsequent economic impact only worsened the situation for Latinos in this country. Food stamps are not a permanent fix; they are a temporary means to provide the neediest people the most basic resource to survive.

I will continue to fight for equal rights and just treatment for immigrants throughout my tenure in Congress.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

SPEECH OF

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 2002

Mrs. CHRISTENSEN. Mr. Speaker, I rise to support of the Baca motion to instruct conferees and urge my colleagues to support its adoption.

My colleagues, President Bush proposed the restoration of food stamps for legal immigrants who have been in this country for five years in his fiscal year 2003 budget. Following the President's lead, our colleagues in the other body voted overwhelmingly to include the President's proposal in the Senate version of the Farm bill.

We are here tonight however, because our colleagues on the other side of the aisle on the conference of the Farm bill regrettably voted to block the Bush proposal to restore food stamps for legal immigrants and supported a more stringent proposal instead; which would make it virtually impossible for immigrant families to qualify for food stamp benefits. The opposition to the President's proposal will prevent more than 50,000 people from benefiting from a program that helps poor families feed their children.

Restoring food stamp benefits for low-income legal permanent residents and children is the right and responsible thing to do.

I urge my colleagues to support the Baca motion to instruct.

HOUSE OF REPRESENTATIVES—*Wednesday, April 24, 2002*

The House met at 10 a.m.

The Reverend Dr. Richard Lee, First Redeemer Church, Cumming, Georgia, offered the following prayer:

Most gracious God, our heavenly Father and Creator of all, we thank You for America, our homeland, and Your bountiful blessings upon us.

Today we ask that You would grant the Members of this Congress wisdom and understanding to lead our Nation into those paths of truth and righteousness that would please You and serve for our common good.

Forgive us when in times of our blessings we forget that Thou art our source, our defender, and guide. Protect those who even now place themselves in harm's way to preserve the freedom of our land.

Keep us from pride and arrogance and give us a willing spirit to seek out Your laws and commandments and be obedient to them. And grant us Your grace that we might show forth Your power and Your glory to all nations.

These things we pray in the name of Jesus Christ, our Lord and Saviour. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Oregon (Ms. HOOLEY) come forward and lead the House in the Pledge of Allegiance.

Ms. HOOLEY of Oregon led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 169. An act to require that Federal agencies be accountable for violation of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

WELCOMING REVEREND DR. RICHARD LEE

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, I rise to extend a warm welcome to Dr. Richard Lee. It is a privilege to have him with us this morning.

Dr. Lee is the founding pastor of First Redeemer Church located in metropolitan Atlanta's Forsyth County, which is recognized as the fastest growing county in the United States.

Dr. Lee graduated magna cum laude from Mercer University and Luther Rice Seminary, earning the Bachelor of Arts degree in psychology and the Master of Divinity and Doctor of Ministry degrees in theology and pastoral ministry.

Dr. Lee is a recognized spokesman for the Christian community at large. He appears as a speaker at national and international conferences and conventions, on national television programs, and has written 10 books, all of which pales compared to the fact that he was named Father of the Year by the National Father's Day Council of New York City, an achievement all of us would dream of.

Mr. Speaker, it has been said that example is not the main thing in influencing others, it is the only thing. During the past year, a year when every American has experienced the highest of highs and the lowest of lows, Dr. Lee's exemplary leadership has not only been a tremendous service to his congregation; it has been a shining light to the surrounding community as well.

Dr. Lee, you have honored us with your presence this morning and we thank you.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. One-minutes will be at the end of legislative business today.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Ms. HOOLEY of Oregon. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore (Mr. SHIMKUS). The Clerk will report the motion.

The Clerk read as follows:

Ms. HOOLEY of Oregon moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 be instructed to agree to the provisions contained in section 1001 of the Senate amendment and section 944 of the House bill, relating to country of origin labeling requirements for agricultural commodities, but to insist on the six-month implementation deadline contained in the House bill.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from South Dakota (Mr. THUNE) each will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Today with the support of my colleagues, the gentlewoman from California (Mrs. BONO), the gentleman from North Dakota (Mr. POMEROY), and the gentleman from South Dakota (Mr. THUNE), I bring a motion to the floor to instruct conferees to the farm bill regarding country-of-origin labeling.

Our friends on the conference committee have an incredibly difficult job to do, and I know they have been working hard. This is not an easy piece of legislation to agree on. However, one thing they should all be able to agree on is country-of-origin labeling. This is something that farmers want, this is something that consumers want, and this is something that your constituents want.

There are hundreds of local, regional, and national organizations that support country-of-origin labeling. These include the American Farm Bureau, National Farmers Union, United Stockgrowers of America, National Consumers League, Consumer Federation of America, Public Citizen, and hundreds of other organizations.

I have in front of me a potato and an onion. These were purchased at the grocery store last night. Where were they grown? I have not a clue.

Now, I have a hat. I know exactly where this hat is made. This I just wear on my head; this is what I put in my mouth. Which is the most important to

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

know where it is made? I think it is the food you put in your mouth. It is my right to know as a consumer where that food comes from. When I walk into that grocery store to buy food for my family, I want to make sure that it is grown in a place that is safe. What if I want to support American agriculture and buy American? I guess I just have to hope that it was made in the United States or grown in the United States.

Our food is some of the safest produced, and the men and women that produce that food want Americans to know where it came from. Our growers have to comply with strict, exhaustive local, State and Federal regulations governing the use of land, water, labor and chemicals, rules that many of our trading partners do not comply with, such as worker safety, sanitation, environmental protection.

Opponents of this amendment contend that the costs for the industry, including retailers, to comply with country-of-origin labeling requirements are too great and the price of the products and produce will rise as a result. This is simply untrue. We already have a great test case currently in place. The fourth most populous State in the country, Florida, has had the country-of-origin labeling requirements in place for over 20 years. If you take a poll of the people in Florida, they will tell you by 96 percent, they love it.

Thirteen of our biggest trading partners, including Canada, Mexico, Japan, France, and the United Kingdom, require country-of-origin labeling on produce imported into their countries. When the gentlewoman from California (Mrs. BONO) and I brought an amendment to the farm bill on the floor that would require all fresh fruit and vegetables to clearly be marked with its country of origin, this body responded overwhelmingly; 296 Members, almost 300 people, supported our amendment.

All we are doing today is asking our colleagues to honor the wishes of its Members and retain these provisions as written into the House and Senate bills.

Mr. Speaker, I reserve the balance of my time.

Mr. THUNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to credit the gentlewoman from Oregon (Ms. HOOLEY) for her hard work and leadership on this issue; the gentlewoman from California (Mrs. BONO) for the work that she has done in advancing the cause of country-of-origin labeling; the gentleman from North Dakota (Mr. POMEROY), who along with me has introduced H.R. 1121, the Country of Origin Meat Labeling Act; and others in this body who have supported this effort to make sure that consumers in this country know where their food is coming from. This is important legislation.

The bill requires, or the motion would require, suggests to the conferees that any meat or meat product imported into the United States must be labeled to indicate its country of origin. Additionally, any meat product produced in the United States that contains any meat or meat product, the origin of which is not in the United States, must also be labeled to indicate country of origin.

Under this motion, U.S. consumers, if this language is adopted as part of the farm bill, would be assured that the products that they consume pass through one of the most stringent inspection systems in the world. Producers deserve the assurance that their reputation for producing quality meat is not damaged by inferior products. And consumers deserve the assurance that the meat that they buy is of the highest quality.

During the farm bill markup in the Committee on Agriculture, I offered a country-of-origin amendment, labeling amendment, to the farm bill for beef, lamb and pork, as well as perishable commodities and farm-raised fish. It was a long, vigorous, and often contentious 4-hour debate. Yet it is a debate worth having, and it is a fight worth having because the issue is that important to the American people. The more people understand what is involved with this issue, the more convinced they become that this is the right policy for America.

Why is this important? For several reasons. First, consumers have the right to know the origin of the meat that they buy in the grocery store. Second, ranchers deserve to have their product clearly identified. Third, current law creates a false impression about the origin of USDA grade meat. Fourth, most other consumer products are labeled as to country of origin. Meat should be no different. And, fifth, as the gentlewoman from Oregon already noted, numerous countries already are imposing country-of-origin labeling requirements, including Canada, Mexico, and the European Union. It is only fair to producers in this country and to consumers in this country that we do the same thing.

The farm bill conference is currently deliberating this important issue. Conferees are considering a voluntary labeling requirement or provision in this bill. South Dakota producers find this unacceptable. We should find it unacceptable as well. The only real option is to include mandatory country-of-origin labeling in this farm bill.

I would encourage my colleagues in the House to vote for this motion to instruct. I again want to compliment and thank the gentlewoman from Oregon for her leadership; the gentlewoman from California (Mrs. BONO) for the hard work that she has done in making sure that this issue is front and center as we debate farm policy in this country and as we debate it in the House Committee on Agriculture, the folks who are involved in that; and the gentleman from Montana (Mr. REHBERG), also an active advocate and effective spokesperson on behalf of country-of-origin labeling.

It is important to those Members, to us, as well as to all people across this country and to the producers of this country that we put in place a mandatory country-of-origin labeling requirement so that the people in this country know where their food is coming from and so that producers in this country have an opportunity to have their product clearly identified as the finest and the best in the world.

Mr. Speaker, I reserve the balance of my time.

Ms. HOOLEY of Oregon. Mr. Speaker, again I thank my colleague from South Dakota for his great words about how important this is.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN), one of the States that has had mandatory labeling for the last 20 years.

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I certainly thank my colleagues who have brought this motion to instruct to the conference committee.

☐ 1015

I am especially appreciative because I can tell my colleagues a story of why this motion is so important and needed.

In 2001, there were some cantaloupes that were found to be contaminated and word quickly spread, erroneously I might add, that all melons were contaminated, and the market collapsed. I have melon-growers in my district. If we had country-of-origin labeling then, consumers would have known the source of the contaminated melons. They were foreign and not domestic. Our market would not have been disrupted, perfectly good produce would not have been thrown out, and domestic growers would have been protected.

I want to address also the argument that the provision will be costly. Well, as has been mentioned, Florida has had a similar law for more than 20 years. When I walk into the grocery store, there is a sign that is placed to indicate the origin of the produce. It looks like it has been cut out of a piece of construction paper, printed, and put up. The Florida Department of Agriculture has indicated that it costs supermarkets $5 to $10 per store a week to comply with that law. It does not seem too costly to me that we could let our folks at home know the origin of our fruits and vegetables.

They might say, well, it could be a trade issue. Well, I do not see it as a trade issue. Thirteen of our 28 largest trading partners have similar laws for fresh produce and stores in those countries find a way to comply; certainly, American stores are just as capable.

Finally, the American people want this information: 78 percent, according to a recent poll, that shows that the House was correct last year when 296 of us voted for country-of-origin labeling.

So I ask my colleagues now to support this motion, as my colleagues did before. Let us make sure that our consumers and our farmers benefit from a motion that helps all of us.

Mr. THUNE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. BONO), someone who has been a fearless and effective advocate to ensure that we get country-of-origin labeling requirements in this farm bill, and someone who has been an incredible spokesperson on this issue; and, pending that, I ask unanimous consent that the balance of my time be controlled by the gentlewoman from California (Mrs. BONO), and that she be able to yield that time.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mrs. BONO. Mr. Speaker, I thank the gentleman from South Dakota (Mr. THUNE) for yielding me this time.

Mr. Speaker, when the House of Representatives passed the Bono-Hooley amendment on country-of-origin labeling to the farm bill, we took a positive step forward. However, despite the House's resounding approval of this amendment, the farm bill conferees are considering an option to give us country-of-origin labeling on a voluntary basis and then leave the question of whether to mandate labeling up to the discretion of the Secretary of Agriculture.

Mr. Speaker, this does us no good. We already have a voluntary program. So this offer to institute voluntary labeling does absolutely nothing to address the concerns our constituents have in wanting to know where in the world their produce and beef comes from.

When the last comprehensive labeling act was passed by Congress nearly 70 years ago, there were very few fruit and vegetable imports into the United States. However, with our grocery stores now inundated with foreign-grown produce and beef, I believe it is up to Congress and not to the Secretary of Agriculture, to mandate a consumer's right to know.

We have taken such action on other goods, and now it is the time for us to use our constitutional authority to act on mandatory labeling of fresh produce and beef.

There are those who charge that this program would be too costly for the consumer. In 1979, the State of Florida passed the Produce Labeling Act, which mandates country-of-origin labeling. This highly successful program requires only 2 staff hours per store per week.

Critics are also concerned about this provision leading to a trade war. But according to the GAO, 13 of our Nation's 28 biggest trading partners, including Mexico, the U.K., Japan and Canada, require country-of-origin labeling for fresh produce.

Mr. Speaker, country-of-origin labeling is practiced by our trading partners, it is inexpensive to implement and, in the name of safety and the consumers' right to know, it is much needed.

I urge my colleagues to let the conferees know how important this issue is. Vote in favor of the Hooley motion to instruct conferees.

Mr. Speaker, I yield back the balance of my time.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield myself the remaining time.

This, again, should be a simple matter. We have heard from Florida, where it literally costs a person a penny a week or less. This can be achieved very easily by placing signs near produce bins or with price information in the stores displaying their items in their original shipping cartons. This does not have to be a tough issue. It should be mandatory that we know where the food that we put in our mouth comes from, and I urge the support of this motion to instruct.

Mr. WU. Mr. Speaker, consumers are the only people in the produce marketing chain who don't know where their food is grown. The shippers know where the produce was grown. So do the buyers, the merchandisers, and the clerks. Produce shoppers rarely share in this information because the country-of-origin information is stripped off before it makes it to the display bin case.

For the past 69 years, goods imported into the United States have been required to be labeled with the product's country of origin. Your clothing, coffee mug, and even the chair you are sitting in have country of origin labels. It's hard to find a consumer produce in this country without one. However, fruits and vegetables are exempt from the labeling law. It's time for Congress to change that exemption.

The cost of administering labeling is, by the retail industry's own accounts, insignificant . . . far less than a penny for each consumer's weekly food bill.

The GAO says that 13 of our Nation's 28 biggest trading partners require country of origin labels for fresh produce. Shouldn't U.S. consumers be entitled to the same information as consumers in these countries?

Growers in the 1st Congressional District of Oregon, like all U.S. growers, must comply with strict, comprehensive local, state and federal regulations governing the use of land, water, labor, and agricultural chemicals. Compliance with these laws and regulations is very costly, but necessary to ensure, among other things, food and worker safety, sanitation and environmental protection. These production standards add safety and value to our products.

With farm prices at record lows, we need to give our producers an edge in the market. Country of origin is one, low cost and effective way to help American consumers to make an informed choice at the supermarket, and benefit American growers at the same time. It's good for consumers and it's good for growers. And it's common sense. Why is it that I know where this tie was made, where this suit made, where my boots are made, but when I walk down the street and buy a head of lettuce, I can't find out where it was grown?

The motion to instruct is not only common sense, it is not only good for American health and sanitation—it goes to the heart of American values—consumer choice and help for the small farmer. I urge its adoption.

Mr. POMEROY. Mr. Speaker, I strongly support the Hooley motion to instruct farm bill conferees to retain language passed in the Senate farm bill that requires country of origin labeling information on meat, fish, fruits, and vegetables. Country of origin labeling is necessary to give U.S. consumers important information and give U.S. producers credit for the considerable investment they have made in the quality and safety of their products.

Consumers support country of origin labeling so that they are able to make informed decisions and choose products based on their origin. Our food system has become more global and consumers are demanding new information on the products they buy. Studies show that over 80 percent consumers support country of origin labeling of their food products. Consumers can pick up any article of clothing, read the label, and know where it was manufactured. However, the head of lettuce or steak they purchase in their grocery store lacks basic information on where it was produced.

Producers support country of origin labeling because it allows them to differeniate their product. American producers have placed a high priority on developing high-quality, safe food. They can benefit from this investment only if consumers are able to differentiate between products of U.S. origin and products from overseas.

I do want to commend the conferees to the farm bill. They are working diligently to arrive at a compromise that we can all support in order to finish this farm bill quickly. However, we should still send the message to the Farm Bill conferees about consumers' right to know the origin of the food they buy and producers' right to distinguish their product.

I urge my colleagues to support country of origin labeling and this motion to instruct. We must protect the considerable investment that we have made in our high-quality, safe meat supply.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Oregon (Ms. HOOLEY).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. HOOLEY of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to instruct conferees on H.R. 2646.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess for 5 minutes.

Accordingly (at 10 o'clock and 24 minutes a.m.), the House stood in recess for 5 minutes.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 10 o'clock and 30 minutes a.m.

PROVIDING FOR CONSIDERATION OF H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, the resolution before us today is a fair, structured rule providing for the consideration of H.R. 3763, the Corporate and Accounting Accountability, Responsibility, and Transparency Act of 2002.

The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. All points of order against consideration of the bill are waived.

The amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as the original bill for the purposes of amendment and shall be considered as read. All points of order against the bill, as amended, are also waived.

Only the amendments printed in the report of the Committee on Rules accompanying the resolution are made in order. These amendments shall be considered only in the order printed in the report and may be offered only by a Member designated in the report. They shall be considered as read and debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent. They shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Points of order against the amendments are also waived.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, I am pleased that today we are going to debate the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, known as CARTA. Two weeks ago, the House considered and passed the Pension Security Act, which focused on providing workers with new options and resources concerning their pensions. Today, we are considering legislation that affects the corporate accountability side of that issue.

Mr. Speaker, currently, more than half of all U.S. households invest in mutual funds, pension funds, or 401(k) plans. The face of the American investor is younger and more diverse than ever today. I firmly believe that encouraging Americans to help secure their own future through savings is vitally important for their own success. While savings must begin with the individual, there are also ways that the government can, must, and will help to encourage people to save.

The positive ripple effects of this bill are far-reaching. Restoring investor confidence in the financial stability of companies doing business in this country leads to more jobs and a stronger economy. Increasing accessibility of timely and accurate investment information helps American workers not only plan for retirement, but also better assures them of a secure retirement. For those of us who are still planning for our children's college educations, we can be assured that greater corporate responsibility will help protect these and other investments that, as American workers, we make.

This legislation focuses on several principles, all designed to protect investors and employees.

First of all, we must restore confidence in accounting. In order to ensure auditor independence, firms would be prohibited from offering controversial consulting services to companies that they are also auditing.

Additionally, under CARTA, a new public regulatory board with strong oversight authority would be established, and under the direction of the Securities and Exchange Commission, they would work together. This bill recognizes that strong and healthy accounting companies that provide investors with accurate information are critical to ensuring the financial soundness of companies that investors rely upon.

CARTA also contains provisions that increase corporate disclosure and responsibility. This bill increases the amount of information that would be made available to American workers, investors, and the general public. Instead of presenting this information using legal jargon, investors would receive increased information in real time English and in real time words, where they can understand the essence of not only financial accountability, but also the financial standing of a company.

This is good news for me, because it means we do not need an advanced accounting or legal degree in order to decipher the information. The average American investor will be able to obtain meaningful information, and they will be able to obtain it in a timely fashion.

CARTA also creates parity between senior corporate executives and rank and file workers. During blackout periods, which are routine times when a plan must undergo administrative or technical changes, employees many times are unable to change or access their retirement accounts. What we saw from Enron was an egregious example of disparity, where corporate executives were able to sell off their investments and preserve their savings while rank and file workers were barred from making those same changes. CARTA would prohibit insider sales during blackouts for every single employee.

I have also mentioned some additional responsibility that this bill requires of the Securities and Exchange Commission. However, this legislation also recognizes that we must make sure that the SEC has adequate resources and staffing in order to do an effective job.

The SEC's budget would be increased by 62 percent, allowing them to perform its additional tasks and oversight duties. Among those duties would be regular and thorough reviews of the largest and most widely-traded companies in America.

One thing that has come out from the seven Enron-related hearings in the Committee on Financial Services alone is that investors are not receiving the necessary unbiased information needed to make responsible investment decisions. It is clear that Wall Street research practices are in need of reform. CARTA also addresses this by directing the SEC to study the new regulations and report back to Congress through annual updates on the effectiveness of current rules and standards. This is a critical step towards reducing and resolving conflicts of interest for analysts.

Mr. Speaker, I would also like to today commend the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), and the gentleman from Louisiana (Chairman BAKER), for their efforts in putting together a carefully crafted and balanced approach. When something such as Enron happens, we as Members of Congress must fight the temptation to react by overlegislating, thus doing more harm than good. These two gentlemen, through their leadership, have made sure that this did not happen.

I believe that the committee of the gentleman from Ohio (Chairman OXLEY) has diligently worked to make sure that the bill we consider today is a balanced and appropriate step towards addressing issues which were highlighted and brought to bear to all Americans as a result of the collapse of Enron. I am pleased that this bill will help create more jobs and strengthen our economy by restoring confidence in corporate financial stability.

I urge my colleagues to support this fair rule. I urge my colleagues to support the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Texas for yielding me the customary 30 minutes.

This body is about to blow an extraordinary opportunity to address the erosion of trust between the American people and the financial institutions that wield enormous control over their lives.

Make no mistake, the outrage of our constituents is real. They are fed up with corporate fraud and abuses that have produced massive layoffs and wiped out the life savings of thousands of working families. The American people have voiced their outrage to this body through every medium available: letters, e-mails, hearings, interviews, you name it. They have shared stories of devastation, of loss, and dreams deferred, all in the hope that Congress would act to prevent future scandals.

Global Crossing's North American headquarters are located in my district in Rochester, New York. I am sure Members remember Global Crossing. The company was the darling of Wall Street, yet somehow it managed to plummet from a net worth of $22 billion to $750 million in the span of less than a year, not too far from AOL Time Warner, we hear this morning.

In the wake of its collapse, the lives of thousands in my district were shattered, all because the promised safeguards failed at every level. My people got a hard lesson on how companies cheat, overstate, or obscure their financial disclosures in an effort to charm analysts and to manipulate investor expectations.

On March 9, I hosted a public forum in Rochester where 250 people came to share their experiences. One Global Crossing employee noted, and I quote, "Many former employees have been economically devastated as a result of corporate greed and the mismanagement of Global Crossing. People have spent their life savings and have had to cash in their deflated retirement/401(k) plans just to survive these last few months after Global Crossing abruptly ceased their promised severance payments. Some former employees are now forced to file bankruptcy themselves, while others may lose their homes, have had to drastically change their lifestyles, and are barely surviving."

Mr. Speaker, my constituents want real reform, not cosmetic changes, to correct the systemic flaws that brought about such havoc in our community. Quite simply, the market failed us, just as it did with the employees and shareholders of Enron.

I had hoped to send good news back today. I had hoped to tell my constituents that this underlying bill is the real thing, that the measure before us will restore confidence and integrity to the markets, and produce tough and effective reforms. But this bill does none of that. Indeed, it creates merely the illusion of reform. In what has become standard operating procedure in this body, corporate interests are the winners.

As for my colleagues, I wish I could say that what hit my community was an isolated event. I wish I could say that with the underlying bill in place, this would never happen in Members' communities. But even the sponsors of the measure acknowledge more Global Crossings and Enrons may come to light. In the months ahead, another Member of Congress will have to face thousands of panicked constituents wondering what happened to their future.

Mr. Speaker, the underlying bill simply sidesteps the problem. It does not provide for a strong, independent regulator for the auditing industry, but simply punts Congress' job to the Securities and Exchange Commission. To be blunt, this job is much too important to delegate. We need to create a powerful regulatory board to set strict standards for auditor independence, with sweeping investigative and disciplinary powers over audit firms.

□ 1045

The underlying bill pays lip service to the issue of auditor independence, but provides no guarantees that an auditor will not be compromised by payments received from his client for his consulting services. It does not ban auditors from performing nonaudit services that create conflicts of interest. Moreover, the bill says nothing about the revolving door between auditors and their clients. Enron, for example, hired several Arthur Andersen auditors, even though auditors who are angling for jobs from their customers are unlikely to show much independence from them.

The bill is also silent on the rotation of audit firms. If an auditor knew that after a few years a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest. But the half-measures contained in the bill continue. For instance, the bill protects corporate wrongdoers by making it more difficult to go to court to stop officers and directors who engage in deliberate misconduct. The bill does not hold corporate CEOs accountable by requiring them to certify the accuracy of their financial statements, as the Democrat substitute would do.

The underlying bill allows Enron executives and other dishonest CEOs to keep their ill-gotten gains, rather than requiring them to surrender stock bonuses and other incentive pay, as the Democrat bill provides. The underlying bill would simply study the issue. Moreover, individual investors and victims of securities fraud who want to hold the industry accountable for wrongdoing will face major legal hurdles. The committee-reported bill also does nothing to prevent securities analysts' conflicts of interest, even after investigations by New York Attorney General Eliot Spitzer exposed numerous examples of analysts' false or misleading advice to investors.

Mr. Speaker, I urge my colleagues to support real reform.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the favorite son from San Dimas, who is the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me time and I congratulate him on his superb management of this measure.

Mr. Speaker, I would like to say that I believe it is important for us to realize that we faced what clearly was one of the most devastating and horrible business failures in our Nation's history with the collapse of Enron. I know that there was a temptation by many to politicize this issue and take what clearly was a business failure and somehow determine that it was a political failure and that there were some political figures to blame.

I think that the work that the gentleman from Ohio (Mr. OXLEY) and the Committee on Financial Services has done is a very clear demonstration that there is recognition in a bipartisan way of this substitution that there was a business failure. And the debate that we will proceed with today makes in order two substitutes from our Democratic colleagues and three amendments from our Democratic colleagues which will allow for a full airing of this question.

I think that with the vote that came from the committee, Mr. Speaker, by a margin of 49 to 12, demonstrates that Democrats and Republicans alike have come together to deal with this very serious problem.

As my friend, the gentleman from Dallas, Texas (Mr. SESSIONS) mentioned, there are tremendous numbers of Americans who are members of what is called the investor class. In fact, many believe that over half of the American people are involved in 401(k)s, individual retirement accounts, or some other kind of investments. And it is obvious that there have been some problems with accounting and auditing. That is clearly an understatement. We have seen some very serious problems come forth and we have seen some abuse that has been reported by executives juxtaposed to employees in companies when it has come specifically to the blackout period of time when executives have been able to sell their stock and employees have not been able to.

This legislation is designed to address some of the very serious problems that exist in the area of accounting and auditing, and it is also designed to provide, once again, a level of confidence forever for those members of the American public who are part of the investor class.

It is my hope that we will see more and more Americans participate as members of the investor class. Our goal is to try and make sure that there is enough opportunity for everyone to be part of what President Kennedy loved to call that rising tide that lifts all ships.

I think that this bill will go a long way towards instilling that level of confidence that is necessary. The rule, as has been acknowledged by both sides, is very fair. We in the majority have again turned ourselves inside out to make sure that we provide an opportunity for those in the minority to be heard on this, and they clearly will have that opportunity as we proceed with debate today.

I urge my colleagues, Mr. Speaker, to vote for the rule and for the underlying legislation and we will have a full and rigorous debate on all of the amendments that will take place between now and then.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I rise this morning in opposition to this rule and the current legislation.

I have the privilege of serving on the Committee on Financial Services as well as serving on the Committee on Small Business. I had the privilege and opportunity to ask questions of Harvey Pitt, the SEC chairman. I had the privilege and opportunity to ask questions of the CEO of Arthur Andersen, CEO of Enron, and the CEO of Global Crossing. And what I have to say to the American public this morning is, in the course of that questioning I have never seen any men more arrogant in my life. I have never seen any men who believe that they did not need to respond to the questions of the American public on their conduct. If, in fact, the exhibition of the questions and answers before that committee are any indication of the conduct of the CEOs of large companies, then clearly this legislation that we put on the floor this morning does not go far enough to deal with the issue of CEO responsibility.

I stand in support of a Democratic substitute that would strengthen corporate responsibility and executive accountability by requiring CEOs and CFOs to certify the accuracy of their firm's financial statements, subjecting them to criminal penalties for lying. If the rest of us are subject to criminal penalties for lying, why should they not be?

I will give you a perfect example. When I asked the Global Crossing CEO what his salary is, he said, Mrs. JONES, it is a matter of public record. And I said, sir, it may well be, but I want you to answer my question for the record. He said it was $3.5 million. He failed to disclose at that point that he got a $10 million loan forgiveness to become the CEO of Global Crossing.

Let us go on to say that it is important as Members of this Congress that we restore the public's trust in the CEOs and CFOs of large companies in which we invest. Clearly, not everyone is an investor, but there are those, like those who are members of the Public Employees Retirement System of the State of Ohio, who lost their compensation as a result of the Enron situation or the California Public Employee Retirement System. I believe we need greater accountability. And while we are doing this, let us not just sit back and give something to the public where we say we are doing something when in reality the bill does not go far enough.

I think it is important that we look to auditor independence and industry oversight. When I questioned the Arthur Andersen head, as well as Mr. Pitt, it was clear that in the past we have not done a good job of distinguishing between auditor and the consultant. And this legislation, in my opinion, does not go far enough to distinguish and keep them from being in the position of saying, oh, your company is in great shape, when in reality it is not.

Mr. Speaker, it is clear that we need to be in a position to distinguish between those two roles so that never again do we find ourselves in the position of having the possibility of an Arthur Andersen, being the accounting firm that is looked upon as the greatest accounting firm in the world upon which all of us rely, when in fact, behind the scenes, and I am not saying all Arthur Andersen employees were involved in the process, but in fact the name Arthur Andersen was consistent with who you invested in.

Mr. Speaker, again, I believe it is important that any legislation that we deal with this morning deals with the independence in the auditor industry as well as dealing with issues of conflict of interest. And so, therefore, I again rise in opposition to the rule, and with all respect to the chairman and this great effort in dealing with this legislation, we need greater corporate accountability and CEO accountability. And we do not need just a study about what CEOs do in a possible conflict of interest, we need some legislation that addresses the conflict.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a lot of political rhetoric about how the Federal Government should be engaged in the oversight of companies, the oversight of CEOs. We hear about how CEOs are arrogant and think that what they want to think should not fall into compliance of what many of us others think. But the fact of the matter is that we live in an environment where the free market has an opportunity to have success and have failure. The free market has that balance which they have to follow, and, in fact, we did; we have learned something as a result of the circumstance with Enron. But that balance continues to come back to us, and we as Republicans, while listening to the exact same words and the questions that were spoken throughout these committee hearings, also heard something that the Federal Reserve Chairman Alan Greenspan said, and I would like to quote him at this time. He said,

> We have to be careful, however, we have to be careful with how the Congress and the American public react. We should not look to a significant expansion of regulations as the solution to current problems.

I believe that perhaps this statement made by the Federal Reserve Chairman is among the most important, and one that Members of Congress should take seriously as our duties as Members of Congress, and understand that while we saw, and many of us sat by helplessly and watched as the Enron problem began and then got worse, and then we watched the fall-out from it, we should learn lessons from what happened and not overreact. We should not go out and place rules and regulations across the entire industry, not only in accounting practices but also across CEOs at other companies, that will cause them to do the wrong things, which will cause them to not share information.

That is where this carefully crafted legislation by the gentleman from Ohio (Mr. OXLEY) and this fabulous committee are not going to overreact. They are going to look at what will be the essence of a comeback for America, confidence that people will have. And our message is very clear today. We want more jobs and create a stronger economy. We want to make sure that confidence in financial services is what we get, not overregulation. We want to make sure that there is more secure retirement in retirement plans by providing investor information and accountability, not rules and regulations that will inhibit people and give them another skirt to hide behind.

We want to make sure that savings is available for people who are just like my wife and I, who are saving for college for our children, and we want to make sure that the corporate responsibility becomes a part of a person's own financial plan also. That is why we are not going to fall victim to believing that emotions should override common sense.

This plan that the gentleman from Ohio (Mr. OXLEY) and the Committee on Financial Services put together on the floor today is not only common sense but is something that will provide confidence for our future.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, on the underlying bill, let me say first of first off that I think the rule is a pretty good rule. There have been a lot of rules in this House that were not particularly good. This time the Committee on Rules saw fit to make a number of amendments in order. I wish that was the norm rather than the exception, but I appreciate the fact that that was the case on this bill.

A lot is going to be said about the underlying bill, the substitutes, and the amendments in today's debate. I just want to say, having sat through a number of the hearings on Enron and looked at the other issues, the underlying bill is a good bill and I supported it in committee. I do not think we should view the underlying bill as a panacea. And I think if there is anything that we get out of this debate today, it is going to be that the Congress has to very clearly put itself on record, both to the public, including the investor class as one of our colleagues mentioned, as well as to the regulators, and particularly the Securities and Exchange Commission, exactly what it is we expect them to do.

□ 1100

I think all of us believe in the sanctity of free markets. We have the most efficient markets in the world in the United States, but one of the reasons why the markets are so efficient is because we have a very strong disclosure system so that investors have an understanding of what it is they are buying. Anytime we have corporate managers or their advisers who disguise or withhold information from the market, we are distorting those markets; and we put at risk not just investors who are abused or hurt by that, but we put at risk the entire market system itself.

So I think, on the one hand, the gentleman from Texas is correct, we do not want to overregulate; but on the other hand, I think we should be very cautious not to underregulate because if we do, we will not have efficient markets, we will not have the efficient distribution of capital at a reasonable price, and the economy as a whole will suffer and we will not have confidence in the markets from investors, which is a growing group of people, including a lot of pensioners in my district who lost their savings because of what happened at Enron.

I think that the House should look at the legislation, whatever it is we end up passing, which I have my ideas of what exactly will pass and will not pass, as a start and not a finish because our goals should be to ensure that there is fair and sufficient disclosure in the markets, that there is a level playing field in the markets for all investors, not just some investors. I think there is a lot to be offered on all sides, and I want to commend the committee for at least having some sense of an open rule today to allow a number of amendments to be offered.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the comments of the gentleman from Texas (Mr. BENTSEN). His service not only to this body but also to this Nation has been well deserved and done well, and I believe what he speaks about is the fairness of not only what the Committee on Rules has done today to make sure that there are two substitutes and other actions that will be available so the minority can be debated today, can be brought for full debate on the floor but also about our ability to not overregulate.

By not overregulating means that we will in essence bring the light of day, which is the best of all standards. The light of day will now be available not only to the SEC for them to have the ability to come and look at companies with that authority and responsibility of the Federal Government but also some changes of the things that we have learned as a result of the Enron circumstance with accounting firms.

I believe that what the gentleman from Texas (Mr. BENTSEN) has talked about means that this is a fair opportunity today on this floor to talk about problems that have been seen, and this is yet another opportunity for this body to address things that we see; and I am proud of what we are doing here.

Mr. Speaker, I would like to inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Texas (Mr. SESSIONS) has 13½ minutes. The gentlewoman from New York (Ms. SLAUGHTER) has 18 minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

We have had a vigorous debate about this important rule that is in front of us. I would ask the Members to give due consideration to supporting this bill.

Mr. LAFALCE. Mr. Speaker, the bill before us today presents an opportunity to restore confidence and integrity to our markets and right the wrongs demonstrated by the dramatic failure of Enron and Global Crossing. Unfortunately, the Rules Committee has seen fit to close off debate on most of the critical issues that plague our capital markets. The House should have had the opportunity to discuss the modest and reasonable package of amendments I put before the Rules Committee to strengthen this woefully inadequate bill.

This House should have the opportunity to consider and debate thoughtfully proposals to strengthen H.R. 3763, the so-called Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002. This bill claims to address many of the financial disclosure and accounting issues raised by the collapse of Enron. Unfortunately, the kinds of financial abuses that led to this unprecedented debacle will not be stopped—or even very much impeded—by this Republican bill. It is cosmetic and simply pretends to bring about reform. "Don't look for a major overhaul of the accounting industry soon," says the Wall Street Journal in a recent article criticizing the Oxley bill because it "punts" overhaul "to just where the industry would like it—the Securities and Exchange Commission."

This bill does virtually nothing to correct the systemic flaws in our financial reporting system. It fails to strengthen oversight of auditors and accountants, and fails to hold corporate executives fully accountable for their misdeeds. Unless major improvements are made, H.R. 3763 will do nothing to restore integrity to our financial markets and will not protect the savings and pensions plans of millions of Americans that remain threatened by future Enrons.

The House should have had the opportunity today to work its will on several key areas.

First, I offered an amendment in the Rules Committee to create a powerful new regulatory board to ensure that auditors will be truly independent and objective. My amendment provided for a regulator that (1) sets audit and quality standards for auditors of public companies; (2) possesses sweeping investigative and disciplinary powers over audit firms; and (3) is controlled by a board comprised of public members—not the accounting industry. My amendment took a decidedly different approach than H.R. 3763, which punts almost all of the functions and powers of the regulator to the SEC. Only a regulator with explicit powers and duties, and a defined composition, such as the one I proposed, will ensure that the abuses we witnessed in the Enron debacle will not be repeated.

In addition, the Republican bill purports to prohibit auditors from providing their audit clients with two consulting services: financial reporting systems design and internal auditing. In fact, the bill prohibits nothing. Instead, it simply codifies existing SEC rules that provide only very limited restrictions on these services. In contrast, my amendment clarifies the definitions of these two services in a way that will actually ban them. In the case of any non-audit consultant services that are not prohibited, my amendment requires approval by the audit committee of the firm's board of directors.

Second, in a spirit of bipartisanship and comity with our Republican friends. Mr. KANJORSKI and I have taken President Bush's proposals on corporate responsibility and executive accountability and prepared an amendment to give them legislative substance and real teeth. Rather than implement the President's proposals, the GOP bill either regresses from current law or does nothing to hold CEOs accountable. It amazes me that the Republican bill summarily rejected the President's own plan to promote corporate responsibility.

So our amendment, also rejected by the Rules Committee, did three things to implement the Bush plan. First, it requires CEOs and CFOs to certify the accuracy of their firms' financial statements. Violation of this provision would carry with it criminal (in the event that the violation is willful), civil, and other penalties provided for under the securities laws. H.R. 3763 contains no similar provision. It is essential that Congress require officers of public companies to stand behind their public disclosures. That is the absolute minimum we should require.

Second, this amendment required corporate officers who falsify their financial statements to surrender their compensation, including stock bonuses and other incentive pay. it empowered the Securities and Exchange Commission (SEC), in an administrative proceeding, or in court, to seek such a disgorgement. H.R. 3763 requires only a study of the question: should guilty CEOs forfeit their stock bonuses.

Third, this amendment empowered the SEC to bar officers and directors from serving in that capacity for a public company if they are found guilty of wrongdoing and determined to be unfit. It would also remove judicial hurdles to seeking such a bar in court. Incredibly, the Republican bill actually makes ti harder to obtain officer and director bars. It codifies restrictive judicial standards that would make it substantially more difficult for the SEC to obtain officer and director bars—a change which the head of the SEC's Enforcement Division has stated publicly is highly problematic. In this regard, H.R. 3763 is a serious step backward.

The Rules Committee even refused to allow debate on my amendment that gave shareholders a voice in executive compensation decisions by requiring that a majority of shareholders approve any stock options plan for an officer or director. H.R. 3763 does not include a similar provision. Would anyone argue on this floor that shareholders should not have a voice in the lucrative stock option plans of officers and directors. After all, it is the shareholders who own public companies, not management.

Finally, the Rules Committee refused to give this body an opportunity to debate and vote on an amendment to ensure that stock analysts are truly independent and objective. My amendment achieved this by (1) barring analysts from holding stock in the companies they cover; (2) prohibiting analysts' pay from being based on their firms' investment banking revenue; and (3) barring their firm's investment banking department from having any input into analysts' pay or promotion. As with other important issues in this legislation, H.R. 3763 only requires a study.

Today we are on the verge of squandering an opportunity for real reform. I urge my colleagues to consider our substitute and do something real to prevent the next Enron.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON FINANCIAL SERVICES TO FILE SUPPLEMENTAL REPORT ON H.R. 3764, SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be permitted to file a supplemental report on H.R. 3764.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 395 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3763.

☐ 1105

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Today, the House turns to H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act. To my colleagues on both sides of the aisle, today we must act. We must act for our Nation's investors, retirees, and employees of publicly traded companies; and that covers a large majority of Americans.

In recent months our struggling economy has absorbed a number of shocks. We have endured two large bankruptcies, Enron and Global Crossing. Thousands of jobs have been lost for hardworking employees. Billions of dollars are gone from investment portfolios and retirement plans. Investor confidence has understandably wavered.

Congress has examined these issues for 4 months. The Committee on Financial Services alone held seven hearings, took testimony from 33 witnesses; and we are but one of many panels. We know now what happened, and we know what needs to be done. Now it is our responsibility to do something about it.

We owe action to the American investor who faithfully puts away money every month in his IRA or his 401(k) plan. We owe action to the employees who lost their jobs, and we owe action to all of the American companies who are operating in good faith and working to grow.

I would like to say a word of thanks to the President and his staff for all of the support and encouragement we have received throughout the process of drafting and moving this bill. His 10-point plan was very much on the same track as our bill, and the White House has helped us improve the bill every step of the way.

I also want to say a word of thanks to the 16 Democrats who voted for the bill on final passage in the Committee on Financial Services. We appreciate their support for our sound legislative bipartisan product.

President Bush has asked us to move on his plan; and clearly, this is a national priority. We need to encourage greater corporate responsibility. We need to strengthen and modernize our accounting oversight, and we need to make sure that investors have timely and clear information. There is a real urgency. We cannot undo the past, but we can help to prevent future Enrons and Global Crossings; and we ought to do just that today.

In our zeal to act, we can easily do more harm than good. It is easy to do something extreme. We can easily smother American businesses with red tape. We can punish those who have done nothing wrong. We can damage the capital markets and the economy in the process.

I say let us do the difficult thing. Let us accomplish something that is worthy, as the President has charged us, and CARTA strikes that balance. CARTA recognizes the need for corporate leaders to act responsibly and holds them accountable if they fail to do so.

CARTA ensures the highest standards of auditor independence, ethics and confidence and establishes a public regulatory organization for accountants of publicly traded companies, something that has never been done before.

CARTA improves corporate disclosures by requiring companies to provide the public with more information about their financial condition.

CARTA makes important improvements in the area of corporate transparency, requiring that companies disclose to investors important company news on a real-time basis.

CARTA also directs the SEC to require greater disclosure for off-balance sheet transactions.

I am confident that we are striking the right balance, particularly when it comes to the role of the Securities and Exchange Commission. CARTA gives the SEC the flexibility to deal with problems without legislating every time. Congress created the SEC precisely to deal with situations like this. We need to empower the SEC to act without tying its hands and within flexible statutory changes.

Let us remember that a strong regulator is not one that is completely dictated to by Congress. A strong regulator has some say over his jurisdiction, some power and discretion to shape the capital markets; and I trust the SEC with this authority and so does our bill.

CARTA makes it a crime for anybody to interfere with a corporate audit. It requires CEOs and other corporate insiders to disclose within 48 hours when they sell company stock so that investors and employees and retirees know if a corporate officer is getting out. It prohibits insider sales of company stock while the employee retirement plan is locked down.

Strengthening these areas of corporate responsibility, accounting oversight, and investor information is an important priority as our economy recovers. Let us show the American people that we can respond in a meaningful way to their very real economic concerns. Pass CARTA today.

Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may need.

Mr. Chairman, I rise to oppose H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act. The dramatic collapse of Enron exposed many systemic problems to the intricate public-private network that monitors excess in our Nation's capital markets, including deficits and corporate governance and insufficiencies in audit independence and oversight.

H.R. 3763 responds to these problems in a largely illusory and superficial way. It will not sufficiently restore public confidence in the integrity of our capital markets; and it will not significantly improve the protections for investments, pensions and savings of millions of hardworking Americans and retirees. For example, in the words of the Wall Street Journal, the bill "punts" an overhaul of the accounting industry to the Securities and Exchange Commission.

Although H.R. 3763 creates a new organization to oversee accountants that audit public companies, much of the bill's language is simply too vague to ensure that essential standards for effective oversight will be met, giving the SEC near-total flexibility in establishing guidelines for the new oversight body.

Given the importance of this oversight role, Congress should not delegate this task. We should create a strong auditor regulatory board with sufficient investigation and disciplinary powers.

The legislation also preserves auditors' cozy relationships with their clients by not prohibiting consultant services that create conflicts of interest. Audits are supposed to be independent assessments on a company's finances conducted for the benefit of the investing public. When an auditor also receives a million dollars from the company for nonaudit services, common sense dictates that those nonaudit fees may influence the auditors' judgment in favor of the client.

While H.R. 3763 partially bans two nonaudit services, it does not go far enough to eliminate the serious potential for undermining the independence of auditors. Additionally, H.R. 3763 protects corporate wrongdoers by actually making it more difficult to ban guilty officers and directors from serving in other public companies. In particular, the bill codifies high standards that the SEC complains significantly impedes its abilities to obtain officer and director bars in court. We must fix this problem.

Finally, the bill prescribes studies, not legislative action, on some major issues raised by Enron, whether CEOs who misled investors about the financial health of their companies should surrender their bonuses and fat stock option and whether stock analysts are pitching stocks they do not believe in.

In sum, Mr. Chairman, the Congress should not shirk its responsibility by delegating these urgent problems to the SEC or shunting them off to the oblivion of bureaucratic studies. We have an opportunity and a responsibility to restore integrity to capital markets. Quick fixes will not do the job.

Ultimately, Mr. Chairman, we must work together on a bipartisan basis to develop an appropriate response to the collapse of Enron and the overabundance of earning restatements by our Nation's publicly traded companies. Although we have made improvements in the bill since its introduction, it will represent only superficial reform at best. Meaningful reform will require lengthy deliberation and a substantial strengthening of the bill before us today.

Mr. Chairman, there is an old idea of lost opportunities. As the Congress addresses this serious problem today, we are missing an opportunity for Congress not to delegate its responsibility to the SEC or not to dodge its responsibility to the American public, but to take time and effort and deliberation necessary to make a bill that will protect the investing public, will arm the regulatory agencies with the authority they need to ensure the protection of the investing public, and to significantly improve the confidence in the American market.

□ 1115

Just last night I had the occasion to speak with some members of the investing community, and they called to my attention that never in their experience in the last 25–30 years have they seen a loss of confidence in the capital markets of the United States as has recently been exposed in the last several months since the Enron collapse. The capital markets of the United States are the greatest in the world, but they are that way because the Congress at times of need and at times of overabundance of activities and recklessness in the markets have stood tall to enact legislation to straighten the markets out and to send a signal to the investing public that the Congress will oversee and protect their interests as best can be had in a capitalist system.

Today's legislation does not meet that mark. As the Wall Street Journal said, "This bill punts." As The Washington Post said this morning, "The chairman punts." I urge us to oppose this legislation at this time, and I encourage my colleagues to do the same.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. ROGERS), a valuable member of the committee.

Mr. ROGERS of Michigan. Mr. Chairman, I rise today in support of the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, and I want to congratulate the chairman on this bill that was reported out of the Committee on Financial Services last week on a strong bipartisan vote under his leadership.

This bill brings needed reforms and oversight to the accounting industry. It ensures that those with the greatest interest in ensuring that the information provided to the marketplace regarding public companies is accurate and complete and facilitates the fair and efficient functioning of the markets.

Mr. Chairman, this is an important piece of legislation that does not create a new Federal bureaucracy funded by taxpayers; rather, it requires a new private sector oversight body to review the accounting firms that audit financial statements. This new body, called the Public Regulatory Organization, would have broad powers to discipline accountants that violate the most basic codes of ethics, standards of independence, and standards of competency.

Mr. Chairman, this bill is necessary to restore the faith in our markets. This bill brings credibility and integrity to the process by protecting against conflicts of interest in the accounting industry. This piece of legislation is important because we need to act now. We need to pass this bill today. We need to give the SEC and this new PRO the tools to be up and running quickly to protect the future of investments in this country.

Mr. Chairman, at this time I would like to have a colloquy with my good friend, the gentleman from Ohio (Mr. OXLEY), the distinguished chairman of the Committee on Financial Services.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Michigan. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I thank the gentleman from Michigan and I want to commend him for his efforts on this bill, for his fight for the integrity of America's financial markets.

The gentleman is right; we need to act quickly on this important issue. We are calling on our colleagues to take this opportunity to restore transparency and accountability to the audited financial statements of America's companies.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Chairman, it is my understanding that this bill does not create a new Federal bureaucracy to oversee the accounting profession but, rather, creates a private sector regulator to do that job.

Mr. OXLEY. Mr. Chairman, if the gentleman will continue to yield, that is correct. We are giving the SEC the tools to oversee this new PRO, but it is going to be funded by the private sector.

Mr. ROGERS of Michigan. Mr. Chairman, I want to see that this PRO is up and running in an expeditious fashion. Does the PRO have the authority to contract for services with other private sector companies or regulators to make this happen as quickly as possible?

Mr. OXLEY. That is correct. Under the legislation, the SEC or the PRO could consult or contract with private sector regulators and companies to get the necessary insight as well as the systems and processes to get this organization on its feet in a timely manner. I am confident the SEC and the PRO will take such measures as necessary to move with all deliberate speed.

Mr. ROGERS of Michigan. Reclaiming my time once again, Mr. Chairman, I thank the distinguished chairman for clarifying this point and I thank him for his leadership on this very important bill.

The CHAIRMAN. Without objection, the gentleman from New York (Mr. LAFALCE) will control the time of the gentleman from Pennsylvania (Mr. KANJORSKI).

There was no objection.

Mr. LAFALCE. Mr. Chairman, I yield myself 5 minutes.

Mr. LAFALCE. Mr. Chairman, today we consider legislation to address the serious problems in our capital markets raised by the collapse of Enron, problems of corporate abuse, problems of accounting fraud, problems of earnings manipulation, and problems of analyst hype. All of these have destroyed public confidence in our markets and jeopardized the investments and retirement savings of millions of working Americans. Millions of working Americans have been robbed.

Now, Enron provided a catalyst for our consideration of these issues, but it is not the first or even the most recent example of what has become a common phenomenon: earnings manipulation, deceptive accounting, and hyped analyst reports by some of our largest companies. Company after company has been found to have manipulated their accounting to present a picture to investors that did not match the reality.

The tremendous growth in investigations opened by the SEC this year indicates the problem is getting worse and worse. The question we will debate today essentially is whether we are ready to recognize and make real changes to address the systemic weaknesses undermining our capital markets or not. The bill before us is cosmetic. The bill before us is a press release. Look at this morning's editorial in The Washington Post. It says, basically, that the bill takes a punt at the problem. Look at the editorial in yesterday's Wall Street Journal. It says, basically, the same thing. It chastised the accounting profession for its resistance to all efforts at reform. The Journal opined that "The accountants may think that they have outsmarted everyone by sinking reforms along with Andersen. And they may be right. On the other hand, if there's another Enron out there, they may wish they'd taken Mr. Volcker's advice."

I think it is safe to say it is only a matter of time before the next Enron or Global Crossing appears, and today's bill will do nothing to prevent it.

There are many areas in which the bill before us fails to provide true reform. First, it fails to establish a strong regulator to oversee the accounting profession, largely delegating decisions as to both its powers and duties and makeup to the SEC. You do not need a law to do that; the SEC could do that today. The bill provides virtually nothing.

Secondly, the bill fails to limit in any way the nonaudit services that auditors can provide to their audit clients, not even going as far as the accounting industry has said it would go voluntarily to limit their conflicts of interest. The accounting industry has said they should and will go further than the bill goes, and they will not go far enough on their own voluntarily.

As the Wall Street Journal said yesterday, the credibility of their audits matter more than their ability to offer other services that let them live like investment bankers.

And, third, the bill fails to effectively implement any of the measures proposed by President Bush himself to improve executive responsibility and improve the ability of the SEC to bar or seek disgorgement from executives. In some areas, it actually represents a step backwards, making it more difficult for the SEC to do its job, making it harder, rather than easier, for the SEC to bar officers or directors who have committed securities fraud from serving in other public companies.

Fourth, the bill fails to make any improvements in the area of corporate governance of public companies by giving the audit committees of their boards of directors the authority they need over auditors to truly protect shareholder interest.

And, fifth, and very importantly, it fails to include any measures to limit the incentives for securities analysts to serve as salesmen for their firms' investment banking business rather than being objective analysts. It fails to address the problem of research analysts being compensated based upon the business they are able to generate for the investment banking arm of their firms. It allows the continuance of research analysts being hucksters for the investment banking arms rather than owing a responsibility to give honest investment advice to the public at large.

Now, I would like to have had a debate on these important issues on the floor individually, but the rule does not permit the offering of individual amendments. And, therefore, I will offer my substitute to accomplish that.

Mr. Chairman, today we consider legislation to address the serious problems in our capital markets raised by the collapse of Enron—problems of corporate abuse and accounting fraud that have destroyed public confidence in our markets and jeopardized the investments and retirement savings of millions of working Americans. While Enron has provided the catalyst for our consideration of these issues, it is not the first or even the most recent example of what has become a common phenomenon—earnings manipulation and deceptive accounting by our largest companies. Company after company has been found to have manipulated their accounting to present a picture to investors that did not match reality. The tremendous growth in investigations opened by the SEC this year indicates the problem is only getting worse.

The question we will debate today essentially is whether we are ready to recognize and make real changes to address the systemic weaknesses undermining our capital markets. The bill before us does not represent real reform, as even the Wall Street Journal recognized in an editorial yesterday in which it chastised the accounting profession for its resistance to all efforts at reform. The Journal opined that "[t]he accountants may think that they've outsmarted everyone by sinking reforms along with Andersen. And they may be right. On the other hand, if there's another Enron out there, they may wish they'd taken Mr. Volcker's advice." I think it's safe to say that it's only a matter of time before the next Enron or Global Crossing appears, and this bill will do nothing to prevent it.

There are many areas in which the bill before us fails to provide true reform:

First, it fails to establish a strong regulator to oversee the accounting profession, largely delegating decisions as to its powers and duties to the SEC. Without an explicit statutory mandate, the regulator will be subject to the intensive efforts of the accounting industry to avoid reform of any kind. Congress should give the new regulator effective disciplinary and investigative powers and clear authority to set standards for auditors of public companies, rather than just enforcing the standards set by the accounting industry bodies.

Second, the bill fails to limit in any way the non-audit services that auditors can provide to their audit clients, not even going as far as the accounting industry has said it would go voluntarily to limit their conflicts of interest. As the Journal said yesterday, "[t]he credibility of their audits matter more than their ability to offer other services that let them live like investment bankers."

Third, the bill fails to effectively implement any of the measures proposed by the President to improve executive responsibility and improve the ability of the SEC to bar or seek disgorgement from executives. In some areas, it represents a step backwards, making it more difficult for the SEC to do its job, making it harder, rather than easier, for the SEC to bar officers or directors who have committed securities fraud from serving in other public companies. Moreover, it fails to empower the SEC to require corporate wrong-doers to disgorge their bonuses and other compensation after committing securities fraud.

Fourth, the bill fails to make any improvements to the corporate governance of public companies by giving the audit committees of their boards of directors the authority they need over auditors to truly protect shareholder interests.

Fifth, it fails to include any measures to limit the incentives for securities analysts to serve as salesmen for their firms' investment banking business rather than objective analysts.

I would like to have had a debate on these important issues on the floor today, but the rule does not permit me to offer amendments on these individual issues. I will offer a substitute, however, that cures many of the defects of the Republican bill. My substitute will: Establish a tough and credible overseer for the accounting industry; include effective limits on the two non-audit services included in the existing bill; provide corporate audit committees with authority over the full scope of a company's relationship with its auditor; hold executives responsible for the accuracy of their companies' financial statements; enable the SEC to seek disgorgement of bonuses and profits on options or to bar officers and directors who have committed wrongdoing from serving in other public companies; and finally, eliminate the conflicts that result in Wall Street analysts hyping the stocks of their investment banking clients.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), the chair of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Chairman, I rise today in strong support for the Corporate Auditor Accountability, Responsibility, and Transparency Act, known as the CARTA Act. I thank my good friend, the gentleman from Ohio, for yielding me this time.

This legislation represents the first positive step forward to restore public confidence to our Nation's accounting industry. Since the dramatic failures in both Global Crossing and Enron, we have heard from countless former employees and investors who have been harmed because of the lack of transparency, the lack of auditor independence, and the lack of timely and clear disclosures. CARTA takes substantive steps to address all of these issues, with a focused approach that will restore confidence in the industry.

Let me be clear. The legislation is not the complete solution. There are many investigations which continue with the Securities and Exchange Commission, the Department of Justice, and the Department of Labor. As the appropriate agencies uncover new issues, we are going to continue our work to ensure that we act prudently, appropriately, and responsibly. As with the medical profession, though, our overriding goal has to be, first, do no harm. We must be focused in our work and make sure our response is effective, restores public confidence, and has a positive impact on the market.

CARTA is reasonable and responsible. CARTA creates a new Public Regulatory Organization with real power to discipline accountants who violate the standards of ethics, competency, and independence. CARTA makes it a crime for any corporate official to mislead or coerce an accountant in the course of conducting an audit. CARTA requires real-time disclosures of significant financial information to ensure that employees and investors know about important events as they happen, instead of when the quarterly report comes out.

These are just a few of the significant reforms made in this legislation. CARTA is a strong reform. It gives greater authority to the Securities and Exchange Commission to act, and it is stronger authority than in the Democratic substitute. It takes significant steps to ensure accountants are truly independent and corporations are clear and honest in their statements.

It is a bipartisan bill. It was supported in committee by both Democrats and Republicans. The committee vote on final passage of 49 to 12 demonstrates that there is real agreement in the House that the provisions contained in this legislation will move us forward to our goal of restoring public confidence in our accounting system and corporate disclosures.

Mr. Chairman, I urge colleagues on both sides of the aisle to join us with the strong support of CARTA so we can prevent mistakes, misstatements, and obfuscations we witnessed in the failures of Global Crossing, Enron, and Arthur Andersen from being repeated and harming others.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, to my colleague, the gentleman from the great State of Ohio (Mr. OXLEY), and to the ranking member, the gentleman from the great State of New York (Mr. LAFALCE), I am pleased to have had an opportunity to serve on the Committee on Financial Services as we have debated this legislation. But what is clear to me is the American public expects us to do more than pass strong legislation that does not go far enough. I just want to put in the RECORD a copy of The Washington Post editorial that fully addresses many of the issues.

Let me tell my colleagues a few things I am concerned about.

□ 1130

Mr. Chairman, I do not believe that this current legislation that is before the House of Representatives addresses the issue wherein the CEOs, like the CEO at Enron and Global Crossing, were able to take their 401(k) dollars out of the pot, and leave workers like Mrs. Linton, who I read about in the newspaper, stuck with not receiving any other dollars.

Now, what we have not addressed, and I am not an SEC attorney, but I do know there is a piece or a rule that allows a CEO to put in place a plan to dispose of his assets in a particular company, as long as they have in place a plan to do so. We need to put in place a plan that would also allow workers to be able to access their dollars in the same fashion that CEOs do. Or if they are not able to do so, that the CEOs would be held accountable.

Let me go to another point that I raised at the Enron hearings, which is with regard to the SEC. I have a lot of respect for the SEC and their chairman, Mr. Harvey Pitt; but the reality of the matter is that we should not leave our job to the SEC. We should give the SEC clear direction on what we want done, when we want it done, and how we want it done. For example, the records of Enron were not reviewed by the SEC. That presents a real problem for me and other Members as we review this process.

Finally, I am worried about a private organization giving advice and counsel on many of these issues to the Congress. Let me just say that the Arthur Andersen relationship with Global Crossing, the CEO said that he thought that relationship was okay. If he thought it was okay, what does that say about other private industry people.

The material previously referred to is as follows:

[From the Washington Post, Apr. 24, 2002]

MR. OXLEY PUNTS

The HOUSE is due to vote today on a package of post-Enron reforms prepared by Rep. Michael Oxley (R-Ohio), chairman of the Financial Services Committee. The bill is a troubling sign of how easily the momentum for reform can be dissipated. Though it purports to deal with many of the audit reforms discussed during dozens of congressional hearings since January, it actually pulls its punches. Democrats will get a chance to offer some better provisions in the House today, but nobody expects them to pass. It will be up to the Senate, if it can ever terminate its interminable debates on energy, to produce a stronger bill.

The Oxley bill purports to set up a new regulatory board to oversee and discipline auditors, which everybody agrees is needed. But it would not give this body powers of subpoena, which would undermine its authority; and it would allow auditors to fill some of the board's positions, which could undermine its independence. The details of the new board would be left to the Securities and Exchange Commission, which would have to decide among other things how the new body would be funded. Given the SEC's vulnerability to industry lobbying, there is a danger that the result will fall short of what's needed.

The Oxley bill takes other half-steps and side-steps. It directs the SEC to prohibit auditors from performing certain types of consulting services for their clients, but it stops short of requiring an outright halt to consulting and the conflicts of interest that ensue. The bill says nothing about the revolving door between auditors and their clients—Enron, for example, hired several Arthur Andersen auditors—even though auditors who are angling for jobs from their customers are unlikely to show much independence from them. The bill is also silent on the rotation of audit firms. If an auditor knew that, after a few years, a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest.

The Oxley bill does at least boost the SEC's budget substantially, and it has the right mood music. But given the outrage that Congress has expressed about the Enron scandal, this is a weak effort. Just this week, Enron announced that it had discovered a further $14 billion worth of assets in its balance sheet that don't really exist after all, and it confessed that a "material portion" of this overstatement was due to accounting irregularities. This kind of confession further undermines investors' trust in financial disclosures. Congress needs to restore that trust with tough legislation. Perhaps the Senate can deliver if the House won't.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I commend the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) for this legislation. This legislation has numerous provisions which provide and strengthen oversight of the accounting industry, what we have really learned from Enron and Global Crossing failures. But the specifics of these provisions have been properly outlined by the chairman, and I will not go into those again. However, I will stress one in particular, and that is it includes important safeguards for individuals who invest in the 401(k) plans. That is an excellent provision in this legislation.

Mr. Chairman, I want to say to Members that there are some who argue that this bill does not go far enough. I will say to those critics that we must take care not to overreact to this situation and create greater problems than we have here. This bill represents a giant step in the right direction to reforming the system. We need to enact this legislation and let the regulatory process go forward. Clearly we should revisit this issue in the months ahead, but this bill does include sound, strong, unprecedented measures that I believe will go a long way in reforming the situation.

A Member mentioned earlier Chairman Paul Volcker's oversight and activity in terms of the Andersen question. Clearly, Mr. Volcker's analysis will be helpful to us and significant in laying the groundwork for extended consideration in the future for whatever additional reforms we may need. Clearly, we must not overreact and create today further problems and create more loopholes.

I want to commend Chairmen OXLEY and BAKER for their leadershiop on this legislation and urge my colleagues' support for the Corporate and Auditing Accountability, Responsibility and Transparency Act.

We must return confidence back to the markets and to the accounting profession. Individual investors have to be certain that the information they are receiving is accurate and complete. Certainly the media and many in this Congress have been focused on the Enron bankruptcy—the largest in U.S. history—but Enron is merely a symptom of a larger problem.

The current structure for regulation and oversight of the accounting industry consists of Federal and State regulators and a complex system of self-regulation by the industry itself. Although the SEC has broad authority to regulate all aspects of corporate accounting and the auditing of publicly-traded companies, the SEC historically has not directly regulated the industry because of a lack of resources. Instead, they have investigated and taken enforcement action in only the most egregious cases. Consequently, the most comprehensive supervision of accountants and auditors has been exercised by the industry's trade association, the American Institute of Certified Public Accountants, a voluntary organization funded entirely by the industry.

H.R. 3763 includes numerous provisions to strengthen supervision and oversight of the accounting industry, increase standards of corporate responsibility, and improve the quality of corporate disclosure and the auditing of publicly-traded companies. The specifics of these provisions have been properly outlined by the Chairman.

First, this legislation establishes a public regulatory organization (PRO) to oversee and review accounts that certify financial statements required under the securities law. This new board would be subject to direct SEC authority and supervision. In addition it makes it illegal—subject to SEC civil penalties—for any corporate official to interfere, mislead, or coerce an accountant performing an audit of the company.

Second, this legislation requires increased and meaningful disclosures, such as information about special purpose entities and other off-balance sheet transactions. It requires real-time disclosure of financial information and immediate disclosures by corporate insiders when they sell securities they own in their company.

This legislation also includes important safeguards and protections for individuals who invest in 401(k) plans. The bill prohibits corporate executives from buying and selling company stock during “blackout” periods when rank-and-file company employees are barred from doing so in their pension 401(k) plans and allows companies, and other shareholders to go to court to recover any profits made from such illegal transactions. The measure also establishes procedures under which the SEC may recover any profits gained, or losses avoided, by executives through stock trades in the six months prior to a company's restatement of earnings, if the executive had knowledge that the company's accounting was misleading.

Finally, H.R. 3763 authorizes new resources and responsibilities for the SEC, requires the SEC to review the audited corporate financial reports of all publicly-traded companies at least every three years, and allows the SEC to ban corporate officers and directors whom the SEC finds guilty of violating securities law from serving in similar positions in other publicly-traded companies.

There are some that may argue today that this bill does not go far enough—I would say to those critics that we must take care not to overreact to this situation—this bill represents a significant and proper first step. We need to enact this legislation—and let the regulatory process go forth. Clearly, we may have to revisit this issue in the months and years ahead, but this bill includes sound, strong and unprecedented measures that I believe will go a long way in addressing this current crisis.

Clearly, Chairman Paul Volker's oversight and analysis will be significant in laying the way for extended consideration for additional reforms.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the ranking member, the gentleman from New York (Mr. LAFALCE), for yielding me this time and for his leadership on these tough issues.

Mr. Chairman, I rise today in strong opposition to H.R. 3763. This is another sham bill that purports to fix the very serious problems that have arisen from the Enron debacle, but instead it takes us backwards in protecting the American public. H.R. 3763 is supposed to impose tougher standards on auditors to prevent future Enrons where workers lost their pensions and investors lost money because Enron cooked its books. However, H.R. 3763 does nothing to protect employees and investors. It allows corporate auditors to continue to perform both auditing and consulting functions, which got Enron into this mess in the first place.

The GOP bill puts investors and workers at greater risk than they are now. It does not hold corporate wrongdoers criminally accountable if they knowingly release misleading financial statements, and it does not increase oversight of the accounting industry.

We need true reform. That is why I am supporting the LaFalce substitute which takes important steps to protect workers and investors. It would set up a seven-person board with members representing investors and pension funds. Some of them can be accountants; but others with important interests can also be included, unlike the Republican legislation which will only permit auditors and former auditors on the board. Workers and investors also deserve a seat at the table.

The LaFalce substitute also bans auditors from consulting services that create conflicts of interest, requires CEOs to surrender their stock bonuses when they commit fraud, and makes it easier for SEC to remove corporate wrong-doers.

Ken Lay and the other Enron executives do not deserve millions of dollars in payoffs when their workers have lost their future. We must hold companies accountable when they engage in fraud that jeopardizes the retirement security of our Nation's workers and our economy.

The Republican legislation before us today does none of these things. The LaFalce substitute does. I urge my colleagues to vote “yes” on LaFalce and “no” on H.R. 3763.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a valuable member of the Committee on Financial Services.

Mrs. BIGGERT. Mr. Chairman, I rise today in strong support of H.R. 3763. This is a good bill because it strikes the right balance between doing enough to prevent another Enron and Andersen debacle, but not so much as to overreact to it causing more harm. The last thing we want is to federalize the accounting industry and create a seat for the government on every corporate board from New York to San Francisco and back again.

This is a good bill because it helps rebuild the confidence of the American people by restoring the integrity of the accounting industry. It increases corporate responsibility, reforms the accounting industry, and forces businesses to disclose much more financial information in real-time. Holding corporate officers responsible for their actions is a big part of the foundation of this bill. As President Bush said not long ago, our goal is better rules so that conflicts, suspicion, and broken faith can be avoided in the first place. That is what this bill does in several ways. For example, an amendment that I offered last week provides the SEC the administrative authority to bar persons accused of malfeasance from serving as officers or directors of public companies pending judicial appeal.

Mr. Chairman, it is unfortunate that no one understands the concept of executive accountability or lack thereof better than the 500 Andersen employees from my district. They ask, How on earth can the alleged sins of a handful of partners uproot the lives of so many innocent employees? One of them went further, asking me in a recent letter if one out of our 535 Congressmen and Senators gets in trouble, should you all be fired? I think we all get the point.

And the point is that change is needed in the accounting industry, and H.R. 3763 is an important step in the right direction. With this legislation, we will avoid any more blanket charges to groups of accountants, and instead bring justice to the particular accountants at fault. Some have argued that the standard may prove to be unreasonably high or it goes too far. I respectfully disagree. H.R. 3763 empowers the SEC to take a bite out of corporate crime.

Mr. Chairman, I encourage all of my colleagues to support this bill.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, Enron not only cost its own shareholders tens of billions of dollars, but our markets would be selling at trillions of dollars more in net capitalization if investors around the world did not have to wonder whether the next Enron was right around the corner.

All three of our institutions failed our investors. The SEC failed to even read the Enron financial statements, let alone demand clarification of their incomprehensible footnotes. And when the SEC reauthorization bill comes to this floor, it should come in regular order so that we can propose amendments to improve the SEC.

The stock analysts and the auditors both failed as well; and they failed in part because the current system clouds their judgment with excessive conflicts of interest. The stock analysts are affected by the huge investment banking fees so that they now not only recommended Enron as an investment, but they recommend a hold or a buy on virtually every stock on the board.

The auditors received not only their audit fee from their clients, but huge and unlimited fees for other services, sometimes five or 10 times the fees they received for auditing; and this bill, while providing a list of services that they are not to provide, does nothing to cap the total fee that they receive.

We need to restore confidence in our markets. If Congress does its job, our capital markets will once again be the envy of the world. But we cannot do it just by passing this bill. The LaFalce substitute at least takes us further down the road toward reform; and then we need to do even more to deal with the SEC, the stock analysts, and the total amount of fees received by auditors for nonaudit services.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART), an outstanding member of our Committee on Financial Services.

Ms. HART. Mr. Chairman, I rise in support of the CARTA bill as it stands. The Committee on Financial Services did an extensive amount of research on these issues, especially in light of the concerns raised by the Enron debacle. Several disturbing aspects about corporate disclosures in financial statements were made very clear during this process, but one of the most alarming was the unequal treatment of employees and what they were and were not allowed to do with company stock that they received in their retirement plans.

I have here what will happen as a result of the CARTA bill. Pre-Enron there was little disclosure. Financial information was all in legal jargon. People could not really understand it. There was insider auditing, as we saw in the Enron case, deals made among the auditors with the company which were really not fair or right or a true representation of the actual financial situation of the company. Also, insider trading during blackouts, those executives were allowed to sell their stock; those regular people, the employees, unfortunately were not, and ended up losing a lot of money because of the deceit involved with the financial statements.

Post-Enron, under the CARTA bill we have full disclosure. We also have something very important, and that is the financial information that all investors get in plain English. No more games. Under CARTA, plain English so that everybody understands exactly what is going on with the company.

Also something extremely important, the independent audit versus the insider audit. We need to make sure that Americans have confidence in financial statements and invest wisely.

It will also close the loophole on insider trading during blackouts. This is one of the most important things that was revealed to us during Enron, and one thing that this bill handles very well.

America's investors have changed significantly. It is important for us to protect them and provide them with the information that they need. More than half of American families, that is 90 million people, invest in the stock market, including mutual funds, pensions, and 401(k)s. This represents a growing trend. These people are investing in American companies that produce American jobs. In fact, a majority of these investors, 67 percent of them, are our average Americans with household income of $75,000 or less.

Mr. Chairman, these are American families that we are talking about. We need to protect them with CARTA. According to the National Center for Employee Ownership, 10 million employees in the United States received stock options as part of their benefits in 2001. This is a 10-fold increase over 1992. This bill protects those employees and those Americans. It protects those American jobs.

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Finally, the benefits of the bipartisan corporate responsibility bill is greater confidence. Americans will continue to invest. We want them to invest. It is better for our future. There is more confidence for them to invest, there will be more corporate stability and the end result, which is what we all want, is more jobs and a stronger economy.

Mr. LAFALCE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, Enron, Global Crossing, the restatements at Xerox, Sunbeam and others are part of the corporate excesses that have occurred as a result of the exuberant nineties. The bill before us today, I believe, is a good start but, as I said earlier, is by no means a panacea and will not solve all the problems that existed or came about, but at least begins putting us in the right direction to hopefully restore some confidence to the markets. It does establish an oversight function of auditors of public companies. It amends the law to crack down on insider self-dealing, where you had corporate managers really treating public companies as private banks, and I am glad the committee adopted a few amendments I offered to deal with that. It continues the process of eliminating the conflict between independent auditors and the companies they audit.

Some will say it does not go far enough, but at least it begins that process. It was strengthened by an amendment that the gentleman from North Carolina (Mr. WATT) and I offered and, quite frankly, the gentleman from New York's substitute strengthens that even further. It puts the Securities and Exchange Commission on notice and provides them with the resources, and it puts the Congress on notice that there needs to be stronger oversight of the players in the public markets. And it is quite a change from where the SEC was under the prior chairman, Mr. Levitt, who really did take a strong stance in trying to root out conflict of interest and, quite frankly, ran into some of his toughest opponents in the Congress as much as out on Wall Street.

The committee should adopt the Capuano amendment, which I think strengthens the oversight board in ensuring that the makeup of that board is one that is truly independent. And while there are things in the substitute I like and things I do not like, the committee should adopt it. But what I think this bill does that is so terribly important is that it puts the Congress on record in saying that we will not tolerate abuses in the public market.

Maybe we need to go further. Maybe we do not go far enough in the bill, and I do not think a lot of bills we pass here necessarily go far enough. I do not know that we know all the answers. But it also puts the regulators on notice and provides them with the resources to do the job they are entrusted to do. And if they do not, then the Congress should be willing to act again. Because if we do not restore confidence in the markets and ensure confidence in the markets, then we will raise the cost of capital to great expense to the general economy, and while we are concerned about the Enron employees, many of whom are my constituents, we as a Nation will suffer as well. I appreciate the start we are making today. I hope we can continue the process.

Mr. OXLEY. Mr. Chairman, let me commend my friend, the able gentleman from Texas, for his good work on the committee and on the floor. The committee will certainly miss his excellent leadership and insights next year. I wanted to pass those remarks along.

Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the lead cosponsor of the CARTA legislation and the chairman of the Subcommittee on Capital Markets.

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding me this time and wish to express my deep appreciation for his leadership in helping the committee construct what I think is one of the most significant reform pieces of legislation in financial markets in this Congress.

In listening to the debate, many would assume that we have done nothing. In listening to the debate, many would assume there are those in the Congress who would like to sit on the board of every board of directors of every corporation in America, because that is the only way we could possibly have protection for individuals and consumers. In listening to the debate, one would believe that some think it is inappropriate for a corporation to make a profit. In the free enterprise system, it is clear, people invest, they work hard; if they convince consumers and they are successful and beat their competition, at the end of the day we hope people make a profit. Some think profit is gained only by ill-conceived, manipulative, backdoor deals at the expense of working people. Where are we? This is America. We are taught if you work hard, invest, that it is okay to make a profit, and one day if you work hard you might be able to keep some of it. That was the basis of our tax relief program: You work hard, you pay your taxes to the Federal Government.

Some say, "Let's not give them their money back. They might spend it. We ought to keep it here in Washington and regulate them." Some people watch business and they say, "If it's making a profit, let's first regulate it. If it's still making a profit, let's tax it. And if that doesn't stop it, let's sue it." I think we have had enough of that. This bill is about common sense. It is not lawful for a corporate executive to withhold material facts about the financial condition of his corporation. And we go further and say, if you do, there is a penalty to pay.

We provide for auditing independence by saying the audit committee works for the shareholder and has an obligation to report the true and accurate financial condition of the corporation, or there are consequences.

Some have suggested we are doing nothing with the analysts. Let me point out that last fall before the Enron matter became public knowledge, this committee, the Committee on Financial Services, was working on these sets of rules to provide new standards for analysts' conduct that go far beyond anything I have heard suggested in the debate in the committee today. We have taken action. We have taken action to preserve our free enterprise system, the ability to govern a corporation and make a profit, employ individuals and provide opportunities for millions of investors to participate in the dynamic growth of this economy.

In 1995, no one could invest online. Today, there are over 800,000 trades a day where working men and women take $100, $200, and invest it for their child's education, to purchase their first home, and maybe their retirement. That is the American way. Are these the large institutional investors who are making backroom deals with analysts and Wall Street CEOs? No, they are people who are working as we debate this bill this morning to try to make a few extra dollars to enhance the quality of their children's future.

This bill makes sure that the financial statement they read, that the analyst recommendations they research on the Internet, that the corporate executives' representations about the future of corporate profitability are true and accurate. We cannot guarantee success. Of all the companies listed on the New York Exchange in the early 1900s, there is only one that is still listed there today. The dynamic free enterprise system is going to cause changes in our market that no one can predict and we cannot guarantee success or failure, but what this Congress can guarantee is that no one is misled or mistreated and all have equal opportunity.

What shall we do? Some would say this bill is insufficient. At the end of this process, after all the amendments are considered and the gentleman from New York's motion to recommit is finally disposed of and defeated, as I hope it will be, you will have a decision to make. Do you vote for this bill on final passage or do you say "no" and turn your back on the most meaningful reform effort you will ever have?

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the ranking member for all of his hard work on this piece of legislation. I guess I am a little different from some of the speakers so far because I think that this legislation before us is an improvement over the current system. Is it perfect? No. Does it go far enough? Probably not. Will it prevent another Enron? Who knows? I do not think it is within the realm of possibility that we will ever be able to prevent people from being greedy and deceiving shareholders. Every single one of us knows that if this bill was introduced before the Enron scandal, it probably would have had a handful of cosponsors and probably never seen the light of day. But now we are being told that it is completely inadequate and does not do anything to address the problems that led to the collapse of Enron. I disagree.

This is the bottom line. H.R. 3763 is going to strengthen our financial reporting system which in turn will strengthen our capital markets. It is a huge step in the right direction. However, that does not mean that this legislation is comprehensive or that it could not stand improvement. For example, it completely ignores the President's call for corporate governance reform. It simply calls for a study on whether CEOs who engage in fraud should surrender their stock options. The President does not think we need to study this matter. He has publicly stated that they should disgorge those earnings. The President also does not think corporate officers who engage in fraud should be permitted to serve on another board. But again H.R. 3763 is silent on this matter.

Is this bill better than what we currently have? Yes. But I want to urge my colleagues on both sides of the aisle who truly want to protect the interests of investors to also support Ranking Member LAFALCE's substitute.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Alabama (Mr. BACHUS), a subcommittee chair.

Mr. BACHUS. I thank the gentleman for yielding me this time.

Mr. Chairman, Members will recall that 2 years ago, the SEC proposed to limit auditors from doing several nonauditing functions for their clients, consulting work and other nonauditing services. When the SEC proposed that, they do what they always do, what this body has insisted they do, what they ought to do, that they put those proposals out for public comment, because all knowledge does not come from Washington. It is not all inside the Beltway. They made 10 specific proposals to ban nonauditing services. Consumer groups came in and testified before the Securities and Exchange Commission. Consumer groups came in and testified before Arthur Levitt and the SEC. Industry groups came in and testified. Over a 4- or 5-, 6-month period, they looked at the rules, they listened to witnesses, they refined the rules, they revised the rules. And in September, Arthur Levitt had this to say about that process of letting the public participate in how they are governed. He said this: "Thanks to the thoughtful and constructive public input, we see ways to revise the proposed rules to avoid unintended consequences and to address other legitimate concerns."

There are unintended consequences when you propose a rule. There are other legitimate concerns that people have when you put a rule out there for public comment. As a result, Arthur Levitt said, "We've gone through this process and we have got better rules, we have got more effective rules, we have got a good product." Basically that is what the bill that Chairman BAKER and Chairman OXLEY have put out for us, is the result of that process by Arthur Levitt, with public comment from consumer groups, labor groups and industry groups.

Both bills ban these nonauditing services. Both of them ban them. But the difference is that the gentleman from New York (Mr. LAFALCE) and, in fact, when I mentioned this in committee, the gentleman from New York said, "I realize that's a major problem," but it is a problem that we still have in the substitute. The gentleman from New York went back and actually adopted the proposed rules, not the final rules as the base text has. He went back to the proposed rules, throw out all the comments by the consumer groups, throw out all the comments by the business groups, throw out all the comments by the labor organizations, throw out all the comments by those in the academic world. He goes back to the original proposed rules, like starting all over again. That is not what this place is all about. It is about including the public.

Mr. LAFALCE. Mr. Chairman, I yield myself 30 seconds. The gentleman from Alabama (Mr. BACHUS) was referring to an amendment that was offered within the committee, but he is not referring at all to the provision that is in the substitute. So all his remarks were irrelevant to the provisions within the substitute.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

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Mr. DOGGETT. Mr. Chairman, a few months ago, one really could not turn on the television at night or open a newspaper without hearing about the plight of those who suffered in the Enron-Andersen debacle—people whose tomorrow was stolen, many of them innocent, hard-working employees for the very companies that were engaged in these questionable deals. Even expert investors, including those at a public State retirement system in Austin, Texas, lost millions of dollars in Enron investments. Many people who were working to prepare their own tax returns saw that Enron was not paying much in the way of taxes; in fact, it apparently was not paying any taxes at all.

There were two reactions to this debacle. There were some people, like the gentleman from New York (Mr. LAFALCE) who said, how can we prevent something like this from happening again? What can we do? What is the best way? Certainly, it is challenging and complex, but what is the best way to be sure that more people do not suffer like this in the future?

And then there was a second response, the response we normally hear in Washington from those special interest lobbyists: how can we keep the loopholes, the back doors, the exceptions, the special preferences and exemptions that we worked so diligently over the years to be sure that Congress gave us, how can we be sure we keep them in the future?

In the face of this Enron-Andersen fiasco, those lobbyists, that second group, could not come with a straight face and say, "do nothing." So their best avenue to thwart any meaningful reform was to say, "do next to nothing," and we will call it "something"; and that is precisely where we are today. The bill before us is "next to nothing" and it is being called "something" to blunt attempts to exact more far-reaching reform.

As if that were not bad enough, there are some lobbyists who saw this Andersen-Enron crisis as an opportunity, an opportunity to get a little more. And so when we took up the pension bill a couple of weeks ago, the first response in this House to Enron, instead of doing something to help the employees, a little more discrimination was approved in favor of the executives at the top. Today, in this bill, instead of making it more difficult for corporate wrongdoers to assume a position of responsibility at another corporation, this bill makes it easier.

When it comes to tax problems, the same accountants that are causing many of these problems, as Forbes magazine said a couple of years ago, they are the "tax shelter hustlers," "respectable accountants" who are out peddling dicey corporate tax loopholes. And when today ends, they will still be able to do it. The analysts will still be able to think one thing and say another to those they advise to purchase stock. The accountants will still be held to a level of responsibility under this law that is less than even the modest changes President Bush proposed and less than what even the accountants agreed to do voluntarily.

Many people in this country, many Americans, are absolutely amazed that Enron could have fallen apart last year like it did. This year, they will be similarly amazed that Congress did next to nothing about it.

The CHAIRMAN. The Chair will advise Members that there are 5½ minutes remaining on both sides of the debate.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a new and valuable member of our committee.

Mr. FERGUSON. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. OXLEY) for his great work on this legislation and for also working so closely with the major investigators: the Justice Department, the SEC, the Enron and Andersen internal teams, to achieve the goal that we have been able to achieve with this legislation. The committee has heard from a diverse group of witnesses representing a broad spectrum of views from across America regarding the securities markets and the government's role in protecting investors.

The distinct differences in the testimony, including former SEC officials and the securities industry and a leading consumer organization and the accounting industry, have confirmed that the committee and the members on the committee have taken the necessary steps to improve the current regulatory system with this legislation, the CARTA legislation.

This legislation is a product of a multitude of views and months of work by the committee to improve the public's confidence in our capital markets and to strengthen the overall financial system in the most appropriate manner. It is effective because it gets to the heart of the issues that will prevent future Enrons from happening in this country, without drowning our businesses in a sea of red tape.

It is important that this legislation avoids the temptation to overreact and to over-legislate in a manner that is going to cripple the entire business community. In fact, the Federal Reserve Chairman, Alan Greenspan, recently testified that the Enron collapse has already generated a significant shift in corporate transparency and responsibility, highlighting the market's sometime ability to self-correct. Clearly, over-legislating would be counterproductive and make it impossible for our markets to function properly.

Clearly we need to legislate, and I think we have done that in this bill. But legislating should not be the end of the Congress's role in addressing these issues. The collapse of Enron represents a combination of irresponsible actions on the part of some decisionmakers with knowledge of the company's financial well-being, and a meltdown of the financial safeguards that we have used to identify problems at a stage when corrective action still might be possible. We have to continue to work directly with the private sector to instill a spirit of corporate responsibility. We must challenge America's business leaders to meet the highest standards of ethics and responsibility to their employees and their shareholders.

There have been dozens of legislative measures introduced by both sides of the aisle to address these issues. It is time we put partisan wrangling aside and to move forward with the practical solutions that will actually help. We need to increase the American people's confidence in our capital markets, because by doing so, we will increase their confidence in our economy at a time when our economy needs to continue to grow.

I urge my colleagues to support the CARTA legislation.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the very distinguished gentlewoman from California (Ms. WATERS), the ranking member of the Subcommittee on Financial Institutions.

Ms. WATERS. Mr. Chairman, I rise in opposition to H.R. 3763. I truly believe the gentleman from Ohio (Mr. OXLEY), the chairman of the committee, had good intentions, and I appreciate that he accepted one of my amendments on the disgorgement fund at SEC. However, the bill simply does not respond to the outrageous and corrupt behavior of Enron, Arthur Andersen, Global Crossing, and perhaps many other corporations and Wall Street firms. What more harm to our citizens will we tolerate?

This bill does not recognize the wake-up call we have been afforded. This bill will not prevent another Enron from happening. Unfortunately, there are major problems with the larger bill which does not offer strong enough protections to prevent what appears to be a growing number of unscrupulous corporate practices.

Instead of instituting real accounting reforms, the Republican bill leaves the bulk of the work to the SEC, who can be pressured by the industry into issuing so-called reforms that are meaningless. The Democratic substitute, however, creates a powerful new regulatory board with authority to set strict standards on auditors, with strong investigative and disciplinary powers, recognizing that years of the accounting industry's self-policing has failed.

The Republican bill fails to ban consultant services that create conflicts of interest. The Democratic substitute ensures auditor independence by prohibiting consulting services that create conflicts of interest, and gives audit committees of corporate boards authority to hire and fire auditors. The Republican bill protects executive corporate wrongdoers by making it more difficult to bar guilty officers and directors from serving at other public companies. The Democratic substitute holds CEOs accountable for their financial statements and subjects them to criminal penalties for knowingly lying. It requires those who make false or misleading statements to surrender their stock bonuses, and it also bars guilty officers and directors from serving at other public companies.

The Democratic substitute bars analysts from holding stock in the companies they cover and ending incentives to act as salesmen rather than objective experts.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New York (Mr. GRUCCI), one of our outstanding freshman members of the committee.

Mr. GRUCCI. Mr. Chairman, I thank the gentleman for yielding.

First of all, I would like to thank the gentleman from Ohio (Mr. OXLEY) and my colleagues on the Committee on Financial Services for their tireless effort to swiftly address this crisis.

Mr. Chairman, the Enron debacle highlights the need for reform of our accounting and investment standards. However, any bill in response to this cannot go overboard in restricting our already self-regulating markets. For this purpose, I believe that this corporate responsibility bill strikes a solid balance, and I am in favor of its passage.

First, the corporate responsibility bill creates a public regulatory organization to make sure accounting laws are followed and audits are done properly. This is a necessary, commonsense approach to restoring investors' faith. Next, the bill applies the same stock bailout period to corporate executives as it does to employee shareholders, as is only fair. Finally, it demands that executives disclose their stock trades faster so employees and analysts truly know what is going on inside the company.

The beauty of the corporate responsibility bill is that it does not try to put the brakes on the wheels of our markets. Instead, it restores fairness and honesty to the system, while leaving its main tenets in place. It allows the investor to still be a master of his or her own destiny, but in a much safer environment. The self-regulating nature of our free enterprise system is left intact, and now it will be open to staying more clean.

The era of corporate mystery must end. Either we can let the corporate responsibility bill take us on a path to transparency and legitimacy where rules are valued and fraud is exposed and prevented, or we can watch as more innocent Americans are deprived of their life savings by greed and callousness. Although the corporate responsibility bill was written as a response to recent events, it is commonsense legislation that should have been considered long ago, and I urge my colleagues to vote in favor of it.

Mr. LaFALCE. Mr. Chairman, I yield myself the balance of the time remaining.

Mr. Chairman, we have an enormous, enormous problem on our hands. Investors have lost hundreds of billions of dollars, and sometimes it may have been due to bad investment decisions they made, but an awful lot of the time it was due to earnings manipulation or analyst hype or corporate or accounting wrongdoing. We need to rise to the challenge. This bill just does not do that. We could say, well, if we gave it a test and somebody gets 50 percent of the answers right, we would say, well, pass them. I think we flunk them if that is as good as they could do, especially if they do a poor job on all of the important issues. I think the main bill does a very poor job on all of the important issues.

Let us go to, for example, officers of corporations. What should we do about that? Well, the President has told us what he thinks should be done at a minimum. In President Bush's 10-point plan, proposal number 3: "CEOs should personally vouch for the veracity, timeliness and fairness of their company's public disclosures, including their financial statements." The Republican bill punts on that. It does not do anything on that. Our substitute legislatively codifies what President Bush asked for.

What about boards of directors? Well, we have to make them more responsible. One way is to make sure that they are responsible for both the hiring and the firing of the auditors, so that the auditors then would be independent from the officers. The Republican bill does nothing on that. Our bill specifically says that it is a right and responsibility of the board of directors, the audit committee in particular, to perform that function.

Something else that we need to do to deal with officers or directors is if they are proven unfit, we need to be able to bar them from serving as officers and directors on other publicly traded corporations, and the SEC has complained that they do not have that power. President Bush says, proposal number 5: "CEOs or other officers who clearly abuse their power should lose their right to serve in any corporate leadership positions."

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The Republican bill codifies bad judicial law and makes it more difficult for the SEC to bar officers and directors. Our proposal adopts the reforms that have been advocated by the SEC, another fundamental threshold difference.

What about auditors? Well, we need a regulatory organization. The Republican approach is to say to the SEC, "Well, if you think there should be regulatory organization for accountants, then you should create one. It is discretionary on your part. You decide what powers they will have and you decide who shall serve."

We say that there shall be created an independent regulatory organization for accountants, we specify what their powers should be, and we also indicate the type of person who should be appointed: individuals who are representative of the pension plans of private employees, individuals who are representative of the pension plans of public employees, et cetera.

And very importantly, with respect to research analysts, the Republican bill says, well, we ought to study that problem. We say, look, the SEC has studied it. The SEC has given report after report showing conflicts. The Attorney General of New York has come out with unbelievable revelations.

On all other legislation, for example, Graham-Leach-Bliley, we created firewalls between banking, securities, and insurance. We need a firewall within securities firms with respect to the compensation that research analysts are given and the revenues that are generated for the investment arm of the firm. The quality of research should be the sole determinant of the compensation of research analysts. The Republican bill does nothing on that. We take meaningful action.

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this has been a worthwhile debate and I think does clearly point out some of the philosophical differences between at least a portion of the Democratic Party and the Republican approach.

This committee acted. We are the only committee who have acted responsibly in this manner with moving legislation forward. We had the first hearing in December on the Enron debacle. We have had six subsequent hearings. We have had 33 witnesses. We had a markup that lasted over 2 days, for 11 hours. We debated this thoroughly.

At the end of the process, at the end of the process in committee, over half of the Democrats on the committee supported the final passage of this legislation to recommend it for a floor vote. That is a positive development. So I stand here today supporting the bipartisan legislation that came out of our committee, and I am very proud of that.

My friend, the gentleman from New York (Mr. LAFALCE), points out the alleged differences with the White House. Let me point out and read the statement of administrative policy for the Members.

"The administration supports House passage of H.R. 3763 as an important step toward improving corporate responsibility. The bill is consistent with the President's 10-point plan, and is guided by the core principles of providing better information to investors, making corporate officers more accountable, and developing a stronger, more independent audit system."

That is the statement of administration policy. They support this legislation. Let us support this bipartisan proposal as we move forward.

Mr. BARR of Georgia. Mr. Chairman, I rise today in support of the Corporate Auditing and Accountability, Responsibility and Transparency Act (CARTA) of 2002, H.R. 3763. This legislation represents necessary—but measured—response to the Enron and Global Crossing scandals.

It is important Congress continues to respond efficiently and effectively to the concerns of American investors, retirees, and employees. The Financial Services Committee has worked hard in order to send this solid, bipartisan legislation to the House floor.

I commend Chairman MICHAEL OXLEY for his continued efforts on this legislation. He has been dedicated to work with Members on both sides of the aisle, the industries and the administration in order to create a bill which would strike a reasonable balance.

H.R. 3763 is a tough bill on auditor accountability and corporate transparency and addresses the weaknesses revealed in the bankruptcies by carefully strengthening the markets. In addition, H.R. 3763 will help to protect America's shareholders by providing better information to investors, making corporate officers more accountable, and developing a stronger, more independent audit system.

Mr. Chairman, some may support the idea to create even more regulation and bureaucracy to prevent future collapses of major corporations like Enron or Global Crossing. However, the idea does not bear out. Neither Congress, nor the government should be in the position of handcuffing the private sector and how it does business.

H.R. 3763 gives the Securities and Exchange Commission the tools to identify future criminal wrongdoing, without imposing such strict regulatory guidelines that it would take an act of Congress to give any flexibility. Such restrictions would hamstring the agency and businesses. Moreover, we could, in the end, wrap an endless stream of red tape around the capital markets. As we emerge from the most recent economic slowdown, it would be the height of irresponsibility by this Congress to dampen investment.

I urge my colleagues to pass H.R. 3763 which would protect working families investing in their futures.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for H.R. 3763, the Corporate and Auditing Accountability, Responsibility and Transparency Act of 2002. This bill, of which I am an original cosponsor, is necessary to protect investors by ensuring auditor independence in the accounting of publicly traded companies.

This Member would express his appreciation to the distinguished gentleman from Ohio, Mr. OXLEY, the chairman of the House Financial Services Committee, for introducing H.R. 3763. In addition, this Member would like to express his appreciation to the distinguished gentleman from Louisiana, Mr. BAKER, the chairman of the Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, for his efforts in getting this measure to the House floor for consideration.

In large part, H.R. 3763 is a response to the grossly negligent activities by Arthur Andersen in their accounting audit of the Enron Corporation. For example, Arthur Andersen provided both consulting and auditing services to Enron, which certainly would appear to be an obvious conflict of interest. In addition, after the Securities and Exchange Commission, SEC, began investigating the Enron matter, Arthur Andersen nonetheless allegedly continued to destroy documents and e-mails related to its audit of Enron.

Therefore, H.R. 3763, among many things, would do the following:

First, prohibit firms from offering the consulting services of financial information system design and internal audit services to companies that are externally auditing.

Second, establish a new public regulatory board, the Public Regulatory Organizations PROs, to conduct oversight over the accounting industry. The PROs would be under the direct authority of the SEC. Currently, accountants are subject to partial oversight by their professional organization, the American Institute of Certified Public Accountants; the Federal Accounting Standards Board; and the State Boards of Accountancy, which license accountants. Under H.R. 3763, the power of these State boards is not diminished.

Third, prohibit corporate executives from buying or selling company stock during any period where 401(k) plan participants are unable to buy or sell securities. This provision would address the particular actions of Enron corporate executives who sold their stock when 401(k) participants were prohibited from selling their shares of stock.

Fourth, make it a crime for a corporate official to fraudulently influence, coerce, manipulate, or mislead an accountant performing an audit of a company.

Fifth, require companies to make real-time disclosures of financial information that is important to investors, such as material changes in a company's financial condition.

Sixth, require corporate executives to disclose when they sell securities they own in the company immediately. Current regulations allow corporate executives up to 40 days to make such disclosures.

This Member would also like to note that while H.R. 3763 is certainly a step towards protecting investors in the future, he also hopes that the corporate executives at Enron and the relevant auditors at Arthur Andersen are punished in the proper manner for their grossly irresponsible, probably illegal, corporate behavior.

In closing, this Member urges his colleagues to support H.R. 3763.

Mrs. MINK of Hawaii. Mr. Chairman, H.R. 3763, the Corporate Accountability, Responsibility, and Transparency Act of 2002, does not go far enough to reform the accounting industry and strengthen corporate disclosure rules, which are critical to restoring investor confidence, which was shattered by the collapse of the Enron Corporation.

The implosion of what was once the Nation's seventh largest company and dominant energy-trading enterprise proved that the integrity of the system of checks and balances that is supposed to prevent an Enron-like debacle has been compromised. The system's failure has devastated thousands of individuals and their families.

Enron's employees, the vast majority of whom were unaware of the breadth and scope of the company's questionable financial dealings, lost not only their jobs but also much of their life savings. Enron's executives fared considerably better, cashing in $1.1 billion in stock, as they overstated the company's revenues and concealed much of its debt in off-balance-sheet partnerships.

The employees of Arthur Andersen LLP, the auditing firm responsible for verifying the accuracy of Enron's books, have similarly been victimized by the actions of a relative handful of Anderson partners and personnel that chose to overlook Enron's fraudulent bookkeeping activities. Today, Arthur Andersen LLP faces huge civil lawsuits and is steadily losing clients, thereby causing many of its employees to become unemployed.

In addition to the employees of Enron and Arthur Andersen, many thousands of investors that relied on the supposed independent advice of stock analysts were victimized by the Enron debacle. Because Wall Street investment companies reaped huge fees for brokering Enron's numerous deals, they continued to lavish praise on the company's stock, even after it nosedived in October 2001.

While H.R. 3763 is intended to strengthen the independent auditing of publicly traded companies, it does not address actual accounting standards. For example, it is silent on the question of whether certain types of debt may be moved off a company's balance sheets, which, it cannot be stressed enough, was a hallmark of Enron's accounting machinations. The Democratic substitute to H.R. 3763 would: Require CEOs to certify the accuracy of their company's financial statements; allow the Securities and Exchange Commission to bar those guilty of wrongdoing from serving as corporate officers; prohibit auditors from performing consulting and auditing services for the same client; and prohibit analysts from owning stock in the companies on which they report.

Investor confidence is the bedrock upon which our market system is built. Investors must have full confidence that business executives will look after the long-term interests of their companies, directors will look after the interests of shareholders, auditors will verify the accuracy of financial statements, and analysts will offer sound investment advice. There is no question that investor confidence has been badly shaken, if not lost. If that confidence is to be fully restored, more than good intentions are required. It will require provisions with force and teeth. It will, in short, require the Democratic substitute. I strongly urge my colleagues to vote for it.

Mr. CASTLE. Mr. Chairman, I rise today to express my strong support for the Corporate and Auditing Accountability, Responsibility, and Transparency Act. Americans should know that this is the second piece of legislation the House has passed to protect them from future "Enrons." Earlier this month, the House passed legislation to enhance pension protections and give employees more tools to diversify their retirement plans.

This legislation is designed to enhance the independence of the accounting industry to make sure the stock markets and investors have a more accurate picture of a corporation's financial conditions so they can make wise and informed decisions on where to invest their money. In particular, the bill creates a new Public Regulatory Organization, PRO, to oversee the activities of accountant. The PRO would be subject to direct SEC authority. A majority of the PRO board members will be independent of the accounting industry to assure that the PRO itself is not "captured" by the very industry it is regulating.

One of the other Enron-related problems this bill addresses is the failure to disclose the types of off-balance-sheet partnerships that Enron used to distort its financial condition. This bill requires prompt disclosure of these partnerships.

This bill also reigns in corporate management sales of company stock. Among the most disturbing actions Enron executives took was to sell their company stock at the same time there was a blackout period on the employees 401(k) retirement plan. They were preserving their own assets at the same time their employees were losing their retirements as the Enron ship continued to sink. From now on, whenever employee stock trades are prohibited, corporate management stock trades will also be prohibited.

Finally, while some have urged Congress to take further steps, I want to caution people that freezing additional reforms in legislation based upon our current understanding of the causes of these problems can lead to its own set of problems. In passing Gramm-Leach-Bliley a few years ago, Congress finally fixed some of the mistakes that were made in attempting to address the causes of the Great Depression. Critics should also note that this legislation calls on the SEC and other regulators to explore additional reforms. Congress will maintain active oversight of the SEC as they continue to develop sound ideas to prevent future Enrons.

Mr. Chairman, again, I want to express my strong support for this bill and urge my colleagues on both sides of the aisle to join the 49 bipartisan members of the House Financial Services Committee who reported this bill favorably to the House floor. This is a responsible step toward preventing future Enrons that does not punish the innocent.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 3763, the Corporate and Auditor Responsibility Act, because the bill does nothing to prevent another Enron debacle from occurring in the future.

Enron's collapse has highlighted major gaps in our securities laws. These gaps jeopardize the retirement savings of millions of hard working Americans who have their retirement funds invested in securities. After the Enron collapse, the American people overwhelmingly called for strong measures to prevent such a debacle from happening again. They called on Congress to act, but this bill falls far short.

This so-called "Corporate and Auditor Responsibility Act" is nothing more than a political document for Republicans to appear like they are protecting investors and workers when, in fact, they are protecting corporations and CEOs. H.R. 3763 would actually increase the likelihood of another Enron situation because it limits the SEC's authority to prohibit Enron's corporate officers and directors from serving in such positions in the future if they are found guilty of misconduct.

What happened to the GOP mantra of holding executives accountable for corporate misconduct? H.R. 3763 fails miserably to hold CEOs even remotely accountable for their actions. Even President Bush thinks it makes sense to have a company's CEO certify the accuracy of their financial statements. This bill fails to take even that small step.

The Enron scandal happened less than 6 months ago, yet my Republican colleagues have quickly forgotten some of its major components. While thousands of Enron employees were being told to invest their retirement savings in Enron securities, Enron's CEO sold millions of dollars worth of company stock. Corporate officers knew that hollow deals were taking place to prop up the stock price, and the employees had to pay the price.

Shouldn't company CEOs be responsible for signing on the dotted line and verifying the company's books? Of course they should! Which makes it all the more unfathomable that the GOP would submit a bill without a provision to hold CEOs responsible for the veracity of their company's bottom line. Our Republican friends are basically saying to Ken Lay: feel free to get another CEO gig, create some new tax shelters for the company, prop up the stock price and then walk away with millions in personal profit. Today's bill does nothing to prevent that.

In contrast, the Democratic substitute addresses the more egregious corporate misconduct issues.

First and foremost, the Democratic substitute requires the CEO and chief financial officer (CFO) of publicly-traded companies to certify the accuracy and veracity of the company's financial statements. This is a reasonable first step to ensure that executives be held accountable for misleading investors and employees.

Next, the Democratic substitute allows the Securities and Exchange Commission (SEC) to recover all executive compensation received (including salaries, commissions, fees, bonuses, and stock options) for any period during which the executive falsified a company's financial statements. The Republican bill only allows the SEC to recover stock transaction proceeds for the six months prior to a corporate restatement of earnings. Under the Republican bill, an executive making a $3 million salary, who falsifies company financial records, will be able to keep it. He can also keep hundreds of millions of dollars in stock option proceeds accumulated under falsified accounting from previous years.

Finally, the Democratic substitute bill will empower the SEC to bar directors and officers found guilty of corporate misconduct from holding similar positions in the future. CEOs who mislead and defraud their investors and employees must not be allowed to return to similar positions. Without a strong provision such as this, incentives will continue to abound for CEOs to choose personal profit over corporate integrity.

This Republican bill is another sham on the American public who expect Congress to pass effective legislation to restore corporate accountability. I urge my colleagues to vote for the Democratic substitute and no on the Republican bill.

Mr. PAUL. Mr. Chairman, seldom in history have supporters of increased state power failed to take advantage of a real or perceived crisis to increase government interference in our economic and/or personal lives. Therefore we should not be surprised that the events surrounding the Enron bankruptcy are being used to justify the expansion of Federal regulatory power contained in H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002 (CARTA).

So ingrained is the idea that new Federal regulations will prevent future Enrons, that today's debate will largely be between CARTA's supporters and those who believe this bill does not provide enough Federal regulation and control. I would like to suggest that before Congress imposes new regulations on the accounting profession, perhaps we should consider whether the problems the regulations are designed to address were at least in part caused by prior government interventions into the market. Perhaps Congress could even consider the almost heretical idea that reducing Federal control of the markets is in the public's best interest. Congress should also consider whether the new regulations will have costs which might outweigh any (marginal) gains. Finally, Mr. Speaker, Congress should contemplate whether we actually have any constitutional authorization to impose these new regulations, instead of simply stretching the Commerce Clause to justify the program de jour.

CARTA establishes a new bureaucracy with enhanced oversight authority of accounting firms, as well as the authority to impose new mandates on these firms. CARTA also imposes new regulations regarding investing in stocks and enhances the power of the Securities and Exchange Commission (SEC). However, Mr. Speaker, companies are already required by Federal law to comply with numerous mandates, including obtaining audited financial statements from certified accountants. These mandates have enriched accounting firms and may have given them market power beyond what they could obtain in a free market. These laws also give corrupt firms an opportunity to attempt to use political power to gain special treatment for Federal lawmakers and regulators at the expense of their competitors and even, as alleged in the Enron case, their employees and investors.

When Congress establishes a regulatory state it creates an opportunity for corruption. Unless CARTA eliminates original sin, it will not eliminate fraud. In fact, by creating a new bureaucracy and further politicizing the accounting profession, CARTA may create new opportunities for the unscrupulous to manipulate the system to their advantage.

Even if CARTA transformed all (or at least all accountants) into angels, it could still harm individual investors. First, new regulations inevitably raise the overhead costs of investing. This will affect the entire economy as it lessens the capital available to businesses, thus leading to lower rates of economic growth and job creation. Meanwhile, individual investors will have less money for their retirement, their children's education, or to make a down payment on a new home.

Government regulations also harm investors by inducing a sense of complacency. Investors are much less likely to invest prudently and ask tough questions of the companies they are investing in when they believe government regulations are protecting their investments. However, as mentioned above, government regulations are unable to prevent all fraudulent activity, much less prevent all instances of imprudent actions. In fact, as also pointed out above, complex regulations create opportunities for illicit actions by both the regulator and the regulated, Mr. Chairman, publicly held corporations already comply with massive amounts of SEC regulations, including the filing of quarterly reports that disclose minute details of assets and liabilities. If these disclosures rules failed to protect Enron investors, will more red tape really solve anything?

In truth, investing carries risk, and it is not the role of the Federal Government to bail our every investor who loses money. In a true free market, investors are responsible for their own decisions, good or bad. This responsibility leads them to vigorously analyze companies before they invest, using independent financial analysts. In our heavily regulated environment, however, investors and analysts equate SEC compliance with reputability. The more we look to the government to protect us from investment mistakes, the less competition there if for truly independent evaluations of investment risk.

Increased Federal interference in the market could also harm consumers by crippling innovative market mechanisms to hold corporate managers accountable to their shareholders. Ironically, Mr. Chairman, current SEC regulations make it difficult for shareholders to challenge management decisions. Thus government regulations encourage managers to disregard shareholder interests!

Unfortunately, the Federal Government has a history of crippling market mechanisms to protect shareholders. As former Treasury official Bruce Bartlett pointed out in a recent Washington Times column, during the 1980s, so-called corporate raiders helped keep corporate management accountable to shareholders through devices such as the "junk" bond, which made corporate takeovers easier. Thanks to the corporate raiders, managers knew they had to be responsive to shareholders needs or they would become a potential target for a takeover.

Unfortunately, the backlash against corporate raiders, led by demographic politicians and power-hungry bureaucrats eager to expand the financial police state, put an end to hostile takeovers. Bruce Bartlett, in the Washington Times column sited above, described the effects of this action on shareholders, "Without the threat of a takeover, manaagers have been able to go back to ignoring shareholders, treating them like a nuisance, and giving themselves bloated salaries and perks, with little oversight from corporate boards. Now insulated from shareholders once again, managers could engage in unsound practices with little fear of punishment for failure." Ironically, the Federal power grab which killed the corporate raider may have set the stage for the Enron debacle, which is now being used as an excuse for yet another Federal power grab!

If left alone by Congress, the market is perfectly capable of disciplining businesses who engage in unsound practices. After all, before the government intervened, Arthur Andersen and Enron had already begun to pay a stiff penalty, a penalty delivered by individual investors acting through the market. This shows that not only can the market deliver punishment, but it can also deliver this punishment swifter and more efficiently than the government. We cannot know what efficient means of disciplining companies would emerge from a market process but we can know they would be better at meeting the needs of investors than a top-down regulatory approach.

Of course, while the supporters of increased regulation claim Enron as a failure of "ravenous capitalism," the truth is Enron was a phenomenon of the mixed economy, rather than the operations of the free market. Enron provides a perfect example of the dangers of corporate subsidies. The company was (and is) one of the biggest beneficiaries of Export-Import (Ex-Im) Bank and Overseas Private Investment Corporation (OPIC) subsidies. These programs make risky loans to foreign governments and businesses for projects involving American companies. While they purport to help developing nations, Ex-Im and OPIC are in truth nothing more than naked subsidies for certain politically-favored American corporations, particularly corporations like Enron that lobby hard and give huge amounts of cash to both political parties. Rather than finding ways to exploit the Enron mess to expand Federal power, perhaps Congress should stop aiding corporations like Enron that pick the taxpayer's pockets through Ex-Im and OPIC.

If nothing else, Mr. Chairman, Enron's success at obtaining State favors is another reason to think twice about expanding political control over the economy. After all, allegations have been raised that Enron used the same clout by which it received corporate welfare to obtain other "favors" from regulators and politicians, such as exemptions from regulations that applied to their competitors. This is not an uncommon phenomenon when one has a regulatory state, the result of which is that winners and losers are picked according to who has the most political clout.

Congress should also examine the role the Federal Reserve played in the Enron situation. Few in Congress seem to understand how the Federal Reserve system artificially inflates stock prices and causes financial bubbles. Yet, what other explanation can there be when a company goes from a market value of more than $75 billion to virtually nothing in just a few months? The obvious truth is that Enron was never really worth anything near $75 billion, but the media focuses only on the possibility of deceptive practices by management, ignoring the primary cause of stock overvaluations: Fed expansion of money and credit.

The Fed consistently increased the money supply (by printing dollars) throughout the 1990s, while simultaneously lowering interest rates. When dollars are plentiful, and interest rates are artificially low, the cost of borrowing becomes cheap. This is why so many Americans are more deeply in debt than ever before. This easy credit environment made it possible for Enron to secure hundreds of millions in uncollateralized loans, loans that now cannot be repaid. The cost of borrowing money, like the cost of everything else, should be established by the free market—not by government edict. Unfortunately, however, the trend toward overvaluation will continue until the Fed stops creating money out of thin air and stops keeping interest rates artificially low.

Finally, Mr. Chairman, I would remind my colleagues that Congress has no constitutional authority to regulate the financial markets or the accounting profession. Instead, responsibility for enforcing laws against fraud are under the jurisdiction of the state and local governments. This decentralized approach actually reduces the opportunity for the type of corruption referred to above—after all, it is easier to corrupt one Federal official than 50 State Officials.

In conclusion, the legislation before us today expands Federal power over the accounting profession and the financial markets. By creating new opportunities for unscrupulous actors to maneuver through the regulatory labyrinth, increasing the costs of investing, and preempting the market's ability to come up with creative ways to hold corporate officials accountable, this legislation harms the interests of individual workers and investors. Furthermore, this legislation exceeds the constitutional limits on Federal power, interfering in matters the 10th amendment reserves to state and local law enforcement. I therefore urge my colleagues to reject this bill. Instead, Congress should focus on ending corporate welfare programs which provide taxpayer dollars to large politically-connected companies, and ending the misguided regulatory and monetary policies that helped create the Enron debacle.

Mr. BLUMENAUER. Mr. Chairman, I rise today in support of H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act. This bill moves policy in the direction necessary to strengthen corporate and auditor oversight needed to prevent future debacles that we have seen recently at Enron and Global Crossing, and in the past with the Savings and Loan catastrophe.

These oversight failures have led to the loss of hundreds of billions of dollars of savings by innocent investors and employees. These losses have shattered the lives of families, including those in my district who are employed at Portland General Electric, which was purchased by Enron in 1997. Congress owes it to the American public to put in place measures that will eliminate conflicts of interest, lack of independence, and special protections given to accountants and lawyers, which have all been critical factors leading to corporate and industry failures.

Due to the severe impact that these corporate failures create, I urge the House to implement more significant reforms by passing the Democratic Substitute amendment, which:

Creates an independent regulatory board that can set strict standards for auditor independence, with sweeping investigative and disciplinary powers over audit firms.

Holds corporate CEOs accountable by requiring them to certify the accuracy of their financial statements and empowers the SEC to bar those guilty of wrongdoing from serving as corporate officers or directors at other companies.

Prohibits auditors from doing consulting work for the same clients they are in charge of auditing, thereby insuring that auditors remain independent and are not subject to conflicts of interests.

Bans analysts from owning stocks in the companies on which they report and prohibits their pay from being based on their investment firm's banking revenue.

The Democratic approach ensures that our corporate leaders, financial statement auditors, and stock analysts have adequate independent oversight and regulations to fulfill their professional duties. However, I also support the underlying bill, H.R. 3763, which begins the process of putting in place the reforms needed to prevent future tragedies that are so devastating to the savings and lives of American workers and investors.

Mr. SHOWS. Mr. Chairman, today I rise in favor of commonsense legislation that provides necessary reform for the auditing profession.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act (CAARTA) offers the appropriate framework for addressing the concerns raised by the Enron debacle and the revelation of improprieties by its auditor, Arthur Andersen.

The consumers, employees, and investors affected by the demise of Enron due to unlawful misrepresentation of financial information deserve both answers and solutions so that confidence in accounting independence, objectivity, and integrity is restored. However, government should not overreact with prescriptive regulations. Instead, we should provide thoughtful and balanced measures that encourage sound auditing practices yet mandate compliance.

Auditors must maintain an independent relationship with businesses whose books are under review. CAARTA establishes the appropriate guidelines for determining true auditor independence without treading the slippery slope of unnecessary and debilitating regulation. Small businesses throughout Mississippi rely on their local accountants to provide more than just auditing services. These businesses rely on advice and counsel for all types of accounting problems such as bookkeeping, payroll services budgeting, and income tax preparation. We must keep local accountants and small businesses in Rural America in mind when we legislate policy that might impact these relationships in the future.

With these small businesses and local accountants in mind, I oppose any provision requiring auditors of publicly traded companies to meet a netcapital requirement of 50% of its annual audit revenue from publicly traded companies. I agree that auditors of SEC reporting companies ought to have enough capital and insurance to cover the liability they incur when an audit is performed; however, my concern remains with the small businesses and accountants in Rural America whose practices could eventually fall under the same requirement, devastating local, small-town accountants and debilitating the services they currently provide.

I support CAARTA's creation of a public regulatory organization (PRO) made up of both members of the public and members of the accounting profession. The American public and the accounting profession will be better served by this independent governmental body that is given the authority to sanction and discipline those accountants who violate codes of ethics, standards of independence and competency, or securities laws.

As United States Comptroller General David Walker identified in his written testimony before the Financial Services committee on April 9, 2002, the current self-regulatory system for auditors "involves many players in a fragmented system that is not well coordinated, involves certain conflicts of interest, lacks effective communication, and has a discipline system that is largely perceived as being ineffective." Mr. Walker concluded, "direct government intervention to statutorily create a new independent Federal government body to regulate the accounting profession is needed." I support this conclusion and the means and degree by which CAARTA creates a public regulatory board to address those concerns.

There were two specific issues that I would have liked strengthened or included in this reform package: a stronger section providing for disgorgement of bonuses and other incentives and the inclusion of a requirement for CEOs and CFOs to be held accountable for their companies' financial statements. CEOs must not be allowed to profit from inaccurate and falsified financial statements. Bonuses and other incentive-based forms of compensation should be given back to the workers who lost their pensions and the consumers who lost their investments resulting from misconduct and erroneous accounting statements at the hands and direction of corporate executives. Furthermore, CEOs and CFOs must be responsible for a company's financial statement and certify its accuracy. This is a good business practice that is now, unfortunately, no longer the norm.

We must restore confidence in the accounting profession by enacting legislation that ensures accurate and responsible financial disclosure. CAARTA represents commonsense reform, which makes a deliberate attempt to safeguard American workers, investors, and consumers.

Mr. SHAYS. Mr. Chairman, I want to commend Chairman MIKE OXLEY and Chairman RICHARD BAKER for their work on the legislation we are debating. The reforms contained in this accounting bill represent a balanced approach between industry and government oversight and I am pleased to support it.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act meets the tests for reform put forward by President Bush. It prohibits accounting firms from offering certain controversial consulting services to companies they're also auditing. And it establishes a new, public regulatory board to certify any accountant wishing to audit the financial statement required from public issuers of stock. This board will have enforcement powers and will be under the direction of the Securities and Exchange Commission.

Under CAARTA, all publicly-traded companies will be responsible for ensuring that their accounting firms are in good standing and for having their financial statement certified by the regulatory board.

Well, maybe I shouldn't be so quick to say "all" publicly-traded companies. You see, there are two giant private corporations that enjoy a very special privilege from the Federal government: they are completely exempt from our Federal securities laws.

Mr. Chairman, these companies are Fannie Mae and Freddie Mac, and all the important improvements this legislation makes won't apply one iota to them.

After studying the collapse of Enron and Global Crossing, the Financial Services Committee determined that a number of reforms were necessary to restore confidence in corporate America. These reforms build on the Securities Act of 1933 and the Securities Exchange Act of 1934, the two landmark securities laws to which all publicly-traded companies, except Fannie and Freddie, must adhere.

The reforms contained in this legislation will strengthen securities laws and accounting standards—except when it comes to Fannie and Freddie. This legislation improves transparency in our capital markets and protects investors—unless they're investing in Fannie Mae and Freddie Mac securities.

What this legislation highlights is that we have two separate rules in corporate America: those that apply to Fannie and Freddie, and those that apply to every other publicly-traded company.

The Financial Services Committee has had a number of hearings on the unfair advantages these two secondary mortgage companies have over the rest of the mortgage industry. With Chairman OXLEY's support, I hope we can continue to ask Fannie Mae and Freddie Mac why they can't play by the same rules as all other companies and why they continue to seek exemptions from Federal laws designed to protect investors.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Auditor oversight.
Sec. 3. Improper influence on conduct of audits.
Sec. 4. Real-time disclosure of financial information.
Sec. 5. Insider trades during pension fund blackout periods prohibited.
Sec. 6. Improved transparency of corporate disclosures.
Sec. 7. Improvements in reporting on insider transactions and relationships.
Sec. 8. Codes of conduct.
Sec. 9. Enhanced oversight of periodic disclosures by issuers.
Sec. 10. Retention of records.
Sec. 11. Commission authority to bar persons from serving as officers or directors.
Sec. 12. Disgorging insiders profits from trades prior to correction of erroneous financial statements.
Sec. 13. Securities and Exchange Commission authority to provide relief.
Sec. 14. Study of rules relating to analyst conflicts of interest.
Sec. 15. Review of corporate governance practices.
Sec. 16. Study of enforcement actions.
Sec. 17. Study of credit rating agencies.
Sec. 18. Study of investment banks and other financial institutions.
Sec. 19. Study of model rules for attorneys of issuers.
Sec. 20. Enforcement authority.
Sec. 21. Exclusion for investment companies.
Sec. 22. Definitions.

SEC. 2. AUDITOR OVERSIGHT.

(a) CERTIFIED FINANCIAL STATEMENT REQUIREMENTS.—If a financial statement is required by the securities laws or any rule or regulation thereunder to be certified by an independent public or certified accountant, an accountant shall not be considered to be qualified to certify such financial statement, and the Securities and Exchange Commission shall not accept a financial statement certified by an accountant, unless such accountant—

(1) is subject to a system of review by a public regulatory organization that complies with the requirements of this section and the rules prescribed by the Commission under this section; and

(2) has not been determined in the most recent review completed under such system to be not qualified to certify such a statement.

(b) ESTABLISHMENT OF PRO.—The Commission shall by rule establish the criteria by which a public regulatory organization may be recognized for purposes of this section. Such criteria shall include the following requirements:

(1)(A) The board of such organization shall be comprised of five members, three of whom shall be public members who are not members of the accounting profession and two of whom shall be persons licensed to practice public accounting and who have recent experience in auditing public companies.

(B) Each member of the board of such organization shall be a person who meets such standards of financial literacy as are determined by the Commission.

(C) For purposes of this paragraph, a person shall not be considered a member of the accounting profession if such person has not worked in such profession for any of the last two years prior to the date of such person's appointment to the board.

(2) Such organization is so organized and has the capacity—

(A) to be able to carry out the purposes of this section and to comply, and to enforce compliance by accountants and persons associated with accountants, with the provisions of this Act, professional ethics and competency standards, and the rules of the organization;

(B) to perform a review of the work product (including the quality thereof) of an accountant or a person associated with an accountant; and

(C) to perform a review of any potential conflicts of interest between an accountant (or a person associated with an accountant) and the issuer, the issuer's board of directors and committees thereof, officers, and affiliates of such issuer, that may result in an impairment of auditor independence.

(3) Such organization shall have the authority to impose sanctions, which, if there is a finding of knowing or intentional misconduct, may include a determination that an accountant is not qualified to certify a financial statement, or any categories of financial statements, required by the securities laws, or that a person associated with an accountant is not qualified to participate in such certification, if, after conducting a review and providing fair procedures and an opportunity for a hearing, the organization finds that—

(A) such accountant or person associated with an accountant has violated the standards of independence, ethics, or competency in the profession;

(B) such accountant or person associated with an accountant has been found by the Commission or a court of competent jurisdiction to have violated the securities laws or a rule or regulation thereunder (provided in both cases that any applicable time period for appeal has expired);

(C) an audit conducted by such accountant or any person associated with an accountant has been materially affected by an impairment of auditor independence;

(D) such accountant or person associated with an accountant has performed both auditing services and consulting services in violation of the rules prescribed by the Commission pursuant to subsection (c); or

(E) such accountant or any person associated with an accountant has impeded, obstructed, or otherwise not cooperated in such review.

(4) Any such organization shall disclose publicly, and make available for public comment, proposed procedures and methods for conducting such reviews.

(5) Any such organization shall have in place procedures to minimize and deter conflicts of interest involving the public members of such organization, and have in place procedures to resolve such conflicts.

(6) Any such organization shall have in place procedures for notifying the boards of accountancy of the States of the results of reviews and evidence under paragraphs (2) and (3).

(7) Any such organization shall have in place procedures for notifying the Commission of any findings of such reviews, including any findings regarding suspected violations of the securities laws.

(8) Any such organization shall consult with boards of accountancy of the States.

(9) Any such organization shall have in place a mechanism to allow the organization to operate on a self-funded basis. Such funding mechanism shall ensure that such organization is not solely dependent upon members of the accounting profession for such funding and operations.

(10) Any such organization shall have the authority to request, in a manner established by the Commission, that the Commission, by subpoena or otherwise, compel the testimony of witnesses or the production of any books, papers, correspondence, memoranda, or other records relevant to any accountant review proceeding or necessary or appropriate for the organization to carry out its purposes. The Commission shall comply with any such request from such an organization if the Commission determines that compliance with the request would assist the organization in its accountant review proceeding or in carrying out its purposes, unless the Commission determines that compliance would not be in the public interest. The issuance and enforcement of a subpoena requested under this paragraph shall be deemed to be made pursuant to, and shall be made in accordance with, the provisions of subsections (b) and (c) of section 21 of the Securities and Exchange Act of 1934 (15 U.S.C. 78u(b)–(c)). For purposes of taking evidence, the Commission in its discretion may designate the Board, or any member thereof, as officers pursuant to section 21(b) of such Act.

(c) PROHIBITION ON THE OFFER OF BOTH AUDIT AND CONSULTING SERVICES.—

(1) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent with respect to an audit client if the accountant provides to the client the following nonaudit services, as such terms are defined in such regulations as in effect on the date of enactment of this Act, and subject to such conditions and exemptions as the Commission shall prescribe:

(A) financial information system design or implementation; or

(B) internal audit services.

(2) REVIEW OF PROHIBITED NONAUDIT SERVICES.—The Commission is authorized to review the impact on the independence of auditors of the scope of services provided by auditors to issuers in order to determine whether the list of prohibited nonaudit services under paragraph (1) shall be modified. In conducting such review, the Commission shall consider the impact of the provision of a service on an auditor's independence where provision of the service creates a conflict of interest with the audit client.

(3) ADDITIONS BY RULE.—After conducting the review required by paragraph (2) and at any other time, the Commission may, by rule consistent with the protection of investors and the public interest, modify the list of prohibited nonaudit services under paragraph (1).

(4) REPORT.—The Commission shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its conduct of any reviews as required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

(5) CONFORMING REVISION.—The Commission shall revise its regulations pertaining to accountant fee disclosure items, as set forth in paragraphs (e)(1) through (e)(3) of item 9 from Schedule 14A (17 CFR 240.14a–101), in light of paragraph (1) of this subsection and after making a determination as to whether such disclosures are necessary.

(6) DEADLINE FOR RULEMAKING.—The Commission shall—

(A) within 90 days after the date of enactment of this Act, propose, and

(B) within 270 days after such date, prescribe, the revisions to its regulations required by this subsection.

(d) PRO ACCOUNTANT REVIEW PROCEEDINGS.—

(1) REVIEW PROCEEDING FINDINGS.—Any findings made pursuant to an accountant review conducted under this section that a financial statement audited by such accountant and submitted to the Commission may have been materially affected by an impairment of auditor independence, or by a violation of professional ethics and competency standards, shall be submitted to the Commission. The Commission shall promptly notify an issuer of any such finding that relates to the financial statements of such issuer.

(2) CONFIDENTIAL TREATMENT OF PROCEEDINGS PENDING SEC REVIEW.—

(A) NO DISCLOSURE.—Except as otherwise provided in this section, but notwithstanding any other provision of law, neither the Commission, a recognized public regulatory organization, nor any other person shall disclose any information concerning any accountant review proceeding and the findings therein.

(B) SPECIFIC WITHHOLDING NOT AUTHORIZED.—Nothing in this subsection shall—

(i) authorize a recognized public regulatory organization to withhold information from the Commission;

(ii) authorize such board or the Commission to withhold information concerning an accountant review proceeding from an accountant or person associated with an accountant that is the subject of such proceeding;

(iii) authorize the Commission to withhold information from Congress; or

(iv) prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

(C) DURATION OF WITHHOLDING.—Neither the Commission nor the recognized public regulatory organization shall disclose the results of any such finding until the completion of any review by the Commission under subsections (e) and (f), or the conclusion of the 30-day period for seeking review if no motion seeking review is filed within such period.

(D) TREATMENT UNDER FOIA.—For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(3) NONPRECLUSIVE EFFECT OF PRO FINDINGS.—A finding by a recognized public regulatory organization that an individual audit of an issuer met or failed to meet any applicable standard with respect to the quality of such audit shall not be construed in any action arising out of the securities laws as indicative of compliance or noncompliance with the securities laws or with any standard of liability arising thereunder.

(e) REVIEW OF SANCTIONS.—

(1) NOTICE.—If any recognized public regulatory organization—

(A) makes a finding with respect to or imposes any final disciplinary sanction on any accountant;

(B) prohibits or limits any person in respect to access to services offered by such organization; or

(C) makes a finding with respect to or imposes any final disciplinary sanction on any person associated with an accountant or bars any person from becoming associated with an accountant,

the recognized public regulatory organization shall promptly submit notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section.

(2) REVIEW BY COMMISSION.—Any action with respect to which a recognized public regulatory organization is required by paragraph (1) of this subsection to submit notice shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within 30 days after the date such notice was filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

(f) CONDUCT OF COMMISSION REVIEW.—

(1) BASIS FOR ACTION.—In any proceeding to review a final disciplinary sanction imposed by a recognized public regulatory organization on an accountant or a person associated with such accountant, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the recognized public regulatory organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction)—

(A) if the Commission finds that such accountant or person associated with an accountant has engaged in such acts or practices, or has omitted such acts, as the recognized public regulatory organization has found him to have engaged in or omitted, that such acts or practices, or omissions to act, are in violation of such provisions of this section, or of professional ethics and competency standards, and that such provisions are, and were applied in a manner, consistent with the purposes of this section, the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the recognized public regulatory organization, modify the sanction in accordance with paragraph (2) of this subsection, or remand to the recognized public regulatory organization for further proceedings; or

(B) if the Commission does not make any such finding, it shall, by order, set aside the sanction imposed by the recognized public regulatory organization and, if appropriate, remand to the recognized public regulatory organization for further proceedings.

(2) REDUCTION OF SANCTIONS.—If the Commission, having due regard for the public interest and the protection of investors, finds after a proceeding in accordance with paragraph (1) of this subsection that a sanction imposed by a recognized public regulatory organization upon an accountant or person associated with an accountant imposes any burden on competition not necessary or appropriate in furtherance of the purposes of this Act or is excessive or oppressive, the Commission may cancel, reduce, or require the remission of such sanction.

(g) REVIEW AND APPROVAL OF RULES.—

(1) SUBMISSION, PUBLICATION, AND COMMENT.—Each recognized public regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such recognized public regulatory organization (hereinafter in this subsection collectively referred to as a "proposed rule change") accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this subsection.

(2) APPROVAL OR PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the recognized public regulatory organization consents, the Commission shall—

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the recognized public regulatory organization consents.

(3) BASIS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change of a recognized public regulatory organization if it finds that such proposed rule change is consistent with the requirements of this Act and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a recognized public regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

(4) RULES EFFECTIVE UPON FILING.—

(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the recognized public regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the recognized public regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the recognized public regulatory organization, or (iii) concerned solely with the administration of the recognized public regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as outside the provisions of such paragraph (2).

(B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, or otherwise in accordance with the purposes of this title. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph (1) of this subsection.

(C) Any proposed rule change of a recognized public regulatory organization which has taken effect pursuant to subparagraph (A) or (B) of this paragraph may be enforced by such organization to the extent it is not inconsistent with the provisions of this Act, the securities laws, the rules and regulations thereunder, and applicable Federal and State law. At any time within 60 days of the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) of this subsection, the Commission summarily may abrogate the change in the rules of the recognized public regulatory organization made thereby and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1) of this subsection and reviewed in accordance with the provisions of paragraph (2) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in

furtherance of the purposes of this Act. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect, shall not be subject to court review, and shall not be deemed to be "final agency action" for purposes of section 704 of title 5, United States Code.

(h) COMMISSION ACTION TO CHANGE RULES.—The Commission, by rule, may abrogate, add to, and delete from (hereinafter in this subsection collectively referred to as "amend") the rules of a recognized public regulatory organization as the Commission deems necessary or appropriate to insure the fair administration of the recognized public regulatory organization, to conform its rules to requirements of this Act, the securities laws, and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this Act, in the following manner:

(1) The Commission shall notify the recognized public regulatory organization and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the recognized public regulatory organization and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the recognized public regulatory organization and a statement of the Commission's basis for and purpose in so amending such rules. This statement shall include an identification of any facts on which the Commission considers its determination so to amend the rules of the recognized public regulatory agency to be based, including the reasons for the Commission's conclusions as to any of such facts which were disputed in the rulemaking.

(4)(A) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

(B) Nothing in this subsection shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making, rules and regulations pursuant to any other authority under the securities laws.

(C) Any amendment to the rules of a recognized public regulatory organization made by the Commission pursuant to this subsection shall be considered for all purposes to be part of the rules of such recognized public regulatory organization and shall not be considered to be a rule of the Commission.

(i) COMMISSION OVERSIGHT OF THE PRO.—

(1) RECORDS AND EXAMINATIONS.—A public regulatory organization shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws.

(2) ADDITIONAL DUTIES; SPECIAL REVIEWS.—A public regulatory organization shall perform such other duties or functions as the Commission, by rule or order, determines are necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this Act and the securities laws, including conducting a special review of a particular public accounting firm's quality control system or a special review of a particular aspect of some or all public accounting firms' quality control systems.

(3) ANNUAL REPORT; PROPOSED BUDGET.—

(A) SUBMISSION OF ANNUAL REPORT AND BUDGET.—A public regulatory organization shall submit an annual report and its proposed budget to the Commission for review and approval, by order, at such times and in such form as the Commission shall prescribe.

(B) CONTENTS OF ANNUAL REPORT.—Each annual report required by subparagraph (A) shall include—

(i) a detailed description of the activities of the public regulatory organization;

(ii) the audited financial statements of the public regulatory organization;

(iii) a detailed explanation of the fees and charges imposed by the public regulatory organization under subsection (b)(9); and

(iv) such other matters as the public regulatory organization or the Commission deems appropriate.

(C) TRANSMITTAL OF ANNUAL REPORT TO CONGRESS.—The Commission shall transmit each approved annual report received under subparagraph (A) to the Committee on Financial Services of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate. At the same time it transmits a public regulatory organization's annual report under this subparagraph, the Commission shall include a written statement of its views of the functioning and operations of the public regulatory organization.

(D) PUBLIC AVAILABILITY.—Following transmittal of each approved annual report under subparagraph (C), the Commission and the public regulatory organization shall make the approved annual report publicly available.

(4) DISAPPROVAL OF ELECTION OF PRO MEMBER.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, to disapprove the election of any member of a public regulatory organization if the Commission determines, after notice and opportunity for hearing, that the person elected is unfit to serve on the public regulatory organization.

(j) CLARIFICATION OF APPLICATION OF PRO AUTHORITY.—The authority granted to any such organization in this section shall only apply to the actions of accountants related to the certification of financial statements required by securities laws and not other actions or actions for other clients of the accounting firm or any accountant that does not certify financial statements for publicly traded companies.

(k) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, rules to implement this section.

(l) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) of this section shall be effective with respect to any certified financial statement for any fiscal year that ends more than one year after the Commission recognizes a public regulatory organization pursuant to this section.

(2) DELAY IN ESTABLISHMENT OF BOARD.—If the Commission has failed to recognize any public regulatory organization pursuant to this section within one year after the date of enactment of this Act, the Commission shall perform the duties of such organization with respect to any certified financial statement for any fiscal year that ends before one year after any such board is recognized by the Commission.

SEC. 3. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) RULES TO PROHIBIT.—It shall be unlawful in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors for any officer, director, or affiliated person of an issuer of any security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of such issuer for the purpose of rendering such financial statements materially misleading. In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder.

(b) NO PREEMPTION OF OTHER LAW.—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation thereunder.

(c) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the rules or regulations required by this section.

SEC. 4. REAL-TIME DISCLOSURE OF FINANCIAL INFORMATION.

(a) REAL-TIME ISSUER DISCLOSURES REQUIRED.—

(1) OBLIGATIONS.—Every issuer of a security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) shall file with the Commission and disclose to the public, on a rapid and essentially contemporaneous basis, such information concerning the financial condition or operations of such issuer as the Commission determines by rule is necessary in the public interest and for the protection of investors. Such rule shall—

(A) specify the events or circumstances giving rise to the obligation to disclose or update a disclosure;

(B) establish requirements regarding the rapidity and timeliness of such disclosure;

(C) identify the means whereby the disclosure required shall be made, which shall ensure the broad, rapid, and accurate dissemination of the information to the public via electronic or other communications device;

(D) identify the content of the information to be disclosed; and

(E) without limiting the Commission's general exemptive authority, specify any exemptions or exceptions from such requirements.

(2) ENFORCEMENT.—The Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder in civil proceedings.

(b) ELECTRONIC DISCLOSURE OF INSIDER TRANSACTIONS.—

(1) DISCLOSURES OF TRADING.—The Commission shall, by rule, require—

(A) that a disclosure required by section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) of the sale of any securities of an issuer, or any security futures product (as defined in section 3(a)(56) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(56))) or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) that is based in whole or in part on the securities of such issuer, by an officer or director of the issuer of those securities, or by a beneficial owner of such securities, shall be made available electronically to the Commission and to the issuer by such officer, director, or beneficial owner before the end of the next business day after the day on which the transaction occurs;

(B) that the information in such disclosure be made available electronically to the public by the Commission, to the extent permitted under applicable law, upon receipt, but in no case later than the end of the next business day after the day on which the disclosure is received under subparagraph (A); and

(C) that, in any case in which the issuer maintains a corporate website, such information shall be made available by such issuer on that website, before the end of the next business day after the day on which the disclosure is received by the Commission under subparagraph (A).

(2) TRANSACTIONS INCLUDED.—The rule prescribed under paragraph (1) shall require the disclosure of the following transactions:

(A) Direct or indirect sales or other transfers of securities of the issuer (or any interest therein) to the issuer or an affiliate of the issuer.

(B) Loans or other extensions of credit extended to an officer, director, or other person affiliated with the issuer on terms or conditions not otherwise available to the public.

(3) OTHER FORMATS; FORMS.—In the rule prescribed under paragraph (1), the Commission shall provide that electronic filing and disclosure shall be in lieu of any other format required for such disclosures on the day before the date of enactment of this subsection. The Commission shall revise such forms and schedules required to be filed with the Commission pursuant to paragraph (1) as necessary to facilitate such electronic filing and disclosure.

SEC. 5. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) DEFINITION.—For purposes of this section, the term "beneficial owner" has the meaning provided such term in rules or regulations issued by the Securities and Exchange Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

SEC. 6. IMPROVED TRANSPARENCY OF CORPORATE DISCLOSURES.

(a) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations under the securities laws pertaining to the disclosures required in periodic financial reports and registration statements to require such reports to include adequate and appropriate disclosure of—

(1) the issuer's off-balance sheet transactions and relationships with unconsolidated entities or other persons, to the extent they are not disclosed in the financial statements and are reasonably likely to materially affect the liquidity or the availability of, or requirements for, capital resources, or the financial condition or results of operations of the issuer; and

(2) loans extended to officers, directors, or other persons affiliated with the issuer on terms or conditions that are not otherwise available to the public.

(b) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the revisions to its regulations required by subsection (a).

(c) ANALYSIS REQUIRED.—

(1) TRANSPARENCY, COMPLETENESS, AND USEFULNESS OF FINANCIAL STATEMENTS.—The Commission shall conduct an analysis of the extent to which, consistent with the protection of investors and the public interest, disclosure of additional or reorganized information may be required to improve the transparency, completeness, or usefulness of financial statements and other corporate disclosures filed under the securities laws.

(2) ALTERNATIVES TO BE CONSIDERED.—In conducting the analysis required by paragraph (1), the Commission shall consider—

(A) requiring the identification of the key accounting principles that are most important to the issuer's reported financial condition and results of operation, and that require management's most difficult, subjective, or complex judgments;

(B) requiring an explanation, where material, of how different available accounting principles applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail;

(C) in the case of any issuer engaged in the business of trading non-exchange traded contracts, requiring an explanation of such trading activities when such activities require the issuer to account for contracts at fair value, but for which a lack of market price quotations necessitates the use of fair value estimation techniques;

(D) establishing requirements relating to the presentation of information in clear and understandable format and language; and

(E) requiring such other disclosures, included in the financial statements or in other disclosure by the issuer, as would in the Commission's view improve the transparency of such issuer's financial statements and other required corporate disclosures.

(3) RULES REQUIRED.—If the Commission, on the basis of the analysis required by this subsection, determines that it is necessary in the public interest or for the protection of investors and would improve the transparency of issuer financial statements, the Commission may prescribe rules reflecting the results of such analysis and the considerations required by paragraph (2). In prescribing such rules, the Commission may seek to minimize the paperwork and cost burden on the issuer consistent with achieving the public interest and investor protection purposes of such rules.

SEC. 7. IMPROVEMENTS IN REPORTING ON INSIDER TRANSACTIONS AND RELATIONSHIPS.

(a) SPECIFIC OBJECTIVES.—The Commission shall initiate a proceeding to propose changes in its rules and regulations with respect to financial reporting to improve the transparency and clarity of the information available to investors and to require increased financial disclosure with respect to the following:

(1) INSIDER RELATIONSHIPS AND TRANSACTIONS.—Relationships and transactions—

(A) between the issuer, affiliates of the issuer, and officers, directors, or employees of the issuer or such affiliates; and

(B) between officers, directors, employees, or affiliates of the issuer and entities that are not otherwise affiliated with the issuer,

to the extent such arrangement or transaction creates a conflict of interest for such persons. Such disclosure shall provide a description of such elements of the transaction as are necessary for an understanding of the business purpose and economic substance of such transaction (including contingencies). The disclosure shall provide sufficient information to determine the effect on the issuer's financial statements and describe compensation arrangements of interested parties to such transactions.

(2) RELATIONSHIPS WITH PHILANTHROPIC ORGANIZATIONS.—Relationships between the registrant or any executive officer of the registrant and any not-for-profit organization on whose board a director or immediate family member serves or of which a director or immediate family member serves as an officer or in a similar capacity. Relationships that shall be disclosed include contributions to the organization in excess of $10,000 made by the registrant or any executive officer in the last five years and any other activity undertaken by the registrant or any executive officer that provides a material benefit to the organization. Material benefit includes lobbying.

(3) INSIDER-CONTROLLED AFFILIATES.—Relationships in which the registrant or any executive officer exercises significant control over an entity in which a director or immediate family member owns an equity interest or to which a director or immediate family member has extended credit. Significant control should be defined with reference to the contractual and governance arrangements between the registrant or executive officer, as the case may be, and the entity.

(4) JOINT OWNERSHIP.—Joint ownership by a registrant or executive officer and a director or immediate family member of any real or personal property.

(5) PROVISION OF SERVICES BY RELATED PERSONS.—The provision of any professional services, including legal, financial advisory or medical services, by a director or immediate family member to any executive officer of the registrant in the last five years.

(b) DEADLINES.—The Commission shall complete the rulemaking required by this section within 180 days after the date of enactment of this Act.

SEC. 8. CODES OF CONDUCT.

(a) RULES REQUIRED.—Within 180 days after the date of enactment of this Act, the New York Stock Exchange, the American Stock Exchange and the Nasdaq Stock Market (or any successor to such entities), shall file with the Commission proposed rule changes that would prohibit the listing of any security issued by an issuer that has not adopted a senior financial officers code of ethics applicable to its principal financial officer, its comptroller or principal accounting officer, or persons performing similar functions that establishes such standards as are reasonably necessary to promote honest and ethical conduct, the avoidance of conflicts of interest,

full, fair, accurate, timely and understandable disclosure in the issuer's periodic reports and compliance with applicable governmental rules and regulations. The Commission shall approve such proposed rule changes pursuant to the requirement of section 19(b)(2) of the Securities Act of 1934.

(b) Other Exchanges.—The Commission, by rule or regulation, may require any other national securities exchange, to propose rule changes necessary to comply with the provisions of subsection (a) of this section if the Commission determines such action is necessary or appropriate in the public interest and consistent with the protection of investors.

(c) Further Standards.—In addition to the requirements of subsections (a) and (b), the Commission may, by rule or regulation, prescribe further standards of conduct for senior financial officers as necessary or appropriate in the public interest and consistent with the protection of investors.

(d) Changes in Codes of Conduct.—Within 180 days after the date of enactment of this Act, the Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8K to require the immediate disclosure, by means of such Form and by the Internet or other electronic means, by any issuer of any change in, or waiver of, the code of ethics of such issuer.

SEC. 9. ENHANCED OVERSIGHT OF PERIODIC DISCLOSURES BY ISSUERS.

(a) Regular and Systematic Review.—The Securities and Exchange Commission shall review disclosures made by issuers pursuant to the Securities Exchange Act of 1934 (including reports filed on form 10–K) on a basis that is more regular and systematic than that in practice on the date of enactment on this Act. Such review shall include a review of an issuer's financial statements.

(b) Risk Rating System.—For purposes of the reviews required by subsection (a), the Commission shall establish a risk rating system whereby issuers receive a risk rating by the Commission, which shall be used to determine the frequency of such reviews. In designing such a risk rating system the Commission shall consider, among other factors the following:

(1) Emerging companies with disparities in price to earning ratios.

(2) Issuers with the largest market capitalization.

(3) Issuers whose operations significantly impact any material sector of the economy.

(4) Systemic factors such as the effect on niche markets or important subsectors of the economy.

(5) Issuers that experience significant volatility in their stock price as compared to other issuers.

(6) Any other factor the Commission may consider relevant.

(c) Minimum Review Period.—In no event shall an issuer be reviewed less than once every three years by the Commission.

(d) Prohibition of Disclosure of Risk Rating.—Notwithstanding any other provision of law, the Commission shall not disclose the risk rating of any issuer described in subsection (b).

SEC. 10. RETENTION OF RECORDS.

(a) Duty To Retain Records.—Any independent public or certified accountant who certifies a financial statement as required by the securities laws or any rule or regulation thereunder shall prepare and maintain for a period of no less than 7 years, final audit work papers and other information related to any accountants report on such financial statements in sufficient detail to support the opinion or assertion reached in such accountants report. The Commission may prescribe rules specifying the application and requirements of this section.

(b) Accountant's Report.—For purposes of subsection (a), the term "accountant's report" means a document in which an accountant identifies a financial statement and sets forth his opinion regarding such financial statement or an assertion that an opinion cannot be expressed.

SEC. 11. COMMISSION AUTHORITY TO BAR PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) Commission Authority To Prohibit Persons From Serving as Officers or Directors.—Notwithstanding any other provision of the securities laws, in any cease-and-desist proceeding under section 8A(a) of the Securities Act of 1933 or section 21C(a) of the Securities and Exchange Act of 1934, the Commission may issue an order to prohibit, conditionally or unconditionally, permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of the Securities Act of 1933 or section 10(b) of the Securities Exchange Act of 1934 (or any rule or regulation thereunder) from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

(b) Finding of Substantial Unfitness.—In making any determination that a person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer, the Commission shall consider—

(1) the severity of the persons conduct giving rise to the violation, and the persons role or position when he engaged in the violation;

(2) the person's degree of scienter;

(3) the person's economic gain as a result of the violation; and

(4) the likelihood that the conduct giving rise to the violation, or similar conduct as defined in subsection (a), may recur if the person is not so prohibited.

(c) Automatic Stay Pending Appeal.—The enforcement of any Commission order pursuant to subsection (a) shall be stayed—

(1) for a period of at least 60 days after the entry of any such order or decision; and

(2) upon the filing of a timely application for judicial review of such order or decision, pending the entry of a final order resolving the application for judicial review.

SEC. 12. DISGORGING INSIDERS PROFITS FROM TRADES PRIOR TO CORRECTION OF ERRONEOUS FINANCIAL STATEMENTS.

(a) Analysis Required.—The Commission shall conduct an analysis of whether, and under what conditions, any officer or director of an issuer should be required to disgorge profits gained, or losses avoided, in the sale of the securities of such issuer during the six month period immediately preceding the filing of a restated financial statement on the part of such issuer.

(b) Disgorgement Rules Authorized.—If the Commission determines that imposing the requirement described in subsection (a) is necessary or appropriate in the public interest or for the protection investors, and would not unduly impair the operations of issuers or the orderly operation of the securities markets, the Commission shall prescribe a rule requiring the disgorgement of all profits gained or losses avoided in the sale of the securities of the issuer by any officer or director thereof. Such rule shall—

(1) describe the conditions under which any officer or director shall be required to disgorge profits, including what constitutes a restatement for purposes of operation of the rule;

(2) establish exceptions and exemptions from such rule as necessary to carry out the purposes of this section;

(3) identify the scienter requirement that should be used in order to determine to impose the requirement to disgorge; and

(4) specify that the enforcement of such rule shall lie solely with the Commission, and that any profits so disgorged shall inure to the issuer.

(c) No Preemption of Other Law.—Unless otherwise specified by the Commission, in the case of any rule promulgated pursuant to subsection (b), such rule shall be in addition to, and shall not supersede or preempt, the Commission's authority to seek disgorgement under any other provision of law.

SEC. 13. SECURITIES AND EXCHANGE COMMISSION AUTHORITY TO PROVIDE RELIEF.

(a) Proceeds of Enron and Andersen Enforcement Actions.—If in any administrative or judicial proceeding brought by the Securities and Exchange Commission against—

(1) the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate for any violation of the securities laws; or

(2) Arthur Andersen L.L.C., any subsidiary or affiliate of Arthur Andersen L.L.C., or any general or limited partner of Arthur Andersen L.L.C., or such subsidiary or affiliate, for any violation of the securities laws with respect to any services performed for or in relation to the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate;

the Commission obtains an order providing for an accounting and disgorgement of funds, such disgorgement fund (including any addition to such fund required or permitted under this section) shall be allocated in accordance with the requirements of this section.

(b) Priority for Former Enron Employees.—The Commission shall, by order, establish an allocation system for the disgorgement fund. Such system shall provide that, in allocating the disgorgement fund amount the victims of the securities laws violations described in subsection (a), the first priority shall be given to individuals who were employed by the Enron Corporation, or a subsidiary or affiliate of such Corporation, and who were participants in an individual account plan established by such Corporation, subsidiary, or affiliate. Such allocations among such individuals shall be in proportion to the extent to which the nonforfeitable accrued benefit of each such individual under the plan was invested in the securities of such Corporation, subsidiary, or affiliate.

(c) Addition of Civil Penalties.—If, in any proceeding described in subsection (a), the Commission assesses and collects any civil penalty, the Commission shall, notwithstanding section 21(d)(3)(C)(i) or 21A(d)(1) of the Securities Exchange Act of 1934, or any other provision of the securities laws, be payable to the disgorgement fund.

(d) Acceptance of Additional Donations.—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for the disgorgement fund. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (b).

(e) Definitions.—As used in this section:

(1) Disgorgement fund.—The term "disgorgement fund" means a disgorgement fund established in any administrative or judicial proceeding described in subsection (a).

(2) Subsidiary or affiliate.—The term "subsidiary or affiliate" when used in relation to a

person means any entity that controls, is controlled by, or is under common control with such person.

(3) OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER.—The term "officer, director, or principal shareholder" when used in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation, means any person that is subject to the requirements of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation.

(4) NONFORFEITABLE; ACCRUED BENEFIT; INDIVIDUAL ACCOUNT PLAN.—The terms "nonforfeitable", "accrued benefit", and "individual account plan" have the meanings provided such terms, respectively, in paragraphs (19), (23), and (34) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

SEC. 14. STUDY OF RULES RELATING TO ANALYST CONFLICTS OF INTEREST.

(a) STUDY AND REVIEW REQUIRED.—The Commission shall conduct a study and review of any final rules by any self-regulatory organization registered with the Commission related to matters involving equity research analysts conflicts of interest. Such study and report shall include a review of the effectiveness of such final rules in addressing matters relating to the objectivity and integrity of equity research analyst reports and recommendations.

(b) REPORT REQUIRED.—The Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such study and review no later than 180 days after any such final rules by any self-regulatory organization registered with the Commission are delivered to the Commission. Such report shall include recommendations to the Congress, including any recommendations for additional self-regulatory organization rulemaking regarding matters involving equity research analysts. The Commission shall annually submit an update on such review.

SEC. 15. REVIEW OF CORPORATE GOVERNANCE PRACTICES.

(a) STUDY OF CORPORATE PRACTICES.—The Commission shall conduct a study and review of current corporate governance standards and practices to determine whether such standards and practices are serving the best interests of shareholders. Such study and review shall include an analysis of—

(1) whether current standards and practices promote full disclosure of relevant information to shareholders;

(2) whether corporate codes of ethics are adequate to protect shareholders, and to what extent deviations from such codes are tolerated;

(3) to what extent conflicts of interests are aggressively reviewed, and whether adequate means for redressing such conflicts exist;

(4) to what extent sufficient legal protections exist or should be adopted to ensure that any manager who attempts to manipulate or unduly influence an audit will be subject to appropriate sanction and liability, including liability to investors or shareholders pursuing a private cause of action for such manipulation or undue influence;

(5) whether rules, standards, and practices relating to determining whether independent directors are in fact independent are adequate;

(6) whether rules, standards, and practices relating to the independence of directors serving on audit committees are uniformly applied and adequate to protect investor interests;

(7) whether the duties and responsibilities of audit committees should be established by the Commission; and

(8) what further or additional practices or standards might best protect investors and promote the interests of shareholders.

(b) PARTICIPATION OF STATE REGULATORS.—In conducting the study required under subsection (a), the Commission shall seek the views of the securities and corporate regulators of the various States.

(c) REPORT REQUIRED.—The Commission shall submit a report on the analysis required under subsection (a) as a part of the Commission's next annual report submitted after the date of enactment of this Act.

SEC. 16. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the last five years to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days of the date of enactment of this Act and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 17. STUDY OF CREDIT RATING AGENCIES.

(a) STUDY REQUIRED.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market. Such study shall examine—

(1) the role of the credit rating agencies in the evaluation of issuers of securities;

(2) the importance of that role to investors and the functioning of the securities markets;

(3) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(4) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings;

(5) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers; and

(6) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) REPORT REQUIRED.—The Commission shall submit a report on the analysis required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after the date of enactment of this Act. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 18. STUDY OF INVESTMENT BANKS

(a) GAO STUDY.—The Comptroller General shall conduct a study on the role played by investment banks and financial advisors in assisting public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the role of the investment banks—

(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financing arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiber optic cable capacity, in designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) REPORT.—The General Accounting Office shall report to the Congress within 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 19. STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the Model Rules of Professional Conduct promulgated by the American Bar Association and rules of professional conduct applicable to attorneys established by the Commission to determine—

(1) whether such rules provide sufficient guidance to attorneys representing corporate clients who are issuers required to file periodic disclosures under section 13 or 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o), as to the ethical responsibilities of such attorneys to—

(A) warn clients of possible fraudulent or illegal activities of such clients and possible consequences of such activities;

(B) disclose such fraudulent or illegal activities to appropriate regulatory or law enforcement authorities; and

(C) manage potential conflicts of interests with clients; and

(2) whether such rules provide sufficient protection to corporate shareholders, especially with regards to conflicts of interest between attorneys and their corporate clients.

(b) REPORT REQUIRED.—The Comptroller General shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the study required by this section. Such report shall include any recommendations of the General Accounting Office with regards to—

(1) possible changes to the Model Rules and the rules of professional conduct applicable to attorneys established by the Commission to provide increased protection to shareholders;

(2) whether restrictions should be imposed to require that an attorney, having represented a corporation or having been employed by a firm which represented a corporation, may not be employed as general counsel to that corporation until a certain period of time has expired; and

(3) regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 20. ENFORCEMENT AUTHORITY.

For the purposes of enforcing and carrying out this Act, the Commission shall have all of the authorities granted to the Commission under the securities laws. Actions of the Commission under this Act, including actions on rules or regulations, shall be subject to review in the same manner as actions under the securities laws.

SEC. 21. EXCLUSION FOR INVESTMENT COMPANIES.

Sections 4, 6, 9, and 15 of this Act shall not apply to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 22. DEFINITIONS.

As used in this Act:

(1) BLACKOUT PERIOD.—The term "blackout period" with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(2) BOARDS OF ACCOUNTANCY OF THE STATES.—The term "boards of accountancy of the States" means any organization or association chartered or approved under the law of any State with responsibility for the registration, supervision, or regulation of accountants.

(3) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(4) INDIVIDUAL ACCOUNT PLAN.—The term "individual account plan" has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) ISSUER.—The term "issuer" shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

(6) PERSON ASSOCIATED WITH AN ACCOUNTANT.—The term "person associated with an accountant" means any partner, officer, director, or manager of such accountant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such accountant, or any employee of such accountant who performs a supervisory role in the auditing process.

(7) RECOGNIZED PUBLIC REGULATORY ORGANIZATION.—The term "recognized public regulatory organization" means a public regulatory organization that the Commission has recognized as meeting the criteria established by the Commission under subsection (b) of section 2.

(8) SECURITIES LAWS.—The term "securities laws" means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), notwithstanding any contrary provision of any such Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 107-418. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 107-418.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer amendment No. 1 made in order pursuant to the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

Page 9, line 24, strike "study" and insert "reviews".

Page 11, line 10, insert "or" after "review".

Page 11, line 17, strike "board" and insert "organization".

Page 33, line 7, strike "DEFINITION" and insert "DEFINITIONS"; on line 8, strike "term 'beneficial owner' has the meaning" and insert "terms 'officer', 'director', and 'beneficial owner' have the meanings"; and line 9, strike "term" and insert "terms".

Page 39, strike line 5 and all that follows through page 40, line 9: and on page 40, line 10, strike "(d) CHANGES IN CODES OF CONDUCT.—".

Page 42, lines 9 and 11, strike "accountants report" and insert "accountant's report".

Page 42, line 17, insert "or her" after "his", and beginning on line 18, strike "an opinion cannot be expressed" and insert "he or she cannot express an opinion".

Page 53, line 23, strike "the role played by" and insert "whether", and on line 24, strike "in assisting" and insert "assisted".

Page 54, line 18, insert "which may have been" before "designed solely".

Page 57, line 9, insert "7, 8," after "6,".

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself 5 minutes to explain the amendment.

Mr. Chairman, this manager's amendment clarifies the language in a few portions of the legislation to give greater effect to the committee's intent in reporting out H.R. 3763.

The amendment clarifies that certain terms used in the bill are meant to be consistent with how those terms are used in the securities laws. It also removes some language that the committee had adopted which would have required self-regulatory organizations to undertake specific rule-makings. Because this is not standard practice under the securities laws, that language was deleted, with the consent of its original sponsor, the gentlewoman from New York (Mrs. MALONEY). However, important provisions relating to the requirement that issuers may make public any waiver of their code of ethics was retained.

The amendment also clarifies a section directing the GAO to conduct a study of investment banks. The original sponsor of the language, the gentleman from New York (Mr. LAFALCE) agrees with these changes, which were designed to ensure that the GAO study is fair, impartial, and accurate.

Lastly, the amendment specifies that certain provisions of the bill are not designed to apply to investment companies that are currently registered with the SEC. Because these investment companies are already fully regulated by the SEC under the Investment Company Act of 1940, application of the noted provisions to them would be inappropriate.

Mr. Chairman, these changes mostly fall within the realm of technical and conforming amendments. I know of no opposition to these amendments, and I certainly urge their adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. CAPUANO. Mr. Chairman, I rise to claim the time on my side.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CAPUANO) is recognized for 5 minutes.

Mr. CAPUANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no objection to the manager's amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the manager's amendment and the underlying bill. Mr. Chairman, the aim of this legislation is to ensure a continued faith in our capital markets, and to allow America's families and the investing public to continue to benefit from the free flow of accurate information.

This bill, the manager's amendment, provides a surgical strike approach to address the issues arising out of the Enron bankruptcy without hampering our markets' ability to thrive and the benefit they provide to America's families.

We have heard discussion today on the floor, Mr. Chairman, about the issues that arose under the Enron bankruptcy: the issue about the blackout period, the fact that we ought not have employees blacked out while executives have the ability to sell company stock. That is addressed.

We also have addressed in the bill the disclosure of off-balance-sheet transactions, that they all must be disclosed.

The other side speaks about the fact that certain specified nonaudit services are not prohibited under this legislation, but I would bring to the body's attention that there were 10 nonaudit services that the SEC proposed restrictions on. Of these ten, seven were prohibited by the SEC's final independent rules, and two, two of them, the financial systems work and internal auditing ability, are prohibited under the chairman's bill.

The one remaining nonaudit service was expert services, which the SEC decided in its final rule should not be prohibited. Accordingly, Mr. Chairman, the other side is largely proposing redundant legislation that is already in place under existing rules, except for one.

There is one major problem with the proposal coming from the other side. By adopting word for word the SEC's proposed rules, the other side would codify prohibitory and definitional language that the SEC, through notice and comment rule-making, has already determined to be unacceptable.

Mr. Chairman, I urge adoption of the manager's amendment and the underlying bill.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Enron was a great tragedy; it was a tragedy for the employees, for the investors, and it was a tragedy for the American public. It was a tragedy for our Nation.

We clearly need legislation. We need legislation that will give investors better access to information necessary to judge a firm's performance, the financial risk, the condition of that company. We need legislation that will give investors prompt information that is critical to decide whether or not they should make an investment.

We also need legislation that will deal with dishonest and unscrupulous CEOs, legislation that will bar them from serving as an officer of a company, that will force them to disclose critical information about what they are doing when they buy or sell stock in that company.

This legislation before us addresses all of those issues. It would be a greater tragedy if we were, in this body, to introduce legislation that would create unnecessary and burdensome red tape for American industries, that would nationalize the accounting industry. It would be inappropriate for us to put forward legislation that would create ambiguous and difficult-to-understand standards.

This is a good bill. I urge all colleagues on both sides of the aisle to support it. I commend the chairman and the subcommittee chairman who worked on this very important legislation.

Mr. OXLEY. Mr. Chairman, I yield the final 30 seconds, with apologies, to my good friend, the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will be brief. By creating an independent regulatory organization comprised of a majority of financial experts from outside of the accounting profession, this bill brings much needed reform and oversight to the status quo ante of self-regulation within the auditing profession.

By requiring that CEOs and other corporate insiders disclose their trades in company stock within 48 hours, within 48 hours of making that trade, this bill will increase the speed and transparency of information disclosure necessary for the efficient operation of our capital markets.

By preventing these same executives from unloading these shares during the lockdown of an employee pension account, it ensures that all stakeholders in a company are treated equitably and fairly, not as first- and second-class shareholders in equity.

For these reasons, I urge support for the manager's amendment and for the underlying bill. I thank the chairman, the gentleman from Ohio (Mr. OXLEY), for the Corporate and Auditing Accountability, Responsibility, Transparency Act of 2002.

The CHAIRMAN. Does any Member rise in opposition?

If not, the question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 107-418.

AMENDMENT NO. 2 OFFERED BY MR. CAPUANO

Mr. CAPUANO. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CAPUANO:

Page 3, beginning on line 21, strike paragraph (1) of section 2(b) through page 4, line 9, and insert the following:

(1)(A) The board of such organization shall be comprised of five members—

(i) two of whom shall be persons who are licensed to practice public accounting and who have recent experience in auditing public companies;

(ii) two of whom may be persons who are licensed to practice public accounting, if such person has not worked in the accounting profession for any of the last two years prior to the date of such person's appointment to the board; and

(iii) one of whom shall be a person who has never been licensed to practice public accounting.

(B) Each member of the board of such organization shall be a person who meets such standards of financial literacy as are determined by the Commission.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Massachusetts (Mr. CAPUANO) and a Member in opposition each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is relatively simple. It does one small item in the proposed bill which simply guarantees that one, only one of the five seats, will be someone who has never been licensed as an accountant.

It simply is the best way that I could think of to guarantee that the general public has at least one voice at the table. The other four seats are just as submitted in the current draft; namely, two seats shall be people who are licensed to practice accounting, and two people may have a license to practice accounting, as long as they have not practiced in the last 2 years.

It is exactly what the bill says, with the sole exception of one person who has never been licensed. I think that is the least we can do to guarantee the general public, the investing public, has at least one seat at the table without having been subject to practice for the last 30 or 40 years.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. OXLEY) rise?

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the amendment, though I am not opposed to the amendment.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

There was no objection.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my friend, the gentleman from Massachusetts (Mr. CAPUANO), a fine member of the Committee, for his good work on this amendment. I rise in strong support of it. By clarifying that at least two members of the five-member public reporting organization created by CARTA must be certified public accountants, the Capuano amendment recognizes the need for accounting expertise.

Equally important, it guarantees that at least one member of the board, and potentially three, is not a CPA. That would guarantee a level of independence from the accounting profession that is absolutely essential to keeping our financial reporting system the best in the world.

Mr. Chairman, I thank the gentleman and urge all Members to vote aye.

□ 1230

Mr. OXLEY. Mr. Chairman, I support the Capuano amendment.

Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. CAPUANO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CAPUANO).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 3 printed in House Report 107-418.

AMENDMENT NO. 3 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SHERMAN:

In section 21 strike "and 15" amd insert "and 16" and after section 13, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 14. AUDITOR MINIMUM CAPITAL.

(a) REGULATION REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent unless such accountant complies with such capital adequacy standards as the Commission shall prescribe by regulation.

(b) MINIMUM STANDARD.—The capital adequacy standards established by the Commission pursuant to this section shall require that the net capital of an accountant be equal to not less than one-half of the annual audit revenue received by such accountant from issuers registered with the Commission.

(c) TREATMENT OF CAPITAL AND REVENUE.—For purposes of this section—

(1) net capital shall include the sum of capital, reserves, and malpractice insurance available to the accountant for the performance of audit functions; and

(2) annual audit revenue shall include the sum of all audit fees received by the accountant, but shall not include any fees for non-audit services, as such terms are defined in regulations of the Commission in effect on the date of enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself such as I may consume.

Mr. Chairman, I know there are others that would like to speak in favor of this amendment, but this whole process has gone more quickly than expected, so we will see if they can make it here to the floor.

Mr. Chairman, the financial auditing system is the only one where the umpire is paid by one of the teams. That is to say, we have a situation where the auditor must make tough judgment calls, particularly as to how to apply generally accepted accounting principals which are not mechanical but, rather, require judgment. And the firm must make those judgments relative to the client, sometimes being the difference between whether the stock sells for $20 a share or $40 a share. The auditing firm must make that decision affecting the clients when they are being paid by that client.

The one financial check on this is the fact that if the auditor does not make the right decision, but is rather negligent, they may be sued. The other check on this, of course, is the integrity and the professionalism of the individual auditors involved in the process. But our system, our capitalist system works well when we rely on the good spirit of people but also on financial incentives, financial checks and balances. Those financial checks and balances, however, ring hollow in the present system.

Back when I was practicing—and, Mr. Chairman, that was a long time ago, I had hair when I was doing it, that tells us how long ago it was—we had general partnerships that were the Big Eight, now the Big Five accounting firms. That meant that every partner's personal assets were on the line if the firm committed malpractice. So of course the firms purchased malpractice insurance. And it meant that if an investor was hurt by malpractice, that that investor would at least get some compensation.

Now our corporate laws have changed. There are professional corporations, limited liability companies, and limited liability partnerships.

As a result, those investors hurt by auditor malpractice can only look to the assets of the firm. It makes sense that we make sure that there are at least some assets there so that investors hurt by accounting malpractice at least get some compensation.

That is not the case at the present time. Arthur Andersen is supposed to be paying $217 million, not in relation to Enron, but in relation to the Baptist Foundation of Arizona audit in which they also committed malpractice. And now it looks like those investors are not going to be paid. It looks like the Enron investors are not going to get a penny from Arthur Andersen. Why? Because Arthur Andersen has virtually no malpractice insurance and virtually no reserves.

Mr. Chairman, if you are going to drive your car, you might hurt somebody. And that is why every State in this Union requires you to have some sort of reserve or auto insurance. If you are going to operate a fleet of thousands of taxis, certainly you would have insurance, because driving down Main Street you might make a mistake and hurt somebody.

Well, driving on Wall Street is also potentially dangerous. And those who drive down Wall Street and can cause billions of dollars of harm if they are not careful, should also have the same insurance required of every driver in this country. Wall Street is as dangerous for pedestrians as Main Street, and that is why I have proposed this amendment.

I want to be very clear on what it does not do. It does not have an effect on the 99 percent of CPA firms that do not audit public companies. It has virtually no effect on the regional firms that do a very few SEC audits. It requires them to have such minimal capital reserves that if they just own their own computers, they meet the test. They probably would have malpractice insurance anyway.

This bill affects the Big Five firms. It says that those firms that do 99.5 percent of all the SEC auditing have to have reserves or they have to have malpractice insurance. It ensures that if investors are hit on Wall Street, they will at least get some recompense. We provide that assurances to pedestrians. We ought to provide it to investors as well.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment before us requires audit firms to establish and maintain huge capital reserves, at least 50 percent of annual audit revenue. The Sherman amendment was offered in committee and defeated by an overwhelming margin of 49 to 9. Though well intentioned, it would establish a burdensome and wholly unprecedented requirement, expanding government's reach into the financing and structuring of audits firms. Minimum capital requirements would harm small audit firms in particular and would result in less stability for public companies, higher audit cost for public companies, lower profits for investors, and more speculative lawsuits. Clearly this is a case of using a sledgehammer to crack a nut.

I urge all Members to oppose this amendment and support the base bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SHERMAN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California has 5 minutes remaining.

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond to the comments of our distinguished chairman.

This is hardly a sledgehammer. Keep in mind that 20 years ago, every one of the accounting firms, big and small, had far more reserves available to those who were affected by accounting malpractice. Twenty, 30 years ago, they were all general partnerships, so they had malpractice insurance. One of the reasons they had it is that the personal assets of every partner were on the line. The assets available to the creditors of Arthur Andersen 30 years ago would have been tens of billions of dollars, adjusted for inflation, talking about 2002 dollars. Today we have an empty shell.

I remind the House that when they ask poor people in each district who need to drive somewhere to work to earn the minimum wage, we insist they have liability insurance, because while we are concerned about their ability to drive, we are also concerned that those who are hurt by negligence get at least something. And yet we turn to what will probably be the Big Four accounting firms, each with many billions of dollars of revenue, and say that they do not have to have any liability insurance.

Is that a fair society? Do we really believe that driving down Wall Street is not as hazardous as driving down any street in America? Certainly all the automobile accidents in this country will not add up to the losses suffered by Enron investors. If we require those who drive to have insurance and we do not regard that as an undue burden on driving, how can we say that auditing publicly traded corporations, an activity engaged in by only five accounting firms for the most part, maybe two or three others, are we going to say that the five or eight or nine largest accounting firms in the country do not need any liability insurance? I do not think we should. I think at this time it is reasonable to say that if you are engaging in activity that only exists because the securities law requires it, if you are receiving billions of dollars in fees because publicly-traded companies are required by Federal law to have an audit, then you ought to have liability insurance.

I will give another example. If a small plumbing contractor wishes to do the plumbing on a Federal building or a State construction project, surely we would require a completion bond or other insurance that the work will be done appropriately. How can we turn to individual drivers and say they must have insurance, the smallest companies who do construction work, and say they must have insurance, and then turn to the Big Four accounting firms and say they can walk away scot-free no matter what liability a court imposes on them? It is an illusory liability. The Enron investors will probably get nothing from Arthur Andersen.

I do not think that is a fair system. I think instead it is reasonable to require that those who engage in activities which may make them liable to someone else have reasonable amounts of insurance. I want to repeat, this bill will affect only the Big Four or, today, Big Five accounting firms. It will have no effect on the 99 percent of firms who do no SEC auditing and will have no effect or virtually no effect on the four, five, or six other regional firms who may have a very few SEC audits. Only when a firm is deriving a very large percentage of its revenue from SEC audit does this bill have any effect.

So I ask my colleagues to require that investors who are mamed on Wall Street at least be able to get some amounts of compensation, as they would if they were hurt walking across the street in their hometown.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Richmond, Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I rise in opposition to the gentleman from California's (Mr. SHERMAN) amendment, and with all due respect, I beg to differ. We are not talking about insurance here. What we are talking about is a totally unprecedented and, in my opinion, unjustified expansion of government's reach into the financing and structuring of accounting firms.

Let us address the first issue that the gentleman from Ohio (Mr. OXLEY) made here, that this particular amendment would really contribute to the instability of any public company that was required to have audited financial statements. Just imagine if the auditing firm dipped below the required level of reserve while that firm was in the middle of an audit. That public company who is required to have the audited financial statements would be left in the lurch. There would be no other option in that firm than to go out and seek another accounting firm to restart the audit or pick up where the one that is now disqualified left off, thus adding to the cost of having audited financial statements. In addition, I think it would take away from the quality of the audit itself.

Mr. Chairman, I would also say that in any other instance where the government requires a certain capital, minimum capital requirement, for instance the banking industry, there is some type of quasi-guarantee relationship that the government has and in some sense is the insurer of the industry. In this particular case, there is no relationship by the government to the auditing firm. In the case of the banks, the Government is there to provide some type of confidence to the depositors that their personal funds will be insured to a certain extent. Here there is no such relationship and, in fact, auditing firms are precluded from maintaining any deposits from individuals or from clients.

Think about the effect that this amendment would have on small accounting firms. Many firms with reduced access to capital and costly insurance will be now precluded from seeking or acquiring business elsewhere. When we are talking about a firm having to have 50 percent of the annual audit fee in reserve, that is a tremendous financial and capital hurdle for most American businesses, not just to mention auditing firms. Such a requirement to have that type of reserve will certainly add to the cost of the financial audit, ultimately adding to the cost and taking away the benefit to the investors in that company.

Mr. Chairman, I would say this amendment goes in the wrong direction and I urge my colleagues to oppose the amendment.

□ 1245

The CHAIRMAN. The Chair will advise Members that the gentleman from Ohio (Mr. OXLEY) has 6 minutes remaining. The gentleman the California (Mr. SHERMAN) has 30 seconds remaining.

Mr. SHERMAN. Mr. Chairman, I yield myself the remaining time.

This bill will not adversely affect small accounting firms. It restores a system similar to what we had 30 years ago when every firm had malpractice insurance because the LLC and LLP structures had yet to be invented under State law. We in the Federal Government require that an audit be conducted because of the securities law, and we ought to require that those who will rely on those financial statements will get some compensation in the event that auditor malpractice takes place.

State governments require insurance to drive a car. We ought to require insurance to drive on Wall Street.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Before yielding back, I would only reiterate the fact that we debated this in committee, the same amendment. The gentleman from California was able to get 9 votes in favor of his amendment, 49 against. I think the committee understood the issue and reacted accordingly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Sherman amendment to H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act.

This amendment would establish capital standards for accounting companies that audit publicly traded companies.

This amendment would require the SEC to set capital standards at a level no lower than half of the firm's annual audit revenues. Moreover, it allows auditors to apply capital, reserves and malpractice insurance to meet this net capital requirement.

Accounting firms that fail to maintain required levels of capital reserves would be prohibited from auditing publicly traded companies.

As evidenced by the relationship between Enron and its auditor, Arthur Andersen, there are many flaws in the system that needs fixing. This amendment is another step in the right direction.

It is very likely that because Arthur Andersen did not carry adequate malpractice insurance, the Enron shareholders, many of them former Enron employees, will not see any monetary compensation from their auditor. This amendment does not and will not hurt small accounting firms because nearly all SEC audits are done by the big five accounting firms.

It is important to note that this amendment is being offered so that auditors of SEC reporting companies will to have enough capital and insurance to cover the liability they incur when they perform a large audit and would only affect auditors performing audits for companies required to file disclosures with the SEC.

This is an important amendment and I urge you to support it.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 107-418.

AMENDMENT NO. 4 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 4 in the nature of a substitute offered by Mr. KUCINICH:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investor, Shareholder, and Employee Protection Act of 2002".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The failure of accounting firms to provide accurate audits of its clients is not a new or isolated problem.

(2) Accounting firms have been implicated in failed audits that have cost investors billions of dollars when earnings restatements sent stock prices tumbling.

(3) Auditors have an inherent conflict of interest. They are hired, and fired, by their audit clients.

(4) This conflict of interest pressures auditors to sign off on substandard financial statements rather than risk losing a large client.

(5) Auditing a public company for the benefit of small as well as large investors requires independence.

(6) Therefore the only truly independent audit is one by a governmental agency.

(7) The Federal Bureau of Audits, closely regulated by the Commission, will provide honest audits of all publicly traded companies.

SEC. 3. ESTABLISHMENT OF BUREAU.

(a) ESTABLISHMENT.—There is hereby established within the Commission an independent regulatory agency to be known as the Federal Bureau of Audits.

(b) FUNCTION OF THE BUREAU.—The Bureau shall conduct an annual audit of the financial statements that are required be submitted by reporting issuers and to be certified under the securities laws or the rules or regulations thereunder.

(c) OFFICERS.—

(1) BUREAU HEAD.—The head of the Bureau shall be a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) ADDITIONAL OFFICERS.—There shall also be in the Bureau a Deputy Director and an Inspector General, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(3) TERMS.—The Director, Deputy Director, and Inspector General shall be appointed for terms of 12 years, except that—

(A) the first term of office of the Deputy Director shall be eight years; and

(B) the first term of office of the Inspector General shall be 4 years.

(d) INDEPENDENCE.—Except as provided in sections 4 and 5, in the performance of their functions, the officers, employees, or other personnel of the Bureau shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Commission.

(e) ADMINISTRATIVE SUPPORT.—The Commission shall provide to the Bureau such support and facilities as the Director determines it needs to carry out its functions.

(f) RULES.—The Bureau is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions, but the Bureau may not establish any auditing standards within the jurisdiction of the Commission under sections 4 and 5.

(g) ADDITIONAL AUTHORITY.—In carrying out any of its functions, the Bureau shall have the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Bureau may, by one or more of its officers or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions, except that nothing in this subsection shall be deemed to supersede the provisions of section 556 of title 5, United States Code relating to hearing examiners.

(h) CONFLICT OF INTEREST PROVISIONS.—A person previously employed by the Bureau may not accept employment or compensation from an issuer audited by the Bureau or an accountant that provides audit related services to an issuer audited by the Bureau for 10 years after the last day of employment at the Bureau. Any current employee of the Bureau shall be required to place all investments in a blind trust, in accordance with regulations prescribed by the Commission. The employees of the Bureau who conduct the audits shall be exempt from the civil service pay system under section 4802 of title 5, United States Code, and shall be paid salaries that are competitive with similar private sector employment.

(i) LEGAL REPRESENTATION.—Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Director of the Bureau may appear for, and represent the Bureau in, any civil action brought in connection with any function carried out by the Bureau pursuant to this Act or as otherwise authorized by law.

SEC. 4. ASSUMPTION OF AUTHORITY BY COMMISSION OVER AUDITING STANDARDS.

(a) ASSUMPTION OF AUTHORITY.—Pursuant to its authority under the securities laws to require the certification, in accordance with the rules of the Commission, of financial statements and other documents of reporting issuers of securities, the Commission shall, by rule, establish and revise as necessary auditing standards for audits of such financial statements.

(b) INCORPORATION OF CURRENT STANDARDS.—In adopting auditing standards under this section, the Commission shall incorporate generally accepted auditing standards in effect on the date of enactment of this Act, with such modifications as the Commission determines are necessary and appropriate in the public interest and for the protection of investors.

(c) ADDITIONAL REQUIREMENTS FOR RULES.—The rules prescribed by the Commission under subsection (a)—

(1) shall be available for public comment for not less than 90 days;

(2) shall be prescribed not less than 180 days after the date of enactment of this Act; and

(3) shall be effective on the first January 1 that occurs after the end of such 180 days.

SEC. 5. FEES FOR THE RECOVERY OF COSTS OF OPERATIONS.

(a) IN GENERAL.—The Commission shall in accordance with this section assess and collect a fee on each reporting issuer whose financial statements are audited by the Bureau. This section applies as of the first fiscal year that begins after the date of enactment of this Act (referred to in this section as the 'first applicable fiscal year').

(b) TOTAL FEE REVENUES; INDIVIDUAL FEE AMOUNTS.—The total fee revenues collected under subsection (a) for a fiscal year shall be the amounts appropriated under subsection (d)(2) for such fiscal year. Individual fees shall be assessed by the Commission on the basis of an estimate by the Commission of the amount necessary to ensure that the sum of the fees collected for such fiscal year equals the amount so appropriated.

(c) FEE WAIVER OR REDUCTION.—The Commission shall grant a waiver from or a reduction of a fee assessed under subsection (a) if the Commission finds that the fee to be paid will exceed the anticipated present and future costs of the operations of the Bureau.

(d) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Bureau and shall be available until expended without fiscal year limitation.

(2) APPROPRIATIONS.—

(A) FIRST FISCAL YEAR.—For the first applicable fiscal year, there shall be available for the salaries and expenses of the Bureau **$5,150,000,000.**

(B) SUBSEQUENT FISCAL YEARS.—For each of the four fiscal years following the first applicable fiscal year, there shall be available for the salaries and expenses of the Bureau an amount equal to the amount made available by paragraph (1) for the first applicable fiscal year, multiplied by the adjustment factor for such fiscal year (as defined in subsection (f)).

(e) COLLECTION OF UNPAID FEES.—In any case where the Commission does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

(f) DEFINITION OF ADJUSTMENT FACTOR.—For purposes of this section, the term 'adjustment factor' applicable to a fiscal year is the lower of—

(1) the Consumer Price Index for all urban consumers (all items; United States city average) for April of the preceding fiscal year divided by such Index for April of the first applicable fiscal year; or

(2) the total of discretionary budget authority provided for programs in categories other than the defense category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(c) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for the first applicable fiscal year (as reported in the Office of Management and Budget final sequestration report submitted for such year).

For purposes of this subsection, the terms "budget authority" and "category" have the meaning given such terms in the Balanced

Budget and Emergency Deficit Control Act of 1985.

SEC. 5. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(2) SECURITIES LAWS.—The term "securities laws" means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

(3) REPORTING ISSUER.—The term "reporting issuer" means any registrant under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or any other issuer required to file periodic reports under section 13 or 15 of such Act (15 U.S.C. 78m, 78o).

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I include for the RECORD an article in the New Yorker entitled "The Accountants' War," and it has many interesting details about the collapse of accounting responsibilities in this country. It says that Enron was forced to reveal that its profits had been off by about 20 percent over 3 years and that as early as 1997 Arthur Andersen had known that Enron was inflating its income, but when Enron declined to correct the numbers, Andersen certified them anyway.

[From the New Yorker, Apr. 22, 2002]

THE ACCOUNTANTS' WAR

(By Jane Mayer)

Nothing, it has been said, is duller than accounting—until someone is defrauded. And after every modern financial diseaster—the stock-market crash of 1929, the bankruptcy of the Penn Central Railroad in 1970, the savings-and-loan crisis of the eighties, and now the bankruptcy of the Enron Corporation—investors have tended to ask the same question: where were the auditors?

Arthur Levitt, Jr., who was the chairman of the Securities and Exchange Commission under President Bill Clinton, believes that in the years leading up to Enron's collapse the auditors were busy organizing themselves into a lobbying force on Capitol Hill—one that has been singularly effective. Levitt, who issued a series of warnings about the accounting profession in those years, suggests that the aim of the so-called Big Five accounting firms—PricewaterhouseCoopers, Deloitte & Touche, Ernst & Young, K.P.M.G., and Arthur Andersen, Enron's auditor—was to weaken federal oversight, block proposed reform and overpower the federal regulators who stood in their way. "They waged a war against us, a total war," Levitt said.

Some have portrayed Enron's crash and the woes of Arthur Andersen simply as huge business failures. "There are always going to be bad apples," said Jay Velasquez, a former aide to Senator Phil Gramm, who is now a Washington lobbyist for the accounting profession, and who has fought increased regulation. Barry Melancon, who heads the American Institute of Certified Public Accountants, the profession's trade group, which has three hundred and fifty thousand members, fears that those who are trying to impose political solutions will overreact. "We live in a free-market system," Melancon told me. "Businesses fail. People are not infallible."

But Levitt casts the Enron story in starker terms. It is, as he puts it, "the story of the nineties"—a battle between public and private interests that is being fought at a time when there is more corporate money in politics than ever before. "This is about corporate greed," Levitt told me. "It is the result of two decades of erosion of business ethics. It was the ultimate nexus of business and politics. If there was ever an example where money and lobbying damaged the public interest, this was clearly it."

Levitt, who is seventy-one and has silver hair, exhibits a starchy correctness. He still seems bitter about his war with the accounting trade, and called one adversary "an oily weasel" and another "a sly mongoose" as he spoke about the influence of money on politics. "It used to be that if industries had a problem they would try to work it out with the regulatory authorities," he said, in his sleek office at the Carlyle Group, in midtown Manhattan, surrounded by mementos of years in public life. "Now they bypass the regulators completely, and go right to Congress." Their campaign contributions lend them clout. "It's almost impossible to compete with the effect that money has on these congressmen." Enron's campaign contributions and its political power have received much attention, but two of the top five accounting firms—Arthur Andersen and Deloitte—and the accountants' trade association actually spent more during the 2000 elections. "The money was enormous," Levitt said. "Look at the end result."

Not many years ago, Levitt was considered a consummate Wall Street insider, even an operator. In 1993, when President Clinton picked him to run the Securities and Exchange Commission, he was a centrist, a well-connected fundraiser who had contributed to both parties. He had founded his own lobbying organization, the American Business Conference, to advocate the interests of small business on Capitol Hill. He was also someone with a knack for cultivating famous and powerful friends. In the nineteen-sixties, he joined a successful start-up New York firm as a stockbroker, and he eventually counted among his clients Leonard Bernstein, Aaron Copland, and Kenneth Clark. Three of Levitt's original partners were Sanford Weill, who became the chairman of Citigroup; Arthur Carter, now the publisher of the New York Observer; and Roger Berlind, who became a Broadway producer. (Levitt had his own ties to Broadway; his aunt was Ethel Merman). Levitt thrived, too, and by the late sixties he was running Shearson Hayden Stone, which later became Shearson Lehman Brothers.

In 1977, after being asked to head a search committee for the next leader of the American Stock Exchange, he got the job himself. A few years later, he was thinking of investing in The National Journal, a policy-oriented magazine in Washington, when he learned of the publication's interest in acquiring Roll Call, a struggling newspaper on Capitol Hill. Levitt declined to invest in The National Journal but bought Roll Call himself, for about five hundred thousand dollars. Seven years later, he sold it for fifteen million dollars.

At the same time, Levitt was drawn to public life. He had grown up in a political household, the only son of Arthur Levitt, Sr., a Democrat who for twenty-four years was the New York State comptroller. Both his father and his mother, a public-school teacher in Brooklyn, were dependent on public pensions for their retirement, and they cared deeply about the protection of small investors.

When Levitt began his S.E.C. job, he acknowledged the populist tradition of the Roosevelt Administration, which created the S.E.C. in 1934, to insure the integrity of American financial markets. The agency's new Web site carried the motto of his most famous predecessor, William O. Douglas: "We are the investors' advocates." The S.E.C.'s basic requirement was that all publicly traded companies register with the agency and submit to annual independent audits. Douglas liked to say that the S.E.C. was "the shotgun behind the door." But Levitt soon discovered that the agency's arsenal was no match for the bull markets of the nineties. The new economy spawned new accounting schemes that raised concerns almost from the start.

One early fight was over stock options. Many pointed out that the accounting convention that kept these expenses, unlike ordinary executive compensation, off the books was deceptive. It meant that investors could not see a company's real liabilities. Levitt recalls that when he took office the first thing that Senators David Boren and Carl Levin, who were both active in regulatory reform, told him was that he "had to do something about stock options."

Congress soon got involved in the stock-option fight, and the politicization of accounting became more apparent than ever. Supporters of Wall Street and Silicon Valley, including many ordinarily pro-regulatory Democrats, fought against changing the stock-option rules; one, for example, was Senator Joseph Lieberman, of Connecticut, a state with a large concentration of Fortune 500 companies, many of which are campaign contributors. More surprising, the accounting profession, rather than remaining neutral, joined forces with its clients to fight the change. Together, they exerted pressure on the organization that sets the rules for the accounting business, the Financial Accounting Standards Board, or F.A.S.B. "This was a defining moment for me," Levitt said. A lawyer who was with the S.E.C. at the time says, "The accountants were going beyond good accounting. They were advocating a business position. They wanted to keep their customers happy. It was quite unseemly."

At first, Levitt played a hesitant role. In what he now regards as his "biggest mistake" at the commission, he, too, urged the F.A.S.B. to back off. His rationale, he said, was a fear that, if the board tried to resist the anti-regulatory feeling then sweeping Congress, it would be crushed altogether. (Sarah Teslik, the executive director of the Council of Institutional Investors, an advocate for shareholders, is among those who argue that Levitt "wasn't the hero he makes himself out of be.") Levitt told me that the episode showed him that the accounting trade was undergoing a cultural transformation. Instead of overseeing corporate America, it was joining forces with it. "The kind of greed that produced Enron and Arthur Anderson was symbolized by the way the companies dealt with stock options," he said. "I realized something was wrong."

Until the Second World War, the American accounting industry has stayed close to its eighteenth-century roots in bookkeeping. But with the rise of information technology the accounting firms branched into consulting. During the nineteen-nineties, the Big Five doubled their collective revenues, to $26.1 billion. Their consulting practices, in particular, were hugely profitable, and brought in three times as much revenue as auditing did, according to a study soon to be published in The Accounting Review. Auditors started coming under pressure to attract non-audit business. At some firms, like Andersen, auditors compensation depended upon their ability to sell other services to clients; equity partners began to be paid like investment bankers. Inevitably, there were conflicts between the independent role required of an auditor and the applicant role of a salesman trying to expand services.

At Enron, for example, Andersen did consulting on taxes and on internal auditing. Both projects threatened to put the outside auditors in the awkward position of assessing their own company's work. The relationship was further compromised by the fact that Enron's management included many former Andersen employees, among them the company's president, vice-president, and chief accounting officer. Auditors were thus in the position of judging former colleagues—and prospective bosses.

More than a year ago, well before Enron's problems became public, an internal e-mail revealed that fourteen top Andersen partners had pointed out several of the financial schemes that eventually contributed to Enron's fall. In a discussion about retaining Enron as a client the partners considered whether Enron's "aggressive . . . transaction structuring" was too risky. It appears from the e-mail, however, that the partners' concerns were outweighed by possible future rewards. The e-mail noted that their fees "could reach $100 million per year."

"If you get too friendly and too relaxed, you can wind up nodding your head yes when you should be saying no," said Charles Bowsher, a former head of the General Accounting Office, who worked at Andersen for many years and has been retained to help reform the firm. "There's a lot of art in addition to science in accounting." Bowsher says that "most fraud flourishes in gray areas." But James Cox, a professor of corporate and securities law at Duke University, suggests that Enron's accounting gimmickry was black-and-white. "It was not even close," he said. "It was dead wrong."

Levitt said that, as the country's senior guardian of fair markets, he watched the transformation of the accounting profession with alarm. "The brakes on the worst instincts of the business community weren't working," he says. "The gatekeepers were letting down the gates." The number of audit failures afflicting corporate America was increasing; Lynn Turner, who served under Levitt as the chief accountant at the S.E.C., estimates that investors lost a hundred billion dollars owing to faulty, misleading, or fraudulent audits in the six years preceding Enron's crash. Many of the best-known corporations in the country were affected, among them Cendant, W. R. Grace, Sunbeam, Xerox, Lucent, and Oxford Health Plans. In fact, the number of publicly traded companies forced to re-state their earnings went from three in 1981 to a hundred and fifty-eight last year, according to a doctoral thesis at New York University's Stern School of Business. (Barry Melancon, of the American Institute of Certified Public Accountants, calls concern over these numbers misleading, noting that they represent "fewer than one per cent of the audits performed.")

Shareholder lawsuits against the accounting firms proliferated. In response, the Big Five and their trade association united as a political force. According to the nonpartisan Center for Responsive Politics, between 1989 and 2001 accounting firms spent nearly thirty-nine million dollars on political contributions. The contributions were bipartisan, reaching more than half the current members of the House and ninety-four of a hundred senators.

By 1995, this investment had started to pay off. Congress passed the Private Securities Litigation Reform Act, making it harder for shareholders to sue businesses and their auditors when the businesses failed. The legislation was championed by the Speaker of the House, Newt Gingrich, as part of his Contract with America. "What we were after was trying to get rid of the frivolous, meritless cases," Mark Gitenstein, a lawyer and lobbyist who helped shape the legislation, said. "We convinced Congress that you needed a system that did a better job of screening the marginal cases from the serious ones." The resulting legislation, Professor Cox said, reversed "eighty years of federal procedure."

At first, Levitt tried to fight the private-securities bill, but when it became clear that the federal regulators couldn't compete with the accountants' clout in Congress, he looked for a compromise. "It was a case where the industry had more power that the regulators," he said. Then, as now, there were approximately seventy-five lobbyists for every member of the House and Senate; in the Gingrich era, they were more integrated into the lawmaking process than ever before. Jeffrey Peck, a former Democratic Senate aide who was then the head of Arthur Andersen's Washington lobbying office and is now an outside lobbyist for the firm, says that after this fight there was "really bad feeling" between Levitt and the profession. "It was as if two people had gone out on a first date and had a bad time," he says. "But the rules required them to keep dating."

Levitt told me that he has always been proud of his ability to create consensus, and in the spring of 1996 he tried to involve the profession in reforming itself. He urged the big accounting firms to strengthen their oversight system and toughen discipline for transgressors. He proposed giving investors and other members of the public a bigger role. But, he said, the accountants resisted, and progress was made only after "huge fights."

Rules governing auditors' independence hadn't been updated in two decades. To examine the growing number of questions about conflicts of interest, Levitt created a new board, whose membership was divided between independent business leaders and people from the accounting industry. "They were constantly deadlocked by differences of opinion," Levitt said, and added, "When I asked for support, I never got it. I never heard in any speech they"—the accountants—"gave the words 'public interest.' They were so stilted, and terse, and non-productive—I realized it was an industry that completely lacked leadership.".

The accounting industry hired Harvey Pitt, who was known as one of the smartest and most aggressive private-securities lawyers in the country. Pitt responded to Levitt's call for greater public oversight by arguing, in a lengthy white paper, that the accounting firms were better off policing themselves. "The staff regarded his white paper as a kick in the stomach, because it was so one-sided and confrontational," Levitt said. One S.E.C. official recalls that Pitt made the negotiations over the new board "the most horrible ever," and Lynn Turner says, "It was doomed from day one."

Pitt, who was appointed by President George W. Bush to succeed Levitt as chairman of the S.E.C., said, "There was a lot of misperception about what the white paper said. For some reason, early on people seemed to get in their mind that I opposed what Levitt did," to reform accounting. "I tried to give him may own help on a personal basis."

In the summer of 1998, Levitt received a report about a problem in Pricewaterhouse's Tampa office. According to the report, nine executives there had made eighty investments in companies that they were supposed to be auditing—a violation of the most basic independence standards. Under the S.E.C.'s direction, the firm initiated a company-wide investigation. To the shame of the entire profession, it turned up more than eight thousand such violations. The S.E.C. fined Pricewaterhouse two and a half million dollars, and called for an investigation into compliance with independence rules at the rest of the Big Five firms; Levitt asked an independent group, the Public Oversight Board, which had been created after the Penn Central collapse, to undertake this task.

Levitt also took his battle public, in the fall of 1998, he gave a speech that attacked the "number game." He said, "Accounting is being perverted. Auditors who want to retain their clients are under pressure not to stand in the way." He explained, "Auditors and analysts are participants in a game of nods and winks. . . . I fear we are witnessing an erosion in the quality of earnings, and therefore the quality of financial reporting." In conclusion, he said, "Today American markets enjoy the confidence of the world. How many half-truths and accounting sleights of hand will it take to tarnish that faith?"

The Public Oversight Board, made up of major business figures, was supposed to act as the profession's conscience. But in May, 2000, before its investigation could be completed, the P.O.B.'s head, Charles Bowsher, received a letter from officials at the American Institute of Certified Public Accountants, which finances the board, announcing that it would "not approve nor authorize" funding for further investigations. Bowsher, who had himself been a high-ranking officer with Arthur Andersen before becoming the head of the General Accounting Office, says that he was shocked; the industry was effectively stopping the investigation. Melvin Laird, a former Secretary of Defense, who was the longest-serving member of the P.O.B., called it "the worst incident in my seventeen years." Barry Melancon, the head of the trade association, defended the association's position. "We were never opposed to the concept," he told me, referring to the investigation. "We just felt the P.O.B. was undertaking a project that it couldn't define."

At the same time, the S.E.C. was uncovering a huge case of accounting fraud involving the garbage-disposal company Waste Management: Arthur Andersen had put an unqualified seal of approval on numbers that the government said it either knew or should have known were misleading. As if in anticipation of the revolving-door conflicts at Enron, practically ever C.F.O. and C.A.O. in Waste Management's history had come from Andersen, S.E.C. enforcement documents from the investigation reveal something else: at least two of the partners who were singled out for scrutiny by the S.E.C. remained in influential positions at Andersen while being investigated, and both have now surfaced in connection with the Enron affair. (One executive, Robert Kutsenda, who was later barred by the S.E.C. from auditing public companies for a year, was placed in charge of redesigning the firm's policy on which documents to retain and which to shred, an issue in the Enron case. Kutsenda and Steve Samek, who was also investigated in the Waste Management case but not publicly sanctioned, were among those involved in the discussion of whether to retain Enron as a client. None of the executives involved in the Waste Management matter were fired by Andersen, which last year agreed to pay a seven-million-dollar penalty to the S.E.C., without admitting or denying guilt, after it was charged with fraud. In addition, two of the Andersen partners targeted by the S.E.C. in the fraud case now serve on the profession's standard-setting board, the F.A.S.B.)

By 2000, Levitt, faced with what he calls the Big Five's "fortress mentality," had initiated a series of meetings with the firms at which he insisted that they needed to do more to police themselves. Levitt's message, Turner told me, was that the firms could either cooperate with an investigation into their compliance with independence rules or "we'll issue the subpoenas tomorrow—take your pick."

In the spring of 2000, the S.E.C. announced that it planned to draft new rules that would greatly restrict accountants' ability to consult for the same companies they audited. Arthur Andersen reportedly argued that this would cut its market potential by forty per cent, and vowed to fight back. A June meeting in Deloitte's New York headquarters with the heads of the three firms who most vehemently opposed the new rules "was so icy you could have stored cold meat in that room," Turner says. The heads of Andersen, Deloitte, and K.P.M.G. joined Melancon on one side of a conference table. (Pricewaterhouse and Ernst & Young were more supportive of Levitt, and didn't attend.) Levitt and two S.E.C. officials were on the other. When Levitt made it clear that he intended to move forward, Andersen's chief executive, Robert Grafton, declared, "This is war."

"It was unbelievable, just unbelievable," Turner recalled. "They all went after Arthur. They made clear that everything was fair game." Turner says that the attitude of the firms was "You know we're going to win anyway in the end, so why not save us the expense, and give up now?"

"As soon as I left that meeting," Levitt told me, "it was clear the fight was going to Capitol Hill." Such clashes over commercial interests are commonplace in Congress, but "this wasn't about legislation," he said. "It was about S.E.C. rule-making—we're supposed to be an independent agency. I'd never seen anything like it at the S.E.C."

During this period, Levitt said, he got a letter from Representative W.J. (Billy) Tauzin, of Louisiana, the chairman of the House Energy and Commerce Committee, who has received more than two hundred and eighty thousand dollars from the accounting industry over the past decade. The letter consisted of four pages of pointed questions. In a not very veiled threat, Tauzin asked how many violations Levitt and the other members of the S.E.C. would have if their stock holdings were subjected to the independence rules being proposed for the accountants. He also demanded that Levitt produce proof that non-audit consulting undermines auditors' accuracy. "It was a shot across the bow from the industry," Levitt says. "They were saying, 'If you go forward, expect a lot of pain.' "

In the following weeks, he said, Tauzin "badgered me relentlessly. He knew what the accountants were doing before I did. He was working very closely with them. I don't mean to sound cynical, but is it because he loves accountants?" At one point, relations between the two men grew so bad that Levitt hung up on Tauzin, because he felt that "his words and his tone were threatening."

Tauzin was not alone. In the four weeks after Levitt announced his intention to go through with the proposed new rules, forty-six more congressmen wrote to him questioning them. Data from the Center for Responsive Politics show that in 2000 the accountants contributed more than ten million dollars to political campaigns and spent $12.6 million on federal lobbying. Arthur Andersen alone nearly doubled its lobbying budget in the second half of the year, to $1.6 million. Among the lobbyists hired by the industry were Vic Fazio, a former congressman; Jack Quinn, a former Clinton White House counsel; Ed Gillespie, a former Bush campaign adviser; Patrick Griffin, Clinton's former congressional liaison; Dan Brouillette, a former aide to Tauzin who is now an Assistant Energy Secretary; and a number of other former Hill staff people.

Now, however, Tauzin has joined in the public outrage toward Enron and Andersen; in a House hearing that he chaired, he called the case "an old-fashioned example of theft by insiders, and a failure of those responsible for them to prevent that theft." He told me that money hadn't influenced his earlier defense of the accountants. "Donations have never bought anybody any slack with this committee," he said. "I'm not saying that contributions don't have the power to corrupt. They do. But I always assume people contribute to me because they like the work I do."

By early fall of 2000, Levitt says, he began to hear another kind of threat; lobbyists told him that if he didn't back off there would be a push to cut the S.E.C.'s funding. "They were going to place a rider on our appropriations budget," Levitt said, still sounding as if he could not believe it. Jay Velasquez, a lobbyist for the accountants at the time, confirmed this. "You have to consider all your options," he said. "There is no doubt that the rider was a consideration. In these battles, everything is on the table." Henry Bonilla, a Texas Republican with an anti-regulatory temperament who is a member of the House Appropriations Committee, was prepared to attach the rider. Bowsher, the former G.A.O. head, says that such threats were once unthinkable. "In the old days, the S.E.C. was off limits to that kind of pressure. It was a place the private sector respected. Nobody, nobody, would have thought about asking Congress to cut the budget."

Representative Tom Udall, a Democrat from New Mexico, says that his staff urged him to sign a widely circulated letter to Levitt opposing the proposed rules, because so many of his colleagues had. "There's sort of a herd mentality," he said. He refused; he knew Levitt slightly, through mutual friends in Santa Fe. "Levitt was out to solve these things before people realized there was a problem. That's the sign of a leader. But the special interests have such a hold on members of Congress that they were able to stop a lot of things."

Levitt initiated a nationwide series of public hearings about accounting abuses, fighting back as if he were involved in a political campaign. Damon Silvers, an A.F.L.–C.I.O. official who supported the S.E.C.'s position, recalls that "Levitt looked like a figure from some old movie—he was sitting at a huge desk at the S.E.C. with a bank of phones, talking on several lines at once."

But by then Levitt's eight-year term at the S.E.C. was about to expire, and the accounting-industry supporters developed a new strategy: they started to oppose the rule's substance on procedural grounds, arguing that there hadn't been enough time for public hearings. "Of course, we knew that by calling for more time it would mean the end of Levitt," one lobbyist said.

With the accounting firms threatening to take the S.E.C. to court if he went ahead with the rules, Levitt tried to strike a deal with the three firms who opposed him, at which point the two firms who had previously supported him turned against him. That night, one aide recalled, Levitt gave up. "I lost it," Levitt said.

In the end, he kept negotiating, and the S.E.C. agreed to let the firms continue to consult for the companies they audited. But the firms agreed to disclose the details to investors. "I knew it wasn't enough, but I thought we'd be overruled by Congress in one fashion or another," Levitt said. "The part of me that was insecure wanted a bird in the hand."

Almost exactly a year later, Enron's outside auditor, Arthur Andersen L.L.P., a company whose image had virtually defined Midwestern probity, made an astonishing admission. During the previous three years, when it had vouched for Enron's financial statements, the company's net income had actually been inflated by almost six hundred million dollars. In a financial market where stocks plummet if corporate earnings fall a penny short of projections, Enron was forced to reveal that its profits had been off by about twenty per cent over three years. As early as 1997, Andersen had known that Enron was inflating its income. But when Enron declined to correct the numbers Andersen certified them anyway. Within six months, Enron had filed for bankruptcy and Andersen had been indicted on charges of obstruction of justice for destroying documents related to its Enron work. Investors lost an estimated ninety-three billion dollars, a sum nearly equal to the amount of the economic-stimulus package that President Bush requested for the entire country. In the year before Enron's crash, Andersen had collected a million dollars a week from Enron for its expertise. More than half of that, Andersen acknowledged, in compliance with the new S.E.C. rule, was for non-auditing work.

"If these reforms had been in place earlier, we wouldn't have had an Enron," Lynn Turner told me. He laughed, but the laugh sounded a little forced as he spoke about Congress's newfound interest in reform. "Maybe the congressman were listening more than I thought—we just weren't giving them enough money," he said.

Not long ago, Levitt was called to testify before Congress about what went wrong at Arthur Andersen. "It was a play within a play," he told me. He said that he has little hope for meaningful change in the profession, despite all the bills under consideration, and despite commitments from Harvey Pitt, his successor at the S.E.C. Before Enron collapsed, Pitt promised the accountants "kinder and gentler" treatment than Levitt had shown them, but he has since sharpened his rhetoric and proposed a great many reforms. Pitt told me that his work for

> the accountants has made him better able to persuade them to change their ways because, "to put it bluntly, I know where the bodies are buried." But Pitt dismissed Levitt's approach—separating auditing from consulting—as "a simplistic solution to a complex problem," and told me that he thought it could prove counterproductive. "A firm that does only audits may be incompetent," he said.
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> "That's the same argument that the accountants put forward," Levitt said with a sigh. "I didn't accept it then, and I accept it even less today. I have to conclude it's specious. It's very sad. The Administration is missing a glorious opportunity to reform this industry."

The failure of Arthur Andersen to provide an accurate audit of Enron for several years is not a new or isolated problem. All of the Big Five accounting firms have been implicated in failed audits that cost investors billions of dollars when earnings restatements sent stock tumbling. I have here a chart that shows how failed audits have cost investors billions, how a company named MicroStrategy with PricewaterhouseCoopers, the auditor, lost $10 billion, $10.4 billion in lost market capitalization; and the list is a pretty extensive list.

For-profit private auditors have an inherent conflict of interest. They are hired and fired by their audit clients. If their draft audit does not please the firm they are auditing, they may lose future business unless they change their ways to please the firm.

As a result, auditors have a strong incentive to sign-off on substandard financial statements rather than risk losing a client. The integrity and the independence of the audit is undermined by the profit-seeking motive of the private auditing firm.

This amendment which I have brought before the House would ensure the independence of the audit, and I am offering a substitute amendment. Actually, this bill creates a Federal bureau of audits to regulate corporate America's books by auditing all publicly traded companies.

Americans rely on the FBI to protect them from criminals and terrorists, but who protects the American shareholders from corporate criminals? The Enron scandal suggests that we need audit cops, the Federal bureau of audits. This is a conservative pro-free market amendment to the Corporate and Auditing Accountability, Responsibility, and Transparency Act because it guarantees shareholders accurate and partial information about their investments that requires an absolute separation between the auditors and companies they audit.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

This amendment offered by my friend from Ohio would basically create a Federal bureau of audits. The Kucinich amendment would actually put the Federal Government in charge of auditing the 17,000 public companies in the United States, essentially nationalizing the accounting profession; and that is simply not a good idea. In fact, it is really quite dangerous.

Overnight we would go from having the strongest capital market system in the world, with the best accounting, most integrity and most transparent disclosures to investors, to becoming the laughingstock of the global economy. Remember, this is the same Federal Government that cannot deliver a letter on time, cannot keep out illegal immigrants, and cannot buy a hammer for under $500.

The amendment would create a massive bureaucracy that is almost unimaginable, produce truly disastrous results, reducing substantially the quality of public audits and financial disclosures to investors. America's nearly 100 million investors, and investors from all over the world for that matter, would no longer have confidence in the audited financial statements of our 17,000 public companies.

It is not hyperbole to say this amendment would do great damage to our capital markets; but if my colleagues think the solution to the Enron problem is attacking with the creativity and efficiency of the DMV, then they should support this amendment. If they think, as I do, that a fair and balanced approach by experts is the best way to protect American investors, they should support the base bill and oppose this amendment.

Mr. Chairman, I strongly urge all Members to vote "no" on this very dangerous proposal, and later I will tell my colleagues what I really think.

Mr. Chairman, I reserve the balance of my time.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

It is good to see my friend from Ohio's feelings about this, particularly in light of the fact that America's investors have lost over $100 billion in a system where people are allowed to profit where they cook the books.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who knows firsthand from the constituents she represents in Texas what happens under this current system.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Ohio (Mr. KUCINICH) very much for his distinguished leadership on this issue, and I cannot thank the gentleman from New York (Mr. LAFALCE) enough for the leadership he has given to this, and may I personally on the floor of the House thank him for the assistance he has given to ex-Enron employees. We are very much appreciative of that.

Let me announce to the House that right now we are in the midst of very, very intense negotiations to simply be able to provide a refund of the severance pay that is owed over 4,000 employees that was canceled out by the bankruptcy filing over the weekend; and the day after it was cancelled, 4,000 of my constituents and Houstonians were laid out into the street.

I believe, unlike one of the journalists who suggested that those of us who represent Enron are trying to reconstruct ourselves, and I would like to take him on on that issue, I think what we are trying to do is to think out of the box and be able to respond to what the American people would like. They want some very strong legislation that answers these concerns, and that is why I am supporting the Brad Sherman amendment. I am supporting the LaFalce substitute, and I come to the floor for the gentleman from Ohio (Mr. KUCINICH) because I believe that the previous announcement is incorrect.

The American people want a strong oversight bureau such as the Federal bureau of audits within the SEC. One of the problems was the weakness of the SEC in dealing with the debacle that occurred. We are not castigating those hardworking employees that are now trying to rebuild Enron in another name and do its business selling gas, but what we are saying is because there was no one looking into the dark of night, turning the light bulb on and letting us know about these audits that were coming in, individuals who could divest themselves of their investments, independent individuals who are not consulting and auditing at the same time, not only did we bring a company down that we in Houston believe was a great corporate citizen, giving to all the charities around; but we have put a taint on corporate America.

It is imperative that we pass the Kucinich amendment, the Sherman amendment, and the LaFalce substitute.

Mr. Chairman, I rise today in support of the Kucinich substitute to H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act.

This substitute would create a new office, the Federal Bureau of Audits, within the SEC. This office would be responsible for performing annual audits on the financial statements of all publicly-traded companies and replaces the current system of private auditors.

This new office would be afforded adequate powers to investigate, such as the power to hold hearings, issue subpoenas, administer oaths and examine witnesses. Moreover, Bureau employees would be required to place their investments in a blind trust and they would be prohibited from taking jobs or consulting fees from any company audited by the bureau for 10 years from the time they leave the agency.

I believe that this substitute adequately addresses the relationship between audit firms and companies that hire them. This Congress has witnessed and investigated in detail the conflict of interest that could occur in such a partnership.

Moreover, it guarantees shareholders accurate, impartial information about their investments. Many of my constituents in the 18th Congressional District were employed by Enron and deceived by shady auditing practices. They are now jobless and it is the responsibility of this body to see that this never happens again.

I urge my colleagues to vote for the Kucinich substitute.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), the chairman of the Subcommittee on Oversight and Investigations of the Committee on Financial Services.

Mrs. KELLY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. KUCINICH). This amendment is not balanced. It goes too far, and I do not believe it would do anything but great harm to the businesses of this country.

The free market is important, and it is important that we do not do things that will have unintended consequences and choke that free market. This amendment could do away with all accounting firms because, as the amendment states, and I quote, "The only truly independent audit is one by a government agency."

As we heard, the amendment creates the Federal bureau of audits. I guess it is modeled after the FBI so I can see auditors storming into companies with their calculators drawn, demanding individuals to freeze and drop their pencils.

The amendment seems to envision that the most efficient and effective auditor would be the U.S. Government. Somehow I just cannot agree with that, and I think this amendment is important for us to take a good look at for its unintended consequences.

I think the author is looking to combine the same level of efficiency to accounting that HUD brought to housing, perhaps. I imagine that the author is looking for the effectiveness of the IRS in its customer service.

Finally, with the accounting expertise of the Department of Defense with $100 hammers, I am sure our corporations will be in the best hands possible.

This amendment does not understand, I think, the concepts of reasonable, responsive response from our government, and I think this amendment needs to be defeated. I urge Members on both sides of the aisle to think about this and join us in the opposition to the amendment.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

I want to point out that Arthur Andersen not only participated in a fraud, it manipulated this Congress to ensure that the firm could participate in other frauds with deceptive company executives.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the gentleman from Ohio (Mr. KUCINICH) for yielding me the time.

I rise in support of the Kucinich and Progressive Caucus substitute to H.R. 3763. This substitute restores integrity to investor-owned companies by ensuring that the investors and taxpayers and employees get an accurate assessment of a corporation.

We know that the Enron debacle demonstrated how corrupting the so-called free market is when corporate officials and auditing firms are intertwined. When we create the Federal bureau of audits we remove this corrupting influence, and appointments for 12 years remove the temptation of Congress to tamper with the watchdog duties.

So let us remove the conflict of interest between corporations and auditing firms they can hire and fire. We can guarantee shareholders accurate and impartial information about their investments, and that is the true free market solution to this problem.

The underlying bill is more than a no no bill. It is a no no no no no no no no bill because does the bill help the SEC recover ill-gotten gains from corporate executives? No. Does it make CEOs responsible for their companies' public disclosures? No. Does it help the SEC send those who commit fraud to jail? No. Does it bar bad executives from serving in other companies? No. Does it make auditors independent? No. Does it ensure the oversight board is independent? No. Does it give the oversight board a clear mandate? No. Does it require auditors to be rotated? No. Does it close the revolving doors between accountants and their clients? No.

The underlying bill could be termed the Ken Lay Protection Act. We can no longer have the fox guarding the hen house. The Kucinich amendment fixes the problem.

□ 1300

The CHAIRMAN. The Chair advises Members that the gentleman from Ohio (Mr. OXLEY) has 6 minutes remaining and the gentleman from Ohio (Mr. KUCINICH) has 2½ minutes remaining.

Mr. OXLEY. Mr. Chairman, I would inquire of the Chair whether the gentleman from Ohio has further speakers.

Mr. KUCINICH. Right here. I will be closing. Mr. Chairman, I have the right to close on this?

The CHAIRMAN. The Chair will advise the Member that the gentleman from Ohio (Mr. OXLEY) has the right to close.

Mr. KUCINICH. Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding me this time.

The Kucinich amendment is an interesting one in its practical effect. We are going to create a government entity that is going to have the sole and specific authority to evaluate the financial condition of 17,000 public corporations. Now, if anyone has tried to read a single financial statement and understand it and then evaluate its accuracy, one can pretty quickly determine that this is a responsibility beyond any magnitude that anyone could possibly comprehend.

The amendment, I am sure, is based on a good-faith effort to be responsive to the Enron crisis, but this would be the crisis of all crises. We would have a complete inability to have a free flow of information from the corporation to their investors without this intervening government regulatory body giving its stamp of approval.

I do not know how many of you have ever had any difficulty, let us say, with the IRS in trying to work through its maze of regulatory constraints and get a direct answer overnight on whether or not you are filing the form properly. This is like taking the IRS and sticking it in the corporate board room of every corporation in America. This will not work.

I understand the gentleman's concerns and share those concerns. Many innocent third parties were harmed by the failure of Enron, Global Crossing, and perhaps others yet to be disclosed. And I feel for those individuals who likely will never get any of those funds back in their retirement accounts or who have lost their jobs. But let us make it clear, there are ongoing criminal investigations, and prosecutions certainly to follow, because under the simplest of rules, under rule 10(b)5 of the SEC's regulations, there was fraud committed. People are going to jail.

What we are trying to do is to create a manner in which a free flow of accurate information can be given to investors to make quality decisions. That is what the underlying bill will do.

Mr. KUCINICH. Mr. Chairman, I yield myself 1 minute.

Americans are urged to own a piece of the rock; invest in corporate America. We have gone from a psychology of owning a piece of the rock to owning a piece of the Brooklyn Bridge. Because what is happening is that investors are not being given accurate information by accountants who have an inherent conflict of interest.

It is said the pen is mightier than the sword. Well, this pencil is mightier than the free market, apparently, because a pencil can change the nature of the free market by misstating earnings and then restating earnings and having the value of the stock drop. And then what happens to investors? Nothing. They lose it all.

We need to take a stand here. A free market requires accurate information to operate efficiently. My amendment is the only amendment that guarantees accurate information for investors, and my amendment is profoundly conservative. It is totally dedicated to protecting and conserving the property of investors.

Who is taking a stand here for the investors, to make sure that investors get information that is accurate and upon which they can make decisions on how they are going to spend their money?

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I understand I have the right to close and I plan to do so, and would so indicate to my friend.

Mr. KUCINICH. How much time remains, Mr. Chairman?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 1½ minutes remaining, the gentleman from Ohio (Mr. OXLEY) has 4 minutes remaining.

Mr. KUCINICH. Mr. Chairman, I continue to reserve the balance of my time, unless the gentleman is going to close right now.

Mr. OXLEY. I am prepared to close.

Mr. LAFALCE. Mr. Chairman, will the gentleman from Ohio yield me 1 minute?

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. KUCINICH) for his good-faith effort to deal with the problem, and if we were starting anew, I might well favor this approach.

We do have examiners for our banks, our national banks and our State banks, and they work for the government. We do have examiners for our thrifts, and they work for the government. We do have examiners for our credit unions, and they work for the government. It works. And the reason we had examiners for the government is because we trusted them. We thought that they would be representing the public interest.

We devised this system in an era when most people put almost all of their money in banks, in thrifts, in credit unions. That is no longer the case. Now, most people are putting most of their hard-earned money in publicly traded corporations.

And while I suspect the amendment of the gentleman from Ohio (Mr. KUCINICH) goes further than we can politically do at this juncture, I commend him for at least raising the issue.

Mr. KUCINICH. Mr. Chairman, I yield myself the balance of my time.

Let us go to middle America, where men and women who work hard all their lives to establish some kind of a financial nest egg put their faith not only in the market, but in this country, and invest in various corporate enterprises. Mr. and Mrs. Middle America are the backbone of this economy. They work, they help produce taxes for this country, and they help produce wealth that can continue to grow and make America the strong country which it is.

What happens when they cannot have confidence that the earnings statements of the companies in which they are investing are real? What if there is no credibility for a market that one day goes up and the other day goes down because people are lying about their books?

There is something that is at stake here that is much larger than this bill that is before the House for debate. And what is at stake here is the confidence that people need to have in our free market system. And the only way you can rescue that in a climate where the accounting industry has basically stolen a march on regulators is to retrieve the role of the government in assuring that people's investments are going to be protected.

That is what this amendment is about. The free market economy again requires accurate information to operate efficiently. And so I ask all of my colleagues, where is your commitment to free markets today? Where will you stand when your constituents ask what happened to my investment; why did they lie to me; and why did you not do something about it?

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

I would welcome my friend from Ohio to the conservative ranks if I really thought this amendment was conservative in nature, but it is hardly that. This is a big government solution. It is a one-size-fits-all solution. It is essentially the neutron bomb. I guess his message is, if you have lost faith in the free market, you need to have faith in big government.

I do not think people are ready to make that leap. I think they understand intuitively, based on their investments, that they trust the free market, and they trust that our markets are the most open and efficient markets in the world, represented by the American marketplace. That is really the message.

And, indeed, people have changed dramatically. Probably just a few years ago when I first came to Congress, two-thirds of people's savings were in bank accounts and only a third in equities. That is totally turned around now. We have become a Nation of investors from a Nation of savers, and that is a positive development. We have 46 million in 401(k) plans that are invested in those accounts. We have over half of the households today invested in equities.

We have the most robust market in the history of the world. Let us not change that. Let us not endanger that free market with the Kucinich amendment. I ask the Members to vote against the Kucinich amendment and for the underlying bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. KUCINICH).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 39, noes 381, not voting 14, as follows:

[Roll No. 107]

AYES—39

Abercrombie
Baldwin
Berkley
Bonior
Clayton
Clyburn
Conyers
Davis (IL)
Evans
Filner
Frank
Green (TX)
Gutierrez
Hastings (FL)
Hilliard
Jackson (IL)
Jackson-Lee (TX)
Kaptur
Kennedy (RI)
Kucinich
Lee
Lewis (GA)
McDermott
McKinney
Mink
Olver
Owens
Pascrell
Pastor
Payne
Roybal-Allard
Sanders
Schakowsky
Solis
Stark
Thompson (MS)
Waters
Watson (CA)
Woolsey

NOES—381

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)

Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Paul
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reyes
Reynolds
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Blagojevich
DeGette
English
Gilchrest
Hart
Houghton
Pryce (OH)
Regula
Riley
Rodriguez
Smith (WA)
Thune
Traficant
Weiner

□ 1333

Messrs. BACA, KINGSTON, SAXTON, Mrs. DAVIS of California, Messrs. CUMMINGS, GEORGE MILLER of California, BURR of North Carolina and Ms. CARSON of Indiana changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. ENGLISH. Mr. Speaker, on rollcall vote No. 107, I was unavoidably detained at an event with several of my colleagues and missed the vote. Had I been present, I would have voted "no."

Mr. WEINER. Mr. Speaker, on Wednesday, April 24, 2002, I was unavoidably detained and missed rollcall vote No. 107. Had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 107–418.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 5 OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 5 offered by Mr. LAFALCE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Auditor oversight.
Sec. 3. Improper influence on conduct of audits.
Sec. 4. Real-time disclosure of financial information.
Sec. 5. Insider trades during pension fund blackout periods prohibited.
Sec. 6. Improved transparency of corporate disclosures.
Sec. 7. Improvements in reporting on insider transactions and relationships.
Sec. 8. Enhanced oversight of periodic disclosures by issuers.
Sec. 9. Retention of records.
Sec. 10. Removal of unfit corporate officers.
Sec. 11. Disgorgement required.
Sec. 12. CEO and CFO accountability for disclosure.
Sec. 13. Securities and Exchange Commission authority to provide relief.
Sec. 14. Authorization of appropriations of the Securities and Exchange Commission.
Sec. 15. Analyst conflicts of interest.
Sec. 16. Independent directors.
Sec. 17. Enforcement of audit committee governance practices.
Sec. 18. Review of corporate governance practices.
Sec. 19. Study of enforcement actions.
Sec. 20. Study of credit rating agencies.
Sec. 21. Study of investment banks
Sec. 22. Study of model rules for attorneys of issuers.
Sec. 23. Enforcement authority.
Sec. 24. Exclusion for investment companies.
Sec. 25. Definitions.

SEC. 2. AUDITOR OVERSIGHT.

(a) CERTIFIED FINANCIAL STATEMENT REQUIREMENTS.—If a financial statement is required by the securities laws or any rule or regulation thereunder to be certified by an independent public or certified accountant, an accountant shall not be considered to be qualified to certify such financial statement, and the Securities and Exchange Commission shall not accept a financial statement certified by an accountant, unless such accountant—

(1) is subject to a system of review by a public regulatory organization that complies with the requirements of this section and the rules prescribed by the Commission under this section; and

(2) has not been determined in the most recent review completed under such system to be not qualified to certify such a statement.

(b) ESTABLISHMENT OF PRO.—

(1) ESTABLISHMENT REQUIRED.—Not later than 90 days after the date of enactment of this section, the Commission shall establish a public regulatory organization to perform the duties set forth in this section.

(2) CHAIRMAN.—The Chairman of the public regulatory organization shall be appointed by the Commission for a term of 5 years.

(3) APPOINTMENT OF PUBLIC REGULATORY ORGANIZATION MEMBERS.—There shall be 6 additional public regulatory organization members, who shall be selected jointly by the Chairman of the public regulatory organization and the Chairman of the Commission.

(4) ACCOUNTANT MEMBERS.—Up to 2 of the members may be present or former certified public accountants, provided such members—

(A) are not currently in public practices;

(B) have not been a person associated with a public accounting firm for a period of at least 3 years; and

(C) agree to not be a person associated with a public accounting firm or to receive consulting fees from a public accounting firm for a period of 5 years after leaving the public regulatory organization.

(5) NOMINATIONS.—In making appointments of members, the Chairman of the public regulatory organization and the Chairman of the Commission shall consult with, and make appointments from nominations received from—

(A) institutional investors;

(B) public employee pension plans;

(C) pension plans organized pursuant to the Employee Retirement Income Security Act of 1974; and

(D) pension plans organized pursuant to the Taft-Hartley Act.

(6) TERMS.—The members of the public regulatory organization shall have terms of 4 years, except that the Chairman of the public regulatory organization and the Chairman of the Commission shall adopt procedures for staggering the initial terms of the members first so appointed to provide for a reasonable overlapping of the terms of office of subsequently elected members.

(7) FULL-TIME BASIS.—The members of the public regulatory organization shall serve on a full-time basis, severing all business ties with former firms or employers prior to beginning service on the public regulatory organization.

(8) RULES.—Following selection of the initial members of the public regulatory organization, the public regulatory organization shall propose and adopt rules, which shall provide for—

(A) the operation and administration of the public regulatory organization, including the compensation of the members of the public regulatory organization, which shall be at a level comparable to similar professional positions in the private sector;

(B) the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the public regulatory organization's functions under this section;

(C) the registration of public accounting firms with the public regulatory organization pursuant to subsections (d); and

(D) the matters described in subsections (e) and (f).

(9) FUNDING OF THE PUBLIC REGULATORY ORGANIZATION.—

(A) SELF-FINANCING.—The public regulatory organization shall establish rules for the assessment and collection of fees sufficient to recover the costs and expenses of the public regulatory organization and to permit the public regulatory organization to operate on a self-financing basis.

(B) ASSESSMENT AND COLLECTION.—The fees shall be assessed on issuers that file any financial statements, reports, or other documents with the Commission under the securities laws that must be certified by a public accounting firm. The fees shall be collected through the public accounting firm that certifies such statement, report, or document.

(C) PAYMENT A CONDITION OF REGISTRATION.—The public regulatory organization shall terminate or suspend the registration under subsection (d) of any public accounting firm that fails to collect and transmit a fee assessed under this subsection.

(c) PROHIBITION ON THE OFFER OF BOTH AUDIT AND CONSULTING SERVICES.—

(1) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent with respect to an audit client if the accountant provides to the client the following nonaudit services, subject to such conditions and exemptions as the Commission shall prescribe:

(A) financial information system design or implementation; or

(B) internal audit services.

(2) AUDIT COMMITTEE APPROVAL OF NONAUDIT SERVICES.—The Commission shall revise its regulations pertaining to auditor independence to require that—

(A) an accountant shall not be considered to be independent for purposes of certifying the financial statements or other documents of an issuer required to be filed with the Commission under the securities laws for any fiscal year of the issuer if, during such fiscal year, the accountant provides any nonaudit services unless the provision of such nonaudit services was approved in advance by the audit committee or, in the absence of an audit committee, the equivalent board committee or the entire board of directors; and

(B) in approving such services, the audit committee shall evaluate the impact of the provision of such services on the independence of the auditor.

(3) REVIEW OF PROHIBITED NONAUDIT SERVICES.—The Commission is authorized to review the impact on the independence of auditors of the scope of services provided by auditors to issuers in order to determine whether the list of prohibited nonaudit services under paragraph (1) shall be modified. In conducting such review, the Commission shall consider the impact of the provision of a service on an auditor's independence where provision of the service creates a conflict of interest with the audit client.

(4) ADDITIONS BY RULE.—After conducting the review required by paragraph (3) and at any other time, the Commission may, by rule consistent with the protection of investors and the public interest, modify the list of prohibited nonaudit services under paragraph (1).

(5) REPORT.—The Commission shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its conduct of any reviews as required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

(6) DEFINITIONS.—For purposes of this subsection:

(A) FINANCIAL INFORMATION SYSTEM DESIGN OR IMPLEMENTATION.—The term "financial information systems design or implementation" means designing or implementing a hardware or software system used to generate information that is significant to the audit client's financial statements taken as a whole, not including services an accountant performs in connection with the assessment, design, and implementation of internal accounting controls and risk management controls.

(B) INTERNAL AUDIT SERVICES.—The term "internal audit services" means internal audit services for an audit client or an affiliate of an audit client, not including nonrecurring evaluations of discrete items or programs and operational internal audits unrelated to the internal accounting controls, financial systems, or financial statements.

(7) DEADLINE FOR RULEMAKING.—The Commission shall—

(A) within 90 days after the date of enactment of this Act, propose, and

(B) within 270 days after such date, prescribe,

the revisions to its regulations required by this subsection.

(d) REGISTRATION WITH PUBLIC REGULATORY ORGANIZATION.—

(1) REGISTRATION REQUIRED.—Beginning 1 year after the date on which all initial members of the public regulatory organization have been selected in accordance with subsection (b), it shall be unlawful for a public accounting firm to furnish an accountant's report on any financial statement, report, or other document required to be filed with the Commission under any Federal securities law, unless such firm is registered with the public regulatory organization.

(2) APPLICATION FOR REGISTRATION.—A public accounting firm may be registered under this subsection by filing with the public regulatory organization an application for registration in such form and containing such information as the public regulatory organization, by rule, may prescribe. Each application shall include—

(A) the names of all clients of the public accounting firm for which the firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission;

(B) financial information of the public accounting firm for its most recent fiscal year, including its annual revenues from accounting and auditing services, its assets, and its liabilities;

(C) a statement of the public accounting firm's policies and procedures with respect to quality control of its accounting and auditing practice;

(D) information relating to criminal, civil, or administrative actions or formal disciplinary proceedings pending against such firm, or any person associated with such firm, in connection with an accountant's report furnished by such firm;

(E) a list of persons associated with the public accounting firm who are certified public accountants, including any State professional license or certification number for each such person; and

(F) such other information that is reasonably related to the public regulatory organization's responsibilities as the public regulatory organization considers necessary or appropriate.

(3) PERIODIC REPORTS.—Once in each year, or more frequently as the public regulatory organization, by rule, may prescribe, each public accounting firm registered with the public regulatory organization shall submit reports to the public regulatory organization updating the information contained in its application for registration and containing such additional information that is reasonably related to the public regulatory organization's responsibilities as the public regulatory organization, by rule, may prescribe.

(4) EXEMPTIONS.—The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any public accounting firm or any accountant's report, or any class of public accounting firms or any class of accountant's reports, from any provisions of this section or the rules or regulations issued hereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section.

(5) CONFIDENTIALITY.—The public regulatory organization may, by rule, designate portions of the filings required pursuant to paragraphs (2) and (3) as privileged and confidential. This paragraph shall be considered to be a statute described in section 552(b)(3)(B) of title 5, United States Code, for purposes of that section 552.

(e) DUTIES REGARDING QUALITY CONTROL.—

(1) OBJECTIVES; ATTAINMENT.—The public regulatory organization shall seek to promote a high level of professional conduct among public accounting firms registered with the public regulatory organization, to improve the quality of audit services provided by such firms, and, in general, to protect investors and promote the public interest. The public regulatory organization shall attain these objectives—

(A) by establishing standards regarding the performance of financial audits in accordance with the requirements of paragraph (2);

(B) by the direct performance of quality reviews and inspections of audits in accordance with the requirements of paragraphs (3) and (4); and

(C) by the supervision and oversight of peer review organizations in accordance with the requirements of paragraph (5).

(2) AUDIT QUALITY STANDARDS.—

(A) IN GENERAL.—The public regulatory organization shall, by rule, establish quality standards applicable to the conduct of audit services provided by public accounting firms. Such standards shall include—

(i) independence standards;

(ii) quality control standards;

(iii) professional and ethical standards; and

(iv) such other standards as the public regulatory organization determines to be necessary to carry out the objectives specified in paragraph (1).

(B) SPECIFIC CONTENTS OF STANDARDS.—In establishing the quality standards required by subparagraph (A), the public regulatory organization shall also establish—

(i) procedures for the monitoring by public accounting firms of their compliance with professional ethical standards established by the public regulatory organization, including its independence from its audit clients;

(ii) procedures for the assignment of personnel to audit engagements;

(iii) procedures for consultation within a public accounting firm or with other accountants relating to accounting and auditing questions;

(iv) procedures for the supervision of audit work;

(v) procedures for the review of decisions to accept and retain audit clients;

(vi) procedures for the internal inspection of the public accounting firms own compliance with such policies and procedures;

(vii) requirements for public accounting firms to prepare and maintain for a period of no less than 7 years, audit work papers and other information related to any audit report, in sufficient detail to support the conclusions reached in an audit report issued by a public accounting firm; and

(viii) procedures establishing "concurring" or "second" partner review systems for the evaluation and review of audit work by a partner that is not in charge of the conduct of the audit.

(3) DIRECT REVIEWS OF PUBLIC ACCOUNTING FIRMS.—The public regulatory organization shall, by rule, establish procedures for the conduct of a continuing program of inspections of each public accounting firm registered with the public regulatory organization to assess compliance by such firm, and by persons associated with such firm, with applicable provisions of this Act, the securities laws, the rules and regulations thereunder, the rules adopted by the public regulatory organization, and professional standards. Except as provided in paragraph (5), the public regulatory organization shall annually inspect each public accounting firm that audits more than 100 issuers on an ongoing annual basis, to the extent practicable, and all other public accounting firms no less than at least once every 3 years. In conducting such inspections, the public regulatory organization shall, among other things, inspect selected audit and review engagements. The review shall include evaluations of the firm's quality control procedures and compliance with all legal and ethical requirements. In connection with each review, the public regulatory organization shall prepare a report of its findings and such report, accompanied by any letter of comments by the public regulatory organization or reviewer and any letter of response from the firm under review, shall be made available to the public. The public regulatory organization shall take any appropriate disciplinary or remedial action based on its findings after completion of such review and an opportunity for a hearing.

(4) QUALITY REVIEW OF INDIVIDUAL AUDITS.—The public regulatory organization shall, by rule, establish procedures for the conduct of direct inspection and review of individual audits of issuers and standards under which it will evaluate audit service quality. A finding by the public regulatory organization that an individual audit of an issuer did or did not meet the standards of the public regulatory organization with respect to the quality of the audit shall not be construed in any action arising out of the securities laws as indicative of compliance or noncompliance with the securities laws or with any standard of liability arising thereunder.

(5) USE OF PROFESSIONAL PEER REVIEW ORGANIZATIONS.—

(A) OPTION TO UTILIZE PEER REVIEW ORGANIZATIONS.—The public regulatory organization may, by rule, establish requirements for the use of peer review organizations for the purposes of conducting the continuing program of inspections to assess compliance as required by paragraph (3) of each public accounting firm registered with the public regulatory organization. Such rule shall provide for appropriate oversight and supervision of such peer review organization by the public regulatory organization to ensure that such inspections meet the requirements of such paragraph.

(B) PENALTIES.—If the public regulatory organization establishes requirements for the conduct of peer reviews under subparagraph (A), the violation by a public accounting firm or a person associated with such a firm of a rule of the peer review organization to which the firm belongs shall constitute grounds for—

(i) the imposition of disciplinary sanctions by the public regulatory organization pursuant to subsection (g); and

(ii) denial to the public accounting firm or person associated with such firm of the privilege of appearing or practicing before the Commission.

(6) CONFIDENTIALITY.—Except as otherwise provided by this section, all reports, memoranda, and other information provided to the public regulatory organization solely for purposes of paragraph (3) or (4), or to a peer review organization certified by the public regulatory organization, shall be confidential, unless such confidentiality is expressly waived by the person or entity that created or provided the information.

(f) DISCIPLINARY DUTIES OF PUBLIC REGULATORY ORGANIZATION.—The public regulatory organization shall have the following duties and powers:

(1) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—The public regulatory organization shall establish fair procedures for investigating and disciplining public accounting firms registered with the public regulatory organization, and persons associated with such firms, for violations of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission.

(2) INVESTIGATION PROCEDURES.—

(A) IN GENERAL.—The public regulatory organization may conduct an investigation of any act, practice, or omission by a public accounting firm registered with the public regulatory organization, or by any person associated with such firm, in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission that may violate any applicable provision of the Federal securities laws, the rules and regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards, whether such act, practice, or omission is the subject of a criminal, civil, or administrative action, or a disciplinary proceeding, or otherwise is brought to the attention of the public regulatory organization.

(B) POWERS OF PUBLIC REGULATORY ORGANIZATION.—For purposes of an investigation under this paragraph, the public regulatory organization may, in addition to such other actions as the public regulatory organization determines to be necessary or appropriate—

(i) require the testimony of any person associated with a public accounting firm registered with the public regulatory organization, with respect to any matter which the public regulatory organization considers relevant or material to the investigation;

(ii) require the production of audit workpapers and any other document or information in the possession of a public accounting firm registered with the public regulatory organization, or any person associated with such firm, wherever domiciled, that the public regulatory organization considers relevant or material to the investigation, and may examine the books and records of such firm to verify the accuracy of any documents or information so supplied; and

(iii) request the testimony of any person and the production of any document in the possession of any person, including a client of a public accounting firm registered with the public regulatory organization, that the public regulatory organization considers relevant or material to the investigation.

(C) SUSPENSION OR REVOCATION OF REGISTRATION FOR NONCOMPLIANCE.—The refusal of any person associated with a public accounting firm registered with the public regulatory organization to testify, or the refusal of any such person to produce documents or otherwise cooperate with the public regulatory organization, in connection with an investigation or hearing under this section, shall be cause for suspending or barring such person from associating with a public accounting firm registered with the public regulatory organization, or such other appropriate sanction authorized by paragraph (3)(B) as the public regulatory organization shall determine. The refusal of any public accounting firm registered with the public regulatory organization to produce documents or otherwise cooperate with the public regulatory organization, in connection with an investigation or hearing under this section, shall be cause for the suspension or revocation of the registration of such firm, or such other appropriate sanction authorized by paragraph (3)(B) as the public regulatory organization shall determine.

(D) REFERRAL TO COMMISSION.—

(i) IN GENERAL.—If the public regulatory organization is unable to conduct or complete an investigation or hearing under this section because of the refusal of any client of a public accounting firm registered with the public regulatory organization, or any other person, to testify, produce documents, or otherwise cooperate with the public regulatory organization in connection with such investigation, the public regulatory organization shall report such refusal to the Commission.

(ii) INVESTIGATION.—The Commission may designate the public regulatory organization or one or more officers of the public regulatory organization who shall be empowered, in accordance with such procedures as the Commission may adopt, to subpoena witnesses, compel their attendance, and require the production of any books, papers, correspondence, memoranda, or other records relevant to any investigation by the public regulatory organization. Attendance of witnesses and the production of any records may be required from any place in the United States or any State at any designated place of hearing. Enforcement of a subpoena issued by the public regulatory organization, or an officer of the public regulatory organization, pursuant to this subparagraph shall occur in the manner provided for in section 21(c). Examination of witnesses subpoenaed pursuant to this subparagraph shall be conducted before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(iii) REFERRALS TO COMMISSION.—The public regulatory organization may refer any investigation to the Commission, as the public regulatory organization deems appropriate.

(E) IMMUNITY FROM CIVIL LIABILITY.—An employee of the public regulatory organization engaged in carrying out an investigation or disciplinary proceeding under this section shall be immune from any civil liability arising out of such investigation or disciplinary proceeding in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(3) DISCIPLINARY PROCEDURES.—

(A) DECISION TO DISCIPLINE.—In a proceeding by the public regulatory organization to determine whether a public accounting firm, or a person associated with such firm, should be disciplined, the public regulatory organization shall bring specific charges, notify such firm or person of the charges, give such firm or person an opportunity to defend against such charges, and keep a record of such actions.

(B) SANCTIONS.—If the public regulatory organization, after conducting a review and providing an opportunity for a hearing, finds that a public accounting firm, or a person associated with such firm, has engaged in any act, practice, or omission in violation of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards, the public regulatory organization may impose such disciplinary sanctions as it deems appropriate, including—

(i) temporary or permanent revocation or suspension of registration under this section;

(ii) limitation of activities, functions, and operations;

(iii) fine;

(iv) censure;

(v) in the case of a person associated with a public accounting firm, suspension or bar from being associated with a public accounting firm registered with the public regulatory organization; and

(vi) any such other disciplinary sanction or remedial action as the public regulatory organization has established by rule that the public regulatory organization determines to be appropriate to prevent the recurrence of the violation.

(C) STATEMENT REQUIRED.—A determination by the public regulatory organization to impose a disciplinary sanction shall be supported by a written statement by the public regulatory organization that shall be made available to the public and that sets forth—

(i) any act or practice in which the public accounting firm or person associated with such firm has been found to have engaged, or which such firm or person has been found to have omitted;

(ii) the specific provision of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards which any such act, practice, or omission is deemed to violate; and

(iii) the sanction imposed and the reasons therefor.

(D) PROHIBITION ON ASSOCIATION.—It shall be unlawful—

(i) for any person as to whom a suspension or bar is in effect willfully to be or to become associated with a public accounting firm registered with the public regulatory organization, in connection with the preparation of an accountant's report on any financial statement, report, or other document filed with the Commission, without the consent of the public regulatory organization or the Commission; and

(ii) for any public accounting firm registered with the public regulatory organization to permit such a person to become, or remain, associated with such firm without the consent of the public regulatory organization or the Commission, if such firm knew or, in the exercise of reasonable care should have known, of such suspension or bar.

(4) REPORTING OF SANCTIONS.—If the public regulatory organization imposes a disciplinary sanction against a public accounting firm, or a person associated with such firm, the public regulatory organization shall report such sanction to the Commission, to the appropriate State or foreign licensing public regulatory organization or public regulatory organizations with which such firm or such person is licensed or certified to practice public accounting, and to the public. The information reported shall include—

(A) the name of the public accounting firm, or person associated with such firm, against whom the sanction is imposed;

(B) a description of the acts, practices, or omissions upon which the sanction is based;

(C) the nature of the sanction; and

(D) such other information respecting the circumstances of the disciplinary action (including the name of any client of such firm affected by such acts, practices, or omissions) as the public regulatory organization deems appropriate.

(5) DISCOVERY AND ADMISSIBILITY OF PUBLIC REGULATORY ORGANIZATION MATERIAL.—

(A) DISCOVERABILITY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the public regulatory organization, and the deliberations and other proceedings of the public regulatory organization and its employees and agents in connection with an investigation or disciplinary proceeding under this section shall not be subject to any form of civil discovery, including demands for production of documents and for testimony of individuals, in connection with any proceeding in any State or Federal court, or before any State or Federal administrative agency. This subparagraph shall not apply to any information provided to the public regulatory organization that would have been subject to discovery from the person or entity that provided it to the public regulatory organization, but is no longer available from that person or entity.

(ii) EXEMPTION.—Submissions to the public regulatory organization by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a public regulatory organization proceeding (other than a public hearing), including documents generated by the public regulatory organization itself, shall be exempt from discovery to the same extent as the material described in clause (i), whether in the possession of the public regulatory organization or any other person, if such submission—

(I) is prepared specifically for the purpose of the public regulatory organization proceeding; and

(II) addresses the merits of the issues under investigation by the public regulatory organization.

(iii) HEARINGS PUBLIC.—Except as otherwise ordered by the public regulatory organization on its own motion or on the motion of a party, all hearings under this paragraph shall be open to the public.

(B) ADMISSIBILITY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the public regulatory organization, the deliberations and other proceedings of the public regulatory organization and its employees and agents in connection with an investigation or disciplinary proceeding under this section, the fact that an investigation or disciplinary proceeding has been commenced, and the public regulatory organization's determination with respect to any investigation or disciplinary proceeding shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

(ii) TREATMENT OF CERTAIN DOCUMENTS.—Submissions to the public regulatory organization by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a public regulatory organization proceeding, including documents generated by the public regulatory organization itself, shall be inadmissible to the same extent as the material described in clause (i), if such submission—

(I) is prepared specifically for the purpose of the public regulatory organization proceedings; and

(II) addresses the merits of the issues under investigation by the public regulatory organization.

(C) AVAILABILITY AND ADMISSIBILITY OF INFORMATION.—

(i) IN GENERAL.—All information referred to in subparagraphs (A) and (B) shall be—

(I) available to the Commission;

(II) available to any other Federal department or agency in connection with the exercise of its regulatory authority to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation;

(III) available to Federal and State authorities in connection with any criminal investigation or proceeding;

(IV) admissible in any action brought by the Commission or any other Federal department or agency pursuant to its regulatory authority, to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation and in any criminal action; and

(V) available to State licensing public regulatory organizations to the extent authorized in paragraph (6).

(ii) OTHER LIMITATIONS.—Any documents or other information provided to the Commission or other authorities pursuant to clause (i) shall be subject to the limitations on discovery and admissibility set forth in subparagraphs (A) and (B).

(6) PARTICIPATION BY STATE LICENSING PUBLIC REGULATORY ORGANIZATIONS.—

(A) NOTICE.—When the public regulatory organization institutes an investigation pursuant to paragraph (2)(A), it shall notify the State licensing public regulatory organizations in the States in which the public accounting firm or person associated with such firm engaged in the act or failure to act alleged to have violated professional standards, of the pendency of the investigation, and shall invite the State licensing public regulatory organizations to participate in the investigation.

(B) ACCEPTANCE BY STATE PUBLIC REGULATORY ORGANIZATION.—If a State licensing public regulatory organization elects to join in the investigation, its representatives shall participate, pursuant to rules established by the public regulatory organization, in investigating the matter and in presenting the evidence justifying the charges in any hearing pursuant to paragraph (3)(A).

(C) STATE SANCTIONS PERMITTED.—If the public regulatory organization or the Commission imposes a sanction upon a public accounting firm or person associated with such a firm, and that determination either is not subjected to judicial review or is upheld on judicial review, a State licensing public regulatory organization may impose a sanction on the basis of the public regulatory organization's report pursuant to paragraph (4). Any sanction imposed by the State licensing public regulatory organization under this clause shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

(g) REVIEW AND APPROVAL OF RULES.—

(1) SUBMISSION, PUBLICATION, AND COMMENT.—Each recognized public regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such recognized public regulatory organization (hereinafter in this subsection collectively referred to as a "proposed rule change") accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this subsection.

(2) APPROVAL OR PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the recognized public regulatory organization consents, the Commission shall—

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the recognized public regulatory organization consents.

(3) BASIS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change of a recognized public regulatory organization if it finds that such proposed rule change is consistent with the requirements of this Act and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a recognized public regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

(4) RULES EFFECTIVE UPON FILING.—

(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the recognized public regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the recognized public regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the recognized public regulatory organization, or (iii) concerned solely with the administration of the recognized public regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as outside the provisions of such paragraph (2).

(B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, or otherwise in accordance with the purposes of this title. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph (1) of this subsection.

(C) Any proposed rule change of a recognized public regulatory organization which has taken effect pursuant to subparagraph (A) or (B) of this paragraph may be enforced by such organization to the extent it is not inconsistent with the provisions of this Act, the securities laws, the rules and regulations thereunder, and applicable Federal and State law. At any time within 60 days of the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) of this subsection, the Commission summarily may abrogate the change in the rules of the recognized public regulatory organization made thereby and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1) of this subsection and reviewed in accordance with the provisions of paragraph (2) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect, shall not be subject to court review, and shall not be deemed to be "final agency action" for purposes of section 704 of title 5, United States Code.

(h) COMMISSION ACTION TO CHANGE RULES.—The Commission, by rule, may abrogate, add to, and delete from (hereinafter in this subsection collectively referred to as "amend") the rules of a recognized public regulatory organization as the Commission deems necessary or appropriate to insure the fair administration of the recognized public regulatory organization, to conform its rules to requirements of this Act, the securities laws, and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this Act, in the following manner:

(1) The Commission shall notify the recognized public regulatory organization and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the recognized public regulatory organization and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the recognized public regulatory organization and a statement of the Commission's basis for and purpose in so amending such rules. This statement shall include an identification of any facts on which the Commission considers its determination so to amend the rules of the recognized public regulatory agency to be based, including the reasons for the Commission's conclusions as to any of such facts which were disputed in the rulemaking.

(4)(A) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

(B) Nothing in this subsection shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making, rules and regulations pursuant to any other authority under the securities laws.

(C) Any amendment to the rules of a recognized public regulatory organization made by the Commission pursuant to this subsection shall be considered for all purposes to be part of the rules of such recognized public regulatory organization and shall not be considered to be a rule of the Commission.

(i) COMMISSION OVERSIGHT OF THE PRO.—

(1) RECORDS AND EXAMINATIONS.—A public regulatory organization shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws.

(2) ADDITIONAL DUTIES; SPECIAL REVIEWS.—A public regulatory organization shall perform such other duties or functions as the Commission, by rule or order, determines are necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this Act and the securities laws, including conducting a special review of a particular public accounting firm's quality control system or a special review of a particular aspect of some or all public accounting firms' quality control systems.

(3) ANNUAL REPORT; PROPOSED BUDGET.—

(A) SUBMISSION OF ANNUAL REPORT AND BUDGET.—A public regulatory organization shall submit an annual report and its proposed budget to the Commission for review and approval, by order, at such times and in such form as the Commission shall prescribe.

(B) CONTENTS OF ANNUAL REPORT.—Each annual report required by subparagraph (A) shall include—

(i) a detailed description of the activities of the public regulatory organization;

(ii) the audited financial statements of the public regulatory organization;

(iii) a detailed explanation of the fees and charges imposed by the public regulatory organization under subsection (b)(9); and

(iv) such other matters as the public regulatory organization or the Commission deems appropriate.

(C) TRANSMITTAL OF ANNUAL REPORT TO CONGRESS.—The Commission shall transmit each approved annual report received under subparagraph (A) to the Committee on Financial Services of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate. At the same time it transmits a public regulatory organization's annual report under this subparagraph, the Commission shall include a written statement of its views of the functioning and operations of the public regulatory organization.

(D) PUBLIC AVAILABILITY.—Following transmittal of each approved annual report under subparagraph (C), the Commission and the public regulatory organization shall make the approved annual report publicly available.

(4) DISAPPROVAL OF ELECTION OF PRO MEMBER.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, to disapprove the election of any member of a public regulatory organization if the Commission determines, after notice and opportunity for hearing, that the person elected is unfit to serve on the public regulatory organization.

(j) CLARIFICATION OF APPLICATION OF PRO AUTHORITY.—The authority granted to any such organization in this section shall only apply to the actions of accountants related to the certification of financial statements required by securities laws and not other actions or actions for other clients of the accounting firm or any accountant that does not certify financial statements for publicly traded companies.

(k) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

rules to implement this section.

(l) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) of this section shall be effective with respect to any certified financial statement for any fiscal year that ends more than one year after the Commission recognizes a public regulatory organization pursuant to this section.

(2) DELAY IN ESTABLISHMENT OF BOARD.—If the Commission has failed to recognize any public regulatory organization pursuant to this section within one year after the date of enactment of this Act, the Commission shall perform the duties of such organization with respect to any certified financial statement for any fiscal year that ends before one year after any such board is recognized by the Commission.

SEC. 3. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) RULES TO PROHIBIT.—It shall be unlawful in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors for any officer, director, or affiliated person of an issuer of any security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of such issuer for the purpose of rendering such financial statements materially misleading. In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder.

(b) NO PREEMPTION OF OTHER LAW.—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation thereunder.

(c) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

the rules or regulations required by this section.

SEC. 4. REAL-TIME DISCLOSURE OF FINANCIAL INFORMATION.

(a) REAL-TIME ISSUER DISCLOSURES REQUIRED.—

(1) OBLIGATIONS.—Every issuer of a security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) shall file with the Commission and disclose to the public, on a rapid and essentially contemporaneous basis, such information concerning the financial condition or operations of such issuer as the Commission determines by rule is necessary in the public interest and for the protection of investors. Such rule shall—

(A) specify the events or circumstances giving rise to the obligation to disclose or update a disclosure;

(B) establish requirements regarding the rapidity and timeliness of such disclosure;

(C) identify the means whereby the disclosure required shall be made, which shall ensure the broad, rapid, and accurate dissemination of the information to the public via electronic or other communications device;

(D) identify the content of the information to be disclosed; and

(E) without limiting the Commission's general exemptive authority, specify any exemptions or exceptions from such requirements.

(2) ENFORCEMENT.—The Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder in civil proceedings.

(b) ELECTRONIC DISCLOSURE OF INSIDER TRANSACTIONS.—

(1) DISCLOSURES OF TRADING.—The Commission shall, by rule, require—

(A) that a disclosure required by section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) of the sale of any securities of an issuer, or any security futures product (as defined in section 3(a)(56) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(56))) or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) that is based in whole or in part on the securities of such issuer, by an officer or director of the issuer of those securities, or by a beneficial owner of such securities, shall be made available electronically to the Commission and to the issuer by such officer, director, or beneficial owner before the end of the next business day after the day on which the transaction occurs;

(B) that the information in such disclosure be made available electronically to the public by the Commission, to the extent permitted under applicable law, upon receipt, but in no case later than the end of the next business day after the day on which the disclosure is received under subparagraph (A); and

(C) that, in any case in which the issuer maintains a corporate website, such information shall be made available by such issuer on that website, before the end of the next business day after the day on which the disclosure is received by the Commission under subparagraph (A).

(2) TRANSACTIONS INCLUDED.—The rule prescribed under paragraph (1) shall require the disclosure of the following transactions:

(A) Direct or indirect sales or other transfers of securities of the issuer (or any interest therein) to the issuer or an affiliate of the issuer.

(B) Loans or other extensions of credit extended to an officer, director, or other person affiliated with the issuer on terms or conditions not otherwise available to the public.

(3) OTHER FORMATS; FORMS.—In the rule prescribed under paragraph (1), the Commission shall provide that electronic filing and disclosure shall be in lieu of any other format required for such disclosures on the day before the date of enactment of this subsection. The Commission shall revise such forms and schedules required to be filed with the Commission pursuant to paragraph (1) as necessary to facilitate such electronic filing and disclosure.

SEC. 5. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) DEFINITION.—For purposes of this section, the term "beneficial owner" has the meaning provided such term in rules or regulations issued by the Securities and Exchange Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

SEC. 6. IMPROVED TRANSPARENCY OF CORPORATE DISCLOSURES.

(a) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations under the securities laws pertaining to the disclosures required in periodic financial reports and registration statements to require such reports to include adequate and appropriate disclosure of—

(1) the issuer's off-balance sheet transactions and relationships with unconsolidated entities or other persons, to the extent they are not disclosed in the financial statements and are reasonably likely to materially affect the liquidity or the availability of, or requirements for, capital resources, or the financial condition or results of operations of the issuer; and

(2) loans extended to officers, directors, or other persons affiliated with the issuer on terms or conditions that are not otherwise available to the public.

(b) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

the revisions to its regulations required by subsection (a).

(c) ANALYSIS REQUIRED.—

(1) TRANSPARENCY, COMPLETENESS, AND USEFULNESS OF FINANCIAL STATEMENTS.—The Commission shall conduct an analysis of the extent to which, consistent with the protection of investors and the public interest, disclosure of additional or reorganized information may be required to improve the transparency, completeness, or usefulness of financial statements and other corporate disclosures filed under the securities laws.

(2) ALTERNATIVES TO BE CONSIDERED.—In conducting the analysis required by paragraph (1), the Commission shall consider—

(A) requiring the identification of the key accounting principles that are most important to the issuer's reported financial condition and results of operation, and that require management's most difficult, subjective, or complex judgments;

(B) requiring an explanation, where material, of how different available accounting principles applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail;

(C) in the case of any issuer engaged in the business of trading non-exchange traded contracts, requiring an explanation of such trading activities when such activities require the issuer to account for contracts at fair value, but for which a lack of market price quotations necessitates the use of fair value estimation techniques;

(D) establishing requirements relating to the presentation of information in clear and understandable format and language; and

(E) requiring such other disclosures, included in the financial statements or in other disclosure by the issuer, as would in the Commission's view improve the transparency of such issuer's financial statements and other required corporate disclosures.

(3) RULES REQUIRED.—If the Commission, on the basis of the analysis required by this subsection, determines that it is necessary in the public interest or for the protection of investors and would improve the transparency of issuer financial statements, the Commission may prescribe rules reflecting the results of such analysis and the considerations required by paragraph (2). In prescribing such rules, the Commission may seek to minimize the paperwork and cost burden on the issuer consistent with achieving the public interest and investor protection purposes of such rules.

SEC. 7. IMPROVEMENTS IN REPORTING ON INSIDER TRANSACTIONS AND RELATIONSHIPS.

(a) SPECIFIC OBJECTIVES.—The Commission shall initiate a proceeding to propose changes in its rules and regulations with respect to financial reporting to improve the transparency and clarity of the information available to investors and to require increased financial disclosure with respect to the following:

(1) INSIDER RELATIONSHIPS AND TRANSACTIONS.—Relationships and transactions—

(A) between the issuer, affiliates of the issuer, and officers, directors, or employees of the issuer or such affiliates; and

(B) between officers, directors, employees, or affiliates of the issuer and entities that are not otherwise affiliated with the issuer,

to the extent such arrangement or transaction creates a conflict of interest for such persons. Such disclosure shall provide a description of such elements of the transaction as are necessary for an understanding of the business purpose and economic substance of such transaction (including contingencies). The disclosure shall provide sufficient information to determine the effect on the issuer's financial statements and describe compensation arrangements of interested parties to such transactions.

(2) RELATIONSHIPS WITH PHILANTHROPIC ORGANIZATIONS.—Relationships between the registrant or any executive officer of the registrant and any not-for-profit organization on whose board a director or immediate family member serves or of which a director or immediate family member serves as an officer or in a similar capacity. Relationships that shall be disclosed include contributions to the organization in excess of $10,000 made by the registrant or any executive officer in the last five years and any other activity undertaken by the registrant or any executive officer that provides a material benefit to the organization. Material benefit includes lobbying.

(3) INSIDER-CONTROLLED AFFILIATES.—Relationships in which the registrant or any executive officer exercises significant control over an entity in which a director or immediate family member owns an equity interest or to which a director or immediate family member has extended credit. Significant control should be defined with reference to the contractual and governance arrangements between the registrant or executive officer, as the case may be, and the entity.

(4) JOINT OWNERSHIP.—Joint ownership by a registrant or executive officer and a director or immediate family member of any real or personal property.

(5) PROVISION OF SERVICES BY RELATED PERSONS.—The provision of any professional services, including legal, financial advisory or medical services, by a director or immediate family member to any executive officer of the registrant in the last five years.

(b) DEADLINES.—The Commission shall complete the rulemaking required by this section within 180 days after the date of enactment of this Act.

SEC. 8. ENHANCED OVERSIGHT OF PERIODIC DISCLOSURES BY ISSUERS.

(a) REGULAR AND SYSTEMATIC REVIEW.—The Securities and Exchange Commission shall review disclosures made by issuers pursuant to the Securities Exchange Act of 1934 (including reports filed on form 10-K) on a basis that is more regular and systematic than that in practice on the date of enactment on this Act. Such review shall include a review of an issuer's financial statements.

(b) RISK RATING SYSTEM.—For purposes of the reviews required by subsection (a), the Commission shall establish a risk rating system whereby issuers receive a risk rating by the Commission, which shall be used to determine the frequency of such reviews. In designing such a risk rating system the Commission shall consider, among other factors the following:

(1) Emerging companies with disparities in price to earning ratios.

(2) Issuers with the largest market capitalization.

(3) Issuers whose operations significantly impact any material sector of the economy.

(4) Systemic factors such as the effect on niche markets or important subsectors of the economy.

(5) Issuers that experience significant volatility in their stock price as compared to other issuers.

(6) Any other factor the Commission may consider relevant.

(c) MINIMUM REVIEW PERIOD.—In no event shall an issuer be reviewed less than once every three years by the Commission.

(d) PROHIBITION OF DISCLOSURE OF RISK RATING.—Notwithstanding any other provision of law, the Commission shall not disclose the risk rating of any issuer described in subsection (b).

SEC. 9. RETENTION OF RECORDS.

(a) DUTY TO RETAIN RECORDS.—Any independent public or certified accountant who certifies a financial statement as required by the securities laws or any rule or regulation thereunder shall prepare and maintain for a period of no less than 7 years, final audit work papers and other information related to any accountants report on such financial statements in sufficient detail to support the opinion or assertion reached in such accountants report. The Commission may prescribe rules specifying the application and requirements of this section.

(b) ACCOUNTANT'S REPORT.—For purposes of subsection (a), the term "accountant's report" means a document in which an accountant identifies a financial statement and sets forth his opinion regarding such financial statement or an assertion that an opinion cannot be expressed.

SEC. 10. REMOVAL OF UNFIT CORPORATE OFFICERS.

(a) REMOVAL IN JUDICIAL PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking "substantial unfitness" and inserting "unfitness".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking "substantial unfitness" and inserting "unfitness".

(b) REMOVAL IN ADMINISTRATIVE PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

"(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

"(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.".

SEC. 11. DISGORGEMENT REQUIRED.

(a) ADMINISTRATIVE ACTIONS.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations to require disgorgement, in a proceeding pursuant to its authority under section 21A, 21B, or 21C (15 U.S.C. 78u–1, 78u–2, 78u–3), of salaries, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions obtained by an officer or director of an issuer during or for a fiscal year or other reporting period if such officer or director engaged in misconduct resulting in, or made or caused to be made in, the filing of a financial statement for such fiscal year or reporting period which—

(1) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading,

(b) JUDICIAL PROCEEDINGS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(5) ADDITIONAL DISGORGEMENT AUTHORITY.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person—

"(A) for engaging in misconduct resulting in, or making or causing to be made in, the filing of a financial statement which—

"(i) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

"(ii) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; or

"(B) for engaging in, causing, or aiding and abetting any other violation of the securities laws or the rules and regulations thereunder,

such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including (but not limited to) salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.".

SEC. 12. CEO AND CFO ACCOUNTABILITY FOR DISCLOSURE.

(a) REGULATIONS REQUIRED.—The Securities and Exchange Commission shall by rule require, for each company filing periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

SEC. 13. SECURITIES AND EXCHANGE COMMISSION AUTHORITY TO PROVIDE RELIEF.

(a) PROCEEDS OF ENRON AND ANDERSEN ENFORCEMENT ACTIONS.—If in any administrative or judicial proceeding brought by the Securities and Exchange Commission against—

(1) the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate for any violation of the securities laws; or

(2) Arthur Andersen L.L.C., any subsidiary or affiliate of Arthur Andersen L.L.C., or any general or limited partner of Arthur Andersen L.L.C., or such subsidiary or affiliate, for any violation of the securities laws with respect to any services performed for or in relation to the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate;

the Commission obtains an order providing for an accounting and disgorgement of funds, such disgorgement fund (including any addition to such fund required or permitted under this section) shall be allocated in accordance with the requirements of this section.

(b) PRIORITY FOR FORMER ENRON EMPLOYEES.—The Commission shall, by order, establish an allocation system for the disgorgement fund. Such system shall provide that, in allocating the disgorgement fund amount the victims of the securities laws violations described in subsection (a), the first priority shall be given to individuals who were employed by the Enron Corporation, or a subsidiary or affiliate of such Corporation, and who were participants in an individual account plan established by such Corporation, subsidiary, or affiliate. Such allocations among such individuals shall be in proportion to the extent to which the nonforfeitable accrued benefit of each such individual under the plan was invested in the securities of such Corporation, subsidiary, or affiliate.

(c) ADDITION OF CIVIL PENALTIES.—If, in any proceeding described in subsection (a), the Commission assesses and collects any civil penalty, the Commission shall, notwithstanding section 21(d)(3)(C)(i) or 21A(d)(1) of the Securities Exchange Act of 1934, or any other provision of the securities laws, be payable to the disgorgement fund.

(d) ACCEPTANCE OF ADDITIONAL DONATIONS.—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for the disgorgement fund. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (b).

(e) DEFINITIONS.—As used in this section:

(1) DISGORGEMENT FUND.—The term "disgorgement fund" means a disgorgement fund established in any administrative or judicial proceeding described in subsection (a).

(2) SUBSIDIARY OR AFFILIATE.—The term "subsidiary or affiliate" when used in relation to a person means any entity that controls, is controlled by, or is under common control with such person.

(3) OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER.—The term "officer, director, or principal shareholder" when used in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation, means any person that is subject to the requirements of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation.

(4) NONFORFEITABLE; ACCRUED BENEFIT; INDIVIDUAL ACCOUNT PLAN.—The terms "nonforfeitable", "accrued benefit", and "individual account plan" have the meanings provided such terms, respectively, in paragraphs (19), (23), and (34) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (19), (23), (34)).

SEC. 14. AUTHORIZATION OF APPROPRIATIONS OF THE SECURITIES AND EXCHANGE COMMISSION.

In addition to any other funds authorized to be appropriated to the Securities and Exchange Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, $776,000,000 for fiscal year 2003, of which—

(1) not less that $134,000,000 shall be available for the Division of Corporate Finance and for the Office of Chief Accountant;

(2) not less than $326,000,000 shall be available for the Division of Enforcement; and

(3) not less than $76,000,000 shall be available to implement section 8 of the Investor and Capital Markets Fee Relief Act, relating to pay comparability.

SEC. 15. ANALYST CONFLICTS OF INTEREST.

(a) STUDY AND REVIEW REQUIRED.—The Securities and Exchange Commission shall conduct a study and review of any final rules by any self-regulatory organization registered with the Commission pursuant to section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) related to matters involving equity research analysts conflicts of interest. Such study and report shall include a review of the effectiveness of such final rules in addressing matters relating to the objectivity and integrity of equity research analyst reports and recommendations.

(b) REPORT REQUIRED.—The Securities and Exchange Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such study and review no later than 180 days after any such final rules by any self-regulatory organization registered with the Commission pursuant to section 19 of the Securities Exchange Act of 1934 are approved by the Commission. Such report shall include recommendations to the Congress, including any recommendations for additional self-regulatory organization rulemaking regarding matters involving equity research analysts. The Commission shall annually submit an update on such review.

(c) ADDITIONAL RULES REQUIRED.—Unless the final rules reviewed by the Commission under subsections (a) and (b) contain the following provisions, the Commission shall, by rule—

(1) prohibit equity research analysts from—

(A) holding any beneficial interest in any equity security (as such term in defined in section 3(a)(11) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(11)) in any issuer covered by such analyst; and

(B) receiving compensation based on the investment banking revenues of the firm with which the analyst is associated, or on the investment banking revenues of such firm and its affiliates, except that this prohibition shall not prohibit such an analyst from receiving compensation based on the overall revenues of such firm or of such firm and its affiliates;

(2) prohibit the investment banking department of such firm from having any input in the compensation, hiring, firing, or promotion of analysts; and

(3) require such self-regulatory organizations—

(A) to establish criteria for evaluating analyst research quality; and

(B) to require analyst compensation to be based principally on the quality of the equity research analyst's research.

SEC. 16. INDEPENDENT DIRECTORS.

(a) RULEMAKING REQUIRED.—The Commission shall adopt rules, effective no later than 6 months after the date of enactment of this Act, to require that the independent directors on the board of directors of any issuer of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) be nominated for election by a nominating committee that is composed exclusively of other independent directors of such issuer.

(b) INDEPENDENCE.—The rules required by subsection (a) shall require the same degree of independence for service on the nominating committee of an issuer as is required for purposes of service on the audit committee of an issuer by the listing standards concerning corporate governance of the exchange or association on which the securities of such issuer are listed.

SEC. 17. ENFORCEMENT OF AUDIT COMMITTEE GOVERNANCE PRACTICES.

The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered to be independent for purposes of certifying the financial statements or other documents of an issuer required to be filed with the Commission under the securities laws unless—

(1) an issuer's auditor is appointed by and reports directly to the audit committee of the board of directors or, in the absence of an audit committee, the board committee performing equivalent functions or the entire board of directors;

(2) the audit committee meets with the accountants engaged to perform such audit on a regular basis, at least quarterly; and

(3) the audit committee is provided with the opportunity to meet with such accountants without the attendance at such meetings of any officer, director, or other member of the issuer's senior management.

SEC. 18. REVIEW OF CORPORATE GOVERNANCE PRACTICES.

(a) STUDY OF CORPORATE PRACTICES.—The Commission shall conduct a study and review of current corporate governance standards and practices to determine whether such standards and practices are serving the best interests of shareholders. Such study and review shall include an analysis of—

(1) whether current standards and practices promote full disclosure of relevant information to shareholders;

(2) whether corporate codes of ethics are adequate to protect shareholders, and to what extent deviations from such codes are tolerated;

(3) to what extent conflicts of interests are aggressively reviewed, and whether adequate means for redressing such conflicts exist;

(4) to what extent sufficient legal protections exist or should be adopted to ensure that any manager who attempts to manipulate or unduly influence an audit will be subject to appropriate sanction and liability, including liability to investors or shareholders pursuing a private cause of action for such manipulation or undue influence;

(5) whether rules, standards, and practices relating to determining whether independent directors are in fact independent are adequate;

(6) whether rules, standards, and practices relating to the independence of directors serving on audit committees are uniformly applied and adequate to protect investor interests;

(7) whether the duties and responsibilities of audit committees should be established by the Commission; and

(8) what further or additional practices or standards might best protect investors and promote the interests of shareholders.

(b) PARTICIPATION OF STATE REGULATORS.—In conducting the study required under subsection (a), the Commission shall seek the views of the securities and corporate regulators of the various States.

(c) REPORT REQUIRED.—The Commission shall submit a report on the analysis required under subsection (a) as a part of the Commission's next annual report submitted after the date of enactment of this Act.

SEC. 19. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the last five years to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days of the date of enactment of this Act and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 20. STUDY OF CREDIT RATING AGENCIES.

(a) STUDY REQUIRED.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market. Such study shall examine—

(1) the role of the credit rating agencies in the evaluation of issuers of securities;

(2) the importance of that role to investors and the functioning of the securities markets;

(3) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(4) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings;

(5) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers; and

(6) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) REPORT REQUIRED.—The Commission shall submit a report on the analysis required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after the date of enactment of this Act. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 21. STUDY OF INVESTMENT BANKS.

(a) GAO STUDY.—The Comptroller General shall conduct a study on whether investment banks and financial advisors assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the role of the investment banks—

(1) in the collapse of the Enron Corporation, including with respect to the design

and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financing arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiber optic cable capacity, in designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions which may have been designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) Report.—The General Accounting Office shall report to the Congress within 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 22. STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS.

(a) In General.—The Comptroller General shall conduct a study of the Model Rules of Professional Conduct promulgated by the American Bar Association and rules of professional conduct applicable to attorneys established by the Commission to determine—

(1) whether such rules provide sufficient guidance to attorneys representing corporate clients who are issuers required to file periodic disclosures under section 13 or 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o), as to the ethical responsibilities of such attorneys to—

(A) warn clients of possible fraudulent or illegal activities of such clients and possible consequences of such activities;

(B) disclose such fraudulent or illegal activities to appropriate regulatory or law enforcement authorities; and

(C) manage potential conflicts of interests with clients; and

(2) whether such rules provide sufficient protection to corporate shareholders, especially with regards to conflicts of interest between attorneys and their corporate clients.

(b) Report Required.—The Comptroller General shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the study required by this section. Such report shall include any recommendations of the General Accounting Office with regards to—

(1) possible changes to the Model Rules and the rules of professional conduct applicable to attorneys established by the Commission to provide increased protection to shareholders;

(2) whether restrictions should be imposed to require that an attorney, having represented a corporation or having been employed by a firm which represented a corporation, may not be employed as general counsel to that corporation until a certain period of time has expired; and

(3) regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 23. ENFORCEMENT AUTHORITY.

For the purposes of enforcing and carrying out this Act, the Commission shall have all of the authorities granted to the Commission under the securities laws. Actions of the Commission under this Act, including actions on rules or regulations, shall be subject to review in the same manner as actions under the securities laws.

SEC. 24. EXCLUSION FOR INVESTMENT COMPANIES.

Sections 4, 6, 9, and 15 of this Act shall not apply to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 25. DEFINITIONS.

As used in this Act:

(1) Blackout period.—The term "blackout period" with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(2) Boards of accountancy of the states.—The term "boards of accountancy of the States" means any organization or association chartered or approved under the law of any State with responsibility for the registration, supervision, or regulation of accountants.

(3) Commission.—The term "Commission" means the Securities and Exchange Commission.

(4) Individual account plan.—The term "individual account plan" has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) Issuer.—The term "issuer" shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

(6) Person associated with an accountant.—The term "person associated with an accountant" means any partner, officer, director, or manager of such accountant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such accountant, or any employee of such accountant who performs a supervisory role in the auditing process.

(7) Public regulatory organization.—The term "public regulatory organization" means the public regulatory organization established by the Commission under subsection (b) of section 2.

(8) Securities laws.—The term "securities laws" means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), notwithstanding any contrary provision of any such Act.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from New York (Mr. LaFalce) and the gentleman from Ohio (Mr. Oxley) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. LaFalce).

Mr. LaFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Members can vote against the substitute, and they can vote for final passage of the bill if they want. This will enable them to put a press release out to the public telling them that they have done something meaningful about the problem. This will also enable them to go to corporate America, to the accounting profession, to Wall Street and receive at the very least a pat on the back and they will tell them a job well done because they will be very pleased that an opportunity to enact meaningful reform has been passed and eluded and avoided by passage of the Republican bill. I hope we will not let this opportunity pass without meaningful reform.

My substitute is the barest minimum of what is necessary to have meaningful reform. I say the barest minimum, because I wanted to try to attract as many votes as I possibly could. What do we do? First of all, with respect to auditing, we do a number of things. First of all, we say there shall be a PRO, a professional review organization. We do not make it permissive. We do not say it is something the SEC may do, whatever they want to, if they want to. Secondly, we spell out what its powers and responsibilities are. We make it a real organization with powers and responsibilities in the legislation. We do not leave it totally to the discretion of the SEC, which may or may not do something.

And, third, we spell out the nature of the composition of this PRO. We do not want all accountants, and now through an amendment it will not be all accountants, but we do not want the Ken Lays of this world on that review authority, either. And so we spell out that it shall consist of representatives of groups such as pension plans of private employees, pension plans of public employees, et cetera. So what it shall do and who shall be on it are extremely important and there is a fundamental difference between the gentleman from Ohio's approach which the Washington Post this morning says punts on the issue and the approach that we would take.

Secondly, who shall hire and who shall fire the auditors? We think that is an important issue. There has been too close of a relation between the CEOs, the CFOs, and the auditors. It has been an incestuous relationship. We specify what virtually all good corporate governance individuals have been calling for now, a delineation of the rights and responsibilities of the boards of directors and most especially the audit committee. We say that the hiring and the firing of the auditors shall not be by the officers but by the audit committee of the board of directors. That is a very important provision. We also think that there should be a reasonable, but real, distinction between auditing and nonauditing functions.

And so what we have done is taken the Republican version, not the version that I offered in committee that the gentleman from Alabama (Mr. BACHUS) was referring to, and cleaned it up, took out the language that made it meaningless so that with the deletion of about one sentence, it can be meaningful; and that is all we have done on that score. Except, of course, saying that the board of directors, too, is the one that should be hiring and firing the auditors.

President Bush has also called for a certain type of action. The Republican bill does nothing to effectuate what President Bush called for. Our substitute, as President Bush called for, requires CEOs and CFOs to certify the accuracy of their firm's financial statements. The Republican bill says nothing on it and, therefore, leaves it to the voluntary discretion of corporate America. That will not work.

The substitute also requires corporate officers who falsify their financial statements to disgorge their compensation, including stock bonuses and other incentive pay for any period in which they falsified statements. The Republican bill does nothing on that score. It is absolutely outrageous that corporate officers are able to walk away with tens of millions of dollars or more in the past 2- or 3-year period that they have been engaging in fraudulent activity and misleading manipulation of their earnings statement at the expense of investors. The investors should be able to go after that and obtain redress from those officers and directors. The substitute does something about it, as President Bush wants. The main bill, the Republican bill, does nothing.

Our substitute also empowers the SEC in an enforcement proceeding to bar officers and directors from serving as an officer or director of a public company if they are found guilty of wrongdoing and determined to be unfit. This too was proposed by the President. The SEC said that existing case law makes it virtually impossible for them to do this, to bar unfit officers and directors. And what have the Republicans done? They have taken that bad case law and codified it. In that respect the Republican bill is worse than the status quo.

Finally, with respect to securities analysts, the research analysts, most individuals rely most heavily on the recommendations of Wall Street. Yet we regrettably have learned that there has been a terrible relationship between research analysts and the investment banking arms of the securities firms. Research analysts have been compensated in large part by the revenues they have been able to generate for the investment banking arm of the firm because there are no fire walls within those firms between the research analyst and the investment banking.

The Republican bill has no fire walls whatsoever. Our substitute creates fire walls. That is what has been called for by the Attorney General of the State of New York, by the President of the AFL-CIO, et cetera. Our bill says that the research analysts' compensation shall in no way have any bearing to revenues that are generated by the investment banking portion of the securities firm. This is extremely important. What do the Republicans do? The Republicans say, Gee, that's an issue we ought to think about.

If Members want to please corporate America, the officers, if they want to please the accounting firms, if they want to please Wall Street and be able to put out a piece of paper that says they have done something about it, it will be a wrong piece of paper, it will be a misleading piece of paper. They will be able to get a pat on the back from all those special interests, but they will not really be helping investors. Vote for the substitute. If the substitute passes, vote for final passage. If the substitute should go down, oppose this cosmetic approach that is being advanced to the floor today.

Mr. Chairman, I rise to offer a substitute for H.R. 3763. As I described in detail earlier, the bill before us does virtually nothing to correct the systemic flaws in our financial reporting system. The substitute I offer will provide real reform to restore integrity to our financial markets and protect the savings and pensions plans of millions of Americans that remain threatened by future Enrons. My substitute will provide improvement and reform in several major areas.

First, the substitute would create a powerful new regulatory board with the authority and responsibility to ensure that auditors will be truly independent and objective. My substitute provides for a regulator that: Sets audit and quality standards for auditors of public companies; possesses sweeping investigative and disciplinary powers over audit firms; and is controlled by a board comprised of public members and not the accounting history. This is a decidedly different approach from H.R. 3763, which punts decisions on almost all of the functions and powers of the regulator to the SEC. Only a regulator with explicit powers and duties, and a defined composition, such as the one I propose, will ensure that the abuses we witnessed in the Enron debacle will not be repeated.

Second, while the Republican bill purports to prohibit auditors from providing their audit clients with two nonaudit services—financial reporting systems design and internal auditing—in reality, it prohibits nothing, merely codifying the limited restrictions in existing SEC rules. In contrast, my amendment modifies the definitions of these two services to actually ban these consulting services, which create significant conflicts of interest for auditors.

Third, the substitute includes important corporate governance reforms that will ensure that the audit committees of public companies have the authority they need to better protect shareholder interests. The substitute ensures that audit committees, not management, are responsible for hiring and firing the auditors. It requires that audit committees approve any consulting services that auditors provide to an audit client. These provisions will ensure that auditors give their allegiance to shareholders, not to corporate management.

Fourth, in a bipartisan spirit, we have taken three meritorious elements of President Bush's proposals on corporate responsibility and executive accountability and given them legislative substance and real teeth,unlike the provisions contained in H.R. 3763. Our substitute requires CEOs and CFOs to certify the accuracy of their firms' financial statements. Violation of this provision would carry with it the civil penalties provided for under the securities laws, and potentially criminal penalties for willful violations. The Republican bill contains no similar provision. It is essential that Congress require officers of public companies to stand behind their public disclosures. It is the minimum we should require.

The substitute requires corporate officers who falsify their financial statements to disgorge their compensation, including stock bonuses and other incentive pay, for any period in which they falsified statements. Our amendment would empower the Securities and Exchange Commission, SEC, to seek such a disgorgement in an administrative proceeding, or in court. H.R. 3763 requires only a study of this issue, and limits the scope of any disgorgement actions by the SEC to 6 months prior to a restatement.

The amendment would also empower the SEC in an enforcement proceeding to bar officers and directors from serving as an officer or director of a public company if they found guilty of wrongdoing and determined to be unfit. It would also remove judicial hurdles to seeking such a bar in court. H.R. 3763, however, makes obtaining director and officer bars more difficult, codifying the most restrictive judicial standard, a standard that the head of the SEC's Enforcement Division has stated publicly is almost impossible to meet. We must not codify a standard that makes it harder than ever for the SEC to obtain officer and director bars at a time when accounting fraud and earnings manipulation by corporate executive is at an all time high.

Finally, my substitute seeks to ensure that stock analysts are truly independent and objective. The substitute achieves this by: Barring analysts from holding stock in the companies they cover; prohibiting analysts' pay from being based on their firms' investment banking revenue; and barring their firm's investment banking department from having any input in to analysts' pay or promotion. The revelations brought to light by Eliot Spitzer, the NY State attorney general, in his investigations of major Wall street firms' analysts, confirm the need to address analysts' conflicts of interest. In urging the Financial Services Committee to adopt reforms, Attorney General Spitzer stated, "[o]nly if the pernicious link between investment banking and research compensation is severed will the public receive the unbiased research it deserves and the public market's integrity be preserved." Unfortunately, as with other important topics in this legislation, the Republican bill requires only a study.

The Democratic substitute is a strong reform bill that mandates tough corporate responsibility and strict accounting industry reforms. I urge Members to vote for the real reforms my substitute offers.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield myself 3 minutes. Mr. Chairman, as we have heard throughout this debate, H.R. 3763 is a tough bill which imposes much-needed reforms in the areas of auditor and corporate responsibility and accountability. The legislation ensures that investors in America's capital markets will know that they have access to accurate and understandable information regarding publicly traded companies.

In the committee's hearings and debate on H.R. 3763, we had an opportunity to hear from a broad group of regulators, investors, and corporate employees. We were told by some that our proposal went too far. Others, not far enough. At the end of the day we decided to strike a balance, create a bill that is tough but fair, which punishes those who do wrong, while encouraging the vast number of America's honest and ethical companies to keep up the good work.

During the debate on the bill, the committee had the opportunity to consider a similar substitute amendment to the one Ranking Member LAFALCE is offering today. After a fair debate, the committee rejected the amendment by voice vote. The committee then adopted H.R. 3763 along bipartisan lines with a vote of 49 to 12 with more Members of the minority voting for the bill than against it. We should not overturn the bipartisan consensus reached by our committee. We should not reject the balanced approach taken by the members of the committee, both Republican and Democrat, which will make our markets stronger.

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I commend the ranking member, the gentleman from New York (Mr. LAFALCE) for his efforts throughout this process. In fact, many of his ideas were adopted by the committee. But his substitute amendment represents an honest difference of opinion between us.

I do not believe we should micromanage the tough, new accountant regulatory body that we create. I do not believe we should preempt the laws of the States with regard to how corporations are governed, and I do not believe we should overturn the will of the committee when it adopted this legislation.

The President supports H.R. 3763. This legislation represents the ideas he presented in his 10-point plan on corporate responsibility. Where the President requests legislation, we legislate. Where the plan urges that the regulators be given the freedom to act, we give them that freedom.

Mr. Chairman, I urge my colleagues to support the President's plan. I urge my colleagues to support the bipartisan approach that the committee took in passing CARTA. I ask all of my colleagues to reject the LaFalce amendment and to pass H.R. 3763.

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, who has done an outstanding job in this entire area and has shown tremendous leadership.

Mr. KANJORSKI. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

Mr. Chairman, I rise in favor of the substitute amendment. I heard the chairman of the committee say that this is the embodiment of the President's plan. If it is, then it is an example of the President having spoken on one occasion as to what is necessary, and then seeing it reduced to legislation that does not comport with what the President indicated in his public appearances as to what he wanted us to do.

This is opting out. When we have an opportunity to do something well, the underlying bill ignores or virtually sets aside any of the real reform and just plasters over the defects within the system. The substitute bill, although in my own opinion is maybe premature in itself but we are stuck with the rules of having to come here, I support the substitute because it at least puts meat on the bones. It says something to corporate America, that we are going to hold you responsible. We are going to hold corporate executives responsible when they put out statements that are fraudulent or grossly overstated. We are going to tell the accounting industry that they cannot have conflicts of interest and, if they do, there is a penalty to be had, and perhaps a loss of their business. We are going to say to Main Street America and the investors, that you can understand that corporate America plays by the same rules you do, and that they are fair and they are honest and they are straightforward; that they are not swindlers, that they are not tellers of untruth in order to encourage 50 percent of the American people to make investments in equities in our market today who are getting information that they cannot rely on. Not in all instances, not all corporations by a long shot, but enough that we see a need for remedial legislation.

Instead, the underlying bill is an attempt to cover and do little or nothing. But in the substitute bill, we have substance, we have material that will correct some of the Enron problems, will give some form of integrity back to Wall Street and some sort of support to Main Street investors.

Mr. Chairman, I urge my colleagues to support the substitute amendment and, if that fails, to vote "no" on the underlying bill.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the gentleman for yielding me this time. I would start by observing that the Enron debacle is obviously devastating in many ways to many people. One of the most devastating ways is the way that collapse has shaken public confidence and really raised the question about financial reporting, even in the accounting profession, and the stability of our financial markets.

This underlying bill is going to have several very significant and very positive effects. It is going to help investors make better informed investment decisions; there is no question about that. It is going to require greater disclosure. It is going to enhance audit quality and the quality of financial reporting. By doing those things, it is going to increase the confidence in our capital markets, our financial reporting system, and those effects can only be beneficial for our financial system and our economy and our economic growth.

I would remind my colleagues that this bill passed our committee by a vote of 49 to 12. It was obviously supported by a bipartisan effort, and it takes some unprecedented measures. We take some very dramatic steps, one of which is the creation of the Public Regulatory Organization. This is going to be an organization that is going to be able, for the first time, to really discipline accountants that violate standards of ethics, competency, or independence, and it includes even disbarment. This is a major step in the regulation of the accounting profession, a dramatic departure from the traditional model in which this profession was entirely self-regulated.

But I think that it is impossible for us to know today, here in this Chamber, all of the answers to all of the questions that that regulatory organization needs to address. That is why instead of specifying in great detail every rule that we want them to promulgate, what we ought to do instead is set the broad parameters, and then give them the authority to carry this out, together with the regulators like the SEC, and that is what the underlying bill does.

My main criticism of the substitute amendment is that it goes too far in trying to micromanage this process in spelling out in great detail rules that ought to be left to the SEC and to others.

Mr Chairman, the ranking member does an outstanding job and does a lot of great work in our committee. Today's substitute differs from the substitute he offered in the committee; it is more similar to ours than the substitute offered in committee. Maybe in another few weeks we would see something quite similar to our bill. In fact, it is not enormously different. I do not think that the differences are that huge, but they are important, and they differ in the sense that I think the ranking member has gone too far in trying to specify details that ought to be left to others.

Several have mentioned the President's principles that have been discussed. Let there be no question about it: The President supports this bill. The administration has issued a statement of their policy, and it clearly supports this bill.

Let me look at a couple of the specifics in which the ranking member gets very specific. Disgorgement is one. But look at what we do with disgorgement. We take a very tough approach. It is unprecedented, the approach we take in this bill. If an officer or director sells stock in a company 6 months prior to a restatement, then the SEC can require the disgorgement of any profits that were earned or avoided losses. That is probably all we need to say about this. Let us let the specifics be developed by the SEC. Instead, in the substitute, basically, the SEC's rule is written for them. I do not think that is a good idea.

With regard to analyst conflicts, again, this bill tries to micromanage how analyst conflicts should be addressed. But we have entities, the NASD, the New York Stock Exchange, they are already in the process of producing rules on how this is going to be governed. I think the ranking member, as well as other members on this committee, have had input on that rulemaking process. It is still under review. It is they who should be doing this job, not us.

I think part of the problem with the substitute is an underlying failure to appreciate the ability of the marketplace to impose some discipline as well. But we have already seen how severely and appropriately investors have responded to companies who have even questionable accounting practices after this Enron debacle. It is not as though the investment community has not noticed and has not taken the precautions to demand certain greater disclosures and more transparency in financial reports and to punish companies that have engaged in perhaps dubious accounting principles, and that same kind of discipline is going to continue; it is going to continue with respect to analysts and other matters between the market's discipline.

In this bill, the underlying bill that the majority is proposing, we take some unprecedented measures. I am very confident we are going to encourage a greater degree of honesty and transparency in financial statements. It is going to be extremely helpful. I would suggest to my colleagues that we reject the substitute, reject the micromanagement of what should be done by regulators who have the expertise in this area, and support the underlying bill.

Mr. LaFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York City (Mrs. MALONEY), the distinguished ranking minority member of the Subcommittee on Domestic Monetary Policy.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the LaFalce substitute.

The implosion of Enron is a scandal on a massive scale that demands a real response. Enron's failure has shaken the accounting industry, once again exposed the conflicts Wall Street analysts face in rating stocks, and ruined the lives of thousands of innocent employees and retirees.

For financial markets to work, investors must be able to trust the information on which they base decisions. Auditors must not be under pressure to cook the books because their firm is chasing a consulting contract, and analysts must not have their compensation tied to investment banking deals.

The LaFalce substitute best addresses each of these areas with concrete, real reforms. The Enron scandal has done serious, lasting damage to the reputation of the accounting industry. The majority of accountants, many of whom live in my district, are honest and hard-working, but this scandal has revealed serious weaknesses in the industry's oversight structure, and only the substitute, the LaFalce substitute, directly spells out standards for a new accounting oversight board.

We need a new accounting oversight board because the current structure has failed dramatically. There are 17,000 public companies in the United States, and we may be down to just 4 major accounting firms to audit financial statements. Therefore, we need stronger regulation.

It is not enough for Congress to delegate regulation of the industry to the SEC. We owe it to the public to do the job ourselves and support the LaFalce substitute.

Long after the con men of Enron fade from memory, the conflicts faced by accountants and analysts will still be in place unless Congress acts now.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from New York (Mr. LaFALCE).

The substitute makes clear the different philosophical positions from which we seek to address the problems of the accounting industry. While CARTA gives broad authority to the SEC to set up the new public regulatory organization, this substitute stipulates exactly how it is going to be set up, to what extent the powers will be, regardless of what the experts may think, especially the experts at the SEC. Unfortunately, I do not believe that most of these provisions would actually do anything to prevent future Enrons and Global Crossings. So I am thinking about what the American investors do. I think the American investors will only risk their savings based on truth and transparency in the market. No smart investor should be required to buy a "pig in a poke."

This bill provides control without choking the free market. The reason the people put their money in the market is to make a good return on their money. Many Americans have saved for their retirement through pension funds and 401(k)s. This money is often invested in the markets, so the markets must function with transparency and truth if we expect our citizens to invest their future in the stock of American corporations and other investment vehicles that are offered in the markets.

The CARTA act will ensure transparency and truth responsibly and appropriately. This substitute was defeated during committee consideration and does not enjoy the broad bipartisan support that the underlying bill enjoys. So I urge my colleagues on both sides of the aisle to join us in opposition to this amendment.

Mr. LaFALCE. Mr. Chairman, I yield myself 10 seconds to advise the gentlewoman that this substitute was never offered in committee, and what was offered was defeated on a voice vote, not a recorded vote.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the distinguished dean of the House of Representatives, and the ranking member of the Committee on Energy and Commerce, who for so many years had jurisdiction over the field of securities.

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Mr. DINGELL. Mr. Chairman, I rise in strong support of the amendment and in opposition to the bill. I say to the sponsors of the legislation, shame. This is a piece of drivel. It is not a piece of legislation, it is a gift to the accounting industry and those who would steal from the American investing public.

Look at the history: Enron, Global Crossing, Baptist Foundation of Arizona, Waste Management, Sunbeam, Xerox, Rite Aid, Microstrategy. Accountants and fat cat officers of corporations stole billions and lied to the American investing public. That is what happened, and that is what needs to be corrected, and that is not what is addressed here.

The watchdogs in those cases and many others were asleep, or benefiting from their wrongdoing, or just plain blind. What is the response of the legislation to this outrage? The bill passes the buck to the SEC on every major issue, and avoids addressing important issues altogether by requiring that the SEC conduct studies.

If Members like studies and they want to waste money, that is a fine way to do it. If they want to hurt the investing public, that is a fine way. Enron would have loved this legislation. Anderson would have found it to be splendid.

I would be embarrassed to put a piece of legislation of this kind on the House floor. The LaFalce substitute ends the farcical self-regulation by the accounting industry which is encouraged and fostered by the committee bill. It creates a strong regulatory board that sets strict standards for auditor independence and auditor quality, and it is a shame if the House does not accomplish this important reform today.

The LaFalce substitute also requires executives to surrender ill-gotten gains made as a result of financial frauds, and empowers the SEC to bar officers guilty of wrongdoing from serving with other companies so that they may steal again. I think that that is necessary. It also imposes strong penalties for lying, including criminal penalties.

The committee bill actually makes it harder for the SEC to bar crooked executives from serving in other companies. On whose side are the authors of this legislation?

Mr. Chairman, our financial markets run on confidence. Those on this side apparently do not know that. If the people have confidence, everybody makes lots of money. They do not run on money, and no confidence will exist, where there is stealing, dishonesty, false accounting, and the kinds of things which we have seen going on in the accounting industry.

I would note that it is time that we deal with these things, and deal vigorously. The American public wants action. They do not trust the accounting, they do not trust the financial markets, and they want to see something in which they can have faith.

Unless and until Members do something about the situation that the American public sees, again with the Enrons and the other corporations where this is going on, and about the Andersens, we are going to see no confidence in the securities markets, and we are going to find that the economy of this country is going to hurt.

I say vote for the LaFalce amendment, vote against the committee bill. The committee bill is a sad, sorry, and repugnant joke. Vote for a piece of legislation that protects the American public. Vote for a piece of legislation that protects the investors of this Nation. Let us give confidence to the markets, instead of passing a sorry, silly charade like this.

Mr. OXLEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, at least my friend, the gentleman from Michigan, has been consistent in his strong support for big government and lack of respect and recognition of the free market. So I congratulate him on his consistency, if nothing else.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises.

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding time to me.

I would join him in recognizing the importance of the preceding speaker's remarks in characterizing the legislation now pending before the House, as in free enterprise, as buyer beware. We should carefully evaluate and analyze any representation made by some salesman as to his product.

I think it is also an advisable warning to those listening to speeches by Members of Congress.

Mr. Chairman, let me turn for a moment to the criticism of the bill with regard to analysts' conduct. Some would have us believe that this Congress has turned its back, protecting the Wall Street interests, walking away from the working families of America, letting the pillaging continue without restraint.

They seem to fail to remember just last year this committee, with bipartisan help, spent hours in evaluating the approach to take in resolving inappropriate conduct by analysts on Wall Street.

Let me explain. When a company wants to raise money on Wall Street, they have to hire a firm to go sell their stock. In order to sell that stock, they need to have a research department that says, is this a good investment or not? And investors rely on that research, understanding that the investment bank is separate from the research.

Well, unfortunately, that has not always been the case. Apparently, in some limited instances, the research was held out by the investment bank sort of as a marketing tool, to say, if you give us a good research product, the investment bank gets the business, and huge profits were made.

Here is the change: Research integrity is restored by having analyst independence from investment bankers. The investment banker cannot talk to the research analyst anymore. They have to be maintained in separate divisions of the business, and there are consequences if they do collude.

It restricts the ties between analysts' compensation and investment banking transactions. If there is any connection, if there is, it must be stated publicly in a report for all to see, or else there is a violation of the law.

It prohibits promising favorable research for the investment bank to get the work in compensation for the firm. So they cannot go out and use the research department information for the investment bank to go make the deal with the corporation. That is illegal. They cannot do it anymore.

It limits analysts' own purchasing and trading of stocks on which they issue research, and prohibits trading against their recommendations. It would be wrong if I were an analyst to say, go buy, gobble it up, America, this is a great stock, and privately I was in the back room selling my own interest to protect my financial position. This prohibits such conduct, and there are penalties, including up to disbarment from the profession.

We require potential conflicts of interest to be disclosed clearly. If we have missed something, if there is something inappropriate that an investor should know, they have a professional obligation to disclose it, and if they do not, there are penalties for that inappropriate conduct.

We have taken action. We have stood up to Wall Street. We are protecting working families across this country. To vote against this bill would be in their disinterest.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE), a member of the Committee.

Mr. INSLEE. Mr. Chairman, I speak in favor of the substitute and against the bill. This Enron collapse really did rock underlying confidence in the American people, and I think all of us know that the American people want and expect a real guard dog around their life's savings, a bulldog, someone with teeth, vigilance.

This bill, charitably, has all the attributes of a Chihuahua. It fails. It fails to do even what the President of the United States has suggested to require CEO accountability.

It fails in dealing with board independence, to make sure that the board answers to stockholders and not management by preventing payments to the directors by management.

It fails to address the separation of accounting services that even accounting companies have adopted on their own initiative.

It fails and it is disappointing. It is going to disappoint the American people, but it will not surprise the American people that the Republican Party, who gave us an energy policy based on Enron, is giving us an accounting policy based on Arthur Andersen.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. BENTSEN), a member of the Committee.

Mr. BENTSEN. Mr. Chairman, the underlying bill is not perfect, and I do not think the substitute is necessarily perfect, but there are certain pieces of the substitute that I think would make the underlying bill better.

Number one, the substitute is stronger on the issue of scope of services for auditing firms. Originally, I thought the gentleman from New York (Mr. LAFALCE) went too far in the committee.

The language he has adopted would bolster the language that the gentleman from North Carolina (Mr. WATT) and I put in the bill that was accepted by the chairman, and I think that is very good in ensuring that the SEC is on the job and doing what it is supposed to do.

Second of all, as the gentleman from Michigan (Mr. DINGELL) pointed out, the substitute is much stronger on giving authority to the SEC to remove officers and directors who engage in misconduct in public companies, and I think that needs to be done.

I have some concerns, as the gentleman from Louisiana (Mr. BAKER) pointed out, about the analyst provisions. I think they go too far. But I think what the gentleman from New York (Mr. LAFALCE) has put together in the substitute would add greatly to where we want this bill to go when it finally gets to the President's desk.

For those reasons, I think I will support the substitute.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute and 15 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I rise in support of the LaFalce substitute and in opposition to the underlying bill.

Mr. Chairman, accounting is a boring profession. It is easier to watch grass grow than be an accountant, unless people want to engage in financial fraud. Then it is a fascinating subject, because it affects thousands or millions of people, and that is what happened in this country: Auditors decided they were going to be financiers at the same time. They were going to play both roles.

They cannot do that, and this bill does not correct the fundamental, underlying problem that caused the Enron-Arthur Andersen scandal. It does not go nearly far enough to deal with the causes of the financial chicanery that have turned, overnight, people who thought they had their life's savings protected into those who are wondering about the future.

Specifically, the public regulatory organization created by the bill is a joke. It is set up in such a way that it will be dominated and controlled by the accounting profession. It lacks the investigative and enforcement powers needed to be an effective regulatory agency. The SEC is not given the powers needed to properly oversee its operation.

There is not a proper separation between the auditing and the consulting functions that led to the very core of the problems that were created that have defrauded millions of Americans out of their hard-won savings.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I rise today in opposition to the amendment offered by the gentleman from New York (Mr. LAFALCE), who earlier claimed that the underlying bill would make it harder for the SEC to ban officers and directors from serving on corporate boards.

Quite the contrary. For the first time in history, H.R. 3763 will allow, through the administrative process, the SEC to provide greater oversight of corporate officers. Currently, the SEC must go to court to obtain such a ban. This change makes it easier, not harder, for the SEC to go after malfeasance. H.R. 3763 does not allow such a ban to be imposed without providing at least minimum standards for the SEC to consider.

What we do in this bill is to provide the SEC with the tools it needs to tighten corporate oversight without giving the SEC carte blanche authority. We cannot, as someone suggests, grant the SEC unwarranted powers that would alter its appropriate role in maintaining the integrity of the capital markets, but we should give the SEC the ability to efficiently remove those who have no business serving as corporate officers.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from the State of Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, thousands of workers of Portland General Electric lost their entire life's savings when Enron collapsed. I praise the gentleman from New York (Mr. LAFALCE) for introducing legislation that would have prevented that tragedy.

I am particularly concerned about a provision in the Republican majority bill which does not allow State boards of accountancy to know if there have been irregularities and penalties imposed. Let me refer Members to a letter from James Caley, a CPA from Vancouver, Washington, who called for precisely such notification.

Mr. Caley wrote, "A system which encourages cooperation between State and Federal regulatory agencies increases the overall effectiveness of both entities, ensuring maximum protection to the public." State agencies need to know if there have been irregularities recognized by Federal entities. The Republican bill, the majority bill, does not provide that notification. The substitute of the gentleman from New York (Mr. LAFALCE) does. I commend the gentleman for including that.

□ 1415

Mr. LAFALCE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I do not want individuals to kid themselves. If Members vote against this substitute or even if Members vote for the substitute, it goes down and then Members vote for final passage of this bill, Members are voting for basically a cover-up because we are not dealing in a fundamental way with the fundamental problems. We are not dealing with the problems of officers who either knowingly or through negligence engage in wrongdoing. We are not dealing with the problems of directors. We are not dealing with the problems of auditors. We are not dealing adequately with the problems of research of the securities firms.

You are relying on two things basically in your bill, the SROs, the Self Regulatory Organizations. So let the officers and directors take care of themselves. Let the securities individuals take care of themselves. Let the accountants take care of themselves. And the magic of the marketplace, you say the marketplace will punish. The marketplace punishes investors. It does not punish the wrongdoers. You have got it wrong.

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have had a good debate here today about competing ideas. We made some decisions about our direction and now it comes time to cast our vote.

Today we are acting for America's employees, retirees and investors. At the same time, we recognize that every company in America is not an Enron, every company is not a Global Crossing. The vast majority of American companies are led and managed by good, hard-working citizens. They want to provide benefits and a good living for their employees and they want their companies to prosper and grow. Similarly, the vast majority of accountants are honest and trustworthy individuals who make an invaluable contribution to our financial systems.

If we have learned anything in recent months, we have learned that we need a strong and vibrant accounting community to give us that objective view of companies' financial conditions.

We understand to overreact would make things worse, not better as Chairman Greenspan and Chairman Pitt both admonished in testimony before our committee. So we are not going to make life even more difficult for every American company that is just trying to come out of a slump. We will ask them to provide more and better information. We will ask them to take on some more corporate responsibility, and we will support the accounting industry with a solid and effective oversight organization, while strengthening the Securities and Exchange Commission.

We will ensure that the new rules for analysts are working as they are intended, to provide higher-quality information for investors. We are going to review corporate governance practices to ensure that they adequately protect shareholders and employees. We will look at the credit reporting agencies to ensure they are free of conflicts of interest and provide accurate reports.

CARTA really gets to the heart of what went wrong. CEOs and other corporate insiders will have to publicly reveal in 2 days when they sell their company stock, as compared with 60 days now. It will be a crime to try to interfere with an audit. And never again will employees be locked into owning company stock while the executives are selling.

Mr. Chairman, today we have the chance to offer more than just talk. Today we have a chance to take a scandal and offer a real solution. Today, Mr. Chairman, we have an opportunity to pass a bipartisan product that came out of the Committee on Financial Services. Oppose the LaFalce substitute and pass CARTA.

Ms. SCHAKOWSKY. Mr. Chairman, I am dismayed that the Republican leadership of this body has not responded to the widespread corruption in our financial markets. The Republican so called "reforms" bill will not protect investors and pension holders from conflicts of interest and corporate greed. By failing to enact meaningful reform we are failing the American people.

We all know that if not for Enron's collapse we would not consider these important matters today. I am concerned that some want to characterize the Enron collapse as just a case of one bad actor in the market place. I disagree with that interpretation. Enron's collapse has systemic causes. Corporate board of directors, Wall Street analysts, and the big five accounting firms all have an economic incentive to provide biased analysis of large, profitable companies.

Enron used its political ties to persuade the government to carry out its business plan. Just take a look at California, President Bush, his regulators, and congressional Republicans opposed price caps for consumers while Enron manipulated the market, causing the California energy crisis. Enron had incredible access to the White House. President Bush received over $736,000 throughout his career as an elected official. Vice President CHENEY had at least six meetings with Enron officials while drafting the Administration's energy plan. Enron's economic and political power effectively muted people who were skeptical of the company's economic stability. Enron is not an isolated case and this is not only a business scandal it is also a political scandal.

The fact of the matter is we do not have the laws and procedures in place to protect common investors. I have little doubt that corporate executives' greed and deception will victimize more people. We in Congress cannot simply rely on free market dogma. The American people deserve better than this sham of a reform bill.

I am a member of the Financial Services Committee and I voted against final passage of this cosmetic excuse for a bill. I am dismayed to report that Republicans on the committee refused to even pass an amendment that called for CEO's and CFO's to certify financial statements. I think most Americans would be surprised to learn that this is not a requirement that already exists.

Employees and pension managers must be involved in corporate decision making. Boards that are dominated by corporate executives are inherently flawed, a lesson we learned from Enron's collapse.

Enron's collapse had a major impact on working families—many lost their life savings while Enron's executives gained millions. It is estimated that Illinois' state pension fund lost $25 million. That means that hard working teachers, police officers, and firefighters who worked for the public good may not be able to enjoy their hard-earned retirement. Back home in my home Chicago thousands of Andersen employees have, through no fault of their own, lost their jobs. For this reason, as well as many others, it is important that we do act in order to prevent those kinds of layoffs and to protect investors and pension holders from unfettered corporate greed. I hope that the final bill that is sent to the President's desk will make real reforms that will help prevent this from occurring, again.

A real reform bill will:

Make sure that our auditors are independent.

Create a strong public regulatory body that does not have conflict of interest or financial ties to the industry being regulated.

Ensure that investors have at least the same rights and receive the same treatment as corporate executives.

Ensure those employees, investors and pension holders have access to pertinent information and participate in corporate decision making.

Ensure that Enron executives cannot keep the money they stole from their employees and investors.

Our ranking member, JOHN LAFALCE, has crafted an alternative that will accomplish these goals. Please join me in voting for his substitute.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 219, not voting 13, as follows:

[Roll No. 108]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—219

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert

Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Blagojevich
Davis, Tom
DeGette
Ferguson
Gilchrest
Houghton
Obey
Rodriguez
Smith (WA)
Stark
Thune
Traficant
Watts (OK)

☐ 1440

Mr. JOHNSON of Illinois and Mr. YOUNG of Alaska changed their vote from "aye" to "no."

Messrs. UDALL of Colorado, McINNIS and BARCIA changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. WATTS of Oklahoma. Mr. Chairman, on rollcall No. 108, I was inadvertently detained. Had I been present, I would have voted "no."

Mr. FERGUSON. Mr. Chairman, on rollcall No. 108, I was unavoidably detained. Had I been present, I would have voted "no."

The CHAIRMAN. There being no further amendments permitted under the rule, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LaHOOD) having assumed the chair, Mr. SWEENEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, pursuant to House Resolution 395, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LAFALCE

Mr. LaFALCE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LaFALCE. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LaFALCE moves to recommit the bill H.R. 3763 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendment:

AMENDMENT TO H.R. 3763, AS REPORTED OFFERED BY MR. LaFALCE OF NEW YORK

(executive responsibility)

Strike sections 11 and 12 and insert the following (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 11. REMOVAL OF UNFIT CORPORATE OFFICERS.

(a) REMOVAL IN JUDICIAL PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking "substantial unfitness" and inserting "unfitness".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking "substantial unfitness" and inserting "unfitness".

(b) REMOVAL IN ADMINISTRATIVE PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

"(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

"(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.".

SEC. 12. DISGORGEMENT REQUIRED.

(a) ADMINISTRATIVE ACTIONS.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations to require disgorgement, in a proceeding pursuant to its authority under section 21A, 21B, or 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1, 78u–2, 78u–3), of salaries, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions obtained by an officer or director of an issuer during or for a fiscal year or other reporting period if such officer or director engaged in misconduct resulting in, or made or caused to be made in, the filing of a financial statement for such fiscal year or reporting period which—

(1) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading.

(b) JUDICIAL PROCEEDINGS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(5) ADDITIONAL DISGORGEMENT AUTHORITY.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person—

"(A) for engaging in misconduct resulting in, or making or causing to be made in, the filing of a financial statement which—

"(i) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

"(ii) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; or

"(B) for engaging in, causing, or aiding and abetting any other violation of the securities laws or the rules and regulations thereunder,

such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including (but not limited to) salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.".

SEC. 13. CEO AND CFO ACCOUNTABILITY FOR DISCLOSURE.

(a) REGULATIONS REQUIRED.—The Securities and Exchange Commission shall by rule require, for each company filing periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

In section 21, strike "and 15" and insert "and 16".

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes on his motion to recommit.

Mr. LAFALCE. Mr. Speaker, I am trying to make the motion to recommit easy to vote for and very difficult to vote against, and how am I doing this?

First of all, I am taking the Republican bill that has been passed in its entirety with three exceptions, and the exceptions were all called for by President George Bush who offered a 10-point plan. Three of those points require, in my judgment, legislation.

The Republican bill does nothing about it. The motion to recommit would report out the bill that the floor has just reported, but with the three separate addition. What are they? First of all, let me read from the President's proposal.

The President in proposal Number 3 says, CEOs should personally vouch for the veracity, timeliness and fairness of their company's public disclosures, including their financial statements. CEOs would personally attest each quarter that the financial statements and company disclosures accurately and fairly disclose the information of which the CEO is aware that a reasonable investor should have to make an informed investment decision. The Republican version leaves it up to corporate America to do this or not do this. The motion to recommit legislatively codifies this Presidential recommendation.

Secondly, the President said, CEOs or other officers should not be allowed to profit from erroneous financial statements. We codify that, too, and they say cannot profit from it and we could obtain their moneys back.

□ 1445

The motion to recommit also deals in a markedly different way from the Republican bill with respect to the surrendering of officer compensation, including stock bonuses and other incentive pay. The motion to recommit empowers the SEC, in either an administrative proceeding or in court, to seek such disgorgement.

The Republican bill says that the SEC shall study the issue and then, if they make a determination that it is warranted, they can go back and seek disgorgement, but only for what took place in the past 6 months; and if something took place 7 months or so ago, they made $10 million, $20 million, and they are home free under the Republican bill. That is an absurdity.

Vote for the motion to recommit.

And then, third, I want to read to my colleagues from a speech given by the head of enforcement of President Bush's SEC just about a month or so ago. He is referring to judicially decreed tests that you have to adhere to before you can declare an officer or director unfit to serve at a future firm. And he says, "These tests, which require, amongst other things, a showing that the misconduct at issue is likely to recur, has created an unreasonably high standard for obtaining a bar. The result has been, unbelievably, that in some cases courts have refused to impose permanent officer and director bars on individuals who have engaged in egregious, even criminal misconduct."

What do the Republicans do? They codify that test that the SEC denounces. We give the SEC the authority they have said they need in order to bar such individuals who are unfit from serving as future officers and directors.

The only reason to vote against the motion to recommit is partisanship. We ought to transcend that, because we are taking the Republican bill and President Bush's recommendations which we have codified. Do not go home and say that you have passed something that is meaningful when corporate America and the accounting firms and Wall Street are going to give you a pat on the back for letting them escape once again.

Mr. OXLEY. Mr. Speaker, I rise in strong opposition to the motion to recommit.

Mr. BAKER. Mr. Speaker, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Louisiana, the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding to me.

It was 1896, and the Dow Jones industrial average was constructed. Today, 106 years later, only one United States corporation remains in existence that was included in that publication of that first Dow Jones average.

Capital markets, free markets, are difficult because of the enormous competition that exists to succeed, but it yields tremendous benefit for us all. Today, we are about a debate in how to best regulate those aberrant actors in the marketplace.

Let it be understood, the vast majority of professionals who conduct their business in all sectors of the marketplace today, are that, professional. We are acting today to identify those few aberrant actors who have brought about great harms to innocent third parties. And act we shall.

It is important to recognize that in constructing this regulatory or legislative oversight that we not go too far.

In evidence of the point, this bill came out of our committee by a 16-to-12 vote by Democrat Members. They see it as reasonable. They see it as an appropriate first step.

We have a higher obligation. All those working families today who struggle to make ends meet and invest either in their 401(k) by payroll deduction or by putting that $200 online investment through their computer at home expect fairness. That is what this bill is about: honest, transparent disclosure, so you can make informed decisions for your family to buy that first home, invest for your children's education, or for your own retirement.

Inscribed on this wall behind us is an admonition to Members of the House that I read every day. "Let us develop the resources of the land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in this hour, day, and generation may perform something worthy to be remembered."

Daniel Webster is telling us what our job is. Let us make a difference. Let us stand for the working people of America today. Let us not let the Wall Street interests take away people's future by disclosing inappropriate information. That is what this bill is about. It is about standing in the face of those who have abused their corporate and business opportunities to the disinterest of their employees and their investors.

We can make a difference. Vote down the motion to recommit and pass this bill.

Mr. OXLEY. Mr. Speaker, reclaiming my time, the first provision in the amendment which deals with removal of unfit corporate officers is more appropriately addressed in the underlying bill. CARTA, the bill before us, gives the SEC the authority to administratively bar directors and officers from serving in public companies. Under our legislation, the commission no longer would have to go to Federal Court to do this. The SEC must consider a number of factors, longstanding standards used by the courts, in order to make that determination. Our language is endorsed by the White House.

CARTA also prevents corporate officers from profiting from erroneous financial statements. Our legislation was carefully crafted with the focus on bad actors. This language is also endorsed by the White House.

On the issue of CEO certification, we are sympathetic to this well-intentioned legislative provision, but it is important to note that the President never requested legislation to accomplish this objective. The SEC already has the authority to require certification and is currently considering whether to do so. The SEC is in the best position to decide whether and how such a requirement would operate. It would do more harm than good to legislatively mandate what such a rule would look like, and that is exactly what we were told by Chairman Greenspan and Chairman Pitt.

Proponents say this is the President's plan. The fact is, nothing could be further from the truth. Let us be clear. The President endorses the underlying legislation, the CARTA legislation. If my friends want to advance the President's agenda, they should support the underlying bill and reject the motion.

Oppose the motion to recommit. Pass this CARTA legislation, this historic legislation. It is in the best interest of the investing public and the United States.

The SPEAKER pro tempore (Mr. SWEENEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 205, noes 222, not voting 7, as follows:

[Roll No. 109]

AYES—205

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu

Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Blagojevich
Gilchrest
Houghton
Rodriguez
Smith (WA)
Thune
Traficant

☐ 1513

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SWEENEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OXLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 334, noes 90, not voting 10, as follows:

[Roll No. 110]

AYES—334

Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Everett
Farr
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sánchez
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—90

Abercrombie
Ackerman
Baldwin
Barrett
Becerra
Berman
Bonior
Borski
Brady (PA)
Brown (OH)
Carson (IN)
Clayton
Clyburn
Conyers
Coyne
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Engel
Evans
Fattah
Filner
Flake
Frank
Gephardt
Hastings (FL)
Hinchey
Honda
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kucinich
LaFalce
Larson (CT)
Lee
Levin
Lewis (GA)
Lowey
Lynch
Maloney (NY)
Markey
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Miller, George
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Rahall
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Slaughter
Solis
Stark
Tierney
Udall (NM)
Visclosky
Waters
Watson (CA)
Waxman
Wexler
Woolsey

NOT VOTING—10

Blagojevich
Gilchrest
Houghton
Kolbe
Rodriguez
Shows
Smith (MI)
Smith (WA)
Thune
Traficant

☐ 1524

Mr. NEAL of Massachusetts and Mr. RUSH changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 3763, the bill just passed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3763, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. HASTINGS of Florida. Mr. Speaker, from April 16, 2002, through April 18, 2002, I was absent from the House of Representatives proceedings because I was fulfilling my duties as a member of the Helsinki Commission and Vice President of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe.

While serving in this capacity, I missed rollcall votes 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 103. Had I been present for these votes, I would have voted the following way: On 93, yes; 94, yes; 95, yes; 96, yes; 97, no; 98, no; 99, no; 100, no; 101, no; 102, no; and 103, no.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3113

Ms. RIVERS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3113. It was erroneously included.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, this afternoon I would like to address during my 5 minutes the Armenian genocide. Today, of course, is April 24. The Armenian genocide began over 85 years ago, on April 24 in 1915. Why are we here? Why am I? The gentleman from Michigan (Mr. KNOLLENBERG), who is the cochair of the Armenian Caucus, is with me who has been a champion over the years of trying to bring an Armenian genocide recognition resolution to the floor of the House and to the Congress so that we finally would pass it. We are here because we feel very strongly that the Armenian genocide has not been properly recognized in the U.S. House, in this Congress and also by the President.

There is no need, I guess, to go into the reasons. We all know the reasons. And they are that the Turkish Government is very strenuous in its opposition and constantly exerts pressure on the President, on the Congress, on the leadership of the Houses not to bring a resolution up that would recognize the genocide.

I have maintained for years that that is a huge mistake on the part of the Turkish Government to use that kind of leverage against our Government, in part because the fact of the matter is the genocide occurred and it is a huge mistake to try to cover it up. We know that if genocide occurs and it is covered up, it will occur again. History tells us that. But beyond that, it is also a mistake because until the time comes when the Turkish Government is willing to recognize the genocide, there never will be what I call the cleansing effect that Turkey needs to go through with its leaders and with its population to make sure that they recognize this horrible series of events, and they do not have the events reoccur, that they do not continue to persecute minorities, including the Armenian minority that still exists in a very minimum amount in the state of Turkey today.

What we have done this year is the gentleman from Michigan (Mr. KNOLLENBERG) and I within the Armenian Caucus have circulated a letter asking President Bush tomorrow to use the word "genocide" and recognize the genocide in his address that he and other Presidents have done now for many years. President Bush to his credit has been a friend of Armenia and a friend of U.S.-Armenia relations and the two countries growing closer together. During his campaign, he repeatedly made statements about the Armenian genocide and used the term "genocide." Unfortunately, like his predecessors, both Democrat and Republican, once they took office we do not see the word "genocide" used.

□ 1530

We do ask the President, we do call upon him tomorrow when he commemorates and when he issues a statement about the Armenian genocide, to use the term "genocide" because, in fact, it was a purposeful, intentional State act that occurred in 1915. It was not a coincidence. It was not a mishap. It was not a civil war. It was an intentional act on the part of the then Turkish Government to perpetrate a genocide against the Armenian people.

We have, I believe, 163 cosponsors of that letter to the President. We have another 5 or 10 Members on a bipartisan basis who sent similar letters on their own, individually, to the President asking that he do so, and I hope sincerely that he does tomorrow.

Let me say this, though. The issue of the genocide is important not only because of the past and because we do not want to repeat the mistakes of the past, but also because the actions of the Turkish Government today continue to perpetrate the genocide. As I mentioned, there are not that many Armenians who are now living in Turkey, but there are a few thousand, and those people that live there today continue to be discriminated against. The Turkish Government makes it very difficult for them to practice their Christian Armenian orthodox religion. There are limitations on their ability to open Armenian schools and teach the Armenian language and Armenian culture. They still face problems in terms of owning property, and their inability to own property or to buy and sell property.

One of the most egregious examples of this took place just in the last few months when two Armenian Americans, American citizens, were encouraged by the Turkish Government to purchase a hotel for tourism purposes in Van, which is the area where many Armenians historically lived. This couple, after they had opened the hotel and purchased the hotel, were basically told to get out. They were told that they would not be reimbursed for this hotel and for their property. They have not been able to operate the hotel. They have not been able to essentially do anything with their business. They have lost their business, they have lost their investment, because the Turkish Government found out that they were of Armenian dissent. Myself and others within our Caucus have sent a letter to the U.S. Ambassador objecting to this.

I want to conclude now, Mr. Speaker, but I just want to say that the genocide continues and the perpetrators of the genocide continue to make it difficult, even for Armenians who live in Turkey, to continue to operate as legitimate citizens.

COMMEMORATION OF ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Michigan (Mr. KNOLLENBERG) is recognized for 5 minutes.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KNOLLENBERG. Mr. Speaker, as a Republican cochair of the Congressional Caucus on Armenian Issues, I come to the floor on this very special and important day to join my colleagues and individuals around the world in commemorating the 87th anniversary of the Armenian genocide. We must never forget the tragedy of the Armenian genocide, and this commemoration makes an important contribution to making sure that we never do.

I would like to commend my colleague and fellow cochair of the Congressional Caucus on Armenian Issues, the gentleman from New Jersey (Mr. PALLONE), for working with me to help arrange this commemoration, and I appreciate his remarks.

Our Caucus is now up to 114 Members, which I believe shows the incredible support Armenia has in the U.S. House of Representatives. We also, of course, wrote a letter, and the gentleman from New Jersey (Mr. PALLONE) referenced the letter with over 160 signatures that went to the President.

When most people hear the word "genocide," they immediately think of Hitler and his persecution of the Jews during World War II. Many individuals are unaware that the first genocide of the 20th century occurred during World War I and was perpetrated by the Ottoman Empire against the Armenian people. Concerned that the Armenian people would move to establish their own government, the Ottoman Empire embarked on a reign of terror that resulted in the massacre of over 1.5 million Armenians. This atrocious crime began on April 15, 1915, when the Ottoman Empire arrested, exiled, and eventually killed hundreds of Armenian religious, political, and intellectual leaders.

Once they had eliminated the Armenian people's leadership, they turned their attention to the Armenians serving in the Armenian Army. These soldiers were disarmed and placed in labor camps where either they were starved or they were executed. The Armenian people, lacking political leadership and deprived of young, able-bodied men who could fight against the Ottoman onslaught, were then deported from every region of Turkish Armenia. The images of human suffering from the Armenian genocide are graphic and as haunting as the pictures of the Holocaust.

Why then, it must be asked, are so many people unaware of the Armenian genocide? I believe the answer is found in the international community's response to this disturbing event. At the end of World War I, those responsible for ordering and implementing the Armenian genocide were never brought to justice, and the world casually forgot about the pain and suffering of the Armenian people. That proved to be a grave mistake. In a speech made at the beginning of World War II, Adolf Hitler justified his brutal tactics with the infamous statement, "Who today remembers the Armenians?"

Tragically, 6 years later, the Nazis had exterminated 6 million Jews. Never has the phrase, "Those who forget the past will be destined to repeat it" been more applicable. If the international community had spoken out against this merciless slaughtering of the Armenian people instead of ignoring it, the horrors of the Holocaust might never have taken place.

As we commemorate the 87th anniversary of the Armenian genocide, I believe it is time to give this event its rightful place in history. This afternoon and this evening, let us pay homage to those who fell victim to the Ottoman oppressors and tell the story of the forgotten genocide. For the sake of the Armenian heritage, it is a story that must be heard.

COMMEMORATING THE 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, I rise today to commemorate the 87th anniversary of the Armenian genocide and to commend my colleagues, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Michigan (Mr. KNOLLENBERG), for organizing this Special Order and to remember this solemn occasion.

Over an 8-year period, beginning in 1915, the Ottoman Turkish Empire systematically tortured and murdered 1.5 million Armenians and exiled another half million more. In the years since, Armenian descendents have thrived in the United States and in many other countries, bringing extraordinary vitality and achievement to communities across this Nation and throughout the world.

Tragically, the Turkish Government has refused to acknowledge the Armenian genocide and has made repeated attempts to exonerate itself of any wrongdoing through a shameful propaganda campaign. The victims of the genocide deserve our remembrance and their rightful place in history. It is in the best interests of our Nation and the entire global community to remember the past and learn from these unfortunate events to ensure that they are never repeated.

Earlier this year, the European Union adopted a resolution affirming the Armenian genocide, making it one of the many official bodies, including the Governments of Canada, Argentina, France, Italy, Sweden and Belgium, to do so. Now more than ever, the genocide underscores our responsibility to help convey our cherished tradition of respect for fundamental human rights and opposition to such heinous atrocities. Only through such recognition can the Armenian people hope to feel some measure of compensation for the ultimate injustice perpetrated against their Nation.

As a proud member of the Congressional Caucus on Armenian Issues and an ardent supporter of Rhode Island's Armenian American community, I will continue to encourage my colleagues to hold the Turkish Government accountable for its actions and to honor the memory of those Armenians who suffered and perished nearly a century ago.

COMMEMORATION OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise to join my colleagues in speaking about the genocide, a genocide, unfortunately, that has not been acknowledged by some and, unfortunately, heightens the risk of its repetition. The massacre of Armenians in Turkey during and after World War I is recorded as the first State-ordered genocide against a minority group in the 20th century. Tragically, Mr. Speaker, it was not, as we all know, the last.

In the 87 years since this unspeakable tragedy, the world has witnessed decades of genocide and ethnic cleansing and wholesale persecution of people simply because of who they are: European Jews, Bosnian Muslims, the Tutsis of Rwanda, Kosovar Albanians, and others.

Mr. Speaker, we undertake this year's commemoration of the Armenian genocide in a world that is forever changed as we reflect on the terrible events of September 11. We understand that confronting irrational hatred and the evil which kindles it remains a constant challenge for us all.

Mr. Speaker, there are those who deny that there was an Armenian genocide, yet there is, of course, no lack of documentation of what occurred during that terrible time. In her powerful new book, A Problem From Hell: America and the Age of Genocide, author Samantha Powers points out that The New York Times gave the Turkish horrors steady coverage, publishing 145 stories in 1915 alone. According to Powers, beginning in March 1915, the paper spoke of Turkish "massacres," "slaughter," and "atrocities" against the Armenians, relaying accounts by missionaries, Red Cross officials, local religious authorities, and survivors of mass executions.

The U.S. Ambassador to Turkey at that time, Henry Morgenthau, Sr., cabled Washington on July 10, 1915 stating, "Persecution of Armenians assuming unprecedented proportions. Reports from widely scattered districts indicate systematic attempt to uproot peaceful Armenian populations and through arbitrary arrests, terrible tortures, wholesale expulsions, and deportations from one end of the empire to the other, accompanied by frequent instances of rape, pillage, and murder, turning into massacre, to bring destruction and destitution on them." The tragedy, Mr. Speaker, is that similar language could have been applied during the 1990s in Bosnia-Herzegovina.

Mr. Speaker, those reports came to us, and the West did little. The West did little until the middle of the 1990s and, when we acted, the killing and carnage stopped. Sadly, Mr. Speaker, at that time in 1915, no action, no action was taken to try to save the Armenians because their plight was deemed to be an "internal affair" of their government.

Mr. Speaker, I have the privilege of having chaired for 10 years the Commission on Security and Cooperation in Europe, otherwise known as the Helsinki Commission. It oversees the implementation of the Helsinki Final Act, signed August 1, 1975 in Helsinki, Finland. That act, post-genocide of the 1930s and 1940s, adopted the premise that a nation's mistreatment of its own citizens would never be again an internal affair. To that extent, Mr. Speaker, the international community has, in fact, adopted the premise that we are our brothers' and our sisters' keepers.

Decades later, 6 million Jews would perish in the Holocaust before the community of nations would adopt the universal declaration of human rights. Then, as I have said, the Helsinki Final Act, some years later.

The declaration on human rights captured the world's revulsion of that traditional view of international relations and made clear a new norm: how a State treats its own people is of direct and legitimate concern to all States and is not simply an internal affair of the State concerned.

☐ 1545

Mr. Speaker, I trust that all of us will urge our Turkish friends who were not involved in this genocide, but who now head their governments, to acknowledge and express their own horror at those acts taken in 1915.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SWEENEY) is recognized for 5 minutes.

Mr. SWEENEY. Mr. Speaker, I, too, join my colleagues and commend my colleagues this evening for working towards educating the world about the Armenian genocide. I am a proud member of the Armenian Caucus, and, Mr. Speaker, I come with some qualifications in that I am one of two Members of Congress from Armenian ancestry.

We continue to take important steps every day, like the planned establishment of an Armenian Genocide Museum and Memorial here in Washington, D.C., but more needs to be done to further educate our citizens about these atrocities.

As we are all well aware, since the latter part of the 21st century, our Nation has been focused on a hotbed of activity in the Middle East. During the past 7 months, we have seen the level of commitment the Nation has dedicated toward the war on terror, but it is vital that the United States recognize, in particular, the 20th century's first instance of genocidal terror, the Armenian genocide.

Mr. Speaker, our country appreciates the importance of a strong partnership with Armenia in these trying times. Armenia continues to move forward alongside our country by pledging assistance as we progress on the war on terror. Now we must move forward with Armenia hand-in-hand by recognizing the past atrocities for what they truly are: a genocide.

I cannot stress enough, Mr. Speaker, that the historical record is clear. From at least 1915 to 1923, the Ottoman Empire succeeded in systematically eliminating the Armenians from the historical homeland where they lived for more than 2000 years.

I would take this moment to point out that this is a particularly personal message from my family to the rest of the world. My grandfather, Oscar Chaderjian, emigrated from Armenia at the beginning of the 21st century, but only after he had been witness to and forced to be involved in the execution of one of his own uncles, a schoolteacher. He was forced to hold one arm with his cousin, whose dad was attached to the other arm, while the Ottoman Turks executed him in front of a classroom full of Armenian children.

Recognizing the severity of the Ottoman Empire's actions, England, France, and Russia jointly issued a statement on May 24, 1950, explicitly charging a government for the first time with a crime against humanity. The Armenian genocide has been acknowledged by not only these nations but also Argentina, Belgium, Canada, Cyprus, Greece, Lebanon, and Uruguay, as well as by international organizations such as the United Nations, the Council of Europe, and the European Parliament.

Furthermore, the U.S. National Archives and Records Administration has broad and thorough documentation of the Armenian genocide; in particular, Record Group 59 of the United States Department of State, files 867.00 and 867.40.

America must take another step and acknowledge the Armenian genocide in history so that we may begin to educate the world as to its effect, and therefore avoid, and serve as a means of avoiding, similar kinds of atrocities in the future.

We must bring awareness of the atrocities that have plagued history in areas such as Armenia, Europe, Cambodia, Rwanda, Bosnia, Kosovo, and Sierra Leone. Acknowledging these events of the past will provide us with the proper tools to ensure peace and stability in the future. Peace and stability must always be a goal of a civilized world.

As always, I am proud to stand with Armenians, and even prouder to be one of them. Mr. Speaker, we call on our friends, the Turks, to recognize that recognizing the actions of the past by other people not of this generation of Turks, not of this Turkish government, is not to condemn the current, but to recognize the past so that we may never repeat it.

RECOGNITION OF THE 1915 ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to recognize April 24th, 1915 as one of the darkest days of the 20th century. On this day 300 Armenian leaders, writers, religious figures and professionals in Constantinople were gathered together, deported, and brutally murdered. Thousands of Armenian citizens were dragged out of their homes and murdered in the streets. What few citizens remained were taken from their communities and marched off to concentration camps in the desert, where most died of starvation and thirst. The Ottoman Empire systematically deprived Armenians of their homes, property, freedom, and ultimately, their lives. By 1923, 1.5 million Armenian citizens had been murdered, while half a million had been deported.

Today, we must overcome the obstacle of denial. The Armenian Genocide is a historical fact. The United States and the international community must overcome this denial and recognize the horror that took place between 1915 and 1923.

The Armenian people have spent the last ten years courageously establishing an Independent Republic of Armenia. These efforts are a testament to the strength and character of the Armenian people. I strongly support the United States' continued efforts with Armenia to ensure a safe and stabile environment in the Caucasus region.

Today, I join my colleagues in recognizing the Armenian genocide of 1915, and while this is indeed a day of mourning, we must also take this opportunity to celebrate Armenia's commitment towards democracy in the face of adversity.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, as a proud member of the Congressional Caucus on Armenian Issues, and the representative of a large and vibrant community of Armenian-Americans, I rise today to join my colleagues in the sad commemoration of the Armenian Genocide.

Today, we continue the crusade to ensure that this tragedy is never forgotten. This 87th anniversary of the Armenian Genocide is an emotional time. The loss of life experienced by so many families is devastating. But, in the face of the systematic slaughter of 1.5 million people, the Armenian community has persevered with a vision of life and of freedom.

Armenian Americans are representative of the resolve, bravery, and strength of spirit that is so characteristic of Armenians around the world. That strength carried them through humanity's worst: Upheaval from a homeland of 3,000 years, massacre of kin, and deportation to foreign lands. That same strength gathers Armenians around the world to make certain that this tragedy is never forgotten.

Without recognition and remembrance, this atrocity remains a threat to nations around the world. I've often quoted philosopher George Santayana who said: "Those who do not remember the past are condemned to repeat it." And to remember, we must first acknowledge what it is—Genocide.

As another scholar stated: "Denial of genocide is the final stage of genocide; it is what Elie Wiesel has called "double killing." Denial murders the dignity of the survivors and seeks to destroy the remembrance of the crime."

Tragically, more than 1.5 million Armenians were systematically murdered at the hands of the Young Turks. More than 500,000 were deported. It was brutal. It was deliberate. It was an organized campaign and it lasted more than 8 years. We must make certain that we remember.

Now, we must assure that the world recognizes that Armenian people have remembered, and they have survived and thrived.

Out of the crumbling Soviet Union, the Republic of Armenia was born, and independence was gained. But, independence has not ended the struggle.

To this day, the Turkish government denies that genocide of the Armenian people occurred and denies its own responsibility for the deaths of 1.5 million people.

In response to this revisionist history, the Republic of France passed legislation that set the moral standard for the international community. The French National Assembly unanimously passed a bill that officially recognizes the massacre of 1.5 million Armenians in Turkey during and after WWI as genocide.

Several nations have since joined in the belief that history should be set straight.

Canada, Argentina, Belgium, Lebanon, The Vatican, Uruguay, the European parliament, Russia, Greece, Sweden and France, have authored declarations or decisions confirming that the genocide occurred. As a country, we must join these nations in recognition of this atrocity.

Two years ago I joined numerous Members in support of the International Relations Committee's Armenian Genocide Resolution. As may of you remember, the resolution passed and was sent to the full House for a vote. Though the resolution was withdrawn, the Congress had taken its stand. We must demand that the United States officially acknowledge the forced exile and annihilation of 1.5 million people as genocide.

Denying the horrors of those years merely condones the behavior in other places as was evidenced in Rwanda, Indonesia, Burundi, Sri Lanka, Nigeria, Pakistan, Ethiopia, Sudan, and Iraq. Silence may have been the signal to perpetrators of these atrocities that they could commit genocide, deny it, and get away with it.

As Americans, the reminder of targeted violence and mass slaughter is still raw. We lost nearly 3,000 people on September 11th. I cannot imagine the world trying to say that this did not occur. The loss of 1.5 million people is a global tragedy.

A peaceful and stable South Caucasus region is clearly in the U.S. national interest. Recognizing the genocide must be a strategy for this goal in an increasingly uncertain region. One of the most important ways in which we an honor the memory of the Armenian victims of the past is to help modern Armenia build a secure and prosperous future.

The United States has a unique history of aid to Armenia, being among the first to recognize that need, and the first to help. I am pleased with the U.S. involvement in the emphasis of private sector development, regionally focused programs, people-to-people linkages and the development of a civil society.

Other reform has included the 1998 five part Comprehensive Market Reform Program, tax and fiscal reform, modernization of tax offices, land registration, capital markets development, and democratic and legal reforms.

Armenia has made impressive progress in rebuilding a society and a nation in the face of dramatic obstacles.

I will continue to take a strong stand in support of Armenia's commitment to democracy, the rule of law, and a market economy—I am proud to stand with Armenia in doing so. But there is more to be done. Conflict persists in the Nagorno-Karabaugh region.

Congress has provided funding for confidence building in that region, and I will continue in my support of that funding and the move towards a brighter future for Armenia. But in building our future, we must not forget our past. That is why I strongly support the efforts of the Armenian community in the construction of the Armenian Genocide Memorial and Museum. Because so many Armenians have spoken of the destruction they have made certain that we remember.

Last Sunday, I met with Vickie Smith Foston, the author of Victoria's Secret: A Conspiracy of Silence. Through this story, we learn about the historical journey of a lifetime that preceded her grandmother's leap to her death on March 9, 1950 and the danger of silence.though her family tried desperately to hide and conceal their identity, Vickie discovers a past that was to be buried with Victoria—her family's Armenian heritage and the horrors of the Armenian Genocide.

This book forces the reader to remember. Now we must make certain that the world remembers.

87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

Mr. WEINER. Mr. Speaker, I rise today to commemorate the 87th anniversary of the Armenian Genocide.

On April 24, 1915, the government of the Ottoman-Turkish Empire rounded up approximately 600 leaders and intellectuals of the Armenian community and executed them. This was the beginning of the first genocide of the 20th Century.

Shortly after that, the Ottoman-Turkish government disarmed all of the Armenian soldiers in the Turkish army, separated them from their units and executed them, too.

From 1915 to 1923 the Ottoman-Turkish government, on a systematic campaign to wipe out the Armenians, killed more than 1.5 million men, women, and children.

Despite the eyewitness accounts from then U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, detailing the events in 1915, the U.S. government did nothing. And if that isn't bad enough, since 1915 the U.S. has refused to recognize that the Armenian Genocide even occurred.

Elie Wiesel has called the denial of the genocide a "double killing": "denial of genocide," he wrote, "seeks to reshape history in order to demonize the victims and rehabilitate the perpetrators and is, in effect, the final stage of genocide."

And Elie Wiesel was right. But what is most horrific, is that today, 87 years after the Armenian Genocide began, the United States still has yet to officially recognize this tragedy.

We came close in the 106th Congress when a vote was scheduled on House Resolution 398. This resolution would have acknowledged the Armenian Genocide and provided training for our Foreign Service officers so they would be able to recognize and react to ethnic cleansing and genocide. But a vote never occurred. We chose not to act.

Last year, in April 2001, the President called the events of 1915 a "forced exile and annihilation" but he would not call this a genocide.

Some listening to this debate may wonder why it is so important that we bring this message to the House floor year, after year, after year. Simple. It is important for two reasons. The first is that we must honor those who lost their lives during the fall of the Ottoman Empire. The second reason is that while the Armenian Genocide was the first Genocide of the 20th Century, it was not the last. In Germany in the 1930s, Cambodia in the 1970's, Yugoslavia in the 1990s, and Rwanda in 1994 we saw history repeat itself again, and again and again and again.

Until the United States is willing to acknowledge the Armenian Genocide and take concrete steps to acknowledge this tragedy, we cannot say that we are any closer to preventing this from happening again.

I thank the gentleman from New Jersey and the gentleman from Michigan for arranging this very important special order today and yield back the balance of my time.

REMEMBERING THE 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in commemorating one of the most appalling violations of human rights in all of modern history—the eighty-seventh anniversary of the Armenian genocide. I want to commend my colleagues Representatives JOE KNOLLENBERG and FRANK PALLONE, the co-chairs of the Congressional Caucus on Armenian Issues, for once again sponsoring this special order.

Each year, we join the world in the commemoration of the Armenian genocide because the tragedy of lost lives through ethnic cleansing must not be forgotten. By remembering the bloodshed and atrocities committed against the Armenian people, we hope to prevent similar tragedies from occurring in the future.

On April 24, 1915, 200 Armenian leaders, scholars, and professionals were gathered, deported, and killed in Constantinople. Later that day, 5,000 more Armenians were butchered in their homes and on the streets of the city. By 1923, two million men, women, and children had been murdered and another 500,000 Armenian survivors were homeless and exiled. The Armenian genocide was the first of the twentieth century, but unfortunately as we all know, it was not the last.

Talat Pasha, one of the Ottoman rulers, stated that the regime's goal was to "thoroughly liquidate its internal foes, the indigenous Christian." The regime called the mass murder a mass relocation, masking its horrendous acts from the rest of the world. The Ottoman Empire was fully aware that the possibility of foreign intervention was minimal considering the world was preoccupied with World War I at the time.

However, the massacre was immediately denounced by representatives from Britain, France, Russia, and the United States. Even Germany and Austria, allies of the Ottoman Empire in the First World War, condemned the Empire's heinous acts.

Henry Morgenthau, U.S. Ambassador to Constantinople at the time, vividly documented the massacre of 1.5 million Armenians with the statement, "I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915."

Winston Churchill used the word "holocaust" to describe the Armenian massacres when he said that, "in 1915 the Turkish government began and ruthlessly carried out the infamous general massacre and deportation of Armenians in Asia Minor . . . [the Turks were] massacring uncounted thousands of helpless Armenians—men, women, and children together; whole districts blotted out in one administrative holocaust—these were beyond human redress."

We must recognize the enormity of this act as one of the darkest chapters in world history. Only at that point can we truly take account of the severity of loss and honor the memory of the two million Armenians and others that were murdered during the genocide.

The orchestrated extermination of people is contrary to the values the United States espouses. We are a nation which strictly adheres to the affirmation of human rights everywhere. No one can erase a horrendous historical fact by ignoring what so many witnessed and survived.

Recognition and acceptance of misdeeds are necessary steps toward its extinction. Without acceptance, there is no remorse, and without remorse, there is no catharsis and pardon. We all want to forget these horrific tragedies in our history and bury them in the past. However, it is only through the painful process of acknowledging and remembering that we can prevent similar iniquity in the future.

As recently as the year 2000, the United States, together with many European nations, took an active part in halting the genocidal events occurring in Kosovo. We cannot turn our heads from similar events that happened to the Armenian people. By remaining silent, we set a dangerous precedent, and in essence, we condone the horrific act.

The survivors of the Armenian genocide and their descendants have made great contributions to every country in which they have settled, including the United States where they have made their mark in business, the professions and our cultural life.

In closing, I would like to ask that we all take a moment to reflect upon the hardships endured by the Armenians, and acknowledge that in the face of adversity, the Armenian people have persevered. Today, we commemorate the memories of those who lost their lives in the genocide, as well as the resilience of those who survived.

Mr. CROWLEY. Mr. Speaker, this April marks the 87th anniversary of the Armenian Genocide, when the Ottoman Empire killed 1.5 million Armenians and exiled over 500,000 more during an eight-year-long reign of terror. By recognizing these events, we can hopefully prevent similar horrors from occurring again. To recognize the Armenian Genocide, however, the United States must affirm that a genocide indeed occurred. To date, President Bush has refused to acknowledge that the events of 1915 to 1923 comprised acts of genocide.

I have joined 101 other members of Congress in signing a letter to President Bush urging him to recognize the Armenian Genocide. Doing so will place the United States in the company of the European Union, Canada, Russia, and other members of the international community.

History has a way of rewarding those who have suffered. Today, after centuries of Turkish domination and eighty years of Soviet domination, an independent Republic of Armenia is an upstanding, sovereign member of the family of nations. The United States must continue to help the government in Yerevan guarantee its security, develop its economy, and institutionalize its democracy.

As a member of International Relations Committee and Congressional Caucus on Armenia, I will continue to argue strongly for policies benefiting Armenia. My district includes many Armenians, especially in Woodside, and I have listened to the concerns of the Armenian-American Community there many times. I have worked tirelessly to promote the interests of Armenia and the Armenian-American community, including:

Augmenting the Administration's 2003 budget request for Armenia. The Bush Administration's 2003 budget requests only $70 million in bilateral assistance funds for Armenia, $20 million less than Congress appropriated in 2002. Similarly, The Administration requested only $3 million, a $1 million decrease from the 2002 appropriation, in Foreign Military Financing (FMF) to help the Armenian armed forces guarantee the security of the nation. The higher figures must be restored.

Insisting that any regional oil pipeline pass through Armenia.

Maintaining Section 907 in the 2002 Freedom Support Act, which prohibits certain types of direct U.S. assistance to Azerbaijan until it has ended its aggression and lifted its blockades against Armenia and Nagorno-Karabagh.

Supporting legislation to require the State Department to train all Foreign Service Officers dealing with human rights in the U.S. record on the Armenian genocide.

Hosting a town hall meeting with the State Department negotiator for Nagorno-Karabakh to ensure the Armenian-American community is fully informed about the Administration's policies.

As we commemorate the horrific events experienced by the Armenian people in the past, let us also celebrate the extraordinary accomplishments of the Armenian community in the United States and work to enhance the tremendous future potential of the sovereign Armenian nation.

Mr. HINCHEY. Mr. Speaker, I rise in remembrance to mark one of the most horrific tragedies of the 20th century, the Armenian Genocide. On this date in 1915, leaders of the Ottoman Empire began murdering thousands of Armenian people. By 1923, the number of Armenians murdered was over 1.5 million. In spite of irrefutable evidence, the United States of America and the Republic of Turkey have consistently refused to officially acknowledge that the Armenians were victims of genocide.

The Armenian Genocide is a historical event that cannot be denied or forgotten. It is vital for Turkey to accept recognition of this tragedy taking place on its soil. Turkey must follow the example of Germany in its swift commendation and acknowledgement of the Holocaust.

In 2000 the European Parliament officially recognized the Armenian Genocide. The following year the French Parliament recognized it as well. Many attempts have also been made by the U.S. Congress to officially recognize the Armenian Genocide. These attempts, however, have been scuttled by successive administrations for fear of disrupting our strategic relationship with Turkey. While I certainly value Turkey's friendship, as a world leader, the U.S. must officially acknowledge the Armenian Genocide. Not doing so sets an extremely poor example for the rest of the world and denies the victims of this horrific tragedy the proper reverence they deserve.

Armenia was quick to respond to the terrorist attacks on the World Trade Centers and the Pentagon and to offer their condolences and support. With Armenia offering its support and sharing in our grievances, it is unimaginable that we would deny them the same sympathies. The Armenian people deserve official recognition by the United States for the tragic genocide that was inflicted on their people during Ottoman rule, as well as, U.S. efforts to encourage Turkey to also officially recognize the Armenian Genocide.

Mr. ROTHMAN. Mr. Speaker, I am proud to join my colleagues today in commemorating the 87th anniversary of the Armenian Genocide. By rising together to remember the atrocities that occurred in Armenia from 1915–1923, we force people to acknowledge that what occurred was genocide and should be called genocide.

Today, as we reflect on the events of the early 20th Century, we honor the 1.5 million people that lost their lives defending themselves against the Ottoman Empire. We also honor the survivors of the Armenian Genocide for their bravery and courage in the face of evil. The survivors provide an example of courage and determination to future generations of Armenians and non-Armenians alike, and on this anniversary, we recognize them as heroes.

This anniversary of the Armenian Genocide also provides us with an opportunity to reflect on and examine what occurred in 1915 to ensure that such slaughter never occurs again. The events of the 20th Century, from the Holocaust to ethnic cleansing in Kosovo and Rwanda, demonstrate the clear need for retrospection on the causes of these past systematic and deliberate attempts at elimination of specific racial or cultural groups. And, just as importantly, we must continue to fight to ensure that these crimes against humanity are recognized as genocides.

As a Jewish-American who is ever mindful of the Holocaust, I stand with you in recognizing the Armenian Genocide so that the world will never forget the first crime against humanity in the 20th Century.

Mr. SHAW. Mr. Speaker, today marks the eighty-seventh anniversary of an event none of us would wish we have to remember—the genocide of the Armenian people. On April 24, 1915, hundreds of Armenian political, religious and intellectual leaders were forcibly rounded up, exiled and eventually murdered. Over the course of the next eight years, over a million Armenian men, women, and children lost their lives. Untold numbers of Armenian villages were destroyed.

Peace-loving people the world over pause today to reflect on these most tragic events. I urge my fellow Members of Congress and Americans throughout the country to join me in commemorating the Armenian people and to honor the memory of so many who fell to the horrible injustices inflicted upon them.

The plight of the Armenian people can be overshadowed by more recent and more visible acts of genocide, such as that suffered by Jews in World War II. But all acts of inhumanity can have no place in civilized societies. We must not forget the death of even a single child, whether in Auschwitz or Anatolia.

I hope that remembering the events of April 24, 1915 is more than mere ceremony. These memories are a signpost pointing the way to a future where no people should have to live in fear of their lives, especially because of racial or ethnic circumstances none of us can control. All of us must redouble efforts to ensure that the anniversaries celebrated by future generations will be joyous occasions to celebrate the freedom and prosperity of Armenians everywhere.

Mr. OLVER. Mr. Speaker, each year, on April 24th, we solemnly observe the Armenian Genocide in order to recognize its occurrence, honor the memory of those who perished, and educate the public. We remember so that those who still choose to deny the genocide will one day begin the atonement process.

More than one million Armenians were systematically abused, deported and killed from 1915 to 1923, between the fall of the Ottoman Empire and the establishment of modern Turkey.

April 24, 1915 marked the rise of the atrocities. On this night, the Turkish government arrested over 200 Armenian community leaders in Constantinople. Hundreds of similar arrests followed. These leaders were all imprisoned and summarily executed. Thousands of Armenian soldiers in the Ottoman army were disarmed and eventually murdered. After Armenian intellectuals and soldiers were killed, the terror visited every city, town and village in Asia Minor and Turkish Armenia. By 1923, 1,500,000 Armenians were killed and 500,000 were exiled from the Ottoman Empire. There is no doubt that the government was intent upon the destruction of the Armenian people.

Despite long-standing international recognition and condemnation, the present-day Republic of Turkey denies the genocide. As the first genocidal event of the 20th century, the Armenian Genocide was a precursor to the Nazi Holocaust and the more recent eruptions of "ethnic cleansing" in the Balkans.

Raphael Lemkin, the Polish-Jewish lawyer once said: "The practices of genocide anywhere affect the vital interests of all civilized people." As citizens in a democracy, it is incumbent upon all Americans to remember the Armenian Genocide. It is my hope that today we reflect upon the moral and ethical questions that this genocide invokes and respond with this refrain: Never again.

Mr. SCHIFF. Mr. Speaker, on April 24, 2002, the City of Glendale will sponsor an Armenian Genocide Commemoration ceremony and will honor the remarkable achievements in filmmaking and teaching of Dr. J. Michael Hagopian, who has dedicated his life's work to documenting the Armenian Genocide of 1915–1922. I rise today to join in recognizing the work, commitment and dedication of Dr. Hagopian, who has sought to shine the light of truth on the first genocide of the 20th century and honor the memory of the 1.5 million men, women and children who perished in it.

Dr. Hagopian, the founder and chairman of the Armenian Film Foundation and president of Atlantis Productions, has a doctorate in International Relations from Harvard University. He graduated from the University of California at Berkeley, and has completed graduate work in cinema at the University of Southern California. He has taught political science and economics at the University of California at Los Angeles, American University of Beirut, Lebanon, Benares Hindu University, India, and Oregon State University, Corvallis.

Since 1954, Dr. Hagopian has been engaged in making educational and documentary films for the classroom and on television. He has written, directed and produced more than 70 films that have won more than 150 national and international awards. His film, "The Forgotten Genocide," was nominated for two Emmys in production and writing. Several of these films were produced under grants from the U.S. Office of Education and Ethnic Heritage Program, California Endowment for the Humanities, and California State Department of Education. In 1979, Dr. Hagopian established the Armenian Film Foundation, which has produced 13 videos and films, and gathered a film archive of more than 350 survivors of the 1915 Armenian Genocide.

Most recently, he has produced "Voices from the Lake—the Secret Genocide," a tragic tale told by the eyewitness survivors of Kharpert-Mezreh, one among 4,000 towns and villages of the former Ottoman Empire to have been decimated under the genocide. I was proud when serving in the California State Senate to have secured state funding for the production of this film, and, after being elected to Congress, to have arranged a screening of this remarkable documentary at the Library of Congress.

"Voices from the Lake" is the first film in "The Witnesses" project of the Armenian Film Foundation. The second film in the series will examine the impact of the Great Powers on the Armenian Genocide and the third film will depict the deportation of the Armenians from their ancestral homes to the Great Syrian desert and the killing fields along the legendary Euphrates and the wilderness of Der Zor.

Mr. Speaker, acknowledging and honoring the memory of those who lost their lives in the Armenian Genocide is a moral obligation fro all humankind. I ask all Members of Congress to join me in recognizing the remarkable work of one man, Dr. J. Michael Hagopian, who has dedicated his life to ensuring that we do not forget the victims of this genocide so that the world may never again tolerate such crimes against humanity.

Mr. GEKAS. Mr. Speaker, April 14th is the day on which we remember the victims of the gruesome events of the Armenian Genocide. From 1915 to 1923 during the times of the Ottoman Empire, the Turkish government implemented a ruthless extermination of innocent Armenians through which an astonishing and sickening 1.5 million Armenians were killed and over 500,000 additional individuals were exiled from the lands in which they had lived for hundreds and of years.

It is imperative that we properly recognize this massacre as a genocide—a concerted effort to annihilate a people. We must show respect and remembrance to the victims of this terrible period in history. By doing so, we are honoring those victims and condemning the government-sanctioned crime of mass murder and doing our part to prevent similarly horrific events from occurring again. The archives of history must be honest and accurate and tell the real story of the Armenian Genocide.

On a personal level, I have joined the Armenian congressional caucus to assist in the effort to promote international awareness of Armenia's history. With my caucus colleagues, I have encouraged successive Presidents to publicly decry the Ottoman policy of Armenian genocide. In my judgment, the Armenian Genocide is a fact of history and should be recognized as a fact of history. The Armenian Caucus seeks to educate policymakers and the public on the facts of history so that none will ever forget or repeat these atrocities.

Mr. Speaker, just as I rise today in commemoration of the Armenian Genocide and in support of the Republic of Armenia and the Armenian-American community, so should we all stand to show our support and solidarity with these courageous and proud people. They have faced a truly cruel and evil event in history and, through perseverance and hope, have survived with dignity and strength.

Mr. LYNCH. Mr. Speaker, I rise today to join with Armenians throughout the United States, Armenia, and the world in commemorating the 87th anniversary of the Armenian genocide, one of the darkest episodes in Europe's recent past. This week, members and friends of the Armenian community gather to remember April 24, 1915, when the arrest and murder of 200 Armenian politicians, academics, and community leaders in Constantinople marked the beginning of an eight-year campaign of extermination against the Armenian people by the Ottoman Empire.

Between 1915 and 1923, approximately 1.5 million Armenians were killed and more than 500,000 were exiled to the desert to die of thirst or starvation. The Armenian genocide was the first mass murder of the 20th century, a century that was sadly to be marked by many similar attempts at racial or ethnic extermination, from the Holocaust to the Rwandan genocide to the recent ethnic cleansing in Yugoslavia.

In the 87 years since the beginning of this genocide, we have learned the importance of commemorating these tragic events. In 1939, after invading Poland and relocating most Jews to labor or death camps, Hitler cynically defended his own actions by asking, "Who remembers the Armenians?" Just a few years later, six million Jews were dead. Now is the time when we must answer Hitler's question with a clear voice: We remember the Armenians, and we stand resolved that genocide is a crime against all humanity. We must remember the legacy of the Armenian genocide and we must speak out against such tragedies to ensure that no similar evil occurs again.

While today is the day in which we solemnly remember the victims of the Armenian genocide, I believe it is also a day in which we can celebrate the extraordinary vitality and strength of the Armenian people, who have fought successfully to preserve their culture and identity for over a thousand years. The Armenian people withstood the horrors of genocide, two world wars, and several decades of Soviet dominance in order to establish modern Armenia. Armenia has defiantly rebuilt itself as a nation and a society—a triumph of human spirit in the face of overwhelming adversity.

It is my firm belief that it is only by learning from and commemorating the past can we work toward a future free from racial, ethnic, and religious hate. By acknowledging the Armenian genocide and speaking out against the principles by which it was conducted, we can send a clear message: never again.

Mr. DOOLEY of California. Mr. Speaker, I rise today to join my colleagues in remembrance of the Armenian Genocide.

This terrible human tragedy must not be forgotten. Like the Holocaust, the Armenian Genocide stands as a tragic example of the human suffering that results from hatred and intolerance.

The Ottoman Turkish Empire between 1915 and 1923 massacred one and a half million Armenian people. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

It would be an even greater tragedy to forget that the Armenian Genocide ever happened. To not recognize the horror of such events almost assures their repetition in the future. Adolf Hitler, in preparing his genocide plans for the Jews, predicted that no one would remember the atrocities he was about to unleash. After all, he asked, 'Who remembers the Armenians?'

Our statement today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish government—to this day—refuses to acknowledge the Armenian Genocide. The truth of this tragedy can never and should never be denied.

And we must also be mindful of the current suffering of the Armenian, where the Armenian people are still immersed in tragedy and violence. The unrest between Armenia and Azerbaijan continues in Nagorno-Karabakh. Thousands of innocent people have already perished in this dispute, and many more have been displaced and are homeless.

In the face of this difficult situation we have an opportunity for reconciliation. Now is the time for Armenia and its neighbors to come together and work toward building relationships that will assure lasting peace.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. The Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud sense of ethnic heritage. Today we recall the tragedy of their past, not to replace blame, but to answer a fundamental question, 'Who remembers the Armenians?'

Our commemoration of the Armenian Genocide speaks directly to that, and I answer, we do.

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the victims of one of history's most terrible tragedies, the Armenian Genocide.

April 24, 1915 is remembered and earnestly commemorated each year by the Armenian community as the day in which 300 Armenian leaders, intellectuals, and professionals were rounded up in Constantinople, deported, and killed. From 1915 through 1923, Armenians that lived under Ottoman rule were systematically deprived of their property, freedom, and dignity. In addition, one and a half million Armenians had been massacred and 500,000 more had been deported. The Armenian community saw its culture devastated and its people dispersed.

In my district, there is a significant population of Armenian survivors and their families that showed heroic courage and will to survive in the face of horrendous obstacles and adversities. These survivors are an important window into the past and an invaluable part of our society. It is through their unforgettable tragedy that we are able to share in their history and strong heritage.

Mr. Speaker, it is difficult to fathom a greater evil than the massacre and willful destruction of a people. Denying the genocide that took place when there are recorded accounts of barbarity and ethnic violence is an injustice. This was a tragic event in human history, but by paying tribute to the Armenian community we ensure the lessons of the Armenian genocide are properly understood and acknowledged. I am pleased my colleagues and I have this opportunity in order to ensure this legacy is remembered.

Mr. MCNULTY. Mr. Speaker, I join today with many of my colleagues in remembering the victims of the Armenian Genocide on this, its 87th anniversary.

From 1915 to 1923, the world witnessed the first genocide of the 20th Century. This was clearly one of the world's greatest tragedies—the deliberate and systematic Ottoman annihilation of 1.5 million Armenian men, women, and children.

Furthermore, another 500,000 refugees fled and escaped to various points around the world—effectively eliminating the Armenian population of the Ottoman Empire.

From these ashes arose hope and promise in 1991—and I was blessed to see it. I was one of the four international observers from the United States Congress to monitor Armenia's independence referendum. I went to the communities in the northern part of Armenia, and I watched in awe as 95 percent of the people over the age of 18 went out and voted.

The Armenian people had been denied freedom for so many years and, clearly, they were very excited about this new opportunity. Almost no one stayed home. They were all out in the streets going to the polling places. I watched in amazement as people stood in line for hours to get into these small polling places and vote.

Then, after they voted, the other interesting thing was that they did not go home. They had brought covered dishes with them, and all of these polling places had little banquets afterward to celebrate what had just happened.

What a great thrill it was to join them the next day in the streets of Yerevan when they were celebrating their great victory. Ninety-eight percent of the people cast their ballots in favor of independence. It was a wonderful experience to be there with them when they danced and sang and shouted, 'Ketse azat ankakh Hayastan'—long live free and independent Armenia! That should be the cry of freedom-loving people everywhere.

Mr. THOMAS. Mr. Speaker, I rise to recognize the fact that today is the 87th anniversary of the beginning of the Armenian genocide that began under the direction of the Ottoman Empire. From 1915 until 1923, 1.5 million Armenians were murdered and another 500,000 were forced into exile in Russia, ending a period of 2,500 years of an Armenian presence in their historic homeland. In addition, Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled—silencing the leading representatives of the Armenian community in the Ottoman Empire.

Today, we pause to remember and honor the victims of this terrible period in human history. Like the Jewish and Cambodian holocausts, and more recently, the Serbian ethnic cleansing in Kosovo, the Armenian genocide was terrible and morally reprehensible. Thus, today I honor those Armenians who were killed, arrested, exiled, and otherwise mistreated, and I remind my colleagues and the world that we must never forget what happened during that terrible period in history. Furthermore, we must reaffirm our resolve to ensure that no people will ever again be the victims of such a mass genocide.

Mr. LEVIN. Mr. Speaker, I am proud to join my colleagues in Congress to commemorate the 87th anniversary of the Armenian Genocide.

Between 1915 and 1923, approximately two million Armenians were massacred, persecuted, and exiled by the Young Turk government of the Ottoman Empire. This campaign of murder and oppression was an attempt to systematically wipe out the Armenian population of Anatolia.

Even though there were numerous witnesses to the atrocities committed, including U.S. Ambassador Henry Morgenthau, Sr., and even though the Turk government itself held war crime trials and condemned to death the chief perpetrators of this heinous crime against humanity, the Turk government continues to deny the Armenian Genocide ever took place.

This denial cannot be allowed to stand. The failure of the Turkish government to acknowledge the sinful acts of its predecessors sent the wrong message to the leaders of Germany, Rwanda, and Bosnia. As Nobel Peace Prize winner Archbishop Desmond Tutu wrote:

> "It is sadly true what a cynic has said, that we learn from the history that we do not learn from history. And yet it is possible that if the world had been conscious of the genocide that was committed by the Ottoman Turks against the Armenians, the first genocide of the twentieth century, then perhaps humanity might have been more alert to the warning signs that were being given before Hitler's madness was unleashed on an unbelieving world."

It is imperative that each of us works to ensure that our generation and future generations never again witness such inhuman behavior and suffering. Only through remembrance and recognition can we stop such acts of senseless cruelty and violence against humankind from happening again.

Ms. SOLIS. Mr. Speaker, I rise today as a Member of the Congressional Caucus on Armenian Issues to recognize the horrific Armenian Genocide.

Today we mark the 87th anniversary of the Armenian Genocide, where, in 1915, 1.5 million men, women and children died at the hands of the Ottoman Empire.

Another 500,000 Armenians were forcibly deported, deprived of their homes, their possessions and their homeland.

Many of these refugees made their way to the United States, and it is with pride that we recognize today the more than 1 million people of Armenian descent who live in our great nation.

However, it is with regret that we admit today that our nation, which has seen firsthand the effects of that brutal genocide, still refuses to acknowledge this crime against humanity.

This injustice must be corrected.

Today our children learn about other plights in our world's history, such as slavery and the Holocaust.

But our voices remain mute when it comes to the genocide of innocent Armenian men, women and children.

But our children need to learn that on April 24, 1915, hundreds of Armenian leaders were murdered in Istanbul after being summoned and gathered.

Soon, the rampage spread to the Armenian people who were led to slaughter across the Ottoman Empire.

It is imperative that these events be recognized as a genocide, and this recognition can only be realized if our government has the courage to stand up and proclaim the truth.

Unless this crime against humanity is acknowledged and compensated for, we run the risk of somehow repeating it.

I urge my colleagues and President Bush to do the right thing and join me this evening in affirming the existence of the Armenian Genocide.

Mr. TIERNEY. Mr. Speaker, I rise today to speak of one of the great horrors of our century: the Armenian genocide. As a member of the Congressional Caucus on Armenian Issues, I once again join my colleagues in recognizing the great tragedy of the Armenian people.

As we all know, the genocide of the Armenian people occurred in 1915, when the Ottoman Empire began to force Armenians from their homeland, and lasted until 1923. These eight years saw the deaths of 1.5 million innocent victims and 500,000 exiled survivors. Despite the tremendous magnitude of the genocide, the world stood by as families were torn asunder and millions of lives were taken.

There is no doubt that calling the events by their rightful name—genocide—is an important element of this recognition of responsibility, and I was pleased to sign a letter to the President urging him to do exactly that next week when we commemorate this tragic event. I would hope that all leaders would join me in denouncing this act of genocide.

Today, as I once again honor the victims of the Armenian genocide on behalf of the 6th district of Massachusetts, I also honor the commitment and perseverance of the Armenian-Americans who have tirelessly struggled to ensure that the great sorrow of their people becomes known to all people. It is the very least that this Congress can do to stand up and commemorate the Armenian Genocide, and I am pleased to join my colleagues in doing so.

Mr. RADANOVICH. Mr. Speaker, as I have every year since I was elected to this institution, I come before this chamber to honor my Armenian friends on the eve of the 87th anniversary of the Armenian Genocide.

As we all know, the 20th century was one of historic progress and horrible brutality. Unfortunately, as we enter into the 21st Century we have seen this brutality continue. America is often the first nation to combat brutality around the world. Our reaction was no different when we responded to the extermination of 1.5 million Armenians by the Ottoman Empire between 1015–1923. This horrific event that took place during those years has become to be known as the Armenian Genocide.

As members of this body, and as Americans, we have an obligation to educate and familiarize the world on the Armenian Genocide. In fact, we must ensure that the legacy of the Genocide is remembered, so that this human tragedy will not be repeated. As we have seen in recent years, genocide and ethnic cleansing continue to plague nations around the world—and as a great nation—we must always be firm in standing against such atrocities. Part of standing against such brutal repression is making sure it is never forgotten or repeated. Therefore, it is critical that we educate people about the systematic and deliberate annihilation of 1.5 million Armenians.

As such, we make it clear that Americans do not and will not accept such atrocities or their denial. Silences, either out of indifference or as the result of political pressure, only serves to encourage others who would again use ethnic cleansing as a tool of government. By recognizing and learning from the past, we work toward a future free of genocide.

When I began the process of seeking affirmation of the voluminous record on the Armenian Genocide years ago, I did not on behalf of a united Armenian-American community who appropriately sought from this body recognition and affirmation of the truth regarding a horrible catastrophe that is so often forgotten. Having paid close attention to the views of those opposed to my efforts, I am now more committed to this effort—not for Armenian-Americans, but for all Americans.

If we are serious about learning the lessons from history—as painful as they sometimes are—then we must be willing to speak openly and honestly about this more serious violation of human rights. To shy away from recognizing genocide, or, even worse, to be complicit in any way in its denial would represent a retreat from our nation's historic commitment to human rights.

I say that we must affirm history—not bury it. We must learn from history—not reshape it according to the geo-strategic needs of the moment. And we must refuse to be intimidated. Otherwise, nations with troubled pasts will ask that the American record on their dark chapters be expunged.

During President Bush's campaign he pledged to properly commemorate the Armenian Genocide. Today, I have every reason to believe that he will honor that pledge and do what is right for both the Armenian people and for historical record. While President Bush used the textbook definition of genocide in his annual statement last year, I encourage him to take the final step and use the "G" word this year—"Genocide."

Mr. VISCLOSKY. Mr. Speaker, I rise today in solemn memorial to the estimated 1.5 million men, women, and children who lost their lives during the Armenian Genocide. As in the past, I am pleased to join so many distinguished House colleagues on both sides of the aisle in ensuring that the horrors wrought upon the Armenian people are never repeated.

On April 24, 1915, over 200 religious, political, and intellectual leaders of the Armenian community were brutally executed by the Turkish government in Istanbul. Over the course of the next 8 years, this war of ethnic genocide against the Armenian community in the Ottoman Empire took the lives of over half the world's Armenian population.

Sadly, there are some people who still deny the very existence of this period which saw the institutionalized slaughter of the Armenian people and dismantling of Armenian culture. To those who would question these events, I point to the numerous reports contained in the U.S. National Archives detailing the process that systematically decimated the Armenian population of the Ottoman Empire. However, old records are too easily forgotten—and dismissed. That is why we come together every year at this time: to remember in words what some may wish to file away in archives. This genocide did take place, and these lives were taken. That memory must keep us forever vigilant in our efforts to prevent these atrocities from ever happening again.

I am proud to note that Armenian immigrants found, in the United States, a country where their culture could take root and thrive. Most Armenians in America are children or grandchildren of the survivors, although there are still survivors amongst us. In my district in Northwest Indiana, a vibrant Armenian-American community has developed and strong ties to Armenia continue to flourish. My predecessor in the House, the late Adam Benjamin, was of Armenian heritage, and his distinguished service in the House serves as an example to the entire Northwest Indian community. Over the years, members of the Armenian-American community throughout the United States have contributed millions of dollars and countless hours of their time to various Armenian causes. Of particular note are Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional District, who have continually worked to improve the quality of life in Armenia, as well as in Northwest Indiana. Three other Armenian-American families in my congressional district, Dr. Aram and Seta Semerdjian, Heratch and Sonya Doumanian, and Ara and Rosy Yeretsian, have also contributed greatly toward charitable works in the United States and Armenian. Their efforts, together with hundreds of other members of the Armenian-American community, have helped to finance several important projects in Armenia, including the construction of new schools, a mammography clinic, and a crucial roadway connecting Armenia to Nagorno Karabagh.

In the House, I have tried to assist the efforts of my Armenian-American constituency by continually supporting foreign aid to Armenia. This past year, with my support, Armenia received $94.3 million in U.S. aid to assist economic and military development. In addition, on April 12, 2002, I joined several of my colleagues in signing the letter to President Bush urging him to honor his pledge to recognize the Armenian Genocide.

The Armenian people have a long and proud history. In the fourth century, they became the first nation to embrace Christianity. During World War I, the Ottoman Empire was ruled by an organization known as the Young Turk Committee, which allied with Germany. Amid fighting in the Ottoman Empire's eastern Anatolian provinces, the historic heartland of the Christian Armenians, Ottoman authorities ordered the deportation and execution of all Armenians in the region. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenian had either been killed or deported.

While it is important to keep the lessons of history in mind, we must also remain committed to protecting Armenia from new and more hostile aggressors. In the last decade, thousands of lives have been lost and more than a million people displaced in the struggle between Armenia and Azerbaijan over Nagorno-Karabagh. Even now, as we rise to commemorate the accomplishments of the Armenian people and mourn the tragedies they have suffered, Azerbaijan, Turkey, and other countries continue to engage in a debilitating blockade of this free nation.

Consistently, I have testified before Foreign Operations Appropriations Subcommittee on the important issue of bringing peace to a troubled area of the world. I continued my support for maintaining of level funding for the Southern Caucasus region of the Independent States (IS), and of Armenia in particular. I also stressed the critical importance of revisiting Section 907 of the Freedom Support Act that restricts U.S. aid for Azerbaijan as a result of their blockade. However, I commend my colleagues on the Foreign Operations Appropriations Subcommittee for striking the appropriate balance last year regarding Section 907 of the Freedom Support Act, which will now allow Azerbaijan to do their part in the war against international terrorism. Unfortunately, Armenia is now entering its thirteenth year of a blockade and I must request that the Congress review the waiver to Section 907 on a yearly basis. The flow of food, fuel, and medicine continues to be hindered by the blockade, creating a humanitarian crisis in Armenia.

Mr. Speaker, I would like to thank my colleagues, Representatives JOE KNOLLENBERG and FRANK PALLONE, for organizing this special order to commemorate the 87th Anniversary of the Armenian Genocide. Their efforts will not only help bring needed attention to this tragic period in world history, but also serve to remind us of our duty to protect basic human rights and freedoms around the world.

Mr. KENNEDY of Rhode Island. Mr. Speaker, we recognize today, one of the most tragic atrocities that the twenty-first century has witnessed, occurring eighty-seven years ago. The Armenian Genocide, which began on April 24th, 1915 began with the systematic killings of 200 intellectual and spiritual Armenian leaders, and ended with a count of over 1.5 million dead and another half million deported. It was an attempt on ethnic cleansing that has marred the pasts of native Armenians, now living in their native country or residing in America.

As members of the international community, it is important for our nation to acknowledge this terrible act on the Armenian people. We must make sure that the voices of the Armenian people do not go unheard. Although the Republic of Turkey has continued to deny that the Genocide took place on its soil, those of us here today are aware of the truth.

We cannot allow the truth of the Armenian Genocide to linger in the shadows of this world's history. With information and education our world will be better equipped to tackle equally disturbing human rights atrocities that occur around the globe. Through education, commemoration and remembrance, we send a signal out that the United States does not condone human rights atrocities and we will not forget those that have occurred in the past. We must continue to recognize that the events of 1915–1923 in Armenia were indeed a genocide and in this recognition process, we may prevent incidents like this from occurring ever again. The special orders today on the House floor are testaments to that message and I hope that this annual effort will continue.

Mr. CAPUANO. Mr. Speaker, I rise today, for the fourth consecutive year, to commemorate a people who despite murder, hardship, and betrayal have persevered. April 24, 2002, marks the 8th anniversary of the Armenian Genocide; unbelievably, an event that many still fail to recognize.

Throughout three decades in the late nineteenth and early twentieth centuries, millions of Armenians were systematically uprooted from their homeland of three thousands years and deported or massacred. From 1894 through 1896, three hundred thousand Armenians were ruthlessly murdered. Again in 1909, thirty thousand Armenians were massacred in Cilicia, and their villages were destroyed.

On April 24, 1915, two hundred Armenian religious, political, and intellectual leaders were arbitrarily arrested, taken to Turkey and murdered. This incident marks a dark and solemn period in the history of the Armenian people. From 1915 to 1923, the Ottoman Empire launched a systematic campaign to exterminate Armenians. In eight short years, more than 1.5 million Armenians suffered through atrocities such as deportation, forced slavery and torture. Most were ultimately murdered.

I have had the privilege of joining my colleagues in a letter to the President asking that he acknowledge the Genocide in his April 24th commemoration statement. It is my hope that the President will stand by this pledge he made in 2000. It is my hope that this will be one more step toward official recognition of the Armenian Genocide by the United States.

Many of our companions in the international community have already taken this final step. The European Parliament and the United Nations have recognized and reaffirmed the Armenian Genocide as historical fact, as have the Russian and Greek parliaments, the Canadian House of Commons, the Lebanese Chamber of Deputies and the French National Assembly. It is time for America to join the chorus and acknowledge the Armenians who suffered at the hands of the Ottoman Empire. And let me stress that I am not speaking of the government of modern day Turkey, but rather its predecessor, overthrown and repudiated by the modern Turkish Republic.

As I have in the past, as a member of the Congressional Armenian Caucus, I will continue to work with my colleagues and with the Armenian-Americans in my district to promote investment and prosperity in Armenia. And, I sincerely hope that this year the U.S. will have the opportunity and courage to speak in support of the millions of Armenians who suffered because of their heritage.

Mr. FELINGHUYSEN. Mr. Speaker, I am pleased to participate once again in the annual remembrance of the Armenian genocide today, eighty seven years after this terrible tragedy which claimed the lives of over 1.5 million Armenians between 1915 and 1923.

The Armenian Genocide began in 1915 with the rounding up and killing of Armenian soldiers by the Turkish government. After that, the government turned its attention to slaughtering Armenian intellectuals. They were killed because of their ethnicity, the first group in the 20th Century killed not for their actions, but for who they were.

By the time the bloodshed of the genocide ended, the victims included the aged, women and children who had been forced from their homes and marched to relocation camps, beaten and brutalized along the way. In addition to the 1.5 million dead, over 500,000 Armenians were driven from their homeland.

It is important that we make the time, every year, to remember the victims of the Armenian genocide. We hope that, by remembering the bloodshed and atrocities committed against the Armenians, we can prevent this kind of tragedy from repeating itself. Unfortunately, history continues to prove us wrong. That is why we must be so vigilant in remembering the past.

It is important to continue to talk about the Armenian genocide. We must keep alive the memory of those who lost their lives during the eight years of bloodshed in Armenia. We must educate other nations who have not recognized that the Armenian genocide occurred. And we must call this tragedy what it is: a genocide. That is why I joined my colleagues in sending a letter to President Bush earlier this year asking him to recognize the Armenians Genocide as that—genocide—in his annual statement.

Mr. Speaker, I commend Armenian-Americans—the survivors and their descendants—who continue to educate the world about the tragedy of the Armenian Genocide and make valuable contributions to our shared American culture. because of their efforts, the world will not be allowed to forget the memory of the victims of the first 20th Century holocaust.

Mr. FERGUSON. Mr. Speaker, I am proud to stand with my colleagues today to remember a terrible chapter in human history, the Armenian genocide. April 24 holds as a reminder of the Armenian intellectuals and professionals in Constantinople who were first rounded up and deported or killed so many years ago. This action was a precursor to the attempted genocide of an entire people.

From 1915 to 1923, a million and a half Armenians were killed and countless others suffered as a result of the system and deliberate campaign of genocide by the rules of the Ottoman Empire.

Half a million Armenians who escaped death were deported to the Middle East. Some were fortunate enough to escape to the United States.

Mr. Speaker, I am thankful that more than a million Armenians managed to escape the genocide and establish a new life here in the United States. In the Seventh District of New Jersey, I am proud to represent a number of Armenian-Americans. They make incredible contributions to the area and enrich every aspect of New Jersey life, from science to commerce to the arts.

Our statements today are intended to preserve the memory of the Armenian loss and to honor those descendants who have overcome the atrocities that took their grandparents, their parents, their children, and their friends. We mark this anniversary each year to remind our Nation and to teach future generations about the horrors of genocide and oppression endured by the Armenian people.

Let us stand today, united in our remembrance of those who died and committed to ensuring that future horror as, like those faced by the Armenian people, never happen in our world again.

Mrs. LOWEY. Mr. Speaker, I rise today in commemoration of the Armenian Genocide, one of the ugliest periods in world history, which took the lives of 1.5 million Armenians and exiled the Armenian nation from its homeland.

My colleagues and I join with the Armenian-American community, and with Armenians throughout the world, in remembering one of humanity's darkest times, when senseless hatred and prejudice attempted to erase an historic people from the face of our earth.

We cannot turn our backs on history. We cannot ignore the atrocities perpetrated in the past, lest we repeat them. Now, more than ever, we must remain vigilant and steadfast in our defense of right and good. We have seen great horror in just the last year, and we know from history—from the Armenian Genocide and from other massacres—that letting fundamentalist aggression go unchecked and forgotten will come back to haunt us all.

We know this because the world has experienced it. The lessons of what results when hatred is left unchecked have been too slowly learned. Adolf Hitler looked to the Armenian Genocide before perpetrating the Holocaust, calculating that his plans to annihilate the Jewish people would encounter little opposition, just as the Armenian Genocide spurred no global outcry. In a year in which the seemingly unthinkable has happened time and again, we acknowledge that good people will be forever engaged in a battle against the evil in our world. In memory of those who perished in the Armenian Genocide, and in similar acts around the world and throughout the ages, we will never give up this fight.

As we remember the past, we must also pledge our support for ensuring the future of the Armenian nation. Our country must be vigilant in bringing about an end to the blockade of Armenia, helping the people of that nation to live secure and prosperous lives. Our yearly package of assistance to Armenia—economic and now military as well—is a signal of the United States' commitment to this goal. It must be maintained.

Mr. Speaker, the Armenian people have shown true resilience in confronting the obstacles they have faced in the last century. From the ashes of the Genocide, the Armenian nation has become strong, making invaluable contributions to our country, to Armenia, and to the world. I join my colleagues in remembering the atrocities of the past, but also in celebrating the hope of a better future.

Mr. MEEHAN. Mr. Speaker, I rise to commemorate the 87th anniversary of the Armenian Genocide and pay my solemn respects to those who lost their lives because of their ethnicity. The Armenian Genocide was a terrible tragedy that must never be forgotten.

On April 24, 1915, hundreds of Armenian leaders were murdered in Istanbul by order of the Young Turk regime of the Ottoman empire. The Young Turks were a dictatorial regime that orchestrated the systematic destruction of the Armenian people in the Ottoman empire. This genocide occurred through forced labor, concentration camps and death marches. By 1923, the Ottoman empire had killed 1.5 million Armenians and deported 500,000.

However, the present day Turkish government has not yet admitted its involvement in the Armenian Genocide. This denial disrespects the memories of the victims of the Armenian Genocide and compels its survivors and all of us to remind the world of this terrible tragedy every April 24th. Only by raising our voices together will these crimes be known, condemned forever, and—hopefully—never repeated.

Today, I beseech the Turkish government to finally acknowledge its role in the Armenian Genocide. In attempting the systematic annihilation of the Jews of Europe half a century ago, Adolph Hitler asked "Who today remembers the annihilation of the Armenians?" We answer: we remember. And it is long past time for the Turkish government to join us in remembering.

I proudly represent a large and active Armenian community in my Congressional District in Massachusetts. Every year, survivors and their descendants make public and vivid the hidden details of the Armenian Genocide as they participate in commemoration ceremonies in Boston, Lowell, and other parts of Massachusetts's Merrimack Valley. The commemoration offers participants an opportunity to remind the world of the tragedy that befell Armenians of the Ottoman empire.

To conclude, I am honored to add my voice to those of my colleagues today in commemorating the Armenian Genocide. We will never forget the truth.

Mr. BERMAN. Mr. Speaker, today marks the 87th anniversary of the beginning of the Armenian Genocide. I rise today to commemorate this terrible chapter in human history, and to help ensure that it will never be forgotten.

On April 24, 1915, the Turkish government began to arrest Armenian community and political leaders. Many were executed without ever being charged with crimes. Then the government deported most Armenians from Turkish Armenia, ordering that they resettle in what is now Syria. Many deportees never reached that destination.

From 1915 to 1918, more than a million Armenians died of starvation or disease on long marches, or were massacred outright by Turkish forces. From 1918 to 1923, Armenians continued to suffer at the hands of the Turkish military, which eventually removed all remaining Armenians from Turkey.

We mark this anniversary of the start of the Armenian Genocide because this tragedy for the Armenian people was a tragedy for all humanity. It is our duty to remember, to speak out and to teach future generations about the horrors of genocide and the oppression and terrible suffering endured by the Armenian people.

We hope the day will soon come when it is not just the survivors who honor the dead but also when those whose ancestors perpetrated the horrors acknowledge their terrible responsibility and commemorate as well the memory of genocide's victims.

Sadly, we cannot say humanity has progressed to the point where genocide has become unthinkable. We have only to recall the "killing fields" of Cambodia, mass ethnic killings in Bosnia and Rwanda, and "ethnic cleansing" in Kosovo to see that the threat of genocide persists. We must renew our commitment never to remain indifferent in the face of such assaults on innocent human beings.

We also remember this day because it is a time for us to celebrate the contribution of the Armenian community in America—including hundreds of thousands in California—to the richness of our character and culture. The strength they have displayed in overcoming tragedy to flourish in this country is an example for all of us. Their success is moving testimony to the truth that tyranny and evil cannot extinguish the vitality of the human spirit.

The United States has an ongoing opportunity to contribute to a true memorial to the past by strengthening Armenia's emerging democracy. We must do all we can through aid and trade to support Armenia's efforts to construct an open political and economic system. I am very pleased that this year's foreign aid bill earmarks $94.3 million in aid for Armenia, including, for the first time, $4.3 million in military assistance. This signifies a new stage in the U.S.-Armenia relationship.

Adolf Hitler, the architect of the Nazi Holocaust, once remarked "Who remembers the Armenians?" The answer is, we do. And we will continue to remember the victims of the 1915–23 genocide because, in the words of the philosopher George Santayana, "Those who cannot remember the past are condemned to repeat it."

Ms. ESHOO. Mr. Speaker, I rise today, as I have every year at this time, in a proud but solemn tradition to remember and pay tribute to the victims of one of history's worst crimes against humanity, the Armenian genocide of 1915 to 1923.

In 1915, 1.5 million women, children, and men were killed, and 500,000 Armenians were forcibly deported by the Ottoman Empire during an eight year reign of brutal repression. Armenians were deprived of their homes, their dignity, and ultimately their lives.

Yet, America, the greatest democracy in the world, has not made an official statement regarding the Armenian genocide and it is my hope that the Congress will have the courage to finally recognize the genocide.

It's fundamental that we learn from our past and never let this kind of tragedy happen again.

Opponents have argued that recognizing the genocide would severely jeopardize U.S.-Turkey relations.

Recognizing the genocide is not an indictment of the current Turkish government nor is it a condemnation of any former leader of Turkey.

The U.S. and Turkey can and will be able to continue its partnership should the Congress recognize the genocide.

Mr. Speaker, as one of two Members of Congress of Armenian descent, I'm very proud of my heritage.

Like many Armenians, I learned from my grandparents of the hardship and suffering endured by so many at the hands of the Ottoman Empire.

That is how I cam to this understanding and this knowledge and why I bring this story to the House of Representatives.

I am very proud of the contributions which the Armenian people have made to our great nation.

They've distinguished themselves in the arts, in law, in academics, in every walk of life and they continue today to make significant contributions in communities across our country today.

It's essential to not only publicly acknowledge what happened, but also understand that we are teaching present and future generations about the Armenian Genocide.

We need to recognize the genocide to enlighten our young people and to remind ourselves that wherever anything like this occurs around the globe that we, as Members of the United States Congress, and as citizens of this great Nation, raise our voices.

Mr. DINGELL. Mr. Speaker, I rise today to recognize and remember the 1.5 million victims of the Armenian Genocide, who were systematically slaughtered solely because of their race. While there is never a justification for genocide, in this case there also regrettably has never been an apology, and the criminals were never brought to justice. Such an unconscionable act, however, can never be forgotten.

Accordingly, it is our duty as elected officials to state in no uncertain terms that the Armenian Genocide is clearly and unambiguously defined as genocide. Repeatedly, many leaders, including the President, have called the Armenian Genocide everything but a genocide. Only when this term is understood will the tragic events that began on April 24, 1915, be placed in the correct historical context. The Armenian Genocide cannot be denied.

Mr. Speaker, I also rise in tribute to the Armenian people who have fully recovered from this atrocity by maintaining their proud traditions and culture, becoming an integral part of America, and nine years ago, forming the Republic of Armenia.

The Ottoman Empire's last, desperate act was one of profound cruelty, tragic and gruesome beyond description. During World War I—a tumultuous, revolutionary time of great societal transformations and uncertain futures on the battlefields and at home—desperate Ottoman leaders fell back on the one weapon that could offer hope of personal survival. It is a weapon that is still used today, fed by fear, desperation, and hatred. It transforms the average citizen into a zealot, no longer willing to listen to reason. This weapon is, of course, nationalism. Wrongly directed, nationalism can easily result in ethnic strife and senseless genocide, committed in the name of false beliefs preached by immoral, irresponsible, tyrannical leaders.

Today I rise not to speak of the present, but in memory of the victims of the past, who suffered needlessly in the flames of vicious, destructive nationalism. Exactly 87 years ago today, the leaders of the Ottoman government tragically chose to systematically exterminate an entire race of people. In this case, as in the case of Nazi Germany, nationalism became a weapon of cruelty and evil. Let us never forget the 1.5 million Armenians who died at the whim of wicked men and their misguided followers.

The story of the Armenian Genocide is in itself appalling. It is against everything our government—and indeed all governments who strive for justice—stands for; it represents the most wicked side of humanity. What makes the Armenian story even more unfortunate is history has repeated itself in all corners of the world, and lessons that should have been learned long ago have been ignored. We must not forget the Armenian Genocide, the Holocaust, Cambodia, Rwanda, or Bosnia. It is our duty that by remembering the millions who have been victims of genocide, we pledge ourselves to preventing such acts from repeating themselves.

It is an honor and privilege to represent a large and active Armenian population, many who have family members who were persecuted by their Ottoman Turkish rulers. Michigan's Armenian-American community has done much to further our state's commercial, political, and intellectual growth, just has it as done in communities across the country. And so I also rise today to honor to the triumph of the Armenian people, who have endured adversity and bettered our country.

The Armenian people have faced great trials and tests throughout their history. They have proved their resilience in the face of tragedy before, and I have no doubt that they will endure today's tragic occurrence, recognize that a madman's bullet can never put an end to a people's dreams, and keep moving forward on the path of peace and freedom.

Mr. Speaker, let no one, friend or foe, ever deny that the Armenian Genocide occurred. Let us not forget the heinous nature of the crimes committed against the Armenian people. Let us promise to the world as American citizens and citizens of the world, that we will never again allow such a crime to be perpetrated, and will not tolerate the forces of misguided nationalism and hate.

Ms. WOOLSEY. Mr. Speaker, I rise today to honor those who died in the Armenian Genocide.

In the first part of the 20th century, a tremendous evil was done to the Armenian people. April 24, 1915 is a day that will forever live in infamy. A Turkish campaign to eliminate Armenians from the face of the earth began that day. In the end, that campaign killed 1.5 million people.

More than 200 religious, political and intellectual leaders were assassinated. 500,000 people were exiled from their homes. As a result of this violence, one of earth's oldest civilizations virtually ceased to exist.

Unfortunately this terrible chapter of history is not well known. Many Americans don't know much about the Armenian genocide, but it should stand as a constant reminder to all of us that we must be vigilant and stand firm against bigotry and hatred at every turn.

We must take the horrors of the past and transform them into compassion and hope. We must learn from the Armenian genocide—learn about perseverance and hope. We can't change the past, but we can prepare for the future.

While we remember with sorrow, we must also be heartened that eighty-five years later, Armenians remain a proud, dignified people. Their spirit lives in the independent republic of Armenia and in many communities around the United States, particularly in my home state of California.

Every one of these people is the product of generations of courage, perseverance and hope. Understanding what it is to struggle as a people motivates many Armenians to educate others about the atrocities committed in the past.

The bonds between Armenia and the United States are growing stronger all the time. Economic cooperation is growing. Democracy is blossoming. These are testaments of strength to the Armenian people.

While we did not do enough for the victims eighty-five years ago, we can honor their memory now, and ensure that nothing so horrendous happens again.

Mr. WAXMAN. Mr. Speaker, today we solemnly commemorate the 87th anniversary of the Armenian Genocide, when the Ottoman Government unleashed a campaign of devastation and destruction against its Armenian population.

Over the course of eight years, beginning in 1915, Armenian communities were systematically destroyed. One and a half million men, women, and children were murdered and nearly one million others were deported. From the ashes of destruction, the survivors rebuilt their lives and many established vibrant Armenian communities here in the United States, but the scars of the massacres are deeply embedded in their history and our conscience.

The world was silent during the bloodshed of Armenians. It was tragically just a short number of years before this inaction degenerated into paralysis against Hitler's attempt to annihilate the Jews.

At a time when the flames of anti-Semitism are reigniting across Europe, we have a responsibility to redouble our efforts against the bigotry and intolerance that sparked the Armenian Genocide and later the Holocaust. At a time when there are still attempts to refute the Armenian Genocide and Holocaust denial is spreading rampantly through the Arab world, we have an obligation to resolve ourselves against the dangers of historical revisionism.

Today we mourn the victims, pay tribute to the survivors, and stand together with all who are committed to promoting awareness about this dark chapter of history. Today we remember to never forget.

PREDICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, our government intervention in the economy and in the private affairs of citizens and the internal affairs of foreign countries leads to uncertainty and many unintended consequences. Here are some of the consequences about which we should be concerned.

I predict U.S. taxpayers will pay to rebuild Palestine, both the West Bank and the Gaza, as well as Afghanistan. U.S. taxpayers paid to bomb these areas, so we will be expected to rebuild them.

Peace, of sorts, will come to the Middle East, but will be short-lived. There will be big promises of more U.S. money and weapons flowing to Israel and to Arab countries allied with the United States.

U.S. troops and others will be used to monitor the "peace."

In time, an oil boycott will be imposed, with oil prices soaring to historic highs.

Current Israeli-United States policies will solidify Arab Muslim nations in their efforts to avenge the humiliation of the Palestinians. That will include those Muslim nations that in the past have fought against each other.

Some of our moderate Arab allies will be overthrown by Islamic fundamentalists.

The U.N. will continue to condemn, through resolutions, Israeli-U.S. policies in the Middle East, and they will be ignored.

Some European countries will clandestinely support the Muslim countries and their anti-Israel pursuits.

China, ironically assisted by American aid, much more openly will sell to militant Muslims the weapons they want, and will align herself with the Arab nations.

The United States, with Tony Blair as head cheerleader, will attack Iraq without proper authority, and a major war, the largest since World War II, will result.

Major moves will be made by China, India, Russia, and Pakistan in Central Asia to take advantage of the chaos for the purpose of grabbing land, resources, and strategic advantages sought after for years.

The Karzai government will fail, and U.S. military presence will end in Afghanistan.

An international dollar crisis will dramatically boost interest rates in the United States.

Price inflation, with a major economic downturn, will decimate U.S. Federal Government finances, with exploding deficits and uncontrolled spending.

Federal Reserve policy will continue at an expanding rate, with massive credit expansion, which will make the dollar crisis worse. Gold will be seen as an alternative to paper money as it returns to its historic role as money.

Erosion of civil liberties here at home will continue as our government responds to political fear in dealing with the terrorist threat by making generous use of the powers obtained with the Patriot Act.

The draft will be reinstated, causing domestic turmoil and resentment.

Many American military personnel and civilians will be killed in the coming conflict.

The leaders of whichever side loses the war will be hauled into and tried before the International Criminal Court for war crimes. The United States will not officially lose the war, but neither will we win. Our military and political leaders will not be tried by the International Criminal Court.

The Congress and the President will shift radically toward expanding the size and scope of the Federal Government. This will satisfy both the liberals and the conservatives.

Military and police powers will grow, satisfying the conservatives. The welfare state, both domestic and international, will expand, satisfying the liberals. Both sides will endorse military adventurism overseas.

This is the most important of my predictions: Policy changes could prevent all of the previous predictions from occurring. Unfortunately, that will not occur. In due course, the Constitution will continue to be steadily undermined and the American Republic further weakened.

During the next decade, the American people will become poorer and less free, while they become more dependent on the government for economic security.

The war will prove to be divisive, with emotions and hatred growing between the various factions and special interests that drive our policies in the Middle East.

Agitation from more class warfare will succeed in dividing us domestically, and believe it or not, I expect lobbyists will thrive more than ever during the dangerous period of chaos.

I have no timetable for these predictions, but just in case, keep them around and look at them in 5 to 10 years. Let us hope and pray that I am wrong on all accounts. If so, I will be very pleased.

LYNN LAUFENBERGER'S KIDNEY TRANSPLANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, today I rise to share a story of faith, hope, love, and incredible generosity. Lynn Laufenberger works in our district office back in Minnesota. She is a young woman full of courage and hope.

In 1995, Lynn's kidneys began to slow down. They no longer functioned well enough, and Lynn was placed on dialysis. For 6½ years she received dialysis every day, usually in her own home.

Earlier this year, Lynn's kidney disease became worse. She felt an increased sense of urgency to obtain a kidney transplant. Lynn spoke publicly of this need at her church, Elim Baptist, in Rochester, Minnesota. A friend, Heidi Stensland, approached her after she spoke and told her that she had already been praying about giving one of her kidneys to Lynn. Heidi had only known Lynn for a couple of months.

Heidi submitted herself for tests to determine if her kidney was healthy and a match for Lynn. The results showed that her kidney was indeed a match. This was no small feat, since Lynn's blood type is rare. Lynn had been on the active transplant waiting list for about 1 year.

The transplant surgery was performed February 21 at Rochester Methodist Hospital. Heidi, a home day care provider, took her yearly vacation time to donate her kidney. She even postponed her own wedding to deliver this amazing gift of life to Lynn.

The surgery was immediately successful. The transplanted kidney began to work in Lynn's body right in the operating room. Lynn's parents from Wisconsin were able to come to Minnesota for her surgery, and they stayed afterward to provide much needed support. Her only sister was also able to be there.

The faith community of Elim Baptist Church was very supportive of both Lynn and Heidi. Church members provided transportation for their follow-up appointments. The church also brought much appreciated meals and assisted with some of the extra expenses.

When Heidi resumed providing day care in her home, church members were there to help her until she was able to handle it by herself. Heidi continues to provide day care in her home. Lynn has returned to her staff assistant's job in my office.

This is a beautiful story. I want to express my thanks and appreciation to Heidi Stensland for her generosity and her faith. I thank the members of the Elim Baptist Church for their prayers and support for Lynn and Heidi. And to Lynn, I want to wish all of the best for a very bright future, now full of hope. I commend her for her faith that God would provide an answer to her prayers.

To all those involved in this great story, I say, God bless.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, Hagop Bekerjian, Hranoush Boghosian, Gohar Madoyan, the Partamian brothers from Adana, Knarik Davoudian, Mari Filian, Hripsime Stambolian, Asadour Stambolian, Haroutiun Stambolian, Grigor Stambolian.

These are a few, a precious few, of the 1.5 million men, women, and children that lost their lives at the hands of the Ottoman Empire between 1915 and 1923. Eighty-seven years ago, Armenian teachers, clergy, businessmen, writers, and doctors were rounded up and killed. The events of April 24, 1915, set the stage for the first genocide of the 20th century.

Nikoghos Achabahian, Boghos Katchadourian, Mariam Katchadourian, Takouhi Katchadourian, Hovsep Katchadourian, Manoug Baronian, Peprouhi Baronian, Antaram Antaramian, Yeghsapert Vartabedian, Haroutune Antaramian, Ashod Antaramian, Naomi Antaramian, Anagule Antaramian.

They were fathers and sons, mothers and daughters, aunts, uncles, and grandparents. They were whole families. They were a people, and they were nearly wiped out.

Garabed Hovagimian, Mariam Hovagimian, Garabed Hovagimian, Jr., Siranoush Hovagimian, Boghos Hovagimian, Zarouhi Chavooshian Norsigian, Dickran Chavooshian, Arshalous Norsigian, Zabelle Norsigian, Zabelle Norsigian, Solomon Norsigian, Hatoon Chavooshian, Ardash Chavooshian.

□ 1600

You might imagine that after the passage of so much time and with the presence of so many Americans of Armenian origin, U.S. recognition of the events of April 24 and the genocide that followed would be routine and noncontroversial. Instead, debate over the Armenian genocide has been an annual and bitter conflict.

Mac Norsigian, Nazely Norsigian Sarkisian, Serpouhi Norsigian Kloian, Poompul Norsigian Bazoian, Souren Sarkisian, Makrouhi Kapoian Norsigian, Nareg Norsigian Sarkisian, Nevart Arslanian Vartanian, Sarkis Vartanian.

Even though modern-day Turkey was established in 1923 out of the ashes of the Ottoman Empire and was not the actual perpetrator of the genocide, it spends millions of dollars each year on the best lobbyists, engages sympathetic allies on its behalf, and routinely threatens to sever diplomatic, military, and economic ties with the United States anytime the Armenian genocide is brought up.

Haig Kurkjian, Armen Kurkjian, Sultan Kurkjian, Savgul Kurkjian Bugdoian, Boghos Mergeanian, Garabed Savulian, Zakar Savulian, Hagop Saroian, Sooren Saroian, Aslik Saroian, Goharik Saroian.

Despite this concerted effort, there is no serious academic dispute about the Armenian genocide. Some of the most notable Holocaust and genocide scholars, including Israel Charny, Deborah Lipstadt, and Robert J. Lifton, among many others, join in the call for recognition. International law scholar Raphael Lemkin, who coined the word genocide in 1943, cited the Armenian case as an example.

And all those people.

Toros Chaglassian, Haroutiun Keusseyan, Zabel Keusseyan, Loussin Keusseyan, Hovannes Keusseyan, Garabed Keusseyan, Boghos Sarkissian, Dickranouhi Sarkissian, Carmen Sarkissian.

They are not simply names. They were not simply part of the 1.5 million number. They are people. They are children. They are mothers and fathers.

Our own National Archives housed diplomatic dispatches from U.S. Ambassador Henry Morgenthau and Consul Leslie Davis to the State Department, vividly describing the systematic destruction of an entire people. News accounts in the American press, most notably the New York Times, provide another trove of primary source evidence.

Who are they? They are:

Kasbar Jeboghlian, Toukhman Jeboghlian, Kevork Jeboghlian, Mariam Jeboghlian, Barkev Jeboghlian, Yeranig Deukmedjian, Haiganoush Deukmedjian, Rosa Deukmedjian, Hovhannes Deukmedjian, Arshalouys Deukmedjian, Kevork Deukmedjian, Mariam Jeboghlian.

Because of Turkey's important strategic role in NATO, America has been reluctant to speak out. But U.S.-Turkish relations are strong and can survive our recognition of the Armenian genocide.

Hagop Momjian, Nevart Sarkissian, Bedross Shemessian, Hovhannes Shemessian, Boghos Shemessian, Ester Shemessian, Lucia Shemessian, Takouhi Tejirian, Makrouhi Tejirian, Ashod Tejirian, Sahag Shamassian.

Euphemisms, vague terminology, or calls for discussions to get at the truth have been used to avoid discomfort with Turkey's Ottoman past. Let me just conclude by saying the United States is fighting an unconventional enemy in the war on terrorism. Winning that war requires a level of more clarity that can provide a vision for struggling people in nations everywhere. So let us call genocide genocide. Let us not minimize the deliberate murder of 1.5 million people. Let us have a moral victory that can shine as a light to all nations.

Hagop Berkerjian, Hranoush Boghosian, Gohar Madoyan, the Partamian Brothers from Adana, Knarik Davoudian, Mari Filian, Hripsime Stambolian, Asadour Stambolian, Haroutiun Stambolian, Grigor Stambolian. These are a few, a precious few, of the 1.5 million men, women, and children who lost their lives at the hands of the Ottoman Empire between 1915–1923.

Eighty-seven years ago today, Armenian teachers, clergy, businessmen, writers, and doctors were rounded up and killed. The events of April 24, 1915 set the stage for the first genocide of the 20th Century.

Nikoghos Achabahian, Boghos Khatchadourian, Mariam Khatchadourian, Takouhi Khatchadourian, Hovsep Khatchadourian, Manoug Baronian, Peprouhi Baronian, Antaram Antaramian, Yeghsapert Vartabedian, Haroutune Antaramian, Ashod Antaramian, Naomi Antaramian, Anagule Antaramian. They were fathers and sons, mothers and daughters, aunts, uncles, and grandparents. They were whole families. They were a people and nearly wiped out.

Garabed Hovagimian, Mariam Hovagimian, Garabed Hovagimian, Jr., Siranoush Hovagimian, Boghos Hovagimian, Zarouhi Chavooshian Norsigian, Dickran Chavooshian, Arshalous Norsigian, Zabelle Norsigian, Solomon Norsigian, Hatoon Chavooshian, Ardash Chavooshian.

You might imagine that after the passage of so much time, and with the presence of so many Americans of Armenian origin, United States recognition of the events of April 24th and the genocide that followed would be routine and non-controversial. Instead, debate over the Armenian Genocide has been an annual and bitter conflict.

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Haig Kurkjian, Armen Kurkjian, Sultan Kurkjian, Savgul Kurkjian Bugdoian, Boghos Mergeanian, Garabed Savulian, Zakar Savulian, Hagop Saroian, Sooren Saroian, Aslik Saroian, Goharik Saroian.

Despite this concerted effort, there is no serious academic dispute about the Armenian Genocide. Some of the most notable Holocaust and Genocide scholars, including Israel Charny, Deborah Lipstadt, and Robert Jay Lifton, among many others join the call for recognition. International law scholar Raphael Lemkin, who coined the word genocide in 1943, cited the Armenian case as an example.

Toros Chaglassian, Haroutiun Keusseyan, Zabel Keusseyan, Loussin Keusseyan, Hovannes Keusseyan, Garabed Keusseyan, Boghos Sarkissian, Dickranouhi Sarkissian, Carmen Sarkissian.

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Because of Turkey's important strategic role in NATO, America has been reluctant to speak out. But U.S.-Turkish relations are strong and can survive our recognition of the Armenian Genocide.

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Some argue that recognition of the genocide has become even more problematic now, when the world is at war with terrorism and the United States cannot afford to offend the sensibility of our Turkish ally. In fact, the converse is true: At a time when the United States has been called on for a level of moral leadership, vision and inspiration not seen since World War II, we cannot afford to dissemble about crimes against humanity.

Khatoun Jilizian, Lucia Jilizian, Alice Jilizian, Minas Serop Jilizian, Kevork Serop Jilizian, Haroutioun Aydabirian, Hagop Donabedian, Hripsimeh Bedoyan, Margaret Bedoyan.

Euphemisms, vague terminology or calls for discussions to get at the truth are just some of the dodges used to avoid Turkish discomfort with its Ottoman past. What is there to discuss about the Armenian Genocide? What facts are there left to discover? What is to be gained by referring to the systematic slaughter of an entire people without using the word most appropriate for those grotesque circumstances?

The short answer is that there is nothing to discuss, nothing to discover, nothing to be gained by denial—and much to be lost. The United States is fighting an unconventional enemy in the war on terrorism, and one against whom our overwhelming military might provides only one necessary weapon. Winning the war on terrorism will also require a level of moral clarity that can provide a vision for struggling people and nations everywhere. Only military force accompanied by an equally strong moral force will provide the essential combination to route out terrorism and prevent its reemergence.

So let us call genocide, genocide. Let us not minimize the deliberate murder of 1.5 million people. Let us have a moral victory that can shine as a light to all nations. These people lived. They dreamed of their futures, as we dream about ours. They loved their family and life. Their voices were silenced in the desert, but we can respect their memory. And we must.

Sarkis Dadaian, Varouhi Minassian, Miriam Derderian, Yeghsa Derderian.

COMMEMORATING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I want to follow on the remarks of my distinguished colleague from California.

The Armenian genocide has been called the most "colossal crime of all ages." It has been called a "campaign of race extermination," similar to the Holocaust.

Every year on the 24th of April, the citizens of Armenia gather, as they did just this past day in Yerevon on top of a hill, to remember all of the people that perished, the 1.5 million. And although we are halfway around the world away, we remember with them today. Today we pause and we say, "never again." We do so in order to prevent history from repeating itself as it has often done in our lifetime.

It happened in Armenia between 1915 and 1923. Ambassador Morgenthau told our government what was happening, and not a very good response was received. It happened during the Holocaust, and not a very good response in reaction to what was happening was received. It happened in Bosnia and Rwanda and Cambodia. The world did not learn the harsh lessons of the past.

Today we stand up and we speak because silence betrays our principle as a freedom-loving people. One and a half million Armenian men, women, and children were victims of a brutal genocide at the hands of the Turkish Ottoman Empire from 1915 to 1923. The intent of the genocide was to destroy all traces of a thriving and cultured civilization over 3,000 years old.

On the 24th of April 1915, 300 Armenian leaders and intellectuals and professionals were rounded up, deported, and killed. Also on that day 5,000 of the poorest Armenians were slaughtered in the street. And the names that were read by my colleague, the gentleman from California (Mr. SCHIFF), they were real people with families. We must never forget.

Some think of the genocide in abstract terms, but it is not. We are here today speaking out on the House floor, Democrats and Republicans, because we know that 1.5 million men, women, and children killed in the genocide were husbands and wives and mothers and fathers and sons and daughters and friends. Those who survive them know this: They were innocent individuals. They were robbed of their dignity, of their humanity, and ultimately their lives.

A professor once observed that the denial of genocide strives to reshape history in order to demonize the victims and rehabilitate the perpetrators. Because of the work of historians, advocates, the Armenian American community, lawmakers and other people of conscience, this is not possible in the case of the Armenian genocide. It will never be possible because we will always be here, every April 24 and the week preceding it, speaking to the country, speaking to the world community about what happened. And make no mistake about it, those who are responsible, those who fight against recognizing this for what it was, a genocide, hear our voices.

While the attempts of denial continue to strengthen our resolve to remember and speak out, we recognize the anniversary of this massacre and condemn these crimes against an entire people in order to ensure that similar atrocities are not committed against any people or any civilization again. We must never forget. We recognize the anniversary in order to show our support for all Armenian Americans and the horrific suffering they or their families endured.

We recognize the anniversary in order to stand up for freedom and condemn injustice across the world. I have recently joined with 161 of my colleagues in asking President Bush to recognize the Armenian genocide for what it is: a genocide. And we will continue our collective efforts to achieve proper commemoration of the Armenian genocide because we must never forget.

ARMENIANS STILL SEEK JUSTICE FOR 1915 GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, today Members of this House have come to the floor to remember and commemorate the 87th anniversary of the Armenian genocide.

On April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered by Turkish order in remote areas of Anatolia. Over the next 8 years, hundreds of thousands of Armenian men, women, and children perished at the hands of the Ottomans.

By recognizing and commemorating the Armenian genocide each year, this House helps ensure that the lessons of this terrible crime against humanity are not forgotten, cannot be denied and hopefully might help prevent future genocides of other peoples.

The single greatest obstacle to the official recognition of the Armenian genocide is the Republic of Turkey. In spite of overwhelming evidence documenting the genocide, most of it housed at the United States Archives, modern-day Turkey continues to pursue a campaign to deny and to ultimately erase from world history the 1.5 million victims of Ottoman Turkey's deliberate massacres and deportations of the Armenian people between 1915 and 1923.

Successive Turkish governments have also deliberately destroyed the immense cultural heritage of Armenians in Turkey, carrying out a systematic campaign to erase evidence of the historic Armenian presence in Eastern Anatolia.

Since 1982, successive U.S. administrations, reluctant to offend Turkey, have in effect supported the Turkish Government's revisionist campaign and opposed passage of the Congressional Armenian Genocide Resolution. These administrations have objected to the use of the word "genocide" to describe the systematic destruction of the Armenian people.

Rather than supporting Turkey's denials, Mr. Speaker, I hope that President Bush will officially recognize the Armenian genocide and encourage Turkey to come to terms with its past.

Rather than creating tension in the region, I believe such actions would decrease the tension and suspicions that have long inhibited cooperation in that region.

Thirty-one of our States, including my own State of Massachusetts, have recognized the Armenian genocide. And I want to thank the cochairs of the Congressional Caucus on Armenian Issues, the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from New Jersey (Mr. PALLONE) for their outstanding work to ensure that we never forget those who perished and those who survived the Armenian genocide. In their names and in their memory, we must demand recognition.

Mr. Speaker, I enter into the RECORD an article by Jason Sohigian that appeared in my hometown newspaper, The Worcester Telegram and Gazette, describing why Armenians still seek justice for the 1915 genocide by the Ottomans.

Mr. Speaker, it is past time for the United States to recognize officially the Armenian genocide. There can be no justice without the truth. In the name of all humanity, let it happen now.

The article previously referred to is as follows:

[From the Worcester Telegram and Gazette, Apr. 23, 2002]

ARMENIANS STILL SEEK JUSTICE FOR 1915 GENOCIDE BY OTTOMANS

(By Jason Sohigian)

The Armenian genocide is still subject to a massive campaign of denial by modern Turkey and distortion by some of its allies, including Israel—much to the embarrassment of Jewish historians. While the rest of the world recognizes the systematic, premeditated nature of the Armenian genocide, Turkey continues to devote massive amounts of resources toward its policy of denial.

Often people wonder why the genocide, which happened so long ago, is still important to so many people so far away from the scene of the crime.

Why? Because Ottoman Turkey succeeded in annihilating more than half of the Armenian population of historic Armenian. Entire villages, towns and cities were wiped out. Families were killed and their property illegally confiscated. A 3,000-year-old indigenous culture was utterly disrupted and uprooted.

Not one Armenian family in the world remains untouched by this catastrophic event. Nearly every Armenian community leader, intellectual, and priest in the Ottoman Turkish capital, Istanbul, was rounded up on April 24, 1915, and massacred. That initiated the campaign of terror, and from that day forward nearly every Armenian family suffered losses throughout Ottoman Turkey.

My own grandfather witnesses the death of family members and lived as an orphan for many years until finally being reunited with the remnants of her family in the United States. My mother attempted to reconstruct my grandmother's story for the historical record while my grandmother was still able to remember what happened during those years.

Knowing that these few orphans managed to survive and regenerate into the Armenian community of today is truly an inspiration. I could not help but feel, both as an Armenian and as an heir to the tragedy, the tremendous sense of obligation to achieve justice for the Armenian people.

That is the meaning behind the efforts to achieve recognition for the Armenian genocide, 87 years after the fact. Armenians living in the diaspora ask their governments to recognize this event, and urge Turkey to do the same. Recognition of the genocide is a pan-Armenian concern, and following the independence of Armenian after the fall of the Soviet Union in 1991, even the Armenian government of today has made recognition a major part of its foreign policy agenda.

The issue of recognition has several aspects, among them a moral obligation, a political dimension and a legal component.

Because so much effort has been expended combating denial over the years, many related issues still have not been explored. Armenians worldwide are now raising the issue of reparations for land and other stolen Armenian property. Just recently, class-action lawsuits were initiated against the New York Life and French Axa insurance companies, which sold policies in Ottoman Turkey to families and failed to pay the benefits to the heirs of those who were later massacred in the Armenian genocide.

Modern Turkey is the beneficiary of its Ottoman past, and it vigorously celebrates this fact—except when it comes to the Armenian genocide. Many of the Ottoman leaders who participated in the Armenian genocide went on to become officials of the modern Turkish state, and Turkey continues to profit from the confiscated land and property of the Armenian people.

Armenians will never forget. Nor will they forgive—until justice is served.

But governments and leaders, too, must speak out. Individuals, too, must raise their voices. Conscience must prevail.

REMEMBERING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. Mr. Speaker, I join with my colleagues from the Armenia Issues Caucus to recognize the obvious and uncontestable fact that during World War I and its aftermath, as many as 1.5 million Armenians died in the first genocide of the 20th century.

The question is not whether we should recognize this genocide, but why we have not done so already. The evidence is overwhelming. It has been set forth today by the previous speakers, as it has been set forth every April 24th, year after year, on the floor of this House.

Why do we not recognize that which is uncontestable? We are told that there are geopolitical reasons why the truth must be shrouded. Well, Turkey would be a much better ally of America if Turkey recognized the truth. What kind of ally would Germany be if it had a government that denied the Holocaust? What kind of ally would America be if we denied that slavery occurred or claimed that we had not created great injustices to the Native American population, including, frankly, the genocide of certain Native American Tribes?

Turkey is an ally of America, but America has no greater ally than the truth. Nothing is more important than that America be recognized as being guided by the truth, and eternal truth, and not the geopolitics of the hour.

□ 1615

History will record that there are very few occasions in which the world consents or even a region of the world consents to the existence of a single superpower, and the world will not consent to our leadership unless that leadership is guided by principle. We must put the truth first.

What if, for example, a new regime should arise in Germany and disclaim the Holocaust and demand that we here in Washington marched down to the Holocaust Museum and rip it apart brick by brick? The response should not be, oh, Germany, is an important and powerful country. The response should be that there is nothing more important to America than the truth. We must recognize the genocide, and we must recognize the needs of those who survived the genocide.

Last year when the President asked us for $70 million in aid to Armenia, this Congress responded with $90 million of aid, additional aid to help meet

Armenia's security needs. Since its independence, this Congress has provided $1.3 billion of aid to that new democracy, and this year again we must respond by providing the aid that Armenia needs, more than the President provides in his budget. We must make sure that we do not aid Azerbaijan as long as that country continues to blockade Armenia.

Finally, with regard to the proposed pipeline, the Baku-Ceyhan pipeline, we must make sure that is a pipeline of peace that unites Azerbaijan and Armenia as it flows through both of those countries into the Mediterranean Sea; and we must make sure that the Export-Import Bank does not risk our capital in creating a pipeline of war, a pipeline that deliberately circumvents Armenia and tries to create a new geopolitical situation in the Caucasus. We must recognize the truth. We must build toward peace, prosperity, and progress for Armenia and for the entire Caucasus region.

REMEMBERING THE VICTIMS OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN.• Mr. Speaker, once again, I join my colleagues and the world in remembering those who suffered the horrifying events of the Armenian genocide. The tragedy of lost lives through ethnic cleansing must never be forgotten.

The Armenian genocide marked the beginning of a barbaric practice beginning in the 20th century. More than a million and a half Armenians were killed and forcibly departed. The Ottoman Turks brutally uprooted and systematically eliminated Armenians from their homeland. To this day, the Turkish Government continues to deny that millions of Armenians were killed simply because they were Armenian.

As an educator, I believe we must emphasize the role of education throughout the world. We must continue to forbid actions of racial intolerance and religious persecution which have led to so many cases of ethnic cleansing. The tragedies of the past 2 decades, including those in Cambodia, Rwanda, Kosovo, attest to this fact. We must continue teaching our children tolerance so the next generation is armed with the knowledge and the power to defeat racial and religious persecution wherever it arises.

We refuse to acknowledge and understand racial and religious intolerance. We are doomed to repeat the same tragedies again and again if we do not constantly use our voices and our prayers for a much better situation in the 21st century of this country.

Mr. Speaker, I thank the Chair for this opportunity to commemorate the Armenian genocide. I also want to thank the many Armenian American organizations throughout the Nation that make celebration of terror and hopeful that it is never done again, not only for Armenians, but for every group of people, particularly those in California for their tremendous work on behalf of the Armenian Army community which is an absolutely wonderful group of people throughout the State.

I must say to the Turkish Government, you were not there when this was done, why cannot you say it was wrong, we did the wrong thing of our ancestors and get it on the book and get up to bat, just to use a baseball analogy? It just makes us sick when the people do not go back in history and say that should not have been done and it will not be done again.

REMEMBERING THE VICTIMS OF SEPTEMBER 11, 2001

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) is recognized for 60 minutes as the designee of the majority leader.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, we recently observed the 7th-month anniversary of the terrorist attacks that devastated our Nation on September 11, 2001. Today, I would like to continue to remember, recognize and honor our fellow citizens who lost their lives as a result of the terrorist attacks on our Nation.

This list of over 3,000 names is comprised of many of the victims of the horrific attacks, including the firefighters and policemen who willingly gave their lives in an attempt to rescue others. This effort will continue until each name on this list has been read on the House floor and entered into the CONGRESSIONAL RECORD.

I urge my colleagues to join me in this important undertaking to show that this House and our Nation honors our fallen brothers and sisters.

Lars P. Qualben; Lincoln Quappe; Patrick J. Quigley, IV; Beth Ann Quigley; Michael Quilty; Ricardo Quinn; James Quinn; Carol Rabalais; Christopher Peter A. Racaniello; Leonard Ragaglia; Eugene J. Raggio; Michael Ragusa; Peter F. Raimondi; Lisa J. Raines; Harry Raines; Ehtesham U. Raja; Valsa Raju; Edward Rall; Luke Rambousek; Maria Isabel Ramirez; Harry Ramos; Deborah Ramsaur; Lorenzo Ramzey; Alfred Todd Rancke; Adam David Rand; Jonathan C. Randall; Shreyas Ranganath; Faina Rapoport; Rhonda Rasmussen; Robert Arthur Rasmussen; Ameenia Rasool; Roger Mark Rasweiler; Marsha Dianah Ratchford; David Alan James Rathkey; William R. Raub; Gerard Rauzi; Alexey Razuvaev; Gregory Reda; Sarah Redheffer; Michele Marie Reed; Judith A. Reese; Donald J. Regan; Robert Regan; Thomas M. Regan; Christian Regenhard; Howard Reich; Gregory Reidy; James B. Reilly; Kevin Reilly; Timothy E. Reilly; Joseph Reina; Thomas Barnes Reinig; Frank B. Reisman; Joshua Scott Reiss; Karen C. Renda; John Armand Reo; Richard C. Rescorla; John Resta; Sylvia San Pio Resta; Martha Reszke; David Retik; Todd Reuben; Eduvigis "Eddie" Reyes; Bruce Reynolds; John Frederick Rhodes, Jr.; Francis S. Riccardelli; Rudolph N. Riccio; David Rice; Kenneth F. Rice, III; Eileen M. Rice; Vernon Richard; Cecelia E. Richard; Michael Richards; Claude "Dan" Richards; Venesha O. Richards; Gregory Richards; James Riches; Alan Jay Richman; John M. Rigo; James Riley; Frederick Rimmele; Theresa "Ginger" Risco; Rose Mary Riso; Moises N. Rivas; Joseph Rivelli, Jr.; Isaias Rivera; Linda I. Rivera; Carmen A. Rivera; Juan Rivera; David Rivers; Joseph R. Riverso; Paul Rizza; Stephen Louis Roach; Joseph Roberto; Michael Roberts; Michael Edward Roberts; Leo Roberts; Donald W. Robertson, Jr.; Catherina Robinson; Jeffrey Robinson; Michell Robotham; Donald Arthur Robson; Antonio Augusto Tome Rocha; Raymond J. Rocha; Laura Rockefeller; John M. Rodak; Roseann Rodgers-Lang; Antonio Jose Carrusca Rodrigues; Anthony Rodriguez; Richard Rodriguez; Carmen Rodriguez; Carlos Cortez Rodriguez; Gregory Rodriguez; Marsha A. Rodriguez; David B. Rodriguez-Vargas; Jose Rodriquez; Matthew Rogan; Jean Roger; Karlie Rogers; Scott Rohner; Keith Roma; Joseph M. Romagnolo; Elvin Santiago Romero; Efrain Franco Romero, Sr.; James A. Romito; Sean Rooney; Eric Thomas Ropiteau; Angela Rosario; Aida Rosario; Mark Harlan Rosen; Sheryl Lynn Rosenbaum; Brooke David Rosenbaum; Linda Rosenbaum; Lloyd D. Rosenberg; Mark Louis Rosenberg; Joshua Rosenblum; Andrew I. Rosenblum; Joshua Rosenthal; Richard David Rosenthal; Philip Rosenzweig; Richard Barry Ross; Daniel Rossetti; Norman Rossinow; Nicholas Rossomando; Michael Craig Rothberg; Mark Rothenberg; Donna Marie Rothenberg; James M. Roux; Nicholas Rowe; Edward Rowenhorst; Judy Rowlett; Timothy Roy; Behzad Roya; Paul Ruback; Ronald J. Ruben; Joanne Rubino; David M. Ruddle; James Ruffin; Bart J. Ruggiere; Susan Ann Ruggiero; Adam K. Ruhalter; Gilbert Ruiz; Obdulio Ruiz-Diaz; Stephen P. Russell; Robert E. Russell; Steven Harris Russin; Michael Thomas Russo, Sr.; Wayne Alan Russo; William R. Ruth; John Joseph Ryan; Matthew L. Ryan; Edward Ryan; Jonathan Stephan Ryan; Tatiana Ryjova; Christina Sunga Ryook; Jason E. Sabbag; Thomas E. Sabella; Scott Saber; Charles E. Sabin; Joseph F. Sacerdote; Jessica Sachs; Francis John Sadocha; Joud Elie Safi; Brock Safronoff; Art Saiya; Edward

Saiya; Kalyan K. Sakar; Marjorie C. Salamone; John Patrick Salamone; Juan Salas; Hernando R. Salas; Esmerlin Salcedo; John Salvatore Salerno; Rahma Salie; Richard L. Salinardi; Anne Marie Ferreira Sallerin; Wayne Saloman; Nolbert Salomon; Catherin Salter; Frank G. Salvaterra; Paul Salvio; Samuel R. Salvo; Rena Sam-Dinnoo; Carlos Samaniego; John Sammartino; Maryann Samone; James Kenneth Samuel, Jr.; Rena San Dinoo; Michael San Phillip; Hugo Sanay-Perafiel; Jesus Sánchez; Alva Jeffries Sánchez; Jacquelyn Sánchez; Eric Sand; Stacey Sanders; Herman S. Sandler; James Sands, Jr.; Angela M. Santana; Ayleen J. Santiago; Kirsten Santiago; Maria Theresa Santillan; Susan G. Santo; Christopher Santora; John Santore; Mario Santoro; Rafael Humberto Santos; Rufino Condrado F. Santos; Dominick Santos; Victor J. Saracini; Kalyan K. Sarkar; Chapelle Sarker; Paul F. Sarle; Deepika K. Sattaluri.

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Gregory Saucedo; Susan Sauer; Anthony Savas; Vladimir Savinkin; Jackie Sayegh; John Sbarbaro; Dawn Elizabeth Scala; David M. Scales; Robert Louis "Rob" Scandole; Thomas Scaracio; Michelle Scarpitta; Dennis Scauso; John Schardt; John Scharf; Fred Claude Scheffold, Jr.; Angela Scheinberg; Scott M. Schertzer, Sean Schielke, Steven Francis Schlag; Robert Allan Schlegel, Jon S. Schlissel; Ian Schneider; Thomas Schoales; Frank G. Schott; Gerard P. Schrang; Jeffrey Schreier; John T. Schroeder; Susan Kennedy Schuler; Edward W. Schunk; Mark Schurmeier; Mark Schwartz; Clarin Schwartz; John Burkhart Schwartz; Adrianne Scibetta; Raphel Scorca; Janice Scott; Randolph Scott; Christopher Scudder; Arthur Warren Scullin; Michael H. Seaman; Margaret Seeliger; Carlos Segarra; Jason Sekzer; Mary Grace Selco; Matthew Carmen Sellitto; Michael L. Selves; Howard Selwyn; Larry J. Senko; Marc Seplin; Arturo Sereno; Frank Serrano; Marian Serva; Alena Sesinova; Adele Sessa; Situ Sewnarine; Karen Lynn Seymour-Dietrich; Davis G. "Deeg" Sezna, Jr.; Thomas J. Sgroi; Jayesh Shah; Khalid Mohammad Shahid; Mohammed Shajahan; Gary Shamay; Earl Richard Shanahan; Shiv Shankar; Dan Frederic Shanower; Huang Shaoxiang; Liang Shaozhen; Wang Shaozshang; L. Kadaba Shashikiran; Neil Shastri; Kathryn Anne Shatzoff; Barbara A. Shaw; Jeffery J. Shaw; Robert John Shay, Jr.; Daniel James Shea; Joseph Patrick Shea; Kathleen Shearer; Michael Shearer; Linda Sheehan; Hagay Shefi; Terrance H. Shefield; Antoinette "Toni" Sherman; John A. Sherry; Sean Shielke; Atsushi Shiratoro; Thomas Joseph Shubert; Mark Shulman; See-Wong Shum; Allan Shwartzstein; Carmen Sierra; Johanna Sigmund; Dianne T. Signer; Gregory Sikorsky; Stephen Siller; David Silver; Craig Silverstein; Nasima Simjee; Diane M. Simmons; George Simmons; Don Simmons; Bruce Edward Simmons; Michael John Simon; Weiser Simon; Kenneth Alan Simon; Arthur Simon; Paul Joseph Simon; Ken Simon; Marianne Simone; Barry Simonwitz; Jane Simpkin; Jeff Simpson; George Sims; Cherlye D. Sincock; Khamladai K. "Khami" Singh; Roshan R. "Sean" Singh; Thomas Edison Sinton, III; Mike Sinzi; Peter A. Siracuse; Muriel F. Siskopoulos; Joseph M. Sisolak; John P. Skala; Francis J. Skidmore, Jr.; Toyena C. Skinner; Paul Skrzypek; Christopher Paul Slattery; Vincent R. Slavin; Robert Sliwak; Paul K. Sloan; Stanley S. Smagala, Jr.; Wendy L. Small; Gregg Harold Smallwood; Kevin Smith; Leon Smith, Jr.; Moira Smith; Heather Lee Smith; Sandra Fajardo Smith; Gary F. Smith; Daniel Laurence Smith; James G. Smith; Jeffrey Randall Smith; Karl Trumbull Smith; Catherine T. Smith; Rosemary Smith; Joyce Smith; George Eric Smith; Bonnie Smithwick; Rochelle M. Snell; Laura Marie Snik; Christine Snyder; Dianne Snyder; Leonard J. Snyder; Astrid Elizabeth Sohan; Sushil Solanki; Ruben Solares; Naomi Solomon; Daniel W. Song; Mari-Rae Sopper; Michael C. Sorresse; Fabian Soto; Timothy Patrick Soulas; Gregory T. Spagnoletti; Donald Spampinato; Thomas Sparacio; Georgia Sparks; John Anthony Spataro; Robert W. Spear, Jr.; Robert Speisman; Maynard S. Spence; George E. Spencer, III; Robert Andrew Spencer; Mary Rubina Sperando; Frank J. Spinelli; William E. Spitz; Joseph P. Spor; Klaus Sprockamp; Saranya Srinuan; Fitzroy St. Rose; Michael F. Stabile; Lawrence T. Stack; Timothy Stackpole; Richard James Stadelberger; Eric A. Stahlman; Matthew Stairs, Jr.; Gregory Stajk; Corina Stan; Mary D. Stanley; Joyce Stanton; Patricia Stanton; Anthony M. Starita; Jeffrey Stark; Derek James Statkevicus; Patricia J. Statz; Craig William Staub; William Steckman; Eric Thomas Steen; William R. Steiner; Alexander Robbins Steinman; Edna L. Stephens; Andrew Stergiopoulos; Andrew Stern; Norma Lang Steuerle; Malsin Steven; Martha Stevens; Richard H. Stewart, Jr.; Michael J. Stewart; Sanford "Sandy" M. Stoller; Douglas Stone; Lonny J. Stone; Jimmy Nevill Storey; Timothy C. Stout; Thomas S. Strada; James J. Straine, Jr.; Edward W. Straub; George J. Strauch, Jr.; Steven R. Strauss; Edward T. Strauss; Larry Strickland; Steven Strobert; Walwyn W. Stuart; Benjamin Suarez; Ramon Suarez; Xavier Suarez; David Scott Suarez; Yoichi Sugiyama; William C. Sugra; Daniel Suhr; David Marc Sullins; Christopher P. Sullivan; Patrick Sullivan; Thomas Sullivan; Patty Sulva; Larry Sumaya; Yoichi Sumiyama; James Joseph Suozzo; Colleen Supinski; Robert Sutcliff, Jr.; Selina Sutter; Claudia Suzette Sutton; John F. Swaine; Valerie Swanson; Kristine Swearson; Brian Edward Sweeney; Brian D. Sweeney; Madeline Sweeney; Kenneth J. Swensen; Thomas F. Swift; Derek O. Sword; Kevin T. Szocik; Gina Sztejnberg; Harry Taback; Joann Tabeek; Norma C. Taddei; Michael Taddonio; Keiichiro Takahashi; Keiji Takahashi; Phyllis Talbot; Robert R. Talhami; John Talignani; Sean Patrick Tallon; Paul Talty; Maurita Tam; Rachel Tamares; Hector Tamayo; Michael Andrew Tamuccio; Kenichiro Tanaka; Rhondelle Cherie Tankard; Michael Anthony Tanner; Dennis Taormina; Kenneth Joseph Tarantino; Allan Tarasiewicz; Michael C. Tarrou; Ronald Tartaro; Leonard Taylor; Kip P. Taylor; Sandra C. Taylor; Hilda E. Taylor; Lorisa Ceylon Taylor; Donnie Brooks Taylor; Darryl Å. Taylor; Michael M. Taylor; Sandra Teague; Karl W. Teepe; Paul Tegtmeier; Yesh Tembe; Anthony Tempesta; Dorothy Temple; Peter Tengelin; David Tengelin; Jody Tepedino Nichilo; Brian J. Terrenzi; Lisa Marie Terry; Goumatie Thackurdeen; Harshad Thatte; Michael Theodoridis; Thomas F. Theurkauf, Jr.; Saada Thierry; Rod Thomas; Lesley Thomas; Lesley Thomas-O'Keefe; Willilam Harry Thompson; Glenn Thompson; Clive Thompson; Brian Thompson; Nigel Bruce Thompson; Vanavah Thompson; Perry Anthony Thompson; Eric R. Thorpe; Nichola A. Thorpe; Tamara C. Thurman; Sal E. Tieri, Jr.; John Patrick Tierney; William Randolph Tieste; Kenneth F. Tietjen; Stephen Edward Tighe; Scott C. Timmes; Michael Tinley; Jennifer Marie Tino; Robert Frank Tipaldi; John J. Tipping, II; Hector Tirado, Jr.; David Lawrence Tirado; Michelle Titolo; Alicia N. Titus; John J. Tobin; Richard J. Todisco; Otis Vincent Tolbert; Vladimir Tomasevic; Stevphen K. Tompsett; Thomas Tong; Doris Torres; Luis Eduardo Torres; Amy E. Toyen; Esidro Tranfuro; Daniel Patrick Trant; Abdoul Karim Traore; Wallter "Wally" P. Travers; Glenn J. Travers; Felicia Traylor-Bass; Dorothy P. Tremble; Mary Trentini; James Trentini; Lisa L. Trerotola; Karamo Trerra; Michael Trinidad; Francis Joseph Trombino; Gregory J. Trost; Willie Q. Troy; William Tselepis; Zhanetta Tsoy; Michael Patrick Tucker; Pauline Tull-Francis; Lance Richard Tumulty; Ching Ping Tung; Simon Turner; Donald Joseph Tuzio; Robert T. Twomey; Jennifer Tzemis; John G. Ueltzhoeffer; Tyler Ugolyn; Michael A. Uliano; Jonathan J. Uman; Anil S. Umarkar; Allen Upton; Diane Maria Urban; John Damien Vaccacio; Bradley H. Vadas; William Valcarcel; Mayra Valdes-Rodriguez; Felix Antonio Vale; Ivan Vale; Benito Valentin; Santos Vanentin, Jr.; Carlton F. Valvo; Pendyala Vamsikrishna; Erica Van

Acker; Kenneth W. Van Auken; Daniel M. Van Laere; Edward Raymond Vanacore; Jon C. Vandevander; Richard Vanhine; Frederick T. Varacchi; Gopalakrishnan Varadhan; David Vargas; Scott C. Vasel; Santos Vasquez; Azael Vasquez; Ronald James Vauk; Arcangel Vazquez; Peter Vega; Sankara Velamuri; Jorge Velázquez; Lawrence Veling; Anthony M. Ventura; David Vera; Loretta A. Vero; Christopher Vialonga; Matthew Gilbert Vianna; Robert Vicario; Celeste Torres Victoria; Joanna Vidal; Joseph Vigiano; John T. Vigiano, II; Frank J. Vignola, Jr.; Joseph B. Vilardo; Sergio Villanueva; Chantal Vincelli; Melissa Renee Vincent; Lawrence Virgilio; Francine Virgilio; Joseph G. Visciano; Ramsaroop Vishnu; Joshua Vitale; Goro Vosgarinon; Lynette Vosges; Garo H. Voskerijian; Alfred Vukuosa; Gregory Kamal Bruno Wachtler; Karen Wagner; Mary Wahlstrom; Honor Elizabeth Wainio; Courtney Wainsworth Walcott; Gabriela Waisman; Wendy Wakeford; Kenneth Waldie; Benjamin Walker; Glen James Wall; Robert F. Wallace; Mitchel Scott Wallace; Roy M. Wallace; Peter Guyder Wallace; Jean Marie Wallendorf; Matthew Blake Wallens; Meta Waller; John Wallice, Jr.; Barbara Walsh; James Walsh; Jeffrey Patrick Walz; Weibin Wang; Ching-Huei Wang; Michael Warchola; Stephen G. Ward; Timothy Ward; James A. Waring; Brian Gerald Warner; Derrick Christopher Washington; James T. Waters, Jr.

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Charles Waters; Kenneth Thomas Watson; Sandy J. Waugh; Michael H. Wayne; Walter E. Weaver; Todd C. Weaver; Nathaniel Webb; Glenn Webber; Dinah Webster; William Weems; Joanne Flora Weil; Michael T. Weinberg; Steven Jay Weinberg; Scott Jeffrey Weingard; Steven Weinstein; David Martin Weiss; David Thomas Weiss; Vincent Wells; Deborah A. Welsh; Timothy Welty; Chris Wemmers; Ssu-Hui "Vanessa" Wen; John Wenckus; Oleh D. Wengerchuk; Peter Matthew West;

Whitfield West; Meredith Whalen; Eugene Whelan; Edward White; Maudlyn A. White; Sandra L. White; James Patrick White; Kenneth White; Adam White; Malissa White; Wayne White; Leonard Anthony White; John White; Leanne Marie Whiteside; Mark Whitford; Leslie A. Whittington; Michael T. Wholey; Mary Lenz Wieman; Jeffrey David Wiener; William Joseph Wik; Allison Marie Wildman; Glenn E. Wilkinson; Ernest M. Willcher; John Willett; Candace Lee Williams; Kevin Michael Williams; Dwayne Williams; David Lucian Williams; Crossley Williams, Jr.; Louie Anthony Williams; Louis Williams; Brian Patrick Williams; David Williams; Deborah Lynn Williams; John P. Williamson; William Eben Wilson; Donna Wilson; David H. Winton; Glenn J. Winuk; Thomas Francis Wise; Alan L. Wisniewski; Frank Thomas Wisniewski; David Wiswall; Sigrid Charlotte Wiswe; Michael Robert Wittenstein; Christopher W. Wodenshek; Martin P. Wohlforth; Katherine S. Wolf; Yin Ping "Steven" Wong, Jennifer Y. Wong; Winnie Yuk Ping Wong; Siu Cheung Wong; Jenny Seu Kueng Low Wong; Brent J. Woodall; Marvin Woods; Patrick Woods; James J. Woods; Richard H. Woodwell; David Wooley; John B. Works; Martin M. Wortley; Rodney J. Wotton; William Wren; John Wright;

Neil Robbin Wright; Sandra Wright; Naomi Yajima; Jupiter Yambem; John Yamnicky; Suresh Yanamadala; Vicki C. Yancey; Shuyin Yang; Matthew D. Yarnell; Myrna Yaskulka; Shakila Yasmin; Olabisi Layeni Yee; Keven Wayne Yokum; Paul Yoon; Raymond R. York; Kevin Patrick York; Edward Phillip York; Suzanne Youmans; Edmond Young; Lisa Young; Donald McArthur Young; Barrington L. Young; Jacqueline Young; Elkin Yuen; Sheng Yuguang; Joseph Zaccoli; Adel A. Zakhary; Arkady Zaltsman; Robert Alan "Robbie" Zampieri; Mark Zangrilli; Christopher Rudoph Zarba; Ira Zaslow; Aurelio Zedillo; Kenneth Zelman; Abraham J. Zelmanowitz; Zhe "Zach" Zeng; March Scott Zeplin; Yuguang Zheng; Ivelin Ziminski; Michael Joseph Zinzi; Charles A. Zion; Julie Lynne Zipper; Salvatore J. Zisa; Prokopios "Paul" Zois; Joseph J. Zuccala; Andrew Steven Zucker.

Mr. Speaker, this completes the list of more than 3,000 names that have been read since September 11 on the House floor and entered into the CONGRESSIONAL RECORD. Again, I ask the families of those that are deceased to excuse me for any mispronunciations of their names.

Americans will forever remember September 11, 2001. It was the day that our parents, our children, our friends, and our neighbors were taken from us. It was the day that our heroes died.

I thank my colleagues who joined me in this important effort for the last 7 months, and I thank the families and friends of those who perished for their courage.

Mr. Speaker, our thoughts will forever be with the families and the loved ones that we lost.

HONORING HOLLAND CHRISTIAN SCHOOLS AND SAMUEL ADAMS

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, this evening I rise to pay special tribute to a very special school, Holland Christian Schools, as they prepare to recognize and celebrate their centennial.

For a century, Holland Christian Schools, located in Holland, Michigan, has provided a quality, Christ-centered education for students from preschool to grade 12.

More than 11,000 students have graduated since its founding, and with a current enrollment of approximately 2,400 students in grades K—12 representing more than 110 different churches, including more than 20 different church denominations, Holland Christian Schools is one of the largest, parent-governed Christian schools in our country.

Holland Christian Schools has a wonderful history of accomplishment and teaching. Holland Christian Schools' educational philosophy finds its basis in the words of Deuteronomy 6:6,7: "And these words which I command you this day shall be upon your heart and you shall teach them diligently to your children, and shall talk of them when you sit in your house, when you walk by the way, and when you lie down, and when you rise."

Mr. Speaker, I am a proud graduate of Holland Christian High School, as is my wife, Diane, and my daughter, Erin. My other two children, Allison and Bryan, are students there currently.

On the special occasion of their 100th-year anniversary, I am pleased to stand and recognize Holland Christian Schools and their fine tradition of academic excellence and commitment to Christian values.

Mr. Speaker, I would also like to address another topic this evening. This is taken from "Samuel Adams: The Character of Conviction."

Mr. Speaker, it was said by the American preacher, Dwight Moody, "If I take care of my character, my reputation will take care of itself."

America's founders were men and women who cared not so much for their reputations as they did for their character and the character of the Nation. Such was the case for an American who came to be known as the Father of the American Revolution, Samuel Adams of Boston.

He was respected because of his great character and strong Christian faith. Samuel Adams' passion and presence commanded not only the respect of his fellow citizens, but of the British authorities as well. It was his Christian faith that was the foundation of his character; and this character was the foundation of a reputation that enabled Samuel Adams to stand firm in the face of British opposition, as well as prepare a young nation to secure the blessings of liberty. His quest began some 6 years before the Declaration of Independence when the seeds of revolution were being planted across the colonies.

Adams was the clerk of the Massachusetts court, but that did not stop him from leading an uprising against the Governor of Massachusetts, demanding the removal of British troops of Boston. The showdown left five colonists dead and quickly earned recognition as the Boston Massacre.

The other patriots had died for freedom, but the Boston Massacre became a rallying cry echoing through city streets and rural farms.

The citizens of Boston were enraged by the massacre and the stationing of troops within the city limits. The morning after the massacre, the citizens of Boston met and appointed a committee, which included Samuel Adams. Their charge was clear: present to the acting Governor of Massachusetts their demand that the troops be removed from the city.

Governor Hutchinson equivocated, telling Samuel Adams that the troops were not subject to his command. Samuel Adams replied that unless the troops were removed from Boston, the blood of revolution would be on the Governor's hands.

The following morning preparations began for the troops' removal.

What led the Governor to bow to the demands of Samuel Adams and the citizens of Boston? Governor Hutchinson was in a difficult position: either face the angry mob outside of his gates or the angry British authorities across the sea.

But, more than mobs and massacres, the Governor was influenced by the words and reputation of Samuel Adams. He was well aware of Adams' character and his wisdom as a loyal and upstanding citizen.

Years earlier, the British authorities had attempted to bribe a poor Adams with political power and wealth, if only he would join their cause. Governor Hutchinson had said of Adams, "Such is the obstinacy and inflexible disposition of the man that he can never be conciliated by any office or gift whatever."

Governor Hutchinson was wisely unwilling to test Adams in his demand for the removal of troops. This small, but important victory, inspired the colonists and began the erosion of British domination in the New World.

EDUCATION TAX CREDITS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Michigan (Mr. HOEKSTRA) to complete his statement.

SAMUEL ADAMS: THE CHARACTER OF CONVICTION

Mr. HOEKSTRA. Mr. Speaker, the story of Samuel Adams begs the question: Where did Adams find the strength of his character and the source of his conviction? Adams gave the answer a few years later when Hutchinson's successor, Governor Thomas Gage, not having learned from previous attempts, offered Adams anything that he desired so long as he ended his opposition to the British Crown.

Samuel Adams responded: "Go tell Governor Gage that my peace has long since been made with the King of kings, and that it is the advice of Samuel Adams to him, no longer to insult the feelings of an already exasperated people."

Adams' vigilance for the cause of freedom and his fellow Americans rested firmly on the peace he found not within himself or any person, or even within the cause of freedom itself. Rather, it came in character firmly grounded in an eternal security found in knowing the King of kings, the God of ages.

It was his faith that served as his source of strength to stand for his cause, even when tempted with trappings of power and wealth.

Where do we find our peace? Where do we find our comfort? In the past few months, we have been reminded that the blessings of wealth and power cannot alone provide enduring peace, or lasting comfort. These come from a deeper, more permanent source. I believe, like Samuel Adams, that it comes from a Nation of good citizens, who embrace virtue and exercise their convictions, no matter what the cost.

Samuel Adams could have sold his character for peace and prosperity, but he did not. Adams knew that his reputation was more costly than gold, more influential than political position. And in his poverty of possessions, not spirit, he left us the richest of American legacies, a vigilance for freedom, a reputation of character, and a foundation of faith.

Mr. Speaker, I thank the gentleman from Colorado (Mr. SCHAFFER) for yielding, and look forward to spending the next hour talking about a very important subject, the topic of education.

Mr. SCHAFFER. Mr. Speaker, I would like to discuss a topic that is first and foremost on the minds of Americans when asked about their concerns for the country and their political objectives for the Nation, and certainly their expectations with respect to the actions of this Congress. That is perfectly understandable and explainable, particularly when we consider that most families in America regard as their most treasured possessions and objects of responsibility raising their children. And even those who are not engaged in that directly certainly are indirectly, and view that as one of the most propound legacies for our country.

□ 1700

Before we really get started in the discussion, I would like to invite any of our colleagues who may be monitoring today's proceedings here on the floor in this Special Order if they would like to participate in a discussion on school choice as it relates to education tax credits, I would like to extend that invitation. I appreciate the gentleman from Michigan being here as well.

The exciting proposal that has come out of the White House most recently with respect to education involves really trying to help create more of a market approach to American schooling than we have known on a national basis for quite some time. That announcement from our President in support of an educational tax credit is really one that is consistent with various States. As we look around the country in the State legislatures and observe some of the activity that is taking place in State houses today, we see that the proposals around and about education tax credits are appearing quite frequently.

Here is how a tax credit works essentially and how it helps education and why the President has given his commitment to an education tax credit and why it is becoming a high priority here in this House. An education tax credit is a way to allow American individuals to invest their own money, private money, into the business of American education and promoting it. In fact, through a tax credit, effectively reducing the tax burden on the American people by encouraging an equivalent contribution to a school or an education pursuit, what we can achieve nationwide is a massive cash infusion into the American education system, an infusion that is not discriminatory, an infusion of cash that does not favor one kind of institution over another institution, does not pit school building against school building or administrator against administrator or principal against principal, but does what, frankly, we should be doing all along with respect to education and, that is, focusing on the fairness in the relationship between children, so that all children, regardless of the academic setting that they find themselves in, are the beneficiaries of a massive cash infusion in American education. That is what this proposal is really all about.

And so while we have legislation that is still in the works, still on the drafting table, it is important enough to begin talking now about the concept of education tax credits, how these credits work, how they can help American children, how we can learn from the States that have passed education tax credits already, how we can learn from States that have engaged in this debate already and have drawn people together across partisan lines and begin discussing this in a way that I hope will result in Members from both parties here on the House floor working on this final draft of the legislation and aim it toward successful passage here in the House.

Our ultimate goal, of course, is to get a positive bill involving education tax credits to the President's desk. We feel very confident and optimistic about this. Again, I say that based on the experience of States where we see some of the most liberal Democrats joining with some of the most conservative Republicans, joining together for the distinct objective of trying to help America's schoolchildren.

Mr. HOEKSTRA. If the gentleman will yield, as we have gone around the country, the gentleman and I have been to a number of these places together. Whether it is Arizona, Minnesota, Pennsylvania, Florida, there has been a lot of excitement around the concept of tax credits. The gentleman is absolutely right. Number one, this is a focus on the children, making sure that every child in America has the opportunity to get a quality education, that they can go to a safe and drug-free school. And that one of the ways of doing this, and this is especially true when we introduce the concept of a tax credit at the Federal level, it does become a massive infusion of new money into our educational system.

But the difference between the money that is currently coming out of Washington and going to our local schools and the money that would be generated by a tax credit, the majority of the money that comes from Washington today that goes to your local school says, In exchange for this check, you will do this. As a matter of fact, in exchange for this check, you will not only do this but you will report back to us on a regular basis that you have actually done exactly what we have asked you to do.

What happens with a Federal tax credit is that people in a local community can write a check to their local public school, their local public or their private or parochial school, and that money then goes into that school's fund either for a designated cause which has been designated by the school saying, hey, we are going to do a fund-raiser for a new fine arts center, or we are going to do it for increasing and improving our technology or something else, but then the people within the local community can decide whether they want to make that additional investment into their local public school. And so what we have seen, I think, in the States that we have talked about, each of whom has crafted their proposal in a slightly different way, but it has generated more excitement and more enthusiasm for all kinds of education and it has created a new stream of money going into the schools, with the most important thing being that it provides the local school the opportunity of raising funds for some specific needs that maybe only that school has.

So this makes it very different than any of the other funding streams that currently come from Washington or that currently come from their State level. The gentleman is also absolutely right. As we take a look at how this has happened in the States, they have been bipartisan arrangements, so it has not been a group of Republicans or a group of Democrats who have pushed all the way through the process at the expense of the other party. It has been Republicans and Democrats coming together, suburbanites coming together with the folks living in our cities and saying this is a good way to go, this is a good way to structure an additional investment in education. I think we are all looking forward to putting that same kind of process together here that will lead us to a bill that this President can sign.

Mr. SCHAFFER. This focus you mention on local control and local priorities really is the most attractive feature, I think, in an education tax credit proposal.

Mr. HOEKSTRA. I think there are two features that make it especially attractive to our local schools. Number one, when we do this in Washington, it clearly is a new stream of money. It is not a diversion of money that would have been coming from Washington for education, anyway. It is a new stream of funds which I think can get to be a relatively significant amount of money into our local schools. The second thing is that it is nondesignated. It can be crafted and used in such a way to meet the needs of a local school district.

Mr. SCHAFFER. Honoring local priorities is something we have talked about a long time together and others in the House certainly have. That is what this tax credit proposal allows. As you mentioned, what we do right now in funding schools is really ludicrous in many ways. We have spent $125 billion on the Federal portion of the K-12 education program over the last 25 years. Those are rather steep increases that we have seen over the last few years. Some of these funds are perfectly legitimate and well spent, there is no question about that. But many of them are not, frankly. We know that.

What essentially happens, if a taxpayer were to follow their education investment dollar, here is what they would see, that is, that the Federal Government taxes the hard-working taxpayer, those dollars are withheld from their wages, they come here to Washington, D.C., we meet in committee rooms around here on Capitol Hill and decide how to divvy up those dollars on education programs. Washington evaluates education spending almost on a State-by-State basis, sometimes on a program-by-program basis, but the reality is we have a bunch of people here in Washington who are trying as hard as they can to distribute other people's money back to the States on a basis that is fair to the States, and after it is filtered through the Treasury Department and the Department of Education and Congress earmarks those funds and ties all kinds of strings and red tape to them, those funds end up going then primarily back to all 50 States and to the State governments who distribute those dollars further. Each level of government, by the way, takes its cut out of your education dollar.

So that by the time these funds actually reach a child, there is just a fraction left. What we are trying to do is get around that. An education tax credit really bypasses this whole bureaucratic and political structure and allows the taxpayer, the donor, to invest in programs that seem to make sense in the local community. That is a refreshing and a very promising approach to school finance and one that I think is the reason there is so much excitement and support for a tax credit.

Mr. HOEKSTRA. I think the other reason that there is a high level of excitement is, and the gentleman and I have gone through this a number of times over the last few years, you said when they watch what happens to their money here in Washington. We know that for quite a long time, when the money went to the Department of Education, we could not track it; that for 3 to 5 years, the Department of Education could not get a clean audit. We are excited by the work that, again, we did on a bipartisan basis during the Clinton administration to put pressure on the Department of Education to work towards getting to a clean audit. We are excited by the work that Secretary Paige and his staff are doing. It appears that many of these problems have been worked out.

But we have to recognize that for quite a while we had a laundry list of scandals within the Department of Education and failed audits. That again was one of the things, a lot of my local officials were saying, Just give us this money directly. This is what tax credits allow us to do. I think we also need to scale this. I am not sure exactly how we go after this, but the Department of Education spends about $40 billion here and K-12 may make up a little bit more than half of that, $24, $25 billion per year. Our tax credit that we are talking about here is less than 10 percent of that. So this is not massive, something that says, this is the amount of money that is being driven by Washington and now we are going to match that by an amount that is being driven by local tax credits. We are talking about probably less than 10 percent of what is being driven by Washington actually entrusting a citizen in the local community to make a donation to their schools.

Mr. SCHAFFER. I would point out just to emphasize this point, that the tax credit proposal, since it is a change in Tax Code, rather than the education budget, really has no impact at all on the funds that have been proposed by this Congress and by the President with respect to education. I know some have expressed or at least raised questions about whether a tax credit takes funds from the rest of the government school budget. The answer is clearly no. It is a separate funding stream certainly for the same purpose of trying to improve education, but one does not have any effect on the other from the standpoint of the budget and how much money there is.

Mr. HOEKSTRA. Absolutely. It becomes a supplemental stream to the money that is already coming through Washington. We have significantly increased funding in K–12 education over the last 4 to 5 years and with the President's new Leave No Child Behind plan, those funding increases are going to continue. There will continue to be significant increases in education investment through the Department of Education. This now provides for those individuals in those communities that believe that they have some special needs or their schools have a special challenge or their schools have done a phenomenal job and they are saying, hey, we really want to put a little more money into these schools. It allows them a vehicle and a mechanism to do that, and they get a dollar-for-dollar impact. You put a dollar in, and it does not come with a mandate, and you do not lose anything of going through the bureaucracy of a Lansing, Michigan, or of a Washington, D.C. That dollar goes into that school.

The decision as to how that dollar will be spent will be made locally, and it will benefit all of the children in that school. It is really a refreshing complement to the education funding that we already have in place. For a State like Michigan that has spent so much time and effort on leveling the funding so that across the State there is equal funding, this now provides an additional mechanism to now complement that because as we increase and level the funding in the State of Michigan, we also then attach a lot of mandates as it came back. School districts are struggling. They do not get enough unattached dollars, dollars that they have some discretion in how they are going to spend it for their local schools and to help their kids.

Mr. SCHAFFER. Talking about education spending within the context of freedom and liberty is very important for us, because we have not been able to do that too much in recent years. There are really strings and red tape and all kinds of parameters that are placed on Federal funds. This gives us a chance to get away from that.

Americans are really expecting and hoping that the Congress begins to talk about new and innovative ways and creative ways to improve schools across America.

□ 1715

What most Americans are dealing with right now, if they have children in school, are these mandatory tests. Almost every State is dealing with them right now. Mandatory tests that have been required by State legislatures, through State laws, and also the new mandatory requirements for testing that have come from the Federal level. That serves to achieve the accountability objectives that the President had outlined and that the Congress had focused on in the legislation we passed last year, and the outcome of that still remains to be seen. But what a tax credit really allows us to do is start speaking to the flexibility side, the decision-making side of locally elected school board members, superintendents, of principals and teachers, in identifying priorities in their own schools that they would go to the community for assistance on and would be made easier through a tax credit that we are proposing.

The other innovative side of a tax credit proposal is something that we are seeing in several States, and that is the creation of education investment organizations, little investment funds that provide direct assistance, usually to some of the neediest children and communities. We are seeing that starting in Arizona now, which has I think 3 years of experience with their education tax credit; in the State of Pennsylvania; in the State of Florida. The proposals that we are seeing throughout the country are all around existing education investment organizations. In Arizona, they are called student tuition organizations. But what they exist to do is to raise funds from a community so that they can give scholarships to low-income children and the neediest children in communities to attend the school of their choice. It is providing just a remarkable relief valve for those who find themselves trapped in schools that are just not meeting the needs of children. Some of these schools are failing schools.

We have just received testimony from all across the country as we are reading newspaper articles about these opportunities, the testimony that is taking place in State legislatures, and we have also had some testimony right here in Congress during a hearing that we conducted just a week ago, and both of us were there. I wonder if the gentleman would comment on the 10-year-old boy that we met with; Joshua Holloway was his name. The whole panel of all of these experienced lobbyists were up there, but this kid, this 10-year-old from Denver, Colorado, he clearly exceeded the rest of them in effectiveness in reaching out to the committee and letting America know why these tax credits are so important.

Mr. HOEKSTRA. Mr. Speaker, what Joshua had to say was awesome. I mean, here we have a 10-year-old kid who is looking up at three rows of chairs and a row of Congress people up at the top, and very eloquently goes through his testimony and very eloquently answers the questions. His mom had passed away, so his grandfather was there with him at the hearing, talking about his mom's dream and his mom's vision that he attend a particular school, and that this school was providing him with all of the necessary training and skills to be successful in life. And I think it was one of her last requests to his grandfather to say, make sure that Joshua and, was it his brother or sister?

Mr. SCHAFFER. His brother.

Mr. HOEKSTRA. His brother. That they both have the opportunity to attend a particular school. And Joshua's grandfather saying, if it was not for the scholarships or these types of things, he would not be able to fulfill this wish and give Joshua and his brother the skills, put them in a school where they could get the skills that they would need to be successful, and that anything that would complement the current funding stream in education that would allow individuals to steer some money to the local public school or to steer it to an education investment fund, that that would be okay, and that would be really good for certain kids who maybe had specific needs or one school just was not working out for them, so that they could use that investment fund to perhaps transfer to another public school or to transfer to some other school. These things have been set up in a number of different ways around the country. Or, that they could be used to provide specific tutoring. But there are a number of different kinds of opportunities that these education investment funds could be set up for to help kids be successful.

I think that is where, when we talk about education, the important thing that we always have to keep the focus on is the kids. And the criteria that we as policymakers have to really embrace is we need to put together a system that enables every child to get a good education. We cannot afford, not from a monetary standpoint, but from a moral standpoint, we cannot leave a child behind. We have to reach out and do everything that we can to make sure that every child has the opportunity to go to a high-quality school where they can get the learning that they need.

Part of that is kids can only learn in safe schools. We cannot have kids going to schools where they are afraid to walk to their locker, where they are afraid to walk to their next class. The only fear that a kid should have while they are going to school is the fear of the next exam. That is the only fear that they should have: What is that teacher going to do to me now with the next exam, and am I ready? But other than that, it has to be a safe and drug-free school for every single one of our children.

Mr. SCHAFFER. Mr. Speaker, Americans want to help. I think most taxpayers are inclined to agree that investing in America's education system is a good idea and, if given the chance, they typically make the choice to do that. There are some tax hurdles in the way and we are trying to knock some of those down.

Mr. HOEKSTRA. Mr. Speaker, I think it is exactly what the people have found in the State of Arizona, where the numbers clearly indicate that there is an eager group of people who are willing to, and have a desire, and are willing not to be taxed, but to say, if I can steer that money to our local public schools without any strings attached to assist that public school, I will write the check. And there are others who are saying, I really want to go out and help some special kids, so I will steer my funds to an education investment fund. With that kind of flexibility, a State like Arizona is finding that they do not have to go to the legislature and raise taxes to get more money into education for all of our kids, or for all of their kids. They provide the tax credit and then people willingly go out, pay their taxes, and then willingly go out and voluntarily contribute an extra certain amount to their public schools and other funds.

Mr. SCHAFFER. Mr. Speaker, the tax burden on Americans is really unchanged through this tax credit proposal. I know the gentleman and I as conservatives tend to be of the opinion that we ought to lower the tax burden, and we certainly should. This is really a different argument, though, about what happens after the effective tax rate is established.

The question is, do taxpayers wish to continue just sending bags of cash back to Washington so that all of the politicians that we work with here have the opportunity, and just hope, these taxpayers may just hope that we will spend it in a way they want. That is kind of a gamble to take and a little bit of a risk. There are 435 of us and we do not agree on every topic every day, let alone how to spend money on education. So that is the one option, is to continue paying high amounts of taxes as Americans do today and shovel those dollars here to Washington.

Or, the tax burden would be the same, but what we are suggesting through this proposed legislation is to allow taxpayers to take a certain portion of their Federal tax liability, their Federal tax bill, and self-direct that anywhere in the education industry they want. It might be for a scholarship fund that allows a low-income child to attend a school of his or her choice, really rescue that child from a failing school in some cases, or maybe invest in the priority that has been established by a local school board or superintendent.

I want to get back to Joshua here. First, I am very proud of him. He is from the State of Colorado, and he testified in committee, and it was just awesome.

Mr. HOEKSTRA. He not only testified, he not only read his statement, he also took questions and answered questions.

Mr. SCHAFFER. He sure did. He sure did. His testimony was only one page long, so I will not ask that it be submitted, but I will just read a couple of the most moving lines that he read to the committee.

He says, "My name is Joshua Holloway. I was born in Denver. My favorite subject is football," and he amended that later. He said that he wanted to be a lawyer, too, but football was just a hobby. He said, "I am 10 years old. My mother passed away last year. I have a brother who is 6. His name is Jeremiah. We go to church every Sunday. Before I go to school I read the Bible. I live with my grandfather. Sometimes my cousins come over and we play outside and play video games."

He says, "Before my mom passed away, she told my grandfather to bring us to Watch Care."

Watch Care Academy is a school I am somewhat familiar with that is in the metro area of Denver, and he goes on. This was just so compelling and I think really makes the case, almost singlehandedly, as to why we need an education tax credit proposal. He says, "My grandpa could not afford to pay for me and my brother. So Mrs. Perry," who is the principal, told him about the Ace scholarships. Ace is the name of one of these education investment organizations that provides scholarships for these low-income kids. So they applied to this organization.

He says, "My grandpa applied and we were awarded Ace scholarships. Jeremiah and I say thank you, Ace." He said, "It is with your help that my grandpa is able to bring us to this fantastic school. I know my mom is happy and thanks you also. When I grow up, I want to be a lawyer and then a football player," he says.

He says, "Thank you for helping all of the children who are getting such a good education through your program. I want to win," he told the committee. He says, "This will help my grandpa with the money for Jeremiah and me."

I just cannot state it anymore clearly than Joshua did. These scholarship organizations exist to help poor children achieve the education that they deserve, and what we want to do is make it easier for Americans to contribute to these kinds of organizations, and these exist all over the country. These scholarship organizations or these education investment organizations, they exist in all 50 States and, in fact, in the States that have established a State income tax credit for education like we are proposing on the Federal level, we have seen these kinds of organizations flourish.

So just imagine Joshua's testimony multiplied by thousands of children who I believe probably have equally compelling stories and dreams for their academic future, and they have these financial burdens that are being lifted through these organizations. We can make them even more powerful and more effective and rely on the ingenuity of private initiative in order to provide more, just to rescue more kids like Joshua and Jeremiah in Colorado.

Mr. HOEKSTRA. We have to make sure we always come back to the point that this is a balanced approach, that this is available for public schools and it is also available for education investment funds.

Mr. Speaker, I could talk about my home district where we have a lot of good schools, but what has happened with our superintendents, the money rather that being raised locally through the property tax is now raised statewide through a sales tax. It is a very positive thing. It has lowered our property taxes and it has created a consistent funding stream across the State.

Again, we have kind of taken out the differences between schools. But what the situation reduced many of our superintendents to do is to kind of become almost beggars to Lansing, to go to Lansing and make their case with their State reps and their State senators that they deserve more or they need money for this or they need money for that; or in this district they have a very specific need, and over here they have another specific need. They kind of feel like they have lost control and their life now gets to be managing the rules and regulations that come from Washington and the rules and regulations that come from Lansing.

With a State tax credit, or if we did a Federal tax credit, it now allows them to supplement the income that they are getting from the State and get that money to go to some perhaps very targeted and specific needs that they may have identified. It is really exciting, because then the community who wants to embrace their schools because of the great job that they have done can now write that extra check to their local public school and build that public school.

□ 1730

In the States where they have adopted this, it is exactly what communities are doing. Communities are embracing their schools with the Ace program, they are embracing kids. So what this does is it gets to be, as I would say, a win-win. It increases the funding in education, but it makes, at least for this pot of educational expenditures, it makes it available to all of our kids. That I think is an exciting proposition.

We know that the idea is ripening here in Washington. As the gentleman and I did the survey of all the different types of tax credit legislation that has been introduced here in Washington in regard to education, there are a whole series of different ideas that are flourishing or are being proposed by both sides of the aisle.

I think what the gentleman and I and others are doing is to try to come up with a consensus piece of education tax credits that can be embraced by a diversity of Members here on the floor of the House to address some of the needs that we have identified in education. Will it be the total solution to everything? No. The President and this Congress has passed H.R. 1. That is a step forward. There will be increased funding as a result of H.R. 1, the No Child Left Behind Act. That is part of the puzzle. There is more testing.

The gentleman and I are not necessarily assured that that is part of the solution, but we hope it is. We hope that as it is implemented through the States, that it becomes a part of the solution package.

I really believe that as we lay these different things out, increased funding, the changes in the rules and regulations as a result of H.R. 1, the new testing protocol, then really the tax credits really fit with the President's vision, because what he really talked about was having accountability and more flexibility.

This tax credit component really now provides an additional opportunity for investment, but different than some of the other items that have been talked about for education funding, it does not take from one pot and say, okay, we thought we were going to give them this much, but they are going to get a little bit less and we are going to move it over here and give it to somebody else.

This pot, this educational investment area, is going to stay the same. It is probably going to grow, and it is probably going to grow significantly. And then over here there is going to be another one, but this one is going to be much more flexible as to where it is going to be used and who contributes, who does not.

When we put that whole package together, it actually gets to be a fairly comprehensive package of reforms that can be kind of exciting.

Mr. SCHAFFER. Madam Speaker, the management model that the gentleman described, that has become emblematic of public schools, is something that really needs to be changed. This tax credit proposal perhaps in a small way can really help achieve that.

Here is what I am talking about, specifically. The gentleman used really great language to describe what happens in schools, in schools today. That is, the administrators, the financial officers, and the business managers of America's schools have become proficient beggars to other governments.

There is a whole inside language that exists in American education today, and we see this on the Committee on Education and the Workforce here, as Members who serve on that committee. But also certainly we see that throughout the country. There is this inside language and all this technology that is only understood by the people who are on the inside of public school finance.

We have school board members who become very, very proficient at using the right words to appeal to other politicians at the State level and in State governments. They have their own code language that corresponds to requirements and rules that exist here in Washington. This works very nice within this little bureaucratic bubble, but it really alienates and abandons the rest of the community, in many cases, and certainly it alienates the children.

An education tax credit that provides an opportunity for the community to invest in real priorities of local schools begins to shift the focus, even if slightly, back toward the community. So now these school board members throughout the country have to become more proficient at appealing to me as a parent and to my child as a customer, and to the rest of the community, including corporate donors, in terms that make practical sense to those who are on the front line of American society and see the immediate impact of good schools.

Mr. HOEKSTRA. Madam Speaker, what we have is the evolution of our public schools, and they were called public because they reflected the community. The public schools evolved into government schools, okay, like the gentleman said, with the local school board now having to appeal to the State legislature for funds, and the State legislature appealing to the Federal Government, so they become kind of government schools.

What we have done is we have seen the breakdown in that critical link between superintendents and school boards and their local community. We have weakened that. It is not through any fault of the principals or the superintendents or the school boards. As a matter of fact, they want to focus on the parents. They want to focus on the kids.

But because of where the funding stream has gone, and the mandates and the directives, they have found that more and more of their time and attention has been pulled away from the children, has been pulled away from parents, has been pulled away from the community, and has been directed to the people in the State capital or the State board of education or the Department of Education.

This really now kind of moves it back a little bit more in balance. It says, keep that strong link with your community, the thing that has made you so successful, the thing that has always led people to say, there may be some problems with public education, but we have a good public school in our community. Now all my money goes to Lansing, but if I had an opportunity through a Federal tax credit, I will write another check to my local public school because I know the principal, I know the teacher, I know the school board, and these folks are doing a good job.

In other parts of the State or the country, they may say, we know that does not work for everybody, that some kids are not going to be successful there, so we are going to contribute to this education investment fund.

Mr. SCHAFFER. Madam Speaker, I think it can actually be even more profound than having an improved understanding of the management of the school or the academic objectives of school leaders. I think it comes down to people who really become part of the fan club for Joshua Holloway and other people like him, who really become Joshua's biggest supporter and promoter.

Joshua has real impact. When he testified in Congress, he had a pretty remarkable impact. But that is always true back in the State of Colorado, where people have read about Joshua, and they see this and they get inspired by it.

They think, here are schools, academic institutions, competing now to help Joshua, this 10-year-old poor child whose mother passed away last year. That is what we want to achieve. We want the American education system to fall all over itself trying to help Joshua succeed in life. And to the extent that occurs, I have to tell the gentleman, I think people are going to be very willing to open up their checkbooks and make the investment in little Joshua, and I think they will do it before they will trust people here in Washington to spend the money on Joshua. It is just a better bet. The tax credit really removes all the political decision-making from it, and it really leaves that decision to local communities.

In the end, Joshua is going to succeed if we can accomplish this objective for him.

Mr. HOEKSTRA. Madam Speaker, if the gentleman will yield further, I will give this example. It was a year and a half or 2 years ago in my local community. There is a school, Lincoln School. This is a landlocked community, so they are suffering from a problem that, again, the technocrats call "declining enrollment." There are just not as many kids around.

This was a critical school in a critical part of the community. Because the enrollment was going down in the entire school district, the folks in Lansing said, sorry, this is the amount of money that you are going to get. Deal with it. Deal with it. And there was nothing that the local school board could do. They had to make some choices.

One of the choices that was not even on the table was, can we go to the community and can we appeal to them and say, we know that this is not the most efficient and effective decision if you are running the school as a business, all right? And maybe we really do not need that school. We can move some kids here and there, and that is a better and more effective and more efficient way to run it.

But they could not even go back and say, having that school there was right for the kids. It is not the most efficient, but it is the right thing to do. We do not want to take those kids out of their neighborhoods, and we want to leave that school open until maybe it gives us a little bit of time to deal with some other issues, or whatever.

They could not go and say, we are going to have a fundraising effort. Take your education tax credits and go to some of the corporations and say, hey, we need to raise X amount of dollars, and then the community could have had a say as to whether Lincoln School was going to stay open to help those kids because the community believed that that was the best educational investment that the community could make at that time, even though the green eyeshades people, the accountants, were saying, sorry, you have to cut.

Those are the kinds of decisions that we want to empower communities to make. We want to get cheerleaders, cheerleaders for our public schools to go out and say, this is what we need. We want to get cheerleaders for the education investment funds. We want to get cheerleaders saying that our educational system is so good, but we can make it better, and we want you to help. We want you to contribute to it. When you contribute to it, every dollar is going to find its way into a classroom and is going to help a Joshua or is going to help a child at Lincoln School, and is going to make a real difference.

Mr. SCHAFFER. Talking about funding schools from the standpoint of tax freedom, as opposed to just spending more money, I think makes eminent sense. That is the kind of discussion we have really needed here in Washington for a long, long time.

I am really proud of those States. I have mentioned there are a handful of States. There may be some who are curious about what States have already implemented tax credits with respect to their State taxes. Those States are Arizona, Minnesota, Iowa, Illinois, Florida, and Pennsylvania.

Mr. HOEKSTRA. Madam Speaker, I cannot believe Pennsylvania would have done it.

Mr. SCHAFFER. What is also important is that there are nine States that have no income tax, so they are really looking to the Federal Government to provide this kind of assistance and education funding through tax freedom in those States.

I might also add, these others that have already moved forward on tax credits on the State level, they are ahead of the curve. They are already, from an infrastructure standpoint, already equipped to really squeeze the greatest amount of buying power out of a Federal tax credit.

I think those six States that I mentioned already, they perhaps have the most to gain up front from an education tax credit that we can pass here. That is probably the reason why the Members of Congress from these States are some of the most enthusiastic supporters that we have seen so far, even at this stage of the discussions.

Mr. HOEKSTRA. The reason I made the comment about Pennsylvania was only because Madam Speaker tonight is from the great State of Pennsylvania, and the next time we have this discussion on where we are going with Federal tax credits, perhaps she can join us and talk about the success or the rationale for how the Pennsylvania legislature moved to embrace tax credits, and I believe do it in a bipartisan way, move forward and get that done, and how that would then complement what we would be doing here in Washington.

Mr. SCHAFFER. In the hearing we conducted last week on this topic, we had one opponent who was opposed to Joshua and his academic dreams. There was a group called Citizens for the American Way, and it was their representative.

Mr. HOEKSTRA. People for the American Way.

Mr. SCHAFFER. The lobbyist for that outfit was not particularly cogent when he was talking about the issue. But one of the tactics that he deployed in the committee was try to mislabel the education tax credit as a voucher.

The reality is, this is very, very different than a voucher proposal. It shares really nothing, nothing in common, except it has to deal with education. But the finance mechanism of this is nothing like a voucher at all. We have seen voucher proposals.

Mr. HOEKSTRA. I was going to say, we need to get that clear. In the State of Arizona, more than half of the money is going to public schools, and it is not following one student who may decide to go to another public school, so it is not even following that. That money is being given by parents to invest in that school, or a limited number of programs and ideas that the State has identified that that tax credit can be used for. So it is the farthest thing from the V word.

More than half the money in Arizona is going to local public schools because of the connection between the schools and their parents and their community at large saying, invest in our school. We have these kinds of needs, and people ante up and are saying, you are doing the job. You need these extra funds and we are going to help you out and support you.

Mr. SCHAFFER. A voucher entails government collecting cash from taxpayers and giving those same dollars back to taxpayers in the form of a voucher, a check that can only be spent at certain institutions, based on the rules that would be defined by the government when it issues and creates this voucher legislation.

□ 1745

We have seen that in some States, and some communities have fully put voucher legislation in place. And I guess when compared to what we have today in most places, which is a government-owned, unionized monopoly where there is no choice, a voucher represents a greater degree of choice, but it still involves government making decisions for Americans and for taxpayers. It also involves government money being appropriated as an expenditure in the voucher program.

The tax credit thing is nothing like that. This is not an appropriation, it is an academic investment, a massive cash infusion in American schools through tax freedom rather than through spending. So that is the key distinction between a tax credit proposal and a voucher proposal. I think this is an important distinction to make. I probably cannot make it often enough because there are some who do not support the idea of tax freedom and do not support the idea of Joshua being rescued; who tried to malign this whole discussion about Joshua's future by calling it a voucher, which it clearly is not.

Mr. HOEKSTRA. I think the gentleman becomes very, very clear when he says government money. I think that came up at the hearing. What exactly is government money? Government money is only that money we have claimed and taken from the American people. Once it gets to Washington, it is still the people's money, but they have entrusted it to us. But that is probably the clearest definition of what government money is when people have paid the taxes to us. That is exactly what a voucher is. A voucher becomes government money, and we just redistribute it.

What we were talking about here is the people's money in its pure sense. Those folks have the opportunity to choose as to whether they are going to write that check for an educational purpose or whether they are going to go use it for something else.

Mr. SCHAFFER. It becomes an investment.

Mr. HOEKSTRA. It becomes an investment. Whether they want to invest it in education or whether they want to put it in a savings account, whether they want to go out and buy a personal watercraft, whatever. It becomes personal money that they have the discretion as to where it is going to go.

Also with government money, one can make the argument more effectively, well, if it is government money, then you are taking it from this pot and giving it to this pot. This is not. This is private money where people are making the decision as to whether they are going to invest more in education or whether they are going to spend it somewhere else, but it is the freedom for them to choose what they are going to do.

And what we have seen in the States that have done this, people choose to a certain extent to invest more money into education voluntarily, and that is a great direction to take.

Mr. SCHAFFER. These proposals have been studied. I am holding in my hand a study of the Arizona scholarship program that exists there. This study was done by Carrie Lips and Jennifer Jacoby. It is only a few months old. And what this study has found is that from 1998 to 2000, the time frame that was studied in this report, the Arizona tax credits generated $32 million for children in Arizona, providing almost 19,000 scholarships for children in the State, and that is through about 30 different organizations that just sprung up after the Arizona legislation passed. But most of those scholarships, in fact, 80 percent of those scholarships were selected on the basis of financial need.

So think of that; $32 million invested, a massive cash infusion in the Arizona school system within the State that provided assistance to 19,000 individuals in the State of Arizona. This is money that would not have occurred otherwise. It is money that did not come out of the Arizona school finance act.

In fact, that point was clarified at the hearing we had last week, too. These are new dollars. They do not replace, they are not taken from the Arizona school funds, just as our proposal would not take dollars out of the national education budget. But because this tax mechanism exists in another place in the law, it actually creates new money for American education. If we can do it for the country, which generates $32 million over a very short time period for 19,000 individuals, and magnify that on a national basis, we are talking about billions of dollars, really a massive cash infusion in America's education system.

Mr. HOEKSTRA. For two purposes.

Mr. SCHAFFER. And it is a remarkable goal. Hopefully, we can achieve it.

Mr. HOEKSTRA. For two purposes; again, for education investment funds and for investments in traditional public schools.

Mr. SCHAFFER. It does not discriminate. These investments will not be encumbered by the judgment of politicians or these internal political battles that take place between school buildings and school sites. It, rather, leaves the decisions to taxpayers to invest in children like Joshua, and without any regard to the kind of academic setting that Joshua might choose. It focuses on children rather than agencies and institutions, and from that standpoint really drops the discriminatory nature that we see in the Federal funding that we have today where politicians decide which States are going to win, which States are going to lose, which States are behaving the way the bureaucrats in Washington want them to behave, which States are charting their own course.

These kinds of discriminatory features really define how money gets back to our neighborhoods in America through Federal spending, and this tax credit gets rid of all that baloney, and, frankly, starts suggesting that Joshua is more important than the guy who hands out the grant down the street from here.

Mr. HOEKSTRA. Right. I think in fairness now to what is going on with H.R. 1, we are hoping that the results of H.R. 1 will be less focused on process and more focused on results, and so we will have much less of a process debate.

But this gets to be, again, it gets to be a wonderful commitment to the pieces that we are already putting in place in many ways. And this is why the President supports the concept of a tax credit and why he had it in the budget that he proposed that he wants to invest more money in education and he wants more flexibility and he wants children to have a range of options for education, recognizing that perhaps one size does not fit all of our kids. And when the focus continues to be on our kids, that is exactly where it needs to be.

So often we talk in the aggregate. But, again, you and I have been in schools around the country. We have been in inner-city New York, Detroit, Cleveland, Kentucky, Columbus, Cincinnati, Los Angeles, Phoenix.

Mr. SCHAFFER. Tampa.

Mr. HOEKSTRA. Tampa. We were down in Tampa. And we talked to a lot of parents and we talked to a lot of kids. And so we have seen hundreds and we have seen thousands of Joshuas around the country, and not everyone has an Ace scholarship, but what we see is thousands of Joshuas, many of them who are succeeding in traditional public schools, some who are succeeding in charter schools, and some who are succeeding in private or parochial, and others who are succeeding as home schoolers. So there is not one model that does fits all.

The important thing is that every child be given an opportunity. This does not even come close to equating funding for one to the other. This really is, it will be the only pot of money that becomes available for all of our kids and does not discriminate against any of them.

Mr. SCHAFFER. Let me go back to the Arizona model because it has been studied heavily and it is probably the example of a State that has helped the greatest number of children through an education tax credit. It is useful and instructive for us to consider the Arizona model with respect to trying to project the potential impact for the company.

The analysis suggests that in Arizona, the tax credit is revenue-neutral when it comes to the existing expenditures for schools. That is critical, because I think that argument is one we are going to have to make in Washington here, too, for some that have some concerns about that.

But listen to this. It is estimated that by 2015 the scholarship credit in Arizona will be raising $58 million per year, funding 35- to 61,000 scholarships annually, and helping send 11,000 to 37,000 students who otherwise would have to attend a government-defined school to attend the school of their choice. Sixty-one thousand scholarships; 37,000 students would be helped. And Arizona is not the largest State in the Union by any means.

So when we start talking about what can happen if we provide some leadership at the Federal level, establishing a basis for the Federal tax credit and seeing it carried out, seeing the State initiatives duplicated in more and more States, it becomes very, very exciting because it really does begin to create an education, an academic marketplace where there is no discrimination between schools and where children become the primary objective. I am so thrilled that we are seeing that kind of enthusiasm starting to build now.

Again, the bill has not been introduced yet, but the discussions we have had so far have been very, very positive, Republicans and Democrats. And I am very, very hopeful once this bill gets introduced in its final form, I have the drafts here, that we will see it come to the floor quickly. And we have the commitments to make that happen from the leadership and support from the President.

Mr. HOEKSTRA. Does that analysis also take into account or talk about how much money they are projecting will be invested into the public schools, not into the investment scholarship funds?

Mr. SCHAFFER. It does, but I do not have the summary in front of me.

Mr. HOEKSTRA. Was that number 59 million?

Mr. SCHAFFER. $58 million.

Mr. HOEKSTRA. $58 million. I think, going along the trend, you might be able to extrapolate that roughly the same if not more money will be flowing into traditional public schools. So that talks about the strength of this idea, $160 million flowing voluntarily into the school systems that otherwise would not be there. And that is why this is a powerful idea; people having the freedom to invest more money into education that otherwise would not.

Mr. SCHAFFER. I appreciate the gentleman joining me on the floor tonight, and I think my time has expired.

RECESS

The SPEAKER pro tempore (Ms. HART). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1828

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 6 o'clock and 28 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3231, BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–419) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.
Mr. LANGEVIN, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Mrs. MALONEY of New York, for 5 minutes, today.
Mr. WEINER, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Ms. ESHOO, for 5 minutes, today.
Mr. SCHIFF, for 5 minutes, today.
Mr. BONIOR, for 5 minutes, today.
Mr. MCGOVERN, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Mr. SHERMAN, for 5 minutes, today.

(The following Members (at the request of Mr. KNOLLENBERG) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.
Mr. SOUDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOEKSTRA, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Thursday, April 25, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6361. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV02–916–1 IFR] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6362. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule—2001 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports [CN–01–001] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6363. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations to Limit the Volume of Small Red Seedless Grapefruit [Docket No. FV01–905–2 IFR] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6364. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments [No. LS–01–02] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6365. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading [Docket No. PY–01–005] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6366. A letter from the Secretary of the Army, Department of Defense, transmitting a determination that the Nunn-McCurdy Unit Cost thresholds for both Program Acquisition Unit Cost and Average Procurement Unit Cost have been breached, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

6367. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Acquisition Regulation: Security Amendments to Implement Executive Order 12829, National Industrial Security Program (RIN: 1991–AB42) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Washington: Final Authorization of State Hazardous Waste Management Program Revision [FRL–7168–8] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6369. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan: Revision to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program [AL–058–200219(a); FRL–7169–1] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6370. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: Kentucky: Nitrogen Oxides Budget and Allowance Trading Program [KY–123; KY–123–1; KY 137–200218(a); FRL–7169–7] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6371. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E airspace, Kanab, UT [Airspace Docket No. 01–ANM–04] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6372. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E airspace, Cedar City, UT [Airspace Docket No. 01–ANM–06] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6373. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Flint, MI [Airspace Docket No. 01–AGL–18] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6374. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Twentynine Palms, CA [Airspace Docket No. 01–AWP–30] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6375. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Mount Vernon, OH [Airspace Docket No. 01–AGL–15] received April 8, 2002, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6376. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Portsmouth, OH [Airspace Docket No. 01–AGL–16] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6377. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Washington Court House, OH [Airspace Docket No. 01–AGL–20] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6378. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Ashland, OH [Airspace Docket No. 01–AGL–19] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6379. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Stanley, ND [Airspace Docket No. 00–AGL–28] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6380. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Hillsboro, ND [Airspace Docket No. 00–AGL–29] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6381. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Youngstown Warren-Regional Airport, OH [Airspace Docket No. 00–AGL–24] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6382. A letter from the Paralegal, FTA, Department of Transportation, transmitting the Department's final rule—Rail Fixed Guideway Systems; State Safety Oversight (RIN: 2132–AA69) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6383. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30297; Amdt. No. 2095] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6384. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; jointly to the Committees on Appropriations and International Relations.

6385. A letter from the Secretary and Attorney General, Department of Health and Human Services and the Department of Justice, transmitting a report entitled, "Health Care Fraud and Abuse Control Program Annual Report For FY 2001"; jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. Supplemental report on H.R. 3764. A bill to authorize appropriations for the Securities and Exchange Commission (Rept. 107–415 Pt. 2).

Mr. LINDER: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes (Rept. 107–419). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of New Jersey (for himself and Mr. Evans) (both by request):

H.R. 4559. A bill to amend title 38, United States Code, to establish a new Assistant Secretary to perform operations, preparedness, security and law enforcement functions, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TAUZIN (for himself, Mr. Dingell, Mr. Upton, Mr. Markey, Mr. Barton of Texas, Mr. Waxman, Mr. Gillmor, Mr. Hall of Texas, Mr. Greenwood, Mr. Boucher, Mr. Deal of Georgia, Mr. Towns, Mr. Burr of North Carolina, Mr. Pallone, Mr. Whitfield, Mr. Brown of Ohio, Mr. Norwood, Mr. Gordon, Mrs. Cubin, Mr. Rush, Mr. Shimkus, Ms. Eshoo, Mr. Pickering, Mr. Stupak, Mr. Fossella, Mr. Engel, Mr. Blunt, Mr. Sawyer, Mr. Tom Davis of Virginia, Mr. Wynn, Mr. Bryant, Mr. Green of Texas, Mr. Ehrlich, Ms. McCarthy of Missouri, Mr. Buyer, Mr. Strickland, Mr. Radanovich, Ms. DeGette, Mr. Bass, Mr. Barrett, Mr. Pitts, Mr. Luther, Mrs. Bono, Mrs. Capps, Mr. Walden of Oregon, Mr. Doyle, Mr. Terry, Mr. John, Mr. Fletcher, Ms. Harman, Mr. Shadegg, and Mrs. Wilson of New Mexico):

H.R. 4560. A bill to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting; to the Committee on Energy and Commerce.

By Mr. BARR of Georgia (for himself, Mr. Dingell, Mr. Upton, Mr. Chabot, Mr. Watt of North Carolina, Mr. Gekas, Mr. Nadler, Mr. Green of Wisconsin, and Mr. Shows):

H.R. 4561. A bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes; to the Committee on the Judiciary.

By Mr. BARTLETT of Maryland:

H.R. 4562. A bill to suspend temporarily the duty on upholstery leather; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4563. A bill to suspend temporarily the duty on pretanned bovine leather; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4564. A bill to suspend temporarily the duty on Astacin Finish PUM; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4565. A bill to suspend temporarily the duty on Bayderm Bottom 51-UD; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4566. A bill to suspend temporarily the duty on Bayderm Bottom DLV; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4567. A bill to suspend temporarily the duty on Relugan D; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4568. A bill to suspend temporarily the duty on Bayderm Bottom 10UD; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4569. A bill to suspend temporarily the duty on Basyntan MLB Powder; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4570. A bill to suspend temporarily the duty on SYNCUROL SE; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4571. A bill to suspend temporarily the duty on Luganil Brown NGT Powder; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 4572. A bill to amend the Federal Water Pollution Control Act to increase certain criminal penalties, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Mr. Evans, Mr. Lantos, Ms. Brown of Florida, Mr. Cramer, Mr. Dingell, Mr. Edwards, Mr. Filner, Mr. Frost, Mr. Gonzalez, Mr. Green of Texas, Ms. Hart, Ms. Jackson-Lee of Texas, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mrs. Kelly, Mr. Lampson, Ms. Lee, Mr. Luther, Mr. McGovern, Ms. McKinney, Mr. Menendez, Mr. George Miller of California, Mr. Ortiz, Mr. Reyes, Ms. Rivers, Mr. Rodriguez, Mr. Sanders, Ms. Sánchez, Mr. Sandlin, Mr. Skelton, Mr. Stark, Mr. Tierney, Mr. Towns, Mr. Turner, and Ms. Woolsey):

H.R. 4573. A bill to provide for the adjudication of certain claims against the Government of Iraq and to ensure priority for United States veterans filing such claims; to the Committee on International Relations.

By Mr. ENGLISH (for himself, Mr. Regula, Ms. Hart, Mr. Aderholt, Mr. Gekas, and Mr. Shimkus):

H.R. 4574. A bill to facilitate the consolidation and rationalization of the steel industry, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FROST (for himself, Mr. Reyes, Mr. Skelton, Mr. Menendez, and Mr. Ortiz):

H.R. 4575. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. GILCHREST:

H.R. 4576. A bill to decide the name of a creek in Queen Anne's County, Maryland; to the Committee on Resources.

By Mr. HOLDEN:

H.R. 4577. A bill to suspend temporarily the duty on Sella Fast Brown OM; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4578. A bill to suspend temporarily the duty on Sella Fast Brown DS; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. PALLONE, Mr. ANDREWS, Mr. ALLEN, Ms. BALDWIN, Mr. BARRETT, Ms. BERKLEY, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BONIOR, Mr. BORSKI, Mr. BROWN of Ohio, Ms. CARSON of Indiana, Mr. CLAY, Mr. COYNE, Mr. CROWLEY, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DEFAZIO, Ms. ESHOO, Mr. FARR of California, Mr. FRANK, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLT, Mrs. JOHNSON of Connecticut, Mr. INSLEE, Mr. KILDEE, Mr. KUCINICH, Mr. LANTOS, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MARKEY, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Ms. MCKINNEY, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MOORE, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PASCRELL, Mr. PAYNE, Ms. PELOSI, Mr. RAHALL, Ms. RIVERS, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. STARK, Mr. TIERNEY, Mr. UDALL of Colorado, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 4579. A bill to amend the Endangered Species Act of 1973 to ensure the recovery of our Nation's declining biological diversity; to reaffirm and strengthen this Nation's commitment to protect wildlife; to safeguard our children's economic and ecological future; and to provide assurances to local governments, communities, and individuals in their planning and economic development efforts; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 4580. A bill to provide for reform relating to Federal employee career development and benefits, and for other purposes; to the Committee on Government Reform.

By Ms. NORTON:

H.R. 4581. A bill to amend title VI of the Elementary and Secondary Education Act of 1965 to include programs that encourage academic rigor in scientific education in elementary schools; to the Committee on Education and the Workforce.

By Mr. PETRI (for himself, Mr. GEORGE MILLER of California, Mrs. ROUKEMA, Mr. KILDEE, Mr. GREENWOOD, Mr. TIERNEY, Mr. KIND, Mr. PLATTS, Mr. KUCINICH, Mrs. DAVIS of California, Mr. LEACH, Mr. FROST, Mr. KLECZKA, Mr. SMITH of Washington, Mr. NUSSLE, Mr. GREEN of Texas, Mr. BOSWELL, Mr. GANSKE, Mr. TURNER, Mr. SCHIFF, Mr. HORN, Mr. MURTHA, Mr. BARRETT, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mr. COOKSEY, Mr. BROWN of Ohio, Mr. LEWIS of Georgia, Mr. FRANK, Mr. FATTAH, Ms. KAPTUR, Ms. SCHAKOWSKY, Mr. SHAYS, Mr. WAXMAN, Mr. GREEN of Wisconsin, Mr. MATHESON, Mr. LATOURETTE, Mr. MCDERMOTT, Mr. BALDACCI, Mr. SANDERS, and Mr. VITTER):

H.R. 4582. A bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes; to the Committee on Education and the Workforce.

By Mr. POMBO:

H.R. 4583. A bill to reduce the duty on certain straw hats; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Mr. HALL of Texas, Mr. TAUZIN, and Mr. BILIRAKIS):

H.R. 4584. A bill to amend title XIX of the Social Security Act to extend the authorization of transitional medical assistance for 1 year; to the Committee on Energy and Commerce.

By Mr. UPTON (for himself, Mr. HALL of Texas, Mr. TAUZIN, and Mr. BILIRAKIS):

H.R. 4585. A bill to amend title V of the Social Security Act to extend abstinence education funding under maternal and child health program through fiscal year 2007; to the Committee on Energy and Commerce.

By Ms. VELÁZQUEZ:

H.R. 4586. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to authorize grants and other assistance to promote the redevelopment of certain remediated sites; to the Committee on Small Business.

By Mr. YOUNG of Alaska:

H.R. 4587. A bill to establish the Joint Federal and State Navigable Waters Commission for Alaska; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself and Mr. FRANK):

H.J. Res. 89. A joint resolution posthumously proclaiming Andrei Dmitrievich Sakharov to be an honorary citizen of the United States; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

219. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 141 memorializing the Congress of the United States to fulfill the commitment of the Individuals with Disabilities Education Act by taking immediate action on legislation that would provide resources equal to 40% of the national average per pupil expenditure for special education students for each Pennsylvania student with special needs; to the Committee on Education and the Workforce.

220. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 233 memorializing the Congress of the United States to amend federal laws and regulations to address the issue of unopened prescription medications recovered from deceased patients; to the Committee on Energy and Commerce.

221. Also,a memorial of the Senate of the State of Wisconsin, relative to Senate Resolution 11 memorializing the United States Congress to endorse President Bush's commitment to undertake significant efforts in order to promote substantial progress towards a solution of the Cyprus problem in 2001, so that all in Cyprus may enjoy rights and freedoms regardless of their ethnic origins; to the Committee on International Relations.

222. Also,a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 314 memorializing the Congress of the United States and the Immigration and Naturalization Service to determine the appropriateness of increasing the number of visas for temporary agricultural workers; to the Committee on the Judiciary.

223. Also,a memorial of the General Assembly of the State of Vermont, relative to Joint Senate Resolution No. 217 memorializing the United States Congress to express its respect and admiration for our United States Flag and be it further that the General Assembly expresses its condemnation of all acts of flag desecration, and similar displays of disrespect for the United States Flag; to the Committee on the Judiciary.

224. Also,a memorial of the House of Representatives of the State of Maine, relative to H.P. 1649 Joint Resolution memorializing the President of the United States and the United States Congress to restore the federal highway funding commitment to states and municipalities and to pursue equitable and fair distribution of federal dollars for transportation ventures; to the Committee on Transportation and Infrastructure.

225. Also,a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 192 memorializing the Congress of the United States to enact H.R. 2374 to amend the Internal Revenue Code to consider certain transitional dealer assistance related to the phase out of Oldsmobile as an involuntary conversion; to the Committee on Ways and Means.

226. Also,a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 128 memorializing the Congress of the United States to enact S. 1508, which increases the preparedness of the United States to respond to a biological or chemical weapons attack; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, and Financial Services.

227. Also,a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 137 memorializing the Congress of the United States to address the critical areas that will create economic stability and allow future growth; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, and Financial Services.

228. Also,a memorial of the Legislature of the State of Minnesota, relative to Resolution No. 6 memorializing the President of the United States and the United States Congress to extend its deepest sympathies to the people of New York City, Washington, D.C., and Northern Virginia, and to the many families in Minnesota and all across the country whose loved ones lost their lives on September 11, 2001; jointly to the Committees on Armed Services, Transportation and Infrastructure, Intelligence (Permanent Select), the Judiciary, Government Reform, and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FORBES introduced a bill (H.R. 4588) to provide for the liquidation or reliquidation of certain entries; which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mr. BONIOR.

H.R. 218: Mr. EVANS.

H.R. 537: Mr. DAVIS of Illinois.

H.R. 595: Mr. INSLEE and Mr. GORDON.

H.R. 600: Mr. SIMMONS.

H.R. 744: Mr. MCINNIS.

H.R. 786: Mr. BACA.

H.R. 792: Mr. LAHOOD.

H.R. 831: Mr. ENGLISH, Mr. ISRAEL, Mr. REYNOLDS, and Mr. WALSH.

H.R. 1073: Mr. GOODLATTE.

H.R. 1111: Mr. DAVIS of Illinois, Ms. MILLENDER-MCDONALD, Mr. VISCLOSKY, Mr. FATTAH, and Mr. DINGELL.

H.R. 1187: Mr. SABO.

H.R. 1212: Mr. THOMPSON of Mississippi.

H.R. 1305: Mr. BURTON of Indiana, Mr. PRICE of North Carolina, and Mr. PETERSON of Minnesota.

H.R. 1322: Mr. MCNULTY.

H.R. 1362: Ms. CARSON of Indiana.

H.R. 1405: Mr. LAHOOD.

H.R. 1509: Mrs. DAVIS of California.

H.R. 1520: Mr. HOLT.

H.R. 1543: Mr. HALL of Ohio, Mr. BARCIA, and Mr. SMITH of Michigan.

H.R. 1556: Mr. LUCAS of Oklahoma, Mr. CARSON of Oklahoma, and Mr. SANDERS.

H.R. 1577: Mr. OXLEY, Mr. STENHOLM, Mr. DINGELL, and Mr. CONYERS.

H.R. 1581: Mr. JOHN and Mr. BARTLETT of Maryland.

H.R. 1609: Mr. LUCAS of Oklahoma, Mr. SANDERS, and Mr. HULSHOF.

H.R. 1624: Mrs. DAVIS of California, Mr. MEEKS of New York, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Mr. UNDERWOOD, Mr. BACA, and Mr. SHERMAN.

H.R. 1759: Mr. BAIRD.

H.R. 1808: Mr. NEAL of Massachusetts.

H.R. 1887: Mr. DAVIS of Illinois.

H.R. 1908: Mr. HOSTETTLER.

H.R. 1919: Mr. BOEHLERT.

H.R. 1984: Mr. SHAYS.

H.R. 2035: Mr. CROWLEY and Mr. COSTELLO.

H.R. 2235: Mr. BOYD.

H.R. 2349: Mr. PHELPS.

H.R. 2405: Mr. FATTAH.

H.R. 2466: Mrs. MYRICK, Mr. SCHAFFER, Mr. REYNOLDS, Mr. BOYD, Mr. GIBBONS, Mr. WAMP, Mr. KINGSTON, Mr. FILNER, and Mr. HOSTETTLER.

H.R. 2570: Mr. BRADY of Pennsylvania and Mr. BERMAN.

H.R. 2683: Ms. BERKLEY, Mr. KELLER, Mr. THUNE, Mr. WAMP, and Mr. HASTINGS of Washington.

H.R. 2763: Mr. RILEY.

H.R. 2820: Mr. THOMPSON of Mississippi and Mrs. LOWEY.

H.R. 2829: Mr. THORNBERRY, Mr. SHADEGG, Mr. CALLAHAN, Mr. OSE, and Mr. JONES of North Carolina.

H.R. 2874: Mr. FILNER.

H.R. 3037: Ms. VELÁZQUEZ.

H.R. 3113: Mr. GREEN of Texas.

H.R. 3130: Mr. BERMAN and Mr. BAIRD.

H.R. 3236: Mrs. MINK of Hawaii, Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. LEWIS of Georgia.

H.R. 3320: Mr. WU.

H.R. 3333: Mr. SAXTON.

H.R. 3358: Mr. WATT of North Carolina.

H.R. 3382: Mr. ISRAEL.

H.R. 3388: Mr. HOBSON.

H.R. 3424: Ms. ROYBAL-ALLARD.

H.R. 3450: Mr. CUNNINGHAM, Ms. MILLENDER-MCDONALD, Mr. MCDERMOTT, and Mr. WU.

H.R. 3478: Mr. CRENSHAW and Mr. GREEN of Wisconsin.

H.R. 3482: Mr. DUNCAN.

H.R. 3493: Mr. UDALL of Colorado.

H.R. 3533: Mr. LATOURETTE and Mr. SCHROCK.

H.R. 3581: Mr. WAXMAN and Mr. EVANS.

H.R. 3597: Ms. CARSON of Indiana.

H.R. 3605: Mr. ROYCE.

H.R. 3681: Mr. LANGEVIN and Mr. FILNER.

H.R. 3686: Mr. BOOZMAN.

H.R. 3717: Mr. OSBORNE.

H.R. 3771: Mr. CARSON of Oklahoma and Ms. CARSON of Indiana.

H.R. 3781: Ms. VELÁZQUEZ, Ms. RIVERS, Mr. FORD, and Mr. GRUCCI.

H.R. 3782: Mr. THOMPSON of California, Mr. LARSEN of Washington, Mr. DOOLEY of California, Mrs. BONO, and Mr. BLUMENAUER.

H.R. 3811: Mr. TANCREDO.

H.R. 3831: Mr. HILLEARY, Mr. COOKSEY, and Mr. DEFAZIO.

H.R. 3842: Mr. DAVIS of Illinois and Mr. BENTSEN.

H.R. 3882: Mr. LATOURETTE, Ms. HART, Mr. MCINNIS, Mr. LANGEVIN, Mr. MATHESON, Mr. GOODE, Mr. WELDON of Florida, Mr. MCHUGH, and Mr. EVANS.

H.R. 3884: Mr. LIPINSKI and Mr. SKELTON.

H.R. 3887: Mr. BENTSEN, Mr. LANTOS, Ms. CARSON of Indiana, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CAPUANO, Mr. INSLEE, and Mr. BARRETT.

H.R. 3897: Mr. HORN, Mr. GOODE, and Mrs. KELLY.

H.R. 3911: Mr. LARSON of Connecticut.

H.R. 3915: Mr. BONIOR.

H.R. 3916: Ms. CARSON of Indiana.

H.R. 3940: Mr. HILLEARY.

H.R. 3974: Mr. MCHUGH and Mr. FOLEY.

H.R. 3990: Mr. GEKAS.

H.R. 4008: Mr. BALDACCI, Ms. CARSON of Indiana, Ms. NORTON, Mr. ENGLISH, and Mr. BONIOR.

H.R. 4010: Mr. PENCE and Mr. SULLIVAN.

H.R. 4013: Mr. PLATTS, Ms. VELÁZQUEZ, Mr. KIND, Mrs. JOHNSON of Connecticut, Mr. BONIOR, Mr. WEXLER, and Ms. NORTON.

H.R. 4014: Mr. BONIOR, Mr. WEXLER, and Ms. NORTON.

H.R. 4025: Mr. GORDON, Mr. PICKERING, Mr. BLUNT, Mr. WEXLER, Mr. ISRAEL, and Mr. KLECZKA.

H.R. 4043: Mr. JEFF MILLER of Florida.

H.R. 4060: Mr. DICKS, Ms. RIVERS, Mr. HOLT, Mr. ROTHMAN, Mr. FRANK, and Ms. MCKINNEY.

H.R. 4066: Mr. DINGELL, Mrs. WILSON of New Mexico, and Mr. WU.

H.R. 4071: Mr. MCINNIS.

H.R. 4108: Mr. KINGSTON.

H.R. 4152: Mr. PUTNAM, Mrs. MINK of Hawaii, Mr. JONES of North Carolina, and Mrs. THURMAN.

H.R. 4373: Mr. DAVIS of Illinois.

H.R. 4483: Mr. TERRY, Mr. GILMAN, Mr. SOUDER, Mr. LOBIONDO, Mr. HAYWORTH, Mr. GRUCCI, Mr. LATOURETTE, Mr. SCHROCK, Mr. WELDON of Florida, Mr. ROTHMAN, Mr. CANTOR, Mr. DIAZ-BALART, Mr. ISRAEL, Mr. DEUTSCH, Mr. HOEFFEL, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. MARKEY, and Ms. BERKLEY.

H. Con. Res. 99: Ms. SLAUGHTER, Mr. TOWNS, Mr. ABERCROMBIE, and Mr. HOLDEN.

H. Con. Res. 309: Mr. WAXMAN, Mr. MENENDEZ, Mr. DINGELL, Mr. STARK, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. PELOSI, and Ms. CARSON of Indiana.

H. Con. Res. 315: Mr. BACHUS, Mr. PHELPS, and Mr. TAYLOR of North Carolina.

H. Con. Res. 349: Mrs. JONES of Ohio, Mrs. MINK of Hawaii, Mr. MCGOVERN, Mr. FARR of California, Ms. BROWN of Florida, Mr. JEFFERSON, Mr. HASTINGS of Florida, Ms. WATSON, Mr. SNYDER, Mr. LIPINSKI, Mr. HONDA, Mrs. NAPOLITANO, Mr. CUMMINGS, Mr. SANDERS, Mr. PITTS, Mr. WATT of North Carolina, and Ms. CARSON of Indiana.

H. Con. Res. 350: Mr. JEFF MILLER of Florida.

H. Con. Res. 359: Mr. FILNER.

H. Con. Res. 366: Mr. ACKERMAN and Mr. LANTOS.

H. Con. Res. 368: Mr. CONYERS and Mrs. MINK of Hawaii.

H. Res. 355: Ms. JACKSON-LEE of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3113: Ms. RIVERS.

SENATE—*Wednesday, April 24, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts.

PRAYER

The guest Chaplain, Father Daniel P. Coughlin, Chaplain of the House of Representatives, offered the following prayer:

Lord God, we ask that your Holy Spirit will fill the hearts and minds of our Nation's leadership on this day. Bless them with sacred wisdom that they may truly lead us through the complex issues that confront our people. Give them the courage to hold to what they believe to be right, and the humility to receive more truth than they possess.

Most of all, O God, we ask that You will give these leaders Your own great dreams for our life together, dreams that are greater than party allegiances, and certainly greater than the ambition any individual would carry into this Chamber. By Your Holy Spirit accommodate Your will to our political process that it may be used to lead this Nation to a future which is filled with hope.

And when the day is done and the Chamber is again empty, may all who have come here to serve the Republic know that their work has not been in vain. Encourage them in the certain conviction that You will use this day to build Your own great kingdom on Earth. This we ask in the name of the Lord, whose way we prepare. Amen.

PLEDGE OF ALLEGIANCE

The Honorable EDWARD M. KENNEDY led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 24, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KENNEDY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006 and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security.

Feinstein amendment No. 3225 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Feinstein amendment No. 3170 (to amendment No. 2917), to reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement.

Fitzgerald amendment No. 3124 (to amendment No. 2917), to modify the definitions of biomass and renewable energy to exclude municipal solid waste.

Cantwell amendment No. 3234 (to amendment No. 2917), to protect electricity consumers.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, as the Chair has announced, we have resumed consideration of the energy reform bill. Members know there are 18 hours remaining postcloture, after the cloture vote that took place yesterday. There will be rollcall votes in relation to amendments to the bill throughout the day. First-degree amendments to the Baucus language in the energy reform bill must be filed prior to 1 p.m. today.

Mr. President, the Senator from Washington was next in order. Her amendment is pending.

I ask, with the consent of the managers, that that amendment be set aside and that we proceed to the Nelson-Craig amendment dealing with hydro.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today in support of my amendment to title III dealing with hydroelectric license improvement. This is an issue of vital importance to the electricity consumers of Nebraska and I ask unanimous consent to call up amendment No. 3140.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

Mr. REID. Mr. President, that requires unanimous consent, does it not?

The ACTING PRESIDENT pro tempore. It does require that we set aside the current amendment. Does the Senator request we temporarily set aside the current amendment?

Mr. NELSON of Nebraska. I request that we set aside the pending amendment.

Mr. REID. Mr. President, reserving right to object, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EDWARDS). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Senate now return to the consideration of the Cantwell amendment which is the matter that was pending when we started this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 3234

Ms. CANTWELL. Mr. President, I rise today to speak about my electricity consumer protection amendment to improve what I believe is a flawed deregulation provision in the underlying energy bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

It is not widely known that the electricity title of this bill includes a new provision to further deregulate our energy markets. Indeed, many of these provisions were included, I believe, without adequate consideration and review by this body.

For the first time this bill gives the Federal Energy Regulatory Commission the statutory authority to allow market-based rates, a key component of deregulation. It also lowers the standard by which mergers of utilities can take place, and it repeals a current law that has been the cornerstone of consumer protection.

Given the sweeping changes in this bill, I think it is important that we proceed cautiously on this path, and that we put safeguards in place, which my amendment does, to protect consumers as FERC is given this new responsibility.

After last year's energy crisis, we should be asking ourselves, how do we better protect consumers, not how do we loosen the rules for utility companies so that they can have better controls in the marketplace.

My amendment is written to protect consumers basically across the country from the same mishaps that happened in the western markets that have caused consumers in the West so much harm. After all we learned from the energy crisis and the collapse of Enron, it is plain that we need to move forward and set a clear set of rules to ensure that, in deregulated markets, consumers are protected. The fact is that consumers deserve efficient electricity markets with adequate protections and efficient oversight.

As the bill now stands, we are giving the Enrons of the world more power to manipulate markets. In fact, without this consumer protection amendment this bill sends some of those people the opportunity, I believe, to actually end up overcharging consumers.

These are commonsense ideas and that is why this amendment has gained support from a wide range of consumer, industry, local government and environmental groups. They are united behind the idea that consumers should be protected as this bill moves towards deregulation.

I am pleased to be joined by Senators DAYTON, WELLSTONE, FEINGOLD, BOXER, WYDEN, MURRAY, and STABENOW in this effort.

Groups ranging from AARP to the American Public Power Association, to the Consumers Union and the Sierra Club, to the U.S. Conference of Mayors stand behind the consumer protection measures in this amendment.

I ask unanimous consent that a full list of the organizations which support this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT THE CONSUMER PROTECTION PACKAGE

Amendment No. 3097, offered by Senators Dayton, Wellstone, Feingold, Cantwell, Boxer and Wyden, would add crucial consumer protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

Air Conditioning Contractors of America.
American Association of Retired Persons.
American Public Power Association.
Consumer Federation of America.
Consumers for Fair Competition.
Consumers Union.
Electricity Consumers Resource Council.
National Association of State Utility Consumer Advocates.
National Environmental Trust.
National League of Cities.
National Rural Electric Cooperatives Association.
Natural Resources Defense Council.
Physicians for Social Responsibility.
Public Citizen.
Sierra Club.
Transmission Access Policy Study Group.
U.S. Conference of Mayors.
Union of Concerned Scientists.
U.S. Public Interest Research Group.

Vote "yes" on the Consumer Protection Package.

Ms. CANTWELL. Mr. President, their voice is loud and clear. After last year's energy crisis, it is unacceptable to launch a new round of deregulation without first putting in place adequate consumer protections.

I would like to read from a letter signed by the Consumers Union, Sierra Club, NRDC, Consumer Federation of America, and others. It reads:

> This amendment would add important and much-needed protections to legislation that actually repeals already weak consumer protections in current law. S. 517 repeals most of the Public Utility Holding Company Act (PUHCA), including provisions that have been in place for over six decades, and does almost nothing to ensure that consumer protections will be maintained. Now, with the exposure of Enron's questionable trading deals, we need these protections more than ever to prevent energy companies from manipulating prices and supply. We need to strengthen consumer protections, not weaken them.

Consumers for Fair Competition wrote:

> In the wake of the West Coast electricity crisis and Enron collapse, Congress should only pass electricity legislation if it takes needed steps to protect consumers and prevent a repetition of these crises.

I ask unanimous consent to have printed in the RECORD letters of support that I have received from these organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 15, 2002.

DEFEND ELECTRICITY CONSUMERS' RIGHTS—SUPPORT THE CONSUMER PROTECTION PACKAGE: S.A. 3097 TO S. 517

DEAR SENATOR: We are writing to urge you to support S.A. 3097, the consumer protection amendment to the Senate energy bill (S. 517), offered by Senators Dayton, Wellstone, Feingold, Cantwell, Boxer, and Wyden. This amendment would add important and much-needed protections to legislation that actually repeals already weak consumer protections in current law. S. 517 repeals most of the Public Utility Holding Company Act (PUHCA), including provisions that have been in place for over six decades, and does almost nothing to ensure that consumer protections will be maintained. Now, with the exposure of Enron's questionable trading deals, we need these protections more than ever to prevent energy companies from manipulating prices and supply. We need to strengthen consumer protections, not weaken them.

This consumer protection package would:

Ensure that mergers in the energy sector "advance the public interest," based on objective criteria that would be evaluated by the Federal Energy Regulatory Commission (FERC). In repealing the higher merger standards of PUHCA, S. 517 would simply require a determination for a merger approval that the merger is "consistent with the public interest." Given the wave of mergers sweeping through the electric industry and the collapse of meaningful competition in California and other states, we believe that a more protective standard is necessary to adequately protect consumers from abuse. FERC must hold the public interest paramount in evaluating any potential energy company mergers. The amendment would: establish criteria for FERC to consider in order to determine that a merger would "advance the public interest," including efficiency gains, impact on competition, and its ability to effectively regulate the industry; clarify that these provisions would apply to all potential financial arrangements (not just stock acquisitions) which could lead to exertion of control over the entity, including partnerships; and clarify that FERC review applies to all electric and gas combinations.

Direct FERC to precisely define a competitive market and establish rules for when market-based rates will be permitted. In addition, it would put in place market monitoring procedures so that FERC can better detect problems before they lead to a complete breakdown in the market, and give FERC more authority to take action to protect consumers when the market is failing. This change is necessary to ensure that electricity suppliers do not continue to manipulate the market to the detriment of consumers, as they did in the western electricity market in 2000–2001.

Require that transactions between utilities and their affiliates be transparent, and it would shield consumers from the costs and risks of these transactions. It provides for FERC review of utility diversification efforts so that consumers are not victims of abusive affiliate transactions.

Require that state and federal regulators have enhanced access to books and records. It would require FERC, in consultation with state commissions, to conduct triennial audits of the books and records of holding companies. Regulators could initiate proceedings based upon their reviews and violations could be corrected earlier, minimizing the damage done to consumers. Since holding companies would be responsible for paying the cost of the audits, regulators would have adequate resources to do their job. Enhanced access to books and records is critical to avoid further Enron-like collapses.

Help ensure fair and functional markets, increasing the likelihood that energy companies will invest in new, innovative, and clean technologies such as solar and wind power.

Consumers have been grossly and unacceptably short-changed in the Senate energy bill. S.A. 3097 will begin to rectify the problems this bill creates for consumers. Federal energy legislation should increase, not decrease, consumers' economic and energy security. Please adopt this basic consumer protection package to address these serious consumer concerns.

Sincerely,

Adam J. Goldberg, Policy Analyst, Consumers Union.

Mark N. Cooper, Director of Research, Consumer Federation of America.

Alyssondra Campaigne, Legislative Director, Natural Resources Defense Council.

Kevin S. Curtis, Vice President, Government Affairs, National Environmental Trust.

Susan West Marmagas, Director, Environment and Health Programs, Physicians for Social Responsibility.

Debbie Boger, Senior Washington Representative, Sierra Club.

Anna Aurilio, Legislative Director, U.S. Public Interest Research Group.

Alden Meyer, Director of Government Relations, Union of Concerned Scientists.

Wenonah Hauter, Director, Public Citizen's Critical Mass Energy and Environment Program.

NATIONAL ALLIANCE
FOR FAIR COMPETITION,
Washington, DC, April 12, 2002.

DEAR SENATOR: The National Alliance for Fair Competition (NAFC), a coalition of national trade associations representing over 25,000 individual firms, mostly family owned and operated small businesses, is deeply concerned about the present direction of energy legislation, S. 517, in light of recent West Coast power problems and the collapse of Enron. As it now stands, the electricity portion (Title II) of this bill fails to adequately address issues of market power and abusive affiliate transactions.

NAFC is also concerned about lack of opportunity to thoroughly explore the implications and consequences of Title II through the full committee process. Had the committee process not been circumvented, there would have been ample opportunity to craft language to protect consumers and preserve true competition. Regrettably, Title II of S. 517 increases the potential for abuses in these areas—by, among other things, repealing the Public Utility Holding Company Act (PUHCA)—without providing needed offsetting protections.

Senators Cantwell, Wellstone, Dayton, Feingold and Boxer will offer a package of provisions to protect electricity consumers and ensure fair and effective oversight of electricity markets. The package will:

Require that proposed utility mergers promote the public interest in order to be approved;

Establish clear rules—and enforcement—for when market rates can be charged to prevent a repeat of soaring electricity rates when markets are not truly competitive;

Protect consumers from assuming the cost and risks of utility diversifications into nonutility businesses;

Prevent utilities from subsidizing affiliate ventures and competing unfairly with independent businesses;

Provide effective review of utility books and records.

Amendment #3097, the Dayton-Wellstone-Feingold amendment, and the second degree offered by Sen. Cantwell and others would add crucial protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

We urge you to support these amendments when they are offered.

Respectfully,

TONY PONTICELLI,
Executive Director.

WASHINGTON PUBLIC UTILITY
DISTRICTS ASSOCIATION,
Seattle, WA, April 15, 2002.

Hon. MARIA CANTWELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CANTWELL: On behalf of the Washington Public Utility Districts Association (WPUDA), I would like to express our strong support for the amendment you are cosponsoring, the Consumer Protection Package (#3097). This amendment adds crucial consumer protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

As you correctly stated on the Senate floor on April 10th, the electricity title in S. 517 is of primary significance to the citizens of Washington, and the Northwest region—we have already suffered huge rate increases and cannot bear the consequences of another "failed experiment." Because the underlying bill repeals the Public Utility Holding Company Act (PUHCA) without including adequate consumer protections, your package of amendments is essential to ensure that the consumer is not overlooked and adversely affected. For example, your amendment requires clear, upfront rules on market-based rates. In doing so, it reduces the instances in which corrective actions will be needed by the Federal Energy Regulatory Commission (FERC).

Once again, WPUDA thanks you for your leadership and supports this critical amendment that seeks to protect the public interest.

Sincerely,

STEVE JOHNSON,
Executive Director.

Ms. CANTWELL. Mr. President, my constituents and the constituents of my colleagues from the West, particularly California, Oregon, and Idaho, have seen first hand the devastation caused by the Western energy crisis: wholesales rate spikes of more than 1,000 percent; aluminum workers put out of work because electricity costs were too high for their companies to operate; and an economic slump in California, Oregon, and Washington directly related to last year's high energy prices.

In my home state of Washington we are still paying the price for the lack of consumer protections during the energy crisis. Ratepayers in my home of Edmonds, WA are paying almost 60 percent more than they did before the crisis, with no relief in sight.

Nowhere do consumers know the importance of proper safeguards more acutely than in the West. In the wake of what happened there, why would we even consider reducing consumer protections and lowering legal standards? Why would we promote further deregulation and at the same time abandon consumer protections?

Ask anyone from California whether they want more deregulation without consumer protection. They will all tell you the same answer: After Enron and the western energy crisis we should strengthen consumer protection laws, not weaken them. They know that without adequate consumer protections, electricity markets may not work to protect consumers.

One need look no further than a February 2001 poll in which California residents were asked if they supported the legislature's decision to deregulate the electricity market. By nearly 40 percent, Californians opposed the deregulation plan.

There are many other public opinion polls across this country that show consumers are very concerned about any move toward more deregulation without sufficient consumer protection. A July 2001 survey by the Mellman Group revealed that North Carolinians opposed deregulation by a 14 percent margin and by a 40 percent margin thought that deregulation would cause rate increases. In March of this year, a different Mellman survey showed that 60 percent of Montanans thought that deregulation had caused higher electricity rates.

The public voice is clear.

I think it is important to review how we got to this point, beginning with the first major piece of legislation to protect ratepayers, passed during the first term of Franklin Delano Roosevelt's Presidency.

In the 1920s our system of utility regulation began to fail consumers. Complex corporate structures made it impossible to offer adequate consumers protections. By 1932, 45 percent of all electricity was controlled by three groups. Because of their market power and complex and misleading corporate structure, the utilities owned by these holding companies were able to charge excessive rates, which were passed directly to consumers.

In response to this situation, this body passed into law the Public Utilities Act of 1935 to help bring the system under control and offer consumers adequate safeguards. The two key titles of the Public Utilities Act—PUHCA and the Federal Power Act—put in place important consumer protection regulations. PUHCA required utilities to either largely operate within a single state, or be subject to strict federal regulation by the SEC. The Federal Power Act created a consumer protection framework for the transmission of electricity in interstate commerce and wholesale rates for electricity.

Today, we are faced with an energy bill that repeals key consumer protections from these pieces of legislation.

Albeit, I know the chairman of our committee wants those laws to be more effective, and to be more effective under FERC, while I agree there can be authorities new at FERC, I want to make sure that, while we change from the SEC to FERC, we don't repeal the legal standards or the framework for consumer protection.

Just think about the energy crises of the past. In the 1920s, when corporate structures got out of control and retail consumers suffered the consequences, we responded with the Public Utilities Act. During the 1970s energy crisis, we responded with the Public Utility Regulatory Policies Act.

But today we are faced with the prospect of responding to the Western energy crisis of 2001 with more of the same that helped cause the crisis in the first place. I believe the Western energy crisis was really precipitated by two factors: obviously, California adopted a restructuring plan without adequate thought and deliberation, and the fact that FERC, the Federal Energy Regulatory Commission, signed off on it. That is right, they signed off on the California plan. Then FERC allowed generators in the West to charge market-based rates without first ensuring that those markets were sufficient in their competition and that they were adequately monitoring those markets over time.

The definition of insanity is watching something fail and then doing it again. And that is what we are headed towards doing. It would be insane for us to enact further flawed deregulation without at least addressing the importance of providing consumer protections.

Consumers know that they are ultimately the ones who will get stuck holding the check. And they are right. It is wrong policy to deregulate without protecting consumers. And ultimately, it hurts them where it hurts most: in their pocketbooks.

This amendment addresses the need for consumer protection from deregulation by creating safeguards from potential market failures and abuses.

The amendment would prevent a repeat of soaring electricity rates in deregulated markets by directing FERC to establish rules and enforcement procedures for market monitoring to protect electricity consumers.

The market rate provisions of this amendment are actually quite simple in concept.

As I said earlier, for the first time in this legislation, the underlying authority is given to FERC instead of to the SEC. While giving this new power to FERC, we need to make sure consumers are protected by making sure they do not lower the standard.

I believe it is critical that within this legislation we not lower the legal standard by which these mergers were held in the past. FERC can have new responsibility, but we must make sure we are not lowering the legal standard by which we allow these companies to merge. FERC needs statutory guidance on just what factors it should consider before it allows market-based rates to be charged. That is, before FERC opens up the energy market, it should have to ensure that those markets are going to operate efficiently and not gouge consumers.

The bill currently does not adequately offer consumer protection, especially in view of the House of Representatives' electricity bill, which I think goes too far in giving a wish list to the big energy companies. The electricity provisions of this bill right now actually lower the overall merger standard.

This amendment would maintain current law with regard to that merger standard. It is a very important point—that current law be the standard for FERC.

In fact, there have been something like 30 major utility mergers and acquisitions over the past few years alone. That is a testament to the need for laws to protect consumers from consolidation which is happening in the utility sector.

It is also a powerful reminder that current law is in no way too prescriptive. Maintaining the legal merger standard currently on the books—I think it is important to do this—is a critical part of the amendment.

The electricity provisions in this bill also fall short, in my view, on the issue of insulating consumers from the economically devastating effects of the energy markets which have gone horribly awry.

The primary difference between the Senate energy bill as it is currently written and what we are trying to accomplish with this amendment is simple. It is the difference between preventing dysfunctional markets from happening in the first place, and post hoc investigations that are unlikely to provide better relief for consumers harmed by skyrocketing energy prices.

What I mean by that is, without these specific requirements in place, and new mergers and market-based rates happening, and without the oversight, it is very hard, once consumers are gouged, to then come back and ask for records and information that show what kind of protections should have been on the books.

I do not think many of my colleagues realize that, for the very first time, this legislation, the underlying bill, gives FERC explicit statutory authority to allow companies to charge market-based rates. So nowhere had FERC ever been given that statutory authority. They had always been cost-based rates. But this legislation will, for the first time, give FERC statutory authority to allow companies to charge market-based rates that they decided administratively to start allowing in the mid-1980s.

While the Energy Policy Act of 1992 affirmed the direction FERC was moving in regard to opening of the Nation's transmission system, it did not contain this explicit authority for FERC to grant market-based rates.

I believe this is a very important point because if we are going to move forward in saying that market-based rates should be there, then we must make sure those consumer protections are in place as well.

In sifting through the ashes of the California experiment, it is now obvious that FERC did not pause to consider the constraints—whether real or manipulated—on natural gas transportation into the State, which, in turn, drove up the price of electrical generation. FERC approved a system without assessing the market power of what became known as the big five energy companies in the California crisis, including Enron, and the impact they had.

It is also clear that FERC approved the California proposal without assurances that the State's independent system operator could effectively monitor market conditions. I have heard from numerous utilities involved in the California market that the ISO began declaring emergencies purely subjectively because its mechanisms for assessing where physical megawatts actually existed—and whether these shortages were real or imagined—were so incredibly flawed.

In addition, it has been repeatedly alleged that the ISO declared these emergencies for political reasons because utilities, as such in those States, were obligated to sell into the California market, first under a Department of Energy order, and later under an order from FERC itself, when emergencies were declared. FERC did not have the market monitoring practices in place that would have been the protections the consumers needed.

So why give them more authority now to do market-based rates without making sure the legal standards are in place and making sure that consumer protections are in place?

In summary, I want it to be clear to my colleagues that this amendment today should do its job to prevent a flawed deregulation bill and to help protect consumers.

This legislation specifically does several things: It helps maintain the competitive markets, it effectively monitors markets, it prevents the abuse of market power and manipulation, and it ensures the maintenance of just and reasonable rates.

The amendment would also require utility mergers to serve the public interest and for utility books to be fully open. It would protect consumers from absorbing the costs of utility diversifications and prevent them from being basically subject to the various tactics in which consumers are held to higher costs when the markets are consolidated or market-based rates are charged and things can actually go awry.

This amendment does not take away any of FERC's authority to allow market-based rates. It does not stop the move toward deregulation. In fact, it is consistent with the concept of deregulation. It simply says we need a roadmap for consumers. We need protections for this new market-oriented approach.

I am reminded by something that FERC Chairman Pat Wood said on March 11:

> I'm probably the world's biggest believer in markets.

But Mr. Wood also said:

> But I'm also the world's biggest believer that people will take advantage of it if they don't have a cop walking down the street.

This amendment provides the "cop walking down the street" for our electricity markets in protecting consumers. With all that we have read and seen of what happened during the Western energy crisis and the role that Enron and other power companies played in it, how can we even consider further deregulation without putting in place real consumer protections? It is practically malpractice for us to think about these new deregulations without thinking about how to protect consumers.

That is why we are offering this amendment today. We need to say to the people of this country, we are going to protect you from the crisis that has happened in California and in Washington and in Oregon. And we are going to make sure the markets operate in a way in which consumers are protected.

This is a critical amendment and should be adopted as a part of this bill. We need to say to the consumers that we are thinking about their needs, their protections, and the high price of electricity throughout the country.

I yield back the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I rise to say that I welcome the amendment by Senator CANTWELL and others that greatly strengthens the amendment that I previously brought to the floor. I compliment the Senator from Washington, who has done an extraordinary amount of work on this measure, for her leadership in bringing together Senators, consumer groups, and others who would be affected by this legislation.

I think her work has been extraordinary. I know from my own observation that her work behind the scenes over the last days and weeks has been phenomenal. She has put countless hours into bringing this coalition together, bringing these amendments together, and bringing them to the floor for our consideration today.

Again, I want the RECORD to show that the Senator from Washington has been extraordinary in her efforts to bring this to the floor.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I rise to speak against the amendment that my colleague from Washington and the Senator from Minnesota have offered. This is an issue on which I think we need to refresh people's memory because it has been a few weeks since we had votes on this portion of the energy bill.

But let me recall for Senators and their staffs exactly with what we are dealing. This is the electricity title of the energy bill. We have worked hard on that title, those of us who have been involved on the issue for a long time. Senator THOMAS, in particular, and myself have worked hard to come up with language which we believe ensures that consumers are protected and which ensures that mergers and acquisitions are properly reviewed before they are permitted to go forward or are turned down if they do not meet strict criteria. We have put together language we believe is very favorable to consumers.

Part of what we are proposing is that the Public Utility Holding Company Act be repealed. That is an issue that continues to be the subject of controversy. I understand that. And I understand the amendment, of course, that we are now presented with would try to eliminate the repeal of the Public Utility Holding Company Act and keep that current law.

This is a legitimate issue. In the Energy Committee, in the most recent hearing we had on energy-related issues, we had a hearing on this issue. I am trying to get the whole list of witnesses so that I can inform people about that. But we had one of the Commissioners from the Securities and Exchange Commission, the SEC, which currently has authority and responsibility to enforce the Public Utility Holding Company Act. The testimony of that Commissioner was very clear. Their testimony was that they do not support keeping that authority at the SEC. They do not support keeping the Public Utility Holding Company Act on the books. They have taken that position for the last 20 years. They continue to take that position. That was the position under the Clinton administration and that was the position under the Bush administration. And there was unanimous testimony to our committee that, in fact, we should shift this responsibility over to the Federal Energy Regulatory Commission, as we are proposing to do in this legislation.

Let me clarify that the problems the Senator from Washington refers to are very genuine problems.

I am sympathetic to those problems. I do think there were some shortcomings on the part of the Federal regulators as well as others in the way the crisis on the west coast was dealt with, but I point out that all of that happened under current law. All of that happened with PUHCA in force—with the Public Utility Holding Company Act in force—and we are proposing the repeal of that and a change in the authority so that it can be done much more effectively.

Our bill does nothing to deregulate electricity markets. It recognizes that the market depends on competition. It gives the Federal Energy Regulatory Commission the tools to be sure that competition does in fact work for consumers. We have enhanced FERC's authority over mergers and market-based rates. We have required new disclosure rules. We have required the Federal Trade Commission to issue rules to protect consumers.

We take authority away from the SEC, as I mentioned, because the SEC has never enforced this law. We take the authority away from them and give it to FERC, which does understand the industry. It is the agency with the appropriate expertise to actually look out for consumers in this regard.

The bill we have brought to the Senate floor and on which Senator THOMAS and I have worked very hard requires four things before any disposition or consolidation or acquisition of utility assets is possible.

It requires, first, that the Federal Energy Regulatory Commission determine that the proposed disposition or acquisition be consistent with the public interest. That is a pretty good indication.

A second would be that they make a determination it will not adversely affect the interests of consumers of the electricity utility. That again is an important safeguard.

Third, it requires that any acquisition, any consolidation that is approved by FERC be determined by FERC not to impair the ability of regulators to regulate the utility.

The final thing we have required FERC to determine is that any acquisition that might be approved would not lead to cross-subsidization of associated companies. We believe that is also important. If in fact we are going to permit companies to purchase utilities, to acquire utilities, to acquire utility assets, we do not want to see the ratepayers of the utility having their rates go to cross-subsidize other companies. We require that FERC make that determination.

We believe the provisions we have in the bill are not only adequate but strengthening provisions. There are requirements in the amendment proposed here that go substantially further. There is a requirement that there be a determination that the transaction enhanced competition in wholesale markets. We do not believe it is an appropriate role for us to be blocking an acquisition unless it can be proven that it enhances competition. We believe a "do no harm" standard is the right standard for a regulatory agency. Clearly, that is where we come out.

The one other provision which is in their amendment which we believe goes too far is it requires that the transaction produce significant gains in operational and economic efficiency. I hope very much that any time there is an acquisition of a utility asset or a merger or a consolidation of any kind, it does produce significant gains in operational and economic efficiency. That would be a wonderful thing. I don't think it is reasonable to say all acquisitions, consolidations, and mergers should be blocked unless they can demonstrate that they will in fact demonstrate or produce significant gains in operational and economic efficiency.

We believe the provisions we have in the bill are the appropriate ones. For that reason, I will have to resist the amendment and hope Senators will oppose it.

I know Senator THOMAS has worked very hard on this issue as well. I know he is anxious to speak about it at some point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I rise to speak on the amendment now before the Senate. As the Senator from New Mexico mentioned, he and I and others have worked very long and hard on this electricity portion of the energy bill. When the Daschle-Bingaman bill was brought to the floor, we went into it and tried to work at it to make it more workable and, indeed, more simple, to give the States more authority but continue to have the protection, of course, for consumers. So that is what we sought to do.

I believe this amendment is not necessary. Certainly it does not add to but, in fact, detracts from that goal of protecting consumers and making the system more simple.

It seems we have heard an awful lot about the California problem, and it was a difficult one. It affected the rest of the west coast States, of course. Senator BINGAMAN held two hearings to examine the California collapse and the Enron collapse and its impact on the energy markets. The result of these hearings was a clear consensus that Enron had little, if any, impact on wholesale or retail electric markets. So this continued effort to do something with FERC because of that simply doesn't connect. I hope we can deal with it as it is in reality.

I rise in strong opposition to the pending amendment. The amendment proposes a major change in the standard FERC would use to review asset sales, mergers, and acquisitions. Under the proposed standard, in order to approve an asset sale, merger, or acquisition, FERC would have to affirmatively find that the action would, at a minimum, enhance competition in the wholesale markets, produce significant gains in operational and economic efficiency, and result in a corporate and capital structure that facilitates effective regulatory oversight.

This proposed change in the review standard, when coupled with an earlier amendment adopted by the Senate, expands the type of actions FERC must review and puts industry restructuring into gridlock. We are always talking about the overamount of regulation and so on, and we have sought a balance here between States and FERC. This adds back to the problem that we sought to resolve. It will take FERC forever to go through the procedural steps necessary to allow even the most mundane asset sale.

Slowing restructuring and competition would be bad for both competition and consumers. The amendment also establishes a full new set of rules and procedures for FERC to follow in regulating the wholesale power market. It gives FERC sweeping authority to do just about anything it wants to do—the very provisions that the bipartisan Thomas amendments adopted by the Senate struck from the underlying Daschle-Bingaman bill. That is what we voted on before. Now we are seeking to go back to what we tried to eliminate and did eliminate.

The amendment also modifies the Banking Committee PUHCA repeal provisions. For example, the pending amendment takes away the provisions dealing with State access to utility books and records. That is a part of the Banking-reported bill. The amendment also imposes a host of new transaction approval requirements under the guise of so-called transaction transparency. The transaction transparency provisions of the amendment do not just require the disclosure of information, they require FERC preapproval of all interaffiliated purchases, sales, leases, or transfer of assets, goods or services, and financial transactions.

Talk about creating a regulatory nightmare—Federal bureaucratic redtape—this is it.

Madam President, it is not clear what problems this amendment is intended to address that are not already addressed by other provisions or existing law.

It cannot be aimed at curbing market power since it makes it more difficult for utilities to sell assets, such as generation and transmission.

It cannot be aimed at protecting consumers from undue price increases because, under existing law, FERC has jurisdiction over wholesale rates and the State public utility commissions have jurisdiction over retail rates.

With or without this amendment, the retail/wholesale electric rates have been and will continue to be subject to State and Federal review. Moreover, this issue is already addressed in the bipartisan electricity amendments adopted by the Senate on March 13.

For the benefit of the Senate, let me read some of the language from the amendment adopted by the Senate.

Section 203 of the Federal Power Act, as amended by the bipartisan amendment, will read:

> No public utility shall, without first having secured an order of the Commission authorizing it to do so . . . merge or consolidate, directly or indirectly . . . by any means whatsoever.
>
> The Commission shall approve the proposed disposition, consolidation, acquisition or control, if it finds that the proposed transaction—
>
> (A) will be consistent with the public interest;
>
> (B) will not adversely affect the interest of consumers; and
>
> (C) will not impair the ability of FERC or any State commission . . . to protect the interests of consumers or the public.

Exactly. It is already there. Frankly, we are wasting our time with this.

In addition, there are other consumer protection provisions already in the underlying bill.

For example, in the PUHCA title there are provisions which specifically give FERC and State public utility commission access to books and records so that they can do their job to protect consumers. In the PUHCA title there is a Federal task force to review the status of competition. In the PUHCA title there is a provision requiring a GAO study and report on competition. And in another amendment, the Senate has already adopted an office of Consumer Advocacy in the Department of Justice.

Mr. President, in today's rapidly changing electric marketplace, utilities need to be able to buy and sell generation and other assets in order to be able to respond quickly to market conditions. This amendment will tie FERC and industry restructuring up in red tape.

I ask: How does slowing industry restructuring and handicapping competition benefit consumers?

We know the answer. It doesn't.

Requiring utilities to wait months—possibly years—for FERC to review and approve even relatively routine transactions simply does not make sense. It satisfies no public purpose, and it threatens to bury an already overburdened FERC staff in a blizzard of needless paper shuffling.

In sum, the proposed amendment appears to be a heavy-handed solution in search of a non-existent problem to solve. It is an extreme amendment that is intended to overturn a bipartisan, Senate-adopted amendment. It appears to be a thinly-disguised attempt to throw sand in the gears of competition, not to improve the legislation.

The amendment should be rejected.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I rise today to proudly support the Cantwell amendment which I am very pleased to be cosponsoring.

I thank the Senator from New Mexico for all of his leadership, overall, on this important energy package. He has had a thankless job. There has been a tremendous amount of work. While I respectfully disagree with his position on this amendment, I commend him for his incredible leadership in this effort.

I am very pleased to support this amendment which would add important and much-needed consumer protection to the Senate energy bill. The Senate energy bill repeals most of what is called PUHCA. Many people are not aware of what that is and how important it is in terms of protecting consumer prices as it relates to electricity. It is the Public Utility Holding Company Act. This would repeal it without putting in place any protections to ensure that consumers are in fact protected.

Now, in light of what happened with Enron, what happened on the west coast with the electricity crisis, we need to be strengthening consumer protections, not weakening them. Last spring, when the Senate Banking Committee took up PUHCA repeal, I in fact was the only member of the committee who voted against that because I believed we should not be doing that independently of a larger focus to guarantee that if the bill were repealed—the statute—we in fact would keep the consumer protections in the act which are so critical. So I voted against that bill.

I believe we should be including this in the context of a broad bill, such as the Senate energy plan, that would include consumer and competitive protections. I believe this amendment puts into place those important consumer protections and competition protections.

This amendment would ensure that utility company mergers "advance the public interest" in order to be approved by FERC. That is a very important principle. FERC would assess the impact on the public interest by examining such criteria as the merger's effects on competition, economic efficiency, and regulatory oversight. We need to ensure that utility mergers promote, and not undermine, competition. That is what this amendment would do.

This amendment would also establish clear rules and enforcement procedures to prevent a repeat of soaring electricity rates in deregulated markets that are not really competitive. This amendment would also protect consumers from unjustified rate hikes and help ensure fair and competitive markets.

The amendment also would provide more transparency in the utility market to protect consumers from situations like Enron. The amendment would require public disclosure of financial transactions between holding companies, utilities, and their affiliates, as well as FERC preapproval of transactions that are not publicly disclosed.

This has been a real issue for small businesses in Michigan. The amendment would protect consumers from the costs and risks of utility diversification and prevent utilities from unfairly subsidizing their affiliates that compete with small businesses, with independent businesses—those that sell the furnaces, air-conditioners, and so on. This has been an important issue in Michigan where many of my small businesses have been concerned about competing against utility companies that are able to have their prices subsidized.

Finally, the amendment would give State and Federal regulators enhanced access to books and records. If we are going to move to a truly competitive utility market, we need to reshape FERC's role in the market. We need to increase the market transparency and make certain that consumer protections are maintained.

I strongly urge my colleagues to support this amendment. I believe it is absolutely necessary as we move into this deregulated marketplace to make sure there really is competition to lower prices, there is accountability, transparency, and in fact in the end all of our consumers, the citizens of the country, are protected.

I thank the Chair.

Mr. FEINGOLD. Madam President, I rise in support of amendment 3234 offered by my colleague from Washington, Ms. CANTWELL, and I am pleased to be a cosponsor.

I support and have been actively involved in the drafting of this amendment, which includes provisions from the sponsors of amendment 3097, Mr. WELLSTONE and Mr. DAYTON, on mergers as well as provisions from the Senator from California, Mrs. BOXER, and the Senator from Oregon, Mr. WYDEN.

These amendments would improve on the bill by making clear the actions that the Federal Energy Regulatory Commission, or FERC, must take in determining that proposed mergers in the electric power sector advance the public interest in order to secure Federal regulatory approval. Those of us who have worked on this package are deeply concerned about the effects of deregulation of the electric power sector.

The underlying bill says that FERC would have to determine that mergers be "consistent with" the public interest, a more typical standard used by other agencies reviewing other mergers, like the Federal Trade Commission.

My concern is that electricity is not just like other commodities. Electricity is essential to public well-being. When this bill is enacted and the Public Utility Holding Company Act is repealed, a strong incentive will exist for large utilities with the financial resources and the potential to exercise market power to get larger. Already, the electric utility industry is undergoing rapid consolidation. As my colleague from Minnesota, Mr. WELLSTONE, noted earlier in the debate on this bill, in the last past 3 years alone, there have been more than 30 major utility mergers and acquisitions, including several in my own home State and with utilities in Minnesota that serve Wisconsin. Many merchant generating companies have seen their stock prices plunge and credit ratings downgraded, and these companies are now prime buy-out targets.

I acknowledge that utility mergers are not inherently bad and should not be prevented. Such mergers can produce efficiencies, economies of scale and cost savings for electrical consumers. A merger can, however, also reduce competition, increase costs, and frustrate effective regulatory oversight.

In Wisconsin, we have been concerned about efforts to aggressively push electricity deregulation, because we are served in my state by a diverse number of local utilities: municipal utilities, electric cooperatives and investor-owned utilities. This diversity of electrical suppliers, about which my colleagues from Minnesota have eloquently spoken, are absolutely critical parts of our small rural communities.

In many cases, Wisconsin's rural coops and rural municipal utilities are the only entities interested in serving the electrical needs of the rural parts of my State. If we deregulate, we shouldn't create an environment that leaves these communities behind.

Federal electricity merger review policy should distinguish between those mergers that promote the public interest and protect our local sources of electrical power and those that don't. In proposing to amend the Federal Power Act to change FERC's merger review standard we are seeking to require merger applicants to show that the merger, which eliminates a competitor in a marketplace, provides affirmative benefits to the public that are not achievable without merger. Thus, the utility seeking the merger approval would need to show that the merger provides tangible public benefits by increasing competition or lowering prices through increased efficiency.

The amendment would improve on the language in the underlying energy bill in several ways. First, the language requires that proposed mergers promote the public interest in order to secure Federal regulatory approval. Second, the amendment spells out specific standards for assessing the impact on the public interest, including effects on competition, operational and economic efficiency, and regulatory oversight. Finally, this amendment prevents utilities from skirting Federal review by using partnerships or other corporate forms to avoid classification as a "merger."

I want to address concerns that some of my colleagues may have about the scope of this amendment. This amendment does not impose new regulatory requirements on proposed utility mergers. Rather, the standards contained in the amendment mirror those contained in the Public Utility Holding Company Act, or PUHCA, which the bill before us would repeal. While the standards are comparable, the amendment provides greater flexibility than exists under PUHCA. PUHCA requires that utilities be physically integrated in order to merge; the amendment waives that requirement. PUHCA also prevents the merger of multi-State electric and gas utilities; the amendment waives that requirement while providing for FERC review of such mergers.

I also want to speak in favor of language that my colleague from Oregon, Mr. WYDEN, and I developed on transactions between utility company affiliates. This amendment protects consumers from assuming the costs and risks of utility diversification into non-utility businesses and prevents utilities from subsidizing affiliate ventures and competing unfairly with independent businesses.

The language that the Senator from Oregon, Mr. WYDEN, and I worked to include in this package does three things. First, it extends to electricity suppliers the requirements we placed upon telecommunications companies when we repealed PUHCA in the telecommunications sector in 1996 in the Telecommunications Act. Second, it requires utilities to disclose all transactions with affiliates, including those that are off the books or with overseas affiliates. Finally, it establishes safeguards regarding the purchase of goods and services between the utility and their affiliates.

These provisions are needed, because we are already experiencing concerns about utilities expanding into electricity related services and out competing small businesses in my State. Small contractors can't compete against big utilities in areas like energy efficiency upgrades to private homes, when big utilities can use existing assets like personnel, equipment, and vehicles to perform those services. When PUHCA is repealed, utilities will be able to expand into other business areas, and we should make certain that we protect small businesses.

This amendment is good public policy, and it will strengthen the Senate's position in conference with the House of Representatives. I urge my colleagues concerned about ensuring a diversity of energy supply and fairness in a deregulated system to support this amendment.

Mrs. MURRAY. Madam President, I want to speak for a moment about the Consumer Protection Amendments being offered by Senator DAYTON and a number of co-sponsors, including myself. I want to thank all of my colleagues who have been working hard to improve this bill, particularly, my colleague from Washington, Senator CANTWELL, who has pushed to bring this amendment to a vote today.

This consumer protection amendment improves this bill by providing a number of much needed consumer protections for electricity customers. I have spoken a number of times expressing my concern regarding enacting broad, far-reaching electricity de-regulation in these turbulent times. California's attempts to deregulate electricity markets were disastrous. We are all still trying to figure out what happened to Enron and thousands of retirement and saving accounts. Consumers in the Pacific Northwest are still paying for some of the aftereffects of these events.

Repealing the Public Utility Holding Company Act, which was enacted in 1935, without adding strong consumer protections would be irresponsible. In this energy bill, we are also contemplating major changes to the Publicly Utility Regulatory Policies Act and the Federal Power Act.

When making these changes, it is essential that we make sure consumers do not suffer. A number of people have indicated that appropriate consumer protections are already in place in the underlying bill.

I disagree. I think that additional consumer protections are necessary.

This amendment strengthens the consumer protections by: ensuring electric holding company mergers advance the public interest; requiring FERC monitor and prevent market power abuses; ensuring market abuses are remedied; ensuring open access to utility holding company records by State Regulatory Commissions; and, requiring transparency in market transactions.

These provisions will greatly improve the electricity title of this bill and I am proud to be a co-sponsor. I encourage my colleagues to also lend their support.

Energy is very important to our quality of life, particularly in the Pacific Northwest. The electricity title of this bill continues to concern me and many in the Northwest. However, it is important that we all work together to develop an energy bill that will benefit the entire country.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Madam President, I want to take an opportunity to respond to a few points my colleagues made about this amendment, which I think is necessary in protecting consumers.

It does repeal PUHCA and takes that measure off the books. What is important about that is, while we can say our current law didn't protect us from the mishaps in the California market and the Western energy crisis, it certainly means we should not be lowering the standard and taking away more consumer protections.

I applaud the chairman of the committee for trying to focus more attention in a particular area of energy expertise, to say let's look at these problems. But what we are doing by also saying let's have the energy expertise within FERC look at these problems, we are also saying, look at these problems within a framework that is less onerous on the energy companies; let's lower the legal standard by which they have to come before the Commission. And, basically, instead of saying they have to serve the public interest, they go for a lower standard by which those mergers can be completed.

It gives FERC the ability, with market-based rates, something they have never statutorily had. So instead of the consumers being able to have cost-based rates on electricity, we are saying, for the first time in statutory authority, they can charge market-based rates.

But we are saying charge market based-rates, and we are saying you don't have to consider some of the same things that ought to be considered, given that we are repealing PUHCA; and that is: What is in the public interest, and how is it advancing the public interest, how is it preventing unjust and unreasonable rates?

If we have learned anything from the California experience, it is that there has not been enough clout within a singular agency in the Federal Government to adequately protect consumers from unjust and unreasonable rates. They have not had enough protection.

That is why the AARP, the American Public Power Association, the Consumers Union, the Sierra Club, the U.S. Conference of Mayors, the Air Condition Contractors of America, the Consumer Federation of America, the Consumers for Fair Competition—all these organizations support this amendment, including the Electricity Consumers Resource Council, the National Association of State Utility Consumer Advocates, the National Environmental Trust, the National League of Cities, the National Rural Electric Co-op Association, the National Resources Defense Council, the Transmission Access Policy Study Group, the Union of Concerned Scientists, and U.S. Public Interest Research Group.

All these organizations are warning us, telling us, there are not enough consumer protections as this bill moves from having the PUHCA law on the books and having the SEC involved to FERC authority, which albeit could play a more responsible role and one with larger oversight, but we are not giving them the direction to do so in this bill. We are repealing those statutes that would give them specific standards by which to measure both these issues of market-based rates and mergers. We are giving new responsibility to an organization and taking away the consumer protections.

It does not make sense, in this time and era of an energy crisis in the West, where consumers have been gouged, where FERC has not been able to protect consumers before the incident in reviewing statistics and after the incident, to now say, Let's lessen the standard by which FERC should be involved, let's give them more authority to allow the energy companies to move more quickly, to move more aggressively without oversight on increasing electricity rates.

We cannot say to the consumers of America that we learned nothing from the Western energy crisis. We cannot say that to them. We have to adopt this amendment and say we know that, while we are repealing some laws and putting more responsibility on FERC, we are going to make sure consumers are protected.

I urge my colleagues to adopt this very needed consumer protection amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. REID. Madam President, will the Senator yield for a brief announcement?

Mrs. BOXER. Yes, I will be glad to yield.

Mr. REID. Madam President, we expect a vote on this matter within the next 15 or 20 minutes. All Senators should be aware there will be an effort to vote in the near future. All Senators should be aware of that.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

Madam President, I thank my friend and colleague, Senator MARIA CANTWELL, and Senator DAYTON for bringing this amendment to the floor. I am a strong cosponsor of it.

Senator CANTWELL made a point that we need to learn what happened to those of us on the west coast who went through a terrible crisis in electricity and runaway price hikes. We all know if we do not look at history and the mistakes that were made, we are going to repeat those mistakes.

What the Senator from Washington is trying to do—and some of us are strongly behind her—is to tell the rest of our colleagues that we hope they prepare against what happened to us and make sure consumers are not forgotten.

I am stunned that there would even be objection to this amendment. All we are doing is ensuring that since PUHCA was repealed, we want to make sure the standard is not lowered. We want to make sure consumers are protected.

I can guarantee that those who vote for this bill, if this amendment goes down, are going to be back here complaining that they really did not understand what we were doing when we did not protect consumers. How do I know this? Because it is clear. What did we learn from Enron? Remember Enron? We learned that they did everything in secret. They did everything in secret. They sold the same electricity 15 times over. This is according to testimony from the people in California who suffered the consequences.

I guess, I say to my colleague, if the rest of this Senate wants to see an energy crisis happen in their States, all we can do is offer up this amendment as a way to stop it. But in the underlying bill, there is very little transparency. We need to make sure the books and records of these companies are open and they are clear so that my colleagues in their States can see why their prices are going up 100 percent, 200 percent, 300 percent. In our case, it was over a 500-percent increase in the price of electricity. By the way, demand was going down.

It is extraordinary. One year ago, April 2001, wholesale electricity was selling for $201 per megawatt. A year earlier before the crisis began, it was $32 per megawatt. It went up $32 to $201. That is a 528-percent increase.

Why did it happen? Because of deregulation. The problem is, there was no transparency. Everyone was paying more. We had rolling blackouts. We had horrible problems. Believe me when I tell you, Madam President—you know this because you have visited California often—this is a State that, if it was a nation, according to our gross domestic product, would be the fifth largest nation in the world. When I started in politics, we were ninth. It shows you how long I have been in politics, but it also shows the incredible growth of our agricultural sector and Silicon Valley and their need to have electricity.

Mind you, it is not wasted. California now is the No. 1 State in energy efficiency per capita. During the crisis, our demand went down. No one can tell us our prices went up because demand went up, which is what the Vice President said. Our demand went down. We have been amazing at saving.

Someone has to look out for the consumer, and that is why I support what Senator CANTWELL is doing.

I, frankly, believed repealing PUHCA in the underlying bill was not the way to go. That was my opinion. But since we have taken the matter of PUHCA and transferred those responsibilities to FERC, let's at least make sure FERC has the same opportunity to learn the facts as the SEC did under PUHCA. That is why this amendment is so important.

This is what Loretta Lynch, the president of the California Public Utilities Commission, testified last week before the Commerce Committee about FERC and the weakening of its reporting requirements. Ms. Lynch testified:

> FERC has over the past few years at the urging of Enron and others diluted the reporting requirements, loosened the accounting rules and exempted large classes of energy sellers from making required disclosures.

This is not from me. This is from someone on the ground, the head of our public utilities commission. Then she goes on to say:

> FERC does not even require the same data to be filed in its quarterly reports, allowing companies like Enron to hide the true nature and extent of activities through skeletal public reporting and not be called to account by FERC.

The bottom line is, with this amendment, we are trying to restore some transparency. We need to see what these companies are doing.

As I say, it is stunning to me that we do not have support for this amendment, which is very modest in what it tries to do. The Senator from Washington has taken the critiques of this amendment and has answered one point at a time. The critiques we have heard in this debate simply are not right.

One of the claims is that we keep PUHCA on the books. How ridiculous. PUHCA is repealed. We do not bring it back. All we are saying is now that the underlying bill gives the responsibility of PUHCA to FERC, there ought to be some rules that show we care about the consumer and that the consumer will not be forgotten.

In closing, I think the Senator from Washington knows her stuff on this. She is on the Energy Committee. She gets it. She is taking the lessons of the west coast, what happened to our consumers, which was devastating, and saying to everyone: Please listen to us. We want to avoid this in the rest of the country. That is why she has the support of the AARP. Older Americans are the ones who get caught. They live on fixed incomes. When those electricity prices go up, it is not fun and games. This is real people suffering. They suffered in Oregon, they suffered in Washington, and they suffered in California.

So what are we doing in this bill? Nothing to really help them. We are ensuring this cannot happen elsewhere, and that is why we have so many others supporting this amendment, such as the Consumer Federation of America, the Consumers for Fair Competition, the Consumers Union, the Electricity Consumers Resource Council, the National Alliance for Fair Competition, the National Association of State Utility Consumer Advocates, the National Environmental Trust, the National League of Cities, the National Rural Electric Cooperatives Association, the Natural Resources Defense Council, the Physicians for Social Responsibility.

This is a health issue when people cannot turn on the air-conditioning. If we do not protect the consumers, we have problems. Public Citizens supports this amendment, the Sierra Club, the U.S. Conference of Mayors, the Union of Concerned Scientists, and the U.S. Public Interest Research Group. This is the consumer protection package.

My colleague from Washington did a good job. She took amendments from those of us who were looking at different areas where we thought the bill did not reach the level of consumer protection it should and put them into an omnibus amendment. I congratulate her.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I appreciate the comments of the Senator from California on the amendment. I also appreciate her support for it and her articulation of the problem.

I ask the Senator from California—obviously, both of our States are being greatly impacted from this crisis. I think we have had numerous, thousands, of constituents who ask us how we got into this situation and ask us exactly how this situation occurred to this degree and why there were not more Federal protections in place.

Given the impact to both Washington and California, consumers want to know how is it this kind of deregulation went through at the State level and then certain protections were not in place at the Federal level.

Before the Senator from California leaves the Chamber, I ask if she would answer this question about her constituents' desires to see a safeguard at the Federal level to make sure that further deregulation, and the incurring investigation of high energy prices, are adequately dealt with and whether consumers believe these protections have been adequately up to date, because in my State people have said repeatedly, where is the Federal role and responsibility in making sure these consumers were not gouged?

In California, a new system was put in place. The Federal Energy Regulatory Commission was supposed to oversee that and to judge whether it was going to work as far as market-based rates, and clearly it did not work. Not only did FERC approve it, it did not monitor it after it went into place. It did not stop and say that unjust and unreasonable rates are gouging consumers in California, until the lights went out.

So why would we now say—and I am curious as to the Senator's experience in hearing from constituents about this Federal role—to them, we are going to consolidate and make it even easier; put authority under FERC and weaken the standard? Not only are we going to give them direction, but we are going to say we are going to give them less tools to play that role; we are going to give them a lower legal standard by which to review these; we are going to allow them to make market-based decisions without the criteria of respecting the consumers and protecting and advancing their interests as they look at mergers.

I am curious as to the California experience. I know the experience has been clear in my State. They wanted unjust and unreasonable rates to be looked at when they were being charged 85 percent more. They thought it was very clear that was unjust and unreasonable. In my State, these people have to live with 8- and 9-year Enron contracts.

As my California colleague said, they sold power 15 times to different people. They are literally buying power at a cheap rate and within my State selling it at an increase, double, triple the increase, to other consumers in my State. They are getting away with it, and FERC is doing nothing to make sure those rates are being investigated as unjust and unreasonable, and they are not letting my constituents out of those long-term contracts in the next maybe 8 or 9 years of 85-percent increases in energy prices.

So why would States that have been impacted want to give FERC the direction but say, here are the legal standards, they are less than they were before, so go at this business? So if my colleague from California could comment on her experience in that Federal role and what it is that safeguards constituents who have been harmed in personal situations and in economic businesses.

States' economies have been ruined over this situation, and now we are saying to them that our colleagues are going to provide less protections for them.

Mrs. BOXER. That is the key. The fact is, in our States—I will just talk to my State—the only agency we had to protect us was FERC. FERC, under the Clinton administration, found that the prices were unjust and unreasonable. Then there was a switch in administrations and they never repealed that. They admitted they were unjust and unreasonable, but they did absolutely nothing to help us—for 1 year. We were talking about billions of dollars of costs. The long-term contracts were signed under duress by our Governor because the spot market was so impossible he tried to get some of the demand away from the spot market, went into these long-term contracts. Fortunately, he has begun to renegotiate those.

We have asked FERC to help us renegotiate most of them. It is stunning to me that this underlying bill gives so much more power to FERC when under the law as it existed they did nothing to help our people for 1 year. They finally put in place the market-based pricing and, by the way, it cured our problem.

After this administration saying for a year that it would not cure our problem, it cured our problem. Those market-based prices are set to expire in September, and already the new Chairman of FERC has hinted that he is not going to reimpose those price caps.

So I say to my colleague, the only agency—because we had deregulated in our State, and believe me there was enough blame to go around. It was a bipartisan deregulation recommended by Pete Wilson, our then-Governor, and it went through. Enron and others had absolutely no one looking over their shoulder, and the only agency that could have done anything to help us against unjust and unreasonable prices was FERC. The bottom line is: They did nothing for a year. It was a disaster.

In this underlying bill, we are giving FERC even more work by repealing PUHCA, which was administered by the SEC, and giving it over to FERC, and having very few requirements on the open books and records.

So a company such as Enron—Enron is gone. They said California would sink, but they sank. We are OK. They sank. But there is going to be Enron II and Enron III and Enron IV because, unfortunately, they showed how it could be dealt with, at least in the short term. When that happens under the underlying bill, there is very little that FERC will be able to get at in terms of the transparency of the records.

The one thing we learned was there was a lot of secrecy going on. The sale of electricity—Enron was a broker, in between the generators and the consumers, so Enron would go buy electricity from a generator at a pretty good price for the generator but then they would sell it to themselves, 14 times to subsidiaries. Each time they showed a profit on the books to make Enron look more successful, more profitable, and each time they jacked up the rates until it got to the final sale at 520 percent—sometimes higher—than it was the year before, and that became the benchmark price. All this was secret.

We have an opportunity in an energy bill to make sure this experience does not happen again. What do we do? We step back. That is why the consumer groups in this country are absolutely upset about this bill and why they have come together in an unprecedented number. I ask unanimous consent to have the list of organizations supporting this amendment printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT THE CONSUMER PROTECTION PACKAGE

Amendment #3097, offered by Senators Dayton, Wellstone, Feingold, Cantwell, Boxer and Wyden, would add crucial consumer protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

AARP.
Air Conditioning Contractors of America.
Alliance for Affordable Energy.
American Public Power Association.
Consumers Federation of America.
Consumers for Fair Competition.
Consumers Union.
Electricity Consumers Resource Council.
National Alliance for Fair Competition.
National Association of State Utility Consumer Advocates.
National Environmental Trust.
National League of Cities.
National Rural Electric Cooperatives Association.
Natural Resources Defense Council.
Physicians for Social Responsibility.
Public Citizen.
Sierra Club.
Transmission Access Policy Study Group.
U.S. Conference of Mayors.
Union of Concerned Scientists.
US Public Interest Research Group.

Vote "Yes" on the Consumer Protection Package.

Mrs. BOXER. They have come together behind Senators CANTWELL and DAYTON to say: Please, fix this bill. Do not do what California did.

Just because something is changing does not mean it is changing in a right way. We have to be very careful. Did we learn anything in California, Washington, and Oregon? The word "deregulation" is a beautiful word. I love it. I wish we didn't need regulations, and I wish everyone did everything right. However, in a society where you must have your heat and you must have your air because you must run a business, you must make sure an elderly person in summer does not suffer from the dangers of heat exhaustion, you have to have a way to make sure this important need is not forgone.

I thank my friend. The California experience is forever seared in my mind and heart. I don't want other States to go through the same thing. This amendment will help in that regard. I hope the Senator wins this amendment. The way things are going, we may not make it. But we are on the right side. We are not going to give up. Just as we learned in California, we can vote a lot of things in, but when the people say, What are you doing, we come back here pretty darn quick. From my experience in California, this is not the way to go. This underlying bill is not the way to go. My friend has pinpointed the need for consumer protections.

I thank the Senator.

Ms. CANTWELL. I thank my colleague from California for her articulate rendering of what has happened in the California market and the complexity of this issue. She is right, the consumers have asked, Where have the Federal role and responsibility been? People in our States did not think FERC responded quickly enough and do not believe FERC has all the tools now necessary to protect other States from this same thing happening again or to conduct the investigation that needs to take place to make sure consumers are not gouged after September when the expiration of this current FERC order occurs.

We are saying: If you are going to give FERC the responsibilities and repeal PUHCA, and also change from SEC to FERC authority, we are giving FERC real responsibility with no statutory guidance. But then we are essentially saying—wink, wink—we are not giving you any of the tools to enforce these authorities; we want you to just be part of the equation but not have any statutory authority to make the investigations. Let's say instead: You can proceed with market-based rates instead of cost-based rates. But if you are going to proceed with market-based rates, you must make sure there are competitive markets. You must make sure you effectively monitor those markets. You must make sure you prevent the abuse of those market powers. You must make sure you are protecting the consumer interests, and you must ensure that there are just and reasonable rates. That seems to me to be very fair, that these consumer issues are protected in legislation. That is all we are asking.

If we are going to give responsibility to FERC, let's make sure we tell them to protect the consumer interests, not the big business interests that have caused so much economic devastation in the West.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I will speak briefly in response to some of the comments made, and then I will move to table the amendment.

We have had a good debate about it. I will speak about three aspects: First, the argument, the allegation, that we are, in the underlying bill before the Senate, agreed to on a bipartisan basis, lowering the legal standard. That is one of the arguments that has been made. It is simply wrong. We are not lowering the legal standard. The legal standard is, and always has been, that determinations be consistent with the public interest; that acquisitions, mergers, consolidations, be consistent with the public interest.

What we are doing is saying that, for mergers, we have enhanced the authority and responsibility of the Federal Energy Regulatory Commission by saying that not only must they determine it is consistent with the public interest, which has been the standard in the past, we are requiring them to determine that consumers will not be harmed—that is, consumers, ratepayers of existing utilities, will not be harmed. We are requiring them to make a determination that regulation, either Federal or State regulation, will not in any way be impaired. And we are requiring FERC to make a determination that there will be no cross-subsidy to any other company than the company being acquired or merged.

What we are doing is increasing the responsibilities we are imposing on FERC. A lot of criticism has been leveled against FERC in the way they responded on the west coast. I agree with much of that. I think they were very slow to respond to the spike in prices in California and the Northwest. I was critical at the time, and I continue to be critical that they were slow to respond. We are putting an affirmative duty on FERC to step in anytime there is evidence that a market-based rate is not just and reasonable. It is FERC's responsibility under the language we have to withdraw those market-based rates and to require just and reasonable rates.

That is a new responsibility we are imposing. It is an appropriate responsibility. The argument that, because they did not move quickly enough under current law, we should now go ahead and change the law to give them this new responsibility does not make sense to me.

With regard to the provisions the Senator from California was raising about the transparency of books and records, I agree entirely that the books and records of any and all of these companies that are subject to regulation should be open for inspection. The provisions we have in the bill require each of these companies to maintain and make available to FERC the books, accounts, the memoranda, the records, that the Commission deems relevant to the costs that are incurred by that public utility. Each affiliate company is also required to do the same.

There is a provision saying that the right of States to request books, records, accounts, memoranda, and other records they identify in writing as needed by the State commissioner—that right for them to obtain those is also protected.

We have in this underlying bill the protections that are required for consumers. I am persuaded that the enactment of this legislation, this title 2, this electricity provision, will cure many of the problems the Senators from Washington and California have been concerned with—and very rightly concerned with this last year.

I think the argument that we are not dealing with these issues is wrong. I urge my colleagues to join us in tabling this amendment which would undermine the bipartisan agreement we made on this provision some weeks ago.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the amendment No. 3234. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—58

Akaka
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carper
Cleland
Cochran
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith (NH)
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NAYS—39

Baucus
Boxer
Byrd
Cantwell
Carnahan
Chafee
Clinton
Collins
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Murray
Nelson (FL)
Reed
Reid
Sarbanes
Schumer
Smith (OR)
Snowe
Stabenow
Wellstone
Wyden

NOT VOTING—3

Daschle
Helms
Johnson

The motion was agreed to.

Mr. BINGAMAN. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I believe the clerk was going to report the amendment by the Senator from Nebraska.

AMENDMENT NO. 3140 TO AMENDMENT NO. 2917

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for himself, Mr. SMITH of Oregon, and Mr. CRAIG, proposes an amendment numbered 3140 to amendment No. 2917.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BINGAMAN. Mr. President, I call up amendment No. 3316 and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator objecting to terminating the reading?

Mr. BINGAMAN. I do not object to terminating the reading. I do call up amendment No. 3316 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike Title III and insert the following:

SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

“(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the Secretary) shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

“(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

“(A) provides for the adequate protection and utilization of the reservation, and

“(B) will either—

“(i) cost less to implement or

“(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

“(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the efforts of the condition accepted and alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

“(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.

“(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

“(1) inserting “(a)” before the first sentence; and

“(2) adding at the end the following:

“(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

“(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license, that the alternative—

“(A) will be no less protective of the fishery than the fishway initially prescribed by the Secretary; and.

“(B) will either—

“(i) cost less to implement, or

“(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

“(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

“(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions. ”

AMENDMENT NO. 3316 TO AMENDMENT NO. 3140

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 3316 to amendment No. 3140.

Mr. BINGAMAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS.

(a) REVIEW OF ALTERNATIVE MANDATORY CONDITIONS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of: (1) options for a process whereby license applicants and third parties to a relicensing proceeding being undertaken pursuant to Part I of the Federal Power Act could propose alternative mandatory conditions and alternative mandatory fishway prescriptions to be included in the license in lieu of conditions and prescriptions initially deemed necessary or required pursuant to section 4(e) and section 18, respectively, of the Federal Power Act; (2) the standards which should be applicable in evaluating and accepting such conditions and prescriptions; (3) the nature of participation of parties other than the license applicants in such a process; (4) the advantages and disadvantages of providing for such a process, including the impact of such a process on the length of time needed to complete the relicensing proceedings and the potential economic and operational improvement benefits of providing for such a process; and (5) the level of interest among parties to relicensing proceedings in proposing such alternative conditions and prescriptions and participating in such a process.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section. The report shall contain any legislative or administrative recommendations relating to implementation of the process described in subsection (a).

SEC. 302. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of the process for issuance of a license under Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations relating to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, was the amendment offered by the Senator from New Mexico in the spirit of a second degree to the Nelson amendment?

The PRESIDING OFFICER. The amendment is drafted as a substitute for the first-degree amendment.

Mr. CRAIG. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, this issue, of course, relates to hydroelectric power. This is a subject on which we have been working for several months with interested Members, with the Senator from Idaho, the Senator from Oregon, the Senator from Nebraska, and their staffs, in an effort to achieve consensus on a very difficult issue. I very much thank them for all the work they have put into this effort and their efforts to come to agreement as to how we should proceed. Unfortunately, we have not been able to resolve the issues.

I know hydropower plays a very significant role in providing needed energy to the entire Nation and particularly to the Northwest. It is a very important energy source in other parts of the country as well, particularly New England.

There are now five first-degree amendments and three second-degree amendments that have been filed to this bill with regard to the topic of hydroelectric relicensing. So the proliferation of amendments reflects the fact that, in spite of a lot of good work that has been done, there is no consensus about how to proceed. Unfortunately, I cannot support the amendment the Senators from Nebraska and Idaho are offering today. In my view, it does not reflect a consensus.

At this juncture, given the procedural posture of the bill, I believe the best course is to adopt the amendment I have offered which provides that there be a review undertaken by the relevant agencies with respect to two aspects of the hydroelectric relicensing process. Let me recount what those are.

First, whether provisions for alternative mandatory conditions such as those included in the Nelson-Craig amendment would work to improve the process and, secondly, methods that should be adopted to streamline the process.

The hydroelectric relicensing process has come under criticism. Much of that criticism is justified due to its complexity and the length of time it takes to issue a renewal license. These delays are not good for government, and they are of great concern to my colleagues and to me as well.

There are interagency efforts in place to try to improve that process. We need to encourage those efforts. We need to try to let those efforts play out.

My amendment would do this by requiring all the involved agencies—that includes the Secretary of the Interior, Federal Energy Regulatory Commission, the Secretary of Commerce, Secretary of Agriculture—to report on whether the alternative would require all the agencies to work together to make recommendations to the Congress on how we can improve the process.

The second thing the amendment does is require the agencies to report on whether the alternative mandatory conditioning authority provisions included in the underlying amendment would work. My amendment would require recommendations as to what standard should apply with respect to alternative mandatory conditions and the nature of participation of interested parties.

In addition, the amendment I have offered would require an assessment of whether this new authority would delay an already complex and slow process, which is a very real concern I have.

The Nelson-Craig amendment would adopt alternative mandatory conditioning authority while doing nothing to streamline the process. I am concerned that the amendment, rather than improving the process, will inadvertently add complexity and delay to an already overly complex and slow relicensing process.

I am also concerned that the Craig amendment undermines protections for Federal lands and resources provided for in the Federal Power Act. Under that act, mandatory conditions and prescriptions are developed by the Federal land management or resource agency for inclusion in the license to protect wildlife refuges, national parks, other Federal lands, and Indian reservations. This conditioning authority and these standards have been in place for over 80 years.

The Senate energy bill provides new flexibility relating to this conditioning authority by including alternative mandatory conditioning authority. But the bill does this in a way that we believe is environmentally protective in an appropriate way.

The amendment by the Senators from Nebraska and Idaho would change this alternative mandatory conditioning authority to make it less protective of Federal lands and resources by modifying the standard for alternative mandatory conditions from that included in the bill.

Finally, the Craig amendment would give greater weight to the views of the license applicants over the views of States and tribes and the public. This is another change we believe is inappropriate and causes me to propose the amendment I have called up for consideration.

I acknowledge these are difficult issues. Consensus has been difficult to achieve. Rather than proceeding with either the Craig amendment or the language in the Senate bill, the one before the Senate now, I believe the sound approach is to learn more about the implications of these provisions and seek expert input from the agencies involved, and that is what the amendment I have called up would do.

I urge my colleagues to support the amendment I offer as an alternative to the Nelson-Craig amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I commend my colleague from New Mexico for his very able work on bringing forth an energy bill. It is with some sadness I find myself opposing his substitute amendment.

The substitute amendment is essentially requesting a study in an area where we already know the results. I support studies when we don't know what the study will tell us and we don't know the results and we need to find out what the situation is. But in this case, we know what the situation is.

We have a system that suffers from dispersed decisionmaking authority and an inability to balance competing values and a system that is certainly jeopardizing the relicensing of many of our hydropower facilities across the Nation.

Nearly every State will have one or more and as much as 99.9 percent of its hydroelectric power facilities come up for the licensing review within the next 15 years. If they have the experience I have had in Nebraska, they won't have to have a study. They can simply look to see what has happened in Nebraska to tell them what the future holds for them.

The future of Nebraska is dimmed because of the past experience we have had with the relicensing process.

We spent $40 million for one hydroelectric powerplant in 14 years to realize this project—a project built in the 1930s. That experience can tell you that the system is lengthy, expensive, and it doesn't require any of that $40 million that was spent to go into the environment, habitat, wildlife retainment, or anything of that sort. It was money spent on application fees, filing of papers, lawyer's fees—$40 million to realize this one project in the State of Nebraska, taking 14 years.

That was when we had both Senators from Nebraska, the congressional Representatives, and I, as Governor, supporting the effort to get it done in an expeditious fashion. That is expedition in reverse.

The truth is, this system is not expedited; it is expensive, costly, and slow. We even had in our situation, nearly at the end of the process, after we had gone through the process with as many alphabet agencies in the Federal Government that I thought we would ever find, another agency that came in and said: All the work you have done is for naught, and we have a requirement we would like to impose at the tail end of the process.

They could have done it at the beginning of the process. This will help alleviate and obviate that need. In the State of Washington alone, you are going to be facing the relicensing of 80 percent of your hydroelectric power in the next 15 years—21 projects. If you multiply that times $40 million, you can see what the cost really is. Multiply that times the number of staff years, in terms of what it is going to take, and you will see what the internal cost truly is to your power authorities.

I would ordinarily support a study. But in this case, we don't need one. We have had the study, and the study is experience which tells us that we need to make this kind of correction, and we need to make it now, not wait until the study tells us what we already know.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Madam President, I rise in opposition to the second-degree amendment being offered by Senator BINGAMAN. Truly, another study of this issue will do nothing more than run out the clock on license holders who must get 53 percent of the nonfederal hydropower capacity in this Nation relicensed within the next 15 years.

To give you an example of just how grave a situation this is, there are 307 projects under the category, including 49 projects in California, 21 projects in Washington, 23 projects in Wisconsin, 30 projects in New York, 23 projects in Maine, 14 projects in Oregon, and 14 projects in Michigan. This amounts to over 29,000 megawatts of capacity. To put this into context, it takes 1,000 megawatts daily to run the City of Seattle. So when you figure that 29,000 megawatts are at stake, and you figure what it takes to run Seattle, you can imagine how much economic difficulty will ensue if we do not figure out a more reasonable way to bring on hydropower relicensing.

There have been extensive hearings already during the last two Congresses, in the Senate Energy Committee, on the need for hydro relicensing reform. I have attended them all, and there has been a committee that was chartered under the Federal Advisory Committee Act. That committee has concluded that legislative reforms are absolutely critical if we are to make progress and meet the deadlines that are looming over the energy capacity of this country.

There have been administrative attempts to reform the process already. Having the same agencies that have, so far, been able to institute meaningful reforms further study this issue will provide us with no benefit at all. I urge my colleagues from all parts of this country, who have hydroelectric power, to please support the Nelson amendment. It provides modest reforms of a narrow portion of the relicensing process.

The time for study is done. The time to ensure that hydropower remains an important part of our electricity mix is now. Madam President, no one knows better than you and I, from the Pacific Northwest, how critical an issue this is for our neck of the woods. I also say that, while all energy production has an environmental tradeoff, truly, hydropower puts out no global warming and provides our people with the most renewable, inexpensive, and reliable sources of electricity there are, frankly, on the Earth.

I believe if we are serious about reemploying our people, getting our economy moving, we have to be serious about hydro relicensing reform.

Madam President, I know a number of environmental groups have opposed the Nelson amendment. I want to also say we have, for those who are concerned about the environmental issue, as we all are, that there is a second degree that I will be offering that does enjoy the support of many environmental groups, such as Trout Unlimited. I quote their news release today:

> Senator Smith's amendment improves the Craig-Nelson amendment by reducing the loss in fishery protection from SA 3140. While we support Senator Smith's amendment, we still urge opposing an amended SA 3140.

The point I am trying to make is we have improved the underlying amendment, and we have given the environmental community something that will significantly help them in their advocacy. To demonstrate what we are trying to do with the second degree, should the Bingaman study be defeated, this amendment does two important things. While it substantially, like Senator NELSON's, makes the changes I think provide value to all of the stakeholders who follow the relicensing process, the first would substitute the words "fish resources" for "fishery" in the underlying text. We want to make it clear that we are trying to protect all fish resources, not just those fish species that are harvested either commercially already or with sport fishery.

Secondly, the amendment would begin this process in 2008. It would require license applicants to file their applications for a new license with the Federal Energy Regulatory Commission 3 years before the current license has expired. During the hearings before the Energy Committee, it was clear to me that there was frustration with the current statutory requirement to file only 2 years before the expiration of the current licenses. In most instances, this is insufficient time for FERC to review the adequacy of the application and to determine any additional studies that might be needed. The result is a string of annual licenses which do not provide certainty for consumers or the utility and results in delays in environmental mitigation and enhancement.

Licensed applicants are reluctant to spend such funds until they know what will, in fact, be required of them under any new license. So I say to those who care about the environment, the Nelson-Craig amendment will be improved with the second degree that will follow. Truly, what we need, last of all, is another study on a problem that we know only too well through experience.

If you want a study, the study is Senator NELSON, who was Governor Nelson. His experience is all the study we need that we have a broken system and we need to repair it. I remind my colleagues that none of us has a job in any industry unless electricity is produced first. Hydropower is crucial in the mix of America's energy. It is absolutely the backbone of the Pacific Northwest. This is needed, and then we have a way to protect the environment and a way to improve this process.

I yield the floor.

Ms. CANTWELL. Mr. President, over the last 6 weeks, while we have debated essential elements of the energy bill, from ANWR and CAFE to electricity deregulation and ethanol, I have joined the sponsors of this amendment, the chairman and ranking member of the Energy Committee and others in trying to forge a consensus on how best to reform the hydroelectric relicensing process.

Let me state at the outset, that I share the sponsor's deep sense of frustration and concern with how the existing hydro relicensing process works for all participants.

With more than 9,300 megawatts of nonfederal hydropower capacity, Washington State is the single most hydro dependent State in the Nation. The power of the great rivers of the Pacific Northwest has contributed to our economy, created industries and even helped to win the Second World War. There is no area of the country where hydropower generation has greater importance.

At the same time, Washington State also relies on the natural abundance of these spectacular rivers. Washington's rivers provide year-round recreation opportunities, including fishing and boating, these features contribute enormously to our economy as well as our environment. Our rivers are also home to salmon and steelhead runs, the cultural soul of the Pacific Northwest.

The rivers serve as an important economic and cultural resource to several Northwest Indian tribes that entered into treaties with the U.S. based on the promise to protect and honor their rights and resources.

Our reliance on hydropower and on the recreational and environmental benefits of our rivers requires us to employ a balanced approach to their use. Utility operators have shared with me horror stories about how the rising costs, loss of operational flexibility, and lost generation due to new operating constraints imposed during relicensing are impacting their ability to bring power to Washington's consumers. At the same time, 12 runs of Washington State salmon are now included on the endangered species list.

We can and must find the right balance to ensure continued survival of these species while maintaining hydropower production.

Many hydropower projects, including some in the Northwest, were built without adequate consideration of impacts on the environment. Most were built prior to the enactment of essential environmental laws like the Clean Water Act and Endangered Species Act. Relicensing offers a unique opportunity to reassess the licenses of these hydropower dams, bring them up to modern standards, and ensure the long-term health of our rivers.

The current process for licensing hydropower projects has had mixed results. On the one hand, we have examples of great successes. The Cowlitz was once home to some of the most bountiful salmon and steelhead runs in the Pacific Northwest. In August 2000, a landmark relicensing settlement was signed that will open up more than 200 miles of renewed habitat. The settlement is supported by Federal and State agencies, conservation groups, and the hydro utility. On the other hand, the Cushman project has been operating under annual licenses due to disputes over appropriate environmental measures. While Tacoma Power has continued operating the project for over 20 years, there remain a number of serious environmental challenges.

And on all sides we have parties pointing the finger at one another claiming that the other is always to blame. I do not believe that any of the parties to relicensing, Federal resources agencies, FERC, tribes, States, the industry or advocacy groups, are to blame for problems in relicensing. In fact, I believe most parties are good actors caught up in an outdated, bureaucratic process desperately in need of reform.

There is no question that the existing licensing process can be improved. We can make it faster and cheaper without sacrificing environmental quality. Quicker licensing would improve the efficiency of these projects and improve the environment. This is a goal that I would strongly support, if we were debating such measures today.

Unfortunately, that is not what the amendment before us today accomplishes. Instead, the amendment creates a new appeals process, another step, to this flawed process without requiring FERC and the resource agencies to address the fundamental problems contributing to the delays and skyrocketing costs.

I agree with the supporters of this amendment that one part of the solution is to allow participants to propose creative solutions in balancing energy and environmental priorities. While I can't fully agree with the approach taken in this amendment, I do agree that parties should be rewarded for coming together and proposing innovative new solutions. But more importantly, there will be no real improvement until Congress requires or FERC and the resource agencies agree to significant structural reform. This amendment falls far short.

Section 306 of the underlying bill provides an opportunity to streamline the licensing process by requiring agencies to work together with FERC in a more cooperative manner. It also requires the coordination of environmental reviews and places a number of requirements on FERC to maintain a better, more transparent schedule for relicensing proceedings.

But the amendment before us today deletes section 306, the only hope for real fundamental reform of an obviously flawed process.

It is important for the people of Washington State to get this right, and soon. We will have to relicense 19 hydropower projects over the next several years. The resulting licenses will set the terms for hydro projects to operate on our rivers for another 30 years. We need a process that will issue licenses promptly, with full environmental protection, bringing these projects into compliance with modern laws. It is disappointing that this amendment will not do the job.

I reluctantly oppose the Craig amendment because I believe we are missing an opportunity to accomplish real reform. But regardless where the votes are on this amendment, this is not the end of the discussion about hydropower licensing reform, but rather a beginning. I look forward to working with my colleagues in the Senate and those in industry, the environmental community, tribes, States, and other interests in order to maintain the tremendous hydropower assets of our State while protecting and restoring our environmental future.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I want to say that a study should ordinarily tell us something we don't know, bring us to conclusions that we have not yet reached, or provide facts that are not otherwise evidence.

But there are no facts that are absent here. There are no conclusions that we cannot draw on the basis of what we know, and there certainly isn't an experience yet to be determined. So a study is unnecessary. It is very clear, though, action is necessary.

Respectfully, I move to table the substitute second-degree amendment offered by the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I thought the Senator from Nebraska asked for the yeas and nays.

The PRESIDING OFFICER. The motion to table has been made.

Mr. NELSON of Nebraska. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The Chair reminds Senators that the motion to table is not debatable. It will take unanimous consent at this time for further debate.

The question is on agreeing to the motion to table amendment No. 3316. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. CLELAND). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—54

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carper
Cleland
Cochran
Collins
Conrad
Craig
Crapo
DeWine
Dodd
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carnahan
Chafee
Clinton
Corzine
Dayton
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Gregg
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—3

Daschle
Helms
Johnson

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS

Mr. REID. Mr. President, for the information of all Members, I have checked with the minority, and I ask unanimous consent that between the hours of 3 and 4 o'clock this afternoon, the Senate be in recess to listen to Secretary Powell in S–407. I ask that that time count against the postcloture hours under this measure now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3306 TO AMENDMENT NO. 3140

Mr. SMITH of Oregon. Mr. President, I call up amendment No. 3306, the Smith second-degree amendment to the Nelson of Nebraska amendment No. 3140, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Oregon [Mr. SMITH] proposes an amendment numbered 3306 to amendment No. 3140.

Mr. SMITH of Oregon. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the definition of renewable energy)

Strike Title III and insert the following:

“SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

“(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

‘(h)(1) Whenever any person applied for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the ‘Secretary’) shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

‘(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

‘(A) provides for the adequate protection and utilization of the reservation; and

‘(B) will either—

‘(i) cost less to implement, or

‘(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

‘(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

‘(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.’

“(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

“(1) inserting “(a)” before the first sentence; and

“(2) adding at the end the following:

‘(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

‘(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—

‘(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

‘(B) will either—

‘(i) cost less to implement, or

‘(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

‘(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

‘(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.’ ”

“(c) TIME OF FILING APPLICATION.—Section 15(c)(1) of the Federal Power Act (16 U.S.C. 808(c)(1)) is amended by striking the first sentence and inserting the following:

‘(1) Each application for a new license pursuant to this section shall be filed with the Commission—

‘(A) at least 24 months before the expiration of the term of the existing license in the case of licenses that expire prior to 2008; and

‘(B) at least 36 months before the expiration of the term of the existing license in the case of licenses that expire in 2008 or any year thereafter.’ ”

Mr. SMITH of Oregon. Mr. President, I yield my time for commentary to the Senator from Idaho.

The PRESIDING OFFICER. The Senator has no such right. The Senator from Idaho can seek recognition at any time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we just took a very critical and, I believe, important vote in the Senate pertaining to the Nelson-Craig amendment, and now second-degreed by the Senator from Oregon. While I know the Senator from New Mexico and I have worked long and hard on the issue of hydro relicensing, I think the will of the Senate has spoken as it relates to moving this issue to the forefront and making a legislative determination on what the public policy ought to be as it relates to the relicensing of hydro facilities around this country.

We have now for well over a decade and a half spent a great deal of time looking at the hydro relicensing process. Many of the licensees have spent millions and millions of dollars trying to shape it and determine it. Study after study—and here are about 7 of them, some 1,400 pages of studies over the last decade—have said there is a problem that can only be determined by a legislative fix. That is exactly what the Nelson-Craig amendment, now second-degreed by the Senator from Oregon, does. It maintains the amendment, and the second degree maintains the current standard in section 4(e).

The Secretary of the Interior can determine whether an alternative condition offered by the licensee ensures the adequate protection and utilization of the "Federal reservation."

"Federal reservation" is a term of art in the Federal licensing of projects as it relates to protecting the resources, protecting the land.

The reason this amendment is important is when we go to conference with this bill, the House has said something very different. The House said, in their version of the hydroelectric relicense reform, that they would change the standard in 4(e), requiring the Secretary of the Interior to ensure an alternative condition provides no less protection for the reservation than provided by the conditions deemed initially necessary by a midlevel staff person at the Interior. That is a higher threshold than is currently required under licensing.

What is so important is that we take the right language to the conference to make sure if we advance or change the relicensing projects of hydro—and the Senator from Nebraska has spoken eloquently about the problems of Nebraska, the Senator from Oregon has talked about the multitude of projects to be relicensed over the next decade; we know that hydro is about 19 to 20 percent of the electrical base of this country—while we want to modernize these facilities, bring them into compliance under better environmental standards, what we cannot have is a multi-multimillion-dollar process that doesn't get us anywhere and, in the end, actually reduces the ability of these facilities to produce power.

The Senator from Nebraska spoke of a process in his State that cost $40 million to relicense a hydro project. My guess is that the project, when it was initially built some 30 years prior, cost a fourth of that amount—$8 million, $10 million. And now just to relicense it, just to go through the legal hoops and hurdles and timelines involved it costs $40 million? That doesn't talk about the retrofits. That doesn't talk about new concrete poured or concrete taken away or fish ladders or rescheduling and reprogramming the flows of waters to accommodate fish and habitat downstream. None of that was spoken to—nor the loss of generating capacity. Just the process costs that amount of money.

That is why these studies have shown, time and time again, this is a problem that has to get fixed legislatively. Yes, we have had working groups inside the departments of our Federal Government over the last number of years.

When I first began to examine the hydro relicensing problem 5 years ago, to the Clinton administration's credit, they began to get all their agencies together to try to streamline the process. That is in the eye of the beholder, and they did work. But there was nothing in the law that required it. What we were hoping to do is to do that.

What we have done instead as an alternative is provide, when the licensee comes up with an approach, and a stakeholder comes up with an different approach, that the licensee can say: We can arrive at the standards and meet the needs of the stakeholder for less money in a different approach, and the Secretary of the Interior, in this instance, can arbitrate that and make those determinations they can now not make.

It ensures a balance and accountability to Federal resource agencies that I think is critically important. Isn't it fascinating that a third level bureaucrat can make a demand that even the Secretary cannot act on, that may cost millions and millions of dollars? It may even take down a hydro facility because it can no longer operate in an economically effective way and the licensee would simply walk away and the facility would come down and it would be no longer productive because someone downline in an agency determined they needed something that could not in any way be arbitrated, that could not in any way be accommodated by different approaches, or an alternative review.

That is what we offer in the Nelson amendment. That is why it is critical. The Smith amendment, then, gives a little flexibility in time that we think is important. Trout Unlimited has said it is important.

We are certainly willing to accommodate this. This in no way is an anti-environmental vote. The process itself is still intact. All of the players get to the table. All of the players' viewpoints are heard.

We said, when the licensee comes forward and says I can meet those new standards for less money in a different way, that is a consideration which becomes part of the process that does not now exist. We think that is right. We think it is reasonable. That is the way government ought to work.

If we lose our hydro base in this country—and we could—how do we replace it? Coal-fired plants? A new nuclear plant? It can never be made up by wind and solar because it can never produce that amount of power. It would have to be replaced. It is replaced, at least in volume, by the current alternatives I have mentioned. In most instances, and in most States, those alternatives today are somewhat unacceptable.

That is why it is so critically important that the Nelson-Craig-Smith amendment move forward as a part of this energy bill and into the conference where we can work out our differences and hopefully resolve a problem that has plagued this process now since it was created nearly two decades ago.

I thank my colleagues and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the Smith of Oregon substitute to the Nelson first-degree amendment.

Mr. BINGAMAN. Mr. President, I do not object to going a ahead with the vote. I don't believe a rollcall is required at this point.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the substitute.

The amendment (No. 3306) was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, that vote was on the Nelson-Craig amendment in the second degree by the Senator from Oregon?

The PRESIDING OFFICER. The Nelson-Craig amendment is now pending, as amended.

Is there further debate on that amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3140), as amended, is agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the leader time which I am going to take be counted against the 30 hours on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAL REPUBLICAN SLOGANS

Mr. REID. Mr. President, this morning my counterpart in the House, the Republican whip, TOM DELAY, led a press conference. In that press conference, he talked about the fact that he thought the Democrats have stolen the theme of the Republicans. I do not know anything about that, but I do have some suggestions that I would like to give my friend, my counterpart in the House, Representative DeLay, for a theme. That would be Securing America's Future, the Republican Way.

We came up with what we think is a very apt way to describe what we are trying to do by securing America's future for all our families. I would like to suggest this to Representative DeLay: The Real List of Republican Slogans.

One would be securing a $254 million tax break for Enron; and securing secret Caribbean tax havens for billionaires.

Another that should go on the list would be securing skyrocketing prices and huge profit margins for large pharmaceutical companies.

The list wouldn't be complete unless we recognize that the prescription drug benefit being talked about is for 6 percent of American seniors leaving out 94 percent of American seniors.

Also on the list we have securing limited well drilling rights in wildlife refuges and national parks.

Also on the list we have securing crowded classrooms and crumbling schools, and leaving those the way they are.

Part of the list also, I suggest to my friend, Representative DeLay, is securing higher levels of arsenic in drinking water, and, of course, securing permanent tax breaks for the wealthy paid for by raiding Social Security, and also having deep Social Security benefit cuts.

Also on that list would have to be the Vice President's records of giveaways to big energy companies.

Also, we could have on the list securing a future with 100,000 shipments of deadly radioactive waste crossing America's highways, railways, and waterways.

Finally, I would make a suggestion—I have some others, but I know time is short—that we have on that list securing the rights of toxic polluters to pass cleanup costs on to the taxpayers.

I ask that Representative DeLay and others in that press conference with him to go back and look at his own list of slogans and add to that some of these which I have noted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. CARPER. Mr. President, I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3197 TO AMENDMENT NO. 2917

Mr. CARPER. Mr. President, amendment No. 3197 is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. Carper], for himself, Ms. Collins, Mr. Levin, Ms. Landrieu, Ms. Stabenow, and Mr. Jeffords, proposes an amendment numbered 3197 to amendment No. 2917.

Mr. CARPER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To encourage the efficient generation of electricity through combined heat and power and to modify the provision relating to termination of mandatory purchase and sale requirements under PURPA)

Beginning on page 47, strike line 23 and all that follows through page 48, line 20, and insert the following:

"(m) Termination of Mandatory Purchase and Sale Requirements.—

"(1) Obligation to purchase.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.

"(2) Obligation to sell.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

"(3) No effect on existing rights and remedies.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

Mr. CARPER. Mr. President, I ask unanimous consent that Senator Snowe be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Senator Collins of Maine joins me in offering this amendment.

Mr. President, the issue that is before us involves cogenerating facilities which create both heat and power. They are highly efficient and environmentally attractive. They exist in almost all of our States. Unfortunately, section 244 of the Senate energy bill before us would eliminate the provisions in current law which support both existing combined heat and power generating systems and new ones that are being developed. I believe that until competitive conditions in electricity markets make these existing requirements unnecessary, the changes that are incorporated in this bill are premature.

Today, combined heat and power plants, which typically produce electricity and deliver steam used for manufacturing purposes, produce about 7 percent of our Nation's electricity. Combined heat and power facilities are, on average, twice as fuel efficient as conventional utility plants and thus produce about half the emissions of conventional utility plants.

The U.S. Department of Energy and our Environmental Protection Agency have set the goal of doubling the Nation's capacity from combined heat and power facilities by 2010. Section 244 of the Senate energy bill runs counter to this goal by repealing, perhaps inadvertently, statutory support for existing and new combined heat and power generating facilities.

Under existing law, section 210 of PURPA, the Public Utility Regulatory Policies Act, has, since 1978, required electric utilities to purchase electricity generated by so-called qualifying facilities—which includes cogenerators and renewable energy facilities—at the utility's "avoided cost." "Avoided cost" is the cost the utility would have paid to generate the same electricity itself or to purchase it elsewhere. PURPA also requires electric utilities to sell qualifying facilities backup power at just and reasonable rates and without discrimination.

So under current law, under PURPA, these qualifying facilities, cogenerating facilities, are permitted to sell the power that they create at a price that is agreed to at the utility's avoided cost. Also, they have the ability to purchase electricity power as it is needed at a reasonable rate and without discrimination. That is current law. They would lose that ability under the language of the bill that is before us. We do not want them to lose that ability.

Section 244 of the bill would terminate the obligation of electric utilities, under PURPA, to enter into new contracts to either purchase electric energy from these qualifying facilities or to sell electricity to new qualifying facilities.

Some would argue that these PURPA requirements are no longer needed because electricity markets are competitive. In many cases, however, electricity markets are not competitive. I realize in a number of markets they are. Delaware is among them. But in a number of other markets, electricity is not competitive, and these qualifying facilities do not have access to competitive options for buying or selling electricity.

The existing PURPA protections should not be lifted, in my judgment, and that of Senator COLLINS' and our other cosponsors' judgment, until competitive electricity markets are found to render these protections no longer necessary.

The amendment that Senator COLLINS and I offer today would modify section 244 of the bill before us by conditioning the termination of the PURPA obligation for utilities to buy electricity from these qualifying facilities on a finding by the Federal Energy Regulatory Commission, FERC, that the qualifying facility has access to an independent, competitive, wholesale market for the sale of electricity. A FERC finding of a competitive wholesale market assures that there will be real opportunities for a qualifying facility to sell its electrical output, including intermittent power, at a competitive price.

This amendment would also modify section 244 in this bill to clarify that the termination of a utility's obligation to sell backup power to a qualifying facility under PURPA is conditioned on the qualifying facility having the ability to purchase backup power from competing retail electricity suppliers. Until a cogenerator can shop for backup power from competing suppliers, it is critical to maintain the current PURPA obligation for the local utility to sell backup power at just and reasonable rates and without discrimination.

Let me say, in conclusion, I support reform of PURPA, but I do not think we should do it in a way that runs contrary to our other goals of generating efficient electricity and developing competitive markets. This amendment does just that. I urge my colleagues to join us in support of the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to join with my distinguished colleague from Delaware, Senator CARPER, in offering an amendment to the energy bill that would keep in place, for a limited time, incentives for the generation of clean, efficient energy using a technology known as combined heat and power, or cogeneration.

Such cogeneration plants use a variety of fuels, from biomass to natural gas, to produce both electricity and steam. Combined heat and power currently produces about 9 percent of our Nation's electricity. According to the U.S. Energy Information Administration, there are more than 1,000 facilities operating combined heat and power units in the United States, including hospitals, universities, and industries. There are 95 cogeneration facilities in my home State of Maine alone.

By capturing the heat that would be rejected by traditional power generators, combined heat and power is extremely efficient. While a typical coal-fired powerplant only achieves about 34 percent efficiency, cogeneration facilities achieve 70 to 85 percent efficiency. On average, combined heat and power facilities are twice as fuel efficient as conventional utility plants.

By keeping in place incentives for using combined heat and power, the Carper-Collins amendment adds to the competitiveness of our domestic manufacturing. Because cogeneration is so efficient, it reduces cost. The President's national energy policy makes clear that combined heat and power offers energy efficiency and cost savings important to many manufacturers that compete in the international marketplace.

Our amendment also increases energy security and electric reliability. Dispersing power generation at manufacturing sites is an important tool to reduce the risk to the electricity supply. Generating electricity close to where it will be used reduces the load on existing transmission infrastructure. It reduces the amount of energy lost in transmission while eliminating the need to construct expensive power lines to transmit power from large central station powerplants.

In addition, cogeneration reduces the U.S. dependency on foreign sources of energy by encouraging energy efficiency and fuel diversity in electric power generation.

Also, our amendment is good for the environment. Because combined heat and power facilities are twice as efficient as conventional plants, they have fewer emissions. They reduce emissions of the chemicals that cause smog and acid rain and cut greenhouse gas emissions in half. For this reason, cogeneration is an important component of any plan to reduce greenhouse gas emissions and is included in the President's climate initiative.

The U.S. Department of Energy and the EPA have set the goal of doubling U.S. cogeneration capacity by 2010. At industrial facilities alone, cogeneration could reduce annual greenhouse gas emissions by 44 million metric tons. They could also reduce emissions of smog-forming nitrogen oxides by 614,000 tons per year.

Let me now add to the comments made by Senator CARPER on why this amendment is necessary. The Public Utility Regulatory Policy Act, known as PURPA, requires utilities to sell backup power to qualifying nonutility power facilities at just and reasonable rates. It also obligates utilities to purchase excess power from cogeneration facilities at prices equal to that utility's own cost of production, known as the avoided cost. The Senate energy bill, however, repeals PURPA. Repealing PURPA would be a good idea if competitive electricity markets existed all across this Nation. Unfortunately, the legislation before us repeals PURPA even if competitive markets are not achieved.

Our amendment would keep certain PURPA provisions in place until competitive electricity markets were established. For a limited time our amendment would keep in place the PURPA provisions requiring utilities to provide backup power and buy electricity from qualifying cogeneration facilities. As soon as competitive electricity markets were established, these requirements would be repealed.

Without competition, there is no incentive for utilities to provide backup power or purchase electricity from combined heat and power facilities even though that electricity is cleaner and more efficient than most other electricity generation. Until a combined cogeneration facility can shop for backup power from competing suppliers and sell power at a competitive price, PURPA should not be unconditionally repealed.

The amendment Senator CARPER and I are offering today will keep in place incentives that continue to operate combined heat and power facilities until true competition exists in electricity markets.

This amendment is good for the economy, good for the environment, good for our energy policy, and good for the competitiveness of American manufacturing.

I thank my colleague from Delaware for involving me in this amendment. I urge our colleagues to support our proposal.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I know the Senator from Alaska is planning to come to the floor to speak against the amendment. At this point, unless the proponents of the amendment would like to do initial debate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized.

Mr. REID. For Members of the Senate, within the next 15 minutes there will be a rollcall vote, so everybody who is off the Hill should start heading back. The vote will occur probably around 1:05.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, the amendment pending, as I understand it, would extend PURPA's mandatory purchase obligation until such time as FERC determined that a PURPA "qualifying facility" had access to "independently administered, auction-based day ahead and real time wholesale markets for sale of electric energy."

The amendment would also require purchasing utilities to continue to sell backup power to qualified facilities unless competing retail electric suppliers were able to provide electric energy to the qualified facility.

This basically means that FERC is in charge of certain retail sales of electricity—preempting State public utility commissioners on backup retail sales, at least for the foreseeable future. As a consequence, with all due respect, I believe the amendment is flawed. It would continue PURPA's mandatory purchase obligation indefinitely into the future by conditioning repeal on an affirmative FERC finding on a powerplant-by-powerplant basis that the statutory test is met.

There are no requirements in the amendment regarding the process or timing for FERC action. Satisfying this test could take virtually forever, including numerous court challenges. Nor is there any guidance as to how FERC is to define the existence of an "independently administered, auction-based day ahead and real time wholesale market" for electricity.

I guess the question is, Who knows really what it means? It is not a term of art in the Federal Power Act. Moreover, many areas of the country likely do not now meet—and may never meet—this test.

So I suggest that we not be fooled by claims that the only thing the qualifying facilities want is access to the transmission grid. They have that now under FERC order No. 888. It is the law of the land, and it has been upheld by the Supreme Court.

What do the supporters of this amendment really want? In my opinion, they really want to continue PURPA's mandatory purchases at above-market rates. Who pays the cost above market rates? Obviously, the consumer—to have their power purchased at the "avoided cost" rate, even if that rate is far above the market rate.

Well, I think this is wrong policy. The language in the underlying Daschle-Bingaman bill leaves existing contracts in place; but there should be no new PURPA contracts. I think most Members agree with that. Since its enactment—and we have had this debate previously on the bill—in 1978, PURPA has forced customers to pay lots of money. It is estimated that they have paid tens of billions of dollars more for electricity than would have been the case had it not been enacted.

PURPA is incompatible with competitive wholesale markets. It has been used by the qualifying facilities that are cogenerators—producing both power and steam for industrial uses—in name only.

Further, the last three administrations have proposed the repeal of PURPA's mandatory purchase obligation, and almost every comprehensive electric bill introduced over the past two Congresses has contained nearly identical language to the bipartisan consensus PURPA language contained in the Daschle-Bingaman amendment.

Keeping PURPA is contrary to protecting consumers. Thus, in my opinion, the amendment should be rejected. I propose that we table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this time, there is not a sufficient second.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I have no objection if Senator CARPER wants to speak, even though the motion was made. I would certainly defer to my friend.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I thank the Senator.

With the combined heat and power facilities, we have the ability to generate energy almost twice as efficiently as we generate it from traditional utilities, traditional generating plants. With combined heat and power facilities, we see emissions that are roughly half those of traditional powerplants.

The administration's national energy plan envisions a doubling and relies on combined heat and power facilities in this country because they are so energy efficient and also environmentally friendly.

The downside, unfortunately, is that, inadvertently, the language of this bill before us takes away the ability for FERC to help ensure that these combined heat and power facilities have the opportunity to sell power at reasonable prices into the grid and to buy power, if and when they need to buy it, at reasonable prices.

I think all of us would agree that to have the ability to create more facilities that are twice as energy efficient as traditional generating facilities and produce half the emissions is a good thing. That is why the administration has offered doubling these facilities in their plan.

Unfortunately, if we leave the language as it is in the bill, we are going to find that the potential that is embodied in the generating capability of the combined heat and power facilities will not be realized. Nobody is interested in utilities having to sell electricity at rates that are above market. We want to simply make sure that a combined heat and power facility, which is twice as energy efficient, and twice as environmentally friendly, has the opportunity to expand. That is what we seek to do here.

With that in mind, I ask our colleagues to oppose the motion to table.

Again, I express my thanks to the Senator from Maine, Ms. COLLINS, for joining me and a number of colleagues in offering this amendment today.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3197. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—37

Allard
Allen
Bennett
Bingaman
Bunning
Burns
Cantwell
Cochran
Craig
Crapo
Domenici
Ensign
Enzi
Graham
Gramm
Grassley
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (FL)
Nickles
Roberts
Sessions
Shelby
Stevens
Thomas
Thurmond
Warner

NAYS—60

Akaka
Baucus
Bayh
Biden
Bond
Boxer
Breaux
Brownback
Byrd
Campbell
Carnahan
Carper

Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Frist

Gregg
Harkin
Hollings
Hutchinson
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Nelson (NE)

Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Thompson
Torricelli
Voinovich
Wellstone
Wyden

NOT VOTING—3

Daschle
Helms
Johnson

The motion was rejected.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Is there further debate on the amendment?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3197.

The amendment (No. 3197) was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Georgia, Mr. CLELAND, be recognized for up to 15 minutes to speak as in morning business, and the time be counted against the postcloture 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CLELAND are printed in today's RECORD under "Morning Business.")

Mr. BROWNBACK. Mr. President, I have an amendment I would like to send forward, modify, and set aside.

The PRESIDING OFFICER. The Senator from Kansas.

MODIFICATION OF SUBMITTED AMENDMENTS NOS. 3239 AND 3146

Mr. BROWNBACK. I call up amendment No. 3239 and ask for its immediate consideration, and I ask unanimous consent to modify amendment No. 3239.

Mr. REID. Mr. President, reserving the right to object, I do not think we have had a chance to see that modification. I have spoken to the Senator from Kansas in the Chamber this morning. I spoke also with Senator HAGEL. We have to do both at the same time. We cannot do them separately.

Mr. BROWNBACK. I spoke with Senator HAGEL and told him I would send it forward, then ask for the modification, and then set it aside. If we want to do those at the same time, that is fine. I just wanted to get the amendment and its modifications forward. It is not to get ahead of anybody. If they want to do the modifications at the same time, I will yield to the distinguished floor leader from Nevada.

Mr. REID. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. BROWNBACK. Mr. President, to remove the confusion, I withdraw my request at this time.

The PRESIDING OFFICER. The request is withdrawn.

Mr. REID. Mr. President, I say to my friend, it is my understanding what he wants to do is modify his amendment.

Mr. BROWNBACK. That is correct.

Mr. REID. I also want to modify Senator HAGEL's amendment.

I ask unanimous consent, notwithstanding rule XXII, that it be in order to modify amendments Nos. 3239 and 3146. I think that accomplishes what we want to accomplish.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Submitted amendments Nos. 3239 and 3146, as modified, are as follows:

SUBMITTED AMENDMENT NO. 3239, AS MODIFIED

Strike all after the title heading and insert the following:

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term "baseline" means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term "database" means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term "designated agency" means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term "entity" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term "facility" means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(9) INDIRECT EMISSIONS.—The term "indirect emissions" means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by another entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(10) REGISTRY.—The term "registry" means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(11) SEQUESTRATION.—

(A) IN GENERAL.—The term "sequestration" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) INCLUSIONS.—The term "sequestration" includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(A) are established as of the date of enactment of this Act under other law;

(B) provide for the collection of data relating to greenhouse gas emissions and effects; and

(C) are necessary for the operation of the database;

(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and

(B) maximize the use of available resources of those departments and agencies; and

(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:

(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—

(A) measurement standards for the monitoring of emissions; and

(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.

(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and

(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—

(A) developing measurement techniques for—

(i) soil carbon sequestration; and

(ii) forest preservation and reforestation activities; and

(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.

(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).

(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the "National Greenhouse Gas Database", to collect, verify, and analyze information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) COMPREHENSIVE SYSTEM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

(3) BASELINE IDENTIFICATION AND PROTECTION.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that provides—

(A) for the provision of unique serial numbers to identify the verified emission reductions made by an entity relative to the baseline of the entity;

(B) for the tracking of the reductions associated with the serial numbers; and

(C) that the reductions may be applied, as determined to be appropriate by any Act of Congress enacted after the date of enactment of this Act, toward a Federal requirement under such an Act that is imposed on the entity for the purpose of reducing greenhouse gas emissions.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline (including all of the entity's greenhouse gas emissions on an entity-wide basis); and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the greenhouse gas emissions from fossil fuel combusted by products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting reductions under this section)—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(ii)(I) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); and

(II) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) REQUIREMENTS.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) REVIEW AND REVISION.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) PUBLIC PARTICIPATION.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) INCREASED APPLICABILITY OF REQUIREMENTS.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SUBMITTED AMENDMENT NO. 3146

(Purpose: To establish a national registry for accurate and reliable reports of greenhouse gas emissions, and to further encourage voluntary reductions in such emissions)

Strike Title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS REGISTRY

SEC. 1101. SHORT TITLE.

This amendment may be cited as the "National Climate Registry Initiative."

SEC. 1102. PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities.

SEC. 1103. DEFINITIONS.

In this title—

(1) "person" means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) "entity" means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) "facility" means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) "reductions" means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) "greenhouse gas" means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate;

(6) "Secretary" means the Secretary of Energy;

(7) "Administrator" means the Administrator of the Energy Information Administration; and

(8) "Interagency Task Force" means the Interagency Task Force established under title X of this Act.

SEC. 1104. ESTABLISHMENT.

(a) IN GENERAL.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) DESIGNATION.—Upon establishment of the registry and issuance of the guidelines pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) PARTICIPATION.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

SEC. 1105. IMPLEMENTATION.

(a) GUIDELINES.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entities transferable credits with unique serial numbers for such verified emissions reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) Consideration.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in applying such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily, taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) Experts and Consultants.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and nonprofit sectors in accordance with the provisions of section 3109 of title 5, United Sates Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) Transferability of Prior Reports.—Emissions reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) Public Comment.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) Review and Revision.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

SEC. 1106. VOLUNTARY AGREEMENTS.

(a) In General.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity which, inter alia—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other parties or entities through a voluntary private transaction between persons or entities; or

(C) shall be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) Public Notice and Comment.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it to finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) Emissions in Excess.—In the event that a person or entity fails to certify that emissions from applicable facilities are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) No New Authority.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

SEC. 1107. MEASUREMENT AND VERIFICATION.

(a) In General.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions and emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestration activities which adequately address the issues of permanence, leakage and verification; and

(4) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall determine to be appropriate.

(b) Public Comment.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

SEC. 1108. CERTIFIED INDEPENDENT THIRD PARTIES.

(a) Certification.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administrator, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transaction of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under this title.

SEC. 1109. REPORT TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation in the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. 1110. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this title, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry represent less than 60 percent of the national aggregate greenhouse gas emissions as inventoried in the official U.S. Inventory of Greenhouse Gas Emissions and Sinks published by the Environmental Protection Agency for the previous calendar year.

(b) MANDATORY REPORTING.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of such aggregate greenhouse gas emissions are being reported to the registry—

(1) all persons or entities, regardless of their participation in the registry, shall submit to the Secretary a report that describes, for the preceding calendar year, a complete inventory of greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted by such person or entity, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by such person or entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the Secretary determines by regulation to be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

(2) each person or entity shall submit a report described in this section—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) EXEMPTIONS FROM REPORTING.—

(1) IN GENERAL.—A person or entity shall be required to submit reports under subsection (b) only if, in any calendar year after the date of enactment of this title—

(A) the total greenhouse gas emissions of at least 1 facility owned by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation);

(B) the total quantity of greenhouse gas produced, distributed, or imported by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation); or

(C) the person or entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(2) ENTITIES ALREADY REPORTING.—A person or entity that, as of the date of enactment of this title, is required to report carbon dioxide emissions data to a Federal agency shall not be required to report that data again for the purposes of this title. Such emissions data shall be considered to be reported by the entity to the registry for the purpose of this title and included in the determination of the Director of the Office of National Climate Change Policy made under subsection (a).

(d) ENFORCEMENT.—If a person or entity that is required to report greenhouse gas emissions under this section fails to comply with that requirement, the Attorney General may, at the request of the Secretary, bring a civil action in United States district court against the person or entity to impose on the person or entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

(e) RESOLUTION OF DISAPPROVAL.—If made, the determination of the Director of the Office of National Climate Change Policy made under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1111. NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate, within 6 months after the effective date of that agreement.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, I ask unanimous consent that I may be permitted to speak as in morning business for a period of up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DAYTON are printed in today's RECORD under "Morning Business.")

Mr. DAYTON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent the time that was used by the Senator from Minnesota be counted against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

AMENDMENT NO. 3256 TO AMENDMENT NO. 2917

Mr. NICKLES. Mr. President, I ask that amendment No. 3256 be considered.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. BREAUX, and Mr. MILLER, proposes an amendment numbered 3256.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title II, insert the following:

SEC. . Not withstanding any other provision in this Act, "3 cents" shall be considered by law to be "1.5 cents" in any place "3 cents" appears in Title II of this Act.

Mr. NICKLES. The amendment I called up, sponsored by Senator BREAUX, Senator MILLER, Senator VOINOVICH, and myself, will reduce the penalty if a utility doesn't achieve the renewable standard that is set in the legislation.

The legislation says that 10 percent of the electricity produced has to be from renewable sources. Renewable sources are defined as wind and solar, biomass—interestingly enough, not hydro. That is a very difficult standard to achieve. I am not sure any State can achieve it now or any State will be able to achieve it in the future. We will have to see.

Varying States have different renewable standards. I am all in favor of that, whatever States want to decide. We are getting ready to have a Federal mandate that says: 10 percent of your power has to be from renewable sources. Most people think renewables is nonfossil fuel, but that is not the case here. We are talking about primarily wind, solar, and biomass. Nuclear fuel is not included. Hydro, or at least old hydro, is not included. But if you don't achieve that 10 percent standard, there is a penalty.

How do you get to the 10 percent? Let's say you do everything you can, but primarily most of the production in your State is fossil fuel. You run off coal or natural gas generators. And if you are short of the 10 percent, what do you do? Under the bill, you can buy it from other utilities, if they have surplus credits, or you can pay the Federal Government. You can pay the Government for the credits. You could call them credits. You could call them a tax. You could call them a penalty. But you have to pay, if you don't meet this 10 percent standard. Actually, the standard starts at 1 percent and it is phased up to 10 percent in the year 2019.

If you don't make the standard, you have to pay something. It is a tax. Your utility has to write a check to the Federal Government, a large check. In many cases, it could be hundreds of millions of dollars. In many cases, the cost to the utilities—and I will enter into the RECORD some statements from different utilities—could be billions of dollars, because they have to pay 3 cents per kilowatt hour for whatever they are short of this target we are getting ready to mandate.

How much is 3 cents per kilowatt hour? Most of us don't know. When we pay our utility bill, we don't know how much utilities really cost. The wholesale price of electricity right now, nationwide, is about 3 cents. If you don't meet the target, basically you have to pay 100 percent of whatever you are short on renewables in electricity cost. That is a lot, for 10 percent of your power.

If you produce no electricity from the renewables, this bill is the equivalent of a 5-percent surcharge because you are paying in effect a 100-percent increase for that last 10 percent. If you average that over your entire cost, it is about a 5-percent increase in your utility bill.

I will tell you, few if any utilities will meet this standard in this bill, even those utilities that are very progressive and aggressive in trying to meet renewable standards and have renewable energy sources such as wind, solar, and biomass. Few are able to meet this standard that is in this bill. So you are going to have to buy these credits and pay a lot of money.

The essence of this amendment is, let's reduce that 3-cent penalty to a penny and a half. You might say, where did you get the penny and a half? It happens to be half of what is in the underlying bill, and it also happens to be half of what the Clinton administration proposed.

President Clinton, in 1999, proposed that we have a renewable standard. Incidentally, he didn't go up to 10 percent; he only went to 7.5 percent of your electricity would have to be renewable. He also said: If you don't meet that objective, the penalty will be a penny and a half. That is the cost of the credits.

Secretary Bill Richardson—many of us got to know him over the years and enjoyed working with him in Congress—when he was Secretary of Energy, that was the penalty, a penny and a half, not 3 cents.

So the amendment Senator BREAUX, Senator MILLER, Senator VOINOVICH, and I have is to reduce the penalty from 3 cents to a penny and a half. That sounds as if we are talking about pennies. We are talking about billions of dollars, because we are talking about, 10 percent of all the electricity that is produced in the United States must come from renewables, and if you don't make it, you have to pay this 3 cents per kilowatt hour.

What does that mean? I will cite a couple of letters. I have them from different companies and different States.

I will start with my State. Oklahoma Gas and Electric said the penalty under the bill, as written right now—their estimate is it would cost $794 million through the year 2020. We would cut that in half. We have almost every utility in the country supporting of this amendment. This is a rather large utility called Southern Company. I mentioned the largest one in my State, Oklahoma Gas and Electric. Southern Company, which is in several Southern States, said it would cost them from $676 million to $1.014 billion annually by the year 2020.

I hope my colleagues understand this. I have a letter I will also have printed in the RECORD from the president of Southern Company, one of the largest utilities in America that says the total cost across several states could be over a billion dollars—from $676 million up to over a billion dollars a year—if the 3-cent penalty stays in the bill. We would cut that in half under our amendment.

I could go on and on. Is it going to cost the utilities ultimately? Probably not. They are going to pass it, if they can; and I expect that they can. Residential consumers and industrial consumers will pay for it. Frankly, if industrial consumers are paying for it, they are going to pass that on, too.

If you want to set about an inflationary spiral, we are doing that. We are increasing utility costs if we allow the Daschle-Bingaman 3-cent penalty per kilowatt hour to stay in the bill. I think it should be zero. Senator KYL had an amendment to strike out the renewable section, but I am coming up with half a loaf. I am saying cut it in half. I am a legislator. If we can pass a bill half as damaging, I am willing to do it. If we can reduce the numbers by half, I think we will have made a big step in the right direction. Why in the world would we have a cap or a penalty higher than the Clinton administration proposed?

Incidentally, it didn't pass. Some people said we should not pass it because it costs too much.

Look at some of the other States that are involved. Kansas City Power and Light said it would cost over $300 million, and that is the current cap. We would cut that in half.

Different companies have used different ways of stating the costs. Pinnacle West in Arizona talks about it costing billions of dollars to comply. They even said it may have a residential rate increase of 28 percent.

In Pennsylvania, PP&L, which has facilities in Pennsylvania and Montana, estimates penalties at $178 million per year in 2006, growing to $260 million by 2020. The reason they start out low is the renewable section starts out low, at 1 percent, but it grows every year, up to the very expensive 10 percent by 2019.

Let me mention a couple letters, which I will enter into the RECORD, so that this won't just be little excerpts from my floor speech. This is a note from Allegany Energy. It says:

> The rates under the restructuring initiative to lower consumer costs may restrict Allegany Energy, a conservative—1 percent requirement would cost $13 million annually, and a 10 percent requirement would cost $135 million annually, assuming no growth in customer electricity consumption.

I think most people would assume the consumption would go up over that period of time. That is a very conservative estimate.

Exelon: I will read various segments of this:

> Meeting the Bingaman RPS amendment will cost our customers between $2.3 billion and $4.6 billion more than they would otherwise pay for electricity between 2005 and 2020.

I hope my colleagues have a chance to absorb some of these numbers. This is a very large utility, and they are primarily in Illinois and Pennsylvania. They said it could cost $4.6 billion if we don't change the Bingaman amendment. Our amendment says we will cut it in half. I hope the Senators from Pennsylvania, the Senators from Illinois, and others will stop and say, wait a minute, who pays for that? Are we really passing something where we know what we are doing? Are we going to mandate those cost increases on consumers?

Wait a minute, we are giving people a chance to cut it in half. That is what this amendment does. Listen to this comment made from Bill Richardson before a House committee in June 17 of 1999:

> To hold program costs down, the administration's proposal would allow electricity sellers to purchase credits from the Department of Energy at a cost of 1.5 cents per kilowatt hour. As a result, sellers would not be forced to pay excessive amounts for credits that are sold by other electricity providers that exceed the 7.5 percent RPS requirement.

This bill has a 10-percent requirement, and if you don't meet it, it says you have to pay 3 cents per kilowatt hour. As I have mentioned by a few examples, the cost is absolutely enormous.

I want to mention a couple others. This is a the Public Service Commission for the State of Florida:

> However, in order to mitigate the "tax impact" of this poorly conceived national program, we support the Nickles amendment to lower the amount of penalty from 3 cents to 1.5 cents per KWH. This would reduce the potential cost of this federal mandate on Florida ratepayers.

That is a copy of a letter to Senator GRAMM.

This is a note from American Electric Power. It says:

> AEP is joining in this effort with Allegany Energy, Console Energy, Peabody Energy, and the U.S. Mineworkers of America. AEP and Allegany are the two largest utilities in West Virginia and are responsible for all the electricity distributed in the State.

I will enter into the RECORD a letter from Southern Company. This is signed by Allen Franklin, chairman and president and CEO:

> The cumulative cost of the RPS mandate to Southern Company through the year 2020 will be from $3 billion to $6.5 billion. This does not include substantial transmission and interconnection costs for remote wind turbines located in the upper Midwest. . . .

I will enter this into the RECORD. That is a major company, covering several States, saying this will cost billions of dollars over the next 15 years. I just tell my colleagues that when we talk about a penalty of a penny and a half and 3 cents per kilowatt, that doesn't sound like much. When you multiply it times all the electricity and mandate that 10 percent of the electricity meet the standard and, if it doesn't, they have to pay this 3 cents—basically a 100-percent tax on electricity, equal to the value of 100 percent of wholesale cost of electricity—you are talking about an enormous utility increase. We have a chance to mitigate that; we have a chance to reduce it by basically agreeing to the same standard that was proposed by the Clinton administration in 1999. I urge my colleagues to do so.

I ask unanimous consent to have the letters to which I referred printed in the RECORD.

There being no objection, the letters were ordered to be printed in the Record, as follows:

SOUTHERN COMPANY,
Atlanta, Georgia, April 16, 2002.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: As the Senate continues its consideration of S. 517, the Daschle/Bingaman energy bill, I wanted to thank you for your continued efforts to improve the Renewable Portfolio Standard (RPS) mandate in the bill. This ill-advised policy will mandate the use of un-economic generation and is not practical in several regions of the nation.

In many parts of the country, the RPS mandate can not be achieved due to the lack of wind resources and the intermittent nature of solar energy. The requirement to purchase penalty credits under such circumstances equates to a tax on consumers in those regions with no resulting benefit for those same consumers. The cumulative cost of the RPS mandate to Southern Company through the year 2020 will be from 3 billion dollars to 6.5 billion dollars. This does NOT include substantial transmission and interconnection costs for remote wind turbines located in the upper Midwest, which is the likely location for such an option. Obviously these dramatic costs would increase the price of electricity to our customers and threaten their lifestyles and the economic health of their communities.

One way to reduce these costs would be to lower the 3-cents per kilowatt-hour penalty contained in the Bingaman RPS language. This penalty is double the 1.5-cents per kilowatt-hour renewable credit cost in a renewable portfolio standard proposed by the Clinton Administration. I understand you intend to offer an amendment to lower the RPS penalty to 1.5-cents per kilowatt-hour, and we will support you in that regard. This will not remove the negative impacts on our customers of an ill-advised RPS mandate, but it will at least lessen those costs significantly.

We appreciate your continued efforts to improve energy legislation as it moves through Congress.

Sincerely,

ALLEN FRANKLIN

OGE ENERGY CORP.,
Oklahoma City, OK, April 16, 2002.

Hon. BLANCHE L. LINCOLN,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR LINCOLN: On behalf of Oklahoma Gas & Electric (OG&E) I strongly urge your support of an amendment to be offered by Senator Don Nickles to reduce by half the cost to Arkansas consumers of the mandatory Renewable Portfolio Standard provision in the pending energy bill, S. 517. The Nickles amendment would reduce the cost of the renewable energy credit from 3 cents per kilowatt-hour to 1.5 cents per kw/hour.

Based on the year 2001 actual total retail sales and full implementation of the 10% RPS requirement, we calculate that it would cost our customers an additional $73 million per year, suggesting an increase of 5% in our retail rates. OG&E opposes such federal mandate on investor-owned utilities since it will skew the competitive playing field toward cooperatives and public power that have been unfairly exempted from the federal RPS mandate. The exemption of the coops and public power utilities is equivalent to a 5% penalty for our Company and a 5% windfall for coops and public power. Although we are opposed to renewable mandates, OG&E is willing to purchase power generated by renewable sources if customers desire to purchase it. But thus far, our customers in Arkansas and Oklahoma have not evidenced a willingness to purchase higher priced renewable power to justify our investment in these sources. Instead, our customers clearly prefer the highly reliable and much less expensive range of generation options that we currently offer. The RPS provision in the energy bill will force our Arkansas customers to pay more for a renewable product they do not yet want enough to pay for. In so doing, the RPS will raise costs to residential and business customers without countervailing benefit either to them or to the Fort Smith regional economy.

Senator Nickles' amendment would at least reduce the economic impact of the RPS provision by half. It makes real sense to me. I hope you will support Senator Nickles' effort. If you have any questions, please let me know.

Sincerely,

STEVEN E. MOORE,
Chairman, President and Chief Executive Officer.

PROGRESS ENERGY SERVICE COMPANY, LLC,
Raleigh, NC, April 22, 2002.

Senator DON NICKLES,
Senate Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: As the Senate continues debate on the energy bill (S. 517), I must share with you my company's strong conviction that this legislation is poor energy policy for our customers and the country. The bill represents an enormous policy reversal that gives important state jurisdiction directly to the federal government.

Progress Energy was formed in 2000 when Carolina Power & Light merged with Florida Progress. Through two subsidiaries, the company provides electricity to nearly three [2.8] million customers in the Carolinas and Florida by employing a diverse generation portfolio of more than 20,000 megawatts. Our service territory has enjoyed substantial growth based, in part, on our ability to produce reliable low-cost energy. We use the market to select the best fuel mix for energy production, a process that is grossly jeopardized by the mandated renewable portfolio standards (RPS).

Under the RPS cap of 3 c/kWh, between 2005 and 2020, Progress Energy's customers would be forced to absorb $3.5 billion in extra costs. This RPS mandate would eventually sidetrack economic growth. Additionally, the RPS could limit the benefits of emissions-free energy our customers currently enjoy since we use a large percentage of electricity generated with nuclear and hydropower.

Thank you for your interest and concern regarding the RPS amendment and please know that we would be very supportive of any relief you could give on this mandate.

Sincerely,

DAVID G. ROBERTS,
Director Federal Affairs.

STATE OF FLORIDA,
PUBLIC SERVICE COMMISSION,
Tallahassee, FL, April 22, 2002.

RE: S. 517, the Energy Bill

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: The Florida Public Service Commission (FPSC) appreciates the opportunity to provide comments on three areas of amendments to S. 517, the energy bill. These areas are: (1) The Renewable

Portfolio Standards; (2) the Landrieu amendment on participant-funded transmission expansion; and (3) the amendments referred to as the consumer protection package.

(1) NICKLES AMENDMENT TO THE RENEWABLE PORTFOLIO STANDARDS SECTION

The FPSC continues to oppose the Federal Renewable Portfolio Standards. Florida utilities will have difficulty meeting the federal standards. We believe that state legislatures are best suited to set policies on renewable standards for their state. In fact, during the current legislative session, the Florida legislature directed the FPSC to complete a study on renewables by February 2003. A strict one-size-fits-all standard could put companies in the position of having to purchase credits from elsewhere or of being in noncompliance. The impact will ultimately be on the retail ratepayer. Again, we oppose the Federal Renewable Portfolio Standard. However, in order to mitigate the "tax impact" of this poorly-conceived national program, we support the Nickles amendment to lower the amount of the penalty from 3 cents to 1.5 cents per KWH. This would reduce the potential cost of this federal mandate on Florida ratepayers.

(2) LANDRIEU AMENDMENT ON "PARTICIPANT-FUNDED TRANSMISSION EXPANSION"

We believe this amendment to place the costs of transmission expansion on the cost causer has merit, but we do have some concerns about the provisions included in the amendment. For example, there is a provision on market monitoring that possibly could be interpreted to view the Regional Transmission Organization as the primary market monitor. Surely, that is not the intention of the amendment. Moreover, the FPSC has initiated its own RTO proceeding to address a Florida-specific RTO. That proceeding may also address the entity appropriate to cover market monitoring. The language within that provision is positive regarding the RTO publicizing: (1) Projects that increase capacity or transfer capability of the transmission system, and (2) the tradeable transmission rights and costs associated with the project. Thus, perhaps the section could be revised to address only the "RTO Publication of Information" instead of "Market Monitoring," or the section could be deleted. Thus, we believe the amendment has merit, but should be revised.

(3) CONSUMER PROTECTION PACKAGE

In general, the amendments, referred to as "the Consumer Protection Package" look superior to the language in S. 517, as amended by Senator Thomas. They create a standard on proposed mergers that they must "advance the public interest" which is a higher standard than "consistent with the public interest." Also, the package expands the list of factors to be considered by FERC in reviewing mergers.

In addition, the amendments require public disclosure of transactions, and establish clear standards on affiliate transactions. Also, there would be access to utility holding company books and records. We see benefit to these provisions, and they are consistent with this Commission's Bedrock Principles on National Energy Policy.

We do want to raise a concern, however, that States not be preempted. In particular, there is the provision on market based rates which directs FERC to remedy market flaws and abuses. To the extent that one of those remedies might be to require divestiture of a utility's assets, we believe the FERC should be required to consult with those state commissions that have statutory authority prior to ordering such a remedy. Thus, in general we commend the "consumer protection" package of amendments, but urge that any potentially preemptive language be closely scrutinized.

We appreciate your staff staying in close contact with FPSC staff, and hope this information is useful.

Sincerely,

LILA A. JABER,
Chairman.

GREAT PLAINS ENERGY,
Kansas City, MO, April 17, 2001.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: On behalf of the employees of Great Plains Energy, including our regulated subsidiary Kansas City Power & Light, I am writing to express my appreciation for your leadership and support on an issue of great concern.

During the Senate's recent consideration of S. 517, the energy bill, you spoke about the adverse effect a renewable portfolio standard (RPS) would have on utilities and cited information from the Energy Information Administration (EIA) that the cost of purchasing credits in lieu of complying with a renewable mandate would cost KCPL $16 million—in your words, "a pretty good hit."

Unfortunately, EIA grossly understated the costs of a 10 percent mandate to KCPL, and "the hit" is much worse than that. We project the total costs of purchasing the credit to be more than $300 million over the 15-year period between 2005 and 2020, when the RPS would ramp up to the full 10 percent. For a company of our size, these costs are intolerable.

While we appreciate the need to diversify our energy mix, doing so by imposing a federal mandate that ignores the availability and cost-effectiveness of renewable resources is not sound public policy. In our area, wind energy, for example, certainly would not be competitive with fuels such as coal, oil, natural gas, or nuclear. That is why we strongly support your efforts to amend the RPS by reducing the credit cost from $0.03 per kWh to $0.015 per kWh. Even with the credit cut in half, we would still be saddled with extraordinary costs.

We pride ourselves on providing reliable and affordable electric service, yet the hidden tax imposed by the RPS may be felt by many who can ill afford higher electricity prices.

We appreciate your efforts to reduce the burden of the renewable energy mandate, and offer our assistance to enact a more reasonable approach.

Sincerely,

BERNIE BEAUDOIN.

AMERICAN CORN GROWERS ASSOCIATION,
Washington, DC, April 16, 2002.

Hon. JOHN B. BREAUX,
U.S. Senate, Washington, DC.

DEAR SENATOR BREAUX: I am writing to urge your support for the amendment that Senator Nickles plans to offer to the renewable portfolio standard of the energy bill, S. 517. Wind energy is fast becoming a major new "crop" for the farming and ranching community in many areas of the nation. The American Corn Growers Association (ACGA), has developed its Wealth From the Wind Program for farmers, and has strongly supported wind energy tax credits in the Energy Bill as well as other favorable legislative initiatives in the Energy Title of the Farm Bill. ACGA also supports a fair and equitable renewable portfolio standard (RPS) requiring a portion of the nation's energy to come from renewable sources. However, while we want to do everything we can to promote renewable production by farmers we must oppose undue mandates that will impose additional fuel costs on all rural consumers.

Senator Nickles' amendment will significantly reduce the cost of complying with the standard, and in turn protect rural America from excessive price increases for electricity, by cutting the energy credits from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour.

As you know fuel prices have fluctuated wildly over the last two years and some regions have seen shortages of electricity. With the price of gasoline and diesel rising steadily now is not the time to add to these uncertainties.

We urge you to support the amendment offered by Senator Nickles.

Sincerely,

LARRY MITCHELL,
Chief Executive Officer.

MIDAMERICAN ENERGY HOLDINGS COMPANY,
Omaha Nebraska, April 11, 2002.

Hon. DON NICKLES,
Assistant Republican Leader, The Capitol, Washington, DC.

DEAR SENATOR NICKLES: Thank you for your continued support of the inclusion of electricity modernization provisions in the Senate energy bill. The bipartisan vote yesterday by the Senate to maintain the bill's electricity title was a great step forward.

With regard to your concerns about the renewable portfolio standard (RPS) in the Daschle/Bingaman energy bill, MidAmerican Energy Company has analyzed this proposal and developed estimates of the increase in costs that will result from enactment of the RPS. According to our preliminary calculations, implementing the RPS in S. 517 will begin increasing electricity costs for MidAmerican's regulated and competitive customers in 2007 by almost $600,000, with costs rising to more than $40 million in 2019.

Because of the comparatively high availability of affordable renewables in the region served by MidAmerican, we based our calculations on an estimated additional cost of 1.5 cents/kilowatt hour for qualifying sources. As a major developer of renewable electricity through our CE Generation subsidiary, MidAmerican believes that renewables can and should play an increasing role in the nation's electric generation mix, and the Company has expressed its support for Senator Bingaman's overall efforts to promote increased use of these resources. At the same time, MidAmerican has long believed that applying a reasonable cap on the cost of renewable credits would ensure that consumer costs do not escalate beyond those anticipated by RPS proponents.

I understand that you are holding ongoing discussions with Chairman Bingaman about the possibility of adjusting the cost cap in the underlying legislation to address some of your concerns about the RPS. We have contacted Chairman Bingaman's staff to express our hope that a mutually acceptable compromise can be reached on this issue. Thanks again for your inquiry and continued support for PUHCA repeal and other important industry modernizations.

Sincerely,

DAVID L. SOKL,
Chairman and Chief Executive Officer.

ELECTRIC CONSUMERS' ALLIANCE,
Indianapolis, IN, April 16, 2002.

Re: Consumer support for Sen. Nickles' Amendment to S. 517 regarding Renewable Portfolio Standards

DEAR SENATOR: On behalf of Electric Consumers' Alliance, its more than 300 member organizations representing all 50 states, and its tens of millions of residential and small business constituents, I am writing to indicate our strong support for Senator Nickles' proposed amendment to S. 517, the pending energy bill. Simply put, Sen. Nickles seeks to implement the mandatory Renewable Portfolio Standard in a way that is more equitable and cost effective for consumers across the nation by reducing the renewable energy credit from 3 cents to 1.5 cents per kilowatt-hour.

Renewable energy resources can and will play an important role in America's future energy infrastructure. As such, ECA supports their development, including the creation of subsidies to accelerate their deployment. At the same time, however, we are cognizant that our members will continue to expect a reliable, affordable supply of electricity over the next decade, and this will come predominantly from traditional resources. It is important to encourage the development of new resources, but this must be tempered against the more important goals of maintaining service that is reliable and affordable. There is a danger in transferring too much of the cost burden for development of these resources to consumers, rather than encouraging the market to work.

The mandated RPS requirement will not necessarily lessen the need for or reliance on traditional generation in the short-term. This is because of the intermittent nature of renewable resources. Consumers won't wait for the sun to shine or wind to blow to turn on appliances or flip the lights. The renewable credits that are to be paid under S. 517 will likely be an adder to the cost of electricity for consumers. As a result, these credits—while well-intentioned—will almost certainly have a direct impact on raising the price of electricity for many Americas (assuming reliability is not compromised, which we certainly do not advocate).

The Nickles proposal is a reasonable attempt to mitigate the impact of the almost certain consumer price hike that will be caused by mandated RPS. At a time when energy affordability is an issue for a growing number of residential and small business consumers, it is an appropriate balancing of the interests at stake. If consumers are to shoulder the burden for development of renewable resources through credits, which S. 517 requires, then that cost burden should be mitigated to more reasonable levels. Sen. Nickles' proposal to reduce this impact by reducing the credit from 3 cents to 1.5 cents per kilowatt hour is a reasonable compromise. It deserves your support.

Thank you for your kind consideration.

ROBERT K. JOHNSON,
Executive Director.

April 18, 2002.

Hon. DON NICKLES,
Hon. JOHN B. BREAUX,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES AND SENATOR BREAUX: The undersigned associations thank you for your leadership in offering your amendment to reduce the costs of the renewable portfolio standard (RPS) contained in the pending Daschle/Bingaman amendment to the Energy Policy Act of 2002 (S. 517).

Your amendment would make a modest, but economically critical, change to the cost cap aspect of the RPS program. The current RPS provisions mandate that an increasing percentage of electricity sold be generated from renewable resources. The RPS program further provides that those electricity generators that cannot economically achieve the required level of generation using renewable energy sources can purchase "credits" from the Department of Energy to meet their shortfall. The bill price for these credits is three cents per kilowatt hour. This credit price is intended to act as a cap on the cost increases that will result as demand for renewable power increases in response to the RPS requirement.

Unfortunately, this three-cent credit price is simply set too high. Current wholesale electricity prices are only slightly above three cents per kilowatt hour in most areas of the country. With a three-cent credit, the result will be that in most areas of the country the cost of electricity mandated by the RPS provision could be almost double the current wholesale cost of electricity. These higher costs will be passed on to businesses and homeowners across the country.

Your amendment would halve the credit price to one and one-half cents per kilowatt hour. This is the same price set by the Clinton Administration in its RPS proposals made in 1999. Consumers will still pay more for electricity, but the cost to consumers will be only half as much as it would be with a three cent cost cap. Thus, the Nickles/Breaux amendment would reduce the overall cost of the RPS provision.

Your amendment will ensure that businesses and homeowners alike will have more affordable electricity supplies in the future; reduce the economic costs of the federal renewable portfolio standard program in the energy bill; and to promote economic growth and prosperity for all Americans.

Sincerely,

Alliance for Competitive Electricity, American Chemistry Council, American Gas Association, American Iron and Steel Institute, American Petroleum Institute.

American Portland Cement Association, Associated Petroleum Industries of Pennsylvania, Association of American Railroads, Carpet and Rug Institute, Coalition for Affordable and Reliable Energy.

Edison Electric Institute, Electric Consumers Alliance, Electricity Consumers Resource Council, Greater Raleigh [NC] Chamber of Commerce, Indian River [FL] Chamber of Commerce.

International Association of Drilling Contractors, Manhattan [NY] Chamber of Commerce, Massachusetts Petroleum Council, Metropolitan Evansville [IN] Chamber of Commerce, Missouri Oil Council.

Naperville [IL] Chamber of Commerce, National Association of Manufacturers, National Electrical Manufacturers Association, National Federation of Independent Business, National Lime Association.

National Mining Association, National Ocean Industries Association, Natural Gas Supply Association, Nebraska Restaurant Association, Nevada Hotel & Lodging Association.

Nevada Restaurant Association, Nuclear Energy Institute, Oklahoma State Chamber of Commerce & Industry, Stowe [VT] Area Association, Tacoma-Pierce County [WA] Chamber of Commerce, U.S. Chamber of Commerce.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I did not want to speak if the chairman wanted to speak at this time, but in the absence of his desire to speak at this particular moment, I will make a few comments on the Nickles-Breaux amendment.

I have joined the Senator from Oklahoma in cosponsoring this amendment. This is a good amendment. It is good for consumers, certainly, it is good for the renewable energy industry in this country, and it is also good for the traditional suppliers of energy in this country.

Let me state at the very beginning that I support the so-called renewable portfolio standard. If I were in Louisiana, I would try to explain it by saying it is a requirement of the Federal Government that power companies have to look for renewable sources of energy in producing energy in this country.

What do we mean by that? Windmill power, for instance, biomass power, renewable alternative forms of energy that should be encouraged in this country. I am for that. I am from a traditional oil-and-gas-producing State, but I found out that we also have one of the largest manufacturers of windmills in Louisiana for the production of energy through wind power. That makes sense. It is not going to solve all of our problems, but it can contribute to a proper mix of renewable energy, as well as traditional forms of energy.

We have a substantial number of tax credits in this energy bill coming from our Finance Committee to encourage these alternative sources of energy. As an example, there is already in the legislation a 1.7 cent production tax credit to be received by wind and biomass producers. Mr. President, 1.7 cents per kilowatt is a lot when one considers that the wholesale price of energy is about 3 cents a kilowatt. When we are giving people who produce alternative sources of energy a 1.7 cent per kilowatt subsidy, that is significant. The person who produces those windmills in Louisiana are going to say: Wow, look, if I get a 1.7 cent per kilowatt tax credit, this is a good deal. People are going to want to buy power from windmill producers if it means 1.7 cents less per kilowatt than the ordinary regular 3 cent per kilowatt wholesale price of energy in this country. The legislation, as it is, encourages these alternative sources of energy through the Tax Code.

This is the second issue we are talking about right now. The legislation also requires energy producers to reach a certain standard, a percentage, required by Congress using these alternative sources of energy by the year 2019. The legislation currently says 10 percent of a power company's production in the year 2019 shall come from these alternative sources of energy. Some people wanted it at 20 percent. It is down to 10 percent. I support that. That is an achievable goal that power companies can reach, especially if we give them a 1.7 cent per kilowatt subsidy to encourage them to do it. That is good public policy.

The concern is there is an additional subsidy that is proposed in the legislation, and this is what the Nickles-Breaux amendment addresses. The legislation says, if you do not reach that 10-percent goal of using alternative sources of renewable energy, we are going to, in essence, penalize you 3 cents per kilowatt; that you are going to have to make up that 10-percent goal by purchasing power from other producers that have met that goal or purchasing power from the Department of Energy through tax credits, and you are going to have to pay up to 3 cents per kilowatt for that extra energy you will be required to buy from other companies that have met that standard.

What does that mean in the real world, to the person in their home who turns on the light switch every day and is concerned about the cost of electricity? What it means is if you add the 3 cents plus the 1.7 cent tax credit, you are talking about a huge subsidy which I think is far more than it needs to be.

The problem is that if they are required to purchase that tax credit from the Department of Energy at 1.5 cents per kilowatt hour, they could be looking at doubling the cost of electricity per kilowatt hour.

The concern I have is, who is going to pay for this? It is not going to be the power companies. If they have to purchase additional electric tax credits at 3 cents a kilowatt, they are just going to pass the cost on to the consumer, back to the person in the house who flicks the switch. That person is going to pay not 3 cents but double that price per kilowatt for the electricity they use.

Power companies are going to pass it through, and in a deregulated market they are going to add it to their bill at the end of the month. In a regulated market, they are going to go to the public service commission and say: Look, we are having to pay 3 cents more per kilowatt and we want it to be passed on to our rate base; we are just going to charge you 3 cents a kilowatt more than you are paying now. You are already paying 3 cents, so we are going to pay 3 cents more.

That is too much. We do not need more incentives than are necessary.

The tax credit of 1.7 cents per kilowatt hour and the Nickles-Breaux amendment with a penalty, in essence, of another 1.5 cents is a substantial incentive to encourage the development of what we call the renewable portfolio standard on the use of alternative sources of energy.

It is interesting. I have a letter from the Electric Consumers' Alliance which says:

> On behalf of Electric Consumers' Alliance, its more than 300 member organizations representing all 50 states, and its tens of millions of residential and small business constituents, I am writing to indicate our strong support for Senator NICKLES' proposed amendment to S. 517, the pending energy bill.

The only disagreement now is the Nickles-Breaux amendment. But the support from consumers is clear. Support from people who provide electricity is very clear. They support it.

The simple fact is that, when put together, the credit price of 1.5 cents, coupled with the tax credit of 1.7 cents, means consumers and taxpayers will be providing a subsidy to wind power and to these biomass producers at a level of 3.2 cents. That is currently above the wholesale cost of power. That is a huge subsidy and incentive to developing sources of power.

With the Nickles-Breaux amendment, we will still have a substantial subsidy, but it will be at a less cost to taxpayers and consumers of electric power. Bear in mind, every time we add 1 cent or half a cent, it is going to be passed on to the consumers of electricity in this country.

The Nickles-Breaux amendment is a good approach and one that should be supported.

I ask unanimous consent to have printed in the RECORD the letter from the Electric Consumers' Alliance, to which I referred.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ELECTRIC CONSUMERS' ALLIANCE,
Indianapolis, IN, April 16, 2002.

Re Consumer support for Sen. Nickles' Amendment to S. 517 regarding Renewable Portfolio Standards.

DEAR SENATOR: On behalf of Electric Consumers' Alliance, its more than 300 member organizations representing all 50 states, and its tens of millions of residential and small business constituents, I am writing to indicate our strong support for Senator Nickles' proposed amendment to S. 517, the pending energy bill. Simply put, Sen. Nickles seeks to implement the mandatory Renewable Portfolio Standard in a way that is more equitable and cost effective for consumers across the Nation by reducing the renewable energy credit from 3 cents to 1.15 cents per kilowatt-hour.

Renewable energy resources can and will play an important role in America's future energy infrastructure. As such, ECA supports their development, including the creation of subsidies to accelerate their deployment. At the same time, however, we are cognizant that our members will continue to expect a reliable, affordable supply of electricity over the next decade, and this will come predominantly from traditional resources. It is important to encourage the development of new resources, but this must be tempered against the more important goals of maintaining service that is reliable and affordable. There is a danger in transferring too much of the cost burden for development of these resources to consumers, rather than encouraging the market to work.

The mandated RPS requirement will not necessarily lessen the need for or reliance on traditional generation in the short-term. This is because of the intermittent nature of renewable resources. Consumers won't wait for the sun to shine or wind to blow to turn on appliances or flip on lights. The renewable credits that are to be paid under S. 517 will likely be an adder to the cost of electricity for consumers. As a result, these credits—while well-intentioned—will almost certainly have a direct impact on raising the price of electricity for many Americans (assuming reliability is not compromised, which we certainly do not advocate).

The Nickles proposal is a reasonable attempt to mitigate the impact of the almost certain consumer price hike that will be caused by mandated RPS. At a time when energy affordability is an issue for a growing number of residential and small business consumers, it is an appropriate balancing of the interests at stake. If consumers are to shoulder the burden for development of renewable resources through credits, which S. 517 requires, then that cost burden should be mitigated to more reasonable levels. Sen. Nickles' proposal to reduce this impact by reducing the credit from 3 cents to 1.5 cents per kilowatt hour is a reasonable compromise. It deserves your support.

Thank you for your kind consideration.

ROBERT K. JOHNSON,
Executive Director.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I will be very brief. I wish to recognize the effort by Senator NICKLES to remind us all of the obligation we have with regard to the cost of renewables. We have had an extended debate previously. This amendment obviously would change the fee and the renewable portfolio standard from 3 cents to 1.5 cents.

We have already seen the estimate by the Energy Information Administration, from the Department of Energy, relative to the calculation of what a 3-cent renewable would cost the economy and the consequence to the ratepayers, $88 billion over the next 20 years. Changing the credit from 3 cents to 1.5 cents will save about $44 billion through the year 2020.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will take a few minutes to respond to the comments that have been made and to oppose the amendment that my colleague from Oklahoma has offered.

First, to put this in perspective for Senators, this is the fourth amendment we have seen that is designed to either eliminate or dramatically weaken the renewable portfolio standard we have in the bill. There were three others we voted on earlier that were not successful. A majority of Senators did not favor weakening the standard, and accordingly those amendments were not successful.

I think the structure we have in the bill is important if we are going to actually accomplish the purpose of bringing renewable technologies into use in this country, and that is the purpose of the renewable portfolio standard. What we are saying in the renewable portfolio standard is each utility is directed to begin, starting in the year 2005, to produce or obtain some of the power that it sells from renewable sources. They do not have to produce it from those sources, but they have to obtain it from those sources.

We are saying you do not have to do anything this year, you do not have to do anything next year, you do not have to do anything the next year, but in the year 2005 you have to achieve 1 percent. One percent of the power you sell must come from renewable sources.

There are obvious ways that one can go about this. First, one can add some renewable power generation capability to the mix of sources for generating power. That is one option. That is, of course, what we are intending to facilitate and to incentivize with this provision.

A second thing that can be done is if one does not want to add it themselves, they can contract with someone who has that power or who is willing to provide that power from renewable sources. That is a second option.

A third option, under the bill, the way we have it drafted, is one can buy a credit from somebody who does have more than the 1 percent—and there are a lot of utilities today that are in a position, beginning in the year 2005, to try to sell their credits. That is good. We are providing for that. We are saying, OK, if a particular utility does not want to either produce the power from renewable sources or buy the power, someone who is producing it from renewable sources can then go buy a credit.

The provision we have in the bill is patterned after the provision in the Texas renewable portfolio standard legislation that President Bush signed into law, and that has been acclaimed by all as a model kind of a bill. It has had great success in Texas in encouraging more use of renewables and diversifying the supplies of energy upon which they depend.

What that Texas provision said was we would not charge 3 cents per credit. What we charge in Texas is 5 cents per credit. That is what President Bush signed into law, in Texas, when he was Governor of Texas. It would either be 5 cents per credit or 200 percent of the average price of traded credits, whichever is less, so that if one could not go ahead and buy the credit from someone who is producing power, who has an extra credit, then as sort of a last option, they could go to the State of Texas and say, OK, I will pay 5 cents per credit or I will pay 200 percent of the tradable price of credits at this time.

What has the tradable price of credits turned out to be in Texas? It is five-tenths of 1 cent. Half of a cent is the tradable price of credits today in Texas.

So essentially what the Texas provision says is that one would have to pay 200 percent of the trading price for credits, which would be a full cent, so 200 percent of the half cent would be a full cent, and that would be the price that would have to be paid to the State of Texas to get a credit; not the 5 cents but the 1 cent. That is under their provision.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. Let me finish my comments and then I will be glad to yield for a question.

We took that provision and we said, let's do the same thing at the Federal level and try to say we do not need to have a 5-cent credit; let us have a 3-cent credit, but let us also put that provision in 3 cents or 200 percent of the average price of traded credit, whichever is less.

So if, in fact, the same thing happens nationally that has happened in Texas, which I think it likely would—credits would be trading for substantially less than the 3 cents—then it is very likely the credits that would be purchased from the Government, if a utility decided to go that step and purchase credits from the Government, would be substantially cheaper.

All of this, to some extent, is estimating where we think things will be once this legislation becomes law, if it does become law. I am glad to join with my colleague from Oklahoma or any other Senator in urging the Energy Information Agency to update their models, update their studies, and give us good information about what the right amount of credit ought to be. I am not certain 3 cents is the right amount, but it seems like the right amount based on what we know today.

Based on the review of the numbers of different economic analyses, we have determined that 5 cents is too much. We have also determined that the 1.5 cents is probably too little. So our estimate is the 3 cents is about where it ought to be.

The reason we think it ought to be at 3 cents is because we believe all of the different types of renewable energy ought to be encouraged to be developed under this proposal.

We have a chart, which I would like to put up, to make the point. The renewable portfolio standard requirement can be met; renewable energy can be generated from any of a variety of sources. The main ones we think about are biomass and biofuels resources, solar insulation resources, geothermal resources, and wind resources. Those are the four logical areas.

The concern is that if we lower the cost of this credit too much, the price of this credit too much, that this will skew away from the use of several of these and wind up favoring one over the others. In that regard, let me cite a letter to my colleagues. This is a letter directed to all Senators, I believe. This was dated April 18 and it is from a large group of organizations. It is from the Alliance for Affordable Energy, Louisiana; American Bioenergy Association; Citizen Action Coalition of Indiana; Citizen Action/Illinois; Dakota Resource Council; Hoosier Environmental Council, Iowa Citizen Action Network; Iowa SEED Coalition; I-Renew, Iowa; Michigan Environmental Council; Minnesotans for an Energy-Efficient Economy; North Dakota SEED. There are a whole range of organizations that have signed on to this letter.

Their letter says:

> The undersigned environmental, consumer, and industry groups urge you to oppose an amendment that would be offered by Senator NICKLES to further weaken the renewable portfolio standard contained in Senate bill S. 517. The Nickels amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy.

Then they go on to say further down in the letter:

> Under a lower priced cap—

And that is what Senator NICKLES is recommending here, 1.5 cents—

> only the very lowest-cost renewable energy technologies can benefit from the RPS—primarily wind power at the very best sites. Biomass, geothermal, and solar would be at a significant disadvantage to meet this standard.

That is three of the four on this chart.

They say biomass would be a substantial disadvantage; solar, geothermal. The Nickles amendment would reduce benefits to Western States with good geothermal resources, to the Midwest, Southeast, and Northeast that have good biomass resources, and reduce benefits to all other States with good solar resources.

I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> APRIL 18, 2002.
>
> DEAR SENATOR: The undersigned environmental, consumer, and industry groups urge you to oppose an amendment that may be offered by Senator Don Nickles to further weaken the renewable portfolio standard (RPS) contained in Senate Energy Bill (S. 517).
>
> The Nickles amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy. The Nickles amendment would reduce the cost cap for procuring renewable energy credits under the RPS from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour. This provision would:
>
> Reduce the number of technologies and states that would benefit from the RPS—states with biomass, geothermal and solar resources would be especially disadvantaged;
>
> Reduce the amount of renewable energy developed by encouraging companies to pay a penalty rather than developing or procuring more renewable energy; and
>
> Undermine the RPS competitive mechanism and potentially even increase costs to consumers.

The Nickles amendment would reduce diversity of technologies and states that benefit from the RPS.—Under a lower price cap, only the very lowest-cost renewable energy technologies can benefit from the RPS—primarily wind power at the very best sites. Biomass, geothermal and solar would be at a significant disadvantage to meet the standard. The Nickles amendment would therefore reduce benefits to Western states with good geothermal resources; reduce benefits to the Midwest, Southeast and Northeast states which have good biomass resources, and reduce benefits to all other states with good solar resources.

The Nickles amendment would reduce the amount of renewable energy developed.—An Energy Information Administration (EIA) study of a 1.5-cent price cap (in a stronger RPS than the Bingaman proposal) found that it could reduce the amount of new renewable energy generated by the RPS by 84%. (AEO 2000)

As Governor of Texas, President Bush signed a RPS law that included a 5-cent per kWh price cap for renewable energy credits. That law is working well and is one of the most successful examples of a state RPS in existence today. The Bingaman 3-cent price cap represents a reasonable compromise between the 1.5 cent price cap proposed in the 1999 Clinton RPS and the 5 cent price cap signed by President Bush as Governor of Texas.

The Nickles amendment would undermine the RPS competitive mechanism and potentially even increase costs to consumers.—The RPS is designed to create competition among many renewable energy technologies to reduce their costs. EIA also found that it would create new competition for fossil fuels—reducing fossil fuel prices for electricity generators and consumers. According to the most recent EIA analysis, these reduced prices will save energy consumers over $13 billion through 2020.

By setting the price cap too low, the Nickles amendment would reduce competition among many types of renewable energy. It would reduce the total amount of renewable energy developed, undermining the potential of renewable energy to restrain fossil fuel price increases. Electric companies would have to buy credits from DOE for 1.5 cents, but without new renewables necessarily being developed. Therefore, the Nickles amendment could actually increase electricity prices.

Please don't believe the industry's claim that the RPS will cost too much. The Bush Administration's EIA found that a 10% RPS would save consumers money. Please reject the Nickles amendment and any other weakening amendments, and preserve the diversity, environmental and consumer benefits of the Daschle/Bingaman RPS.

Sincerely,

Alliance for Affordable Energy, Louisiana.
American Bioenergy Association.
Citizen Action Coalition of Indiana.
Citizen Action/Illinois.
Dakota Resource Council.
Environmental & Energy Study Institute.
Environmental Law & Policy Center of the Midwest.
Hoosier Environmental Council.
Iowa Citizen Action Network.
Iowa SEED Coalition.
I-Renew, Iowa.
Michigan Environmental Council.
Minnesota Project.
Minnesotans for an Energy-Efficient Economy.
National Environmental Trust.
Natural Resources Defense Council.
North Dakota SEED.
Renewable Northwest Project.
Sierra Club.
Solar Energy Industry Association.
Southern Alliance for Clean Energy.
Union of Concerned Scientists.
U.S. Public Interest Research Group.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I am happy to yield.

Mr. NICKLES. Did we have a hearing on any proposal to have this penalty?

Mr. BINGAMAN. I don't believe there was a specific hearing on it, and that is why I have suggested we request the Energy Information Agency to update their studies and recommend whether they think this is the appropriate level or not. We certainly would have time to do that between now and any conference with the House of Representatives on this bill. If there is a need to make an adjustment to come in line with what the Energy Information Agency recommends, I would be glad to work with my colleagues to try to do that in the conference.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I am happy to yield.

Mr. NICKLES. Did we have a hearing on the renewable portfolio standards as proposed by the Senator in this bill, period?

Mr. BINGAMAN. Mr. President, we have had a hearing on the subject of renewable energy and renewable portfolio standards, not on the specific language in the bill.

Mr. NICKLES. In the last 2 years, did we have a hearing on a mandate of 10 percent and a cost of 3 cents?

Mr. BINGAMAN. Mr. President, I don't know that we had a hearing on a specific level of required mandate or specific level of cost of credit. I don't believe we did.

Mr. NICKLES. I know the House had a hearing in 1999. The Clinton administration proposed a 1.5-cent credit penalty per kilowatt hour. Why did the chairman come up with a 3-cent penalty, double what the Clinton administration proposed a couple of years ago?

Mr. BINGAMAN. What we did, in response to my friend's question, we modeled our proposal on the successful program legislated into effect in Texas. That is the basis upon which we came up with our estimate. It was very different from the Clinton administration recommendation, not just with the credits but in various other aspects. We did not follow the Clinton administration proposal with regard to renewable portfolio standards in fashioning ours.

Mr. NICKLES. Correct me if I am wrong; Texas has a requirement that has a goal of 2,000 megawatts of new renewable energy by the year 2009. That represents 2.6 percent of their present generating capacity. Also correct me if I am wrong, but Texas has their whole basis on capacity, not on electricity produced. So that Texas mandate is a whole lot less than the 10 percent mandate as proposed by the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, my understanding is that is inaccurate; that, in fact, although the Texas language does talk about capacity, the calculation as put in place by their utility commission was on the basis of actual power produced. My information is that through the period that is covered by the Texas law, the percentage requirement for renewable energy is higher than the one we require.

Mr. NICKLES. If the Senator will require the Texas utility code section 39.904, goals for renewable energy is 2,000 megawatts of generating capacity. I mention this because capacity is one thing, to generate electricity is another. For wind, you need three times the facilities to actually generate because they don't operate 24 hours a day. The wind does not always blow. Capacity is less intrusive and less expensive. And factually, the amount of megawatts produced equals right now 2.6 percent of the Texas generating capacity and less than 2 percent anticipated by the year 2009.

I heard my colleague say this is modeled after Texas. But it is not modeled after Texas. It did not follow Texas in any way, shape, or form. That is an editorial comment.

Mr. BINGAMAN. Mr. President, let me once again try to put this in perspective for my colleagues. As I indicated, this is an effort, another effort, to weaken the renewable portfolio standards we have in the bill. We put the renewable portfolio standards in here because we believe strongly it is in our national interest that we diversify the sources from which we obtain energy and that we encourage the development and improvement of the new technologies which we know can be sources of energy as we move into the future. That is why we have a renewable portfolio standard in the bill.

The requirement we have is not that onerous. When we require 1 percent of the power sold by a utility by the year 2005 to be generated from renewable sources, that is not an unduly onerous requirement. All of the numbers we have been hearing about how it will cost such enormous amounts for the utilities to comply, assuming they are going to do nothing to meet excess demand in the future—the truth is, they are going to be adding generating capacity in the future to meet increased consumer demand. That is as it should be.

All we are saying is, as they make those decisions about adding new generating capacity in the future, they should be encouraged, they should be incentivized, to look at renewable energy as the source for some of that power. That is, to my mind, a responsible course to follow. We are way behind other industrial allies, the countries in Europe, in beginning to use renewable energy in our country. It is time we began to use these new technologies, began to improve these technologies. They have proven themselves to be effective. It would be extremely unfortunate, in my view, if we further weakened the renewable portfolio standard at this time.

Mr. NICKLES. Mr. President, I know my colleague from Ohio desires to speak, but I wish to make a couple of rebuttals to the comments made by the Senator from New Mexico. Then I am delighted to have my friend from Ohio speak.

We didn't reduce the renewable portfolio standard. It is still 10 percent. I don't think it should be there, but my decision was to minimize the damage under the Bingaman proposal, and we decided to cut the penalty in half, the same amount the Clinton administration proposed—the only proposal that had a hearing before Congress, and that happened to be a hearing not before this Congress but the last Congress in 1999. To think we would even have a proposal that has an indirect tax on utility users and consumers of billions of dollars, estimated by the Energy Information Agency of $88 billion, without even having a hearing, I find ridiculous.

I hear colleagues say it was based on Texas, and it was not; there is a world of difference between capacity and generated electricity, especially when you talk about renewables. Texas has a standard that would equal 2 percent of their generation, and we are talking about a 10 percent mandate. There is a lot of difference. There is a lot of difference when the cost impact is in the millions and billions of dollars for utilities all across the country. And I will put in more estimates.

When I made this speech earlier, trying to strike the provision, I said something about a chart we got from the Department of Energy that said Kansas City Power and Light said it would cost $16 million—that is per year—when fully implemented. I mentioned that was pretty good for the consumers of Kansas City Power and Light.

They said, in a letter: Unfortunately, EIA grossly understated the cost of 10 percent mandate to Kansas City Power and Light. The hit is much worse than that. We project total costs being more than $300 million over the 15-year period between 2005 and 2020 for the full 10 percent. For a company of our size, these costs are intolerable.

So for people to say we don't think it will be very much, Senator BREAUX, Senator VOINOVICH, Senator MILLER, and I are at least trying to reduce the cost and trying to keep the cost at somewhat more affordable levels as proposed by the previous administration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support the Nickles-Breaux amendment on renewable portfolio standards.

Last month, the Senate debated the renewable portfolio standard included in the legislation before us today. I want to make it clear that I applaud the efforts of my colleagues to encourage the use of renewable electricity generation.

I agree that renewable energy is an important part of the future and should be developed. I also strongly believe renewable sources are vital as this country seeks to diversify energy supplies and decrease our dependence on foreign sources to meet our energy needs.

As my colleagues know, the Bingaman amendment that was accepted last month stipulates that we must develop a mandatory minimum standard for renewable energy of 10 percent by the year 2019. At the time, I opposed the requirement because I believed it mandated an unrealistic level of renewable usage in a short period of time, at the virtual expense of other sources of electricity generation.

I think one point that seems to get lost over the use of renewables in America is that, right now, very little of our power in this Nation is generated by renewables. As a matter of fact, it is 1.6 of 1 percent. My colleagues should understand when we are talking renewables in this bill, we are talking solar, we are talking wind, we are talking geothermal and we are talking biomass; that is it.

When I stood to oppose the original mandate, I pointed out that in my home State of Ohio, our use of renewable energy is much lower than the national average. Renewables, including hydropower, generate 1 percent of our electricity.

I also pointed out there are many other States which rely on renewable sources for electricity generation. According to the 1998 data from the Energy Information Administration—and this is really important because it gets at the regionalism and how unfair this mandate is, as it is written, to certain regions of the country—at least 10 percent of the electricity generated in 16 States comes from renewable power. Of these 16, 5 States receive more than 50 percent of their electricity from renewable sources, and the primary source is hydroelectric power. Four of the five States—Idaho, Oregon, South Dakota, Washington—rely on hydroelectric power for more than 60 percent of their electricity. Maine is the only State east of the Mississippi to rely on renewables for more than 50 percent of its electricity, 30 percent coming from hydro and 30 percent from other renewables.

Regions and even individual States that currently have a high percentage of renewable energy sources would be less impacted by the underlying provisions. However, forcing a mandatory minimum would unduly burden States such as Ohio.

Let me tell you a little about my State and States in the Midwest. We rely heavily on coal. Mr. President, 86 percent of our energy comes from coal. As Members of this Senate know, there are bills that have been introduced that will increase and require us to reduce NO_X, SO_X, mercury, and some are even talking about carbon. In our State, we are putting our money into clean coal technology, not into switching to renewables.

What this underlying bill requires is that, in a place such as Cleveland, OH, my kilowatt—maybe some of my colleagues are not aware of this—my cost per kilowatt hour in Cleveland is 4.7 cents. This bill is talking about increasing that by 3 cents per kilowatt hour. That is a tremendous increase we are going to have to bear in States such as Ohio.

AEP, which has its home office in Ohio, American Electric Power, estimates that they would have to install an additional cumulative total of 2,100 megawatts of renewables by 2011, a total of 4,100 megawatts by 2015, and a total of 7,000 megawatts by 2020 under this requirement. This should be compared with their total generation, which is 38,000 megawatts. That is in 11 States. And this calculation does not include a safety valve or cost cap. The cost impact on AEP alone would range from $100 million to $400 million net present value.

One of the things that bothers me when we debate these things in the Senate is, we are talking about the utilities. The utilities are the ratepayers.

In my State, our manufacturers are taking it in the back of the neck. We are losing manufacturing jobs in the Midwest. One of the things that triggered this was a year ago we had a spike in gas prices, which put most of the small businesses in a negative position. Then, with the high cost of the dollar, they are in deep trouble, especially if they export.

So we are talking about adding costs on a specific segment of our economy, which happens to fall heavily in my State. We use a lot of electricity. It also puts a negative burden on the people who live in my inner cities.

People just talk about these things as if it didn't matter. But the people who make less than $10,000 a year pay about 30 percent of whatever they have for energy costs. This kind of legislation, as it is written, is going to drive those costs up. Let's talk about those people who are going to pay the cost.

What I am saying today, to my colleagues, is give me a break. Give us a break. Some of you are from regions that do not have the problems we have. We have 23 percent of the manufacturing jobs in this country in the Midwest. In my State alone, we have more manufacturing jobs than they have in the entire northeastern part of the country.

What we are trying to do today is come up with a reasonable number in terms of this mandate. It may not mean a lot to some people who live in some of the other States that do not have manufacturing, but it does mean a great deal in States like my State. I think of Paul's Letter to the Romans, Chapter 12: We are all part of one body. We have different functions.

It would be really nice if on the floor of this Senate we would start to give a little more consideration to some of the specific problems some of us have in our States so we could continue to survive and prosper and have reasonable energy costs, continue our manufacturing, and not drive up the cost for the least of our brethren.

I urge my colleagues to really give serious consideration to this. This is a reasonable proposal we are making today. It does not eliminate the mandate. It just says, if we have to comply with it, we comply with it in a way that is less oppressive than what is contained in the underlying bill.

Mr. REID. Under the previous order, the Senate is going to stand in recess so we can all listen to our Secretary of State in room 407. I ask, however, that the recess be extended until the hour of 4:15. I cleared this with my colleague, Senator NICKLES. I ask that that time count against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. REID. I ask unanimous consent the Senate now stand in recess.

There being no objection, the Senate, at 2:59 p.m., recessed until 4:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. NELSON of Florida).

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. REID. Mr. President, for the information of all Senators, we hope to be able to have a vote on the Nickles amendment within the next half hour. We do not know for sure how long people will speak. We have had a number of Members indicate they wanted to speak on the Nickles amendment. We have several of them in the Chamber right now. We will proceed on that. There should be a vote within the next half hour.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3256

Mr. KYL. Mr. President, if none of my colleagues are prepared to take the floor, let me spend a couple of minutes in support of the Nickles amendment.

As you know, the Nickles amendment, which is the pending business, would reduce the amount of penalty in effect that a public utility would bear if it did not produce the required amount of electricity for retail sales with so-called renewable energy resources. This has to do, again, with the portfolio that we call the renewable resources that would be required to account for 10 percent of the retail sales of all the investor-owned utilities in the country.

Bear in mind that the publicly owned utilities are exempted only because a point of order would have been effective against the inclusion of the public utilities in the amendment due to the unfunded mandate nature of the underlying provision. Ultimately, this probably will apply both to investor-owned and public utilities, but for the moment it applies only to the investor-owned utilities.

When I talk about a penalty on the utilities, of course, I am really talking about a penalty on the utility customers because utilities are not in the business of losing money—at least not very long. As a result, their expenses are charged back to their customers.

What we are really talking about in the underlying bill is a requirement that these utilities produce 10 percent of their retail power from so-called renewable resources, such as wind, solar, or biomass energy. Then, if they don't do so, they have to buy that amount from other available resources or, if they can't do that, pay an amount equal to 3 cents per kilowatt hour to make up the difference.

Let us say that the requirement when the bill is fully effective is 10 percent and they are able to generate 1 percent from the renewable resources; let us say they are able to buy another 1 percent from somewhere else. That means they would have 8 percent that would have to be accounted for by a penalty of 3 cents per kilowatt hour of that retail sale.

How much would that cost the utility customers around the country? That is the question. The Nickles amendment would cut the cost in half. The Nickles amendment would say, instead of 3 cents per kilowatt hour, it would be 1½ cents per kilowatt hour.

I am informed by Senator NICKLES that is the amount the Clinton administration had proposed when it had a similar proposal.

We would be talking about cutting in half the penalty that otherwise would pertain.

I cited earlier in this debate the statistics by utility and by State. I have these statistics again. I will recite a few of them and insert in the RECORD at the appropriate point and make available for all of my colleagues exactly how the customers in each State would be required to pay, again just for the penalties of the public utilities; that is to say, the investor-owned utilities.

Let me cite some examples.

In the State of Alabama, the cost to the customers is $156-plus million or, under the Nickles amendment, these customers in Alabama would save $78 million per year.

Since I see my colleague from Vermont in the Chamber, let me look at Vermont. In Vermont, the utility customers of the investor-owned utilities would save over $7 million per year under the amendment of the Senator from Oklahoma.

Let me look at Florida, the State from which the Presiding Officer comes. Florida is a big State with a lot of utility customers—a mix of both public and private utilities—but the private utilities annually would suffer an expense of over $451 million, so that the savings from the Nickles amendment for the utility customers in Florida, the investor-owned utilities, would be more than $225 million.

In my own State of Arizona, the cost is almost $100 million. So the savings per year would be just under $50 million.

Let me pick a couple of other States.

For the State of Nevada, the State of the distinguished majority whip, the savings would be over $37 million because the expense there is over $75 million.

Let me pick another couple States at random.

For New York State, the savings would be almost $132 million.

Let me take my neighboring State of California, another large State. Californians, obviously, are going to get clobbered by this renewable portfolio requirement. The estimate is, therefore, that for the State of California, just cutting this penalty in half, reducing it to 1½ cents per kilowatt hour, would save the customers in California over $243 million per year.

These savings illustrate that there is a cost to what we are imposing in the Senate. We come up with a lot of good ideas. In fact, our ideas are so good we want to impose them on everybody else.

I offered amendments to make this voluntary, but my proposals were rejected. So this is a mandatory requirement. This is required of all of the electric customers in this country, so I thought it would be important to know how much it is going to cost—in other words, by our action, what costs are we imposing on the electric customers of our country?—so that we can then make a judgment of whether it is worth it.

What we are doing here has significant consequences to people. We pass bills all the time to try to help people in need. People need help with their housing, so we provide them assistance for housing. People need help with their heating bills, so we provide them assistance under a program called LIHEAP. And there are any number of other programs.

So why, then, would we be imposing this kind of a big cost on them? Of course, the bigger the family, the more your expenses are going to be; therefore, the more this is going to cost you.

What sense does it make for us to impose this kind of cost on consumers with this legislation and then turn right around under the LIHEAP bill and say: Well, we know you are having to pay a lot for your electric bill, so we are going to help you make up for part of that. This just does not make any sense. It is incoherent policy, and it damages real people. That is why I am citing these statistics.

In a relatively small State—let me just take the State of the honorable chairman of the Energy Committee—the State of New Mexico, by passing the Nickles amendment, the people of New Mexico would save over $19 million a year because they are going to have to pay almost $40 million as a penalty because New Mexico cannot generate the requisite 10 percent that we are going to mandate under this bill.

These are not my figures. This comes from the Department of Energy, from the Energy Information Administration, which is a branch of the U.S. Department of Energy. These are up-to-date figures. I had figures in this Chamber before when we were debating this issue. These are even more updated figures than that.

So it seems to me that we in this body have to think about the consequences of our mandates. If we are going to make Americans pay more, we better have a darn good excuse or a good reason for making them do that.

Doesn't it make sense that we would say to people—let's just take the State of California, for example—Look, Californians, you are going to have to pay $243 million under the Nickles amendment, but if the Nickles amendment does not pass, you are going to have to pay $487 million a year in penalties. You may think it is worth it in order to encourage the development of wind energy or solar energy. If you do think it is worth it, would you be willing to pay that cost on an individual basis?

My guess is, you would have, out of, say, 100 people, probably 5 or 10 who would say: We feel like we are in a contributing mood, and we would like to pay for our share of what it will really cost us—the real cost to generate more of this energy from these so-called renewable resources—so we will pay a higher electric bill.

I have not broken this down per customer, but, obviously, each customer is going to pay a fairly significant amount. But if you say to the people of California, Are you willing to pay almost $500 million a year more—if you put that to a vote—most of them would say: No, we don't think so. Why don't you figure out another way to make this happen. This represents a substantial increase in our power bill, and we don't want to do it.

What we are doing in this body—I am going to call it arrogant because I think it is a certain degree of arrogance that must affect our willingness to impose these kinds of financial burdens on the American people for the sake of, what, to generate more energy with wind, to do what, save some oil or gas or coal maybe that we would otherwise use to produce power.

Of course, we are not willing to expand our energy production, but we are going to require this use of renewable resources. And the incentive is going to be: If you don't do it, then you all are going to have to pay a big penalty. I think that is arrogance on our part. The reason I use that harsh word is because I think if you put that question to your constituents—I know if I put that question to the constituents that I represent, I am very certain most of them would say: No, thank you. We would just as soon you not impose that additional tax on us.

This is a tax on energy. It is a tax on energy use for individual retail customers. But most of our constituents will not know that is what we have done. That is why I am going to make it a point to let them know. We are going to publicize this in every way that I know, in every State that I know, to make sure that the constituents of all of my colleagues understand what their Senator imposed upon them in the way of a new tax and what it is going to cost them.

These figures are going to be in every State in the country so that there will be no question that it is understood what the costs are, on our constituents, that we are imposing upon them in the name of good, to produce more wind energy and more solar energy. I just want the folks in California to know it is going to cost them almost $500 million a year—$487 million to be exact—and the same thing for every other State.

The figures are actually understated because, as I said, this only represents what the investor-owned utilities will have to pay in penalties. We know there will be additional penalties, assuming the publicly owned utilities are also added to this at a later time.

So I think it is important for the American people who buy energy to understand what we are imposing on them by way of cost. The best way to do that is by bringing it out, with the amendment of the Senator from Oklahoma, by demonstrating what we can save them by simply cutting this penalty in half, from 3 cents per kilowatt hour to 1½ cents per kilowatt hour.

It is still a lot of money. I have not added it all up, but it adds up to an awful lot of money. It is clearly in the multiples of billions of dollars.

But we have these statistics by State so we will at least be able to show people what they will save by State as a result of the adoption of the Nickles amendment. We will have a copy of this at the party desks at the time that the vote is called on the Nickles amendment.

Any Member wishing to see how much he or she is willing to save his or her constituents, if you would like to see how much you will save your constituents by voting for the Nickles amendment, we will have that here for you. Conversely, if you would like to see how much of a tax you will impose upon your constituents, we have that column as well.

I hope my colleagues will take advantage of the information we have. This is information from the Department of Energy on how much this electric tax is going to cost the ratepayers all over this country. We could at least do them a favor by cutting the penalty in half. And if you want to know how much you will save your constituents by doing that, by supporting the Nickles amendment, we have all the figures right here.

I see the Senator from Oklahoma is here. I have been referring to his amendment. Let me see if the State of Oklahoma would save any money here. It turns out we are going to tax the utility customers there over $112 million a year. So at least he is going to save his constituents over $56 million a year. That ain't peanuts. That is real savings. Equivalent numbers apply to all of the rest of the States.

I hope my colleagues will support the Nickles amendment and do their constituents a favor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. REID. Will the Senator yield for a unanimous consent request?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Arizona for his statement, for his homework, for his research and knowledge on the issue. I hope all Senators will pay attention because we are talking about an amendment that will have a real impact on utility rates, on electric rates all across the country. It will cost millions. Actually, I think my colleague from Arizona will agree, utility companies don't really pay those rates. They may be assessed, but they will pass them on to consumers. They will pass them on to ratepayers in Florida, in Arizona, in Illinois, in Oklahoma, and in Nevada.

I appreciate my colleague's homework and also his very strong statement.

Mr. KYL. Mr. President, I ask unanimous consent to print in the RECORD the table to which I referred.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RETAIL SALES, REVENUE, AND POTENTIAL COST OF PURCHASING CREDITS

State	Consumers	Retail sales (in millions of dollars)	Retail sales (MWh)	Retail rate (cents per kWh)	Maximum credit purchase cost (in millions of dollars)	Maximum potential rate increase (percent)	Savings by Nickles amendment (per year)
Alaska	25,160	57.418	446,293	12.87	1.339	2.33	$669,500
Alabama	1,322,172	2,952.707	52,067,783	5.67	156.203	5.29	78,101,500
Arkansas	807,898	1,532.386	25,714,924	5.96	77.145	5.03	38,572,500
Arizona	1,250,550	2,640.775	33,224,190	7.95	99.673	3.77	49,836,500
California	9,392,462	16,306.188	162,352,407	10.04	487.057	2.99	243,528,500
Colorado	1,310,550	1,512.893	26,072,373	5.80	78.217	5.17	39,108,500
Connecticut	1,439,185	2,712.489	28,094,031	9.66	84.282	3.11	42,141,000
District of Columbia	225,522	798.345	10,615,521	7.52	31.847	3.99	15,923,500
Delaware	268,512	481.564	8,409,335	5.73	25.228	5.24	12,614,000
Florida	6,201,773	10,384.739	150,469,636	6.90	451.409	4.35	225,704,500
Georgia	2,029,531	4,566.067	78,410,565	5.82	235.232	5.15	117,616,000
Hawaii	427,108	1,359.755	9,690,596	14.03	29.072	2.14	14,536,000
Iowa	1,042,106	1,748.968	29,672,171	5.89	89.017	5.09	44,508,500
Idaho	529,224	828.594	20,190,466	4.10	60.571	7.31	30,285,500
Illinois	4,787,291	8,032.121	115,334,741	6.96	346.004	4.31	173,002,000
Indiana	2,145,265	4,104.112	81,161,466	5.06	243.484	5.93	121,742,000
Kansas	920,868	1,582.619	26,053,970	6.07	78.162	4.94	39,081,000
Kentucky	1,130,058	1,728.643	42,790,408	4.04	128.371	7.43	64,185,500
Louisiana	1,580,399	4,463.903	69,479,189	6.42	208.438	4.67	104,219,000
Massachusetts	2,500,731	4,028.951	41,828,995	9.63	125.487	3.11	62,743,500
Maryland	2,018,170	3,772.670	56,457,358	6.68	169.372	4.49	84,686,000
Maine	240,605	610.219	6,005,478	10.16	18.016	2.95	9,008,000
Michigan	4,031,301	6,722.444	94,191,371	7.14	282.574	4.20	141,287,000
Minnesota	1,352,070	2,310.741	40,791,277	5.66	122.374	5.30	61,187,000
Missouri	1,774,796	3,084.596	50,364,934	6.12	151.095	4.90	75,547,500
Mississippi	591,622	1,300.929	22,434,100	5.80	67.302	5.17	33,651,000
Montana	324,989	369.137	6,493,525	5.68	19.481	5.28	9,740,500
North Carolina	2,761,911	5,583.562	91,831,679	6.08	275.495	4.93	137,747,500
North Dakota	211,223	266.432	4,661,341	5.72	13.984	5.25	6,992,000
Nebraska	(1)	(1)	(1)	(1)	(1)	(1)	....
New Hampshire	551,061	1,017.886	9,182,528	11.09	27.548	2.71	13,774,000
New Jersey	3,501,933	5,852.654	61,734,317	9.48	185.203	3.16	92,601,500
New Mexico	595,083	878.927	13,161,860	6.68	39.486	4.49	19,743,000
Nevada	860,471	1,602.964	25,132,075	6.38	75.396	4.70	37,698,000
New York	6,199,843	10,772.137	87,985,541	12.24	263.957	2.45	131,978,500
Ohio	4,563,007	9,456.943	145,679,640	6.49	437.039	4.62	218,519,500
Oklahoma	1,155,222	2,120.652	37,552,508	5.65	112.568	5.31	56,284,000
Oregon	1,237,619	1,825.143	34,579,587	5.28	103.739	5.68	51,869,500
Pennsylvania	4,797,660	7,351.474	94,598,197	7.77	283.795	3.86	141,897,500
Rhode Island	462,946	722.418	7,077,982	10.21	21.234	2.94	10,617,000
South Carolina	1,185,320	2,779.379	50,322,355	5.52	150.967	5.43	75,483,500
South Dakota	204,358	297.778	4,581,465	6.50	13.744	4.62	6,872,000
Tennessee	44,781	81.005	1,846,070	4.39	5.538	6.84	2,769,000
Texas	6,420,510	15,872.458	249,502,909	6.36	748.509	4.72	374,254,500
Utah	646,728	865.412	18,858,674	4.59	56.576	6.54	28,288,000
Virginia	2,590,554	4,916.679	84,375,562	5.83	253.127	5.15	126,563,500
Vermont	250,227	477.304	4,678,429	10.20	14.035	2.94	7,017,500
Washington	1,240,194	1,820.509	30,840,107	5.90	92.520	5.08	46,260,000
Wisconsin	2,161,626	3,139.087	54,767,754	5.73	164.303	5.23	82,151,500
West Virginia	939,290	1,393.543	27,538,329	5.06	82.615	5.93	41,307,500
Wyoming	173,275	356.151	8,706,113	4.09	26.118	7.33	13,059,000
National total	92,424,160	169,444.470	2,437,982,165	6.95	7,313.946	4.32	3,656,973,000

[1] Nebraska does not include any privately owned utilities.

Note.—Assumes a 10% Renewable Portfolio Standard (RPS) applied to privately owned utilities with a maximum credit price of 3 cents per kilowattnour. Does not account for potential fuel cost savings from lower fossil fuel bills as a result of increased renewable generation as required by the RPS. Since many utilities will likely be renewable credit sellers, the impact on the prices in their states will be much lower than shown.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would give to the Senator from Nevada the hour that was reserved under postcloture for Senator AKAKA of Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to this amendment. This is very complicated stuff, all these things trading around and all that. It is very difficult for people to understand. It sounds good.

I think under the circumstances, even though it is the opposition, the administration is somewhere we should look, in the form of the Department of Energy, as to what the facts are. If you do that, you will find that the facts are quite different from those represented by the Senator from Arizona and obviously the Senator from Oklahoma. It is also clear that in different areas of the country, this works differently. It depends on what your production is, what is available to you in renewables and all that. I will rely upon the Department of Energy and expect, with this administration being in control of that Department, that the facts they give us ought to be fairly accurate.

It seems to me we have brought forth these arguments several times now. However, I will reiterate that the U.S. Department of Energy, in its most recent analysis, has found that a 10-percent renewable energy requirement will, by the year 2020, save the American consumers up to $3 billion, save consumers up to $3 billion in electricity costs. Imposing a Federal renewable energy mandate of 10 percent will cost $3 billion less for consumers by the year 2020 as compared to business as usual. This result is an overall cost savings to consumers from 2002 to 2020 of $13.2 billion. This is what the most recent studies of the U.S. Department of Energy, Energy Information Administration have found.

It escapes me why we are spending so much time arguing about cost. I have heard some of my colleagues claim that the cost to consumers will be off the charts. This is at odds with the repeated findings of the U.S. Department of Energy of this administration.

A number of my colleagues have referred to Energy Information Administration statistics to the effect that renewable energy will cost Americans $88 billion. However, these EIA numbers are referring to the gross cost of the price of renewable energy, not the increased cost to consumers of using renewable energy versus using other forms of energy.

The relevant question is not whether, if you bought only renewable energy, it would add up to a total cost of $88 billion. The question is, How much more is that amount than what you would be paying anyway from fossil fuel or other energy sources without a renewable energy mandate?

As I have stated, the studies completed in February of this year by the

U.S. Energy Information Administration, which are consistent with the previous studies, say that under a 10-percent renewable energy mandate, consumer costs will actually go down by close to $3 billion per year by the year 2020, compared to energy costs if no renewable energy mandate existed.

I will also point out that although the 1.5-cent cap Senator NICKLES is now proposing was indeed the amount contained in the bill put forward by the Clinton administration, that bill also would have imposed a far more aggressive renewable mandate than the one currently in the Senate bill.

Under the Clinton administration's bill, renewable energy would have been required to reach 7.5 percent by the year 2010. This is compared to only a roughly 4-percent requirement by 2010 in the energy bill currently before us. The renewable energy provision currently in the bill does not even get to an actual 10-percent renewable energy standard by the year 2020. By the time all of the various exceptions and deductions are added in, the amount of mandated renewable energy required in this bill by the year 2020 is actually closer to 5 percent. This amount is disappointingly close to what American business is likely to achieve anyway with no additional support from the Federal Government.

I must say, I find the continued attempt to weaken this marginal requirement baffling. I, along with my colleagues, have repeatedly made the argument on the floor for the many benefits of renewable energy. These include environmental and health benefits which have not been taken into consideration. They include making our American businesses competitive in a booming European market in wind and other renewable energy. This should be the example at which we are looking. As the EIA has shown, they include benefits to the American consumer, ultimately making the costs to consumers actually decrease.

Few of my colleagues dispute these benefits. Even those supporting this amendment have recognized the great national benefits to promoting renewable energy. It seems painfully difficult for us to change our old ways of looking at things and to take steps that will bring these modern and beneficial energy sources to our door.

These arguments over the price of cost caps are just another attempt to dismantle the existing renewable energy position. The Senate has already voted several times against attempts to destroy this position, and I hope we will recognize the amendment for what it is—another side-door attempt to do just that.

Different States have different problems. Oil-producing States naturally want to sell all the oil they can. If we look at the program as it is, look at the advantages it has, and look at the end results as reported by the Department of Energy, that it will save money in the years ahead, I say this bill should stay as it is.

I urge my colleagues to join me in keeping this really modest provision in the bill.

Mr. NICKLES. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. NICKLES. Will the Senator from Vermont yield?

Mr. JEFFORDS. Yes, I am happy to yield.

Mr. NICKLES. I thank my colleague. I heard you say this amendment was an attempt to destroy the renewable section. Are you aware of the fact that we didn't change the 10-percent requirement so the bill still requires that 10 percent of the electricity generated would have to be in the form of renewables? And I remind you that the Clinton administration only proposed 7.5 percent. So we didn't change that. And I might say that the penalty, the cap, is the same amount that was proposed by the Clinton administration. It was a penny and a half per kilowatt hour. If you missed the target of 10 percent, that target amount, the penalty amount, would be the same as required by the Clinton administration. So I don't think this amendment guts the renewables. I wanted to make sure you were aware of it. This isn't the same vote we had previously on renewables.

Mr. JEFFORDS. I think it is 7.5 percent by 2010. Other than that, I stand by the speech I made and the results I said will be there and our understanding of the bill, as the U.S. Department of Energy understands it.

Mr. NICKLES. Further, to clarify, the Senator is aware, then, that the renewable standard is higher than that proposed by the Clinton administration because it is 10 percent instead of 7.5 percent. Is the Senator aware that the penalty in the Bingaman-Daschle proposal is twice as high as that proposed by the Clinton administration?

Mr. JEFFORDS. I think the times that it went into effect were different. It depends on how you compare it. I stand by my statement.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before my friend leaves the Chamber, the distinguished chairman of the Environment and Public Works Committee, I express my appreciation for his work on this bill and other matters that have come before this body, and that he has had the opportunity to move forward to do something about a renewable portfolio.

On the appropriations bill that I have had the pleasure of working with Senator DOMENICI for a number of years, the Senator has always come there making sure our conscience was clear and that the Appropriations Subcommittee on Energy and Water did everything it could for development of renewable energy resources. He has always been there asking us to do more. I appreciate that. I think one of the big problems with this bill is that we haven't done more to increase the renewables portfolio. The Senator and I tried to increase it to 20 percent. Ten percent is a bare minimum. What I say to my friend from Oklahoma, through the Chair, is that, sure, the 10% requirement hasn't changed, but with this amendment that 10% is not directed toward the development of renewables. The amendment will encourage the use of credits. So with Senator NICKLES amendment you wind up having a program in this country where you don't really develop renewables.

I say to my friend from Vermont, thank you very much for making us keep our eye on this. We need to develop more renewables. This is the fourth attempt of what I believe is the oil companies of this country trying to get us to back off of the renewables portfolio.

The oil companies love this amendment that is before us. But the American people don't like it. Why? Because when it is explained to them, energy has a price other than just the cost at the production level. What do I mean by that?

Mr. President, a few years ago in Nevada, a company came to Nevada. They owned a plant near Barstow, CA—the largest solar energy production facility in America, with 200 megawatts of electricity. They wanted to build a production facility in the Eldorado Valley between Las Vegas and Boulder City, in a relatively remote place. They went before the Nevada Public Service Commission. The company was called the Luz Company. It was named from the Old Testament, where Jacob's Ladder was; that is where it came down, Luz. The public service commission could not allow them to build that facility because all they were allowed to consider at that time was the cost of production. It had nothing to do with the smog and junk that the coal-fired and oil-fired generating plants produced in the Las Vegas Valley. They could not take that into consideration. That is one of the problems we have had all over America today.

The fact is, since then, the Nevada Legislature has changed that. It is tremendous that they have done that. They have now, in Nevada, a 15-percent renewable portfolio standard. That is excellent. I am proud of what the State of Nevada has done. That has only been at the time of the last legislature.

Our Nation needs to diversify its energy policy. The Senate passed a renewables portfolio standard—we call it the RPS—requiring that 10 percent of the electricity produced comes from clean, renewable energy resources. What is that? The Sun—the warmth of the Sun, the warmth of the Earth, geothermal.

Wind used to bother me but I kind of like it now. Wind always got on my nerves; it would never be there when I wanted it. I now like the wind. I have come to the realization that it cleans the air. I have also come to the realization that we in Nevada can use that wind to produce electricity. In fact, we are doing that at the Nevada Test Site, where almost a thousand bombs have been detonated.

We are building, with the permission of the DOE, a wind farm there. Within 3 years, with the work done by the Finance Committee—and I appreciate the work by Senators BAUCUS, GRASSLEY, and other members of that committee on a tax credit for wind—that will allow that generating facility to go forward. Within 3 years, they will produce enough electricity to supply electricity to 250,000 homes in Las Vegas. That is good.

So, Mr. President, the RPS in this bill is too weak. As I have already said to my friend, the distinguished Senator JEFFORDS, it is not as much as I had hoped for, not as much as I wanted. I voted for 20 percent, which Senator JEFFORDS and I propounded.

One provision in the renewable portfolio standard allows for a system of tradeable, renewable energy credits. For this system to effectively work—and we have not talked about it that much today—the cost of renewable energy credits must encourage the growth of renewable energy.

The Nickles amendment lowers the cost of these renewable energy tax credits to the point where a utility will choose to buy credits rather than produce renewable energy. In this country, I want more renewable energy. We have spent trillions of dollars in the oil business—utilities are heavily invested in that. Let's change a little and spend a little money on renewable energy so my friend, my children, and my children's children can breathe clean air. That is what this is all about. Ask my children whether they are interested in using the worst-case scenario. The EIA analysis reflected the worst-case scenario—that the cost of electricity might increase 0.1 cents per kilowatt-hour. Every one of my five children—let them vote on it. They will go for renewable energy because they want clean air for their children, my 12 grandchildren. I want them to have clean air. They are not going to have it if we keep firing generators with coal, gas, and oil.

We need to do something different—Sun, geothermal, wind. That is what this amendment is about. This is the fourth time they have tried to whack this very small amount that we have in this bill, 10 percent for renewable energy. I am glad, if for no other reason, cloture has been invoked. Maybe this will be the end of it. Maybe not.

What this amendment attempts to do makes no sense. This is not the goal of the renewable portfolio standard. This amendment is basically, in my opinion, interested in damage control.

I am interested in expanding our energy resources through clean renewable energy. The DOE's Energy Information Administration suggests that the renewable portfolio standard may raise the price—worst-case scenario—of electricity consumers by 0.1 cents per kilowatt hour. That is the estimate. It doesn't include the stimulative effect of section 45, the production tax credit that the Senate adopted yesterday.

This bill isn't perfect. It is far from perfect. But there are some good things in the bill. One of the good things is what was done yesterday in adopting the Finance Committee's energy tax provisions.

The chairman of this committee, Senator BINGAMAN, is a member of that Finance Committee. That was good work they did, because they had provisions in there to help production and they also had provisions in there to help the renewable portfolio. With the production tax credit, there is likely to be no increase in consumer prices resulting from the renewable portfolio. After pouring billions of dollars—I say trillions—into oil and gas, we need to invest in a clean energy future. Other nations in the world are developing renewable energy sources much faster than the United States is. America needs to reestablish leadership in renewable energy.

I oppose this amendment and, contrary to earlier statements, the renewable portfolio standard provision in this bill, as modified, is as close to the Texas RPS as possible, while accommodating regional differences. Why do I say that? Because under the Texas RPS statute, the amount of new renewables is based on capacity. However, as implemented by the Texas Public Utility Commission, the regulations convert the capacity obligation to a generation standard.

I cite Chapter 25.173(h)(1) from the Texas RPS:

> The total statewide renewable energy credit requirement for each compliance period shall be calculated in terms of megawatt hours and shall be equal to the renewable capacity target multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor. . . .

It says it all.

The section goes on to spell out exactly how the capacity standard is converted to a generation standard. I ask unanimous consent that the regulations from the State of Texas be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER H. ELECTRICAL PLANNING

Division 1. Renewable energy resources and use of natural gas

§25.173. Goal for Renewable Energy

(a) Purpose. The purpose of this section is to ensure that an additional 2,000 megawatts (MW) of generating capacity from renewable energy technologies is installed in Texas by 2009 pursuant to the Public Utility Regulatory Act (PURA) §39.904, to establish a renewable energy credits trading program that would ensure that the new renewable energy capacity is built in the most efficient and economical manner, to encourage the development, construction, and operation of new renewable energy resources at those sites in this state that have the greatest economic potential for capture and development of this state's environmentally beneficial resources, to protect and enhance the quality of the environment in Texas through increased use of renewable resources, to respond to customers' expressed preferences for renewable resources by ensuring that all customers have access to providers of energy generated by renewable energy resources pursuant to PURA §39.101(b)(3), and to ensure that the cumulative installed renewable capacity in Texas will be at least 2,880 MW by January 1, 2009.

(b) Application. This section applies to power generation companies as defined in §25.5 of this title (relating to definitions), and competitive retailers as defined in subsection (c) of this section. This section shall not apply to an electric utility subject to PURA §39.102(c) until the expiration of the utility's rate freeze period.

(c) Definitions.

(1) Competitive retailer—A municipally-owned utility, generation and transmission cooperative (G&T), or distribution cooperative that offers customer choice in the restricted competitive electric power market in Texas or a retail electric provider (REP) as defined in §25.5 of this title.

(2) Compliance period—A calendar year beginning January 1 and ending December 31 of each year in which renewable energy credits are required of a competitive retailer.

(3) Designated representative—A responsible natural person authorized by the owners or operators of a renewable resource to register that resource with the program administrator. The designated representative must have the authority to represent and legally bind the owners and operators of the renewable resource in all matters pertaining to the renewable energy credits trading program.

(4) Early banking—Awarding renewable energy credits (RECs) to generators for sale in the trading program prior to the program's first compliance period.

(5) Existing facilities—Renewable energy generators placed in service before September 1, 1999.

(6) Generation offset technology—Any renewable technology that reduces the demand for electricity at a site where a customer consumers electricity. An example of this technology is solar water heating.

(7) New facilities—Renewable energy generators placed in service on or after September 1, 1999. A new facility includes the incremental capacity and associated energy from an existing renewable facility achieved through repowering activities undertaken on or after September 1, 1999.

(8) Off-grid generation—The generation of renewable energy in an application that is

not interconnected to a utility transmission or distribution system.

(9) Program administrator—The entity approved by the commission that is responsible for carrying out the administrative responsibilities related to the renewable energy credits trading program as set forth in subsection (g) of this section.

(10) REC offset (offset)—An REC offset represents one MWh of renewable energy from an existing facility that may be used in place of an REC to meet a renewable energy requirement imposed under this section. REC offsets may not be traded, shall be calculated as set forth in subsection (i) of this section, and shall be applied as set forth in subsection (h) of this section.

(11) Renewable energy credit (REC or credit)—An REC represents one megawatt hour (MWh) of renewable energy that is physically metered and verified in Texas and meets the requirements set forth in subsection (e) of this section.

(12) Renewable energy credit account (REC account)—An account maintained by the renewable energy credits trading program administrator for the purpose of tracking the production, sale, transfer, and purchase, and retirement of RECs by a program participant.

(13) Renewable energy credits trading program (trading program)—The process of awarding, trading, tracking, and submitting RECs as a means of meeting the renewable energy requirements set out in subsection (d) of this section.

(14) Renewable energy resource (renewable resource)—A resource that produces energy derived from renewable energy technologies.

(15) Renewable energy technology—Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

(16) Repowering—Modernizing or upgrading an existing facility in order to increase its capacity or efficiency.

(17) Settlement period—The first calendar quarter following a compliance period in which the settlement process for that compliance year takes place.

(18) Small producer—A renewable resource that is less than two megawatts (MW) in size.

(d) Renewable energy credits trading program (trading program). Renewable energy credits may be generated, transferred, and retired by renewable energy power generation, competitive retailers, and other market participants as set forth in this section.

(1) The program administrator shall apportion a renewable resource requirement among all competitive retailers as a percentage of the retail sales of each competitive retailer as set forth in subsection (h) of this section. Each competitive retailer shall be responsible for retiring sufficient RECs as set forth in subsections (h) and (k) of this section to comply with this section. The requirement to purchase RECs pursuant to this section becomes effective on the date each competitive retailer begins serving retail electric customers in Texas.

(2) A power generating company may participate in the program and may generate RECs and buy or sell RECs as set forth in subsection (j) of this section.

(3) RECs shall be credited on an energy basis as set forth in subsection (j) of this section.

(4) Municipally-owned utilities and distribution cooperatives that do not offer customer choice are not obligated to purchase RECs. However, regardless of whether the municipally-owned utility or distribution cooperative offers customer choice, a municipally-owned utility or distribution cooperative possessing renewable resources that meet the requirements of subsection (e) of this section may sell RECs generated by such a resource to competitive retailers as set forth in subsection (j) of this section.

Except where specifically stated, the provisions of this section shall apply uniformly to all participants in the trading program.

(e) Facilities eligible for producing RECs in the renewable energy credits trading program. For a renewable facility to be eligible to produce RECs in the trading program it must be either a new facility or a small producer as defined in subsection (c) of this section and must also meet the requirements of this subsection:

(1) A renewable energy resource must not be ineligible under subsection (f) of this section and must register pursuant to subsection (n) of this section;

(2) The facility's above-market costs must not be included in the rates of any utility, municipally-owned utility, or distribution cooperative through base rates, a power cost recovery factor (PCRF), stranded cost recovery mechanism, or any other fixed or variable rate element charged to end users;

(3) For a renewable energy technology that requires fossil fuel, the facility's use of fossil fuel must not exceed 2.0% of the total annual fuel input on a British thermal unit (BTU) or equivalent basis;

(4) The output of the facility must be readily capable of being physically metered and verified in Texas by the program administrator. Energy from a renewable facility that is delivered into a transmission system where it is commingled with electricity from non-renewable resources can not be verified as delivered to Texas customers. A facility is not ineligible by virtue of the fact that the facility is a generation-offset, off-grid, or on-site distributed renewable facility if it otherwise meets the requirements of this section; and

(5) For a municipally owned utility operating a gas distribution system, any production or acquisition of landfill gas that is directly supplied to the gas distribution system is eligible to produce RECs based upon the conversion of the thermal energy in BTUs to electric energy in kWh using for the conversion factor the systemwide average heat rate of the gas-fired units of the combined utility's electric system as measured in BTUs per kWh.

(6) For industry-standard thermal technologies, the RECs can be earned only on the renewable portion of energy production. Furthermore, the contribution toward statewide renewable capacity megawatt goals from such facilities would be equal to the fraction of the facility's annual MWh energy output from renewable fuel multiplied by the facility's nameplate MV capacity.

(f) Facilities not eligible for producing RECs in the renewable energy credits trading program. A renewable facility is not eligible to produce RECs in the trading program if it is:

(1) A renewable energy capacity addition associated with an emissions reductions project described in Health and Safety Code §382.5193, that is used to satisfy the permit requirements in Health and Safety Code §382.0519;

(2) An existing facility that is not a small producer as defined in subsection (c) of this section; or

(3) An existing fossil plant that is repowered to use a renewable fuel.

(g) Responsibilities of program administrator. No later than June 1, 2000, the commission shall approve an independent entity or serve as the trading program administrator. At a minimum, the program administrator shall perform the following functions:

(1) Create accounts that track RECs for each participant in the trading program;

(2) Award RECs to registered renewable energy facilities on a quarterly basis based on verified meter reads;

(3) Assign offsets to competitive retailers on an annual basis based on a nomination submitted by the competitive retailer pursuant to subsection (n) of this section;

(4) Annually retire RECs that each competitive retailer submits to meet its renewable energy requirement;

(5) Retire RECs at the end of each REC's three-year life;

(6) Maintain public information on its website that provides trading program information to interested buyers and sellers of RECs;

(7) Create an exchange procedure where persons may purchase and sell RECs. The exchange shall ensure the anonymity of persons purchasing or selling RECs. The program administrator may delegate this function to an independent third party. The commission shall approve any such delegation;

(8) Make public each month the total energy sales of competititon retailers in Texas for the previous month;

(9) Perform audits of generators participating in the trading program to verify accuracy of metered production data;

(10) Allocate the renewable energy responsibility to each competitive retailer in accordance with subsection (h) of this section; and

(11) Submit an annual report to the commission. Beginning with the program's first compliance period, the program administrator shall submit a report to the commission on or before April 15 of each calendar year. The report shall contain information pertaining to renewable energy power generators and competitive retailers. At a minimum, the report shall contain:

(A) the amount of existing and new renewable energy capacity in MW installed in the state by technology type, the owner/operator of each facility, the date each facility began to produce energy, the amount of energy generated in megawatt-hours (MWh) each quarter for all capacity participating in the trading program or that was retired from service; and

(B) a listing of all competitive retailers participating in the trading program, each competitive retailer's renewable energy credit requirement, the number of offsets used by each competitive retailer, the number of credits retired by each competitive retailer, a listing of all competitive retailers that were in compliance with the REC requirement, a listing of all competitive retailers that failed to retire sufficient REC requirement, and the deficiency of each competitive retailer that failed to retire sufficient RECs to meet its REC requirement.

(h) Allocation of REC purchase requirement to competitive retailers. The program administrator shall allocate REC requirements among competitive retailers. Any renewable capacity that is retired before January 1, 2009 or any capacity shortfalls that arise due to purchases of RECs from out-of-state facilities shall be replaced and incorporated into the allocation methodology set forth in this subsection. Any changes to the allocation methodology to reflect replacement capacity shall occur two compliance periods after which the facility was retired or capacity shortfall occurred. The program administrator shall use the following methodology to determine the total annual REC requirement for a given year and the final REC requirement for individual competitive retailers:

(1) The total statewide REC requirement for each compliance period shall be calculated in terms of MWh and shall be equal to the renewable capacity target multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor set forth in subsection (j) of this section. The renewable energy capacity targets for the compliance period beginning January 1, of the year indicated shall be:

(A) 400 MW of new resources in 2002;

(B) 400 MW of new resources in 2003;

(C) 850 MW of new resources in 2004;

(D) 850 MW of new resources in 2005;

(E) 1,400 MW of new resources in 2006;

(F) 1,400 MW of new resources in 2007;

(G) 2,000 MW of new resources in 2008; and

(H) 2,000 MW of new resources in 2009 through 2019.

(2) The final REC requirement for an individual competitive retailer for a compliance period shall be calculated as follows:

(A) Each competitive retailer's preliminary REC requirement is determined by dividing its total retail energy sales in Texas by the total retail sales in Texas of all competitive retailers, and multiplying that percentage by the total statewide REC requirement for that compliance period.

(B) The adjusted REC requirement for each competitive retailer that is entitled to an offset is determined by reducing its preliminary REC requirement by the offsets to which it qualifies, as determined under subsection (i) of this section, with the maximum reduction equal to the competitive retailer's preliminary REC requirement. The total reductions for all competitive retailers is equal to the total usable offsets for that compliance period.

(C) Each competitive retailer's final REC requirement for a compliance period shall be increased to recapture the total usable offsets calculated under subparagraph (B) of this paragraph. The additional REC requirement shall be calculated by dividing the competitive retailer's adjusted REC requirement by the total adjusted REC requirement of all competitive retailers. This fraction shall be multiplied by the total usable offsets for that compliance period and this amount shall be added to the competitive retailer's adjusted REC requirement to produce the competitive retailer's final REC requirement for the compliance period.

(i) Nomination and calculation of REC offsets.

(1) A REP, municipally-owned utility, G&T cooperative, distribution cooperative, or an affiliate of a REP, municipally-owned utility, or distribution cooperative, may apply offsets to meet all or a portion of its renewable energy purchase requirement, as calculated in subsection (h) of this section, only if those offsets are nominated in a filing with the commission by June 1, 2001. A G&T may nominate the combined offsets for itself and its member distribution cooperatives upon the presentation of a resolution by its Board authorizing it to do so.

(2) The Commission shall verify any designations of REC offsets and notify the program administrator of its determination by December 31, 2001.

(3) REC offsets shall be equal to the average annual MWh output of an existing resource for the years 1991–2000 or the entire life of the existing resource, whichever is less.

(4) REC offsets qualify for use in a compliance period under subsection (h) of this section only to the extent that:

(A) The resource producing the REC offset has continuously since September 1, 1999 been owned by or its output has been committed under contract to a utility, municipally-owned utility, or cooperative nominating the resource under paragraph (1) of this subsection or, if the resource has been committed under a contract that expired after September 1, 1999 and before January 1, 2002, it is owned by or its output has been committed under contract to a utility, municipally-owned utility, or cooperative on January 1, 2002; and

(B) The facility producing the REC offsets is operated and producing energy during the compliance period in a manner consistent with historic practice.

(5) If the production from a facility producing the REC offset energy ceases for any reason, the competitive retailer may no longer claim the REC offset against its REC requirement.

(j) Calculation of capacity conversion factor. The capacity conversion factor used by the program administrator to allocate credits to competitive retailers shall be calculated as follows:

(1) The capacity conversion factor (CCF) shall be administratively set at 35% for 2002 and 2003, the first two compliance periods of the program

(2) During the fourth quarter of the second compliance year (2003), the CCF shall be readjusted to reflect actual generator performance data associated with all renewable resources in the trading program. The program administrator shall adjust the CCF every two years thereafter and shall:

(A) be based on all renewable energy resources in the trading program for which at least 12 months of performance data is available;

(B) represent a weighted average of generator performance;

(C) use all valid performance data that is available for each renewable resource and

(D) ensure that the renewable capacity goals are attained.

(k) Production and transfer of REC's. The program administrator shall administer a trading program for renewable energy credits in accordance with the requirements of this subsection.

(1) A REC will be awarded to the owner of a renewable resource when a MWh is metered at that renewable resource. A generator producing 0.5 MWh or greater as its last unit generated should be awarded one REC on a quarterly basis. The program administrator shall record the amount of metered MWh and credit the REC account of the renewable resource that generated the energy on a quarterly basis.

(2) The transfer of RECs between parties shall be effective only when the transfer is recorded by the program administrator.

(3) The program administrator shall require that RECs be adequately identified prior to recording a transfer and shall issue an acknowledgement of the transaction to parties upon provision of adequate information. At a minimum, the following information shall be provided:

(A) identification of the parties;

(B) REC serial number, REC issue date, and the renewable resource that produced the REC;

(C) the number of RECs to be transferred; and

(D) the transaction date.

(4) A competitive retailer shall surrender RECs to the program administrator for retirement from the market in order to meet its REC allocation for a compliance period. The program administrator will document all REC retirements annually.

(5) On or after each April 1, the program administrator will retire RECs that have not been retired by competitive retailers and have reached the end of their three-year life.

(6) The program administrator may establish a procedure to ensure that the award, transfer, and retirement of credits are accurately recorded.

(l) Settlement process. Beginning in January 2003, the first quarter following the compliance period shall be the settlement period during which the following actions shall occur:

(1) By January 31, the program administrator will notify each competitive retailer of its total REC requirement for the previous compliance period as determined pursuant to subsection (h) of this section.

(2) By March 31, each competitive retailer must submit credits to the program administrator from its account equivalent to its REC requirement for the previous compliance period. If the competitive retailer has insufficient credits in its account to satisfy its obligation, and this shortfall exceeds the applicable deficit allowance as set forth in subsection (m)(2) of this section, the competitive retailer is subject to the penalty provisions in subsection (o) of this section.

(m) Trading program compliance cycle.

(1) The first compliance period shall begin on January 1, 2002 and there will be 18 consecutive compliance periods. Early banking of RECs is permissible and may commence no earlier than July 1, 2001. The program's first settlement period shall take place during the first quarter of 2003.

(2) A competitive retailer may incur a deficit allowance equal to 5.0% of its REC requirement in 2002 and 2003 (the first two compliance periods of the program). This 5.0% deficit allowance shall not apply to entities that initiate customer choice after 2003. During the first settlement period, each competitive retailer will be subject to a penalty for any REC shortfall that is greater than 5.0% of its REC requirement under subsection (h) of this section. During the second settlement period, each competitive retailer will be subject to the penalty process for any REC shortfall greater than 5.0% of the second year REC allocation. All competitive retailers incurring a 5.0% deficit pursuant to this subsection must make up the amount of RECs associated with the deficit in the next compliance period.

(3) The issue date of RECs created by a renewable energy resource shall coincide with the beginning of the compliance year in which the credits are generated. All RECs shall have a life of three compliance periods, after which the program administrator will retire them from the trading program.

(4) Each REC that is not used in the year of its creation may be banked and is valid for the next two compliance years.

(5) A competitive retailer may meet its renewable energy requirements for a compliance period with RECs issued in or prior to

that compliance period which have not been retired.

(n) Registration and certification of renewable energy facilities. The commission shall register and certify all renewable facilities that will produce either REC offsets or RECs for sale in the trading program. To be awarded RECs or REC offsets, a power generator must complete the registration process described in this subsection. The program administrator shall not award offsets or credits for energy produced by a power generator before it has been certified by the commission.

(1) The designated representative of the generating facility shall file an application with the commission on a form approved by the commission for each renewable energy generation facility. At a minimum, the application shall include the location, owner, technology, and rated capacity of the facility and shall demonstrate that the facility meets the resource eligibility criteria in subsection (e) of this section.

(2) No later than 30 days after the designated representative files the certification form with the commission, the commission shall inform both the program administrator and the designated representative whether the renewable facility has met the certification requirements. At that time, the commission shall either certify the renewable facility as eligible to receive either RECs or offsets, or describe an insufficiencies to be remedied. If the application is contested, the time for acting is extended by 30 days.

(3) Upon receiving notice of certification of new facilities, the program administrator shall create an REC account for the designated representative of the renewable resource.

(4) The commission may make on-site visits to any certified unit of a renewable energy resource and may decertify any unit if it is not in compliance with the provisions of this subsection.

(5) A decertified renewable generator may not be awarded RECs. However, any RECs awarded by the program administrator and transferred to a competitive retailer prior to the decertification remain valid.

(o) Penalties and enforcement. If by April 1 of the year following a compliance year it is determined that a competitive retailer with an allocated REC purchase requirement has insufficient credits to satisfy its allocation, the competitive retailer shall be subject to the administrative penalty provisions of PURA §15.023 as specified in this subsection.

(1) Except as provided in paragraph (4) of this subsection, a penalty will be assessed for that portion of the deficient credits.

(2) The penalty shall be the lesser of $50 per MWh or, upon presentation of suitable evidence of market value by the competitive retailer, 200% of the average market value of credits for that compliance period.

(3) There will be no obligation on the competitive retailer to purchase RECs for deficits, whether or not the deficit was within or was not within the competitive retailer's reasonable control, except as set forth in subsection (m)(2) of this section.

(4) In the event that the commission determines that events beyond the reasonable control of a competitive retailer prevented it from meeting its REC requirement there will be no penalty assessed.

(5) A party is responsible for conducting sufficient advance planning to acquire its allotment of RECs. Failure of the spot or short-term market to supply a party with the allocated number of RECs shall not constitute an event outside the competitive retailer's reasonable control. Events or circumstances that are outside of a party's reasonable control may include weather-related damage, mechanical failure, lack of transmission capacity or availability, strikes, lockouts, actions of a governmental authority that adversely effect the generation, transmission, or distribution of renewable energy from an eligible resource under contract to a purchaser.

(p) Renewable resources eligible for sale in the Texas wholesale and retail markets. Any energy produced by a renewable resource may be bought and sold in the Texas wholesale market or to retail customers in Texas and marketed as renewable energy if it is generated from a resource that meets the definition in subsection (c)(14) of this section.

(q) Periodic review. The commission shall periodically assess the effectiveness of the energy-based credits trading program in this section to maximize the energy output from the new capacity additions and ensure that the goal for renewable energy is achieved in the most economically-efficient manner. If the energy-based trading program is not effective, performance standards will be designed to ensure that the cumulative installed renewable capacity in Texas meets the requirements of PURA §39.904.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I want to finish. We have had these battles since I came to Congress in 1975. We recognized at that time we were so vulnerable with respect to our oil supplies that it was essential we put ourselves on a course that could make us much more independent. We have made very little progress in that time.

The PRESIDING OFFICER. Will the Senator suspend? The Chair inquires, did the Senator from Nevada relinquish the floor?

Mr. REID. I had not finished.

Mr. JEFFORDS. Fine, let me finish quickly.

Mr. REID. I am not finished, though. If I can proceed.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I will be very quick. I apologize.

Mr. President, the manager of this bill, Senator BINGAMAN, has noted that this amendment is opposed by numerous organizations, some of which are energy coalitions, not just environmental groups, although they join with us also in opposing this amendment:

> The Nickles amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy.

It is wrong.

> The Nickles amendment would reduce diversity of technologies and states that benefit from the RPS.
>
> Under a lower price cap, only the very lowest-cost renewable energy technologies can benefit from an RPS—primarily wind power at the very best sites. Biomass, geothermal and solar would be at a significant disadvantage to meet the portfolio standard if these lower credits are adopted.

And that affects Western States. Not only would it be geothermal and solar, but, of course, wind. The wind blows a lot in the West. The Nickles amendment would reduce benefits to Western States with good resources about which I have spoken. The Nickles amendment would reduce the amount of renewable energy developed.

It is from all perspectives undermining what we are trying to accomplish in this legislation, which is develop renewable energy for this country and having not only incentives, but there would be a requirement to do it. Voluntarism simply has not worked.

Do not believe the industry's claim that this will cost too much money. The Bush administration's EIA found that a 10-percent RPS would save consumers money.

I hope my colleagues will reject this amendment. I hope this is the last weakening amendment to the RPS that is in this bill. The bill as it now stands is good, and I think we should vote like we have the previous three times and not let this amendment weaken the standards in this bill relating to renewables.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have a few more comments. Logic should make this obvious. If you can provide energy that does not cost you any money—solar and wind, for example—is it not logical to put it in the mix? That is all we are saying. The Department of Energy agrees with us and says it will save money.

I understand those from the oil-producing States do not want this provision, but common sense tells us it is the best thing we can do. Therefore, I urge my colleagues to vote against the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of my colleagues, we are going to vote on this amendment shortly. Staff should notify their Senators.

I wish to make a couple comments.

One, the Department of Energy supports this amendment. It does not oppose it.

Two, as to colleagues saying this amendment does not cost anything, they are not talking about the people who know something about the amendment. The Energy Information Administration talks about the cost to States in the millions and millions of dollars. The State of Florida shows about a $450 million increase.

For my colleagues' information, I have a letter from the Public Service Commission in the State of Florida. The letter says they support this amendment to lower the amount of the penalty from 3 cents to 1.5 cents, and that it would reduce the cost of the Federal mandate on the Florida ratepayers. I happen to think those people know something about this issue.

I have letters from utility companies. Some people say these are oil companies. I am talking about utility companies. This is not oil companies versus other companies. This is about an assault on ratepayers because we are getting ready to say you have to have 10 percent of your power from renewables. We did not change that. But if you do not make it—and I will tell my colleagues, it is not easy to make that.

There was an article in the Wall Street Journal about the city of Jacksonville. The city of Jacksonville has a renewable standard of 7.5 percent. They have tried a lot of alternative sources of power. Guess what. They are not there yet. I hope they get there, but they have found out that some of these alternative sources of power cost a lot of money, and the ratepayers are objecting.

Nantucket, a very pristine area a lot of us have enjoyed off the coast, wants to have renewables. They talked about having a wind farm. Wind farms are subsidized a lot through the Tax Code. There was an effort to build a wind farm off the coast, but there is a lot of objection from environmentalists because of what it would do to bird, migration and to the environment as well.

The point is, yes, there is a desire by many to go to renewables, but there is also a penalty. This bill has a very high penalty. It has a penalty twice as high as that proposed by the Clinton administration.

What Senator BREAUX, myself, Senator MILLER, and Senator VOINOVICH have offered is a compromise. It does not eliminate the renewable standard. It says let's reduce the penalty to the same number the Clinton administration proposed.

How much is the penalty? It is 1.5 cents a kilowatt hour. How much is that? The wholesale cost of electricity is 3 cents around the country. In some areas, it is as low as 2.2 cents, and in other areas it is closer to 4 cents. The nationwide wholesale cost of electricity is right around 3 cents.

The penalty under the Bingaman proposal in the underlying bill for not complying is 3 cents. That is a lot. That is 100 percent of the cost of electricity. We are telling people you have to pay that kind of penalty if you do not make the target. That is a heck of a gun at your head. As a matter of fact, the penalty is so high on some utilities that produce a lot of electricity—and, yes, maybe electricity is primarily produced by coal, oil, and gas—it is a heavy hit. It is not insignificant when the CEO of Southern Company estimates the cumulative cost of this mandate on Southern Company through the year 2000 will be from $3 billion to $6.5 billion. That is not insignificant.

For somebody to say they think it will not cost anything is absurd. Did the CEO of Southern Company put his name on this letter, and is he factually wrong? I do not think that is the case. It is the reason this amendment is supported by almost every utility in the country. It is the reason this amendment is supported by the Chamber of Commerce, the NFIB, and the National Association of Manufacturers. Somebody is going to have to pay the bill. Guess what. It is not the utilities that pay the bill. They are going to pass it on to their ratepayers.

If we do not adopt this amendment, there is going to be a significant hit on ratepayers. It is going to happen and people should know it. They should know we are voting on whether we are going to have electric rates go up significantly. This amendment tries to mitigate it. They are still going to go up because there is a penalty of 1.5 cents. That is about 50 percent of the wholesale price of electricity. That is still pretty significant. If we do 3 cents, it is 100 percent. That is a big hit, not to mention the fact in addition to the 3 cents, there is also already in the Tax Code—it has already been agreed upon—a 1.7-cent tax credit for renewables.

So we give a tax credit. That is great. But to have this heavy a mandate is a big hit on consumers. It is in the hundreds of millions of dollars in almost every State, including States in the Northeast.

I am going to correct my colleague on the Texas renewable standard. I have the greatest respect for my colleague from Nevada. I love him like a brother. The Texas renewable standard—and maybe we should have the Senator from Texas present because he argued this before in this Chamber, and he said the underlying bill—to paraphrase Senator GRAMM of Texas—is so far from being the Texas renewable standard it is remarkable. What we have in Texas is capacity, not energy-produced, and what we have in Texas is equal to a 2-percent standard, not a 10-percent standard. There is a big difference.

I believe I understood the Senator from Nevada to say there was a 15-percent renewable. My guess is that includes hydro. The underlying bill does not include hydro. Hydro is pretty clean power. We have Hoover Dam. That is pretty clean power. It generates a lot of electricity. It is water. It is great power. It is cheap. It is very good power. It is not included as renewable under the definition of the underlying bill.

So I urge my colleagues to support this amendment.

I am going to insert in the RECORD several statements. I want to insert a letter from the American Corn Growers Association, very big advocates of renewable sources, but they are also supportive of this amendment because they believe this is a proper mix. They also know that their ratepayers, their users, the ones who grow corn, buy a lot of electricity, think this is the proper blend. They want renewable sources.

I will read a part of this letter.

> ACGA also supports a fair and equitable renewable portfolio standard requiring a portion of the Nation's energy to come from renewable sources. However, while we want to do everything we can to promote renewable production by farmers we must oppose undue mandates that will impose additional fuel costs on all rural consumers.
>
> Senator Nickles' amendment will significantly reduce the cost of complying with the standard, and in turn protect rural America from excessive price increases for electricity, by cutting the energy credits from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour.

I also wanted to mention a company called Mid-America Energy Company. This is a company that is based in Omaha, NE. They have analyzed this proposal and developed estimates on increased costs that will result from its enactment of RPS.

> According to our preliminary calculations, implementing RPS in S. 517 will begin increasing electricity costs for Mid-America's regulated and competitive customers in 2007 by 600,000, with costs rising to more than $40 million in the year 2019.

This is in rural America. This is in Middle America. This is in the corn-growing areas. This is one of the largest utilities in the area that said this is going to be a big hit that they are going to pass on to their consumers.

I am surprised there is any opposition to this amendment because this amendment does not eliminate the RPS standard, it does not eliminate the 10-percent standard; all it does is say, let us reduce the penalty to 1.5 cents per kilowatt hour. It is the same proposal the Clinton administration supported.

I do not say things lightly on this floor. I want to be as accurate as possible, and if I am ever inaccurate, I want to be corrected, and I will stand corrected. This amendment will save billions of dollars. I had one letter from one company, Southern Company, that said it was billions of dollars of expense to them and their customers. That is a few States. I cannot say that is one State. It is a few States. It is a big utility. In my State, for one company, it is something like $60 million. They showed it each year: Here is the production. Here is their cost of compliance. And it increases substantially. By the last year, it is something like $60 million.

Senator KYL alluded to the fact that in my entire State it is over $100 million. The State of Vermont, I believe he said, was $7 million.

This also came from the Energy Information Agency. So maybe people are able to distort figures and say it does not cost anything. It does cost something. One cannot say that companies are going to have to pay 3 cents per kilowatt hour if they do not meet a target and say it does not cost anything. There are significant costs, and ratepayers will pay for it. I do not think the utilities pay for it, I think the ratepayers pay for it, and I think it is time we stand up for ratepayers.

So I urge my colleagues to support the amendment I have offered with Senator BREAUX, Senator MILLER, and Senator VOINOVICH.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I will make a few more comments and then move to table the amendment. I think we have had a lot of debate. Everyone knows the issues. I think it is clear this is the fourth amendment we have dealt with on the Senate floor in an attempt to undermine the renewable portfolio standard we have in the bill. There are a lot of figures that have been cited, many of which have no basis in fact, as far as I can tell.

One of the statements we heard was that this was going to cost—if we go ahead and keep the bill as it is currently—the ratepayers of California $243 million a year, or some such figure. The reality is, in our bill we are saying by the year 2005 each State will generate 1 percent of the power they sell—each utility will generate 1 percent of the power they sell from renewable sources.

In California, 12.19 percent of the power sold today is from renewable sources.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. Yes.

Mr. NICKLES. Does that 12 percent include hydro?

Mr. BINGAMAN. Yes, it includes the hydro that is given credit for in this bill.

Mr. NICKLES. I did not think hydro was included in this bill.

Mr. BINGAMAN. No, hydro is included in this bill, to an extent, and this includes the hydro that is given credit for.

Mr. NICKLES. If the Senator will yield further, existing hydro is not included in the bill. Only incremental new hydro is included in the bill, and I do not know how the Senator can count that for existing percentages.

Mr. BINGAMAN. As I understand it, the existing hydro is deducted from the base before the calculation is made. So to that extent, existing hydro is included in the bill.

Mr. NICKLES. I know the Senator is going to move to table this amendment, and I think that is fine. I think we are ready to vote. The Senator has mentioned this is the fourth amendment we have dealt with in regard to renewables. One of the reasons I think we have had a few amendments dealing with this is that it costs so much money, and we have never had a hearing, and we never had a markup.

I happen to be a member of the Energy Committee. I would have loved to have participated in a hearing and a markup on this section. I would love to hear from experts on both sides of this aisle how much this amendment would really cost, but we were denied that opportunity. So it is one of the reasons we have to legislate on the floor of the Senate, because we did not have the opportunity to do it in committee.

Mr. BINGAMAN. Reclaiming my time, my colleague has had ample opportunity to argue his side of the case today and several weeks ago. We know his view on it. He is not in favor of the renewable portfolio standard. This amendment would undermine the renewable portfolio standard we have in the bill because what it would do is make it much less likely that renewables, other than wind, to be very specific, would be used to any significant degree. So those States that depend upon biomass as a renewable, those States that depend upon biothermal as a renewable, those States that depend upon solar power as a renewable might find it more difficult.

We do not think the amendment makes sense. We think it will undermine the renewable portfolio standard. On that basis, I urge my colleagues——

Mr. NICKLES. Before the Senator moves to table——

Mr. BINGAMAN. On that basis, I urge my colleagues to—if the Senator wants further debate, I am not trying to cut off debate, but he has concluded his debate, as I understand it.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I will yield for one additional question, if it is a question.

Mr. NICKLES. I want to insert something into the RECORD.

Mr. BINGAMAN. If he wants to insert something into the RECORD, I am glad to have him do that.

Mr. NICKLES. I appreciate my colleague yielding for this request. I know he wants to move to table.

Earlier, I was looking for a letter I could not find. This is a letter from the Northeast Utilities. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

I recognize that many of the Senators from New England supported the federal RPS portfolio. While NU believes that renewable programs should be developed on the state level, we support the further development of renewable sources of energy. We are concerned, however, that our consumers in New England will be penalized by the program included in the Senate bill. As you know, the RPS provision in the bill applies only to shareholder-owned utilities that sell more than 1 million megawatt-hours per year at the retail level. Federal agencies, state and municipal utilities and electric cooperatives are exempt from meeting the RPS requirements currently included in the bill. It also appears that self-generators are exempt.

Given these exemptions, PSNH will be the only utility in New Hampshire that would be required to participate in the program. It creates a very uneven field for us and will cost our customers an estimated $22 million a year. This provision goes directly against the intent of current NH law which encourages PSNH and other energy companies to find ways to mitigate the high cost of purchases from renewable sources.

Also, the federal penalty that is set forward in the bill for not submitting the required number of credits will hit consumers in Connecticut and Massachusetts with a "double whammy," as they already have to pay penalties if they do not achieve the levels set forth in the state programs that are already in existence. It would in essence, penalize Connecticut and Massachusetts for having state programs.

Though it would be our preference to see these provisions changed dramatically in conference, the Senate will likely have the opportunity to vote for an amendment by Senator Nickles that reduces the penalty in the bill from 3 cents to a more reasonable 1.5 cents. Remember, the goal is not only to increase the number of renewable sources, but to also to lower costs to consumers. Please support the Nickles RPS amendment.

MIKE MORRIS

Mr. NICKLES. The key point of this letter says:

> PSNH will be the only utility in New Hampshire that would be required to participate in the program. It creates a very uneven field for us and will cost our consumers an estimated $22 million a year.

It talks about the impact on the northeastern part of the country, including New Hampshire, Vermont, Massachusetts, and Connecticut.

Mr. BINGAMAN. Madam President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3256. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—38

Baucus
Biden
Bingaman
Boxer
Cantwell
Carnahan
Carper
Chafee
Clinton
Collins
Conrad
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Snowe
Stabenow
Torricelli
Wellstone
Wyden

NAYS—59

Akaka
Allard
Allen
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cleland
Cochran
Corzine
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (FL)
Nickles
Roberts
Santorum
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—3

Daschle
Helms
Johnson

The motion was rejected.

Mr. NICKLES. I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (No. 3256) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3274 TO AMENDMENT NO. 2917

Ms. LANDRIEU. Madam President, I call up amendment No. 3274, the participant funding amendment, for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 3274.

Ms. LANDRIEU. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the transfer capability of electric energy transmission systems through participant-funded investment)

At the appropriate place, insert the following:

SEC. . TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

"(1) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

"(1) TRANSMISSION PRICING PRINCIPLES.—Rules for transmission pricing issued by the Commission under this subsection shall adhere to the following principles:

"(A) transmission pricing must provide accurate and proper price signals for the efficient and reliable use and expansion of the transmission system; and

"(B) new transmission facilities should be funded by those parties who benefit from such facilities.

"(2) FUNDING OF CERTAIN FACILITIES.—The rules established pursuant to this subsection shall, among other things, provide that, upon request of a regional transmission organization or other Commission-approved transmission organization, certain new transmission facilities that increase the transfer capability of the transmission system may be Participant Funded. In such rules, the Commission shall also provide guidance as to what types of facilities may be participant funded.

"(3) PARTICIPANT-FUNDING.—The term 'participant-funding' means an investment in the transmission system controlled by a RTO, made after the date that the RTO or other transmission organization is approved by the Commission, that—

"(A) increases the transfer capability of the transmission system; and

"(B) is funded by the entities that, in return for payment, receives the tradable transmission rights created by the investment.

"(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission without payment of transmission congestion charges, or other rights as determined by the Commission.".

Ms. LANDRIEU. Madam President, I see my colleague, Senator DURBIN, in the Chamber. I would not mind yielding 1 minute necessary for him to just lay down an amendment, if that would be in order.

The PRESIDING OFFICER. Is there objection?

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, what is the request?

Ms. LANDRIEU. I say to the Senator, I was recognized to offer an amendment. The amendment has been called up. We are on amendment No. 3274, which we discussed and is in order. But Senator DURBIN has asked to lay down an amendment that will take 1 minute, and then we will go back to this amendment, if that would be OK with you and the Senator from Alaska.

Mr. BINGAMAN. I thank the Senator from Louisiana. I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. MURKOWSKI. Reserving the right to object—and I may not object—my concern is we have six pending amendments, I am told. I would like to try to work through the amendments. I am sure the manager of the bill feels the same way. I did not hear the request.

Ms. LANDRIEU. It is 2 minutes to Senator DURBIN, and then I will get right on with my amendment, and we will move through with others who are waiting.

Mr. MURKOWSKI. Madam President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I did not hear the unanimous consent request. I am standing here, and I have an amendment that I have been wanting to offer. I would like to know what the unanimous consent request is, if the Chair could so inform me.

The PRESIDING OFFICER. The Senator from Louisiana sought consent that she might yield for 2 minutes to the Senator from Illinois in order to allow the Senator to offer an amendment.

Mr. DURBIN. If the Senator from Iowa will yield.

Mr. HARKIN. I will yield to get a clarification.

Mr. DURBIN. I am asking for 2 minutes to call up an amendment and lay it aside—no speeches, no debate, no vote.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object, Senator FITZGERALD has been waiting quite a while. I am sure he would certainly be willing to accommodate the two Senators with 2 minutes each, but I would propose that we go back and forth, if the Senator from Iowa has an amendment.

I remind all Members, we have a limited amount of time. So as we begin to accept amendments, without disposing of them, we are going to run into a time constraint.

I yield the floor.

Mr. REID. Reserving the right to object, I say to my friend from Alaska, we now have pending, 1, 2, 3, 4, 5, 6, 7 amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Madam President, I thank the Senator from Louisiana—and this goes to prove that the Good Samaritan never goes unpunished—for yielding 2 minutes.

AMENDMENT NO. 3342 TO AMENDMENT NO. 2917

Madam President, I ask unanimous consent that the pending business be set aside so that I can call up amendment No. 3342.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3342.

Mr. DURBIN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the nonbusiness use limitation with respect to the credit for the installation of certain small wind energy systems)

In Division H, on page 98, line 16, strike "If" and insert "Except in the case of qualified wind energy property expenditures, if".

Mr. DURBIN. Madam President, I am grateful that I have had the chance to work with Senators BAUCUS and GRASSLEY to provide a small tax incentive for installation of small wind systems in America's farms, ranches, and other places in rural areas that have wind potential. Specifically, my amendment would give wind power—a limitless and clean energy source—a level playing field with solar, geothermal energy, which are in current law, and fuel cell energy, which is included in the underlying tax title. All of these renewable energies are eligible for a 10 percent business investment credit under section 48 of the tax code. And I think we should give people who wish to tap into wind energy the same credit. With my amendment, farmers, ranchers and other business owners who wish to install a small wind energy system up to 75 kilowatts can do so, and get a credit on their tax return worth 10 percent of the cost of installing the wind system. I applaud the work of Senators BAUCUS and GRASSLEY, as well as the rest of the Finance Committee, which put together a package of energy tax incentives. I am hopeful that the small wind system amendment that I have filed will be accepted as part of the tax incentive package. I know Senators BAUCUS and GRASSLEY are working diligently to make this happen in the near future.

However, in the event that the Finance Committee and bill managers do not succeed in working something out on this provision, I am calling up this amendment so that it may be considered by the Senate at the appropriate time. This amendment makes small changes to the underlying tax title, so that farmers, ranchers, and small business owners will be eligible for a tax incentive when they choose to install a wind energy system on their property. This amendment would have an effect similar to adding wind to section 48 of the tax code, where solar, geothermal, and now fuel cell energy already receive a business investment credit.

Madam President, I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Madam President, I yield to the Senator from Louisiana with gratitude.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3274

Ms. LANDRIEU. Madam President, I am now prepared, after that slight detour, to get back on amendment No. 3274, which is a very important amendment. Many of us have worked on this amendment now for many weeks in an attempt to try to find and establish a fairer way to fund the new transmission lines that are necessary to move electricity from one part of this country to another, to meet the growing demand of our transmission grid system.

Let me begin by sharing a chart that I have used several times in this Chamber to show what the problem is and to ask the Senate to consider, very strongly, this proposed solution to our current dilemma.

We have a great dilemma on our hands. We have, some people might describe, a crisis on our hands. We have a system that we are moving to, a deregulated, more market-based system, which I believe ultimately, with the right safeguards, will be very good for all of us, for all of our States. Most importantly, our constituents and our businesses, both large and small—our consumers, our retailers—all of us will benefit from this new efficient system. Why? Because costs will be lowered, efficiencies will be increased. And we can make sure that when people go to turn their light switch on, the light will actually come on.

It is very important. Part of the problem is that we are not producing enough energy or electricity in our own country. Part of the problem is we are not doing our part at conserving what we should. So there is a mismatch between what we need and what we are producing.

But also, even if we got that balance right, which I hope we are going to try to do through this bill, the problem is, because we are producing electricity in some parts of the country and using it in others, some parts of the country produce more than they use, and some parts of the country do not produce as much as they need, we have to move it.

As you can see from this chart I have in the Chamber, the demand for electricity, represented by this blue line, has been increasing substantially. But the investment in building these transmission lines has been decreasing. So this gap right here is a real problem.

It has to be closed or even if we would drill the way the Senator from Alaska and I would hope we would drill, and produce more oil and gas and other fuels for electricity, and invest in more nuclear power, we still need to have more transmission lines built. The reason we are not is because there is a flaw in the system where the incentives are not in the right place.

My amendment, in short, will create a participant funding mechanism so that the Federal Energy Regulatory Commission can issue rules governing the pricing of these transmission services. I am reminded of a quote I have become familiar with and actually like that says: All some folks want is their fair share, and yours.

The problem is, we have to create a system that is very fair and smart so that we put the incentives in the right places, and when the cost allocations to build these transmission lines are set by FERC, that they are set in a way that whomever is using them, pays for them. If we don't do that, there will be no incentive to build them because people who don't need them won't build them. The people who need them won't get charged for them, and they won't get built. And blackouts and brownouts will become more of the rule as opposed to the exception.

This amendment will provide a platform for true fairness in electricity pricing, paving the way for much needed transmission expansion at the national level. Over the past 10 years, as I have shown, peak demand growth for electricity has increased by 17 percent, while transmission investment has declined by 45 percent. What is even more troubling is that current demand for electricity is projected to increase by 25 percent over the next 10 years with only a modest increase in transmission capacity. Again, if we don't do something, we are going to continue to have a situation where power does not reach the people who need it.

The current transmission pricing mechanism at wholesale levels still employs an old, what I would call, socialized rate method of pricing. Its effect is to continuously increase the rates for local customers, even though most of the beneficiaries may be outside of the region.

This antiquated pricing method has dampened the push to enhance capacity in energy-producing States such as Louisiana and others—and this is not just a Louisiana-specific amendment; it affects us all in many States—as State regulators are reluctant, understandably so, to pass excessive transmission costs off to local customers when the beneficiaries will primarily be out-of-State or out-of-region customers.

Meanwhile, energy-dependent regions—and there are some regions that are more dependent than others—are denied cheap and reliable electricity.

Electricity price spikes in the Midwest in the summer of 1998 were caused in part by transmission constraints, limiting the ability of the region to import electricity from other regions of the country. You may remember during the summer of 2000, our dilapidated transmission infrastructure limited the ability to sell low-cost power from the Midwest to the South during a period of peak demand, resulting in higher prices. I could go on and on with examples.

In California, path 15 is a notorious transmission bottleneck. The east coast has also suffered. So no region of the country has been spared.

Surely there must be a fairer and smarter way to allocate costs which would stimulate growth instead of having this decline. It is not fair to expect customers in energy-generating States such as Louisiana to pay for transmission expansion when it is primarily being developed for out-of-State use.

In addition, the lack of transmission capacity under this archaic pricing method continues to deny customers in energy-importing States the benefit of cheaper electricity from other regions of the country. The best policy for efficient, competitive wholesale pricing is therefore participant-funded expansion. In this system, market participants fund expansions to the transmission network in return for transmission rights created by that investment. This approach gives proper economic incentives for new generator location and transmission expansion decisions.

The participant funding concept is not new. This is not something we have dreamed up in the last few weeks. It is not something with which the industry itself is not familiar. It has been a concept that has been successfully implemented in the natural gas industry through incremental pricing.

As a result of incremental pricing in the natural gas industry, proposed annual additions in 2002 to natural gas pipeline capacity have increased by 100 percent relative to 1999. In other words, we are in the process in this energy bill of building national systems to move fuel and energy and power from States that produce it to States that need it. Just as we built an interstate highway system, we are building an interstate natural gas pipeline system. We also have to build an interstate electric grid system. And we are moving from something that was very regulated and very parochial and very State oriented to one that regional and national.

We have to create that grid. If we do not put this in place, the incentives simply will not be there, and much of our work will be for naught.

It is important to note this amendment provides FERC with the option. There are many people who think this amendment is a mandate. It is an option to permit participant funding for certain new transmission facilities upon request of RTOs or other FERC-approved transmission organizations. The amendment does not make participant funding mandatory. It is simply a pricing option for FERC.

Initially, I knew there were many different opinions about this amendment. We tried to build a consensus. But unfortunately, there is a lot of self-interest and parochialism in this debate. We have struggled to overcome it.

Electricity policymaking should not be governed by what is popular, but what is necessary. There is not unanimous consensus in Louisiana for this amendment. It is not going to win me a popularity contest. But I know there has to be a better system of pricing for electric transmission so that we can move power from one part of the country to the other and get everybody what they need when they need it at a fair and reasonable price. The growth of our economy depends on it. Jobs depend on it. Businesses depend on it. This is what we should do.

I realize this amendment has unfortunately been the subject of a pretty strong campaign of disinformation. I hope what I have shared and shown, in as simple a way as I can, helps to clear up the fact that it is not a mandate. The current path has us going in the wrong direction. We have to come up with something new, something that is flexible, something that is fair, something that will work. I hope most certainly that we can get past the inertia.

Therefore, I have consulted with Senator BINGAMAN of New Mexico and the Senator from Alaska. I have proposed, instead of calling for a vote at this particular time, that the Energy Committee take up further study of transmission pricing; that the committee would hold a hearing in a short period of time with the Commissioners of the Federal Energy Regulatory Commission, as well as industry leaders.

I believe this issue has significant merit, and it is the right approach to solving a real and serious problem for our Nation.

We need to build a stronger, more reliable transmission grid. So I want to, at this time, ask Senator BINGAMAN for his comments and thank him for his cooperation. We must push forward with a good system.

He has indicated that he would be amenable to a hearing, et cetera. At this time, I ask him if that is his understanding.

Mr. BINGAMAN. Madam President, in response, let me say, first, I compliment the Senator from Louisiana for raising this very important issue. It is an important issue and also a very complicated issue. It is one that we have had the chance to talk about to some extent. But, clearly, we do need, in the Energy Committee, to look at this issue and allow witnesses to come in and explain it in more depth. Before we take action, that would be my preference.

So I would be glad to commit that we will schedule a hearing later on, once we get back to some kind of opportunity to have hearings in the Energy Committee on issues such as this. I would be anxious to have a hearing and hear from the witnesses that the Senator from Louisiana believes are most informed on this issue.

I do think it is premature—at least for me, and perhaps for many Senators—to be making a judgment on what to do at this point. But it is an important issue.

Again, I commend the Senator from Louisiana for raising it, and I hope, following a hearing in the committee, we will be in a much better position to craft legislation to deal with it or determine what is the proper course.

Ms. LANDRIEU. I thank the Senator for his willingness to work with me and with the coalition of Senators—both Democrats and Republicans—and believe this is the right step to take to create the kind of transmission grid necessary. I look forward to working with him at that hearing to focus more attention on this important subject.

Madam President, at this time, after submitting more material for the RECORD, I would like to ask unanimous consent that amendment No. 3274 be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. FITZGERALD. Madam President, I ask for the yeas and nays on my amendment, No. 3124.

The PRESIDING OFFICER. The amendment must be pending to make that request.

AMENDMENT NO. 3124

Mr. FITZGERALD. Madam President, I call up amendment No. 3124.

If I may have a couple of moments, then I will proceed to put the question to the body.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FITZGERALD. Madam President, my amendment removes subsidies and incentives currently in the pending bill for garbage incinerators.

Many of my colleagues may not realize it, but built into this energy bill is the promotion of more waste incineration around the country by defining waste incinerators as a form of renewable energy.

Waste incineration is not a form of renewable energy. It is not really renewable, and it certainly isn't clean and environmentally friendly in the way of wind or solar power energy. The Daschle substitute, which is now pending, defines garbage incineration as renewable energy. Garbage incineration is, therefore, eligible for all the incentives—or what amounts to subsidies, I would say—as though it were a clean and renewable source of energy.

My amendment removes the subsidies and incentives for garbage incineration by excluding solid waste incineration from the bill's definition of renewable energy. I tell my colleagues that it would be, in my judgment, a very serious mistake to allow the bill to leave this Chamber with an incentive for waste incinerators all over the country.

Back in the 1980s, the Illinois Legislature passed an incentive for waste incineration, and within a matter of a few years waste incinerators were planned for all parts of Illinois. A couple of them, in fact, were built. They were spewing harmful, toxic pollutants, and people were up in arms and demanded that the legislature of Illinois repeal the incentives and subsidies they had for waste incinerators.

We do not want to make the same mistake nationwide that my State made at one time. Let's learn from their mistake and let's also stick with common sense. We don't need subsidies and incentives for waste incinerators. We don't want to subsidize the pollution of the United States of America.

With that, I see my good friend and colleague from New Jersey who should be recognized.

I yield the floor.

(Mr. DAYTON assumed the Chair.)

Mr. REID. Mr. President, he has no right to do that. Mr. President, I have no problem with the Senator from New Jersey speaking, but today we have been doing too much yielding and that is not appropriate, unless you have a question or something like that.

I have spoken to the Senator from Florida, Mr. GRAHAM. He wishes to speak in opposition to my friend from Illinois for about 15 minutes. It is my understanding that the Senator from New Jersey is speaking in favor of the amendment of the Senator from Illinois. I ask the Senator from New Jersey how long he wishes to speak.

Mr. CORZINE. Roughly a minute.

Mr. REID. Mr. President, the Senator from New Jersey wishes to speak for up to 5 minutes and the Senator from Florida for up to 15 minutes. So I ask that we vote on this matter at 6:25. I ask that at that time Senator BINGAMAN be recognized to offer a motion to table, with no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I rise to strongly support this amendment that would recognize what I think is a very commonsense principle—that solid waste is not considered a renewable in the way that we are intending with regard to this legislation.

It seems to me that when we are putting dioxins, mercury, lead, and arsenic into the air, somehow or another we should not be using that as a basis for alternative energy sources—at least in my commonsense interpretation. We were trying to get solar and wind—things that are clean alternatives—to produce energy as substitutes for fossil fuels and other focuses on production of energy.

So it seems to me that we are taking a step backward in dealing with our environment at the same time we are defining biomass or alternative energies as garbage. Certainly, in our State, where air quality issues are an extraordinary concern to the public, we have a number of these incinerators, about which the public has great protest.

I believe this amendment is conforming to what the intent, at least, of how I have felt about alternative energy sources, and I wholly support pulling back this incentive and subsidization for garbage as an alternative energy source.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise today in opposition to the amendment that has been offered by the Senator from Illinois. The fact that the two proponents have used their own States and their experience as the reasons for their opposition makes my point. My point is this is not an issue where one size fits all. It is not an issue where we can require uniformity of treatment across the entire mass of the United States of America. I will try to explain, using illustrations from my own State, why I think that is inappropriate policy.

What this amendment would do is exclude the small amount of municipal solid waste to energy which is part of the current renewable portfolio standard. Over my objection, this bill does not allow new waste-to-energy incineration to count as renewable. We are only talking about whether you can include in the base amount for your State that which is already in place.

A few weeks ago, in a statement I submitted for the RECORD, I pointed out how difficult it is going to be for many States to reach the 10-percent standard which this bill requires by the year 2020. I will add to that statement that I gave previously by saying Senator FITZGERALD's amendment makes the current renewable standard even more inequitable and more unfair in its treatment of particular States.

The ability of the investor-owned electrical generators, which is the only class covered by this renewable portfolio, within a particular State to be able to meet the 10-percent standard by the year 2020 is substantially affected by conditions over which those same investor-owned electrical generators have no control.

As an example, they have no control over the availability of renewables within their State. They have no control over the environmental characteristics that are peculiar to their State. They have no control over the growth patterns. If a State is stagnant or declining in its population, it is going to be a lot easier to meet these standards than if a State is required to add substantially to its generation capacity in order to meet demographic or economic growth.

Let me use my own State of Florida as an example of some of those peculiarities.

Florida, as many other States, particularly in the southeastern region, does not have conditions which are appropriate for hydropower. We are a flat State. We do not have any high, elevated water sources that can fall over and generate hydropower. Surprisingly, we are not a State which is very adaptable to wind power. We do not have winds that are reliable enough or sustainable enough to make wind power a commercially adaptable renewable source. In fact, the largest investor-owned utility in America for wind power is Florida Power and Light Company.

Florida Power and Light Company is the largest wind power electrical utility in the Nation. It produces zero wind power in the State that bears its name, not because they are not interested in wind power, not that they have not had a lot of technical experience, it just does not work in the environmental conditions of Florida.

Solar, which some think would be the silver bullet for renewables in Florida—I had a solar panel in my house when I was a boy, and that was a few years ago. Sixty years later, it still has not developed into a reliable source of energy at anywhere near economic cost.

These factors are going to make it difficult for my State and others to meet the 10-percent renewable standard as currently included in the bill.

In addition, 87 percent of what in the base is defined as renewable energy in Florida comes from waste to energy. Florida is in the course of building its 14th waste-to-energy plant, making it second only to New York State in the number of these plants.

In my judgment, waste to energy is undoubtedly a renewable source of energy. Our cities and towns will continue to produce solid waste that must be disposed of in some manner. Waste to energy is a viable means of dealing with the problem of disposal.

In my State, over 80 percent of our water supply is subsurface. It is in large aquifers that are just a few feet below the surface. That is the nature of our geology. One of the reasons that incineration has become such a popular alternative is not that people love to have incinerators or are not cognizant of the fact there are some negative implications, but the alternative of putting on top of our water supply mass amounts of solid waste is intolerable. So we have been moving away from that and towards incineration as a means of disposing of our pollution.

I would describe myself as an environmentalist but an environmentalist who looks at what the reality is of the options before me. In my State, the options are we bury it or we burn it. I think the case is unquestionable that it is environmentally less offensive to burn it than it is to bury it right over your water supply.

This method has the added benefit of being able to generate not a great part but approximately 1.6 percent of our electrical supply.

I thought one of the purposes of this was to displace fossil fuels, and that is 1.6 percent of energy which, but for incineration, would have been produced through fossil fuel. It is 1.6 percent of energy that, if it were not being produced through incineration, would be lost and would be in a large landfill posing a continuous threat to our water supply.

I believe in the principle of some flexibility in this law. I had a colloquy with the chairman of the committee a few days ago urging that when this got into conference committee, one of the areas that would be looked at would be how to take the differences that exist from State to State, region to region within our country into greater control, greater consideration in arriving at what is an appropriate renewable energy inventory.

Also, our experience in terms of incineration has not been as dire as that of Illinois and New Jersey apparently. Our facilities are relatively new, as witnessed by the fact we have our 14th currently under construction. They use the maximum achievable control technology, including scrubbers, bag houses, selective noncatalytic reduction, and carbon injection. All of these are designed to reduce the amount of emissions, including the reduction of greenhouse gases.

Emission data that has been circulated recently, in my judgment, is grossly out of date in terms of what modern waste to energy and efficient sources of biomass have been doing in reducing pollution while contributing substantially to alternatives to fossil fuels for energy.

This is not just a Florida-specific issue. In 1993, the Los Angeles District Sanitation Department concluded that the waste-to-energy facility in Commerce, CA, created less pollution than the trucks used to haul the trash to a nearby landfill without regard to the environmental damage once it gets in the ground in the landfill.

According to EPA calculations, if half of the trash produced annually in the United States were used to generate electricity, 1.4 billion fewer pounds of pollutants would be discharged into the atmosphere compared to the energy generation through coal or oil burning.

Waste-to-energy has also been historically treated as a biomass, at least as far back as the FERC rules of 1978.

I ask unanimous consent to have printed in the RECORD the number of States which today have defined for their own State law that waste-to-energy is a renewable energy source.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE RENEWABLE PORTFOLIO STANDARDS

Currently many states have established renewable portfolio standards, either through state statute, executive orders or public utility commission regulations. Of those states eleven define waste-to-energy as a renewable energy source. They are: Maine, Connecticut, New Jersey, Massachusetts, Wisconsin, Iowa, Nevada, Pennsylvania, Hawaii, and Maryland.

Many other sates define waste-to-energy as a renewable energy source for inclusion in other state incentive programs. They are California, Florida, Michigan, Montana, New Hampshire, Ohio, Washington, Oregon, Oklahoma, Utah and New York.

Mr. GRAHAM. For these reasons—primarily the fact that we need to be pragmatic—we need to recognize that different States have different conditions; that the options for disposal of solid waste in many instances, as in the case of Florida, are limited; and of those options, incineration represents one that is relatively environmentally appropriate and is one of the best sources that is available to us to begin to meet this 10-percent standard of a renewable portfolio.

I urge the defeat of the Fitzgerald amendment, or the adoption of the motion that I anticipate is about to be made to table the Fitzgerald amendment.

Mr. LEVIN. Mr. President, I will vote in favor of the Fitzgerald amendment because the underlying language in the bill would allow even an incinerator that is out of compliance with federal emissions regulations to qualify as a "renewable energy source." A facility which is not in compliance with the applicable state and federal pollution prevention control and permit requirements for any period of time should not be considered an eligible facility for purposes of the renewable portfolio standard.

It is my understanding that this distinction was utilized when it came to the tax incentives in this bill and it should be utilized in this area as well.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. FITZGERALD. I ask unanimous consent for an additional minute to reply to the distinguished Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. FITZGERALD. I emphasize this amendment would in no way impair States that incinerate their waste from continuing to do so. In fact, Illinois has waste incineration. What we are saying with this amendment is we should not be promoting, with Federal incentives or subsidies, waste incineration. It is not a renewable form of energy. It is not a clean form of energy. In fact, it spews terrible, harmful pollutants such as dioxins and mercury into the air. The ash produced by waste incineration is very environmentally harmful.

This amendment simply says we will not have a Federal program to promote waste incineration, and no State would be prevented from continuing to burn garbage. We would not be promoting it with a Federal policy.

I thank my colleagues for their time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in reference to the amendment, the underlying bill does not, as I read it, provide any subsidy or incentive for use of municipal solid waste. We do say utilities that now generate waste from that source can deduct that from the base they begin with, but we do not give them credit for that generation, and we do not give them credit for any new generation from that source in the future. So there are no incentives. There are no subsidies, as I read the bill.

For that reason, I oppose the amendment by the Senator from Illinois. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Is there objection to having the vote at this time?

Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 3124. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—50

Akaka
Allen
Baucus
Bayh
Bingaman
Breaux
Brownback
Bunning
Byrd
Campbell
Carper
Cleland
Clinton
DeWine
Dodd
Dorgan
Enzi
Feinstein
Frist
Graham
Grassley
Hagel
Hatch
Hutchinson
Inhofe
Inouye
Landrieu
Lieberman
Lincoln
Lott
Lugar
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wyden

NAYS—46

Allard
Bennett
Biden
Bond
Boxer
Burns
Cantwell
Carnahan
Chafee
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Dayton
Domenici
Durbin
Edwards
Ensign
Feingold
Fitzgerald
Gramm
Gregg
Harkin
Hollings
Hutchison
Kennedy
Kerry
Kohl
Kyl
Leahy
Levin
McCain
McConnell
Mikulski
Murray
Reed
Reid
Sarbanes
Schumer
Smith (NH)
Snowe
Specter
Stabenow
Wellstone

NOT VOTING—4

Daschle
Helms
Jeffords
Johnson

The motion was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, these are a couple of cleared matters on which I would like to complete action before we do anything else.

AMENDMENTS NOS. 3050, 3093, 3097, AND 3274, WITHDRAWN

Mr. BINGAMAN. Mr. President, I ask unanimous consent that amendments Nos. 3050, 3093, 3097, and 3274 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3187, AS MODIFIED, 3243, AND 3268, EN BLOC

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, it be in order for the Senate to consider en bloc amendments Nos. 3187, 3243, and 3268; that amendment No. 3187 be modified with the changes at the desk; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 3187, as modified, 3243, and 3268), en bloc, were agreed to, as follows:

AMENDMENT NO. 3187, AS MODIFIED

(Purpose: To provide for increased energy savings and greenhouse gas reduction benefits through the increased use of recovered material in federally funded projects involving procurement of cement or concrete)

On page 283, between lines 8 and 9, insert the following:

SEC. 9 . INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term "agency head" means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term "cement or concrete project" means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term "recovered material" means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(b) IMPLEMENTATION OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) MATTERS TO BE ADDRESSED.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects; and

(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.

(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Within 1 year of the release of the report in accordance with subsection (c)(3), the Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and

(2) eliminate barriers identified under subsection (c).

(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

AMENDMENT NO. 3243

(Purpose: To strike section 721)

On page 148, strike lines 4 through 22, renumber the subsequent section accordingly.

AMENDMENT NO. 3268

(Purpose: To direct the Secretary of Energy to establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts)

On page 205, between lines 8 and 9, insert the following:

SEC. 8 . COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term "municipal solid waste" has the meaning given the term "solid waste" in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal; or

(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

Mr. BINGAMAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily and call up amendment No. 3195.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Iowa, we have several amendments tonight that we are going to try to put in the queue. But I should say to all my friends on this side of the aisle, most all of the amendments that have been offered have been Democratic amendments. I have been advised by the Republican leader and the manager of the bill for the Republicans that they are going to allow this to happen on a few more amendments, but that is about the end of it. So everyone should understand, this isn't going to go on for the next few hours.

There are actually three amendments that I have gone over with the manager of the bill for the Republicans. And they have tentatively agreed that we could set amendments aside to offer those. But I am just telling everybody that they are not going to allow this to go on until we get rid of some of these amendments, perhaps tomorrow.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, obviously, we are anxious to cooperate with the majority, but this is beginning to wind down, and we anticipate a limited amount of time tomorrow to finish. So we encourage all Senators to try to proceed with their amendments as soon as possible so at the end we do not run out of time and are unable to accommodate Members.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

The Senator from Delaware.

Mr. CARPER. Mr. President, reserving the right to object, I ask unanimous consent that my amendment No.——

The PRESIDING OFFICER. The Chair informs the Senator, there is a unanimous consent request pending at this time.

Is there objection?

Mr. CARPER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I ask unanimous consent that my amendment No. 3198 be called up after Senator HARKIN's amendment is reported and that my amendment then be immediately laid aside.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered. The request, as modified, is agreed to.

The Senator from Iowa.

AMENDMENT NO. 3195 TO AMENDMENT NO. 2917

Mr. HARKIN. Mr. President, has the clerk reported the amendment?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN, proposes an amendment numbered 3195.

Mr. HARKIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To direct the Secretary of Energy to revise the seasonal energy efficiency ratio standard for central air conditioners and central air conditioning heat pumps within 60 days)

Beginning on page 293, strike line 5 and all that follows through page 294 and insert the following:

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

"(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).".

Mr. HARKIN. I offer this amendment on behalf of Senators COCHRAN, GRASSLEY, LINCOLN, and myself.

I yield the floor to the Senator from Mississippi for any comments he may wish to make.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Mississippi.

Mr. COCHRAN. Madam President, I am pleased to join both of my friends from Iowa, Senator HARKIN and Senator GRASSLEY, along with the distinguished Senator from Arkansas, Mrs. LINCOLN, in sponsoring this amendment to the energy bill.

This amendment would seek to change a provision that is in the bill, as reported by the committee, or as it is pending before the Senate, that relates to seasonal energy efficiency ratios of air-conditioners.

The reason we are offering this amendment is to permit the Department of Energy to proceed with the rulemaking, which they have the power to undertake and they are now considering, to make air-conditioners more energy efficient.

The difficulty with the bill, as reported by the committee, is that it preempts the rulemaking process and establishes, by law, a new seasonal energy efficiency ratio, and it establishes it at the level of 13. That is one of the standards of measuring energy efficiency. The current energy ratio that is established under the regulations is at 10. Almost everybody agrees that this standard ought to be increased and that the efficiency ought to be improved. The issue is, how much?

This amendment that we are offering suggests the appropriate level is 12 instead of the committee-mandated ratio of 13. Why is that? It is because, at this level, if it is not amended, you are going to increase the cost of air-conditioners by about $700 each. In a State such as my State of Mississippi, that is a huge increase for consumers. We have a lot of people who do not make enough money to afford an air-conditioner if it costs that much more than the current air-conditioners will cost. That is a big problem.

Another problem is, a lot of manufacturing plants that are manufacturing air-conditioners or components will be put out of business if the ratio is set at 13, as this committee bill does. There is one plant in my State, located in Grenada, MS, that will shut down if this amendment isn't approved, and 2,500 people who work there will be out of a job. That will not occur if this amendment is adopted.

So this is a serious proposal, and it is undertaken with the notion that we do need to improve the energy efficiency of these air-conditioning units. Our amendment will cause that to happen, and we will save money generally over the life of this new ratio because we will use less energy. Less electricity will be consumed by the Nation. And that is good. That is one of the aims of this bill.

So I am hopeful the Senate will look with favor on the amendment. I appreciate the distinguished Senator from

Iowa inviting me to join him in offering this amendment. I am hopeful on tomorrow, when we get to the process of voting and approving amendments, the Senate will vote for this amendment.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3198 TO AMENDMENT NO. 2917

Mr. CARPER. Under the previous order, I call up amendment No. 3198.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER], for himself, Mr. SPECTER, and Ms. LANDRIEU, proposes an amendment numbered 3198.

The amendment is as follows:

(Purpose: To decrease the United States dependence on imported oil by the year 2015)

On page 177, before line 1, insert the following:

SEC. 811. REQUIREMENT FOR REGULATIONS TO REDUCE OIL CONSUMPTION.

(a) OIL SAVINGS.—

(1) IN GENERAL.—The new regulations required by section 801 shall include regulations that apply to passenger and non-passenger automobiles manufactured after model year 2006 and are designed to result in a reduction in the amount of oil (including oil refined into gasoline) used by automobiles of at least 1,000,000 barrels per day by 2015.

(2) CALCULATION OF REDUCTION.—To determine the amount of the reduction in oil used by passenger and non-passenger automobiles, the Secretary of Transportation shall make calculations based on the number of barrels of oil projected by the Energy Information Administration of the Department of Energy in table A7 of the report entitled "Annual Energy Outlook 2002" (report no. DOE/EIA-0383(2002)) to be consumed by light-duty vehicles in 2015 without the regulations required by paragraph (1).

(3) CONSIDERATION OF ALTERNATIVE FUEL TECHNOLOGIES.—The Secretary of Transportation shall consult with the Secretary of Energy to identify alternative fuel technologies that could be utilized in the transportation sector to reduce dependence on crude-oil-derived fuels. The Secretary of Transportation shall take those technologies into consideration in prescribing the regulations under this section.

(4) FINAL REGULATIONS.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 15 months after the date of the enactment of this Act.

(b) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

(2) CONTENT.—The report required by paragraph (1) shall explain and assess the progress in reducing oil consumption by automobiles as required by this section.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside.

The Senator from Iowa.

AMENDMENT NO. 3195

Mr. HARKIN. Madam President, there was a little bit of confusion on the floor. What is the pending matter now?

The PRESIDING OFFICER. The Senator's amendment.

Mr. HARKIN. Madam President, I thank the Senator from Mississippi. He said very precisely what this really is all about. I am going to give a lengthier statement, but as long as he is still on the floor, I want to thank him. He hit it right on the head.

This is really about, No. 1, the loss of jobs in a number of States. We will lose many jobs in Iowa, too, I say to the Senator from Mississippi. Secondly, it is about whether or not a significant number of low-income people and the elderly will be able to afford to have air-conditioning.

In some parts of the country it gets hotter than up in my area, but still, up in my area in the summer, it gets pretty darn hot. And the elderly need that air-conditioning. It is a health matter for them. They have to have air-conditioning. It is probably for a shorter period of time in Iowa than in Mississippi or Florida or Georgia, or places like that; nonetheless, there are periods of time in the summer when it is a health matter for the elderly to make sure they have air-conditioning. And some will not be able to afford the purchase price of an air-conditioner with this 13 seasonal energy efficiency ratio, SEER, that is in the bill.

Basically, what this amendment does is strikes the language in the bill that mandates this. First of all, I don't think we ought to be mandating appliance standards. This is something that ought to be within the purview of the Department of Energy to let them review all the data and then come up with a standard.

If we don't like it, maybe we might want to override it. But for us to just come in and mandate a standard which, quite frankly, has been proven not to be workable—I will get into that in a second—is the wrong way for the Senate to proceed.

Again, for the record, when we talk about the SEER numbers, it is the measure of energy efficiency. The higher the number, the more energy efficient the product.

On first blush, people say: We want the most efficient machine possible. Well, let's take a look at that. The Department of Energy is required by law to set standards that are "economically justified and technologically feasible." The current standard is 10. The bill would raise that to 13. Our language simply requires the Department of Energy to issue a revised standard which must be higher than the current 10 standard and issue it within 60 days. And basically on the basis of not only the present administration's analysis but a lot of work done by staff in the previous administration, they would set that at 12 within 60 days.

Again, there has been some confusion about my amendment. Some have said this is a rollback. We are going to roll back the 13. That is not true. There is no 13 right now. It is at 10. So it is not a rollback.

I see my colleague from Iowa is here. He, too, is a strong supporter of this. I thank him for his strong support in trying to bring some reason to this. But in the past my colleague and I have worked together on appliance standards with the DOE back in 1995 and 1996 to establish a fair and balanced system, one that balances conservation, competition, and the needs of consumers in an interpretative rule, really what the law requires. The rule under which we are operating requires that consumers be looked at, not just as an average, uniform group, but as subgroups such as those within various income and age levels. That is what the rule requires.

Again, if you just look at it as a uniform rate, a uniform average group, perhaps you would come to some different conclusion. The rule doesn't say that. The rule says you have to look at it as subgroups of the population.

Under the rule, DOE's responsibilities must look after the consumer and make sure that these subgroups would be looked at. We need to see how a change in appliance standards will impact various kinds of people, such as the elderly, low-income people, and renters. Unfortunately, the last administration, the Clinton administration, effectively did not properly look at this important requirement. They lumped everybody together. And so the different subgroups were not properly considered under the Clinton administration.

When the professional staff recommended a 12 standard in 2000 under the Clinton administration, that recommendation by the professional staff in the Department of Energy was changed in the Office of the Secretary of Energy. The required analysis of the economic impacts on these subgroups required by the process was not properly done to reach that SEER 13 level. I also understand the Department of Justice in the Clinton Administration had considerable concerns about the negative impacts on competition of a 13 SEER requirement. That is a very important question, particularly for those who want to keep the price to the consumer low and who want competition.

The imposition of this 13 standard would have a serious impact on both consumers and the industry. The Department of Justice is opposed to this, the Small Business Administration, the National Association of Home Builders, and the Manufactured Housing Institute. It is economically damaging, especially to senior citizens, lower and fixed-income families and, as we said earlier, employees in the industry.

As the SEER ratings rise, the cost of the machines rise. The Senator from

Mississippi already pointed out that going from a 10 to a 13 will cost more than $700 per air-conditioner. By comparison, the cost of going to a 12 is only an estimated $407. So when you go up above that 12, it becomes really expensive. Again, if you make it that expensive, what would a consumer do if they have an old energy-inefficient air-conditioner? Would they go out and buy this new one? Will they ever be able to recoup the cost, especially if they live in Michigan or in Iowa where we need our air-conditioners for short periods of time. They would never recoup the money, if they could even afford it.

What many will do is, particularly a lot of modest homeowners, people who live in manufactured housing who have higher costs still with a SEER 13 because that machine will not fit in the space provided for in many manufactured homes? What many will do is they will say: It is cheaper for me to stay with the old one. That doesn't help the environment. It means more energy use in those homes. And so we have accomplished far less than many believe if we go to a 13?

There has to be some reason in this. We can't underestimate the impact that going to this standard would have on lower income people and senior citizens. You will hear arguments tomorrow about the average consumer out there, what this might cost the average consumer. I have often said to people, if you took me and Bill Gates and you averaged our income, I would be a billionaire on my salary here. Imagine that. You can't just look at an average like that. What you have to look at—and the rule says you have to look at—is those subgroups such as the elderly and low income, which they haven't done and which this 13 rating doesn't properly take that into account.

Senior citizens rely on air-conditioning for their health as well as for their comfort. Sometimes it is not a luxury in the summer months. The elderly need that. Again, if they only use it in the summer, 2 or 3 months in Iowa or Michigan, they would never be able to recover the higher cost of a 13.

Furthermore, renters will also be affected by this. It is expected that the increased cost of a new air-conditioner would be passed on in the form of higher rents to 34 million renter households where the median income is $24,400. So, again, if you add that 13 and the landowners have to replace it, they will pass it on in higher rents to renters or they simply will decide not to replace it. Then what have we accomplished?

Recently, the Energy Information Administration conducted an independent review of the impact of imposing a nationwide standard of 13 for air-conditioners compared to a 12. The EIA review stated that a 12 standard would save the Nation $2.3 billion, while a 13 standard would cost the Nation $600 million in additional costs. So a 12 standard—this is the Energy Information Administration—would save the Nation $2.3 billion; a 13 would cost us $600 million. Again, it is because the impacts of a 13's higher cost.

I haven't gotten into the size. It is quite a bit larger than 12. Therefore, people who live in manufactured housing, where the space for the air conditioner is preset, would not be able to get a new air conditioner without retrofitting their home so those people lose if we go to a 13. We lose jobs—the Department of Energy said 20,000 jobs by the year 2006. I see my colleague from Iowa on the floor. I know he wants to speak on this. I know, at first blush, for people who say they are environmentalists, I think I have a pretty good environmental record; but this is not the direction in which to go. This will hurt the elderly and low-income people because many won't be able to afford an air conditioner. Plus, it will cost a heck of a lot of jobs in my State and, I know, in a number of other States.

Madam President, I have more to say on this, but I want to respect my colleague from Iowa who is here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. GRASSLEY. Madam President, I am glad to be able to work with my colleague from Iowa on this amendment. He is being transparent, and I would like to be transparent on it. There are jobs affected in our State. For the Senator from Michigan, the Presiding Officer, it is my understanding there is a company in her State called Heat Controller, Inc., that would not be able to meet these SEER 13 standards, and that there would be jobs in jeopardy at Heat Controller. You may want to check that out, but that is what my information tells me. If I am wrong, I would like to be corrected.

So I compliment the Energy Committee because, generally, in this legislation they have had suggestions that push industry to do things that are more energy efficient. In most cases, those initiatives by this legislation and by the Energy Committee are not only good for saving energy, but they are also very good for the consumer.

Now, Senator HARKIN has touched on this, that if we go to what is called SEER 13, 75 percent of the country, according to a map I have here, will not, through the life of the use of SEER 13 appliances, be able to get a payback. In other words, there is no benefit to the consumer. So this is one of the rare instances in which the Senate Energy Committee has a suggestion in their legislation that might save energy, but is very costly to the consumer. We want to promote things that are energy efficient, but we also want to promote things that are good for the consumer.

Most of the time, you buy energy-efficient appliances. Recently—maybe 3 years ago—I had an opportunity, and a necessity, to buy a new furnace for my farmhouse in Iowa. In looking at what to buy, they could very quickly say, well, if you buy our furnace, within 5 or 7—I am not sure how long, but it was a relatively short period of time—you will save enough on LP gas to pay for it. Buy one of these thermostats that is automatically controlled to go up and down with the heat, and in a certain period of time it is paid for.

In this particular instance, the Senate Energy Committee has offered us a proposal that will save energy, yes; but for people in 75 percent of the country, geographically—I don't know how that is population-wise—there is not a payback.

So that is why I ask this body to look at the wisdom of this particular provision in this bill. Obviously, I am asking you to look at the wisdom that is behind the amendment offered by the Senator, my colleague from Iowa.

The Department of Energy has authority, through the rulemaking process, to set these standards. The Department of Energy is required by statute, under the National Appliance Energy Conservation Act, to set these standards and to do it in a way "that is economically justified and technologically feasible."

So I think the underlying legislation—which we can obviously change if we want to, and I think it is unwise to change—the underlying statute calls for it to be economically justified. This is one that is technologically feasible; it saves energy, but it doesn't appear to be economically justified by going from 12 to 13. What we are trying to do is overturn precisely what the bill does in the first place. The Department of Energy is considering a rule based on information and based on analysis from several years' worth of submission during the rulemaking process. Unfortunately, this bill seeks to take action that would raise the standard—a 30-percent increase in efficiency—and to do it clearly, without consideration of information collected by the Department of Energy.

Had the authors of this bill considered the evidence regarding the economic impact of a 30-percent increase, they would have soon realized it is contrary to the statutory criterion imposed on the Department of Energy which requires that it be economically justified.

Economically, a 13 SEER standard just doesn't make sense. For example, 75 percent of the consumers purchasing 13 SEER units will incur a net cost. At the end of the lifetime of the product, the savings in operating costs won't be sufficient to offset the additional up-front costs of that particular product—

besides the fact that some companies, as I have implied to the Senator from Michigan, are not able to make SEER 13 and maybe it would really harm those jobs as a result of that additional complication.

This is particularly true for consumers in the middle and northern tiers of the United States. Critics claim that the additional cost of the 13 SEER product is insignificant. However, the Energy Information Administration conducted an independent review of the economic impact of imposing either a 30-percent increase in SEER, which this bill proposes, and a 20-percent increase. The Energy Information Administration concluded that a 20-percent increase would result in savings of $2.3 billion in energy costs for consumers while a 30-percent increase would actually cost consumers $600 million.

So based on that evidence, it is contrary to the best interest of the consumer. There is not a payback. The difference between the savings of $2.3 billion compared to a loss of $600 million is certainly significant and clearly does not justify a 30-percent increase.

The supporters of the 13 SEER standard also disregard the concerns expressed by the Department of Justice. A number of equipment manufacturers selling air-conditioners in the United States today don't offer products at 13 SEER. Which I mentioned to the Senator from Michigan. For that reason, the Department of Justice opposes a 13 SEER standard based on anti-competitive implications for the industry.

It is also important for my colleagues to understand exactly what the amendment offered by Senator HARKIN and my colleague, Senator COCHRAN, would do. This amendment won't impose a lower standard for air-conditioners and heat pumps. It simply eliminates the 13 SEER mandate of the bill and requires the Department of Energy to determine an appropriate standard and set that standard within 60 days.

In conclusion, I urge my colleagues to oppose the 13 SEER standard in the bill that is not economically justified as the underlying, present law requires. I urge my colleagues to support this amendment, which will allow the Department of Energy to complete the rulemaking process within a standard that is not only good for saving energy and technologically feasible, but also good for the consumer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I thank Senator GRASSLEY for his strong support not only on this amendment but in previous years, and for bringing some reason to how we address this SEER standard. He is right on target.

Again, we have to keep in mind the differences about which we are talking. If we look the first 15 years after the rule is implemented, from 2006 to 2020, the difference between the 13 and 12 is four-hundredths of a percent of the cumulative U.S. generating capacity—four-hundredths of a percent. I am all for saving energy—we all are—but what is this going to do to our elderly and low-income people in between time and the loss of jobs?

I am not saying we should never go to a 13. I am not saying that. What I am saying that the appliance standards should be staged, looking at the economic effects and the technology over time. Again, look at the impact going from a 10 to a 13 would have on jobs, on people of low income, on our renters, and our elderly. A 13 standard would also have an impact on competition in small business. It would eliminate 84 percent of all new central air-conditioning models on the market today and 86 percent of all new heat pumps. Nearly half of the original equipment manufacturers selling air-conditioners in the United States today do not offer products at 13. A lot of those, mostly small manufacturers may be forced out of business.

There is a large company, one of the biggest. They are for the 13? They are for the 13. Interesting. I can see a scenario whereby a lot of the smaller manufacturers—they are doing a good job. I can see a scenario where they simply would be forced out of the business, and I can see this great big company coming in and buying them up. Then what happens to the competition? It is a lot less.

It is interesting to note that one, the largest company in this business, is for the 13 standard. Again, we ought to ask the question about what we are trying to do? They are trying to acquire market share from the small companies who will have difficulty retrofitting their factories to make 13 SEER machines.

To the extent we go to 13 and we force the change, I do not know what the elderly are going to do and what low-income people are going to do. They cannot recoup their investment, and it will be an additional $700 for an air-conditioner.

On that issue, I just mentioned the competition. That may be why the Department of Justice in the last administration had serious concerns about a SEER 13 standard. And why this administration opposed this on the basis of competition. That is why the Small Business Administration opposes it. Again, they are concerned about smaller manufacturers being able to remain in this line of business.

One last thing I have not talked about—I should have my chart. I do not this evening. Maybe I will bring it in the morning. The size of the air-conditioners with a 13 standard is substantially larger than a 12. Not one-twelfth bigger, but maybe a third again as big. They are huge.

That would create enormous retrofitting problems for many manufactured homes, especially manufactured homes because these homes have a precisely set space for central air-conditioners. They could not likely be replaced without considerable retrofitting. That is why the American Housing Institute supports a 12 standard where that would fit in the same place where a 10 fits right now. They expressed their concern about what would happen to families on limited incomes.

The National Association of Homebuilders opposes the 13 standard, not because they are opposed to 13, but for each $1,000 added to the cost of a new home takes out 400,000 buyers. We do want to build more homes. We do want more people to own their own homes, a key part of the American dream.

I am all in favor of efficient appliances. Reducing our energy consumption is important to reducing air pollution, global warming, reducing price spikes, but it has to be reasonable, and it has to be something where we do not end up worse than we are.

I suppose sometime down the pike if we go to a 13 standard—I mentioned over the first 15 years the standard will be in effect, the difference is four-hundredths of a percent in cumulative energy use in the United States—four-hundredths of a percent—but at what cost will that come to the elderly, people of low income, working families, jobs, and competition in the industry?

I will have more to say about this tomorrow. I hope people who have not thought much about this and say, gee, 13 is higher than 12, it must be better, more energy efficient, will stop to think about whether or not we are going to get the energy savings we want if we go to the 13 standard and people cannot afford it so they stick with the older ones that use more energy, that they will pollute more.

If we adopt the 12, it can be used, it is reasonable in cost, it fits into the spaces, and we can move to it in a reasonable fashion. Certainly 12 is better than 10, and 10 is what the standard is right now.

I hope when we get to this vote tomorrow people will take a look at the end result and not just be swayed by the fact that 13 looks better, looks more energy efficient than a 12. The rule says we have to look at its economic effect on subgroups. If this body is in the position of mandating—this amendment says we do not mandate it, we leave it up to the regulatory body, but the rule under which they have to operate says they have to look at the impact, not just on the general population but on certain subgroups—low income, working families, the elderly.

Our amendment will allow the Department of Energy to implement a 12 standard, which I believe is much more reasonable at this time than going to a 13 right away.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3359 TO AMENDMENT NO. 2917

Mr. REID. Madam President, I call up amendment No. 3359 offered by Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BINGAMAN, proposes an amendment numbered 3359 to amendment No. 2917.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purchase: To modify the credit for new energy efficient homes by treating a manufactured home which meets the energy star standard as a 30 percent home)

In Division H, on page 74, line 16, strike "Code" and insert "Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy".

Mr. REID. Madam President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3139 TO AMENDMENT NO. 2917

Mr. REID. Madam President, I call up amendment No. 3139.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 3139 to amendment No. 2917.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

Beginning on page 204, strike line 15 and all that follows through page 205, line 8, and insert the following:

"Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.".

AMENDMENT NO. 3311 TO AMENDMENT NO. 3139

Mr. REID. Madam President, I call up a second-degree amendment, amendment No. 3311.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 3311 to amendment No. 3139.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

In lieu of the matter proposed to be inserted, insert the following:

"(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.

"(2) EFFECTIVE DATE.—This subsection shall be effective one day after the enactment of this Act."

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HYBRID VEHICLE TAX CREDIT

Mr. SESSIONS. Madam President, in the Finance Committee energy tax amendment that has now been included in the energy bill, the consumer tax credit available for the purchase of a new qualified light duty hybrid motor vehicle generally ranges from $250 to $3,500 depending upon the weight of the vehicle and the "maximum available power" from the vehicle's battery system. I note that in the proposed Sec. 30B(c)(2)(D)(iii)(I) the term "maximum available power" for a passenger automobile or light truck hybrid is defined as follows:

> For purposes of subparagraph (A)(i), the term "maximum available power" means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

Because this language originated in his bill, S. 760, I would like to engage the senior senator from Utah in a brief colloquy to make sure we have a common understanding of this definition.

I note that the definition allows the use of either a "standard 10 second pulse power test" or an equivalent test. Is it the understanding of the Senator from Utah that this language authorizes a manufacturer to demonstrate the maximum available power of its rechargeable energy storage system by using either the standard 10 second pulse power test or some other test that will demonstrate the extent to which the rechargeable energy storage system is contributing to the overall power of the hybrid system?

Mr. HATCH. Yes, that is my understanding. Our purpose in authorizing an "equivalent test" is not to push manufacturers to one particular hybrid design by virtue of our prescribing the standard 10 second pulse power test. Rather, we want to provide flexibility in the methodology of measuring the hybrid performance of the vehicle and providing increased incentives for those vehicles that utilize the optimum combination of power from the two power sources.

Mr. SESSIONS. Is it the understanding of the Senator from Utah that the equivalent test described in this definition could include a test procedure, at the request of the manufacturer, that measures power from the rechargeable energy storage system using real world driving conditions?

Mr. HATCH. Yes, that is correct.

Mr. SESSIONS. Is it also the understanding of the Senator from Utah that there are Federal Test Program (FTP) driving cycles already formulated by EPA that could provide comparable results to the 10 second pulse power test?

Mr. HATCH. It is my understanding that such test procedures do exist and could provide an alternative way to measure maximum available power.

Mr. SESSIONS. I thank the Senator. That conforms to my understanding as well.

TITLE X

Mr. HAGEL. Mr. President, as I stated in a previous colloquy with my colleagues, we have reached broad agreement on many of the provisions within Title X related to the development and coordination of a national climate change policy.

There remain considerable uncertainties about the causes of climate change, which has been noted by the National Academy of Sciences. Our focus should be on addressing these uncertainties, not taking drastic unwarranted action that could cause severe economic disruption.

The revised provisions of Title X and other provisions will help reduce these uncertainties and take practical, market oriented steps to vastly improve our energy efficient technologies.

The agreement appropriately calls for the creation of a national strategy to address the challenge of climate change. It also creates an interagency task force to better coordinate climate change policies with the Executive Branch. This is needed. Climate change policy cris-crosses the jurisdiction of multiple government agencies. Far too often questions posed to the previous administration were answered with the response, "You'll have to ask someone else. We don't handle that area." There needs to be accountability for climate change within the Executive Branch.

President Bush has already taken the initiative, and put forth a forward looking strategy to take action on climate change. His proposal includes: a reasonable goal for greenhouse gas emission reductions; a flexible way to achieve this goal, without harming economic growth; a voluntary emissions registry for industry and individuals to track their progress on greenhouse gas emissions; increased scientific research; increased investment in new energy efficient technologies; and efforts to work with other nations, particularly developing nations, on mutual efforts to address climate change.

In crafting this strategy, President Bush created an interagency task force very similar to that proposed in this legislation. The Cabinet Secretaries and others within the Executive Office of the President involved in this process spent countless hours reviewing the underlying climate issues and ranges of policy options. The chairman of the Council on Environmental Quality (CEQ), James Connaughton, played the lead role in developing the strategy. This level of engagement and policy development on climate change is unprecedented. It can, and should, serve as a model for carrying out provisions of this legislation as ultimately approved by the House and Senate.

As I stated in the colloquy included with the manager's amendment on Title X, I have remaining concerns regarding the creation of a National Office of Climate Change Policy with the Executive Office of the President (EOP). I do not disagree with the need for dedicated management within the EOP with regard to the creation and implementation of climate change policy. I understand the concerns for congressional oversight and the desire for those focused on climate change to be in positions subject to Senate confirmation and available for congressional testimony. However, I fail to see the need to create new bureaucracy within the EOP for this purpose.

Chairman Connaughton effectively performed this role in the current administration's policy review and development. I see no reason the chairman of the Council on Environmental Policy could not continue to perform this function. Moreover, statutory authority already exists for a Senate-confirmed deputy director for the Council on Environmental Policy. This position has never been filled, and could be designated to focus solely on the area of climate change. There are several options that could be pursued in the conference committee to address the legitimate functions called for within Title X without creating a new office within the EOP.

Title X also includes a Sense of the Congress resolution regarding participation by the United States in international efforts on climate change. This language is based on a resolution approved by the Senate Foreign Relations Committee in August of 2001, but has been substantially revised. It now reflects the uncertainties recognized by the scientific community that are inherent with any predictions of future climate change. It acknowledges the commitment by the international community that actions taken should be appropriate to the economic development of each nation. The resolution also reflects the principals unanimously approved by the U.S. Senate through S. Res. 98 in July 1997—that U.S. participation in any international climate change treaty should be predicated on participation of all nations, including developing counties, and that such action must not harm the U.S. economy.

The resolution appropriately calls on the United States to continue to demonstrate international leadership on climate change within our commitment to the United Nations Framework Convention on Climate Change. It does not call on the U.S. to re-engage in efforts to ratify the flawed Kyoto Protocol. This resolution is forward looking. At the appropriate time the United States should provide the international community with a proposal that would address the global challenge and global commitment of climate change. It is only responsible that we balance the economic interests of America with our environmental and energy interests. This resolution insists upon this balance.

I appreciate the work of my colleagues on both sides of the aisle in reaching the bipartisan agreement made in Title X. It is a significant accomplishment. I look forward to working with them to address the remaining issues in conference.

Mr. HARKIN. Mr. President, I strongly support the Renewable Fuels Standards (RFS) contained in the Senate energy bill, S. 517. This historic agreement will be a milestone in the efforts to develop renewable fuels.

This agreement will dramatically increase the Nation's production of domestic, renewable fuels, including ethanol and biodiesel, from U.S. agricultural commodities and residues over the next decade. The renewable fuels standard will create a steady market for American agriculture, and provide significant economic benefits throughout rural America. Importantly, it will also increase U.S. fuel supplies, reduce our dependence on foreign oil, and protect the environment.

Some have questioned whether the renewable fuels standard as contained in the bill is too aggressive, and whether there is enough ethanol to meet the requirement. I am here to tell you there is more than enough ethanol production capacity today to meet the needs of the program when it goes into effect in 2004!

In fact, the U.S. ethanol industry has undergone significant growth in recent years in anticipation of the phase out of MTBE, particularly in California. In the past 2 years alone, since California Governor Davis' original Executive Order phasing out MTBE use in the State by December 31, 2002, 16 new plants have opened and several expansions to existing plans have been completed. As a result, the ethanol industry has the capacity to produce 2.3 billion gallons of ethanol per year right now, the amount needed to satisfy the renewable fuels standard in 2004. The 13 plants under construction will bring total capacity to 2.7 billion gallons by the end of this year, more than the volume of ethanol required under the agreement in 2005.

A survey by the California Energy Commission projects U.S. ethanol production capacity to double to more than 4 billion gallons by the end of 2003. Clearly, with the RFS beginning in 2004 at 2.3 billion gallons per year, there will be more than adequate supplies of ethanol to meet the requirement while providing additional volume to fuel supplies.

Importantly, the driving force behind the growth in ethanol production over the past 5 years has been farmers seeking to capitalize on the value-added benefits of ethanol production directly through ownership in ethanol plants. Today, farmer-owned ethanol plants make up more than a third of all U.S. ethanol production, with the capacity to produce a billion gallons of ethanol. Fourteen of the 16 ethanol plants opened in the past two years are owned by farmers, and 10 of the 13 under construction today are farmer-owned.

In Iowa today, we have nine operating ethanol plants. In addition, five new plants are under construction, all of which are farmer-owned. By the end of this year, half of all U.S. ethanol production facilities will be farmer-owned.

Ethanol production facilities across America serve as local economic engines, providing high-paying jobs, capital investment opportunities, increased local tax revenue and value-added markets for area farmers. With commodity prices very low, investment in value-added ethanol processing by America's farmers provides a critical opportunity for increased farm income and rural economic development. In these communities, largely untouched by the economic expansion of the last decade, the increased prices for corn in the radius around a plant stimulates very real economic development, and the value-added benefits of ethanol mean a $2 bushel of corn is converted into $5 of fuel and feed co-products.

Ethanol is the third largest use of corn. Last year, 700 million bushels of corn were used to produce ethanol and feed co-products, boosting corn prices and rural income. According to a study by AUS Consultants, the RFS will increase demand for grain by an average of 1.4 million bushels annually, increasing net farm income by nearly $6 billion per year. It will also create $5.3 billion in new investment, much of it in rural America.

The Renewable Fuels Standard will create demand for 5 billion gallons of ethanol and biodiesel by 2012. Importantly, these fuels can be produced throughout the United States, from grain and agricultural biomass residues. Iowa alone produces nearly 500 million gallons of ethanol a year. The Nation will produce nearly 2.2 billion gallons of ethanol in 2002.

Even as Iowa and other Midwest States stand ready to supply ethanol to California, the State can also produce much of the ethanol it will consume. For example, the California Energy Commission recently concluded the State of California has the potential to produce 100 million gallons of ethanol per year from cellulose such as rice straw and forestry wastes by 2005 and 400 million gallons per year by 2010. This later number represents well over half of the estimated supply that would be needed to satisfy the state's oxygenate requirement. Opportunities also exist for grain-based ethanol production in California.

A California based ethanol industry would provide significant economic and environmental benefits to the State. Ethanol production would provide rice growers with an alternative to burning or other costly forms of rice straw disposal. It could also help reduce the frequency and intensity of forest fires with the removal of forest debris for ethanol production. It is estimated instate ethanol production could provide the State with more than $1 billion in economic benefits. These same benefits can be achieved in the southeast, northeast and northwest, establishing new biofuels industries across the Nation.

As we look to a future of increased production and use of domestic, renewable biofuels, we should also consider their role in future transportation applications such as fuel cells.

Extracting hydrogen from renewable sources such as ethanol will benefit the environment, rural America and energy security. Demonstrations with ethanol have shown that reforming ethanol into hydrogen provides higher efficiencies, fewer emissions, and better performance than other fuel sources, including gasoline. And ethanol used to power a fuel cell vehicle would count toward the Renewable Fuels Standard.

Clearly, the Renewable Fuels Standard represents a momentous opportunity to benefit rural America, improve the environment and enhance our Nation's energy security. The 5 billion gallons of renewable fuels that would be required in 2012 would replace gasoline we currently get from foreign oil. American farmers can be producers as well as consumers of energy. They are willing and able to supply fuel as well as our food and fiber. Farmers are on the front lines in the battle for energy independence, and their efforts will make a bold statement about our Nation's commitment to reduce oil imports and build domestic energy supplies that may one day make us truly energy independent.

Farmers are ready, willing and able to lead the way toward energy independence. The time is right for a Renewable Fuels Standard that takes advantage of farmer's ability to produce renewable, domestic fuels to increase fuel supplies, reduce our dependence on foreign oil, and increase the U.S.' ability to control its own energy security and economic future.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak not in excess of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURE OUR COASTLINE

Mr. CLELAND. Madam President, I am proud to be a part of this body which wisely acted to improve border security last night. As we approach the end of April, I am here today to urge my House colleagues to act on the issue of port security, which the Senate passed unanimously last year. Our Nation's coastline is over 95,000 miles—by far our most prolific border. Yet, despite the tremendous national mobilization to increase security since September 11, protecting our seaports has been a somewhat elusive goal. Although the Senate acted last December to tighten security at our Nation's ports, the legislation is still stalled in the House of Representatives.

In my home state of Georgia, ports play an important role in international commerce and military support. The Port of Brunswick, GA, with three marine terminals, is growing rapidly. Brunswick is the home of a world-class auto and machinery import-export processing facility as well as an expanding forest products and agri-bulk operation. With the completion of the new Sidney Lanier Bridge this year and the on-going deepening of the Brunswick Harbor channel, the future of this operation is even brighter.

At the Port of Savannah, which brings in the eighth largest cargo volume in the Nation, ships carry iron, steel, lumber, machinery, and paper products.

It was the fastest growing container shipping operation in the Nation during calendar year 2001, and the only port to experience double-digit growth for the year. The total volume of business at the port has grown steadily over the last decade, reflecting its important contribution as a powerful economic benefit for importers, exporters and consumers located throughout the entire southeast region of the United States. The Port of Savannah is also an important strategic ally to our Nation's military, serving as a first responder for deployment of military equipment, supplies and personnel to hot spots around the world.

To utilize this important port, ships must traverse the Savannah River and pass between historic River Street, with its shops and restaurants, and the new Convention Center and hotel on Hutchinson Island, which can accommodate over 10,000 guests and employees. On any given day, there are thousands of people walking the streets of this beautiful, old town. If someone with sinister motives were able to gain access to this channel, they could easily wreak havoc on a large number of people in a short period of time. Imagine this situation repeated at ports throughout the country, many of which are located around large population centers. A New York Times article from November 2001 sums up the problem with a description of a port in Portland, Maine:

> The unscrutinized containers, the bridge, the oil tanks, the dormant but still radioactive nuclear power plant 20 miles north of the harbor—all form a volatile mix in a time of terrorism.

One must not forget that 68 nuclear power plants are located along navigable waters, and in my State, we also face maritime security risks as a result of the opening of a liquefied natural gas terminal LNG. One LNG carrier can carry enough gas to heat the homes of over 30,000 families.

Our ports and waterways are vulnerable. The Interagency Commission on Crime and Security in U.S. Seaports reports:

> The state of security in U.S. seaports generally ranges from poor to fair, and in a few cases, good.

This same report surveyed 12 large ports and found that only 3 controlled port access from the land, and that 9 of these ports did not control access via the water. To realize the ramifications, we only need to remember the U.S.S. *Cole*.

While Congress did appropriate over $93 million in funds for port security upgrades last year, we can and must do more. We have an opportunity, and a duty, to act to help prevent a terrorist attack on our ports before it happens. In December, the Senate unanimously passed S. 1214, the Port and Maritime Security Act of 2001. I am a cosponsor of this important legislation because I understand the crippling affect a terrorist attack at our ports would have on the Nation's commerce as well as our people.

Ninety-five percent of foreign trade travels on water. After September 11, the Nation's air travel system was halted for days, crippling commercial airlines, the postal service, and the transportation of goods and people worldwide.

Millions of dollars were lost in unrealized revenue as a result of only 4 days. The airports however, had a security system in place. They only needed adjusting in order to reopen our skies.

However, what security system is in place at our ports? If something happened at my home State's port of Savannah or Brunswick, how would this Nation respond? I believe Americans would rightly expect seaborne shipments to stop. This means that the employment of over 1 million people would be in jeopardy; over $74 billion in annual gross domestic product would halt; personal income contributions of over $52 billion would disappear, and local and Federal revenue exceeding $20 billion would dry up. The ripple effects throughout our Nation's economy and the world's—because sea shipment is the ultimate example of globalization—would be devastating. Unlike the airports, restoring normal sea shipments would take longer than 4 days because there is no system in place to upgrade but rather a patchwork of security initiatives that may not allow for any quick or uniform upgrades. In view of all of these disturbing facts, I urge my House colleagues to take up and pass S. 1214, which contains important provisions to make our seaports more secure.

At a minimum, S. 1214 requires security assessments and authorizes funding for these assessments at our ports, which some port authorities have done already. The Georgia Ports Authority—GPA—for example, has already conducted this assessment with its own funds.

This report recommends a major increase in the number of surveillance cameras, lighting, fencing and other perimeter security measures at Savannah and Brunswick. It also recommends the addition of some 40 new law enforcement and other security personnel to enhance the 60 person police force now deployed at the Port of Savannah and to also provide additional coverage in Brunswick. In addition, there is a recommendation for a major expansion of the credentialing system for personnel and vehicles that have access to the port facilities.

We do not yet have the price tag for all of these improvements, but we know that it will be costly. I am certain that GPA will be applying for Federal funding to assist in these costs, and I will strongly support their application as we work through the budget process. The $93 million grant program Congress established was only a first step toward strengthening our seaports, and S. 1214 would help up get closer to that goal.

This legislation also requires background checks for personnel employed in security Sensitive positions.

Additionally, S. 1214 authorizes funding for screening and detection equipment, and it requires crew and cargo manifests to be reported to the U.S. Customs Service before the ship arrives at a domestic port, not after.

In order to help coordinate the many agencies and law enforcement personnel at our Nation's ports, the bill encourages, where possible, locating these personnel at the same facility.

Additionally, after working with the bill's authors, I drafted a provision included in the Senate passed bill which establishes a pilot program operated by the U.S. Customs Service to ensure the integrity and security of cargo entering the United States. Specifically, this provision calls for Customs to explore the types of technology available that can be used to ensure a ship's goods have not been tampered with. Such technology could enable "preapproved" cargo to enter the United States on an expedited basis.

This program would also require communication and coordination with foreign ports and foreign Customs officials and shippers, at the point the goods are loaded onto ships bound for our land, and would likely result in prescreening of American bound goods at these foreign ports.

This "extension" of our borders to enable screening of containers at foreign ports translates into a greater chance of eliminating threats at home and ensuring that properly handled and safe cargoes can be moved through the system so that we can focus on potentially more dangerous cargoes.

Commander Stephen Flynn of the U.S. Coast Guard and a Senior Fellow at the Council on Foreign Relations believes that homeland security can be supported through "establishing private-sector cooperation, focusing on point-of-origin security measures, and embracing the use of new technologies."

I wholeheartedly agree with Commander Flynn, and I believe my amendment accomplishes these goals.

I am pleased with the Commissioner of the U.S. Customs Service, Robert Bonner. He is in support of my amendment. In a speech given on January 17, 2002, Commissioner Bonner announced the Service's Container Security Initiative.

With over half of our Nation's containers originating at only 10 international ports, targeting these ports for an "international security standard [for] sea containers," as Commissioner Bonner put it, would result in prescreening of most of the goods entering the country. The Commissioner continued by stating that pre-screening of containers and the use of technology are vital parts of this program:

> A first step in the [container security initiative] begins by examining and comparing our targeting methods with those of our international partners. And we should consider dispatching teams of targeting experts to each other's major seaports to benchmark targeting and to make sure that all high risk containers are inspected by the same technology that can detect anomalies requiring physical examination inside the container. . . . Having your containers checked and preapproved for security against the terrorist threat at a mega-port participating in this program should and likely will carry tangible benefits.

I look forward to working with Commissioner Bonner and the Customs Service on this initiative, as well as implementation of the pilot program called for in my amendment, and I have written to the Commissioner conveying my strong interest in the CSI program and pledging my full cooperation in implementing it. Additionally, I was pleased to read in the April 16 Washington Post that several U.S. businesses have signed on to participate in such a program to better ensure the integrity and safety of goods entering the United States.

I look forward to reviewing the successes and recommendations resulting from this important port security initiative.

One of the Customs Service's vital partners in the current port security regime is the U.S. Coast Guard. They were among some of the first respondents to the homeland security call on and after September 11.

I applaud the President for including the Coast Guard funding level increases in his budget, which will better enable the Coast Guard to carry out its multifaceted security initiatives—from monitoring our ports to search and rescue to drug interdiction programs.

In a Washington Post column from Sunday, March 3, about the potential development of weapons of mass destruction by Al Quaeda, the author writes:

> In "tabletop exercises" conducted as high as Cabinet level, President Bush's national security team has highlighted difficult choices the chief executive would face if the new sensors picked up a radiation signature on a boat steaming up the Potomac River . . .

Congress must send the President a strong port security bill before it is too late. I urge the House to promptly pass S. 1214.

TRIBUTE TO BOB KILLEEN

Mr. DAYTON. Madam President, I rise today to pay tribute to Bob Killeen, the former Subregional Director for Minnesota of United Auto Workers of Region 10. Bob has been a good friend of mine for the last 25 years. And even though his doctors say that he is in a tough battle, knowing Bob, and knowing his courage and his heart, I would not be surprised to see him bouncing back tomorrow.

I do want to take this opportunity on the Senate floor to pay tribute to him for the leadership he has given to the United Auto Workers in Minnesota over the past decades, to thank him for his enlightened leadership on behalf of working men and women in Minnesota, and to recognize him as a leader and a teacher for those who have followed in his footsteps, such as myself. Senator WELLSTONE, I know, joins with me in these remarks.

Bob is courageous in his convictions. He is always true to those convictions. But he has proceeded as a gentleman in the best sense of that word. He is respected by his friends and his supporters, and even by those who may have sat on the other side of the bargaining table. Bob has treated everybody with the same kind of respect and regard. That is why so many people love him, as I do, and care for him as a human being, and respect his convictions and his principles.

I say to Bob and to the members of the Killeen family how indebted all of us in Minnesota are to all of you for lending your spouse, and your father, to us during these years. I know it took many hours and nights away from his family for Bob to do the work that he was committed to doing. I know he would not have wanted it any other way, and I know his family would not have wanted it any other way as well.

To Bob, I wish you Godspeed. I thank you from the bottom of my heart for the gifts of your wisdom and your principles that you have bequeathed to me. I say to you: You have done a remarkably wonderful job for Minnesota, Bob. Thank you very much.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 25, 1993 in New Haven, CT. Two Yale students were harassed and assaulted because they are gay. The assailant, Mark Torwich, 27, of Shelton, was charged with a hate crime in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

WOMEN'S AUTOIMMUNE DISEASES RESEARCH AND PREVENTION ACT

• Mrs. BOXER. Madam President, yesterday I introduced the Women's Autoimmune Diseases Research and Prevention Act. This legislation would expand, intensify and better coordinate activities between the Office on Women's Health, the National Institutes of Health and other national research institutes with respect to autoimmune diseases in women.

The term "autoimmune disease" refers to a varied group of more than 80 serious, chronic illnesses that involve the human organ system; the nervous, gastrointestinal and endocrine systems; the skin and other connective tissues; the eyes; and blood and blood vessels. These are illnesses where the body's protective mechanisms go haywire, and where the body's immune system attacks the very organs it was designed to protect.

Overall, some 50 million Americans are afflicted with some form of autoimmune disease. But for reasons we do not understand, the vast majority of those affected, approximately 75 percent, are women, and most are stricken during the working and childbearing years. Taken together, autoimmune diseases represent the fourth largest cause of disability among women in the United States.

These diseases, which include lupus, rheumatoid arthritis, scleroderma, multiple sclerosis, Guillain-Barré syndrome, fybromyalgia, Hashimoto's thyroiditis, Graves' disease, Epstein-Barr virus and chronic active hepatitis, are heartbreaking and debilitating. In virtually all of these diseases the female-to-male ratios are dramatically skewed toward women, in some cases by ratios as high as 50 to 1.

Autoimmune diseases remain among the most poorly understood and poorly recognized of any category of illnesses, and although science suggests they may have a genetic component, they can cluster in families as different illnesses. For example, a mother may have lupus; her daughter, diabetes; and her grandmother, rheumatoid arthritis.

To help women live longer, healthier lives, more research is needed to shed light on genetic as well as hormonal and environmental risk factors that contribute to the causes of autoimmune diseases, as well as providing early diagnosis and treatment.

The legislation I have introduced addresses all of these issues. It directs the Office on Women's Health to conduct or support research to expand the understanding of the causes of, and develop methods for preventing, autoimmune diseases in women, including African American women and other women who are members of racial or ethnic minority groups. It calls for more epidemiological studies to address the frequency and natural history of these diseases and the differences among women and men.

The bill also promotes the development of safe, efficient and cost-effective diagnostic approaches to evaluating women with suspected autoimmune diseases, as well as clinical research on new treatments and rehabilitation for women. Finally, it provides for expanded information and education programs for patients and health care providers on genetic, hormonal, and environmental risk factors associated with autoimmune diseases in women, as well as the prevention and control of such risk factors.

Autoimmune diseases run the gamut from mild to disabling to life threatening. Nearly all affect women at far greater rates than men. The question before the scientific community is "why?" We have come a long way in the diagnosis and treatment of autoimmune disease. But more work is desperately needed, more information must be made available, and more resources must be devoted to this effort.

The Women's Autoimmune Diseases Research and Prevention Act can contribute to the growing body of knowledge about these awful illnesses. But it is not enough to simply understand these diseases well. We must ensure that the millions of American women stricken with autoimmune disease also live long, and well.•

CONGRATULATIONS TO ROXANNE GRIDER

• Mr. BUNNING. Madam President, today I rise to honor Roxanne Grider of Bullitt Central High School in Shepherdsville, KY.

I am extremely proud to announce that Ms. Grider is one of only 10 special education teachers in the Nation to receive the 2002 Shaklee Award for outstanding teachers of students with disabilities. She also is the first Kentuckian to receive this distinction since the award's inception 5 years ago. This award is given by the Glenda B. and Forrest C. Shaklee Institute for Improving Special Education and includes a $1000 prize and a trip to Wichita, KS for a conference featuring previous award winners and representatives of the Shaklee Institute.

After receiving a bachelor's degree in history and secondary education from Centre College in Danville, KY, Roxanne looked for a job as a high school history teacher. Fortunately for the special education community, she had no luck finding a teaching job in the field of history. Due to the rising demand for special education teachers, Roxanne was immediately offered a position in the Hopkins County School system. After going through an emergency certification process, Roxanne headed back to the classroom to focus her studies on helping those less fortunate individuals. She eventually received her master's degree, special education certificate, and Rank 1, which means she took 30 hours beyond her master's degree, from the University of Louisville. Ten years has now passed since she took that first job, and I believe Roxanne has taken full advantage of what appeared to be a professional mishap.

In her teaching career, Roxanne has set herself apart due to her innovate mind and enduring spirit. In the classroom, she empowers her students with real-life responsibilities such as planning and cooking meals, cleaning, and shopping. In the fall, her class has its own business, the B.C. Cookie and Candle Co., which sells glass jars filled with layers of cookie ingredients and topped with fabric covered lid. She wants all of her students to believe in themselves and what they can accomplish in life. It would be very easy and probably convenient for her to treat these children as if they were helpless, but she refuses to look at them in such a manner. For Roxanne, these children have the opportunity to live a proactive life full of adventure and action. Ultimately, she wants all of her students to have a job when they finish. Although it may not have been the field she wanted to enter, special education turned out to be the field Roxanne was destined to enter. She has touched many lives and truly made a difference.

I once again congratulate Roxanne for being honored with such a prestigious award. I am proud to have such an amazing and talented women looking after Kentucky's special children.•

HONORING THOMAS V. DOOLEY OF THE NEW JERSEY STATE AFL–CIO

• Mr. TORRICELLI. Madam President, I rise today to recognize Thomas V. Dooley for his years of devotion and commitment to the Middlesex County, NJ AFL–CIO Labor Council. Mr. Dooley is retiring from his position as president after many years of outstanding service.

A devoted father and husband, Mr. Dooley has played an important and prominent role in Middlesex County labor. Labor has a long history in this country for speaking up for the concerns of workers who would otherwise not be heard. But through the leadership and guidance of people such as Thomas Dooley their voices are being heard and action is being taken. As the International Representative for the Paper, Allied Industrial, Chemical and Energy Worker International Union of New Jersey, Thomas has been an effective and powerful voice for his members on a variety of critical issues.

Thomas Dooley has also been very involved in the community. He is currently vice president of the David B. Crabiel Scholarship Foundation, the Assistant Treasurer for the Middlesex County Board of Social Services and is a member of the Board of Directors for New Brunswick Tomorrow. He has excelled in his career, in his community and has dedicated his entire life towards helping others.

So I join with Thomas Dooley's brothers and sisters in the labor movement in recognizing his service to the community, his countless acts of compassion, and his commitment to working men and women. May his spirit of service and community be a model for all of us to admire and emulate.•

IDAHO TEACHER OF THE YEAR

• Mr. CRAIG. Madam President, today President Bush is recognizing the national Teacher of the Year, and I want to join him in recognizing teachers across America for the vital work they do. I come from a family of educators, so I have seen firsthand the impact teachers have on children. They do this because they care about each and every child they teach. These public servants deserve our gratitude and thanks.

While I believe this can be said of all teachers, I would like to recognize one particular teacher today who embodies this sentiment. She is Jennifer Williams, of Nampa, ID, and she was chosen by my State as Teacher of the Year.

One look at her career shows why she was chosen as the Teacher of the Year. She has dedicated 29 years of her life to teaching, and those 29 years have been full of innovation and a real love for education. Not only has she been busy in the classroom, she has also found time for activities which enrich the community and help kids outside of school. For example, she has co-chaired Boise's Art for Kids project and created a youth art program through which she and her students go to rural communities to help children with art lessons.

While these activities are important, her classroom work is what truly sets her apart. She has received many awards for this work in the past, including being named Mountain Home School District's teacher of the year in 1991, as well as receiving the 1992 USWest Outstanding Teacher Award, the 2000 Governor's Award in the Arts, the 2001 Idaho Art Teacher of the Year, and the 2001 Unsung Heroes Award.

Her students adore her and her peers respect her. This what every teacher strives for, and Nancy has earned this regard. As Marilyn Howard, the Idaho State Superintendent of Education, said, "Mrs. Williams stands out as one of those individuals who is a teacher in everything she does, not just in the classroom working with students, but also in her workplace and in her community. Her passion and dedication show in her accomplishments."

As you can see, Jennifer Williams is truly a treasure for her school, for Idaho, and indeed for the Nation in general. Teachers like Jennifer make education a rewarding experience for students and parents alike. I am proud that the State of Idaho chose her as its Teacher of the Year. She is a great example for the rest of the State and the Nation, and I hope this award gives her a platform so she can help other teachers to excel as she has.•

UNITED WAY OF CHITTENDEN COUNTY CELEBRATES ITS SIXTIETH ANNIVERSARY

• Mr. LEAHY. Madam President, I rise today to recognize a group of Vermonters who have long served our state. It is with much pride and admiration that I congratulate the United Way of Chittenden County for 60 years of service in the greater Burlington area.

For the past 60 years, the United Way of Chittenden County has been providing relief and assistance to its community. In October of 1942, founders Henry Way, C.P. Hasbrook, and I. Munn Boardman started the Burlington Community Chest. The chest's first campaign raised over $100,000 to help organizations like the Burlington Boys Club, the YMCA and the Salvation Army. Over the years, the chest evolved into the United Way of Chittenden County, one of Chittenden County's foremost benefactors, a community-based, problem-solving organization. This past year, the United Way of Chittenden County raised a record $3.75 million to help its neighbors, both local and afar. This is a remarkable sum, and one that reflects the strong commitment of the United Way to support the welfare and growth of Vermont and her people.

The United Way of Chittenden County has become much more than a fundraising organization. They now train volunteers and coordinate a vast number of mentoring opportunities in Chittenden County, working with both national programs, like America Reads and the Retired and Senior Volunteer Program, and local groups, including Vermont's many museums, schools, and conservation societies. The United Way works to make Chittenden County a stronger community, tending to those in need. The many people who work and volunteer for the United Way become community supporters and community leaders. After graduating from law school, I was recruited to do my part and volunteer for the United Way of Chittenden County. It was a meaningful experience and one that has remained in the front of my memory during my 27 years in the U.S. Senate. Just as impressive as the volunteers of the United Way are those who benefit from the United Way's programs. They too become active and contributing members and leaders of their communities.

The organization's actions following the unspeakable events of September 11, 2001, demonstrated the strength and commitment of the United Way of Chittenden County. The United Ways of Vermont contributed $400,000 to the September 11th Fund, including over $200,000 from the United Way of Chittenden County. At the same time, the United Way of Chittenden County still managed to raise more funds for Vermont's programs than any previous year. This accomplishment is due in no small part to Campaign Chair Lisa Ventriss, whose devotion ensured that the United Way will continue helping Vermonters, even while it contributes to a national cause of such gravity and importance. This feat is a testament to the generosity and dedication of the United Way of Chittenden County, and of all Vermonters.

I would like to thank Gretchen Morse, the executive director of the United Way of Chittenden County, for her commitment to this organization's success and Vermont's well-being. Her leadership has helped keep the United Way of Chittenden County one of the most cost-effective charities of its kind. Indeed, 85 cents of every dollar collected by the United Way of Chittenden County goes directly back to the community, a number well above the national average. Given this organization's unyielding support, it is no surprise that the United Way State of Caring Index now ranks Vermont as the fifth most caring State in the Union.

Sixty years after its founding, the United Way of Chittenden County remains a model for charitable organizations across the State and across the country. I join the people of Chittenden County, VT, and the entire Nation in thanking the United Way for six decades of community service.•

IN HONOR OF SUSAN S. BENJAMIN UPON BEING SELECTED AS THE 2002 NEW MEXICO TEACHER OF THE YEAR

• Mr. DOMENICI. Madam President, I rise today to honor Susan S. Benjamin of Los Alamos, NM, who is in the Nation's Capitol today to be recognized as the 2002 New Mexico Teacher of the Year. She was one of 57 teachers from across the country who were honored by President Bush in a White House ceremony today for excellence in their profession. I am honored to have the opportunity to make a few remarks.

For the past 32 years, Susan has been making a difference in children's lives. As an elementary school teacher, she has touched the hearts and minds of her students, while generating interest and enthusiasm in learning. Parents, colleagues, and students all reap praises upon her for the excitement she brings to the classroom.

Previously, Susan has been selected as the Los Alamos Public Schools Teacher of the Year. She also received the New Mexico State Award for Excellence in Math Teaching on two separate occasions.

Through her dedicated service, Susan has earned a national reputation as an outstanding teacher. She has participated in nationwide Activities Integrating Math and Science, AIMS, workshops, working with other teachers to demonstrate techniques for math and science education.

Her efforts to increase student awareness of the importance of science and math education complements many of the ideas expressed in the newly authorized No Child Left Behind Act. Our children need the tools necessary to compete in a marketplace dominated by computers and information technologies that demands a high level of proficiency in math and science. Dedicated teachers like Susan will now have more freedom to develop programs related to technology which will ultimately benefit her students.

Susan has helped set the bar for excellence in teacher quality. I am encouraged to know that a teacher of her caliber will now have greater flexibility in providing her students the skills necessary to succeed in tomorrow's marketplace.

I am proud to honor Susan Benjamin, our 2002 New Mexico Teacher of the Year. On behalf of the Senate and New Mexico, I thank this fellow New Mexican for making a difference in our children's lives.•

90TH ANNIVERSARY OF THE GIRL SCOUTS

• Mr. DURBIN. Madam President, for nearly a century, the Girl Scouts have provided girls with enriching, educational, and above-all fun activities that have helped to mold more than 50 million women. This tradition continues today.

This year the Girl Scouts are celebrating their 90th birthday. I commend their work in shaping society. The Girl Scouts serves to teach our future leaders and creates a refuge where young women can find themselves.

Their mission is to help all girls to grow strong. They stress the development of a woman's whole being, while fostering physical, mental, and spiritual growth. Girl Scouts enables women to reach their full potential. Not only do the Girl Scouts empower women to strive for their goals, but it teaches them responsibility, values, and decision making skills that are the basic foundations for success.

Since its founding, Girl Scouts across the Nation have been serving our communities. During World War I Girl Scouts learned about food preservation, sold war bonds, and collected peach pits to use in gas mask filters. In the 1950s Girl Scouts were working to break racial discrimination. And today Girl Scouts are on the cusp of technological insight, working hard to end hunger, save the planet, and help support those less fortunate then themselves.

The simplest things that Girl Scouts do impacts everyday people. In the wake of September 11, Girl Scouts across the Nation sent thank-you cards to the rescuers, and contributed $1 a piece to send to the orphans of Afghanistan. Throughout its long history, Girl Scouts has led efforts to tackle important societal issues and has remained proactive in its commitment to inclusiveness. Today we look to the future and our young people for reassurance. We look to the youth and see promise. We know that girls growing up today will need to take on challenges involving health, economics, politics, and social change. Our future leaders will have to be value conscious, globally aware, technologically skilled, and able to act with self-confidence. These are the very skills the Girl Scouts work to encourage in every girl.

Being a Girl Scout is important to the girls. Only a Girl Scout can explain what it truly means to be part of the organization. A Girl Scout from Illinois put it best:

> Being a Girl Scout is really fun. You can learn about growing up in a fun, roundabout kinda way. You can go on a six-day canoe trip or go on a two-hour hike. You can help with the Special Olympics or help someone with their homework. You can make a quilt or make a get-well card. Being a Girl Scout is being what you want to be.

Girl Scouts is about being well-rounded and being yourself.•

2002 PENNSYLVANIA BOYS BASKETBALL CHAMPIONS

• Mr. SPECTER. Madam President, I seek recognition today to acknowledge the Golden Lancers, the boys basketball team at Bishop Hannan High School in Scranton, PA.

On March 23, 2002, the Lancers won the PIAA Class AA State Boys Basketball Championship, when, in a very close game, the team defeated Sto-Rox, 70–68, becoming the first Lackawanna County team to win a State title since 1993 and the first team from Scranton to take home the title since Bishop Klonowski in 1976.

Each and every member of the team and its coaching staff should be proud of their accomplishment. Their hard work and commitment have produced many awards throughout this past season and will no doubt mean even more in the years to come.

I want to express my congratulations not only to the team and coaches, but to the entire Bishop Hannan community for representing Pennsylvania in such an outstanding manner.•

CONGRATULATIONS TO BEN LEBER OF VERMILLION, SOUTH DAKOTA

• Mr. JOHNSON. Madam President, I rise today to congratulate Ben Leber of the Kansas State University Wildcats. Ben, a Vermillion, South Dakota native, was chosen in the third round of the National Football League's 2002 Draft by the San Diego Chargers, and was the 71st overall draft pick.

At Vermillion High School, Ben excelled both in the classroom and on the football field. Ben played offense, as a running back, and defense, as a linebacker. He was a two-time All-State and All-Conference selection and played in the North-South Dakota All-Star game. He was also named to the Academic All-State team and was an honor roll student every year in high school. In 1997, his senior year, he was a Parade All-American, the only player from South Dakota to receive the honor that year, and received an honorable mention to the All-USA team by USA Today. At VHS, Ben also participated in Track and Basketball.

At KSU, where Ben is a Business-General Management major, he started 35 of his last 37 games as an outside linebacker, continuing the school's excellent linebacker tradition. His junior year, Ben was an All-Big Twelve Conference second-team pick. His senior year, he was an All-American third-team selection by the Associated Press and a Consensus All-Big Twelve Conference first-team choice. Ben was also named to the Butkus and Lombardi Award watch lists and was invited to participate in the prestigious Senior Bowl. Ben was a team representative and defensive captain both his junior and senior years. Over the course of his career at KSU, Ben had 216 tackles, 13.5 sacks, 11 passes broken, three forced fumbles and one fumble recovery.

I also want to take this opportunity to congratulate the Leber family, who have played no small role in Ben's success: his parents Al and Han, his brothers Jason and Aaron, and his sister Gina. I also want to congratulate VHS head football coach Gary Culver, who guided Ben and the Tanagers to the South Dakota 11A State Championship in 1995.

Ben reflects the best of South Dakota, and I know I speak for the entire state when I congratulate him on being drafted. We are all very proud of him.•

TRIBUTE TO RABBI SOLOMON GOLDBERG

• Mr. JEFFORDS. Madam President, I would like to recognize the outstanding contribution that has been made by Rabbi Solomon Goldberg to the Rutland, VT, Jewish Community and to his community at large.

Rabbi Goldberg, retiring after 42 years of service, has been a leader, mentor, and teacher at the Rutland Jewish Center, the regional anchor for Jewish life in central Vermont. His wisdom, compassion, and spiritual leadership have guided hundreds of families in Jewish tradition. He has taken his congregation through the arc of life experiences; from birth to bar and bat mitzvah to marriage and through memorial, his kindness and strength have been a constant source of support for all.

Rabbi Goldberg has also been a fine educator. He has dedicated himself to the work of interfaith teaching, learning and communication, which are so important to the overall understanding and peace between people of different faiths. I know that he intends, even in retirement, to continue this fine work and I commend and encourage him in those endeavors. He is a fine American, and I wish he, his wife Marilyn and their family, all the best as they enjoy this transition in their lives.•

ARMENIAN GENOCIDE

• Mr. LEVIN. Madam President, on this the 87th anniversary of the Armenian Genocide, I would like to take a few moments to pay tribute to the men, women and children who lost their lives in the 20th centuries' first systematic attempt to extinguish an entire people.

The past century was marred by many acts of unthinkable brutality and genocide. Among these events was the Armenian Genocide. April 24 marked the inception of a brutal campaign to eliminate Armenians from the Turkish Ottoman Empire. It was on this day in 1915 that 300 of the leaders in Istanbul's Armenian community were rounded up, deported and murdered along with 5,000 of the poorest Armenians who were executed in the streets and in their homes. During the period from 1915–1923, approximately 1.5 million Armenians perished under the rule of the Turkish Ottoman Empire. Countless other Armenians fell victim to deportation, expropriation, torture, starvation and massacre. It is out of necessity that all freedom loving people must remain vigilant in their efforts to rebut and refute those who would deny the events of the Armenian genocide ever occurred.

The Armenian genocide was the result of a consciously orchestrated government plan. Henry Morgenthau Sr., the American Ambassador to the Ottoman Empire, sent a cable to the U.S. State Department in 1915 saying that the, "deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion."

During my tenure in the Senate, I have spoken out about the Armenian Genocide because we must acknowledge the horrors perpetrated against the Armenian people and reaffirm our commitment to ensure that the world cannot and will not forget these crimes against humanity. We must speak out against such a tragedy and dedicate ourselves to ensuring that evils such as the Armenian Genocide are not revisited on our planet. This is the highest tribute we can pay to the victims of any genocide. It is important that we take time to remember and honor the victims, and pay respect to the survivors that are still with us.

In the Rotunda of the Russell Senate Office Building there is an important exhibit displayed by the Genocide Project. The Genocide Project is an organization that seeks to preserve the memory of the Armenian Genocide by creating powerful displays that combine photos and the narrative from survivors of the Genocide. I would urge all my colleagues to view this powerful and moving account of the tragic events which we remember today.

The Armenian people have preserved their culture, faith and identity for over 1,000 years. In the last century alone, the Armenian people withstood the horrors of two World Wars and several decades of Soviet dominance in order to establish modern Armenia. I hope all my Senate colleagues will join me in honoring and remembering the victims of the Armenian Genocide.•

• Mrs. FEINSTEIN. Madam President, I rise today to acknowledge and commemorate the 87th anniversary of the beginning of the Armenian Genocide. I do so every year because the lessons of the past must not be forgotten and the crimes of the past must not be repeated.

On April 24, 1915, the Ottoman Empire launched a brutal and unconscionable policy of mass murder. Over an 8-year period, 1.5 million Armenians were killed, and another 500,000 were driven from their homes, their property and land confiscated.

As Americans, as sons and daughters of liberty, justice and freedom, we must raise our voices and acknowledge this terrible crime to ensure that it does not happen again.

Those who would single out men, women, and children to be killed solely on the basis of their race, ethnicity, and religion must know that the United States and the international community will not allow their crimes to go unpunished.

We have seen the crimes of the Armenian Genocide repeated far too often in this century: in Germany, in Cambodia, in Rwanda, and in Bosnia. We have stood by and remained silent. Let us commemorate this occasion and state loud and clear: Never again.

Even as we remember the tragedy and honor the dead, we also honor the living. Half a million Armenian Americans reside in my home State of California and I am proud to be their representative in the U.S. Senate. They have overcome the horrors of the past to build a better future for themselves and their families in the United States. They are a testament to hard work, dedication, and perseverence and they have greatly enriched the culture and civic life of our State.

Let us remember the Armenian Genocide. Let us ensure that those who suffered did not die in vain. Let us rededicate ourselves to cause of human rights for all. Let us work together with Armenia and the Armenian American community to create a future filled with hope and possibility.●

● Mr. FEINGOLD. Madam President, today marks the 87th anniversary of when the Ottoman Empire began a policy to isolate, exile and even eliminate the Armenian population. Today, we pause to remember and honor the victims of the Armenian genocide. Between 1915 and 1923 one-and-a-half-million Armenians were systematically murdered at the hands of the Ottoman Empire and hundreds of thousands more were forced to leave their homes.

It has been nearly a century since this period of violence and annihilation began, and this anniversary serves as a reminder that this tragedy will not be forgotten. It must not be forgotten. Each year I commemorate this date on the Senate floor both to honor those who lost their lives and to remind the American people that the capacity for violence and hate is still prevalent in our world today. Recent history in Bosnia, Kosovo, and Rwanda tells us that systematic brutality and the attempts to extinguish a population because of their ethnicity are still all too real. And recent news reports detailing the re-emergence of anti-Semitism worldwide are an admonishment to us all that even lessons as searing and tragic as those taught by the Holocaust can be forgotten if we do not remain vigilant in our efforts to remember them.

As the chairman of the Subcommittee on Africa, I had the unique opportunity to visit the International Criminal Tribunal for Rwanda, ICTR, in Arusha, Tanzania, earlier this year. There I saw firsthand the tremendous progress being made and groundbreaking legal precedents being set with regards to genocide being seen by the international community as a crime against humanity. The court for Rwanda and the court for the former Yugoslavia send a clear message to the world that such horrific acts cannot and will not go unpunished. Since I became a member of the U.S. Senate, I have strived to make the protection of basic human rights and accountability for such atrocities worldwide a cornerstone in American foreign policy.

Today, we remember the Armenian men, women and children who lost their lives during that tragic time period in world history, as well as the other countless number of past and present victims of violence.●

● Mr. REED. Madam President, I rise to join my colleagues, my fellow Rhode Islanders and our Armenian American community in observing the 87th Anniversary of the Armenian Genocide.

Although some in the world still want to convince themselves, as well as others, that the deaths of so many Armenians was simply a product of a civil war, the facts are undeniable: from 1915 to 1923 1,500,000 Armenians died, and 500,000 refugees were forced to flee. These facts must continue to be affirmed. To ignore the Armenian Genocide would be to ignore history and therefore allow the preconditions to exist for another radical leader to rise and legitimize the future genocide of another of the world's people. Let anyone ask: "who remembers the Armenians?" and the answer would be: Millions in the United States and around the world. Today, Rhode Island is among 31 States which have, by either resolution or proclamation, recognized the Armenian Genocide.

At the time of the Armenian Genocide, Europe and the United States were too embroiled in the First World War to understand the magnitude and consequences of the atrocities being committed and therefore did little more than protest by correspondence. Understanding and remembrance today ensures that the world will respond appropriately to avert these tragedies tomorrow. As proof, we need only look to NATO's quick and decisive action to quell the Kosovo crisis.

We must also recognize that, in addition to the tragedies of the past, Armenians continue to suffer from the economic effects of natural disaster and the dispute over Nagorno Karabagh. Yet amidst this suffering the Armenian people continue to strive to build an independent democratic nation of peace in the Caucasus region. So, despite crisis elsewhere in the world, we must remain attentive to Armenia and the people of Nagorno Karabagh and recognize that significant economic assistance now will prove to be an investment with long term reward in a region of strategic significance to the United States.

Today while we solemnly commemorate the tragedy of the past, let us rededicate ourselves to building a strong and vibrant Armenia for the future.●

UNPUNISHED RELIGIOUS PERSECUTION IN THE REPUBLIC OF GEORGIA

● Mr. SMITH of Oregon. Mr. President, as a member of the Commission on Security and Cooperation in Europe, I have followed closely human rights developments in the participating States, especially as they have an impact on freedom of thought, conscience, religion or belief. In many former communist countries, local religious establishments have reacted with concern and annoyance about perceived encroachment of religions considered "non-traditional." But in the Republic of Georgia organized mob violence against those of nontraditional faiths has escalated, largely directed against Jehovah's Witnesses. For over 2 years, a wave of mob attacks has been unleashed on members of this and other minority religious communities, and it is very disturbing that the police have consistently either refused to restrain the attackers or actually participated in the violence.

Since October 1999, nearly 80 attacks against Jehovah's Witnesses have taken place, most led by a defrocked Georgian Orthodox priest, Vasili Mkalavishvili. These violent acts have gone unpunished, despite the filing of over 600 criminal complaints. Reports cite people being dragged by their hair and then summarily punched, kicked and clubbed, as well as buses being stopped and attacked. The priest leading these barbaric actions has been quoted as saying Jehovah's Witnesses "should be shot, we must annihilate them." Considering the well-documented frenzy of these depredations, it is only a matter of time before the assaults end in someone's death.

Other minority religious communities have not escaped unscathed, but have also been targeted. Mkalavishvili coordinated an attack against a Pentecostal church last year during choir practice. His truncheon-wielding mob seriously injured 12 church members. Two days before Christmas 2001, over 100 of his militants raided an Evangelical church service, clubbing members and stealing property. In February of this year, Mkalavishvili brought three buses of people, approximately 150 followers, to burn Bibles and religious materials owned by the Baptist Union.

Mkalavishvili brazenly holds impromptu press conferences with media outlets, often as the violence transpires in the background. With his hooligans perpetrating violent acts under the guise of religious piety, camera crews set up and document everything for the local news. The absence of a conviction and subsequent imprisonment of Mkalavishvili is not for lack of evidence.

After considerable delay, the Georgian Government did commence on January 25 legal proceedings for two mob attacks. However, considering the minor charges being brought and the poor handling of the case, I fear Mkalavishvili and other extremists will only be encouraged to continue their attacks, confident of impunity from prosecution.

Since the initial hearing in January of this year, postponement of the case has occurred four times due to Mkalavishvili's mob, sometimes numbering in the hundreds, overrunning the Didube-Chugureti District Court.

Mkalavishvili's marauding followers brought wooden and iron crosses, as well as banners with offensive slogans. Mkalavishvili himself even threatened the lawyers and victims while they were in the courtroom. With police refusing to provide adequate security, lawyers filed a motion asking for court assistance, but the judge ruled the maximum security allowed would be 10 policemen, while no limit was placed on the number of Mkalavishvili's followers permitted in the courtroom. In contrast, the Ministry of Interior has reportedly provided more than 200 police and a SWAT team to protect officials of its office when Mkalavishvili was brought to trial under different charges.

Certainly, the Georgian Government could provide adequate security so that its judicial system is not overruled by vigilante justice. Unfortunately for all Georgians, the anemic government response is indicative of its inability or worse yet, its unwillingness to enforce the law to protect minority religious groups.

As is clearly evident, Georgian authorities are not taking effective steps to deter individuals and groups from employing violence against Jehovah's Witnesses and other minority faiths. With the ineptitude of the justice system now well known, Mkalavishvili has brazenly and publicly warned that the attacks will not cease.

Religious intolerance is one of the most pernicious human rights problems in Georgia today. Therefore, I call upon President Eduard Shevardnadze to take action to end the violence against religious believers, and prevent attacks on minority religious communities. Despite the meetings he held with the various faith communities intended to demonstrate tolerance, Georgian Government inaction is sending a very different message. Tbilisi's pledge to uphold the rights of all believers and prosecute those who persecute the faithful must be followed by action.

As a member of the Commission on Security and Cooperation in Europe, I urge President Shevardnadze to do whatever is necessary to stop these attacks, and to honor Georgia's OSCE commitments to promote and ensure religious freedom without distinction. The Georgian Government should take concrete steps to punish the perpetrators through vigorous prosecution.●

TRIBUTE TO JACK CHURCH

• Mr. JOHNSON. Madam President, for 15 years, Jack Church has worked tirelessly on behalf of the citizens of Butte County as Emergency Management and Veterans' Service Officer. Over the years, Jack has completed and filed applications for disability, education, pension, and other benefits for the nearly 900 veterans living in Butte County. He has also provided assistance to the families of veterans and worked to obtain needed military and medical records, as well as medals and other decorations for veterans.

I have appreciated Jack's work on behalf of veterans over the years. He has been a great advocate for veterans in South Dakota, not only on issues that impact the individual veteran and his or her family, but also on issues that impact all veterans, such as maintaining access to health care services in the Department of Veterans Affairs. He has always recognized the particular issues affecting veterans who live in rural areas, whose access to VA health care and other services can be limited by distance or income. He has been active on issues such as prescription drug costs for veterans and senior citizens, has advocated concurrent receipt of disability and retiree compensation for military retirees, and worked hard to speed up the processing of claims filed by veterans. He has truly been a friend to the veterans of South Dakota over the years.

In 2000, Butte County veterans received $1.8 million in Federal benefits, compared to $900,000 in 1990. This represents Jack's work to ensure the veterans in Butte County get the benefits they deserve. When claims or requests for records or medals were delayed, Jack was not afraid to "rattle the cages" to get the necessary action on behalf of the veteran. At last resort, he would contact my office for assistance in some of these cases. Thanks to his efforts, countless veterans in Butte County and the surrounding region have benefitted from services provided by the Department of Veterans Affairs. His comments and insight on veterans issues have helped me over the years in my fight to bring more attention and action on health care, education, and other issues affecting veterans. I commend Jack for his dedication and commitment to forging relationships that have the best interests of the individual veteran in mind.

In addition to his great work with South Dakota veterans, I have appreciated Jack's involvement in other areas in his community. As emergency management officer for Butte County, Jack has helped develop and administer disaster plans for the citizens of Butte County. In times of crisis, Jack was always in the middle of the action, helping to coordinate relief efforts and provide assistance to individuals in time of need. Whether it was finding shelter during an evening storm, or providing food stuffs or even porta-potties, Jack has always been dedicated to getting assistance and emergency help to victims. But Jack has also been very proactive, helping to educate the public on the importance of awareness in times of emergencies. Together with other emergency management officials in South Dakota, I was pleased with Jack's efforts to help me promote the need for, and importance of, weather radios to the citizens of South Dakota.

Jack Church richly deserves the thanks of his community. It is an honor for me to share his accomplishments with my colleagues and to publicly commend him for serving South Dakota and our country.●

HONORING STEPHEN H.T. LIN

• Mr. BUNNING. Madam President, I rise today to honor and congratulate Mr. Stephen H.T. Lin, a choral music teacher at Atherton High School in Louisville, KY, for being named the 2002 Teacher of the Year for the Commonwealth of Kentucky.

Stephen Lin conducted his first rehearsal and performance at the age of 10. From that moment on, he knew the joyous sounds of music would determine the direction his life would take. During his junior and senior years of high school, Stephen was named the director of the school choir and discovered that he had a special gift when it came to teaching music to others. Not only did he find that his fellow students responded to his methods, but he also realized how good it felt to share in the learning process with others. Although his father, a music professor at the Southern Baptist Theological Seminary-School of Church Music, tried to discourage him from pursuing a career teaching music because of the lack of financial reward, Stephen could not rightly deny his calling in life. For 26 years now, Stephen Lin has helped students of all ages appreciate the joys of music. He has excelled in his innate ability to make the learning process an enjoyable and exciting experience for all involved. His choirs, through active involvement with parents, students, fundraising and grants, have traveled and performed in Belgium, Brazil, Canada, the Czech Republic, France, Greece, Germany, Great Britain, Holland, Iceland, Japan, New Zealand, Russia and Switzerland. They have sung pieces in several African dialects, Chinese, Czech, French, Icelandic, German, Hebrew, Latin, Japanese, Krao, Maori, Portuguese, Romanian, Russian, Somoan, Spanish and Swedish. Under Lin's direction, Atherton's music department was designated a Grammy Signature School, one of only a hundred high school choral programs in the Nation chosen for this distinction. Throughout his teaching career, Lin has introduced his students not only to music but also to the world and all that it has to offer.

Winning this year's Teacher of the Year Award for the Commonwealth of Kentucky was not the first time Stephen Lin has been recognized for his diligent work in and outside of the classroom. He has been included in "Who's Who Among American Teachers" three times and has been listed in

"Who's Who in the South and Southwest." He has also been designated "Music Teacher of the Year" by Kentucky District 12 and an "Outstanding Young Man of America." Lin is a recipient of the Ashland Inc. Golden Apple Achiever Award; the Governor's Scholars Program's Outstanding Educator Award; Atherton High School's Excellence in Teaching Award; the Jefferson County Sisterhood/Brotherhood Martin Luther King Award; and the WHAS-TV Golden Apple Award. To say the least, Stephen Lin has taken full advantage of his opportunities in teaching. He has been a teacher, mentor, and friend to all of his students throughout his career.

I would like to once more congratulate Stephen Lin on winning such a prestigious and important award. His work shapes the future leaders of Kentucky. I applaud his commitment to the educational community and thank him for not listening to his father so many years ago.●

IN RECOGNITION OF SISTER ADRIAN BARRETT

● Mr. SPECTER. Madam President, I seek recognition today to acknowledge the service of my constituent Sister Adrian Barrett, who will be the recipient of this year's Americanism Award at the Amos Lodge of B'nai B'rith's 50th annual awards dinner on May 5, 2002.

Sister Adrian is a native of Dunmore, PA, and after she graduated from Marywood Seminary, she entered the religious community of the Servants of the Immaculate Heart of Mary in Scranton, PA. She later earned a bachelor of arts degree from Marywood College and a master's degree in Afro-Asian history from St. John's University. In 1986, she was conferred an honorary Doctor of Social Science degree by the University of Scranton.

Through her work, Sister Adrian demonstrated her dedication to the service of the less fortunate. She is a co-founder of Project Hope at Camp St. Andrew. In 1985, she established Sisters of the IHM-Friends of the Poor to bring together, as she says, "those who can give with those who have a need to receive." Sister Adrian facilitates one of the largest Thanksgiving dinners in the country, aimed not just at the impoverished and the homeless, but also senior citizens and residents of nursing and personal care homes. She also makes sure that during the December holiday season, children's gifts, Christmas trees and food baskets are available to parents who are unable to afford them.

Sister Adrian's extraordinary work was the subject of an award-winning PBS documentary depicting her various activities with youth, the elderly, and the underprivileged in Scranton. She was also honored with the Christopher Spirit Award, the Martha Brinton Wollerton Award, and the United Neighborhood Centers of America Award. Scholarships at Keystone College and the University of Scranton are named in her honor.

For her leadership and service on behalf of the less fortunate, I would like to extend the gratitude and recognition of the U.S. Senate to Sister Adrian Barrett.●

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:26 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3839. An act to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 378. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3839. An act to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 378. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001; to the Committee on Armed Services.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*James R. Stoner, Jr., of Louisiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

*Evelyn Dee Potter Rose, of Texas, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

*Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 2235. A bill to provide clarity and consistency in certain country-of-origin markings; to the Committee on Finance.

By Mr. WELLSTONE:

S. 2236. A bill to amend title III of the Public Health Service Act to provide coverage for domestic violence screening and treatment, to authorize the Secretary of Health and Human Services to make grants to improve the response of health care systems to domestic violence, and train health care providers and federally qualified health centers regarding screening, identification, and treatment for families experiencing domestic violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2237. A bill to amend title 38, United States Code, to enhance compensation for veterans with hearing loss, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEVIN (for himself, Mr. Thompson, Mr. Lieberman , and Mr. McConnell):

S. 2238. A bill to permit reviews of criminal records of applicants for private security officer employment; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. Ensign, Mr. Schumer, Mr. Corzine, Mr. Allard, Mr. Carper, Mr. Bunning, Mrs. Clinton, Mr. Torricelli, and Mr. Santorum):

S. 2239. A bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (for himself, Mr. Daschle, Mr. Torricelli, Mr. Kennedy, Mr. Harkin, Mr. Bingaman, Mr. Feingold, and Mr. Johnson):

S. 2240. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 2241. A bill to amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for certain log forwarders used as motor vehicles for the transport of goods, and for other purposes; to the Committee on Finance.

By Mr. SMITH of New Hampshire:

S. 2242. A bill to amend title 23, United States Code, to prohibit the collection of tolls from vehicles or military equipment under the actual physical control of a uniformed member of the Armed Forces, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HUTCHINSON:

S. 2243. A bill to specify the amount of Federal funds that may be expended for intake facilities for the benefit of Lonoke and White Counties, Arkansas, as part of the project for flood control, Greers Ferry Lake, Arkansas; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself, Mr. JEFFORDS, Ms. COLLINS, Ms. STABENOW, Ms. SNOWE, Mr. WELLSTONE, Mr. LEVIN, and Mr. DAYTON):

S. 2244. A bill to permit commercial importation of prescription drugs from Canada, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS (for himself, Mr. CRAIG, and Mr. BAUCUS):

S. 2245. A bill to amend title 49, United States Code, to enhance competition between and among rail carriers, to provide for expedited alternative dispute resolution of disputes involving rail rates, rail service, or other matters of rail operations through arbitration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. HARKIN, and Mr. BUNNING):

S. 2246. A bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 2247. A bill to provide for the regulation of public accounting firms for purposes of the Federal securities laws, to promote quality and transparency in financial reporting, to improve the quality of independent audits and accounting services through an Independent Public Accounting Oversight Board, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SARBANES:

S. 2248. A bill to extend the authority of the Export-Import Bank until May 31, 2002; considered and passed.

By Mrs. CLINTON (for herself and Mr. BINGAMAN):

S. 2249. A bill to amend the Public Health Service Act to establish a grant program regarding eating disorders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. DEWINE, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 732

At the request of Mr. THOMPSON, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 732, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for certain restaurant buildings, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1355

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1355, a bill to prevent children from having access to firearms.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1572

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 1572, a bill to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

At the request of Mr. BOND, his name was added as a cosponsor of S. 1572, supra.

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 1572, supra.

S. 1836

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1836, a bill to amend the Public Health Service Act to establish scholarship and loan repayment programs regarding the provision of veterinary services in veterinarian shortage areas.

S. 1940

At the request of Mr. LEVIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1940, a bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements.

S. 2010

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2026

At the request of Mr. LUGAR, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2026, a bill to authorize the use of Cooperative Threat Reduction funds for projects and activities to address proliferation threats outside the states of the former Soviet Union, and for other purposes.

S. 2189

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2189, a bill to amend the Trade Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry.

S. 2200

At the request of Mr. BAUCUS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2200, a bill to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2225

At the request of Mr. WARNER, his name was added as a cosponsor of S. 2225, a bill to authorize appropriations for fiscal year 2003 for military activities of Department of Defense, to prescribe military personnel strengths for fiscal year 2003, and for other purposes.

S. RES. 247

At the request of Mr. LIEBERMAN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from New York (Mrs. CLINTON), the Senator from Idaho (Mr. CRAPO), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 247, a resolution expressing solidarity with Israel in its fight against terrorism.

S. RES. 249

At the request of Mr. HATCH, the names of the Senator from Arkansas

(Mr. HUTCHINSON) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. Res. 249, a resolution designating April 30, 2002, as "Dia de los Ninos: Celebrating Young Americans," and for other purposes.

AMENDMENT NO. 3197

At the request of Mr. CARPER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 3197 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3198

At the request of Mr. CARPER, the names of the Senator from Maine (Ms. COLLINS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. DURBIN), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 3198 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3256

At the request of Mr. ALLEN, his name was added as a cosponsor of amendment No. 3256 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3269

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of amendment No. 3269 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3284

At the request of Mrs. LINCOLN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Georgia (Mr. MILLER), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 3284 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 2236. A bill to amend title III of the Public Health Service Act to provide coverage for domestic violence screening and treatment, to authorize the Secretary of Health and Human Services to make grants to improve the response of health care systems to domestic violence, and train health care providers and federally qualified health centers regarding screening, identification, and treatment for families experiencing domestic violence; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Madam President, I rise today to introduce the Domestic Violence Screening and Services Act of 2002, an act to improve the response of health care systems to domestic violence, and to train health care providers and federally qualified health centers regarding screening, identification, and treatment for families experiencing domestic violence.

Nearly one third of American women, 31 percent, report being physically or sexually abused by a husband or boyfriend at some point in their lives, and about 1200 women are murdered every year by their intimate partner, nearly 3 each day. 37 percent of all women who sought care in hospital emergency rooms for violence related injuries were injured by a current or former spouse, boyfriend, or girlfriend. In addition to injuries sustained during violent episodes, physical and psychological abuse are linked to numerous adverse health effects including arthritis, chronic neck or back pain, migraine and other frequent headaches, problems with vision, and sexually transmitted infections, including HIV/AIDS.

Each year, at least 6 percent of all pregnant women, about 240,000 pregnant women in this country, are battered by the men in their lives. This battering leads to complications in pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding. Pregnant women are more likely to die of homicide than to die of any other cause.

Currently, about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and 9 percent routinely screen during periodic checkups. Recent clinical studies have shown the effectiveness of a 2-minute screening for early detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was highly effective in increasing the safety of pregnant abused women. 70 to 81 percent of patients studied reported that they would like their health care providers to ask them privately about intimate partner violence.

Medical services for abused women cost an estimated $857,300,000 every year. It is time for us to also authorize resources to promote the effort to make screening for domestic violence routine in health care settings. This bill would establish domestic violence prevention grants in the amount of $5 million dollars per year to improve screening and treatment for domestic violence in federally qualified health centers. Grants could be used for the implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and staff to respond to domestic violence. Grants could also be used to provide training and follow-up technical assistance to health professionals and staff to screen for domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence service providers. In addition, grants could be used for the development of onsite access to services to address, the safety, medical, and mental health needs of patients either by increasing the capacity of existing health professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services.

This bill would also authorize the Secretary of Health and Human Services to award grants in the amount of $5 million per year to strengthen the response of State and local health care systems to domestic violence by building the capacity of health personnel to identify, address, and prevent domestic violence. Up to 10 grants would be utilized to design and implement comprehensive statewide strategies in clinical and public healthcare settings and to promote education and awareness about domestic violence at a statewide level. Up to 10 additional grants would be used to design and implement comprehensive local strategies to improve the response of the health care system in hospitals, clinics, managed care settings, emergency medical services, and other health care settings.

Finally, this bill would also ensure that health care professionals working in the National Health Service Corps receiving training on how to screen, assess, treat and refer patients who are victims of domestic violence. Our health care system represents a potentially life saving point of intervention for those experiencing domestic violence. We need to support these efforts to improve the ability of our health care system to be a safe place for women to turn to when most in need.

Madam President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY—THE DOMESTIC VIOLENCE SCREENING AND SERVICES ACT OF 2002

OVERVIEW

The Domestic Violence Screening and Services Act of 2002 would create domestic violence prevention grants to improve screening and treatment for patients at Federally Qualified Health Centers. The bill would also provide grants to strengthen the response of State and local health care systems to domestic violence and would ensure that health care professionals working in the National Health Service Corps receive training on how to screen, assess, treat, and render patients who are victims of domestic violence.

FEDERALLY QUALIFIED HEALTH CENTERS

In an effort to increase screening and access to services for these patients who are or may be experiencing domestic violence the bill amends Part P of title III of the Public Health Service Act by adding a new Sec. 3990 creating Domestic Violence Prevention Grants in the amount of 5 million dollars per year for four years.

Funds would be used to design and implement comprehensive local strategies to improve the health care response to domestic violence in federally qualified health centers. These strategies would include: the development, implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and staff responding to domestic violence; the provision of training and follow-up technical assistance to health care professionals and staff to screen for domestic violence, and then to appropriately assess, record in medical records, treat, and refer patients who are victims of domestic violence to domestic violence services; the development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services.

GRANTS FOR DOMESTIC VIOLENCE SCREENING AND TREATMENT IN STATE AND LOCAL HEALTHCARE SYSTEMS

The Secretary of Health and Human Services acting through the Assistant Secretary for the Administration for Children and Families shall award grants to fund 10 demonstration projects at the state level and 10 demonstration grants on the local level to develop comprehensive strategies to improve the response of the healthcare system to domestic violence. Recommended authorization is $5 million/year for four years.

Eligible entities—would be: A. a State or local health department, nonprofit State domestic violence coalition or local service-based program, State professional medical society, State health professional association, or other nonprofit or State entity with a history of effective work in the field of domestic violence; that can B. demonstrate that it is representing a team of organizations and agencies working collaboratively to strengthen the healthcare system's response to domestic violence and that such team includes domestic violence and health care organizations.

Use of funds—Funds would be used to design and implement comprehensive statewide and local strategies to improve the health care response to domestic violence in hospitals, clinics, managed care settings, emergency medical services, and other health care settings. These strategies would include: the development, implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and staff responding to domestic violence; the provision of training and follow-up technical assistance to health care professionals and staff to screen for domestic violence, and then to appropriately assess, record in medical records, treat, and refer patients who are victims of domestic violence to the domestic violence services; the implementation of practice guidelines for routine screening and recording mechanisms to identify and document domestic violence; the development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services or other model appropriate to the geographic and cultural needs of a site.

In addition require that health care professionals trained through the National Health Service Corps receive training in domestic violence screening and treatment.

By Mr. ROCKEFELLER:

S. 2237. A bill to amend title 38, United States Code, to enhance compensation for veterans with hearing loss, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Madam President, today I introduce legislation on behalf of American veterans whose hearing loss may have resulted from their military service. The Veterans Hearing Loss Compensation Act of 2002 would accomplish two goals: first, it would correct a long-standing inequity in compensating veterans for service-related hearing loss. Second, it would direct VA, with input from outside experts, to determine whether service in certain military occupations can be presumed to be associated with hearing loss.

Currently, section 1160 of title 38, United States Code, directs VA to extend special consideration when evaluating veterans' service-connected disabilities in "paired organs or extremities," such as eyes, kidneys, or hands. If there is damage to both organs, even if only one resulted from military service, the disability of the non-service-connected organ may be considered.

For all listed disabilities except hearing loss, the law requires only "loss" or "loss of use," whereas "total deafness" is required in rating hearing loss. If hearing loss in either ear is anything less than total, VA cannot even consider the loss in the non-service-connected ear. Section 2 of this bill would remove this requirement for total hearing loss in either ear, allowing VA to consider the effect of any non-service-connected disability when rating hearing loss.

Section 3 of this bill would require VA to contract with an independent scientific organization, such as the National Academy of Sciences, to review scientific evidence on occupational hearing loss, particularly acoustic trauma experienced during military service. This legislation would also require VA to review its own claims and record of medical treatment for hearing loss or tinnitus in veterans. Through these two avenues, VA should be better able to determine objectively whether service in certain military specialties might be associated with an increased risk of hearing loss later in life.

Once the outside scientific authority reports to VA, the Secretary would be required to determine whether the evidence warrants presuming an association between certain military occupations and hearing loss or tinnitus. If VA finds sufficient evidence linking noise exposure in these occupations to veterans' later hearing loss, the Secretary would be required to develop regulations for providing disability benefits to these veterans; if VA determines that no presumptive service-connection is appropriate, the Secretary would be required to publish this determination and report to Congress on the basis of that decision.

With the aging of the veterans population, the number of claims for hearing loss or tinnitus continues to climb. VA faces difficulties in determining whether certain veterans can attribute their hearing loss to damage suffered decades ago during military service, especially as many veterans received no appropriate hearing evaluation at discharge.

I realize that the proposed process is not an immediate fix, but it should provide VA, Congress, and veterans with a solid basis for tackling this difficult problem. I urge my colleagues to join me in supporting this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Hearing Loss Compensation Act of 2002".

SEC. 2. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) HEARING LOSS REQUIRED FOR COMPENSATION.—Section 1160(a)(3) of title 38, United States Code, is amended by striking "total" both places it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 3. AUTHORITY FOR PRESUMPTION OF SERVICE-CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

"(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who while on active military, naval, or air service was assigned to a military occupational specialty or equivalent described in subsection (b) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

"(b) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

"(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 3(c) of the Veterans Hearing Loss Compensation Act of 2002.

"(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

"(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

"(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

"(A) publish the determination in the Federal Register; and

"(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

"(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.".

(2) The table of sections at the beginning of chapter 11 of that title is amended by inserting after the item relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.".

(b) PRESUMPTION REBUTTABLE.—Section 1113 of title 38, United States Code, is amended by striking "or 1118" each place it appears and inserting "1118, or 1119".

(c) ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH VARIOUS MILITARY OCCUPATIONAL SPECIALTIES.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form or acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and accuracy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in individuals who were discharged or released from service in the Armed Forces during the period beginning on December 7, 1941, and ending on the date of the enactment of this Act upon their discharge or release from such service; and

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs.

(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during such years.

(C) The total cost to the Department of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department of Veterans Affairs health facilities care in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. LIEBERMAN, and Mr. MCCONNELL):

S. 2238. A bill to permit reviews of criminal records of applicants for private security officer employment; to the Committee on the Judiciary.

Mr. LEVIN. Madam President, I am introducing along with Senators THOMPSON, LIEBERMAN and MCCONNELL the Private Security Officer Employment Standards Act of 2002, a bill that would provide private security firms an opportunity to gain access to national criminal history information to determine whether or not employees or applicants for employment pose a threat to the facilities and persons they are supposed to protect.

Large numbers of critical non-governmental facilities, from power plants to schools to hospitals, are protected by private security firms and their civilian security officers. Keeping these facilities secure from terrorism or other forms of violent attack is critical to our national security. Yet currently most private security employers cannot obtain timely national criminal background check information on the very people they need to hire to protect these key facilities. This legislation seeks to correct that. This bill would authorize private security firms to request Federal background check information on current and prospective employees through the appropriate State agencies, thereby permitting firms to obtain relevant criminal history information they might not otherwise receive.

The Criminal Justice Information Services Division of the FBI maintains complete criminal history records for both Federal crimes and State crimes on individuals with criminal records in the United States. Searches are most efficiently conducted by using fingerprints to ensure efficiency and accuracy. We have already passed legislation specifically permitting other industries, the banking, nursing home, and child care industries, to name a few, to test their prospective employees against the FBI's comprehensive records. Many of the reasons that justified passage of those laws, especially the desire to ensure that those who provide certain important services have a background commensurate with their responsibilities, argues for passage of this bill as well.

This legislation will enhance our Nation's security. As an adjunct to our Nation's law enforcement officers, private security guards are responsible for the protection of numerous critical components of our Nation's infrastructure, including power generation facilities, hazardous materials manufacturing facilities, water supply and delivery facilities, oil and gas refineries, and food processing plants. The approximately 13,000 private security companies in the United States employ about 1.5 million persons nationwide. Given the critical nature of the facilities private security officers are hired to protect, it is imperative that we provide access to information that might disclose who is unsuitable for protecting these resources.

We understand that in about 40 States, private security companies are required to receive a State license in order to conduct business. Relying upon a Federal bill passed in the early 1970's, 37 States and the District of Columbia have passed legislation authorizing State agencies to request both State and Federal record searches. Despite this authorization, security firms report that searches of both State and Federal databases is the exception rather than the rule. That is because only one State, California, makes such reviews mandatory. In the other jurisdictions with authorizing statutes, reviews of the Federal database are conducted at the discretion of the States. I am told that in approximately half of the 36 States with authorizing statutes, typically only State databases are searched. An additional 13 States have not even authorized any form of Federal criminal background check. What that means is that in approximately 31 States, a private security employer typically has no access to any Federal criminal database information. In these 31 States, an employment applicant in 1 State could have a serious criminal conviction in another State and still be permitted to perform sensitive security work. The State conducting the search would have no idea such a conviction in another State existed without access to the Federal database.

Further, even in those few States that actually conduct Federal records searches, I am told that searches of the backgrounds of new employees in the Federal database often take 90 to 120 days. While checks are pending, security guards are often provided a temporary license. This 90 to 120 day period is more than enough time for a guard with a temporary license to perpetrate dangerous acts. In light of our urgent need to strengthen our homeland security, this lack of access to criminal checks and the time it takes to complete such checks is unacceptable. We need to act in order to make it easier for States and employers to gain timely access to this information.

The bill strikes the appropriate balance between the interests of all parties involved.

First, the bill permits private security employers to request that the FBI criminal history database be searched for prospective or existing employees. Requests must be made by the employers through their States' identification bureau or similar State agency designated by the Attorney General. Employers will not be granted direct access to the FBI records. Instead, States will serve as intermediaries between employers and the FBI to: one, ensure that employment suitability determinations are made pursuant to applicable State law; two, prevent disclosure of the raw FBI criminal history information to the employers and the public; and three, minimize the FBI's administrative burden of having to respond to background check requests from countless different sources. The program will not cost the Federal Government anything. The legislation allows the FBI, and States if they so choose, to charge reasonable fees to security firms to recover their costs of carrying out this act.

Second, the bill protects employee and prospective employee's privacy. Before an FBI background check can be conducted, the employee or applicant for employment must grant an employer written consent to request the FBI database search. In addition, the criminal history reports received by the States will not be disseminated to employers. Instead, in States that have laws regulating private security guard employment, designated State agencies will simply be required to use the information provided by the FBI in applying their State standards. For those States that have no standards, the States will be instructed to inform requesting employers whether or not employees or applicants have been convicted of either: one, a felony; two, a violent misdemeanor within the past 10 years; or, three, crime of dishonesty within the past 10 years. Thus, only the fact that a conviction exists or not will be provided by States to employers, and the privacy of the records themselves will be maintained. All information provided to employers pursuant to this act must be provided to the employees or prospective employees. Furthermore, the bill establishes strong criminal penalties for those who might falsely certify they are authorized security firms or otherwise use information obtained pursuant to this act beyond the act's intended purposes.

Third, the bill protects States' rights. The bill does not impose an unfunded mandate on the States. It reserves the right of States to charge reasonable fees to employers for their costs in administering this act. Moreover, if a State wishes to opt out of this statutory regime, it may do so at any time.

I believe that the time is right for us to enact this legislation. It strikes the right balance between the need for employers to gain access to this critical information and the privacy rights of current and prospective security guards. We have worked with the FBI to ease the administrative process, and it will cost the Federal Government nothing. There is no undue burden being placed on our States.

Passage of this act will plug a hole in our homeland security. I urge my colleagues to support the passage of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Security Officer Employment Standards Act of 2002".

SEC. 2. FINDINGS.

Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers;

(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained; and

(10) standards are essential for the selection, training, and supervision of qualified security personnel providing security services.

SEC. 3. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term "employee" includes both a current employee and an applicant for employment.

(2) AUTHORIZED EMPLOYER.—The term "authorized employer" means any person that—

(A) provides, as an independent contractor, for consideration, the services of private security officers; and

(B) is authorized by the Attorney General to obtain information provided by the State or other authorized entity pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term "private security officer"—

(A) means an individual who performs security services, full- or part-time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes, whose primary duty is to perform security services; but

(B) does not include—

(i) sworn police officers who have law enforcement powers in the State;

(ii) employees whose duties are primarily internal audit or credit functions;

(iii) an individual on active duty in the military service;

(iv) employees of electronic security system companies acting as technicians or monitors; or

(v) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term "security services" means the performance of security services as such services are defined by regulations promulgated by the Attorney General.

SEC. 4. BACKGROUND CHECKS.

(a) IN GENERAL.—

(1) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit fingerprints or other means of positive identification of an employee of such employer for purposes of a background check pursuant to this Act.

(2) EMPLOYEE RIGHTS.—

(A) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit the request for a background check of the employee under this Act.

(B) ACCESS.—An employee shall be provided confidential access to information relating to the employee provided pursuant to this Act to the authorized employer.

(3) PROVIDING RECORDS.—Upon receipt of a background check request from an authorized employer, submitted through the State identification bureau or other entity authorized by the Attorney General, the Attorney General shall—

(A) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) promptly provide any identification and criminal history records resulting from the background checks to the submitting State identification bureau or other entity authorized by the Attorney General.

(4) FREQUENCY OF REQUESTS.—An employer may request a background check for an employee only once every 12 months of continuous employment by that employee unless the employer has good cause to submit additional requests.

(b) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act, including—

(1) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, and destruction of information and audits, and recordkeeping;

(2) standards for qualification as an authorized employer; and

(3) the imposition of reasonable fees necessary for conducting the background checks.

(c) CRIMINAL PENALTY.—Whoever falsely certifies that he meets the applicable standards for an authorized employer or who knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined not more than $50,000 or imprisoned for not more than 2 years, or both.

(d) USER FEES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(A) collect fees pursuant to regulations promulgated under subsection (b) to process background checks provided for by this Act;

(B) notwithstanding the provisions of section 3302 of title 31, United States Code, retain and use such fees for salaries and other expenses incurred in providing such processing; and

(C) establish such fees at a level to include an additional amount to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(2) STATE COSTS.—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(e) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this Act by enacting a law providing that the State is declining to participate pursuant to this subsection.

(f) STATE STANDARDS AND INFORMATION PROVIDED TO EMPLOYER.—

(1) ABSENCE OF STATE STANDARD.—If a State participates in the background check system authorized by this Act and has no State standard for qualification to be a private security officer, the State shall notify an authorized employer whether or not an employee has been convicted of a felony, an offense involving dishonesty or false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years.

(2) STATE STANDARD.—If a State participates in the background check system authorized by this Act and has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act in applying the State standard and shall notify the employer of the results.

By Mr. SARBANES (for himself,
Mr. ENSIGN, Mr. SCHUMER, Mr.
CORZINE, Mr. ALLARD, Mr. CARPER, Mr. BUNNING, Mrs. CLINTON, Mr. TORRICELLI, and Mr.
SANTORUM):

S. 2239. A bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Madam President, today I am introducing the "FHA Downpayment Simplification Act of 2002" with a number of my colleagues. As the list of original cosponsors indicates, this piece of legislation has broad, bipartisan support. This is because the Federal Housing Administration, FHA, has long been a tool to increase homeownership in America.

Since its inception in 1934, the FHA has helped millions of American families achieve the dream of homeownership. Currently, FHA accounts for about 20 percent of the mortgage market. However, FHA is even more important to first time homebuyers, buyers with lower incomes, and minority homebuyers, many of whom have not been well served by the traditional marketplace. For these borrowers, FHA is the ticket to the American dream.

Indeed, the very strong economy helped raise overall homeownership rates through the 1990s to historically high levels, both for the population as a whole and among underserved buyers. By 1999, homeownership increased to 66.8 percent. But it was the FHA that helped ensure those benefits were widely available.

For example, according to data provided by the Department of Housing and Urban Development, HUD, first time homebuyers accounted for 82 percent of all FHA loans in the year 2000; almost half of FHA-insured loans went to low-income borrowers in metropolitan areas; and over one-third of FHA loans went to African-American and Hispanic borrowers. In each case, FHA played a more significant role than the conventional market.

The role played by FHA in spreading the benefits of homeownership to a broader range of Americans is the central reason my colleagues and I believe it is important to renew and make permanent the law authorizing the streamlined downpayment calculation for all FHA single family insured loans. The streamlined downpayment, which is current law, was initially tried as a pilot in Hawaii and Alaska in 1996 before being extended nationwide in 1998. It was subsequently reauthorized again until the end of this year. Without Congressional action, the law will expire, resulting in higher costs for millions of Americans seeking the benefits of homeownership.

The streamlined downpayment process, as its name implies, is relatively simple and straightforward. The buyer puts down at least 3 percent of the acquisition cost of the home. The acquisition cost includes both the sales price and the closing costs. The old system required different downpayment rates for each portion of a mortgage. This approach is complex, multi-step calculation that often confused consumers, realtors, and lenders alike, and resulted in higher overall closing costs for the consumer.

For example, for a property with a sales price of $150,000 and $3,000 in closing costs, the streamlined approach that would be continued by this legislation would save the borrower almost

$2,200 in closing costs. For a more modest home costing $100,000 with $2,000 in closing costs, the savings would be about $350 over the old system.

The streamlined FHA downpayment process has been working extremely well. That is why both the National Association of Realtors and the Mortgage Bankers Association of America support this legislation. Promoting homeownership is an important value that all of us have supported through the years. Passing this legislation is one way to help more and more Americans achieve this important goal.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “FHA Downpayment Simplification Act of 2002”.

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking “shall—” and inserting “shall comply with the following:”;

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter; and

(II) by striking the sixth sentence (relating to the increases for costs of solar energy systems) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice); and

(iii) by striking subparagraph (B) and inserting the following:

“(B) not to exceed an amount equal to the sum of—

“(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

“(ii) in the case of—

“(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

“(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

“(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

“(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.”;

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of “area”); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

“(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

“(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

“(2) NOTICE.—The notice required under paragraph (1) shall include—

“(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

“(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.”.

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z–10) is amended—

(1) in subsection (a), by striking “, or if the mortgagor” and all that follows through “case of veterans”; and

(2) in subsection (b)(3), by striking “, or, if the” and all that follows through “for veterans,”.

Mr. ENSIGN. Madam President, I rise today, along with the senior Senator from Maryland, Mr. SARBANES, to introduce a bill that will help thousands of Americans achieve the dream of homeownership.

Homeownership is the primary source of a household's net worth and the fundamental first step toward accumulating personal wealth. It is also one of the greatest driving forces to a healthy economy for our Nation. Congress must work hard to produce public policies that promote homeownership to further America's growth and prosperity. This legislation does just that.

The legislation we are introducing today will make permanent an existing down payment simplification program that created a simplified formula to determine the proper down payment for FHA loans. This program has become an invaluable tool for helping thousands of families achieve the American dream of buying their first home. This bill will permanently eliminate the burdensome and unnecessary formulas previously used to determine the proper down payment for FHA loans, and will also lower the size of necessary down payments.

The simplified calculation was begun as a pilot program in 1996 in Hawaii and Alaska. It proved so easy and successful that it was temporarily extended nationwide in 1998. In 2000, the calculation was re-extended 27 months, to December 31, 2002. Unless Congress extends the program, home buyers will be required to use the old, complicated and confusing method of calculating the appropriate down payment amounts for all loans after December 31.

To help my colleagues understand the importance of making this program permanent, I should explain the basic difference between the two formulas.

Under the down payment simplification program, FHA borrowers must make cash contributions of at least 3 percent of the acquisition cost, including closing costs of the loan. It is that simple.

Under the old formula, different down payment rates were required for each portion of a mortgage. For example, if the acquisition cost of the home is $150,000, the borrower would have to pay 3 percent on the first $25,000, 5 percent on the next $100,000 and 10 percent on the final $25,000. And that's not all. There is also another set of calculations done based on the appraised value of the home to determine the maximum allowable mortgage in any transaction.

Clearly, the streamlined formula is a far more simple process. In the end, the down payment simplification process results in lowering the amount of the down payment necessary to purchase a FHA single-family home and simplifies the formula for the homebuyer in the process.

It is estimated that one-third of all FHA borrowers will have to make higher down payments if the simplification process is not made permanent. This could mean that without passage of this legislation, thousands of families that otherwise could afford to buy their homes will be denied the chance to do so because an unnecessarily complicated formula will create large, unaffordable down payments.

The effects would be particularly acute in states where over 40 percent of the buyers would be affected, such as California, Colorado, Maryland, New Jersey, New York, Virginia, Washington, Utah, Massachusetts, Minnesota, Nevada, Oregon, Connecticut, Alaska, Hawaii and New Hampshire.

In 2001, in my home State of Nevada alone, over 16,600 families purchased a home with a FHA insured loan. Of those, all benefitted by having a more simple process to follow, while 6,761 homebuyers benefitted from the streamlined formula process with a lower down payment. That is an amazing amount of homes that may not have been purchased had this program not been in place.

I ask my colleagues for their support of this important legislation. If passed, this legislation will help thousands of Americans throughout our country realize their dream of homeownership.

In closing, I would like to thank the Senator from Maryland, Mr. SARBANES, for all his hard work on this very important legislation. I appreciate his determination to make home ownership a reality for so many Americans.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. TORRICELLI, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. FEINGOLD, and Mr. JOHNSON):

S. 2240. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, today I am introducing the Seniors Safety Act of 2002, a bill to protect older Americans from crime. I am pleased to have Senators DASCHLE, KENNEDY, TORRICELLI, HARKIN, BINGAMAN, FEINGOLD, and JOHNSON as cosponsors for this anti-crime bill.

The Seniors Safety Act contains a comprehensive package of proposals to address the most prevalent crimes perpetrated against seniors, including proposals to reduce health care fraud and abuse, combat nursing home fraud and abuse, prevent telemarketing fraud, and safeguard pension and employee benefit plans from fraud, bribery, and graft. In addition, this legislation would help seniors obtain restitution if their pension plans are defrauded.

Older Americans are the most rapidly growing population group in our society, making them an even more attractive target for criminals. The Department of Health and Human Services has predicted that the number of older Americans will grow from 13 percent of the U.S. population in 2000 to 20 percent by 2030. In Vermont, seniors comprise about 12 percent of the population, and it is expected that that number will increase to 20 percent by 2025.

As the Nation's crime rates dropped dramatically during the 1990s, crime against seniors remained stubbornly resistant. This may be because elders are susceptible to more fraud crimes and fewer violent crimes than younger Americans. According to a 2000 Justice Department study, more than 9 out of 10 crimes committed against older Americans were property crimes, most especially theft. As our Nation addressed our violent crime problem, we did not take a comprehensive approach to deterring the crimes that so affect the elderly, like telemarketing fraud, health care fraud, and pension fraud. The Seniors Safety Act provides such a comprehensive approach, and I urge the Senate to do its part to make it law.

The Seniors Safety Act instructs the U.S. Sentencing Commission to review current sentencing guidelines and, if appropriate, amend the guidelines to include the age of a crime victim as a criterion for determining whether a sentencing enhancement is proper. The bill also requires the Commission to review sentencing guidelines for health care benefit fraud, increases statutory penalties both for fraud resulting in serious injury or death and for bribery and graft in connection with employee benefit plans, and increases criminal and civil penalties for defrauding pension plans.

One particular form of criminal activity, telemarketing fraud, disproportionately impacts Americans over the age of 50, who account for over a third of the estimated $40 billion lost to telemarketing fraud each year. The Seniors Safety Act continues the progress we made in the 105th Congress with passage of the Telemarketing Fraud Prevention Act and in the 106th Congress with the Protecting Seniors from Fraud Act, which included provisions from the Seniors Safety Act that I introduced in the last Congress. The legislation I introduce today addresses the problem of telemarketing fraud schemes that too often succeed in swindling seniors of their life savings. Some of these schemes are directed from outside the United States, making criminal prosecution more difficult.

The act would provide the Attorney General with a new, significant crime-fighting tool to prevent telemarketing fraud. Specifically, the act would authorize the Attorney General to block or terminate telephone service to telephone facilities that are being used to conduct such fraudulent activities. The Justice Department could use this authority to disrupt telemarketing fraud schemes directed from foreign sources by cutting off the swindlers' telephone service. Even if the criminals manage to acquire a new telephone number, temporary interruptions will prevent some seniors from being victimized.

The bill also establishes a "Better Business Bureau"-style clearinghouse at the Federal Trade Commission to provide seniors, their families, and others who may be concerned about a telemarketer with information about prior fraud convictions and/or complaints against the particular company. In addition, the FTC would refer seniors and other consumers who believe they have been swindled to the appropriate law enforcement authorities.

Criminal activity that undermines the safety and integrity of pension plans and health benefit programs threatens all Americans, but most especially those seniors who have relied on promised benefits in planning their retirements. Seniors who have worked faithfully and honestly for years should not reach their retirement years only to find that the funds they relied upon were stolen. This is a significant problem. According to the Attorney General's 1997 Annual Report, an interagency working group on pension abuse brought 70 criminal cases representing more than $90 million in losses to pension plans in 29 districts around the country in 1997 alone.

The Seniors Safety Act would add to the arsenal that Federal prosecutors have to prevent and punish fraud against retirement plans. Specifically, the Act would create new criminal and civil penalties for defrauding pension plans or obtaining money or property from such plans by means of false or fraudulent pretenses. In addition, the act would enhance penalties for bribery and graft in connection with employee benefit plans. The only people enjoying the benefits of pension plans should be the people who have worked hard to fund those plans, not crooks who get the money by fraud.

Health care spending consists of about 15 percent of the gross national product, or more than $1 trillion each year. Estimated losses due to fraud and abuse are astronomical. A December 1998 report by the National Institute of Justice, NIJ, states that these losses "may exceed 10 percent of annual health care spending, or $100 billion per year."

As more health care claims are processed electronically, without human involvement, more sophisticated computer-generated fraud schemes are surfacing. Some of these schemes generate thousands of false claims designed to pass through automated claims processing to payment, and result in the theft of millions of dollars from Federal and private health care programs. Defrauding Medicare, Medicaid and private health plans increases the financial burden on taxpayers and beneficiaries alike. In addition, some forms of fraud may result in inadequate medical care, harming patients' health as well. Unfortunately, the NIJ reports that many health care fraud schemes "deliberately target vulnerable populations, such as the elderly or Alzheimer's patients, who are less willing or able to complain or alert law enforcement."

We saw a dramatic increase in criminal convictions for health care fraud cases during the 1990s. These cases included convictions for submitting false claims to Medicare, Medicaid, and private insurance plans; fake billings by foreign doctors; and needless prescriptions for durable medical equipment by doctors in exchange for kickbacks from manufacturers. In 1997 alone, $1.2 billion was awarded or negotiated as a result of criminal fines, civil settlements and judgments in health care fraud matters.

We can and must do more. The Seniors Safety Act would allow the Attorney General to bring injunctive actions to stop false claims and illegal kickback schemes involving Federal health care programs. The bill would also provide law enforcement authorities with additional investigatory tools to uncover, investigate, and prosecute health care offenses in both criminal and civil proceedings.

In addition, whistle-blowers who tip off law enforcement about health care fraud would be authorized under the Seniors Safety Act to seek court permission to review information obtained by the Government to enhance their assistance in False Claims Act lawsuits. Such qui tam, or whistle-blower, suits have dramatically enhanced the Government's ability to uncover health care fraud. The act would allow whistle-blowers and their qui tam suits to become even more effective.

Finally, the act would extend anti-fraud and anti-kickback safeguards to the Federal Employees Health Benefits program. These are all important steps that will help cut down on the enormous health care fraud losses.

As life expectancies continue to increase, long-term care planning specialists estimate that over 40 percent of those turning 65 eventually will need nursing home care, and that 20 percent of those seniors will spend 5 years or more in homes. Indeed, many of us already have experienced having our parents, family members or other loved ones spend time in a nursing home. We owe it to them and to ourselves to give the residents of nursing homes the best care they can get.

The Justice Department has cited egregious examples of nursing homes that pocketed Medicare funds instead of providing residents with adequate care. In one case, five patients died as result of the inadequate provision of nutrition, wound care and diabetes management by three Pennsylvania nursing homes. Yet another death occurred when a patient, who was unable to speak, was placed in a scalding tub of 138-degree water.

This act provides additional peace of mind to residents of nursing homes and those of us who may have loved ones there by giving Federal law enforcement the authority to investigate and prosecute operators of nursing homes for willfully engaging in patterns of health and safety violations in the care of nursing home residents. The act also protects whistle-blowers from retaliation for reporting such violations.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Seniors Safety Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—COMBATING CRIMES AGAINST SENIORS

Sec. 101. Enhanced sentencing penalties based on age of victim.
Sec. 102. Study and report on health care fraud sentences.
Sec. 103. Increased penalties for fraud resulting in serious injury or death.
Sec. 104. Safeguarding pension plans from fraud and theft.
Sec. 105. Additional civil penalties for defrauding pension plans.
Sec. 106. Punishing bribery and graft in connection with employee benefit plans.

TITLE II—PREVENTING TELEMARKETING FRAUD

Sec. 201. Centralized complaint and consumer education service for victims of telemarketing fraud.
Sec. 202. Blocking of telemarketing scams.

TITLE III—PREVENTING HEALTH CARE FRAUD

Sec. 301. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs.
Sec. 302. Authorized investigative demand procedures.
Sec. 303. Extending antifraud safeguards to the Federal employee health benefits program.
Sec. 304. Grand jury disclosure.
Sec. 305. Increasing the effectiveness of civil investigative demands in false claims investigations.

TITLE IV—PROTECTING RESIDENTS OF NURSING HOMES

Sec. 401. Short title.
Sec. 402. Nursing home resident protection.

TITLE V—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

Sec. 501. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.
Sec. 502. Victim restitution.
Sec. 503. Bankruptcy proceedings not used to shield illegal gains from false claims.
Sec. 504. Forfeiture for retirement offenses.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The number of older Americans is rapidly growing in the United States. According to the 2000 census, 21 percent of the United States population is 55 years of age or older.

(2) In 1997, 7 percent of victims of serious violent crime were 50 years of age or older.

(3) In 1997, 17.7 percent of murder victims were 55 years of age or older.

(4) According to the Department of Justice, persons 65 years of age and older experienced approximately 2,700,000 crimes a year between 1992 and 1997.

(5) Older victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or in their own homes.

(6) Approximately half of all Americans who are 50 years of age or older are afraid to walk alone at night in their own neighborhoods.

(7) Seniors over 50 years of age reportedly account for 37 percent of the estimated $40,000,000,000 in losses each year due to telemarketing fraud.

(8) A 1996 American Association of Retired Persons survey of people 50 years of age and older showed that 57 percent were likely to receive calls from telemarketers at least once a week.

(9) In 1998, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(10) It has been estimated that—

(A) approximately 43 percent of persons turning 65 years of age can expect to spend some time in a long-term care facility; and

(B) approximately 20 percent can expect to spend 5 years or more in a such a facility.

(11) In 1997, approximately $82,800,000,000 was spent on nursing home care in the United States and over half of this amount was spent by the Medicaid and Medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated $100,000,000,000 in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about $12,600,000,000 in improper Medicare benefit payments, due to inadvertent mistake, fraud, and abuse were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain common despite awareness of the problem.

(b) PURPOSES.—The purposes of this Act are to—

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data—

(A) to measure the extent of crimes committed against seniors; and

(B) to determine the extent of domestic and elder abuse of seniors; and

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors, and ensure appropriate restitution.

SEC. 3. DEFINITIONS.

In this Act:

(1) CRIME.—The term "crime" means any criminal offense under Federal or State law.

(2) NURSING HOME.—The term "nursing home" means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)).

(3) SENIOR.—The term "senior" means an individual who is more than 55 years of age.

TITLE I—COMBATING CRIMES AGAINST SENIORS

SEC. 101. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the "Commission") shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as one of the criteria for determining whether the application of a sentencing enhancement is appropriate.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

(2) consider providing increased penalties for persons convicted of offenses in which the victim was a senior in appropriate circumstances;

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to the age of crime victims, which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 102. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the "Commission") shall review and, if appropriate, amend the Federal sentencing guidelines and the policy statements of the Commission with respect to persons convicted of offenses involving fraud in connection with a health care benefit program (as defined in section 24(b) of title 18, United States Code).

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 103. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: "If the violation results in serious bodily injury (as defined in section 1365), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.".

SEC. 104. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§1348. Fraud in relation to retirement arrangements

"(a) DEFINITION.—

"(1) RETIREMENT ARRANGEMENT.—In this section, the term 'retirement arrangement' means—

"(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

"(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

"(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

"(D) a fund established within the Thrift Savings Fund by the Federal Retirement Thrift Investment Board pursuant to subchapter III of chapter 84 of title 5.

"(2) CERTAIN ARRANGEMENTS INCLUDED.—The term 'retirement arrangement' shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

"(3) EXCEPTION FOR GOVERNMENTAL PLAN.—Except as provided in paragraph (1)(D), the term 'retirement arrangement' shall not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))).

"(b) PROHIBITION AND PENALTIES.—Whoever executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the Attorney General may investigate any violation of, and otherwise enforce, this section.

"(2) EFFECT ON OTHER AUTHORITY.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.".

(b) TECHNICAL AMENDMENT.—Section 24(a)(1) of title 18, United States Code, is amended by inserting "1348," after "1347,".

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Fraud in relation to retirement arrangements.".

SEC. 105. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) IN GENERAL.—

(1) ACTION BY ATTORNEY GENERAL.—Except as provided in subsection (b)—

(A) the Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under section 1348 of title 18, United States Code, or conspiracy to violate such section 1348; and

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

(i) the amount of pecuniary gain to that person;

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each such violation in the case of a person other than an individual.

(2) NO EFFECT ON OTHER REMEDIES.—The imposition of a civil penalty under this subsection does not preclude any other statutory, common law, or administrative remedy available by law to the United States or any other person.

(b) EXCEPTION.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of the Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) DETERMINATION OF PENALTY AMOUNT.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

(2) provide other relief ordered in another civil or criminal prosecution related to such conduct, including any penalty or tax imposed on the violator or other person pursuant to the Internal Revenue Code of 1986.

SEC. 106. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

(a) IN GENERAL.—Section 1954 of title 18, United States Code, is amended to read as follows:

"§1954. Bribery and graft in connection with employee benefit plans

"(a) DEFINITIONS.—In this section—

"(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

"(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

"(3) the term 'applicable person' means—

"(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

"(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

"(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

"(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

"(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

"(b) Bribery and Graft.—Whoever—

"(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

"(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

"(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this section;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) Exceptions.—Nothing in this section may be construed to apply to any—

"(1) payment to, or acceptance by, any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as an applicable person; or

"(2) payment to, or acceptance in good faith by, any employee benefit plan sponsor, or person acting on behalf of the sponsor, of anything of value relating to the decision or action of the sponsor to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate—

"(A) title I of the Employee Retirement Income Security Act of 1974;

"(B) any regulation or order promulgated under title I of the Employee Retirement Income Security Act of 1974; or

"(C) any other provision of law governing the plan.".

(b) Conforming Amendment.—The analysis for chapter 95 of title 18, United States Code, is amended by striking the item relating to section 1954 and inserting the following:

"1954. Bribery and graft in connection with employee benefit plans.".

TITLE II—PREVENTING TELEMARKETING FRAUD

SEC. 201. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) Centralized Service.—

(1) Requirement.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 202(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of Investigation, the attorneys general of the States, and the national toll-free telephone number on telemarketing fraud established by the Attorney General; and

(iii) information, if available, on the number of complaints of telemarketing fraud against particular companies and any record of convictions for telemarketing fraud by particular companies for which a specific request has been made; and

(C) refer complaints described in subparagraph (A) to appropriate entities, including State consumer protection agencies or entities and appropriate law enforcement agencies, for potential law enforcement action.

(2) Central location.—The service under the procedures under paragraph (1) shall be provided at and through a single site selected by the Commission for that purpose.

(3) Commencement.—The Federal Trade Commission shall commence carrying out the service not later than 1 year after the date of enactment of this Act.

(b) Creation of Fraud Conviction Database.—

(1) Establishment.—The Attorney General shall establish and maintain a computer database containing information on the corporations and companies convicted of offenses for telemarketing fraud under Federal and State law.

(2) Database.—The database established under paragraph (1) shall include a description of the type and method of the fraud scheme for which each corporation or company covered by the database was convicted.

(3) Use of database.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 202. BLOCKING OF TELEMARKETING SCAMS.

(a) Expansion of Scope of Telemarketing Fraud Subject to Enhanced Criminal Penalties.—Section 2325(1) of title 18, United States Code, is amended by striking "telephone calls" and inserting "wire communications utilizing a telephone service".

(b) Blocking or Termination of Telephone Service Associated With Telemarketing Fraud.—

(1) In general.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"§ 2328. Blocking or termination of telephone service

"(a) Definitions.—In this section:

"(1) Reasonable notice to the subscriber.—

"(A) In general.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

"(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telemarketing; and

"(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

"(B) Included matter.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

"(2) Wire communication.—The term 'wire communication' has the same meaning given that term in section 2510(1).

"(3) Wire communications facility.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.

"(b) Blocking or Terminating Telephone Service.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the jurisdiction of the Attorney General, that any wire communications facility furnished by that common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, in connection with the conduct of telemarketing, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of the facility to or for the subscriber after reasonable notice to the subscriber.

"(c) Prohibition on Damages.—No damages, penalty, or forfeiture, whether civil or criminal, shall be found or imposed against any common carrier for any act done by the common carrier in compliance with a notice received from the Attorney General under this section.

"(d) Relief.—

"(1) In general.—Nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that—

"(A) the leasing, furnishing, or maintaining of a facility should not be discontinued or refused under this section; or

"(B) the leasing, furnishing, or maintaining of a facility that has been so discontinued or refused should be restored.

"(2) Supporting information.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (b) to which such action relates.".

(2) Conforming amendment.—The analysis for chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"2328. Blocking or termination of telephone service.".

TITLE III—PREVENTING HEALTH CARE FRAUD

SEC. 301. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) In General.—Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ", or" and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b),"; and

(2) in paragraph (2), by inserting "a violation of paragraph (1)(D), or" before "a banking".

(b) Civil Actions.—

(1) In general.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following:

"(g) Civil Actions.—

"(1) In general.—The Attorney General may bring an action in the appropriate district court of the United States to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of not more than $50,000 for each such violation, or damages of 3 times the total remuneration offered, paid, solicited, or received, whichever is greater.

"(2) Existence of violation.—A violation exists under paragraph (1) if 1 or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(3) Procedures.—An action under paragraph (1) shall be governed by—

"(A) the procedures with regard to subpoenas, statutes of limitations, standards of proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

"(B) the Federal Rules of Civil Procedure.

"(4) No effect on other remedies.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

"(h) Injunctive Relief.—The Attorney General may commence a civil action in an appropriate district court of the United States to enjoin a violation of this section, as provided in section 1345 of title 18, United States Code.".

(2) Conforming amendment.—The heading of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by inserting "AND CIVIL" after "CRIMINAL".

SEC. 302. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

Section 3486 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ", or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)))," after "Federal health care offense" each place it appears; and

(2) by adding at the end the following:

"(f) Privacy Protection.—

"(1) In general.—Except as provided in paragraph (2), any record (including any book, paper, document, electronic medium, or other object or tangible thing) produced pursuant to a subpoena issued under this section that contains personally identifiable health information may not be disclosed to any person, except pursuant to a court order under subsection (e)(1).

"(2) Exceptions.—A record described in paragraph (1) may be disclosed—

"(A) to an attorney for the Government for use in the performance of the official duty of the attorney (including presentation to a Federal grand jury);

"(B) to government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the Government to assist an attorney for the Government in the performance of the official duty of that attorney to enforce Federal criminal law;

"(C) as directed by a court preliminarily to, or in connection with, a judicial proceeding;

"(D) as permitted by a court at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

"(E) at the request of an attorney for the Government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

"(3) Manner of court ordered disclosures.—

"(A) In general.—Except as provided in subparagraph (B), if a court orders the disclosure of any record described in paragraph (1), the disclosure—

"(i) shall be made in such manner, at such time, and under such conditions as the court may direct; and

"(ii) shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of the record.

"(B) Exception.—If disclosure is required by the nature of the proceedings, the attorney for the Government shall request that the presiding judicial or administrative officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

"(4) Destruction of records.—Any record described in paragraph (1), and all copies of that record, in whatever form (including electronic), shall be destroyed not later than 90 days after the date on which the record is produced, unless otherwise ordered by a court of competent jurisdiction, upon a showing of good cause.

"(5) Effect of violation.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

"(g) Personally Identifiable Health Information Defined.—In this section, the term 'personally identifiable health information' means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that—

"(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

"(2) either—

"(A) identifies an individual; or

"(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.".

SEC. 303. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(f)(1) of the Social Security Act (42 U.S.C. 1320a–7b(f)(1)) is amended by striking "(other than the health insurance program under chapter 89 of title 5, United States Code)".

SEC. 304. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Grand Jury Disclosure.—Subject to section 3486(f), upon ex parte motion of an attorney for the Government showing that a disclosure in accordance with that subsection would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 24(a) of this title) to an attorney for the Government to use in any investigation or civil proceeding relating to fraud or false claims in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)))."

SEC. 305. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting ", except to the Deputy Attorney General or to an Assistant Attorney General" before the period at the end; and

(2) in subsection (i)(2)(C), by adding at the end the following: "Disclosure of information to a person who brings a civil action under section 3730, or the counsel of that person, shall be allowed only upon application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.".

TITLE IV—PROTECTING RESIDENTS OF NURSING HOMES

SEC. 401. SHORT TITLE.

This title may be cited as the "Nursing Home Resident Protection Act of 2002".

SEC. 402. NURSING HOME RESIDENT PROTECTION.

(a) Protection of Residents in Nursing Homes and Other Residential Health Care Facilities.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities

"(a) Definitions.—In this section:

"(1) Entity.—The term 'entity' means—

"(A) any residential health care facility (including facilities that do not exclusively provide residential health care services);

"(B) any entity that manages a residential health care facility; or

"(C) any entity that owns, directly or indirectly, a controlling interest or a 50 percent or greater interest in 1 or more residential health care facilities including States, localities, and political subdivisions thereof.

"(2) Federal health care program.—The term 'Federal health care program' has the same meaning given that term in section 1128B(f) of the Social Security Act.

"(3) Pattern of violations.—The term 'pattern of violations' means multiple violations of a single Federal or State law, regulation, or rule or single violations of multiple Federal or State laws, regulations, or rules, that are widespread, systemic, repeated, similar in nature, or result from a policy or practice.

"(4) RESIDENTIAL HEALTH CARE FACILITY.—The term 'residential health care facility' means any facility (including any facility that does not exclusively provide residential health care services), including skilled and unskilled nursing facilities and mental health and mental retardation facilities, that—

"(A) receives Federal funds, directly from the Federal Government or indirectly from a third party on contract with or receiving a grant or other monies from the Federal Government, to provide health care; or

"(B) provides health care services in a residential setting and, in any calendar year in which a violation occurs, is the recipient of benefits or payments in excess of $10,000 from a Federal health care program.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) PROHIBITION AND PENALTIES.—Whoever knowingly and willfully engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility or facilities, and that results in significant physical or mental harm to 1 or more of such residents, shall be punished as provided in section 1347, except that any organization shall be fined not more than $2,000,000 per residential health care facility.

"(c) CIVIL PROVISIONS.—

"(1) IN GENERAL.—The Attorney General may bring an action in a district court of the United States to impose on any individual or entity that engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility, and that results in physical or mental harm to 1 or more such residents—

"(A) a civil penalty; or

"(B) in the case of—

"(i) an individual (other than an owner, operator, officer, or manager of such a residential health care facility), not more than $10,000;

"(ii) an individual who is an owner, operator, officer, or manager of such a residential health care facility, not more than $100,000 for each separate facility involved in the pattern of violations under this section;

"(iii) a residential health care facility, not more than $1,000,000 for each pattern of violations; or

"(iv) an entity, not more than $1,000,000 for each separate residential health care facility involved in the pattern of violations owned or managed by that entity.

"(2) OTHER APPROPRIATE RELIEF.—If the Attorney General has reason to believe that an individual or entity is engaging in or is about to engage in a pattern of violations that would affect the health, safety, or care of individuals residing in a residential health care facility, and that results in or has the potential to result in physical or mental harm to 1 or more such residents, the Attorney General may petition an appropriate district court of the United States for appropriate equitable and declaratory relief to eliminate the pattern of violations.

"(3) PROCEDURES.—In any action under this subsection—

"(A) a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States;

"(B) the action may not be brought more than 6 years after the date on which the violation occurred;

"(C) the United States shall be required to prove each charge by a preponderance of the evidence;

"(D) the civil investigative demand procedures set forth in the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) and regulations promulgated pursuant to that Act shall apply to any investigation; and

"(E) the filing or resolution of a matter shall not preclude any other remedy that is available to the United States or any other person.

"(d) PROHIBITION AGAINST RETALIATION.—Any person who is the subject of retaliation, either directly or indirectly, for reporting a condition that may constitute grounds for relief under this section may bring an action in an appropriate district court of the United States for damages, attorneys' fees, and other relief.".

(b) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—Section 3486(a)(1) of title 18, United States Code, as amended by section 402 of this Act, is amended by inserting ", act or activity involving section 1349 of this title" after "Federal health care offense".

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities.".

TITLE V—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 501. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

Section 981(e) of title 18, United States Code, is amended—

(1) in each of paragraphs (3), (4), and (5), by striking "in the case of property referred to in subsection (a)(1)(C)" and inserting "in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency,"; and

(2) in paragraph (7), by striking "In the case of property referred to in subsection (a)(1)(D)" and inserting "in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for a financial institution".

SEC. 502. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(r) VICTIM RESTITUTION.—

"(1) SATISFACTION OF ORDER OF RESTITUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a defendant may not use property subject to forfeiture under this section to satisfy an order of restitution.

"(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

"(2) RESTORATION OF FORFEITED PROPERTY.—

"(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

"(B) DISTRIBUTION OF PROPERTY.—On a motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

"(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

"(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

"(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.".

SEC. 503. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the commencement or continuation of an action under section 3729 of title 31, United States Code, does not operate as a stay under section 105(a) or 362(a)(1) of title 11, United States Code.

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking "or" at the end;

(B) in paragraph (18), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(19) the commencement or continuation of an action under section 3729 of title 31.".

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge a debtor from a debt owed for violating section 3729 of title 31.".

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. False claims

"No transfer on account of a debt owed to the United States for violating section 3729 of title 31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 548, 549, 553(b), or 742(a).".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. False claims.".

SEC. 504. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

"(9) CRIMINAL FORFEITURE.—

"(A) IN GENERAL.—The court, in imposing a sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, if a violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code), the term 'retirement offense' means a violation of—

"(i) section 664, 1001, 1027, 1341, 1343, 1348, 1951, 1952, or 1954 of title 18, United States Code; or

"(ii) section 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).".

(b) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

"(H) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of, criminal conspiracy to violate, or solicitation to commit a crime of violence involving, a retirement offense (as defined in section 982(a)(9)(B)).".

Mr. TORRICELLI. Madam President, I am pleased to join Senators LEAHY and DASCHLE today as an original cosponsor of the Seniors Safety Act, legislation that has been referred to as "a new safety net for seniors." It is that, but it is also much more. Indeed, this bill is a potent weapon designed to track down and punish those criminals who would prey on the trust and good will of America's seniors. This bill puts crooks on notice that crimes against seniors, from violent assaults in the streets, to abuses in nursing homes, to frauds perpetrated over the telephone lines, will not be tolerated.

Seniors represent the most rapidly growing sector of our population. In the next 50 years, the number of Americans over the age of 65 will more than double. Unless we take action now, the frequency and sophistication of crimes against seniors will likewise skyrocket. The Seniors Safety Act was developed to address, head-on, the crimes which most directly affect the senior community, including telemarketing fraud, and abuse and fraud in the health care and nursing home industries. It increases penalties and provides enhancements to the sentencing guidelines for criminals who target seniors. It protects seniors against the illegal depletion of precious pension and employee benefit plan funds through fraud, graft, and bribery, and helps victimized seniors obtain restitution. And finally, this bill authorizes the Attorney General to study the problem of crime against seniors, and design new techniques to fight it.

Criminal enterprises that engage in telemarketing fraud are some of the most insidious predators out there. Americans are fleeced out of over $40 billion dollars every year, and the effect on seniors is grossly disproportionate. According to the American Association of Retired Persons, "The repeated victimization of the elderly is the cornerstone of illegal telemarketing." A study has found that 56 percent of the names on the target lists of fraudulent telemarketers are those of Americans aged 50 or older. Of added concern is the fact that many of the perpetrators have migrated out of the United States for fear of prosecution, and continue to conduct their illegal activities from abroad.

In one heartbreaking story, a recently-widowed New Jersey woman was bilked out of $200,000 by a deceitful telemarketing firm from Canada, who claimed that the woman had won a $150,000 sweepstakes, the prize could be hers, for a fee. A series of these calls followed, convincing this poor woman, already in a fragile mind-state after her husband's death, to send more and more money for what they claimed was an increasingly large prize, which, of course, never materialized.

Our bill authorizes the Attorney General to effectively put these vultures, even the international criminals, out of business by blocking or terminating their U.S telephone service. In addition, it authorizes the FTC to create a consumer clearinghouse which would provide seniors, and others who might have questions about the legitimacy of a telephone sales pitch, with information regarding prior complaints about a particular telemarketing company or prior fraud convictions. Furthermore, this clearinghouse would give seniors who may have been cheated an open channel to the appropriate law enforcement authorities.

In 1997, older Americans were victimized by violent crime over 680,000 times. The crimes against them range from simple assault, to armed robbery, to rape. While national crime rates in general are falling, seniors have not shared in the benefits of that drop.

This Act singles out criminals who prey on the senior population and penalizes them for the physical and economic harm they cause. In addition, we intend to place this growing problem in the spotlight, and urge Congress and Federal and State law enforcement agencies to continue to develop solutions. To this end, we have authorized a comprehensive examination of crimes against seniors, and the inclusion of data on seniors in the National Crime Victims Survey.

Seniors across the country have worked their entire lives, secure in the belief that their pensions and health benefits would be there to provide for them in their retirement years. Unfortunately, far too often, seniors wake up one morning to find that their hard-earned benefits have been stolen. In 1997 alone, $90 million in losses to pension funds were uncovered. Older Americans who depend on that money to live are left out in the cold, while criminals enjoy the fruits of a lifetime of our seniors' labor. The Seniors Safety Act gives Federal prosecutors another powerful weapon to punish pension fund thieves. The Act creates new civil and criminal penalties for defrauding pension or benefit plans, or obtaining money from them under false or fraudulent pretenses.

The defrauding of Medicare, Medicaid, and private health insurers has become big business for criminals who prey on the elderly. According to a National Institutes of Health study, losses from fraud and abuse may exceed $100 billion per year. Overbilling and false claims filing have become rampant as automated claims processing is more prevalent. Similarly, the Department of Justice has noted numerous cases where unscrupulous nursing home operators have simply pocketed Medicare funds, rather than providing adequate care for their residents. In one horrendous case, five diabetic patient died from malnutrition and lack of medical care. In another, a patient was burned to death when a mute patient was placed by untrained staff in a tub of scalding water. These terrible abuses would never have occurred had the facilities spent the Federal funds they received to implement proper health and safety procedures. This bill goes after fraud and abuse by providing resources and tools for authorities to investigate and prosecute offenses in civil and criminal courts, and enhances the ability of the Justice Department to use evidence brought in by qui tam, whistleblower, plaintiffs.

Together these provisions bring much-needed protections to our seniors. It sends a message to the cowardly perpetrators of fraud and other crimes against older Americans, that their actions will be fiercely prosecuted, whether they be here or abroad. And it clearly states that we refuse to allow seniors to be victimized by this most heinous form of predation.

By Mr. DORGAN (for himself, Mr. JEFFORDS, Ms. COLLINS, Ms. STABENOW, Ms. SNOWE, Mr. WELLSTONE, Mr. LEVIN, and Mr. DAYTON):

S. 2244. A bill to permit commercial importation of prescription drugs from Canada, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Madam President, today I am introducing the Prescription Drug Price Parity for Americans Act, along with my colleagues Senators JEFFORDS, COLLINS, STABENOW, SNOWE, WELLSTONE, LEVIN, and DAYTON. I intend to come to the floor later in the week to speak about this legislation at greater length, but I wanted to go ahead and introduce the bill today.

This bill addresses a growing problem with prescription drug spending in our country. Spending on prescription drugs rose 17 percent in 2001, following on the heels of a nearly 19 percent increase in 2000 and a 16 percent increase in 1999. Unfortunately, many Americans, especially senior citizens and the uninsured, cannot afford the substantially higher prices that they are being charged for their medicines. A prescription drug that costs $1 in the United States costs only 62 cents in Canada, and that is just not fair.

The bill I am introducing today would address this unfair pricing by injecting some price competition into the prescription drug marketplace. This legislation builds on the Medicine Equity and Drug Safety, MEDS, Act, which the Senate passed overwhelmingly in 2000 and was enacted into law. Like the MEDS Act, this bill would allow U.S.-licensed pharmacists and drug wholesalers to import FDA-approved medicines, but unlike the 2000 law, this year's bill will be limited to approved drugs coming only from Canada. Canada has a drug approval and distribution system similarly strong to the U.S. system. I am very confident that this bill can be implemented immediately while ensuring the safety of our Nation's drug supply and significant cost savings for American consumers.

Again, I look forward to coming back to the floor to describe this legislation at length at some later opportunity.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prescription Drug Price Parity for Americans Act".

SEC. 2. IMPORTATION OF PRESCRIPTION DRUGS.

(a) In General.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

"SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.

"(a) Definitions.—In this section:

"(1) Importer.—The term 'importer' means a pharmacist or wholesaler.

"(2) Pharmacist.—The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(3) Prescription drug.—The term 'prescription drug' means a drug subject to section 503(b), other than—

"(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

"(C) an infused drug (including a peritoneal dialysis solution);

"(D) an intravenously injected drug; or

"(E) a drug that is inhaled during surgery.

"(4) Qualifying laboratory.—The term 'qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

"(5) Wholesaler.—

"(A) In general.—The term 'wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

"(B) Exclusion.—The term 'wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

"(b) Regulations.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

"(c) Limitation.—The regulations under subsection (b) shall—

"(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

"(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

"(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

"(d) Information and Records.—

"(1) In general.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

"(A) The name and quantity of the active ingredient of the prescription drug.

"(B) A description of the dosage form of the prescription drug.

"(C) The date on which the prescription drug is shipped.

"(D) The quantity of the prescription drug that is shipped.

"(E) The point of origin and destination of the prescription drug.

"(F) The price paid by the importer for the prescription drug.

"(G) Documentation from the foreign seller specifying—

"(i) the original source of the prescription drug; and

"(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

"(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

"(I) The name, address, telephone number, and professional license number (if any) of the importer.

"(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

"(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

"(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

"(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

"(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

"(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

"(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

"(i) is approved for marketing in the United States; and

"(ii) meets all labeling requirements under this Act.

"(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

"(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

"(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

"(2) Maintenance by the Secretary.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

"(e) Testing.—The regulations under subsection (b) shall require—

"(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

"(2) if the tests are conducted by the importer—

"(A) that information needed to—

"(i) authenticate the prescription drug being tested; and

"(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

"(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

"(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

"(f) Registration of Foreign Sellers.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

"(g) Suspension of Importation.—The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of the prescription drugs or by the importer that is counterfeit or in violation of any requirement under this section, until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

"(h) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

"(i) PROHIBITION OF DISCRIMINATION.—

"(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

"(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

"(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

"(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

"(j) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

"(k) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

"(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

"(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

"(B) exercise discretion to permit individuals to make such importations in circumstances in which—

"(i) the importation is clearly for personal use; and

"(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

"(2) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

"(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

"(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

"(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

"(B) is accompanied by a copy of a valid prescription;

"(C) is imported from Canada, from a seller registered with the Secretary;

"(D) is a prescription drug approved by the Secretary under chapter V;

"(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

"(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

"(l) STUDIES; REPORTS.—

"(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

"(A) STUDY.—

"(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

"(I) importations of prescription drugs made under the regulations under subsection (b); and

"(II) information and documentation submitted under subsection (d).

"(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

"(I) evaluate the compliance of importers with the regulations under subsection (b);

"(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

"(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

"(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(2) BY THE COMPTROLLER GENERAL.—

"(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

"(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

"(m) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

"(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking "covered product in violation of section 804" and inserting "prescription drug in violation of section 804";

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking "covered product pursuant to section 804(a)" and inserting "prescription drug under section 804(b)".

Mr. WELLSTONE. Madam President, I am glad we have the opportunity today to introduce legislation that corrects a sad injustice. This injustice makes American consumers the least likely of any in the industrialized world to be able to afford drugs manufactured by the American pharmaceutical industry. That's because of the unconscionable prices the industry charges only here in the United States.

When I return to Minnesota which I do frequently, I meet with many constituents, but none with more compelling stories than senior citizens struggling to make ends meet because of the high cost of prescription drugs, lifesaving drugs that are not covered under the Medicare program. Ten or twenty years ago these same senior citizens were going to work everyday, in the stores, and factories, and mines in Minnesota, earning an honest paycheck, and paying their taxes without protest. Now they wonder, how can this government, their government, stand by, when the medicines they need are out of reach.

And it is not just that Medicare won't pay for these drugs. The unfairness which Minnesotans feel is exacerbated of course by the high cost of prescription drugs here in the United States, the same drugs that can be purchased for frequently half the price in Canada. These are the exact same drugs, manufactured in the exact same facilities with the exact same safety precautions.

All the legislators speaking today have heard the first-hand stores from our constituents back home. Our constituents are justifiably frustrated and discouraged when they can't afford to buy prescription drugs that are made in the United States, unless they go across the border to Canada where those same drugs, manufactured in the same facilities are available for about half the price.

Senior citizens have lost their patience in waiting for answers, and so have I. Driving to Canada every few months to buy prescription drugs at affordable prices isn't the solution; it's a symptom of how broken parts of our health care system are. Americans regardless of political party have a fundamental belief in fairness, and we know a rip-off when we see one. It is time to end that rip-off.

While we can be proud of both American scientific research that produces new miracle cures and the high standards of safety and efficacy that we expect to be followed at the FDA, it is shameful that America's most vulnerable citizens, the chronically ill and the elderly, are being asked to pay the highest prices in the world here in the U.S. for the exact same medicines that are manufactured here but sold more cheaply in other countries.

That is why I am introducing with my colleagues today the Medicine Equity and Drug Safety Act of 2002. This bill will amend the Food, Drug, and Cosmetic Act to allow American pharmacists and wholesalers to import prescription drugs from Canada into the United States, as long as the drugs meet FDA's strict safety standards. Pharmacists and wholesalers will be able to purchase these drugs, often manufactured right here in the U.S., at much lower prices and then pass those savings on to consumers. In addition, the bill would give individuals a waiver to import prescription drugs from Canada as long as the medicine is for their own personal use and the amount of medicine imported is a 90-day supply or less. This provision will give consumers confidence that, if they follow the rules for personal importation, they won't have to worry about their medicines being stopped at the border.

Our bill addresses the absurd situation by which American consumers are paying substantially higher prices for their prescription drugs than are the citizens of Canada. The bill does not create any new Federal programs. Instead, it uses principles frequently cited in both houses of the Congress, principles of free trade and competition, the help make it possible for American consumers to purchase the prescription drugs they need.

And the need is clear. A recent informal survey by the Minnesota Senior Federation on the price of six commonly used prescription medications showed that Minnesota consumers pay, on average, nearly double, 196 percent, what their Canadian counterparts pay. These excessive prices apply to drugs manufactured by U.S. pharmaceutical firms, the same drugs that are sold in Canada for a fraction of the U.S. price.

Pharmacists could sell prescription drugs for less here in the United States, if they could buy and import these same drugs from Canada at lower prices than the pharmaceutical companies charge here.

Now, however, Federal law allows only the manufacturer of a drug to import it into the U.S. Thus American pharmacists and wholesalers must pay the exorbitant prices charged by the pharmaceutical industry in the U.S. market and pass along those high prices to consumers. It is time to stop protecting the pharmaceutical industry's outrageous profits, and they are outrageous.

Let's take a look at the numbers, so there can be no mistake:

Where the average Fortune 500 industry in the United States returned 2.2 percent profits as a percentage of revenue, the pharmaceutical industry returned 18.5 percent.

Where the average Fortune 500 industry returned 2.5 percent profits as a percentage of their assets, the pharmaceutical industry returned 16.5 percent.

Where the average Fortune 500 industry returned less than 10 percent profits as a percentage of shareholders equity, the pharmaceutical industry returned 33.2 percent.

Those huge profits are no surprise to America's senior citizens because they know where those profits come from, they come from their own pocketbooks. It is time to end the price gouging.

We need legislation that can assure our senior citizens and all Americans that safe and affordable prescription medications at last will be as available in the United States of America as they are in Canada. The bill we are introducing today accomplishes that end.

I also want to point out that our bill includes important safety precautions to make sure we are not sacrificing safety for price. The safety measures provide strong protection for the American public. These protections include: Strict FDA oversight; importation from Canada only; strict handling requirements for importers, like those already in place for manufacturers; registration of Canadian pharmacists and wholesalers with the HHS Secretary; lab testing to screen out counterfeits; lab testing to ensure purity, potency, and safety of medications and; authority for the HHS Secretary to immediately suspend importation of prescription drugs that appear counterfeit or otherwise violate the law.

The only thing that is not protected in this bill is the excessive profits of the pharmaceutical industry. My job as a United States Senator is not to protect profits but to protect the people. Colleagues, please join us and support this thoughtful and important bill that will help make prescription drugs affordable to the American people.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3332. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3333. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3334. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3335. Mr. SESSIONS (for himself, Mr. Shelby, Mr. Specter, and Mr. Santorum) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3336. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3337. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3338. Mr. REID submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3339. Mr. DURBIN (for himself and Mr. Harkin) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3340. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3341. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3342. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra.

SA 3343. Mrs. LINCOLN (for herself, Mr. Hagel, Mr. Bond, Mr. Kerry, Mrs. Carnahan, Mr. Nelson of Nebraska, and Mr. Miller) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3344. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3345. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3346. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3347. Mr. INOUYE (for himself and Mr. Akaka) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3348. Mr. INOUYE (for himself and Mr. Akaka) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3349. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3350. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3351. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3352. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3353. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. BINGAMAN, and Mr. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3354. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3355. Mr. CONRAD (for himself, Mr. SMITH of New Hampshire, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3356. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3357. Mr. ROCKEFELLER (for himself, Mrs. CARNAHAN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3358. Mr. ROCKEFELLER (for himself, Mr. ALLEN, Mr. SPECTER, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3359. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3360. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3361. Mr. KERRY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3362. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3363. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3364. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3365. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3366. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3367. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3368. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3369. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3370. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3371. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3372. Mr. GRAHAM (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3373. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3374. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3344 submitted by Mrs. LINCOLN and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3375. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 3336 submitted by Mr. GRAMM and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3332. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 4, line 8, strike "subparagraphs (A) and" and insert "Subparagraph".

SA 3333. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 17, line 9, strike all through page 55, line 7.

SA 3334. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 17, line 9, strike all through page 55, line 7, and insert the following:

SEC. 2001. PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking "In the case of taxable years beginning during 2002 or 2003, the" and inserting "The".

SA 3335. Mr. SESSIONS (for himself, Mr. SHELBY, Mr. SPECTER, and Mr. SANTORUM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2005, in the case of any coke or coke gas produced in a facility described in paragraph (1)(B))" after "January 1, 2003".

SA 3336. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ____. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

"(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

"(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

"(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

"(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

"(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

"(2) QUALIFIED DISPOSITION.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

"(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

"(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

"(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

"(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

"(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

"(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

"(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

"(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

"(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED RECLAMATION EXPENDITURE.—

"(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

"(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

"(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.".

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199B. Expensing of dairy property reclamation costs.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.

SA 3337. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ____. FOREIGN CORPORATIONS CREATED THROUGH INVERSION TRANSACTIONS TAXED AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) INVERSION TRANSACTIONS DISREGARDED.—

"(i) IN GENERAL.—A corporation which would (but for this subparagraph) be treated as a foreign corporation shall be treated as a domestic corporation if such corporation is an inverted domestic corporation.

"(ii) INVERTED DOMESTIC CORPORATION.—For purposes of clause (i), a foreign corporation is an inverted domestic corporation if, immediately after a transaction in which—

"(I) property is directly or indirectly transferred by a domestic corporation to such foreign corporation, or

"(II) stock in a domestic corporation is transferred directly or indirectly by its shareholders to such foreign corporation,

more than 50 percent of the stock (by vote or value) of such foreign corporation is held by former shareholders of the domestic corporation by reason of holding stock in such domestic corporation.

"(iii) REGULATIONS RELATING TO INVERTED DOMESTIC CORPORATIONS.—The Secretary may by regulations provide that clause (i) shall not apply to a foreign corporation which is an inverted domestic corporation if, immediately before the transaction described in clause (ii), such foreign corporation was engaged in the active conduct of 1 or more trades or businesses which are substantial in relation to the trades or businesses which the domestic corporation described in clause (ii) was engaged in the active conduct of at such time."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of any inverted domestic corporation beginning after December 31, 2002, without regard to whether the corporation became an inverted domestic corporation before, on, or after such date.

SA 3338. Mr. REID submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 123, after line 25, add the following:

"(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

SA 3339. Mr. DURBIN (for himself and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Division H, insert the following:

SEC. ___. ENERGY CREDIT FOR WIND ENERGY PROPERTY.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (iii), by adding "or" at the end of clause (iv), and by inserting after clause (iv) the following new clause:

"(v) qualified wind energy property,".

(b) Qualified Wind Energy Property.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) Qualified wind energy property.—For purposes of this subsection—

"(A) Qualified wind energy property.—The term 'qualified wind energy property' means a qualifying wind turbine if the property carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for property that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

"(B) Qualifying wind turbine.—The term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.".

(c) No Carryback of Energy Credit Before Effective Date.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(20) No carryback of energy credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(6) may be carried back to a taxable year ending before January 1, 2003.".

(d) Conforming Amendments.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(C) Section 48(a)(3)(C) is amended by inserting "(other than property described in subparagraph (A)(v))," before "with respect".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service or installed after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3340. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 94, lines 18 and 19, strike "for use in such a dwelling unit".

SA 3341. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 91, strike lines 7 and 8.

SA 3342. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2971 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In Division H, on page 98, line 16, strike "If" and insert "Except in the case of qualified wind energy property expenditures, if".

SA 3343. Mrs. LINCOLN (for herself, Mr. Hagel, Mr. Bond, Mr. Kerry, Mrs. Carnahan, Mr. Nelson of Nebraska, and Mr. Miller) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 17 and 18, insert the following:

"(5) Facilities producing fuels from agricultural and animal waste.—

"(A) In general.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

"(B) Qualified agricultural and animal waste.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

SA 3344. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ___. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) No Waiver by Farm Owner, Tenant, or Operator Necessary.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) Exemption Includes Fuel Used Between Airfield and Farm.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) Exemption From Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) Exemption for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) Effective Date.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SA 3345. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

(a) Extension to Small Systems.—On page 121, strike lines 12 through 16 and insert the following:

"(ii) which has an electrical capacity of no more than 15 megawatts or a mechanical energy capacity of no more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,"

(b) Depreciation Schedule.—

(1) On page 122, line 2, strike "(70 percent" and all that follows through "capacities)" on page 122, line 8; and

(2) On page 124, strike lines 1 through 8.

SA 3346. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. . CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

"(I) municipal biosolids, and

"(J) recycled sludge.".

(b) Qualified Facilities.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

"(H) Municipal biosolids facility.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

"(I) Recycled sludge facility.—

"(i) In general.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

"(ii) Special rule.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.".

(c) Definitions.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

"(9) Municipal biosolids.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

"(10) Recycled sludge.—

"(A) In general.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

"(B) Recycled.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.".

(d) Exemption From Credit Reduction.—The last sentence of section 45(b)(3), as added by this Act, is amended by inserting ", (c)(3)(H), or (c)(3)(I)" after "(c)(3)(B)(i)(II)".

(e) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3347. Mr. INOUYE (for himself and Mr. Akaka) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. . TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) In General.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

"(l) Solid Waste Disposal Facilities.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the disposal of bagasse.".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 3348. Mr. INOUYE (for himself and Mr. Akaka) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. . TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) In General.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

"(l) Solid Waste Disposal Facilities.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the disposal of bagasse which has been used in the manufacture of ethanol.".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 3349. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 199, lines 5 through 7, strike "at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide" and insert "at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury".

SA 3350. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) small irrigation power.".

(b) Qualified Facility.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(G) Small irrigation power facility.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.".

(c) Definition.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Small irrigation power.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.".

(d) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3351. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 91, line 15, strike all through page 95, line 17, and insert the following:

"(iii) $250 for each advanced natural gas furnace,

"(iv) $250 for each central air conditioner,

"(v) $75 for each natural gas water heater, and

"(vi) $250 for each geothermal heat pump.

"(2) Safety certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar

Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Qualified solar water heating property expenditure.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) Qualified photovoltaic property expenditure.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

"(3) Solar panels.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) Qualified fuel cell property expenditure.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

"(5) Qualified wind energy property expenditure.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

"(6) Qualified tier 2 energy efficient building property expenditure.—

"(A) In general.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) Tier 2 energy efficient building property.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),".

SA 3352. Mr. BAUCUS (for himself and Mr. Grassley) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 64, line 1, strike all through page 73, line 2, and insert the following:

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) Credit for Biodiesel Used as a Fuel.—

(1) In general.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

"(b) Definition of Biodiesel Mixture Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(B) Biodiesel mixture rate.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

"(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

"(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

"(2) Qualified biodiesel mixture.—

"(A) In general.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(B) Sale or use must be in trade or business, etc.—

"(i) In general.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

"(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

"(II) for the taxable year in which such sale or use occurs.

"(ii) Certification for biodiesel V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

"(C) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(c) Coordination With Exemption From Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel v defined.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

"(2) Biodiesel nv defined.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from nonvirgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

"(3) Registration requirements.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

"(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(ii) the requirements of the American Society of Testing and Materials D6751.

"(2) Biodiesel mixture not used as a fuel, etc.—

"(A) Imposition of tax.—If—

"(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates such biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

"(B) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(3) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Election To Have Biodiesel Fuels Credit Not Apply.—

"(1) In general.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) Time for making election.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) Manner of making election.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

"(f) Termination.—This section shall not apply to any fuel sold after December 31, 2005.".

(2) Credit treated as part of general business credit.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(3) Conforming amendments.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of biodiesel fuels credit before January 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(4) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) Reduction of Motor Fuel Excise Taxes on Biodiesel V Mixtures.—

(1) In general.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) Biodiesel V Mixtures.—Under regulations prescribed by the Secretary—

"(1) In general.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) Tax prior to mixing.—

"(A) In general.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) Determination of rate.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

"(3) Definitions.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) Certain rules to apply.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) Conforming amendments.—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) Biodiesel V Mixtures.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).".

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Biodiesel V Mixtures.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.".

(3) Effective date.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) Highway Trust Fund Held Harmless.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

SA 3353. Mr. BAUCUS (for himself, Mr. Grassley, Mr. Bingaman, and Mr. Murkowski) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) In General.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) Special Rule for Sales or Dispositions To Implement Federal Energy Regulatory Commission or State Electric Restructuring Policy.—

"(1) In general.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) Qualifying electric transmission transaction.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) Independent transmission company.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) Election.—An election under paragraph (1), once made, shall be irrevocable.

"(5) Nonapplication of installment sales treatment.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) Effective Date.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SA 3354. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 23 and 23, insert the following:

(b) Extension for Certain Fuel Produced at Existing Facilities.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2008, in the case of qualified fuel described in subsection (c)(1)(C))" after "January 1, 2003".

SA 3355. Mr. CONRAD (for himself, Mr. Smith of New Hampshire, and Mr. Dorgan) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill

(S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) Qualified Fuel Cell Property; Qualified Microturbine Property.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Qualified fuel cell property; qualified microturbine property.—For purposes of this subsection—

"(A) Qualified fuel cell property.—

"(i) In general.—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(I) generates at least 1 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) Limitation.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 30 percent of the basis of such property, or

"(II) $1,000 for each kilowatt of capacity of such property.

"(iii) Fuel cell power plant.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

"(iv) Termination.—Such term shall not include any property placed in service after December 31, 2007.

"(B) Qualified microturbine property.—

"(i) In general.—The term "qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

"(ii) Limitation.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 10 percent of the basis of such property, or

"(II) $200 for each kilowatt of capacity of such property.

"(iii) Stationary microturbine power plant.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

"(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

"(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

"(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) Termination.—Such term shall not include any property placed in service after December 31, 2006.".

(c) Limitation.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) In general.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) Conforming Amendments.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) Effective Date.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3356. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

SA 3357. Mr. ROCKEFELLER (for himself, Mrs. Carnahan, and Mr. Bond) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____. CREDIT FOR ENERGY EFFICIENT VENDING MACHINES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. ENERGY EFFICIENT VENDING MACHINE CREDIT.

"(a) General Rule.—For purposes of section 38, the energy efficient vending machine credit determined under this section for the taxable year is an amount equal to $75, multiplied by the number of qualified energy efficient vending machines purchased by the taxpayer during the calendar year ending with or within the taxable year.

"(b) Qualified Energy Efficient Vending Machine.—For purposes of this section, the term 'qualified energy efficient vending machine' means a refrigerated bottled or canned beverage vending machine which—

"(1) has a capacity of at least 500 bottles or cans, and

"(2) consumes not more than 8.66 kWh per day of electricity based on ASHRAE Standard 32.1-1997.

"(c) Verification.—The taxpayer shall submit such information or certification as the Secretary determines necessary to claim the credit amount under subsection (a).

"(d) Termination.—This section shall not apply with respect to vending machines purchased in calendar years beginning after December 31, 2005.".

(b) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(20) No carryback of energy efficient vending machine credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient vending machine credit determined under section 45K may be carried to a taxable year ending before January 1, 2003.".

(c) Conforming Amendment.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the energy efficient vending machine credit determined under section 45K(a).".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. Energy efficient vending machine credit.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SA 3358. Mr. ROCKEFELLER (for himself, Mr. Allen, Mr. Specter, and Mr. Warner) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CREDIT FOR RECYCLING CERTAIN COAL COMBUSTION WASTE MATERIALS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR RECYCLING CERTAIN COAL COMBUSTION WASTE MATERIALS.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the credit for recycling certain coal combustion waste materials used by the taxpayer in qualifying production under this section for any taxable year is equal to the sum of—

"(1) $6.00 for each wet ton of—

"(A) wet flue gas desulfurization sludge cake, and

"(B) any other wet waste material identified by the Secretary of Energy, plus

"(2) $4.00 for each dry ton of—

"(A) dry flue gas desulfurization and fluidized bed combustion waste material, and

"(B) any other dry waste material identified by the Secretary of Energy.

"(b) CERTAIN COAL COMBUSTION WASTE MATERIALS DEFINED.—For purposes of this section, the term 'certain coal combustion waste materials' means any solid waste material generated using a sulfur dioxide emission control system and derived from the combustion of coal in connection with the generation of electricity or steam, including—

"(1) wet flue gas desulfurization sludge cake,

"(2) dry flue gas desulfurization and fluidized bed combustion waste material, and

"(3) any other coal combustion waste material identified by the Secretary of Energy as wet waste or dry waste material attributable to the use of a sulfur dioxide emission control system.

"(c) QUALIFYING PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying production' means the use of certain coal combustion waste materials by the taxpayer as substantial raw materials in the manufacture of commercially saleable products which are—

"(A) manufactured in a qualifying facility,

"(B) sold by the taxpayer, and

"(C) not used in a landfill application.

"(2) SUBSTANTIAL USE AND MANUFACTURING REQUIREMENT.—Certain coal combustion waste materials shall not be deemed to constitute substantial raw materials used in the manufacture of commercially saleable products unless such waste materials—

"(A) constitute at least 35 percent of the weight of the commercially saleable manufactured products, determined on a dry weight basis, and

"(B) undergo a physical and chemical change in the course of the manufacturing process.

"(3) UNRELATED PERSON SALE OR USE REQUIREMENT.—The taxpayer shall not be deemed to have engaged in qualifying production with respect to certain coal combustion waste materials used in manufacturing a product until—

"(A) the taxable year in which the taxpayer sells such product to an unrelated person, or

"(B) if such product is sold to a related person, the taxable year in which the related person—

"(i) resells such product to an unrelated person, or

"(ii) consumes or provides such product in the performance of services to an unrelated person.

"(4) QUALIFYING FACILITY.—

"(A) IN GENERAL.—The term 'qualifying facility' means a manufacturing facility which—

"(i) is located within the United States (within the meaning of section 638(1)) or within a possession of the United States (within the meaning of section 638(2)), and

"(ii) is placed in service after December 31, 2001.

"(B) 10 YEAR LIMIT.—A facility shall cease to be a qualifying facility on the date which is the tenth anniversary of the date on which the facility was placed in service.

"(5) DRY WEIGHT MEASUREMENT.—For purposes of paragraph (2)(A), dry weight shall be determined by excluding the weight of all water in the materials used in the manufacture of the products.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section —

"(1) WET TON.—The term 'wet ton' shall mean the weight of the desulfurization sludge cake (and any other wet waste material) after adjusting the water content of the cake (and other wet waste material) to not greater than 50 percent of the total weight.

"(2) DRY TON.—The term 'dry ton' shall mean the weight of the dry flue gas desulfurization and fluidized bed combustion waste material (and any other dry waste material) after adjusting the water content of the material (and other dry waste material) to not greater than 2 percent of the total weight.

"(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(4) PASS-THROUGH IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.".

(b) CREDIT TREATED AS A BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the credit for recycling certain coal combustion waste materials determined under section 45K(a).".

(c) TRANSITIONAL RULE.—Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(20) NO CARRYBACK OF SECTION 45K CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit for recycling certain coal combustion waste materials determined under section 45K may be carried back to a taxable year ending before January 1, 2002.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end of the following new item:

"Sec. 45K. Credit for recycling certain coal combustion waste materials.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 3359. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In Division H, on page 74, line 16, strike "Code" and insert "Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy".

SA 3360. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 137, between lines 7 and 8, insert the following:

SEC. ___. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

"SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

"(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

"(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

"(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

"(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

"(2) which permits reading of water price and usage signals on at least a daily basis.

"(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

"(f) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by inserting after subparagraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.".

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179D" each place it appears in the heading and text and inserting ", 179D, or 179E".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179E(f)(1).".

(4) Section 1245(a), as amended by this Act, is amended by inserting "179E," after "179D," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

"Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. ___. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 3361. Mr. KERRY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 91, line 9, strike all through page 96, line 3, and insert the following:

"(E) for property described in subsection (d)(6)—

"(i) $150 for each electric heat pump water heater,

"(ii) $250 for each electric heat pump,

"(iii) $125 for each natural gas or propane furnace,

"(iv) $250 for each central air conditioner,

"(v) $150 for each advanced natural gas water heater,

"(vi) $250 for each geothermal heat pump,

"(vii) $50 for each main air circulating fan in a natural gas, propane, or oil-fired furnace,

"(viii) $50 for each natural gas water heater,

"(ix) $150 for each advanced combination space and water heating system, and

"(x) $50 for each combination space and water heating system.

"(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

"(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

"(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

"(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(iii) a natural gas or propane furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

"(v) an advanced natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

"(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21,

"(vii) a main air circulating fan in a natural gas, propane, or oil-fired furnace using a brushless permanent motor, or another type of motor which achieves similar or greater efficiency at half and full speed, as determined by the Secretary,

"(viii) a natural gas water heater which is not described in clause (v) and which has an energy factor of at least 0.65 in the standard Department of Energy test procedure,

"(ix) an advanced combination space and water heating system which has a combined energy factor of at least .80 in the standard Department of Energy test procedure, and

"(x) a combination space and water heating system which is not described in clause (ix) and which has a combined energy factor of at least .65 in the standard Department of Energy test procedure and achieves at least 78 percent combined annual fuel utilization efficiency (AFUE).".

SA 3362. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting ", or" and by adding at the end the following new subclause:

"(III) is not connected by paved roads to another airport".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

SA 3363. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEA PLANES.

(a) The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

SA 3364. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. . TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking "or" at the end of clause (iv), by striking the period at the end of clause (v) and insert ", or", and by adding at the end the following new clause:

"(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3365. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, between lines 17 and 18, insert the following:

"(5) FACILITIES PRODUCING OIL OR GAS ON INDIAN LANDS, INCLUDING LANDS OWNED AND HELD BY ALASKA NATIVE VILLAGE CORPORATIONS AND REGIONAL CORPORATIONS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—

"(A) IN GENERAL.—In the case of facility for producing Indian oil or gas which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to Indian oil or gas produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

"(B) INDIAN OIL OR GAS.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'Indian oil or gas' means oil or gas which is produced from Indian lands.

"(ii) INDIAN LANDS.—The term 'Indian lands' means—

"(I) land held in trust by, or restricted against alienation by, the United States for the benefit of an individual Indian or an Indian tribe, or

"(II) land owned and held by any Alaska Native Village Corporation or Regional Corporation organized under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(iii) INDIVIDUAL INDIAN.—The term 'individual Indian' means any individual member of an Indian tribe.

"(iv) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), including any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the Indian Reorganization Act (25 U.S.C. 461 et seq.)).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply with respect to any Indian oil or gas for which a credit is allowed under any other provision of this section."

SA 3366. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 73, between lines 2 and 3, insert the following:

SEC. . MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "5 percent" and inserting "4 percent".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3367. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division H, insert the following:

SEC. . PERMANENT TAX CREDIT FOR RESEARCH AND DEVELOPMENT REGARDING GREENHOUSE GAS EMISSIONS REDUCTION, AVOIDANCE, OR SEQUESTRATION.

Section 41(h) (relating to termination) is amended by adding at the end the following:

"(3) EXCEPTION FOR CERTAIN RESEARCH.—Paragraph (1)(B) shall not apply in the case of any qualified research expenses if the research—

"(A) has as one of its purposes the reducing, avoiding, or sequestering of greenhouse gas emissions, and

"(B) has been reported to the Department of Energy under section 1605(b) of the Energy Policy Act of 1992 or under the national greenhouse gas emissions register established in Division I of this Act.".

SEC. . TAX CREDIT FOR GREENHOUSE GAS EMISSIONS FACILITIES.

(a) ALLOWANCE OF GREENHOUSE GAS EMISSIONS FACILITIES CREDIT.—Section 46 (relating to amount of credit), as amended by this

Act, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following:

"(5) the greenhouse gas emissions facilities credit.".

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following:

"SEC. 48B. CREDIT FOR GREENHOUSE GAS EMISSIONS FACILITIES.

"(a) IN GENERAL.—For purposes of section 46, the greenhouse gas emissions facilities credit for any taxable year is the applicable percentage of the qualified investment in a greenhouse gas emissions facility for such taxable year.

"(b) GREENHOUSE GAS EMISSIONS FACILITY.—For purposes of subsection (a), the term 'greenhouse gas emissions facility' means a facility of the taxpayer—

"(1)(A) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(B) which is acquired by the taxpayer if the original use of such facility commences with the taxpayer,

"(2) the operation of which—

"(A) replaces the operation of a facility of the taxpayer,

"(B) reduces, avoids, or sequesters greenhouse gas emissions on a per unit of output basis as compared to such emissions of the replaced facility, and

"(C) uses the same type of fuel (or combination of the same type of fuel and biomass fuel) as was used in the replaced facility,

"(3) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(4) which meets the performance and quality standards (if any) which—

"(A) have been jointly prescribed by the Secretary and the Secretary of Energy by regulations,

"(B) are consistent with regulations prescribed under section 1605(b) of the Energy Policy Act of 1992, and

"(C) are in effect at the time of the acquisition of the facility.

"(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is one-half of the percentage reduction, avoidance, or sequestration of greenhouse gas emissions described in subsection (b)(2) and reported and certified under section 1605(b) of the Energy Policy Act of 1992.

"(d) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a greenhouse gas emissions facility placed in service by the taxpayer during such taxable year, but only with respect to that portion of the investment attributable to providing production capacity not greater than the production capacity of the facility being replaced.

"(e) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (d) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a greenhouse gas emissions facility which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF GREENHOUSE GAS EMISSIONS FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules), as amended by this Act, is amended by adding at the end the following:

"(7) SPECIAL RULES RELATING TO GREENHOUSE GAS EMISSIONS FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a greenhouse gas emissions facility (as defined by section 48B(b)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the greenhouse gas emissions facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the greenhouse gas emissions facility property shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a greenhouse gas emissions facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a greenhouse gas emissions facility.".

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following:

"(v) the portion of the basis of any greenhouse gas emissions facility attributable to any qualified investment (as defined by section 48B(d)).".

(2) Section 50(a)(4), as amended by this Act, is amended by striking "and (6)" and inserting ", (6), and (7)".

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48A the following:

"Sec. 48B. Credit for greenhouse gas emissions facilities.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(f) STUDY OF ADDITIONAL INCENTIVES FOR VOLUNTARY REDUCTION, AVOIDANCE, OR SEQUESTRATION OF GREENHOUSE GAS EMISSIONS.—

(1) IN GENERAL.—The Secretary of the Treasury and the Secretary of Energy shall jointly study possible additional incentives for, and removal of barriers to, voluntary, non recoupable expenditures for the reduction, avoidance, or sequestration of greenhouse gas emissions. For purposes of this subsection, an expenditure shall be considered voluntary and non recoupable if the expenditure is not recoupable—

(A) from revenues generated from the investment, determined under generally accepted accounting standards (or under the applicable rate-of-return regulation, in the case of a taxpayer subject to such regulation), or

(B) from any tax or other financial incentive program established under Federal, State, or local law.

(2) REPORT.—Within 6 months of the date of enactment of this Act, the Secretary of the Treasury and the Secretary of Energy shall jointly report to Congress on the results of the study described in paragraph (1), along with any recommendations for legislative action.

(g) SCOPE AND IMPACT.—

(1) POLICY.—In order to achieve the broadest response for reduction, avoidance, or sequestration of greenhouse gas emissions and to ensure that the incentives established by or pursuant to this Act do not advantage one segment of an industry to the disadvantage of another, it is the sense of Congress that such incentives should be available for individuals, organizations, and entities, including both for-profit and non-profit institutions.

(2) LEVEL PLAYING FIELD STUDY AND REPORT.—

(A) IN GENERAL.—The Secretary of the Treasury and the Secretary of Energy shall jointly study possible additional measures that would provide non-profit entities (such as municipal utilities and energy cooperatives) with economic incentives for greenhouse gas emissions facilities comparable to those incentives provided to taxpayers under the amendments made to the Internal Revenue Code of 1986 by this Act.

(B) Report.—Within 6 months after the date of enactment of this Act, the Secretary of the Treasury and the Secretary of Energy shall jointly report to Congress on the results of the study described in subparagraph (A), along with any recommendations for legislative action.

DIVISION I—CLIMATE CHANGE MITIGATION

TITLE —NATIONAL GREENHOUSE GAS REGISTRY

SECTION. . SHORT TITLE.

This title may be cited as the "National Climate Registry Initiative of 2002".

SEC. . PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities

SEC. . DEFINITIONS.

In this title—

(1) "person" means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) "entity" means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) "facility" means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) "reductions" means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) "greenhouse gas" means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and reemits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate;

(6) "Secretary" means the Secretary of Energy;

(7) "Administrator" means the Administrator of the Energy Information Administration; and

(8) "Interagency Task Force" means the Interagency Task Force established under title X of this Act.

SEC. . ESTABLISHMENT.

(a) In General.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) Designation.—Upon establishment of the registry and issuance of the guidelines pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) Participation.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

(d) Confidentiality of Reports.—Trade secret and commercial or financial information that is privileged and confidential submitted pursuant to activities under this title shall be protected as provided in section 552(b)(4) of title 5, United States Code.

SEC. . IMPLEMENTATION.

(a) Guidelines.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entitles transferable credits with unique serial numbers for such verified emissions reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) Consideration.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in apply such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) Experts and Consultants.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and nonprofit sectors in accordance with the provisions of section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) Transferability of Prior Reports.—Emissions reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) Public Comment.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) Review and Revision.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

SEC. . VOLUNTARY AGREEMENTS.

(a) In General.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity (and successors thereto) which, inter alia,—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other persons or entities through a voluntary private transaction between persons or entities; or

(C) shall be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) Public Notice and Comment.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it or finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) Emissions in Excess.—In the event that a person or entity fails to certify that emissions from applicable facilities and operations are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) No New Authority.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

SEC. . MEASUREMENT AND VERIFICATION.

(a) In General.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions and emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestation activities which adequately address the issues of permanence, leakage and verification; and

(4) such other measurement and certification standards as the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall determine to be appropriate.

(b) Public Comment.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

SEC. . CERTIFIED INDEPENDENT THIRD PARTIES.

(a) Certification.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administrator, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transaction of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) List of Certified Parties.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under the title.

SEC. . REPORTS TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of total national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation in the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. . REVIEW OF PARTICIPATION.

(a) In General.—Not later than 5 years after the date of enactment of this title, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry represent less than 60 percent of the national aggregate greenhouse gas emissions as inventoried in the official U.S. Inventory of Greenhouse Gas Emissions and Sinks published by the Environmental Protection Agency for the previous calendar year.

(b) Mandatory Reporting.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of such aggregate greenhouse gas emissions are being reported to the registry—

(1) all persons or entities, regardless of their participation in the registry, shall submit to the Secretary a report that describes, for the preceding calendar year, a complete inventory of greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted by such person or entity, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by such person or entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the Secretary determines by regulation to be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

(2) each person or entity shall submit a report described in this section—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) EXEMPTIONS FROM REPORTING.—

(1) IN GENERAL.—A person or entity shall be required to submit reports under subsection (b) only if, in any calendar year after the date of enactment of this title—

(A) the total greenhouse gas emissions of at least 1 facility owned by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation);

(B) the total quantity of greenhouse gas produced, distributed, or imported by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation); or

(C) the person or entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(2) ENTITIES ALREADY REPORTING.—A person or entity that, as of the date of enactment of this title, is required to report carbon dioxide emissions data to a Federal agency shall not be required to report that data again for the purposes of this title. Such emissions data shall be considered to be reported by the entity to the registry for the purpose of this title and included in the determination of the Director of the Office of National Climate Change Policy made under subsection (a).

(d) ENFORCEMENT.—If a person or entity that is required to report greenhouse gas emissions under this section fails to comply with that requirement, the Attorney General may, at the request of the Secretary, bring a civil action in United States district court against the person or entity to impose on the person or entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

(e) RESOLUTION OF DISAPPROVAL.—If made, the determination of the Director of the Office of National Climate Change Policy made under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. . NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate, within 6 months after the effective date of that agreement.

SEC. . INAPPLICABILITY OF TITLE XI OF THIS ACT.

Title XI of this Act shall be null and void.

SA 3368. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table, as follows:

In Division H, on page 17, line 23, strike "and" and all that follows through line 25, and insert the following:

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d), and

"(4) the new qualified advanced lean burn technology motor vehicle credit determined under subsection (aa).

"(aa) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

"(i) $750, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

"(ii) $1,250, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(iii) $1,750, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(iv) $2,250, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(v) $2,750, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

"(vi) $3,250, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

"(B) INCREASE FOR LOW EMMISIONS.—The credit amount determined under subparagraph (A) shall be increased by—

"(i) $250, if such vehicle achieves the emission standards equivalent to TIER 2, bin 6,

"(ii) $500, if such vehicle achieves the emission standards equivalent to TIER 2, bin 5,

"(iii) $750, if such vehicle achieves the emission standards equivalent to TIER 2, bin 4,

"(iv) $1,000, if such vehicle achieves the emission standards equivalent to TIER 2, bin 3 or lower."

SA 3369. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2307.

SA 3370. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2308.

SA 3371. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2311.

SA 3372. Mr. GRAHAM (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. . LIMITATION ON EFFECTIVE DATES.

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues or reduces Federal spending sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

SA 3373. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. . LIMITATION ON EFFECTIVE DATES.

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

SA 3374. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3344 submitted by Mrs. LINCOLN and intended to be proposed to the amendment SA 2917 proposed by

Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of enactment, and before January 1, 2004.

SA 3375. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 3336 submitted by Mr. GRAMM and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

"(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

"(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

"(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

"(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

"(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

"(2) QUALIFIED DISPOSITION.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

"(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

"(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

"(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

"(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

"(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

"(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

"(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

"(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after the date of enactment of this Act.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

"(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED RECLAMATION EXPENDITURE.—

"(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

"(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

"(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.".

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199B. Expensing of dairy property reclamation costs.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee On Indian Affairs be authorized to hold a joint hearing during the session of the Senate on Wednesday, April 24th, 2002, at 2:30 p.m. in SD–366.

The purpose of this hearing is to receive testimony on S. 2018, to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 24, 2002 at 9:30 a.m. to hold a hearing on U.S.-Colombia Foreign Policy.

Agenda

Witnesses

Panel 1: The Honorable Marc Grossman, Under Secretary for Political Affairs, Department of State, Washington, DC; the Honorable Peter W. Rodman, Assistant Secretary for International Security Affairs, Department of Defense, Washington, DC; and Major General Gary D. Speer, USA, Acting Commander in Chief, U.S. Southern Command Miami, FL.

Panel 2: Mr. Mark Schneider, Senior Vice President, International Crisis Group, Washington, DC; and Mr. Jose Miguel Vivanco, Executive Director, Americas Division, Human Rights Watch, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, April 24, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 24, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 24, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, April 24, 2002, at 2:30 p.m. on Homeland Security and the Technology Sector, S. 2037 and S. 2182.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, as in executive session, I ask unanimous consent that immediately following the Pledge of Allegiance tomorrow morning, the Senate proceed to executive session to consider the following nominations: Calendar Nos. 776 and 781; that the Senate vote immediately on the nominations; that the motions to reconsider be laid upon the table; the President be immediately notified of the Senate's action; that any statements therein be printed in the RECORD; and the Senate return to legislative session, with the preceding occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I further ask unanimous consent that it be in order to order the yeas and nays on both the nominations with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays on the nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that the time on these two votes be counted against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

EXTENDING AUTHORITY OF EXPORT-IMPORT BANK

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 2248 introduced earlier today by Senator SARBANES.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2248) to extend the authority of the Export-Import Bank until May 31, 2002.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. I ask unanimous consent the bill be read three times, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2248) was read the third time and passed, as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXPORT-IMPORT BANK.

Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through May 31, 2002.

* * *

ORDERS FOR THURSDAY, APRIL 25, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Thursday, April 25; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day; and the Senate proceed to executive session under the previous order; that there be 6 hours remaining under cloture on the Daschle-Bingaman substitute amendment, and that time consumed in executive session count against cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

PROGRAM

Mr. REID. There will be two rollcall votes beginning at approximately 9:30 a.m. tomorrow morning. Following these votes, the Senate will resume consideration of the energy reform bill. We expect to complete action on the bill Thursday. There will be no question we would complete action on the bill Thursday.

There is a lot to do. We ask the continued cooperation of Members. We have been able to make a lot of headway. Tomorrow is the day we are going to complete action on this bill, which has been around for approximately 6 weeks.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:48 p.m., adjourned until Thursday, April 25, 2002, at 9:30 a.m.

EXTENSIONS OF REMARKS

ST. MARK AME CHURCH CELEBRATES 133 YEARS OF SERVICE IN THE MILWAUKEE COMMUNITY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KLECZKA. Mr. Speaker, on April 26, 2002 St. Mark African Methodist Episcopal (A.M.E.) Church will celebrate its 133rd anniversary in Milwaukee, Wisconsin. In 1869, a time when African Americans made up less than 1 percent of the city of Milwaukee's population, St. Mark A.M.E. Church was founded in a former site of a German Congregation. Although no longer at that location today, St. Mark is one of the oldest, largest and most influential congregations in Milwaukee.

The A.M.E. Church in the United States was founded out of the Methodist tradition but with its roots in the segregationist attitudes of that period in our history. In 1787, a group of slaves and former slaves in the Philadelphia area withdrew from St. George's Methodist Episcopal Church when they were not permitted to sit with the congregation, but were forced to sit separately in the gallery. They formed their own church, the African Methodist Episcopal (A.M.E.) Church, and committed themselves to living the gospel and adopted the motto of "God Our Father, Christ Our Redeemer, Man Our Brother." After its founding, the A.M.E. church spread quickly throughout the Northern states, and eventually moved into the South after the Civil War.

Eighty-two years after the A.M.E. church's founding in the United States, a group of African American activists came together in Milwaukee, to establish St. Mark. Several of St. Mark founding members had a positive and permanent impact on the African-American Community in Milwaukee and Wisconsin. Mr. Ezekiel Gillespie, a former slave from Georgia who served as chairman of the group that founded St. Mark in 1869, filed a historic lawsuit that eventually led to full suffrage for African-Americans in Wisconsin. The Reverend Eugene Thompson, a former pastor at St. Mark, was one of the founding board members of Columbia Building, which in 1924 began helping African-Americans buy homes in the Milwaukee area.

This history of living one's faith through activism provides the foundation for a legacy of service to the community. Current initiatives and ministries at St. Mark are operated through the Lovell Johnson Quality of Life Center, and include counseling for alcohol and drug abuse; assistance with economic development, education and employment opportunities, as well as environmental preservation. The church also created the Anvil Housing Corporation and was the first African-American congregation in Wisconsin to sponsor senior citizen and disabled housing. St. Mark also fosters public service and patriotism in its youngest members through its sponsorship of Boy Scout and Girl Scout troops.

So it is with great pride that I congratulate the congregation of St. Mark A.M.E. Church and its Pastor, Reverend Michael A. Cousin, on 133 years of giving glory to God by living the gospel and serving our community.

RECOGNIZING THE IMPORTANCE OF RESTORING FOOD STAMPS ELIGIBILITY FOR LEGAL PERMANENT RESIDENTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. RANGEL. Mr. Speaker, I rise today to recognize the importance of restoring food stamps eligibility to legal permanent residents. In 1996, Congress stripped legal immigrants of eligibility for food stamps and a variety of other benefits. As a step in the right direction, President Bush proposed to restore food stamps benefits to low income legal immigrants. The President's position on this issue makes sense. The food stamps program is a critical safety net that allows working men and women to feed their families during hard times. All a household needs to qualify is a low income. However, thousands of legal resident families go hungry each day.

Legal residents pay taxes and their labor helps drive the economy. Yet, even hard working families may have a difficult time putting food on the table. A recent study by the Urban Institute found that 36 percent of New York City's limited English Proficiency households, during the previous year, had been unable to acquire adequate food at one time or the other. Food stamps can help provide these needy families with a temporary safety net during difficult times. Hunger does not limit itself to U.S. citizenship. Therefore, we should not create a policy to systematically deny food to needy tax paying immigrants in this country.

But when the conferees to the Farm Bill met last week, Republicans did just that. They crafted a food stamp provision that essentially denies benefits to legal permanent residents of the United States, even though this position is in direct opposition to the President's proposal of restoring food stamps to low income immigrants who lived in the U.S. for at least five years. The Republicans' food stamp proposal is much more restrictive and would severely limit legal resident's eligibility and basically punish them for being non-citizens. It is unfortunate that the President's own party is undermining a bi-partisan effort to help feed the working poor.

Recently, Republicans fashioned themselves as being pro-Hispanics. At the same time the Republicans were courting the Hispanic vote, they were cutting assistance that would help needy working legal immigrant families put food on the table. Democrats have fought for equal rights and just treatment for immigrants, as well as for restoring benefits to immigrant workers. If Republicans were really concerned about the immigrant community, they would restore food stamps eligibility for legal permanent residents.

HONORING RABBI ISRAEL ZOBERMAN

HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SCHROCK. Mr. Speaker, it is with great pleasure that I rise today to honor Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach. He is also the President of the Hampton Roads Board of Rabbis, and Chairman of the Community Relations Council of the United Jewish Federation of Tidewater. I would like to share the following article that was written by Rabbi Zoberman and appeared in the Virginian-Pilot on April 12, 2002.

AN OPEN LETTER TO CHAIRMAN ARAFAT ON THE OCCASION OF ISRAEL'S 54TH ANNIVERSARY

Your present living accommodations are a far cry from a past of world capitals hopping. However, you are reliving the "glorious" 1982 days in Lebanon under siege by the same Sharon encircling you again. In truth, you are both caged in as long as there is no peace for your respective peoples.

You itched to duel again (for the last time?) with your old nemesis, otherwise how explain the Second Intifada following Sharon's visit to the Temple Mount. You trapped each other; he aroused you enough for a pretext of rash action, yet you catapulted him to become a Prime Minister! Soon you may have the time to check out for yourself the over 800 references to Jerusalem in the Hebrew Bible, but why doesn't your Koran mention it even once?

I wanted to believe that you transformed yourself from the terrorist you were—a freedom fighter to you—to a statesman representing a long-enduring people abused as a pawn by its Arab brethren. Your partner to the sacred opportunity and responsibility was an Israel weary of wars imposed upon it, yearning for normalcy and that elusive peace it has sought all along. When entering into official peace with Egypt, entailing painful compromises, it was Sharon as Defense Minister who dismantled the Israeli town of Yamit. I resisted those doubtful of your famous handshake's sincerity with martyred Rabin—it cost him his life—when signing the 1993 Oslo Accords on that beautiful day at the White House, facing a breathless world celebrating a hopeful beginning. Remember the reward of a Nobel Peace Prize? How have you fallen, Ya Raees .

Of course, the murder of your friend Rabin by a Jewish zealot profoundly affected you

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for you were justly proud of "the peace of the brave" with your "brother" Rabin. Then came vicious terrorist attacks on Israelis by Muslin extremists who opposed your peace, and Israel's political power in the only Middle East democracy shifted to the Right. Netanyahu, the victor with an American accent, claimed you were not sincere (were you?) and that Israel risked too much. He lost the confidence of the Israeli voter in the absence of peace progress, facilitating the Left's comeback with Barak at the helm. Barak miscalculated, focusing on the Syrian track and neglected to develop the same bond you enjoyed with his mentor Rabin. I empathized with your changed status, but as a leader you should have stuck to your people's welfare. Finally when Barak took a visionary and valiant step beyond Israeli premiers before him, with President Clinton's enormous input and personal stake, you simply walked away from the deal of your life. Abandoning your cause of peace, you inexplicably chose the path of violence of your own Arab enemies.

Didn't you realize that indiscriminate suicide bombings with no moral inhibitions, wreaking havoc on Israeli civilians could not indefinitely be tolerated? Did you try to trigger Sharon into a harsh response, gaining from it? Well, he held back, though no nation would have delayed a far more severe answer, particularly an Arab state unencumbered by that democratic stuff and the Judeo-Christian all-consuming regard for a single human life. Why not allow your youth to grow up as God intended them instead of sacrificing your people's future on the revived pagan altars of demonic hate. When Israeli families sat down for a Passover Seder (ironically it's about freedom and standing up to terrorism) at that doomed hotel in Netanya, you greeted them with a massacre. That proved the turning point and you really cannot blame Sharon, you gave him no choice.

Oh yes, an event called September 11 shook great America and President Bush declared a global war on terrorism. Did the Palestinians have to cheer when we were so diabolically attacked as they also did during the 1991 Gulf War in support of Saddam Hussein who underwrites your suicide bombers, always backing evil-doers and losers? Though fifteen of the nineteen hijackers were Arabs, you failed to halt that ship of arms from Iran, and carelessly leaving your signature on incriminating terrorist documents. It is clearer now that the line of American defense and civilization's survival run in Israel, and the unimaginable demise of that small but determined democracy would signal America's fall and both linked propositions are preposterous. Perceived weakness invites the bullies' aggression. The world is yet to accept an Israel that is not the traditional Jewish victim, with Israel bashing the new anti-Semitism. The shameful specter of burning synagogues has returned to a hypocritical Europe.

Lastly, before Israel celebrates at this season its hard-won independence after two millennia of powerlessness and persecution, it pauses to recall a Holocaust you seem to care little about and I cannot forget for I am son of survivors. That monumental tragedy gave the final push for Israel's rebirth, etching forever upon Jewish consciousness the call, "Never Again". Do you see why doves like me feel betrayed by the "new Arafat", concerned about creating a hostile twenty-third Arab state so close to the only Jewish state? There is one word we Jews have never dared erase even in our darkest hours and we had many of them, for it is our ultimate weapon. Guess, Arafat, it is "Shalom".

ELWYN, INC'S 150TH ANNIVERSARY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. WELDON of Pennsylvania. Mr. Speaker, I want to pay tribute and honor the accomplishments of Elwyn, Inc. on its 150th Anniversary Year of exemplary service to people with special needs in Pennsylvania.

Elwyn, Inc. is among the oldest and largest human services organizations in the nation. Founded in 1852 in the Germantown section of Philadelphia by James B. Richards, a teacher, and Dr. Alfred L. Elwyn, a physician, Elwyn is now a community-based network of programs headquartered in Middletown Township, Delaware County, Pennsylvania and serving 12,000 children and adults with disabilities and disadvantages each year in Delaware, New Jersey, California and Pennsylvania.

I salute Elwyn, Inc. on the outstanding role it has played in teaching people with disabilities and disadvantages how to be as productive and independent as possible. The longevity of the organization is a testament to its deeply committed staff, board members, families and financial supporters who all play an essential role in the ongoing evolution of the collective energy focused on helping people with special needs. I join with the residents of the 7th Congressional District of Pennsylvania in celebrating Elwyn, Inc.'s 150 years of making a difference.

I would like to include a brief history of Elwyn to be printed at this point.

THE HISTORY OF ELWYN

In 1852, James B. Richards, a teacher, came to Philadelphia and opened a private school for "mental defectives" on School Lane in Germantown. He enlisted the sympathies of Dr. Alfred L. Elwyn, a physician, and together they were able to arouse interest in the endeavor in Philadelphia. Their efforts led, in 1854, to the incorporation of The Pennsylvania Training School for Idiotic and Feeble-minded Children, later renamed the Elwyn School. An appropriation from the Commonwealth of Pennsylvania of $10,000 and provisions for ten students were obtained. The school and its 17 students were moved to Woodland Avenue in 1855. Edouard Seguin, then a political refugee from France, was appointed educational director the following year.

Before the end of the decade, dissension and financial difficulties threatened to close the new school. Richards retired from the field of special education. Dr. Joseph Parrish was appointed Superintendent and was able to bring about financial stability. An additional appropriation of $20,000 by the legislature for buildings provided an opportunity for expansion and the search for a permanent location began. Dorothea Dix, who had paved the way for humanitarian treatment of both the mentally ill and mentally retarded in Massachusetts, assisted in choosing a new site, fifteen miles south of Philadelphia at Media. Miss Dix was instrumental in securing state appropriations for the new campus.

In 1857, the cornerstone of the main building was laid, and the new school was dedicated to the shelter, instruction, and improvement of mentally retarded children. On September 1, the entire school and its 25 children, attendants, and teachers were loaded into two Conestoga wagons and brought to their new quarters. The formal opening took place on November 2, 1859.

In the early days, Elwyn was a simple, insular, self-contained, and self-sustaining community. The emphasis at Elwyn, and at institutions across the nation, was on segregating people with mental retardation and providing them with care away from the community, for life. In the 1960s, Elwyn began to turn away from the closed institution model, moving toward helping people with disabilities to live and achieve their fullest potential within the larger community.

In 1969, Elwyn established a rehabilitation center in West Philadelphia. Delaware Elwyn in Wilmington and California Elwyn in Fountain Valley opened their doors to the community in 1974. In 1981, the Training School at Vineland in New Jersey came under Elwyn's management, and in 1984, Elwyn initiated programs for both Palestinians and Israelis in Jerusalem, Israel.

Today, under the leadership of Sandra S. Cornelius, Ph.D., the eighth president of Elwyn, the agency continues to lead the way by developing innovative, dynamic programs for adults and children with physical and mental disabilities, mental illness and socioeconomic disadvantages. The new century finds Elwyn with an expanded continuum of care, offering new services in the areas of juvenile justice, child welfare, mental health and case management, and a strong resolve to help people build better lives long into the future.

THE GOOD PEOPLE, GOOD GOVERNMENT ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the "Good People, Good Government Act." This legislation is the first step in addressing the pressing human capital needs of the federal government. The human capital issue, first deemed the "quiet crisis" twelve years ago by the Volcker Commission, has now become the central concern for federal agencies.

More than half—53 percent—of the federal workforce will be eligible to retire in the next five years. This includes 71 percent of the government's senior managers—those specialists and supervisors who ensure that government accomplishes its critical missions on behalf of the nation.

These talented people provide a myriad of services, including protecting the air we breathe, the food we eat, and our shores against terrorism.

It is our duty in Congress to ensure that we have qualified people ready to take their place once they begin to retire while also retaining the people we currently have to ensure that there is no significant decline in the quality of service that our federal government provides.

Right now, we have an opportunity to do exactly that.

After September 11, the American people learned the essential role that civil servants play in all our lives.

There was a collective understanding that a nation is only as strong as the people who serve it and that "the bureaucrats in Washington, DC" are working for us, not despite us.

This renewed pride in public service translated to a renewed interest in seeking employment with the federal government.

We, in Congress, must capitalize on this interest. My legislation attempts to do just that.

The first title of the bill would establish a Chief Human Capital Officer (CHCO) in each executive agency and strengthens the authority and credibility of federal human resources directors. The structure of the position would be similar to that of the Chief Financial Officer (CFO) or Chief Information Officer (CIO) established in the 1990s.

For years, human resources bureaus and directors have not been given the authority or respect needed to provide federal employees with the tools and empowerment they need. This new office in the federal government's largest agencies will help address this problem. In each agency, the CHCO would be authorized to: (1) set the agency's workforce development strategy; (2) assess current workforce characteristics and future needs based on the strategic plan and mission; (3) align human resources policies with organization mission, strategic goals and performance outcomes, (4) develop and champion a culture of continuous learning to attract and retain top talent; (5) identify best practices and benchmarking studies; and, (6) create systems for measuring intellectual capital and identifying its links to organizational performance and growth.

In addition, this section of the bill would also give congressional support to the establishment of a Chief Human Capital Officers Council, similar to the CFO and CIO Councils. The Council would meet periodically to advise and coordinate the activities of agencies on a variety of human capital issues, such as: modernization of human resources systems; improved quality of human resources information; and legislation affecting human resources operations and organizations.

The second section of the bill focuses on employee training, recruitment, and retention.

This section would make several changes to enhance the institutional manner in which employees are trained and recruited in the federal government. Many of these responsibilities would fall under the purview of the Chief Human Capital Officer described above.

It would require agencies to link training and recruiting activities with performance plans and strategic goals. Agencies should clearly articulate how their training and recruiting helps to accomplish the agency's mission.

This section would also require agencies to maintain detailed records of their training and recruitment activities, as agencies cannot adequately plan future activities if they have no reliable records of past actions.

This section also includes a measure to help federal agencies retain workers by increasing the government contribution for Federal employee health insurance. If the Federal Government cannot match the salaries of the private sector, it can at least attempt to match or upgrade the benefits available to civil servants.

This legislation should be the first step of this Congress in recognizing that our human capital is essential to the proper functioning of this government.

We must translate this into a policy that recognizes the primacy of people in running an effective, efficient organization.

And we must act quickly because a great nation cannot rely on national emergencies to fill the ranks of its civil service.

Things will—as they must—eventually return to something like normal. The flood of resumes will slow to a trickle. Some of the idealistic new recruits will leave before the year is out, disillusioned by the reality of government service. Some longer-term employees will also leave, out of frustration or because they finally got one too many better offers.

Without a concerted effort to recruit talent, and a serious look at how to make the federal government a better place to work, government will be left with two equally unpalatable choices: Replace the retirees with less competent workers, or don't replace them at all. This country can't afford to do either.

Our civil service is the reason that America is the greatest nation in the world today but that could change if we do not do something about the recruitment and retention crisis that faces it. Fortunately, people have realized what our federal government can do and how rewarding public service can be.

It is our job to follow-up.

REMEMBERING ELIZABETH LESLIE STONE

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. WHITFIELD. Mr. Speaker, I rise today in remembrance of Elizabeth Leslie Stone who passed away Friday, September 7, 2001 at the age of 15. She was the daughter of Wilson Lee Stone and Lanna Jo Stinson Stone and sister of Catherine Stone of Scottsville, Kentucky. Although Elizabeth was only with us for a short time, her memory lives on through her family and friends in Scottsville, Kentucky.

Elizabeth was an active leader for her peers at Allen County-Scottsville High School. She served on the Student Council as the Freshman Class Vice-President and was also elected to represent her class as "Miss Freshman". Throughout the duration of her illness, she remained a loyal friend and role-model for her classmates. One of her truly remarkable talents was her ability to play the clarinet. As a member of the Allen County-Scottsville High Patriot Marching Band, she achieved First Chair All State Clarinet. Her family remembers her main goal as wanting to return to school to play her clarinet in the band. Elizabeth was truly happiest when bringing the joy of music to others.

As a devoted member of the Scottsville Church of Christ, Elizabeth found strength in her faith. Her mother remembers her as learning to see the world in such a way that she found the good in everyone and everything and tried to love the blemishes that inflicted others. Elizabeth's perspective should serve as a lesson for everyone in hopes that we may find happiness regardless of life's many difficulties.

Elizabeth also had a special interest in our government and hoped to come to Washington, D.C. to work as a page. Although she was not able to fulfill this dream, I know she would have made an excellent addition to the page program and would have served her country and Kentucky's First District with patriotism and pride.

Although our time with Elizabeth was cut tragically short, she will always be remembered for her love of family and friends, commitment to her community and zest for life. Elizabeth brought happiness and meaning to the lives of those who were lucky enough to have known her. As she is grieved, her family knows that her spirit has returned to God and that she is smiling down on the world watching over her loved ones.

IN HONOR OF WE THE PEOPLE . . . STUDENT PARTICIPANTS AT HIGHLANDS HIGH SCHOOL, FORT THOMAS, KY

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today in recognition of some outstanding students at Highlands High School in Fort Thomas, located in Kentucky's Fourth Congressional District.

Specifically, I would like to congratulate the Kentucky state champions of the We the People . . . program and I salute the young scholars who will represent the state of Kentucky in the upcoming three-day national event in Washington, D.C. These outstanding students have worked hard to reach the national finals. Their hard work has led to a deeper understanding of the basic principles and values of our constitutional democracy.

In the aftermath of September 11, it is heartening to see these young people promote the fundamental principles of our government. These are ideas that connect us as Americans and bind us together as a nation. It is imperative that our next generation comprehends the importance of these values and principles, which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

As these students prepare for the upcoming national competition, I wish them the best of luck. The students of Highlands High School have made Kentucky's Fourth Congressional District proud and I am glad I have the opportunity to honor such fine and promising young individuals. Particularly, I want to acknowledge the students—Jessica Horner, Rachel Wallingford, Lexie Dressman, Alexa Summe, Jackie Konen, Lyndsey Hering, Karsten Head, Jamie Baker, Andrew Shipp, Ethan Davis, Megan O'Keefe, Gina Maggio, Brian Healy, Cassie Burke, Jacob Krebs, Andrew Weitze, Chris Hazelwood, Kurt Herschede, Josh Edmondson, Joe Giancola, Jack Altekruse, and Cassie Burke.

I ask my colleagues to join me in commending these outstanding students and their teacher, Brian Robinson.

HONORING THOMAS V. DOOLEY, PRESIDENT, MIDDLESEX COUNTY CENTRAL LABOR COUNCIL, PAPER, ALLIED INDUSTRIAL, CHEMICAL AND ENERGY WORKER INTERNATIONAL UNION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. PALLONE. Mr. Speaker, it is my great pleasure to rise today to honor a man who has spent more than 35 years fighting for the rights and representing the interests of working men and women in Central New Jersey.

Recently, Thomas V. Dooley retired as President of the Middlesex County Central Labor Council and from the Paper, Allied Industrial, Chemical and Energy Worker International Union.

Mr. Dooley has spent the better part of his life in service to the labor movement and his community. Throughout his career he has served as International Representative, President, Vice President, and Legislative Coordinator to various Labor organizations.

Active in numerous charitable organizations, Mr. Dooley is a member of the Board of Directors of New Brunswick Tomorrow, the Vice President of the David B. Crabiel Scholarship Foundations, and the Assistant Treasurer of the Middlesex County Board of Social Services. He has also been actively involved with the Middlesex County Heart Association, Middlesex County Open Space and Recreation Advisory Board, the United Way, and various religious organizations including the Diocese of Metuchen and St. Peter's Parish.

Mr. Dooley has also been very active in the Irish American community as a member of the Friendly Sons of the Shillelagh of the Jersey Shore, Friendly Sons of St. Patrick of Central New Jersey, and the Ocean County Emerald Society. Just this year the Ancient Order of Hibernians in America named him Irishman of the Year.

With Thomas Dooley's retirement, the Middlesex County Central Labor Council and PACEIU will be losing a worker, a family man, and a leader in the labor community. I want to offer my congratulations and thanks for his outstanding years of service. His hard work and dedication to the labor movement and his community will be sorely missed.

TRIBUTE TO SHAMONG TOWNSHIP

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Shamong Township, Burlington County, New Jersey as it celebrates its 150th Anniversary of Incorporation.

Shamong is an Indian name meaning "place of the horn," so named for the abundance of deer that supplied both food and clothing for the Native Americans living or visiting there for centuries.

Named Brotherton in 1758 when 3,285 acres were set aside for an Indian reservation, all remaining Indians south of the Raritan River were invited to reside there. Native Americans were encouraged to work in the mills then found in the area, thus bringing the areas most popular name, Indian Mills. The reservation was returned to the government in 1801 when the majority of the Indians moved to New York State and joined with the Oneidas.

Farming has long been the most prevalent of Shamong's enterprises, and has long provided a livelihood for its residents.

As a political entity, Shamong Township was formed in February, 1852 from parts of Medford, Southampton and Washington Townships. It was larger then, but soon gave ground to Woodland Township in 1866, and Tabernacle Township in 1901. Some of its former size was regained in 1902 when portions of Atlantic and Camden counties were annexed.

Shamong Township lies near the geographic center of the megalopolis extending from Boston to Richmond. In the heart of the Pinelands, a U.S. Biosphere Reserve, Shamong is home to the history and lore of the Pines. The woodlands are largely a part of the Wharton Tract and are state-owned. Its farms are still productive. New residential areas are planned, while industry and business seek their place in the community as well.

I congratulate Shamong Township and its residents for one and one-half centuries of the embodiment of rural life, and join their celebration of their history.

A TRIBUTE TO MR. DONALD SMITH

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SWEENEY. Mr. Speaker, I would like to take this opportunity to pay honor to a great man. In the aftermath of the September 11th terrorist attacks, we have learned the true definition of a hero. A hero is a person who risks his life every day for the sake of helping others. Donald Smith fits that definition. Mr. Smith served for more than 40 years as a member of the Fort Ann, New York, Volunteer Fire Company and West Fort Ann, New York, Volunteer Fire Company. His service to the community of Fort Ann and the 22d district of New York deserves recognition.

Mr. Speaker, Donald Smith was the epitome of dedication. He worked tirelessly in all activities of the fire company, whether it was responding to a call, conducting a fundraiser, or simply washing one of the fire trucks. He played a vital role in training new firefighters and served as a leader for all to follow. His reliability to the company was unparalleled. No matter what needed to be done, Mr. Smith was always one of the first to respond.

Mr. Speaker, Donald Smith was a member of the West Fort Ann Volunteer Fire Company for only three years before his passing. His service to the company was best exemplified through his constant selflessness. He did not attend one of the company's annual banquets, because he felt that due to his short time with the company, he did not deserve to attend for free. His dedication and tireless efforts however, will not go unrecognized. On May 26, 2002, Mr. Smith will be honored with the Firefighter of the Year award at the West Fort Ann Volunteer Fire Company's annual banquet. This is a great honor to a distinguished individual, who made a great impression on the community and all those he touched and served.

Mr. Speaker, the life of Donald Smith deserves to be recognized. I truly feel that the amount of service one dedicates to the community truly measures the extent of one's character. Risking one's life for the sake of helping others is extremely admirable. What is most striking though, is that Mr. Smith was a volunteer firefighter. He committed these brave and courageous acts day in and day out without compensation or reward for them. His motivation was simply the desire to assist those in his community. Donald Smith was a dedicated firefighter and a true hero, Mr. Speaker, and I ask all members to join me in paying tribute to him.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. ROGERS of Kentucky. Mr. Speaker, on Thursday, April 18, 2002, I was in Somerset, Kentucky attending the funeral services for a dear friend of mine, Pulaski County Sheriff Sam Catron. As such, I was not present for rollcall votes #99–103. The votes were on the approval of the journal, a motion to instruct conferees on the farm security bill, and consideration of H.R. 586, the Tax Relief Guarantee Act of 2002. Had I been present, I would have voted "yea" on rollcalls #99, 101, 102, 103, and "nay" on rollcall #100.

CONGRATULATING "CLUB 60," ONE OF THE OLDEST SENIOR CITIZENS CLUBS IN NEW YORK STATE

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. KELLY. Mr. Speaker, I rise today to honor the 50th anniversary of the founding of "Club 60," an organization that promotes social, intellectual and recreational activities for the senior citizens in the Town of Poughkeepsie. In March 1952, the Women's City and Country Club became interested in establishing clubs for the aging. At that same time, Chairman of the New York State Joint Legislature Committee on Problems of the Aging, Thomas C. Desmond, contacted all the mayors of cities and towns and urged them to proclaim May 1952 as the First Senior Citizens

Month. The Mayor of the City of Poughkeepsie complied and May 1952 became the first Senior Citizens Month in the town with the formation of this senior 60 group.

Since that first meeting where 25 members came to play games, talk and enjoy a cup of tea, the club has grown to include over 140 seniors today. At the beginning, without much guidance, their aim was to merely get people there and have the type of meetings seniors would be interested in coming back to. Like any other organization, Club 60 has grown tremendously over the years. Not only do members elect their own officers in May of each year, but they now have a constitution and bylaws, as well as weekly business meetings. The seniors, who pride themselves on being self-supporting are encouraged to make their own decisions and plan their own programs. This has aided in continuing some of the members youthful pleasures and enjoyments such as ceramics and painting classes. Keeping active is crucial to both their physical and mental well-being. From day trips, to picnics and annual dinners, this elderly club provides companionship opportunities that seniors wouldn't necessarily have if they did not belong to this group.

It is satisfying to see other clubs for senior citizens are forming around the country. As people are living longer, it is important we continue to promote educational and recreational opportunities for those over 60. A gathering place, such as Club 60, where the elderly come together to recreate, share hobbies and common interests will certainly enhance their quality of life. For 50 years, this senior citizen group has provided opportunities to meet new friends, develop new interests and socialize with peers. For all their efforts, my fellow colleagues, please join me in honoring Club 60, an organization that has been instrumental in meeting the social, physical and mental needs of our senior citizens.

TRIBUTE TO LAKE CITY, FLORIDA'S USO SHOW PERFORMED BY MEMBERS OF THE AMERICAN LEGION AUXILIARY UNIT 57 AND AMERICAN LEGION POST 57, DEPARTMENT OF FLORIDA

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. THURMAN. Mr. Speaker, I am here today to pay tribute to a wonderful group of men and women in Lake City, Florida who started their own local USO troupe called Reflections of the USO and are delighting audiences near and far. The 16 members that make up the two performing groups—called the Eloquence and the Sweethearts—are all members of the American Legion Auxiliary Unit 57 or the American Legion Post 57, Department of Florida. As part of their USO show, they wear spirited costumes from the 1950s and '60s and lip synch oldies but goodies once performed by entertainers with the United Service Organization (the USO) for our troops overseas.

In celebration of the USO's 60th birthday, the Lake City group performed a special Valentine's Day dance featuring memorable tunes like Boogie Woogie Bugle Boy. They raised $300 that night, which the group generously donated to the USO. Since then, the group has continued to entertain audiences throughout the community and state at Lake City Community College, the VA Hospital, the Shriners and a nursing home in Orlando. They've even performed during Elder Day at the state Capitol in Tallahassee.

I'm so proud of them, and their tremendous spirit, enthusiasm and patriotism. Mr. Speaker, please join me in recognizing the following individuals who are part of this unique mission to rekindle the memory of the USO and to keep its work alive: Ginger Fitzgerald; Pat Barriteau; Annette Burnham; Larry Burnham; Gaynell Burnham; Betty Jo Henderson; Wanda Procopio; Sandy Reeves; Paula Schuck; Pat Priest; Barbara Reppert; Carol Underhill; Alberto Marriott; Mark Thomas; Phillip Hearne; Randy Sweet and Marian Wyman.

I would also like to submit for the Record a history of the group called "A Small Flower" written by troupe member, Patricia Barriteau, who is also the Unit National Security Chairman of the American Legion Auxiliary Unit 57.

A SMALL FLOWER

Like a seed that blossoms into a beautiful flower, a small project within our Auxiliary blossomed beyond belief. The spirit of the holidays and the challenge to fill the dance hall for our Holly Ball was the beginning. Someone said, "Let's sing some songs when the band takes a break." Eyes rolled and heads wagged. I thought to myself, 'How ridiculous; I've got the voice of a frog.' But six members took the challenge, and little did they know what was in store.

The first undertaking was to decide exactly what we were going to do. This was the point when we discovered that no one could really sing. So we decided instead to choose a few select songs from the past that brought back memories and lip synch. Among the original songs were Boogie Woogie Bugle Boy, Soldier Boy and God Bless The USA. We wore red, white and blue dresses, shiny fabric with long gloves and high heels. Finally, opening night arrived and we were a hit.

We started planning for the Annual Sweetheart Dance soon after the first of the year. Enthusiasm was high so we decided to entertain at the dance. By now, there was a name for the group: The Eloquence. It was time to make the program a little longer so we added two new acts: The Sweethearts, performing Sincerely and Dedicated To The One I Love and Kate Smith with God Bless America.

Four women make up The Sweethearts. They wear dark pants, white shirts, sequined red vests, cummerbunds and red bow ties. As for Kate Smith, she wears her signature black dress with a sweetheart neck and a long lovely silk handkerchief. She is truly a vision of her early days. Also, a member of the Sons of the American Legion joined the ranks in his army fatigues. He'd join in Boogie Woogie Bugle Boy and Hang On Sloopy.

The birth of the USO show came about in somewhat of a similar manner. Out of somewhere a voice said, "We look like a USO troupe!" and another said, "Let's build that up." We'll take up a collection for the USO. And before you know it, WWII, Korean War and Vietnam-era songs were being practiced and remembered. We gathered information about the USO from the Internet, the library and the encyclopedia, wrote a history of the USO that would serve as the opening to the show.

The night of the Sweetheart Dance arrived, and we had the jitters. So the District Chaplain had us take hands, bow our heads and ask God to help us through this without making fools of ourselves. We walked onto stage and to our surprise there were more than 350 people in the hall. Thankfully, the show went off without a hitch, and after all expenses, we made $300, which we sent to the USO in the name of American Legion Auxiliary Unit 57, Lake City, Florida.

Soon, we received numerous invitations to perform. We were asked to entertain for the residents of the Veterans Home in Lake City. We performed at a luncheon for senior citizens from five surrounding counties at the request of the local chapter of the Florida Association of Community Colleges. By now, the telephone calls were streaming in. Could we perform for the Shriners in May to raise more money for the USO? How about coming to the VA Hospital in April? Can you make it to some of the local festivals? Can you entertain at the Veterans of Foreign Wars Post Home? That would be another place where we can take up a collection for the USO. It seemed as if everyone knew about the American Legion Auxiliary USO presentation. We recognized veterans in the community at every program. The most outstanding request of all came when we were asked to appear in Tallahassee in the Rotunda at the Capitol on April 19.

Our local USO dance troupe of the American Legion Auxiliary Unit 57, Florida, is doing more than preserving an old pastime. We are rekindling a love of our country and recognizing our veterans for a job well done. We are also collecting donations for the USO so that they will be able to continue to make life a little better for our young men and women in the military who serve our country so dutifully here and around the world.

This project has truly turned into a very big red poppy.

TREATMENT FOR PROSTATE CANCER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KENNEDY of Rhode Island. Mr. Speaker, I wish to insert into the RECORD a study published by Health Policy R&D. The study investigates the promise of the use of brachytherapy as a treatment for prostate cancer.

STUDY SUMMARY—BRACHYTHERAPY: A DESIRABLE AND COST EFFECTIVE OPTION FOR THE TREATMENT OF PROSTATE CANCER

Brachytherapy (pronounced "brake-e-therapy") is a cancer therapy that offers individuals with prostate cancer an effective treatment with lower risks of potentially devastating side effects than the leading clinical alternatives. Brachytherapy is a form of radiation treatment in which a radioactive isotope—or "seed"—is inserted directly into a patient's prostate. Nearly 200,000 men are diagnosed with prostate cancer each year.

This study has been prepared to educate individuals about brachytherapy with hard data and facts. It provides an overview of the science behind brachytherapy, its clinical impact, the relative cost advantages it offers and the improved quality of life it offers to prostate cancer survivors.

This study reveals that if just one in eight men diagnosed with prostate cancer chose brachytherapy over radical prostatectomy, our health care system would save nearly $93 million annually in direct treatment costs, based on Medicare data. Society would save an additional $46 million by avoiding expensive complications and lost work time.

Clinical Advantages of Brachytherapy—Lower Rates of Serious Side Effects: Typically a 45-minute outpatient procedure, brachytherapy treats early-stage prostate cancer as well as or better than the alternatives of radical prostatectomy (surgical excision of the prostate) and external beam radiation. In addition, complications occur less frequently in brachytherapy than with radical prostatectomy (still the most common treatment), including—lower risks of erectile dysfunction (also known as impotence), lower risks of urinary incontinence, lower risks of other significant complications, including surgical mortality.

Cost-Effectiveness of Brachytherapy: Brachytherapy offers not only clinically effective treatment, but also cost-effective treatment. Specifically, brachytherapy offers two tiers of cost savings: lower direct treatment costs than radical prostatectomy and lower indirect costs for treatment and mitigation of serious complications.

This study considers the costs that could be avoided annually if just one in eight men of the nearly 200,000 men annually diagnosed with prostate cancer chose brachytherapy over the most common alternative: surgical removal of the prostate. The resulting savings breaks down as follows: $93 million in direct savings for direct treatment costs, $21.3 million in treatment costs for erectile dysfunction, $14.6 million in costs to address urinary incontinence, $25 million for lost productivity.

The assumptions in this study are conservative. The estimate of savings due to brachytherapy would be even higher if additional considerations were quantified, such as loss of life from surgical mortality or deteriorations in quality of life from various complications due to radical prostatectomy.

THE INTRODUCTION OF THE ACADEMIC EXCELLENCE AND ENVIRONMENTAL SCIENCES ACT OF 2002

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Ms. NORTON. Mr. Speaker, Monday was Earth Day, marking the 32nd anniversary of an annual commemoration that has served a very useful purpose. I have chosen to commemorate Earth Day Week by encouraging this Congress to do more to protect the earth every day. I am introducing the Academic Excellence and Environmental Sciences Act. My bill seeks to encourage academic rigor in scientific education by beginning at the lower grades through the study of the environmental sciences and the use of hands-on recycling.

The bill would provide grants to local school systems to encourage them to include in their curricula scientific ideas based on conserving the natural resources children see around them and hands on recycling to make vital connections between knowledge and practice.

This bill has two important goals. The first comes from the difficulty of imparting and explaining scientific ideas and concepts, some of them fairly abstract, to elementary school children, and holding their interest. As a result of this difficulty, in the elementary grades, children are often relegated to "play science" that does not prepare them for later scientific learning.

Second, I believe that hands-on recycling will help children cultivate habits that conserve our resources at the same time that it will help concretize their interest in science and their understanding of scientific concepts. By the time many youngsters are exposed to science in high schools, large numbers of them have lost interest or simply are unready for the rigors that are necessary to become proficient.

We are starting too late to capture and hold the interest of our children in science. The country loses because of the reduced pool of scientists and scientific experts. Increasingly, many of the places for science study in our colleges and universities are occupied by young people from abroad, who come here to study science because this country has the best science in the world. Part of the impetus for my bill comes from my experience in recruiting our own D.C. youngsters to the U.S. military academies. I am pressing my own school system, the D.C. public schools, to begin science and math at earlier years so that children acquire a lasting interest in science and become prepared for the rigors of the military academies and other colleges.

Although the major emphasis of my bill is scientific education for young children, I also hope to encourage recycling approaches. I believe that recycling techniques involving children—saving papers and crushing cans and discussing where these materials come from and why they degrade, etc.—will help give meaning to the teaching underlying scientific ideas. Children may be the best messengers for recycling and for saving the environment for future generations. They are the real environmentalists in this society. They have the greatest stake.

If we want scientists, we had best get them before they are turned off, even before junior high school; otherwise they are off to computer games or cable and other interests. If we want to save the environment, we had best begin with our children.

COMMENDING DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU AND ENTIRE DEPARTMENT OF DEFENSE FOR ASSISTANCE PROVIDED IN RESPONSE TO TERRORIST AND ANTHRAX ATTACKS OF SEPTEMBER AND OCTOBER 2001

SPEECH OF

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. WYNN. Mr. Speaker, I rise in support of H. Con. Res. 378, commending the District of Columbia's National Guard, the National Guard Bureau, and the Department of Defense for their assistance provided to the United States Capitol Police following the terrorist and anthrax attacks of September and October 2001.

The events of September 11 and the subsequent anthrax attacks, increased dramatically the daily workload on U.S. Capitol Police Officers, requiring them to work longer days under difficult conditions. The heightened state of emergency, coupled with the increased need for counter terrorism training, resulted in the deployment of the D.C. National Guard to patrol the Capitol complex with Capitol Police Officers. The National Guard men and women, I am proud to say, stepped up to the plate and performed admirably. The combined efforts of the United States Capitol Police and National Guard secured the symbol of our Nation, the U.S. Capitol, for Members of Congress, Congressional employees, and most importantly, the American people.

As a cosponsor of H. Con. Res. 378, I will vote in favor of this resolution that gives credit where credit is due—to the National Guard and U.S. Capitol Police. I urge my colleagues to support this resolution.

PERSONAL EXPLANATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. BONIOR. Mr. Speaker, due to a delayed flight to Washington, DC from Michigan, I did not arrive in time to cast votes last night. Had I been present, I would have voted "yes" on the Dooley Motion to Instruct Conferees on the Farm Security Act, H.R. 2646; "yes" on the Baca Motion to Instruct Conferees on the Farm Security Act; and "yes" on the Keeping Children and Families Safe Act, H.R. 3839.

TRIBUTE TO DR. WILLIAM P. SEXTON

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. VISCLOSKY. Mr. Speaker, It is with great pleasure and admiration that I congratulate Dr. William P. Sexton, of South Bend, Indiana, as he retires after more than thirty years of devoted service to the University of Notre Dame. I can truly say Dr. Sexton is one of the most dedicated, distinguished and committed citizens I have had the pleasure of knowing. Dr. Sexton will be retiring from the University on June 30, 2002. Notre Dame has certainly been rewarded by the true service and uncompromising loyalty he has displayed to its students, alumni, and community.

A native of Columbus, Ohio, Dr. Sexton earned his bachelor's degree in business administration, his master's degree in industrial management, and his doctorate in administrative management and behavioral sciences at Ohio State University. Dr. Sexton began his teaching career at Notre Dame in 1966, where he taught courses specializing in organizational development, corporate strategy, human behavior and group dynamics.

Dr. Sexton, professor and former chair of management and administrative sciences, currently serves as Vice President for University Relations at Notre Dame. In his role he oversees the University's efforts in community relations, publications, and special events, as well as the Notre Dame Alumni Association and Notre Dame Magazine. Under Dr. Sexton's direction, the University is engaged in the most successful capital campaign in the history of Catholic higher education, which already has surpassed its goal of $767 million.

During his years at Notre Dame, Bill Sexton has demonstrated a sincere love for the community in which he lives. While he has dedicated considerable time and energy to his work, he has always made an extra effort to give back to the community. He has volunteered his time to champion many causes aimed at bringing comfort to those in need of assistance. Throughout the years, Dr. Sexton has served in many different leadership positions and has been very involved in several organizations including: South Bend's Center for the Homeless, St. Joseph's Regional Medical Center, and the Logan Foundation. Additionally, he has conducted numerous management seminars for U.S. government agencies, hospitals, and religious communities and has served as an advisor to several not-for-profit health care systems.

Though Dr. Sexton is dedicated to his career and community, he has never limited his time and love for his family. He and his wife Ann, have six children and thirteen grandchildren, of whom they are immensely proud.

Mr. Speaker, Bill has truly dedicated his life to his God, Country and Notre Dame. He is one of the finest gentlemen I know. I respectfully ask that you and my other distinguished colleagues join me in congratulating Dr. William P. Sexton for his service to the University of Notre Dame. The people at Notre Dame will surely miss his enthusiasm, but we wish him happiness and good health in his well-deserved retirement.

HONORING SANDRA W. HEIMANN AS SHE RECEIVES THE JUVENILE DIABETES RESEARCH FOUNDATION'S 2002 CINCINNATIAN OF THE YEAR AWARD

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to recognize Sandra W. Heimann, a distinguished constituent, who will be honored as the Juvenile Diabetes Research Foundation's (JDRF) 2002 Cincinnatian of the Year at JDRF's Cincinnati Chapter Gala on April 27, 2002. The JDRF Cincinnati chapter has done an excellent job of both raising awareness of the issue of juvenile diabetes and raising needed funds for medical research on this debilitating disease and possible cures.

In selecting Sandy Heimann as this year's honoree, JDRF has chosen well. Sandy is well deserving of this honor. She has worked tirelessly to make our community a better place and has done so quietly, without seeking public recognition for her service.

Sandy is a director of the Drake Planetarium, the Tri-State Foundation, the Cincinnati Zoo, the Medical Center Fund at the University of Cincinnati, and the UCATS, the University of Cincinnati's booster organization. She is a member of the Board of Trustees and Administrative Board of Hyde Park Community United Methodist Church, where she chairs the Endowment Committee. A director emeritus for the Hospice of Cincinnati, in 1998 Sandy received Hospice of Cincinnati's prestigious Donna West Award.

She has served with great distinction on the Bethesda Foundation Board, Downtown Council Board, Fine Arts Board and the Cincinnati Zoo's Center for Reproduction of Endangered Species. Sandy is also a founding member of the Metropolitan Club and co-founder of Cincinnati Aquatics Swim Team.

Sandy has a special interest in higher education. In addition to her work with the University of Cincinnati, she is Vice President of the National Executive Board of the Jefferson Scholar Program at the University of Virginia (UVA), Chairman of the Regional Selection Committee for UVA, and is on the National Selection Committee for Jefferson Scholars. She also served as Chairman of the Parents Committee at UVA.

Currently, Sandy is Vice President of American Financial Corporation and Great American Insurance Company, and is a former director of American Financial Enterprises. She has served American Financial in various management capacities since the company was founded in 1959.

Devoted to her family, Sandy and her husband, Bob, have a son, Rob, and a daughter, Paige. All of us in the Cincinnati area congratulate Sandy Heimann on receiving the JDRF's Cincinnatian of the Year award in recognition of her exemplary service to our region.

HONORING JIM MYERS OF THE TULSA WORLD

HON. BRAD CARSON

OF OKLAHOMA

HON. J.C. WATTS, JR.

OF OKLAHOMA

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

HON. FRANK D. LUCAS

OF OKLAHOMA

HON. WES WATKINS

OF OKLAHOMA

HON. JOHN SULLIVAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. CARSON of Oklahoma. Mr. Speaker, we as the Congressional delegation from the great state of Oklahoma rise today to extend our congratulations to an individual who is responsible for informing our constituents in Oklahoma of the work we are performing on their behalf in Congress. Jim Myers, the Chief of the Washington Bureau for the Tulsa World, was recently highly honored by his colleagues to be inducted into the Oklahoma Journalism Hall of Fame.

Jim Myers, a native of Tonkawa, began his professional work in journalism with the Enid News and Eagle from 1976–77, as a reporter for the Lawton Constitution, 1977–1979, and Lawton Magazine in 1980. He joined the Tulsa World in 1981, where he covered city and county government. In 1984, he was promoted to the World's statehouse bureau and, in 1990, he was named Washington correspondent. In 1992, he was a Paul Miller Fellow for the Freedom Forum and, in 1995, a Knight Center Fellow at the University of Maryland. The veteran political and government reporter is known for his tenacity to get to the truth and the pursuit of fairness and accuracy. An Army veteran, he has three degrees from Oklahoma State University: bachelor's degrees in social studies and journalism and a master's degree in history.

Jim, congratulations on an honor well deserved. The dedication you have shown to your profession and the valuable service you continue to provide to the people of Oklahoma is worthy of this high commendation of being selected a member of the Oklahoma Journalism Hall of Fame.

HONORING MR. SAMUEL ANGEL OF LAKE VILLAGE, ARKANSAS

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. ROSS. Mr. Speaker, Sammy Angel is no stranger to public service in Arkansas's Chicot County located in the Arkansas Delta. He served in the Arkansas House of Representatives from 1994–2000 and represented his constituency well.

Sammy is a true leader and a man of action. When a project arises in his community, Sammy is always one of the first people to begin planning and organizing the steps that will be needed to successfully complete the project at hand. When his community of Lake Village recognized the need for a new fire station, Sammy went to work.

Because Sammy is a man of action, he did more than have conversations, make phone calls, and write letters to broaden support for the needed project, he also began the very hard task of raising funds for the newly proposed fire station. He worked hard to find financial support, and, after countless hours, Sammy Angel had raised $150,000 towards the new fire station that will save numerous homes and lives during its years of operation.

To the people of Lake Village and the rest of our state, Sammy Angel is known as a truly selfless public servant. On Thursday, April 25, 2002, they will be dedicating their new fire station, the Lake Village Fire Station No. 2, in his name, a fitting honor for a man who worked so hard to see it built. Sammy is an inspiration to those around him, and I am privileged to call him a friend and even more honored to serve as his Representative in the United States Congress.

Mr. Speaker, I extend my sincerest congratulations to him on this distinguished honor and to the entire Lake Village community on the dedication of this new fire station.

INTRODUCTION OF THE AUCTION REFORM ACT OF 2002

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. TAUZIN. Mr. Speaker, I rise today to introduce the Auction Reform Act of 2002. This bill will eliminate the statutory deadlines that have prompted the FCC to schedule auctions in June for spectrum in the 700 MHz band currently occupied by television broadcasters.

I believe that this legislation should not be necessary to preclude the Commission from conducting the auctions in June. The FCC currently has the authority to delay these auctions, and should do so. But, in addition, to asking the FCC to use its own authority to delay the auctions, I, along with JOHN DINGELL and 50 of our colleagues from the Energy and Commerce Committee, am introducing this bill to strip the deadlines from the books.

It is true that the auction of the upper portion of the 700 MHz band has been delayed five times. But, Mr. Speaker, conducting the auctions for both the upper and lower parts of the 700 MHz band in June would be wrong. These auctions are simply not ready for prime time.

Let me address some of the reasons why these auctions should not take place:

No comprehensive plan exists for allocating additional spectrum for third generation wireless and other advanced mobile communications services. The 700 MHz band may prove to be the commercial mobile wireless industry's only viable short-term option for obtaining additional spectrum for advanced mobile communications services if spectrum from other bands below 3 GHz is not allocated for such purposes.

The study being conducted by the National Telecommunications and Information Administration (NTIA) and the Pentagon to determine whether the Pentagon can share or relinquish additional spectrum for third-generation wireless and other advanced mobile communications services will not be completed until after the June 19th auction date for the upper 700 MHz band, and long after the applications must be filed to participate in the auction.

It is difficult for wireless carriers to make a sound business decision concerning what options are available for spectrum for third-generation and other advanced mobile communications services until the NTIA/Pentagon report has been released and evaluated.

The Commission is also in the process of determining how to resolve the interference problems that exist in the 800 MHz band, especially for public safety. One option being considered for the 800 MHz band would involve the 700 MHz band. The Commission should not hold the 700 MHz auction before the 800 MHz interference issues are resolved or a tenable plan has been approved.

The 700 MHz band is still occupied by television broadcasters, and will be so until the digital transition is complete. This situation creates a tremendous amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 MHz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most-productive use.

The Commission's rules governing voluntary mechanisms for the vacation of the 700 MHz band by the broadcasters produced no certainty that the band would be available for advanced mobile communications services, public safety operations, and other purposes any earlier than the existing statutory framework provides.

Mr. Speaker, the FCC and the Administration clearly have a lot of work to do with respect to allocating and assigning additional spectrum for advanced mobile communications services and with respect to speeding the transition to digital television. Until more progress is made in these areas, the 700 MHz band auctions should not occur.

Mr. Speaker, I am delighted that 52 Members of the Energy and Commerce Committee are original co-sponsors of this legislation. It demonstrates that an overwhelmingly majority of members of our committee know that holding the auctions in June is the wrong policy decision for the FCC to make. The FCC should use its own authority to delay these auctions. And we are making clear that holding the auctions within the FCC's designated timeframe is contrary to both sound regulatory policy and contrary to the Communications Act.

SITUATION IN THE MIDDLE EAST

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. MYRICK. Mr. Speaker, I rise today to speak about the situation in the Middle East that is of grave concern to all of us.

Since September 11th, we have had a taste of normal life in Israel. Americans have experienced the fear, the terrorist alerts, the military and police presence at airports and public sites and we don't like it. Yet we must have it because we are at war with terrorists just as Israel is at war with terrorists.

We must stand by Israel as they work to eliminate terrorism in their homeland and as we try to do the same thing in the United States. We must stand by Israel as they fight for their very own survival and as we fight for ours.

As President Bush said in his address to Congress, we must root out terrorism worldwide and all those organizations that support it.

It is time we firmly support our Israeli friends in their fight against terrorism. We must join Israel now and continue this fight until the wrath of terrorism is ended.

EMERY FLIGHT 17 (DC–8) NTSB HEARING

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SWEENEY. Mr. Speaker, I am very pleased that the National Transportation Safety Board (NTSB) has scheduled a hearing for May 9th regarding Emery flight 17 (DC–8) that crashed in Sacramento on February 16, 2000, killing its entire crew. I strongly urge the NTSB to follow through with the scheduled hearing rather than postponing it as other hearings have been postponed. The Captain of Emery 17 was Kevin P. Stables, 43, of Berlin, New York, the First Officer was George Land, 35, of Placerville, California, and the Flight Engineer was Russell Hicks, 38, of Sparks, Nevada. I look forward to the hearings as part of the ongoing crash investigation to help prevent future air cargo tragedies, encourage government and business accountability, and enhance public confidence in the regulatory oversight of the rapidly expanding air cargo industry.

On February 16, 2000, Emery flight 17, a DC–8, took off from Sacramento en route to Dayton. Two minutes later, the massive jet plowed into a salvage yard. National network news provided live broadcasts of the fiery aftermath. The pictures were telling—none of the crewmembers escaped alive.

Mr. Speaker, an exam of the wreckage found indications that part of the DC–8's mechanical flight controls may not have been connected prior to the flight. Key flight control components of that particular airplane had been overhauled by a Federal Aviation Administration-approved repair station three months before the crash. In August 2001, the Federal Aviation Administration (FAA) finally "grounded" Emery and cited safety concerns that included "mechanical irregularities" and "operating unairworthy aircraft."

Mr. Speaker, Emery 17 is not the only DC–8 cargo jet in recent years to wipe out its entire aircrew shortly after takeoff. Thirty months earlier in Miami, Fine Air flight 101 slammed into the ground, burst into flames, and killed five people. The probable cause finding included the "failure of the FAA to ensure that known cargo-related deficiencies were corrected." Many believe the FAA's failure to provide adequate oversight and its failure to enforce Federal Aviation Regulations are direct causes of the Emery tragedy.

Almost immediately after Emery 17 crashed, safety groups and families of the crews pushed hard for public hearings on the Emery accident and the NTSB announced that official hearings would take place and would center on contract maintenance and oversight by "airline and FAA personnel." Mr. Speaker, these were the identical issues for which the NTSB criticized the FAA in the aftermath of ValuJet's 1996 crash.

Emery's own aircrews warned the FAA in the months leading up to Emery flight 17's crash. In a 1998 letter to the FAA, Capt. Tom Rachford, speaking for the Emery pilots' union, wrote, "Our maintenance has dramatically fallen off. . . . I can't say it any clearer:

This airline is going to put a hole in the ground and kill someone. Please don't let this fall upon deaf cars." Later, five months before the fatal crash, the Emery pilots' group expressed their concern yet again with FAA leadership. They wrote: "EWA is out of the regulator's eye. . . . Why are the authorities continuing to turn a blind eye? The lower echelon of the regulatory agencies have substantiated our concerns. . . . However, it is the upper echelon that appears to be dragging its feet. . . . If we have an accident in the near future, the subsequent investigation will show sainthood on the part of ValuJet when compared to Emery Worldwide Airlines. . . . Emery crews are living on borrowed time."

Mr. Speaker, it's been two long years since Emery 17 crashed. The rapidly expanding air cargo industry is still waiting for the overdue hearings. The air cargo industry is the fastest-growing segment of the commercial airline industry. Many government and industry experts consider oversight of third-party maintenance stations inadequate. The NTSB has never before convened public hearings on an air-cargo-only accident. I am pleased the board is sticking to its earlier decision and promise to convene the Emery hearings. To many, this suggests a turning point and an indication that relaxed oversight and maintenance, and unsafe operational practices will no longer be ignored. I look forward to expedient and thorough public hearings.

The U.S. government must not wait for another massive air cargo disaster to force the NTSB into action. This is a race against time: The NTSB must convene the public hearings on Emery 17 before another air cargo blunder kills yet again.

POSTHUMOUS HONORARY U.S. CITIZENSHIP FOR ANDREI DMITRIEVICH SAKHAROV

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SMITH of New Jersey. Mr. Speaker, it is with great pleasure and a deep sense of solemnity that I introduce, along with Mr. Frank of Massachusetts, a resolution to bestow honorary citizenship posthumously upon a man whose contribution to world peace and the struggle for human rights inspired, and continues to inspire, his own generation and those who have followed him. That man is the late Dr. Andrei Dmitrievich Sakharov, renowned physicist, humanitarian, and winner of the Nobel Peace Prize.

Dr. Sakharov was a man of great stature in the Soviet scientific community, working on defense projects of the greatest importance to the Soviet government. His induction into the Academy of Sciences in 1953 made him the youngest-ever member of the Academy. He enjoyed every privilege that Soviet society had to offer, but he abandoned his elevated position to protest the threat to humankind posed by nuclear testing and the build up of nuclear arms. This led to Dr. Sakharov's becoming a leader of the effort for internal reform in the Soviet Union and a strong advocate for human rights throughout the world.

In 1962, Dr. Sakharov proposed to his government that the Soviet Union sponsor a partial Test Ban treaty along the lines proposed by U.S. President Dwight Eisenhower in the late 1950s. On August 5, 1963, the effort resulted in the signing of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water in Moscow.

In 1968, The New York Times published Dr. Sakharov's ground-breaking essay "Progress, Coexistence, and Intellectual Freedom" which pursued two major themes. The first was to challenge Soviet authorities to increase intellectual freedom in the interest of peaceful coexistence with the West and ending the Cold War. Conversely, it stimulated Western interest in disarmament and scientific exchanges, and convinced many opinion-makers in the West that it was worth entering into a dialogue with Soviet intellectuals and that change from within was possible in the USSR. Ultimately, more than 18,000,000 copies of the essay were printed around the world in various languages.

Within two years, Dr. Sakharov, along with Valery Chalidze and Andrei Tverdokhlebov, became one of the three founding members of the Moscow Human Rights Committee. This gave institutional expression to Sakharov's developing interest in human rights and the rule of law as guiding principles in the effort to reform and liberalize the Soviet regime. When the Helsinki Accords were signed in 1975 by the Soviet Union, the United States, Canada and 32 European countries, he noted that the Accords had meaning "only if [the Accords] are observed fully and by all parties. No country should evade a discussion on its own domestic problems * * * [n]or should a country ignore violations in other participating states. The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems."

As he became more committed to the human fights struggle in his country and peace throughout the world, Dr. Sakharov continued to speak out on peace and disarmament, as well as freedom of association and movement, freedom of speech, against capital punishment, and in defense of preserving the environment.

Such "heresy" against his government's denial of basic human rights brought upon him reprisals from the Soviet government and its secret police, the KGB. He was barred from classified work, and many of his professional privileges rescinded. Only after a 17-day hunger strike by Dr. Sakharov and his wife and fellow human rights activist, Dr. Elena Bonner, did authorities allow his daughter-in-law to join her husband in the United States. Only after another long struggle was Dr. Bonner permitted to go abroad for medical treatment.

At the same time, the international community was closely following his efforts, understanding that his struggle touched us all. In 1975, the Nobel Peace Prize was awarded to Dr. Sakharov for his "personal and fearless effort in the cause of peace." It was, Dr. Sakharov wrote, "a great honor for me, as well as recognition for the entire human rights movement in the USSR."

On January 22, 1980, in response to Dr. Sakharov's protests against the Soviet invasion of Afghanistan, Dr. Sakharov was picked up by the police on a Moscow street and sent into "Internal exile" in the closed city of Gorky. Joined subsequently by Dr. Elena Bonner, he was kept under house arrest, with a round-the-clock police guard, until December 1986. Dr. Bonner describes their plight eloquently in her book, Alone Together.

Meanwhile, at the direction of the Congress, President Ronald Reagan proclaimed May 21, 1983—Dr. Sakharov's birthday—"National Andrei Sakharov Day." In his published statement, President Reagan praised Dr. Sakharov's "tireless and courageous efforts on behalf of international peace and on behalf of human freedoms for the peoples of the Soviet Union."

Upon his release from internal exile on December 16, 1986 by Soviet leader Mikhail Gorbachev, Dr. Sakharov continued the fight for human rights in the Soviet Union and was elected to the newly-formed Congress of People's Deputies. Just before his death in 1989, he completed his draft of a new constitution and submitted it to the Constitutional Commission. While many of its specific points were provisional and advanced to provoke debate, the draft fundamentally provided for a democratic political system, revoking the Communist Party monopoly on power. Indeed, a few months after Dr. Sakharov's death, the Congress of People's Deputies repealed Article 6 of the Constitution which had provided the legal basis for the Communist Party's monopoly on power in the Soviet Union. This loss of Communist Party monopoly led inexorably to the collapse of the Soviet Union, which removed from the earth a vast state that repressed its own citizens and presented a powerful military threat to the United States.

Recently, President Putin, a former KGB agent himself, called Dr. Sakharov "a visionary * * * someone who was able to not only see the future, but to express, to articulate his thoughts, and do that without any fear."

Fearless in the face of state repression, principled in his devotion to peace and disarmament, selfless in the pursuit of human rights for all, this was Dr. Sakharov's character.

Mr. Speaker, honorary citizenship is conferred by the United States Government on rare occasions to individuals who have made extraordinary contributions to this country or to humankind throughout the world. It is and should remain an extraordinary honor not lightly conferred nor frequently granted.

Mr. Speaker, I believe that for his contribution to world peace, the end of the Cold War, the recognition of the inextricable link between human rights and genuine security and the achievement of human rights, however rudimentary in some areas, in the nations of the former Soviet Union, Dr. Andrei Sakharov is worthy of being posthumously granted honorary citizenship of the United States. I hope my colleagues share my enthusiasm for this initiative and will support this resolution.

RECOGNIZING HEAR O' ISRAEL INTERNATIONAL INC.

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. BENTSEN. Mr. Speaker, In light of the tragedy that struck our nation September 11th, and the continued violence in the middle east, I believe it's fitting to recognize a valued organization within the Houston community, Hear O'Israel International Inc., which is currently sponsoring its National Mercy, Love and Compassion Campaign. This year long event is being conducted in conjunction with the ongoing initiative "Listen to the Cries of the Children National." Hear O'Israel works to make a difference in the lives of the physically challenged, the elderly, neglected children, and battered women across Houston. They work to give these men and women a stronger sense of self-worth and instill in them the need to treat others with compassion and respect. National Mercy, Love and Compassion Campaign has been endorsed by Mayor Lee P. Brown and every member of the Houston City Council which further demonstrates the high regard for Hear O'Israel in our community.

Hear O'Israel International, Inc., a non-profit, non-denominational organization works to increase public awareness of those that are less fortunate. "Listen to the Cries of the Children National" is designed to strengthen unity among families and further public awareness of the negative consequences that drug abuse, family violence, child abuse, and gang activity have on children. Another ongoing program worth commending is "Turning the Hearts of the Fathers back to Their Children and the Hearts of Their Children Back to Their Fathers." The mission of this program is to reach out to at risk youth in schools, juvenile justice facilities, and those that may be involved in gang activity. Additionally, this program encourages parents to strengthen their relationship with their children, in an effort to unite families and bridge existing gaps among cultures.

National Mercy, Love and Compassion Campaign is an initiative to call attention to the plight of children around who do not have access to adequate food, shelter, clothing, and health care. As a symbol of compassion for suffering children, Hear O'Israel International, Inc., encourages supporters to adopt a family or an individual in need as a gesture of support in resounding, the alarm for those who have been forgotten and many times rejected by our communities.

Again, I would like to recognize Hear O'Israel International, Inc. for its efforts to improve and enhance the quality of life for our children, and extend my personal best wishes for a successful and rewarding campaign.

TRIBUTE TO COLONEL MICHAEL R. REGNER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate and pay tribute to Colonel Michael R. Regner, who performed in an outstanding manner as the Marine Corps' Liaison Officer to the U.S. House of Representatives from May 1999 to May 2002.

Colonel Regner began his service in the military in 1976, following graduation from the Citadel. Commissioned a Second Lieutenant, he commanded Rifle and Weapons Platoons, a Rifle Company, Headquarters Battalion, and an Infantry Battalion. Colonel Regner was also a recruiter on duty in Little Rock, Arkansas. His staff assignments include duty as Battalion Logistics and Executive Officer, Staff Secretary to the 2nd Marine Division Commander and Joint Amphibious Operations Planner and Partnership for Peace Staff Officer to the Supreme Headquarters Allied Powers Europe.

Colonel Regner served with distinction in Operation Desert Storm, United Nations operations in the Former Republic of Yugoslavia, and in Bosnia. He has completed the Advanced Infantry Officer's Course, Airborne Course, Marine Command and Staff College, and the NATO Defense College. He also holds a Masters Degree in Public Administration/Human Relations. Colonel Regner's awards include the Defense Meritorious Service Medal, three Meritorious Service Medals, and two Navy and Marine Corps commendation Medals.

In Colonel Regner's three years as the Marine Corps' House Liaison Officer he has provided this Congress with a working knowledge of the Marine Corps. He has been instrumental in directing Marine Corps legislative activities in Congressional hearings, official travel, constituent services, and other important legislative functions.

Colonel Michael Regner has served our Nation with distinction for the last 26 years. As he takes post as Commanding Officer of the 13th Marine Expeditionary Unit at Camp Pendleton, California, I know that the Members of the House will join me in wishing him all the best in the days ahead.

COMMEMORATING THE 10TH ANNIVERSARY OF THE 1992 LOS ANGELES RIOTS

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to commemorate the 10th anniversary of the 1992 Los Angeles Riots, one of the worst events of its kind in our history and the first multiracial one in the United States.

Thousands of people and businesses were devastated by the three days of rioting and looting, which began on April 29, 1992. Fifty-eight people died, 2,400 were injured, and 11,700 were arrested. Damages totaled $717 million. In less than 24 hours, 1,000 fires seized Los Angeles, causing flight delays and cancellations. Governor Pete Wilson deployed 6,000 National Guard troops at the request of Mayor Tom Bradley. President George Bush sent 5,500 military troops and law enforcement specialists and put the National Guard under federal command.

The Korean American community in Los Angeles, which is home to the largest Korean population outside of Seoul, sustained the most damages. Korean Americans lost more than half of their 3,100 businesses in Los Angeles, with damages totaling more than $350 million. Out of the 200 liquor stores that were destroyed during the riots, 175 were Korean-owned. A survey, conducted by the Korean American Inter-Agency Council 10 months after the riots, found that out of 1,500 respondents, about 75 percent had yet to recover from the riots' after effects, including post-traumatic stress disorder, temporary memory loss, and suicidal tendencies. Some families moved back to Korea, declared bankruptcy, or permanently relocated their businesses to safer areas.

Korean Americans termed the tragic three days as Sa-ee-gu, which literally translates into the numbers 4.29, the first date of the riots. It is common for Koreans to refer to historically and politically significant events by their dates. Immediately following the riots, the Korean American community and its supporters held the largest Korean American demonstration in the United States. It signified the birth of a community shaken but standing firm in demanding its fair share of the riot relief funds, adequate representation in government, corporate responsibility, and accurate media coverage.

A decade after the riots, the Korean American community vividly recalls the destruction and mayhem of those three days. But more importantly, this community has risen from the ashes to reclaim their space in American society and regain their dignity as Americans through unprecedented levels of civic participation and heightened political consciousness. The 1992 Los Angeles Riots forced the Korean American community to face a grim reality, but the future holds a community that has been strengthened and made wiser by this experience. The community is in the process of building its political leadership and establishing the infrastructure and resources necessary to stand up for themselves in times of trouble and gain recognition in times of triumph.

Today, I join the Korean American community in Los Angeles and nationwide to commemorate the 1992 Los Angeles Riots and to celebrate the spirit and determination of Korean Americans throughout the country.

HONORING JOHN GURDA, 2002 POLISH HERITAGE AWARD WINNER

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KLECZKA. Mr. Speaker, On Sunday, May 5, 2002, the Pulaski Council of Milwaukee will be observing Polish Constitution

Day with its 23rd annual Heritage Award Dinner. This year's Polish Heritage Award is being given to Milwaukee author and historian John Gurda.

John is a native Milwaukeean, with a lifelong love for local history. He is author of 13 books, including his most recent work, The Making of Milwaukee, a superbly written and richly illustrated account of our community's past and present.

An 8-time winner of the Wisconsin Historical Society's Award of Merit, John Gurda serves as a guest lecturer, tour guide and local history columnist for the Milwaukee Journal/Sentinel. He has also received well-deserved honors from the Council for Wisconsin Writers, which awarded him the Leslie Cross Award for book-length nonfiction, and was the Milwaukee Public Library's 2000 inductee to the Wisconsin Writers Wall of Fame.

Anyone who has had the opportunity to hear John speak, read his books and articles, or take one of his neighborhood tours has truly been enriched by the experience. He is a masterful storyteller, bringing Milwaukee's colorful and fascinating past to life, and often finding, in the telling, important relevance to our community's present and future.

Milwaukee is a city of immigrants, a weave of many nationalities and cultures. John Gurda has eloquently captured the histories of our ethnic neighborhoods, including Milwaukee's Polonia, or Polish-American community. From Polonia's early struggles with poverty and language barriers to its growth to one of Milwaukee's largest ethnic groups, John has skillfully chronicled the community's rich Polish heritage.

As Gurda himself has said, "We look back to look ahead; the deepest value of the past is to help the present shape its future." John Gurda's gift to Milwaukee's Polish-American community is a deeper connection to its past, and a greater understanding of its role in our city's present and future. The Pulaski Council of Milwaukee has made an outstanding choice for its 2002 Polish Heritage Award, for John's words will continue to educate, inspire and bring Milwaukee Polonia's history to life for generations to come.

Congratulations, John!

NATIONAL PARK WEEK AND NATIONAL VOLUNTEER WEEK

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. NEAL of Massachusetts. Mr. Speaker, this week we celebrate National Park Week. This special commemoration was first proclaimed in 1991 by President George H.W. Bush and has become an annual celebration of the National Park Service. This week is an opportunity to celebrate what the National Park Service is all about by educating the public about the great work performed by park rangers, resource specialists, scientists, managers and all the other important employees that make the National Park Service special.

In conjunction with National Park Week, Mr. Speaker, we also celebrate this week, the many volunteers at our National Parks. These volunteers in parks, or VIP's, play a crucial role in helping Park Service staff with their duties. I am proud to recognize the park volunteers in my own district, Mr. Speaker. These volunteers at the John H. Chafee Blackstone River Valley National Heritage Corridor are making a difference. Whether helping guide a canoe trip down the Blackstone river or assisting with a historic village tour, these volunteers make important contributions to the success of the Blackstone Heritage Corridor.

America's democratic experiment shines through in the 24 cities in Massachusetts and Rhode Island that make up the Blackstone River Valley. It is a quilt of America's past, present and future that tells the story of America's progression from an agrarian society to an advanced industrial powerhouse. The National Park Service provides a great and honorable service by preserving the vestiges of this rich past.

Mr. Speaker, let us celebrate this week, the important and enjoyable role that our National Parks play in our lives as well as the dedication and hard work of their employees and volunteers. These individuals reflect America's commitment to its National Parks and thus deserve our full appreciation.

HONORING THE FREE KITCHEN PROJECT IN LAKEPORT, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the outstanding achievements of the Free Kitchen Project. Ten years ago four distinguished organizations in Lakeport, California, a town of about 5000 people, began the Free Kitchen Project. The Free Kitchen Project serves people who are needy, lonely, transient, or families with an ill or handicapped person, each week, by providing a warm meal and environment.

The United Christian Parish, St. John's Episcopal Church, Lakeport Lions Club, and St. Mary's Parish organize over 200 Free Kitchen Project volunteers. These dedicated volunteers provide those less fortunate with a hot meal and warm environment every week.

In 1992, three people attended their first dinner. Now in the tenth year of operation, these devoted volunteers typically serve 50–100 people a week. Since its inception, the Free Kitchen Project has served over 30,000 meals. This incredible growth is testament to the value they create for the Lake County Community.

The Board of Directors of the Free Kitchen Project, comprised of members of participating churches and organizations, governs the project and oversees health department regulations which include disability issues and safe food handling practices.

Mr. Speaker, after ten years of serving people in need, I would like to recognize the American spirit within the Free Kitchen Project and the town of Lakeport, California. The Free Kitchen Project has dedicated, selfless people performing a service to those in need. I am honored to recognize this immense act of volunteerism in one town on the occasion of their tenth anniversary. They truly deserve our recognition.

A TRIBUTE TO ONCOLOGY NURSES, CAREGIVERS FOR CANCER PATIENTS

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to bring to the attention of my colleagues the important and essential role that oncology nurses play in the care of patients diagnosed with cancer. I know first hand the powerful positive impact that oncology nurses have on the provision of quality cancer care and know that cancer patients would be lost without their expertise, care, love, and dedication. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial, and supportive care to patients and their families. In short, they are integral to our Nation's cancer care delivery system.

Cancer is a complex, multifaceted, and chronic disease, and people with cancer are best served by a multidisciplinary health care team specialized in oncology care, including nurses who are certified in that specialty. This year alone 1,284,900 Americans will hear the words "You have cancer." In addition, 555,500 will lose their battle with this terrible disease. Everyday, oncology nurses see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment. Oncology nurses play a central role in the provision of quality cancer care as they are principally involved in the administration and monitoring of chemotherapy and the associated side-effects patients may experience.

The Oncology Nursing Society (ONS) is the largest organization of oncology health professionals in the world with more than 30,000 registered nurses and other health care professionals. Since 1975, the Oncology Nursing Society has been dedicated to excellence in patient care, teaching, research, administration and education in the field of oncology. The Society's mission is to promote excellence in oncology nursing and quality cancer care. To that end, ONS honors and maintains nursing's historical and essential commitment to advocacy for the public good by providing nurses and healthcare professionals with access to the highest quality educational programs, cancer-care resources, research opportunities, and networks for peer support.

The ONS has 8 chapters in the great state of Ohio. These chapters located in the Cincinnati, Cleveland, Columbus, Toledo, Saint Paris, Zanesville, Lima, and Cuyahoga Falls areas serve the oncology nurses in the state and helps them to continue to provide high quality cancer care to those patients and their families in the state.

In particular, I would like to acknowledge three special oncology nurses from my district who will be in Washington this week to participate in the ONS Annual Congress and the ONS inaugural Hill Day—Deborah Babb and Luana Lamkin from Hilliard, Ohio and their colleague Betty Coffelt from Worthington, Ohio. I am looking forward to the pleasure of meeting with these outstanding women who have dedicated their lives to improving the health and well-being of people affected by cancer.

On behalf of all the people with cancer and their families in Ohio's 15th Congressional District, I thank Deborah, Luana, and Betty as well as all of their colleagues in the Oncology Nursing Society for their outstanding contributions to the provision of quality cancer care to those in need. Also, I would like to acknowledge Luana Lamkin for her leadership within the Oncology Nursing Society as she currently serves on the ONS Board of Directors as the Treasurer. I have had the pleasure of working with ONS and Luana over the past few years to advance programs and policies that work to reduce suffering from cancer. Through Luana's and ONS' leadership, our Nation is charting a course that will help us win the war on cancer.

As part of the ONS inaugural Hill Day, approximately 550 oncology nurses—representing 48 states—will come to Capitol Hill to discuss issues of great significance to people with cancer and the field of oncology nursing. Specifically, these oncology nurses will call upon us in Congress to move quickly to reconcile the differences between the House and Senate versions of the "Nurse Reinvestment Act" and send a comprehensive measure to the President for signature by June 1st so that the measure can be funded fully in FY 2003; reform Medicare to ensure that the program reimburses adequately and accurately for the full-range of services provided by oncology nurses so that Medicare payment policy reflects the real value of oncology nursing and in turn, helps sustain our Nation's system of community-based cancer care for all Medicare beneficiaries; and allocate $27.3 billion to the National Institutes of Health (NIH) to fulfill the commitment to double the NIH budget over five years, $5.69 billion to the National Cancer Institute (NCI)—the amount the NCI Director deems necessary to take advantage of extraordinary opportunities, $199.6 million for the NIH National Center for Minority Health and Health Disparities—the course necessary to double the Center's budget over the course of three years, and $348 million for the Centers for Disease Control and Prevention (CDC) Comprehensive Cancer Control, National Cancer Registries, Prostate Cancer Awareness, National Breast and Cervical Cancer Early Detection, Ovarian Cancer, Skin Cancer, and Colorectal Cancer Screening, Education and Outreach programs—to ensure that all Americans benefit from breakthroughs in cancer research, prevention, early detection, and treatment.

I commend the Oncology Nursing Society for all of its efforts and leadership over the last 27 years and thank the Society and its members for their ongoing commitment to improving and assuring access to quality cancer care for all cancer patients and their families. I urge all of my colleagues to support them in their important endeavors.

HONORING NATIONAL COMMUNITY RESIDENTIAL CARE MONTH—2002

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. OSE. Mr. Speaker, I rise today to honor the men and women who work hard everyday to provide quality health care for the elderly, disabled, and mentally ill. May is National Community Residential Care Month, and I can't think of a better way to pay tribute to these men and women.

Community care providers offer medical, social, and nutritional assistance to those in need. They are committed professionals who work hard to create comfortable environments for people who are unable to care for themselves in their own homes.

More importantly, these professionals work hard to boost the self-confidence of those whose confidence is often broken as a result of their dependence on others. By caring and interacting with those in need, they have enriched the lives of those who they help.

Again, I want to congratulate all the men and women in this field of work. The U.S. Congress certainly appreciates the valuable service they provide. We thank you for the job you do and for the compassion which you bring to your field.

RECOGNITION OF CHAUNCEY VEATCH, NATIONAL TEACHER OF THE YEAR, COACHELLA VALLEY HIGH SCHOOL, THERMAL, CA

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. BONO. Mr. Speaker, I rise today to recognize Chauncey Veatch, the National Teacher of the Year, from Coachella Valley High School in Thermal, CA. Mr. Veatch deserves our praise and admiration for this honor, and I am proud to have him teaching America's future leaders in California's 44th Congressional district.

Chauncey Veatch teaches social studies in Thermal to a particularly diverse group of students, where out of the 2,900 students at his school, approximately 96 percent are Latino and about half of those come from migrant families. Some of these students continue to struggle with the English language, though Mr. Veatch is able to work through these barriers to assist the youth around him. The high school itself lies in a desert area, and is thus unlike more urbanized areas of southern California, but boasts of rich agricultural resources and a proud community.

Mr. Veatch's background is one that undoubtedly helps in his ability to convey those concepts most important for his students while having a lasting effect on their educational careers. After the Gulf War, and a distinguished military career that introduced him to many differing countries and cultures, Chauncey entered the Defense Language Institute at the Presidio of Monterey. There he immersed himself in Spanish, becoming an honor graduate in the Basic Class, in the Intermediate Class, and in the Advanced Class.

Given the passage last year of H.R. 1, the No Child Left Behind Act, the integral role that teachers play in the lives of our children was again apparent. Without guidance and assistance from teachers like Chauncey, we will not be able to properly introduce these reforms and have their implementation be successful. Both President Bush and Mrs. Bush have been great leaders in the vital role that teachers play in our society. President Bush stated well this concept in saying how important it is to "thank our teachers," and "herald such a noble and important profession for the future of our country."

The unique and extremely rewarding time spent in a classroom with Chauncey has already shown results, with his students receiving acclaim with regard to Math Day, Art Awards, and History Day, among many other awards. His classroom is truly a place for opportunity for all, where literacy and dreams are modeled into a lifetime of learning and believing in one's highest potential.

Thus it is easy to see why Chauncey Veatch has been selected as the National Teacher of the Year, as he represents the professionalism, humility, understanding, and intelligence that deserves our attention.

Again, I would like to personally recognize and congratulate Chauncey Veatch for winning this award and for his continued contributions to the students and future of California's 44th District.

CALLING FOR A COMMITMENT TO ABOLISH NUCLEAR WEAPONS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KUCINICH. Mr. Speaker, I rise today to include in the RECORD an urgent call for the world to end the threat of destruction from nuclear and other weapons of mass destruction. Despite the Cold War's demise over a decade ago, the possibility that a nuclear device or other weapon of mass destruction will one day wreak devastation remains real. Rather than defuse this threat by working to reduce the world's stores of these weapons, the current Administration has instead begun to explore ways to enhance our nuclear capabilities. The time has come for this Administration, this Congress, and this country to commit to the abolition of nuclear, chemical, and biological weapons. We must heed this urgent call.

An urgent call ending threats of mass destruction. Today, cities and nations are threatened as never before by weapons of mass destruction. The events of September 11 have brought home to Americans what it means to experience a catastrophic attack. Yet the horrifying losses that day were but a fraction of what any nation would suffer if a single nuclear weapon were used on a city, or a deadly, contagious disease were set loose in the land.

The peril from weapons of mass destruction is growing. Even as the great powers have refused to give up their nuclear arms, more nations have built nuclear weapons and threatened to use them. Terrorist groups are now seeking to acquire and use every kind of weapon of mass destruction.

The threats posed by huge stocks, proliferation, and terrorists can no longer be considered in isolation from one another. The nuclear powers' refusal to disarm fuels proliferation, and proliferation makes weapons of mass destruction ever more accessible to terrorists.

Despite the end of the cold war, U.S. administrations of both parties have planned to keep nuclear weapons indefinitely. Recently, the Bush administration's Nuclear Posture Review proposed to reduce "active" warheads; but this plan would keep the whole U.S. nuclear arsenal, active plus reserve, at its present size of about 10,000 warheads through 2012. Meanwhile, President Bush has requested funds to expand nuclear-weapons construction facilities and develop new "usable" nuclear weapons for a growing list of targets in the third world.

This drift toward catastrophe must be reversed. The time has come to say, Enough! Enough to the great powers who hold vast populations hostage to nuclear terror. Enough to nations that are spreading the threat of annihilation to new regions. Enough to the terrorists who plan the murder of hundreds of thousands of innocent people, Safety from all weapons of mass destruction must be our goal. We can reach it only through cooperation among nations embodied in binding treaties and agreements.

We therefore call on the governments of the nuclear powers to commit themselves to abolish nuclear weapons and to set forth plans to move together, step by carefully inspected and verified step, toward this goal. As a first step, we call on the United States and Russia to reduce their nuclear arsenals over the next few years, tactical and strategic, active and reserve, to 1,000 weapons each. As a second step, we call on these countries and the other nuclear powers—England, France, China, Israel, India, and Pakistan—to proceed in the following few years to reduce their arsenals to no more than 100 nuclear weapons each. As a third step, these nations should separate all nuclear-warheads from their delivery vehicles, in preparation for their ultimate elimination. Simultaneously, the nuclear powers should strengthen the Nonproliferation Treaty by ratifying the Comprehensive Test Ban and adopting a ban on the Production of Fissile Material. The United States should complete talks to end North Korea's missile program, and the UN should institute an effective inspection regime in Iraq. The existing international bans on chemical and biological weapons should be made universal and fortified with stronger means of inspection and verification. Thus, measures to prevent proliferation and terrorist uses of weapons of mass destruction would go hand in hand with nuclear reductions.

Steps to eliminate weapons of mass destruction should be accompanied by steps to reduce the temptation to acquire or use them. The United States and other countries should redouble their efforts to resolve regional conflicts and prevent conventional war, and to build respect for the rule of law, protect human rights, and promote democratic institutions. And the wealthy industrial nations should launch a new Marshall Plan to help the poorest nations end starvation, illiteracy, and preventable disease, wipe out the burden of debt, and move toward sustainable development and a lasting peace, based on respect for the dignity and worth of every individual.

IN RECOGNITION OF JUNE, 2002 AS NATIONAL SAFETY MONTH

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to urge my colleagues to recognize June, 2002, as National Safety Month in an effort to promote awareness and education in safety matters not only in Western and Central Massachusetts, but across the entire United States of America.

The National Safety Council, founded in 1913 and chartered by Congress in 1953, designated June as National Safety Month in the hopes that if Americans spend a month practicing safety, the increased attention will continue throughout the year and decrease the number of unintentional injuries and deaths.

In 2000, over 97,000 people suffered unintentional-injury deaths. Motor vehicle crashes alone accounted for 43,000 deaths, while another 51,500 people died in the home or community. Unintentional injuries are the fifth leading cause of death in America, and the leading cause of death for Americans under 45. Yet even with improvements in safety and technology that have created a safer environment for Americans, the unintentional-injury death toll remains unacceptably high.

The Safety Council of Western Massachusetts, under the direction of Jeanette P. Jez, has endeavored to train people in the prevention of accidents, as well as the formulation and application of safety and health policies, since its inception in 1917. Celebrating their 85th anniversary this year, they identified six focus areas for the coming year: Driving Safety, Home, Community and Environmental Safety, Emergency Preparedness, and Workplace Safety. We can all agree that these important concerns should be a priority in our day-to-day lives.

With the summer season approaching, a time when unintentional-injury deaths traditionally increase, American citizens deserve a solution to nationwide safety and health threats. Mr. Speaker, in this 7th year of National Safety Month, let us build on the efforts of the past six years. Let us devote our time and energy to preventing unnecessary accidents and deaths. And let us help Americans build and nurture an environment that values safety above all else.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 25, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 26

9:30 a.m.
Armed Services
To hold hearings on the nomination of Adm. Thomas B. Fargo, USN, to be Admiral and Commander in Chief, United States Pacific Command; and the nomination of Lt. Gen. Leon J. LaPorte, USA, to be General and Commander in Chief, United Nations Command/Combined Foreces Command/Commander, United States Forces Korea.
SR-222

10 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine families and funeral practices issues.
SD-430

APRIL 30

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine how gasoline prices are set and why they have become so volatile.
SD-342

Indian Affairs
Small Business and Entrepreneurship
To hold joint hearings to examine small business development in Native American communities.
SR-428A

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings on the nominations of Richard Carmona, to be Surgeon General, and Elias Zerhouni, to be Director of the National Institutes of Health, both of the Department of Health and Human Services (pending receipt by the Senate).
SD-430

2:30 p.m.
Judiciary
Antitrust, Competition and Business and Consumer Rights Subcommittee
To hold hearings to examine hospital group purchasing, focusing on patient health and medical innovation.
SD-226

Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine the influence of the Enron Corporation regarding state pension funds.
SR–253

MAY 1

9:30 a.m.
Commerce, Science, and Transportation
Oceans, Atmosphere, and Fisheries Subcommittee
To hold hearings on the President's proposed budget request for fiscal year 2003 for the National Oceanic & Atmospheric Administration.
SR–253

Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the Treasury Department's report to Congress on International Economic and Exchange Rate Policy.
SD–538

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Office of the Senate Sergeant at Arms and U.S. Capitol Police.
SD–124

2:30 p.m.
Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold oversight hearings to examine proposed legislation authorizing funds for the Temporary Assistance for Needy Families and Federal Housing Policy.
SD–538

Intelligence
To hold closed hearings on pending intelligence matters.
SH–219

MAY 2

9:30 a.m.
Veterans' Affairs
To hold hearings to examine pending legislation.
SR–418

Governmental Affairs
Investigations Subcommittee
To resume hearings to examine how gasoline prices are set and why they have become so volatile.
SD–342

2:30 p.m.
Judiciary
To hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice.
SD–226

MAY 3

10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine transformation plans of the United States Postal Service.
SD–342

MAY 9

9:30 a.m.
Finance
To hold hearings to examine revenue issues related to the Highway Trust Fund.
SD–215

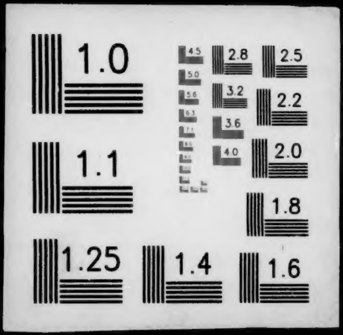
MAY 10

10:30 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine non-proliferation programs, focusing on U.S. cruise missile threat.
SD–342

POSTPONEMENTS

APRIL 26

10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine difficulties and solutions concerning nonproliferation disputes between Russia and China.
SD–342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